



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 7

BEST VALUE

Best value authorities

136 Parish councils and community councils etc not to be best value authorities

- (1) In section 1 of the Local Government Act 1999 (c. 27) (best value authorities)—
 - (a) in subsection (2) (definition of local authority in relation to England), in paragraph (a), for “, a London borough council, a parish council or a parish meeting of a parish which does not have a separate parish council” substitute “or a London borough council”;
 - (b) in subsection (3) (definition of local authority in relation to Wales), for “, a county borough council or a community council” substitute “or a county borough council”;
 - (c) in subsection (7) (definition of local authority in Wales), for “, county borough council or community council” substitute “or county borough council”.
- (2) In section 2(2) of that Act (authorities to which best value duties may be extended), omit paragraph (a) (local precepting authorities).
- (3) Schedule 7 (consequential amendments) has effect.

Duties of best value authorities

137 Guidance about general best value duty

In section 3 of the Local Government Act 1999 (c. 27) (best value authorities: general duty), for subsection (4) substitute—

“(4) In deciding—

- (a) how to fulfil the duty arising under subsection (1),
 - (b) who to consult under subsection (2), or
 - (c) the form, content and timing of consultations under that subsection,
- an authority must have regard to any guidance issued by the Secretary of State.”

138 Involvement of local representatives

(1) After section 3 of the Local Government Act 1999 insert—

“3A Involvement of local representatives

- (1) Where a best value authority considers it appropriate for representatives of local persons (or of local persons of a particular description) to be involved in the exercise of any of its functions by being—
- (a) provided with information about the exercise of the function,
 - (b) consulted about the exercise of the function, or
 - (c) involved in another way,
- it must take such steps as it considers appropriate to secure that such representatives are involved in the exercise of the function in that way.
- (2) Subsection (1) does not require an authority to take a step—
- (a) if the authority does not have power to take the step under another enactment or a rule of law; or
 - (b) if the step would be incompatible with a Community obligation or any other duty imposed on the authority under another enactment or a rule of law.
- (3) Subsection (1) does not apply—
- (a) to a police authority,
 - (b) to a Welsh best value authority,
 - (c) to any other authority or description of authority specified in an order made by the Secretary of State, or
 - (d) in any other case specified in such an order.
- (4) An order under subsection (3)(d) may specify cases by reference, in particular, to the following—
- (a) best value authorities or descriptions of best value authority;
 - (b) functions of best value authorities;
 - (c) descriptions of local person;
 - (d) ways in which representatives may be involved in the exercise of functions of an authority.
- (5) In deciding how to fulfil its duties under subsection (1), an authority must have regard to any guidance issued by the Secretary of State.
- (6) In this section—
- “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978);

“local person” means, in relation to a function of a best value authority, a person who is likely to be affected by, or interested in, the exercise of the function;

“representative” means, in relation to local persons or a description of local person, a person who appears to the best value authority to be representative of the local persons.”

- (2) In section 28(2) of that Act (negative procedure for certain orders and regulations), after first “section” insert “3A,”.

139 Abolition of performance indicators etc except for Welsh authorities

- (1) Immediately before section 4 of the Local Government Act 1999 (c. 27) insert “*Duties: Welsh best value authorities*”.
- (2) In section 4 of that Act (performance indicators and standards)—
- (a) in subsection (1)(a), for “best value authority's” substitute “Welsh best value authority's”;
 - (b) in subsections (1)(b), (3)(a) and (4)(a), for “best value authorities” substitute “Welsh best value authorities”;
 - (c) in subsection (5), for “best value authority” substitute “Welsh best value authority”.
- (3) In section 6 of that Act (performance plans), in subsection (1), for “best value authority” substitute “Welsh best value authority”.

140 Abolition of best value performance reviews

Omit section 5 of the Local Government Act 1999 (best value reviews).

Powers to modify enactments etc

141 Consultation with and consent of Welsh Ministers

- (1) In section 16 of the Local Government Act 1999 (power to modify enactments obstructing compliance with best value duties and confer new powers), after subsection (3A) insert—
- “(3B) In exercising a power under this section, the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.
- (3C) In exercising a power under this section, the Secretary of State—
- (a) must not make provision amending, or modifying or excluding the application of, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
 - (b) must not make provision amending, or modifying or excluding the application of, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

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- (3D) Subsection (3C) does not apply to the extent that the Secretary of State is making incidental or consequential provision.”
- (2) In section 97 of the Local Government Act 2003 (c. 26) (power to modify enactments in connection with charging or trading)—
- (a) for subsection (7) substitute—
- “(7A) In exercising a power under subsection (1) or (2), the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.
- (7B) In exercising a power under subsection (1) or (2), the Secretary of State—
- (a) must not amend, or repeal or disapply, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
- (b) must not amend, or revoke or disapply, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.
- (7C) Subsection (7B) does not apply to the extent that the Secretary of State is making incidental or consequential provision.”;
- (b) in subsection (8), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (3) In section 98 of that Act (procedure for orders under section 97), in subsection (2)—
- (a) for “subsection (7)(a)” substitute “subsection (7A)”;
- (b) in paragraph (d) for “National Assembly for Wales” substitute “Welsh Ministers”.

142 Power of Welsh Ministers to modify enactments obstructing best value etc

- (1) In section 16 of the Local Government Act 1999 (c. 27) (power to modify enactments and confer new powers)—
- (a) in the title, after “Power” insert “of Secretary of State”;
- (b) after subsection (5) insert—
- “(6) In this section—
- (a) “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978);
- (b) references to a best value authority do not include a Welsh best value authority.”
- (2) After section 17 of that Act insert—

“17A Power of Welsh Ministers to modify enactments and confer new powers

- (1) If the Welsh Ministers think that an enactment prevents or obstructs compliance by Welsh best value authorities with the requirements of this Part

they may by order make provision modifying or excluding the application of the enactment in relation to—

- (a) all Welsh best value authorities,
- (b) particular Welsh best value authorities, or
- (c) particular descriptions of Welsh best value authority.

(2) The Welsh Ministers may by order make provision conferring on—

- (a) all Welsh best value authorities,
- (b) particular Welsh best value authorities, or
- (c) particular descriptions of Welsh best value authority,

any power which they consider necessary or expedient to permit or facilitate compliance with the requirements of this Part.

(3) An order under this section may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
- (b) amend an enactment;
- (c) include consequential, incidental and transitional provision;
- (d) make different provision for different cases.

(4) The power under subsection (3)(d) includes, in particular, power to make different provision in relation to different authorities or descriptions of authority.

(5) An order under this section may not make a provision which, if it were a provision of a Measure of the National Assembly for Wales, would be outside the Assembly's legislative competence.

(6) For the purposes of subsection (5), section 94(4) of the Government of Wales Act 2006 has effect as if paragraph (a) (matters within legislative competence) were omitted.

(7) Subject to subsection (8), no order shall be made under this section unless a draft has been laid before, and approved by resolution of, the National Assembly for Wales.

(8) An order under this section which is made only for the purpose of amending an earlier order under this section—

- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,

shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(9) In exercising a power conferred under subsection (2) a Welsh best value authority shall have regard to any guidance issued by the Welsh Ministers.

(10) In this section, “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978).

17B Orders under section 17A: procedure

- (1) Before the Welsh Ministers make an order under section 17A they shall consult such authorities or persons as appear to them to be representative of interests affected by their proposals.
 - (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 17A they shall lay before the National Assembly for Wales a document explaining their proposals and, in particular—
 - (a) setting them out in the form of a draft order, and
 - (b) giving details of consultation under subsection (1).
 - (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 17A to give effect to the proposals (with or without modification) shall be laid before the National Assembly for Wales until after the expiry of the period of sixty days beginning with the day on which the document was laid.
 - (4) In calculating the period mentioned in subsection (3) no account shall be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.
 - (5) In preparing a draft order under section 17A the Welsh Ministers shall consider any representations made during the period mentioned in subsection (3) above.
 - (6) A draft order laid before the National Assembly for Wales in accordance with section 17A(7) shall be accompanied by a statement of the Welsh Ministers giving details of—
 - (a) any representations considered in accordance with subsection (5) above, and
 - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2) above.
 - (7) Nothing in this section applies to an order under section 17A which is made only for the purpose mentioned in section 17A(8).”
- (3) Until the commencement of section 144(1), in the provisions inserted by this section references to a Welsh best value authority have effect as if they were references to an authority which is a best value authority in Wales for the purposes of Part 1 of the Local Government Act 1999 (c. 27), other than a police authority for a police area in Wales.

*Other***143 Grants to promote or facilitate exercise of functions by best value authorities**

- (1) In the Local Government Act 2003 (c. 26), after section 36 insert—

“36A Grants by Ministers of the Crown in respect of best value authorities etc

- (1) A Minister of the Crown may pay a grant to a person for use in, or in connection with, promoting or facilitating the economic, efficient and effective exercise of functions by a best value authority or best value authorities.
- (2) The power to make a grant under this section is exercisable only with the consent of—
 - (a) the Treasury, and
 - (b) in the case of a grant in respect of the exercise of functions by a Welsh best value authority, the Welsh Ministers.
- (3) The power to pay a grant under this section does not include power to pay a grant to a best value authority.
- (4) The amount of a grant under this section, and the method of payment, are to be such as the Minister of the Crown may determine.
- (5) A grant under this section may be paid on such conditions as the Minister of the Crown may determine.
- (6) Conditions under subsection (5) may, in particular, include—
 - (a) provision as to the use of the grant;
 - (b) provision as to circumstances in which the whole or part of the grant must be repaid.
- (7) For the purposes of this section—
 - “best value authority” includes the Greater London Authority, whether exercising its functions through the Mayor or otherwise;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “Welsh best value authority” means an authority which is a Welsh best value authority for the purposes of Part 1 of the Local Government Act 1999.

36B Grants by Welsh Ministers in respect of Welsh best value authorities

- (1) The Welsh Ministers may pay a grant to a person for use in, or in connection with, promoting or facilitating the economic, efficient and effective exercise of functions by a Welsh best value authority or Welsh best value authorities.
- (2) The power to pay a grant under this section does not include power to pay a grant to a best value authority.
- (3) The amount of a grant under this section, and the method of payment, are to be such as the Welsh Ministers may determine.
- (4) A grant under this section may be paid on such conditions as the Welsh Ministers may determine.
- (5) Conditions under subsection (4) may, in particular, include—

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- (a) provision as to the use of the grant;
 - (b) provision as to circumstances in which the whole or part of the grant must be repaid.
- (6) For the purposes of this section—
- “best value authority” includes the Greater London Authority, whether exercising its functions through the Mayor or otherwise;
 - “Welsh best value authority” means an authority which is a Welsh best value authority for the purposes of Part 1 of the Local Government Act 1999.”
- (2) Until the commencement of section 144(1), the provisions inserted by this section have effect as if—
- (a) the definition of “Welsh best value authority” were omitted; and
 - (b) references to a Welsh best value authority were references to an authority which is a best value authority in Wales for the purposes of Part 1 of the Local Government Act 1999 (c. 27), other than a police authority for a police area in Wales.

144 Best value: minor and consequential amendments

- (1) In section 1 of the Local Government Act 1999 (best value authorities), in subsection (6) (best value authorities in Wales)—
- (a) for “best value authority in Wales” substitute “Welsh best value authority”;
 - (b) omit paragraph (c) (police authority).
- (2) Schedule 8 (minor and consequential amendments) has effect.