



Office of the
Deputy Prime Minister

Creating sustainable communities

Freeloms and Flexibilities

A consultation paper



Office of the
Deputy Prime Minister

Creating sustainable communities

Freedom and Flexibilities

A consultation paper

January 2006

Office of the Deputy Prime Minister

Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Telephone 020 7944 4400
Web site www.odpm.gov.uk

© Crown Copyright 2006.

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

*For any other use of this material, please write to HMSO Licensing, St Clements House,
2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: licensing@hmsso.gov.uk*

Further copies of this guidance are available from:

ODPM Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Textphone: 0870 1207 405
E-mail: odpm@twoten.press.net
or online via www.odpm.gov.uk

January 2006

Product code: 05LGFG03646

Consultation on proposed changes to the delivery of Local Authority Freedoms and Flexibilities under CPA 2005

The Consultation

1. This consultation paper sets out proposals for amending the current approach to Comprehensive Performance Assessment (CPA) based freedoms and flexibilities to take account of the new CPA 2005 system.

Background

2. The 2001 Local Government White Paper “Strong Local Leadership – Quality Public Services” set out the Government’s commitment to reducing the bureaucratic burden for all authorities and providing additional freedoms for the very best, to give them scope to shape and improve services to meet local need. Following the introduction of CPA in 2002, a programme of Freedoms and Flexibilities for county and single tier local authorities was announced based on CPA categories. Details of this programme and the current transitional arrangements which apply are given in **Annex A**.

Why are changes needed?

3. The new CPA 2005 framework for county and single tier authorities replaces the five categories of excellent to poor with five new categories of 4 to 0 star. First results were announced on 15 December 2005. Amendments are necessary to a number of pieces of legislation to change references to the old CPA categories to star based categories. We have also been considering whether changes are needed to the way CPA based freedoms and flexibilities are delivered to take account of the new, harder test. The ODPM has looked at a number of options for adjusting current provisions in the light of the new system. This consultation paper sets out a number of options on which we invite your views.

CPA based freedoms – options for change

4. We have identified a number of options for adapting current CPA based freedoms when migrating to the new star categorisations in the CPA 2005 system. **Your views are invited on the options set out in sub paragraphs a) to c) below:**

(a) *Transfer freedoms directly across to the new star ratings*

This would mean that:

- 4 star authorities – receive the freedoms currently given to excellents
- 3 star authorities – receive the freedoms currently given to goods
- 2 star authorities – receive the freedoms currently given to fairs.

This option is simple to understand and could be seen as protecting the status quo. However, it implies there is a direct correlation between the old and new CPA categories, which is not the case : it does not take account of CPA 2005 being a

tougher test resulting in some authorities migrating from excellent to 3 star, good to 2 star and fair to 1 star, although their direction of travel statements show they are continuing to improve.

(b) *Transfer freedoms directly across to the new star ratings and extend transitional provisions for some authorities*

This is a variation of option (a). Authorities who would lose freedoms when migrating to a star rated category in the Audit Commission's December 2005 report but have an upward direction of travel, would have the transitional period for most freedoms extended to at least 2 years. For example, a formerly excellent authority, categorised as 3 star under the new system, but with a direction of travel indicating that it was either improving strongly, improving well, or improving adequately would be given a minimum recovery period of 2 years for most of the CPA based freedoms. This should give authorities sufficient time to move up to a higher category and recover CPA based freedoms, without additional inspection being required over and above programmed inspections.

This would be a time limited measure to cover the transition to the new CPA system. Any downward categorisation after December 2005 would not be subject to extended transitional provisions. The shorter transitional periods shown at Annex A would apply.

(c) *Extend application of freedoms across star categories*

This is our preferred option and would apply to most current freedoms, as follows:

- 4 star & 3 star authorities – receive the freedoms currently given to excellents
- 2 star authorities – receive the freedoms currently given to goods
- 1 star authorities – receive the freedoms currently given to fairs

We believe this option is simple to understand and would apply to any future changes in a local authority's categorisation under the CPA 2005 framework. It is consistent with our policy of extending freedoms subject to minimum standards, gives an incentive for improvement and recognises that CPA 2005 is a tougher test. However, it could be argued that this approach would undermine the principle of a harder test by potentially providing freedoms to councils that have not improved.

Under this option, current transitional arrangements would be retained to ensure that when dropping a star rated category in subsequent years, authorities are given a period to recover while retaining their freedoms. We propose that the length of these periods remain as now (see Annex A for details).

5. *The power to trade* is currently available only to excellent, good and fair authorities – not simply as an incentive to better performance but also as a reflection of the Government's belief that a strong track record of service delivery is an indication that the authority will be capable of managing the risk associated with trading. By applying the freedom from 1 to 4 star authorities a larger number of authorities would be eligible to trade. The terms of the existing Trading Order places safeguards on the use of the power by requiring an authority to prepare and approve a business case before trading, and this requirement would be carried forward in order to ensure authorities manage risks effectively.

6. Options 4 (b) and (c) would not apply to the *Children and Young Peoples' Plan* (CYPP) given its importance in the reforms arising from the Every Child Matters Green Paper. The freedom from the CYPP currently given to excellent authorities will only be available for 4 star authorities. The government propose requiring excellent authorities moving to 3 star to have a CYPP in place for April 2007 rather than 2006.
7. Second five year *Local Transport Plans* (LTPs), including bus strategies, were completed provisionally in 2005, with the final versions due for completion in March 2006. The statutory freedoms related to these plans for excellent authorities will be retained for the March 2006 plans. The next round of LTPs is due in 2011 and the DfT will review the exemptions to plan making before then with the aim of lightening planning requirements for all authorities. In the interim it will reduce the progress reporting requirements for all or the vast majority of local transport authorities.

Inspection freedoms

8. County Councils and single tier authorities will receive a joint area review of children's services and a CPA corporate assessment during the period 2005 to 2008, irrespective of their CPA category. The number of inspections undertaken has reduced by almost fifty per cent from 2001-2002 levels, with the best performing authorities seeing the greatest reductions.
9. The Government and Inspectorates are seeking to ensure that inspection is risk based and proportionate to performance and targeted where it will add most value. By 2008 we are aiming to be in a position where all inspection is risk based. The consultation paper *Inspection Reform: The Future of Local Services Inspection* explores the issues that will shape the role of inspection in the context of the development of a new performance framework. This can be found at:

<http://www.odpm.gov.uk/index.asp?id=1161838>

Membership of the Innovation Forum

10. Membership of the Innovation Forum has, to date, been restricted to excellent authorities. Before the CPA 2005 results there were 75 members of the Forum: 47 county and single tier authorities and 28 excellent districts. We need to consider whether membership should be extended beyond this group, for example to include new 3 star county and single tier authorities. In doing this we need to consider the optimum size of the Forum and whether it could continue to be effective if its membership grew significantly. Extending membership to all 4 star and 3 star authorities would bring current membership numbers up to 130.
11. The Government believes that the Forum could become less effective if membership numbers increased too much. We therefore propose that membership of the Forum should be limited to all 4 star authorities and the current transitional period of one year will continue to apply. Based on current categorisations, and including those authorities retaining membership for a year, this would result in a membership of 82 upper and single tier and district authorities. We believe this remains a manageable number. **Your views are invited on the proposal that membership of the Innovation Forum should be limited to 4 star authorities.**

Changes to Best Value Performance Plan Guidance

12. Currently best value authorities categorised as excellent or good in CPA are allowed to follow streamlined provisions in their annual Best Value Performance Plan. They need only provide:

- outturn performance over the past year on all Best Value Performance Indicators (BVPIs);
- targets for the current year and subsequent 2 years for all BVPIs; and
- a statement that they have complied with requirements in the Code of Practice on Workforce Matters in Local Authority Service Contracts.

They can also incorporate this information in their Corporate Plan, providing it is identified as such.

13. The introduction of the new star rating and harder test for upper tier and unitary authorities in CPA 2005 has provided an opportunity to further streamline these requirements. Accordingly, we propose that the statutory guidance should:

- **extend** the streamlined requirements, referred to at paragraph 12 above, to 4 star, 3 star **and 2 star** authorities;
- **retain** the existing streamlined requirements for best value authorities that are categorised in CPA as excellent and good and **extend** these streamlined requirements to bodies gaining excellent and good rating in their Initial Performance Assessment (ie the GLA, TfL, LDA and LEPFA); and
- allow best value authorities to continue to follow the streamlined requirements in their next Performance Plan if, within 6 months of their latest permitted publication date, they have been recategorised in CPA from 4, 3 or 2 star to 1 star or 0 star.

14. For other best value authorities, the Best Value Performance Plan requirements identified in Annex A (b) and (c) of ODPM Circular 02/2004 continue to apply.

Your views are invited on the proposed changes in paragraph 13 above.

Legislative Changes

15. Following this consultation, ODPM will make amendments to the Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005, The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2004, and statutory guidance on Best Value Performance Plans. Other government departments will make amendments to their legislation in parallel. ODPM will work with other departments to make changes as soon as practicable. Until the legislation is amended and a new categorisation order is made, authorities will continue to receive their current freedoms.

Consultation response required

16. Responses should be clearly marked “Local Authority Freedoms and Flexibilities Consultation” and should be sent either by e-mail or by post to:

Susie Turner
ODPM
Freedoms and Flexibilities Team
5/A2 Eland House
Bressenden Place
LONDON SW1E 5DU

e-mail: freedomsconsultation@odpm.gsi.gov.uk

by Thursday 2 March 2006

Office of the Deputy Prime Minister

19 January 2006

Annex A

CURRENT FREEDOMS AND FLEXIBILITIES BY CPA CATEGORY

FREEDOM	TRANSITIONAL ARRANGEMENTS
Excellent authorities	
Exemption from requirement to produce a range of statutory plans: <ul style="list-style-type: none"> • Rights of Way Improvement Plan • Air Quality Action Plan • Home Energy Conservation Report • Local Transport Plan • Bus Strategy • Homelessness Plan • Youth Justice Plan 	1 year to 2½ years, depending specific plan
Removal of all revenue ring fencing except grants passed to schools and Supporting People grant (and Supporting People grant is applied with fewer conditions)	1 year
Exemption from virtually all inspection	1 year
Exemption from requirement to produce Children and Young People's Plan	1 year
Exemption from requirement to produce Joint Waste Management Strategy	2 years
Membership of the Innovation Forum	1 year
Excellent & Good Authorities	
Removal of all capital ring fencing (excluding grants passed to schools)	1 year for Excellents. No transitional provisions for Goods
Freedom to provide only the minimum essential information for Best Value Performance Plans, and to annex the information to annual corporate plans rather than producing a separate BVPP	1 year for Excellents and Goods moving down to Fair
Freedom over how to spend litter, dog-fouling, graffiti, flyposting, nuisance parking, abandoned vehicle and street parking Fixed Penalty Notices [NOT YET IN PLACE].	1 year
Excellent, Good & Fair Authorities	
Power to trade	2 years