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This matter is being dealt with by:

Information and Records Officer

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27 October 2011

The Cabinet Office
70 Whitehall
London
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Dear Sir/Madam

Making Open Data Real: A Public Consultation

I write on behalf of Allerdale Borough Council to provide comments on some of the questions posed by the recent consultation on open data.

How would we establish a stronger presumption in favour of publication that that which currently exists?

The FOI and EIR legislation already assume that information shall be made public unless an exemption applies, and so it is unclear to see how a stronger presumption can be established without further enforcement from bodies such as the ICO.

The campaign to encourage local authorities to disclose all spending over £500 was a success in part because of its relative simplicity and the comparative nature of data between authorities. However, it still produced a wealth of guidance which remains to be seen whether it is being interpreted by separate authorities in the same way. Using similar tactics for more complicated and less comparative sets of data may not be feasible.

Difficulties arise in providing an access point through which businesses and customers can get hold of information. It is unclear how items such as disclosure logs, which publish responses to Freedom of Information requests, are currently of use to those seeking information. Disclosure of data sets, with the minimum of disruption on the public authority, is best achieved where access is provided to

databases via a website so that raw data can be searched, viewed and downloaded by the user. Clearly this may need to be restricted due to privacy and Data Protection concerns and there are IT security issues to overcome. However, one example of this happening already would be Allerdale Borough Council's access to its licensing public register via our internet.

Is providing an independent body, such as the Information Commissioner, with enhanced powers and scope the most effective option for safeguarding a right to access and a right to data?

Whilst the process of dealing through the Information Commissioner can feel unwieldy, we feel it is manifestly preferable to other means of policing rights surrounding access to data such as through the Court system. The independence of the ICO has been proven over the years and should be upheld.

Are existing safeguards to protect personal data and privacy measures adequate to regulate the Open Data agenda?

The Data Protection Act provides a framework on how to handle requests for data which contain personal information. Further advice and guidance from government and the ICO would be beneficial to ensure that data is consistent and allows comparison across authorities. In recent years local authorities have received a number of requests for data on empty properties and the response to these requests gives an insight into the problem of differing interpretations by authorities of the obligations. Responses range from complete refusal, to those who redact information deemed to be personal information, through to councils who appear to provide all the data they hold. Without definitive legal advice it is likely that this inconsistent interpretation of a request for data will only continue.

What might the resource implications of an enhanced right to data be for those bodies within its scope? How do we ensure that any additional burden is proportionate to this aim? How will we ensure that Open Data standards are embedded in new ICT contracts?

Whilst we support the admirable aim of making more data available to the public, any increase in this requirement without the continued investment in technology would clearly increase the burden on public authorities. It is as yet unclear what the publication of all local government spending over £500 is achieving; and although we manage to meet this requirement with the minimum of disruption there is anecdotal evidence that for some authorities it is resulting in a large drain on their resources. It is also unclear whether the publication of this data has resulted in a drop in formal requests for information - it is always difficult to presume what the public may wish to request.

Therefore a balance needs to be found between the right to data and what is in the wider public interest. In our opinion, the costs limit currently offers an effective means of addressing that balance – and there is little evidence to suggest this section in the legislation is being used to excess. The University College London analysis of the impact of FOI on local government showed that requests were answered on average within 8.9 hours. This authority used the cost limit in less than 3% of cases in 2010. The costs limit, when used correctly, should provide the requester with a clear, transparent and rational methodology and reasoning, which is open to challenge. We would therefore encourage the continued inclusion of the costs limit at its present level. There are probably few cases where the publication of electronic data, which does not require any manual manipulation, would take in excess of 18 hours to complete.

To address the issue of ICT contracts it would be beneficial if systems allow data to be accessible to the public through the internet without the need for much manual intervention from the public authority. Most authorities currently provide spending data in downloadable spreadsheets. However, it would be in the interests of all if that data is accessible, subject to certain restrictions for privacy and other concerns, through searchable web access, rather than through the request regime. Clearly this would require some initial start-up costs with resource implications.

I trust you will find these comments of interest, and look forward to the final report.

Yours sincerely

Andrew Gilbert
Information and Records Officer