

DARLINGTON BOROUGH COUNCIL

1. Do the definitions of the key terms go far enough or too far?

Suggest that the key terms be expanded to include:

- 'data', making clear that this is different from 'information'
- 'personal data', using the full definition from the DPA

2. Where a decision is being taken about whether to make a dataset open, what tests should be applied?

It should be measured against the existing requirements of the FOIA, the DPA and the EIR. The exemptions and exceptions from each act will help determine whether the data should be published.

3. If the costs to publish or release data are not judged to represent value for money, to what extent should the requestor be required to pay for public services data, and under what circumstances?

Charging requestors for access to data may result in inequalities disadvantaging those who arguably need the data most, as some e.g. large, established organisations, will be able to pay but smaller organisations and individuals may not.

If it is decided that charges can be levied for access to data, the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 will need to be amended to bring them into line with the requirements of 'Open Data'. At the moment, we are unable to charge for anything under the 'appropriate limit' of £450 except disbursements, e.g. photocopying, postage and packing.

4. How do we get the right balance in relation to the range of organisations (providers of public services) our policy proposals apply to? What threshold would be appropriate to determine the range of public services in scope and what key criteria should inform this?

This should apply to all public authorities as defined by the FOIA. It would seem odd to make those who aren't subject to the FOIA publish data and vice versa.

5. What would be appropriate mechanisms to encourage or ensure publication of data by public service providers?

Appropriate legislation or statutory guidance accompanied by enforcement from the Information Commissioner's Office (ICO).

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

Update existing legislation to strengthen the proactive publication requirements. There will need to be some form of enforcement regime to ensure that all public authorities are complying with the legislative requirements. The cost limit should not be amended as £450 (equivalent to 18 hours of work) is already burdensome for smaller authorities and could lead to difficulties in delivering services.

2) 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?

Would suggest that the ICO is the most appropriate body to undertake this enforcement role. Do not, however, think the ICO should have the power to dictate the format, quality and regularity of publication as there may be legitimate reasons why an authority is unable to publish information in a specific way or to a prescribed timescale, e.g. cost, availability, etc.

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

No, there is already a conflict between the Data Protection and Human Rights Acts and the FOIA and EIRs. Sufficient weight is not always given to the privacy interests of individuals when considering whether it is fair and lawful to disclose information; the wider public interest seems to be given more weight without due consideration of the full impact on the individual. Often, with statistical data, there are issues with identifiability, particularly given the size of our authority, i.e. the numbers are so low that individuals could be identifiable.

4) 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?

There would be significant resource implications for the Council. At the moment, local authorities are struggling to deliver services and making data 'open' to the level envisaged in this consultation document would add to these difficulties.

5) How will we ensure that Open Data standards are embedded in new ICT contracts?

This can not be prescribed. The needs of the service (i.e. service delivery) must come first.

1) What is the best way to achieve compliance on high and common standards to allow usability and interoperability?

A formal code of practice would be the most appropriate way of achieving this.

2) Is there a role for government to establish consistent standards for collecting user experience across public services?

This should be left to individual authorities. If individuals are dissatisfied with the standard of data provided, they should be able to appeal to ICO. There may be some role however for government in benchmarking authorities performance.

3) Should we consider a scheme for accreditation of information intermediaries, and if so how might that best work?

1) How would we ensure that public service providers in their day to day decision-making honour a commitment to Open Data, while respecting privacy and security considerations?

There would need to be someone with responsibility at board-level, who would challenge those making decisions. To protect privacy and security, it would be useful to extend the Caldicott Guardian model to cover all personal data, not just data related to social care. The two roles should be undertaken by separate individuals.

2) What could personal responsibility at Board-level do to ensure the right to data is being met include? Should the same person be responsible for ensuring that personal data is properly protected and that privacy issues are met?

See above.

3) Would we need to have a sanctions framework to enforce a right to data?

Yes, or some authorities will publish data and others will not. The sanctions should be enforced by the ICO.

4) What other sectors would benefit from having a dedicated Sector Transparency Board?

There should be area transparency boards, with representation from local authorities, the police, the NHS, the fire service, the third sector and other relevant agencies.

1) How should public services make use of data inventories? What is the optimal way to develop and operate this?

A set of standards for data inventories should be developed, dictating what needs to be recorded. A single standard methodology should not be developed as every organisation is different and will need to tackle the creation and maintenance of the inventory in a different way.

2) How should data be prioritised for inclusion in an inventory? How is value to be established?

Data should not be prioritised as it negates the purpose of having an inventory. It would also be very difficult to determine value as what is valuable to the local authority may be different to what is valuable to external organisations and individuals.

3) In what areas would you expect government to collect and publish data routinely?

4) What data is collected 'unnecessarily'? How should these datasets be identified? Should collection be stopped?

5) Should the data that government releases always be of high quality? How do we define quality? To what extent should public service providers 'polish' the data they publish, if at all?

Data should be of high quality otherwise those using it may make poor decisions. There could be a question of legal liability if poor decisions are made on the basis of inaccurate data.

1. How should government approach the release of existing data for policy and research purposes: should this be held in a central portal or held on departmental portals?

A central portal would be most appropriate as it would remove the need for the customer to know where to find the data. Public bodies often have complicated structures and it can be difficult for individuals or external organisations to know where to go for data.

2. What factors should inform prioritisation of datasets for publication, at national, local or sector level?

Analysing the types of FOI request that come into the organisation could be a good starting point, with frequently requested information being published first. I also think that the datasets that inform major decisions should be published as a matter of course, particularly if the decision is subject to consultation. It will allow greater, more informed public participation in the decision-making process.

3. Which is more important: for government to prioritise publishing a broader set of data, or existing data at a more detailed level?

This should be a question asked of the audience for the data.