

Making Open Data Real and Data Policy for a Public Data Corporation



Local Government Association Response to the Consultations

October 2011

Summary

1. Local government has embraced the open data agenda. Basic changes are already well embedded, such as the publication of spending data and senior salaries in line with the local government code of practice on transparency. However, more important are local initiatives in which councils have been engaging with citizens and local partners to open up data and to make better use of it. Some authorities have led the way, transforming the way in which they do business with the public by creating unparalleled access to data stores and new public service applications. The consultation documents highlight, for example, the work of the London Borough of Redbridge. Through this, local government is realising some real benefits from opening up data helping to provide a more cost effective service through the comparison of spending, improving contracts and tenders based on best practice examples, and helping local people to access, choose and evaluate local services.
2. Local government supports a presumption in favour of publishing data. However, local authorities have also expressed some key concerns. It is essential that these are addressed in the development of the proposed policy:
 - Local authorities are a part of the structure of democracy in this country. They are responsible for the provision of a wide range of public services in which local choice and local accountability are of paramount importance. It is therefore vital that, in determining policies applicable nationally, local democratic accountability is respected. The government has, rightly, abolished the national indicator set and significantly cut down on requirements for local authorities to provide data and information in common form to the centre. Open data policies must not become a back door route to burdensome central prescription over data, imposing additional costs on local residents who pay through their council tax to maintain their part of the public data infrastructure. Central direction of policy should, therefore, be confined to setting out principles to be followed, not detailed technical requirements that provide little value to those who pay for local public services.
 - Transparency requires cultural change and an organisational commitment through senior level responsibility. As local government is already demonstrating, this is best achieved through incentives, encouragement and peer support rather than legislation.
 - Technical, contractual and skill issues hinder the opening up of data. We propose a collaborative approach to address some of the barriers.
 - The government should address the issue of the current confused legislative landscape. This lacks clear ownership and creates significant difficulties for

- public service users, both in relation to licensing and charging and also on privacy issues.
- Local authorities have rights both to raise revenue through council tax and through trading and charging for services. Local authorities also have responsibilities for the maintenance of key parts of the data infrastructure of this country, such as address data. It is essential that the government's policies avoid placing unfunded new burdens on council tax payers and allow key high quality and frequently changing datasets to be maintained. It is also vital that local authorities preserve the right to decide on the balance between charging for local services, and providing services free of charge out of local taxation revenue.
 - The consultation paper on the Public Data Corporation correctly distinguishes between data collected as a by-product of public service provision, and data that is an essential part of the public infrastructure. Local authorities are deeply involved in both kinds of data collection and, in relation to the latter, it is vital that high standards of quality and accuracy are maintained.
3. The LGA's general responses to the issues raised in the Making Open Data Real and the Data Policy for a Public Data Corporation consultation documents are provided below. A response to the individual questions of the Making Open Data Real consultation is included in the appendix which reflects views from local authorities¹.

¹ <http://www.local.gov.uk/open-data-consultation>

Making Open Data Real

Meeting local transparency needs

4. Local authorities support the presumption in favour of open data. A decision in the way to open up data and whether to provide advanced features should be taken at a local level proportional to demand, local needs and affordability.
5. Prescribing centrally what has to be published locally will often not meet the needs of local people. The single data list should be the only agreed list to determine what needs to be collated and published nationally. The process should be agreed and endorsed through a rigorous process of mutual agreement. The publishing of all other data should be decided locally.
6. Publishing open data in its rawest form is of little value to the local citizen and taxpayer, particularly if the data is incomplete, inaccurate or inconsistent. Feedback in Kent suggests that 50% of citizen responses indicated that improving the quality of existing open data is more important than releasing new open data. Another 80 % said that local public services should provide tools that make it easier for citizens without technical expertise to look inside open datasets. Part of this approach is to encourage and increase the awareness of citizens about their new right to data and their understanding of how it can be used by them. An important aspect is to work within councils and with partners and local business to gain a better understanding what the data can tell us with high quality analysis and visualisation.

Culture change and corporate responsibility

7. The opening up of data requires a change in culture and understanding within organisations about how to make best use of open data and to meet transparency principles while protecting privacy. Local authorities are starting to embrace this new world and realise some of the benefits through the opening of data. There are some laudable examples by Bristol B-Open², Redbridge You Choose³, Lichfield District Councils: Build your stuff with our stuff⁴ London data store⁵ and Open Kent⁶. These and other councils proactively engage with their citizens and not only make data openly available but use data to provide services to the citizens based on local suggestions.
8. However, local authorities have reported some cultural and organisational hurdles to meet openness and to address a better understanding of privacy requirements while being transparent. The most effective way to address such issues is not through legislation or central prescription but through local improvement, driven by raising awareness of good practice, peer support (in which the LGA plays a key role) and pressure from local people.

² Bristol B-Open: <http://www.bristol.gov.uk/page/bristols-b-open-datastore>

³ Redbridge: You choose <http://youchoose.yougov.com/redbridge>

⁴ Litchfield District Council: built your stuff with our stuff: <http://www2.lichfielddc.gov.uk/data/>

⁵ London Data Store: <http://data.london.gov.uk/>

⁶ Open Kent: <http://www.openkent.org.uk/>

Working collaboratively

9. Aside of cultural barriers there are technical, contractual and skills hurdles to overcome. We would propose a collaborative approach of working together with local authorities, government departments, suppliers and contractors to develop good practice that can then be readily promoted and shared.
10. Significant inconsistencies in legislation and fragmentation of responsibility between government departments are a major barrier. This leads to a lack of understanding amongst council members, officers, citizen and business about what is and is not possible, or required. This has in the recent past resulted in the promotion by various government departments of policies in the area of access to information and data that have subsequently been found to be unlawful, leading to substantial unnecessary costs being incurred by local authorities. It is therefore essential that new policies about open data are clear and simple, and fully address the issue of how the costs of assembling and maintaining high quality open datasets are to be funded. Conflicts between different legislative measures, particularly in the area of charges for information, need to be resolved. The government role should be to clearly state high level principles of open data, aiming for consistency of regulation across the public sector and appropriate local discretion in areas of local accountability for public services.
11. Better collaboration between councils, community and voluntary groups, suppliers and government, fully involving bodies such as the LGA, will help to improve understanding of local data needs, develop guidance and case studies to support local authorities and increase the skill level within councils to ensure that open standards can be met.
12. The Local Public Data Panel plays an important role as a board for handling transparency matters for local government. In addition, local government representation would add value to specific sector boards to evaluate open data needs at a local level.

Consistent coherent legislation, licensing and charging

13. We welcome the Government's consultation on a range of measures to address the inconsistencies of data access and reuse legislation. However, we are concerned that the consultation should adequately address the issues and complications exemplified by:
 - The Open Government Licence Framework widely promoting open and free data for reuse, yet failing adequately to distinguish those public sector intellectual property rights in public sector data that are a source of return for the taxpayer, funding the maintenance, improvement and publishing of high quality data: this is a particularly important issue in relation to data gathered by local authorities that is properly regarded as part of the national public infrastructure.

- Adding a location element to open data could potentially add a requirement to comply with the INSPIRE regulation. INSPIRE would make the data compliant with a detailed technical standards framework. At the same time INSPIRE would allow for charging of some data, potentially coming into conflict with the rule that access to the data under the Freedom of Information legislation and for inspection under the Environmental Information Regulation is generally free
 - Third party licensing issues. Much local government data (possibly up to 80%), includes a reference to a location plotted on an Ordnance Survey map or a reference to a Royal Mail Address. Ordnance Survey and Royal Mail licensing of third party use of that data mainly prohibits free reuse. This impacts, for example, on current policy to identify and map public sector assets in a comprehensive and openly available way. It is recognised that licensing needs to strike a balance between the interests of users and the need of the data provider to cover costs: it should also be recognised that licensing terms can give rise to a knock-on impact limiting users' ability to maximise value from data.
14. As an example of the current incoherence of policy across government, it is noted that the Department for Communities and Local Government has published a code of practice on transparency with some worryingly detailed prescription and a proposal for further detailed data guidance while the open data consultation is still ongoing.
15. It is undesirable to have the current piecemeal development of policy and legislation. What is needed is agreement to the principles and objectives of public sector data policy behind a general presumption in favour of transparency which we would support. The current open data proposals do not appear to address these issues sufficiently, leaving a risk that the current confused landscape might continue into the future.
16. We would also welcome for one government department to taking ownership of all data access and reuse regulation and policy to avoid further confusion and to strengthen the role of the Information Commissioner with additional regulatory powers for all data regulations including Reuse of Public Sector Information Regulation (RPSI) and data transparency. We value some of the guidance provided by the Information Commissioner on data sharing and data protection and by the National Archive on the Government Licence Framework and would welcome development of a more coherent, but minimal, guidance suite.

Affordability and financial impact

17. Local government encourages the opening up of public data. However, the maintenance and publishing of data is not cost-free. Whilst embracing transparency, it is clear that many of our member councils are worried about the resource implications that might arise if future policy has the effect of limiting councils' current ability to determine charges for the services they provide. Any change in policy that creates additional costs for local authorities will, of course, require full funding from the sponsoring government department in accordance with the government's New Burdens Doctrine. We do not believe that this should prevent a commitment to the journey, but we strongly urge that the more

ambitious elements of this transition should not be unrealistically enshrined in legislation, given the consequences for the public purse at a time when reduction of the deficit is the government's over-riding priority.

18. Furthermore, the maintenance of key datasets, particularly those that are in effect part of the national public data infrastructure, will not be sustainable without additional funding, given the impact of economic growth and the development of ever more diverse local communities. Local authorities currently charge for some of the dataset to offset costs and drive improvements. The consultation makes general references to greater provision of free of charge open data reducing costs in other areas, for example FOIA requests, or generating wider economic benefit. However it fails to provide a clear and evidenced impact assessment of the costs and benefits of change. We are particularly interested in the cost/benefit impact at a local level. As costs are real but benefits and savings appear, at best, highly speculative, it is essential that policy change both keeps to a minimum and fully funds the implications of new requirements on local authorities to make data more freely available.
19. In accordance with INSPIRE legislation, local authorities may be permitted to charge for the maintenance of key datasets which frequently change are of large volume and meet required standards in line with proposed Public Data Corporation (PDC) guidance. Local authorities rely on income generation to keep datasets up-to-date and decisions about fee levels need to be taken locally to minimise burdens on the generality of council tax payers.
20. However, efficiency savings through the joined up management and publishing of data should be encouraged as is exemplified through GeoPlace for local gazetteers and the publication of some INSPIRE datasets through national portals.

Data Policy for a Public Data Corporation

Local government position

21. Local Government has a significant interest in the Public Data Corporation, both as a data provider and as a data user. For example:
- Local government is one of the main users of core datasets provided by Land Registry, Ordnance Survey and other third party providers such as Royal Mail. Much of the open data created by local government has a location element and is derived from Ordnance Survey or Royal Mail data. As noted above, the relevant licensing terms prevent free reuse of the data. This is impacting on current policy to open data with a location element: for example, the licensing terms are currently restricting attempts to identify and map public sector assets in a comprehensive and openly available way.
 - Local government is a partner in GeoPlace, a joint venture with Ordnance Survey. GeoPlace creates a national address database from local authority gazetteers, Ordnance Survey and Royal Mail datasets and its data is as a core reference dataset, part of the vital public data infrastructure maintained to very high quality standards. GeoPlace has required substantial investment in order to bring together addressing data into a single coherent product and it is essential that the owners' investment can be fully recovered through a suitable mechanism for charging.
 - Local authorities create other datasets to high quality standards and rightly need to charge for the data so that costs of collection, maintenance, improvement and publication can be covered without falling as an additional burden on the council tax payer.

Charging and licensing

22. Our comments in paragraphs 17-20 above cover the local government position on affordability and financial impact in general terms.
23. We have no particular preference for any of the two charging options proposed that improve from the current status quo. However, under the Freemium business model, any of the options would need to support the sharing of data across a wide range of partners in particular the community and voluntary sector.
24. Any charging option needs to recognise that the creation and maintenance of data involves substantial costs in local authorities. We advocate a consistent approach to licensing and charging. Local authorities rightly have the power to charge for services to recover their costs, and this should apply to datasets that are properly part of the public data infrastructure, in the same way as for trading funds or private sector organisations, for the reasons set out in 1.20-1.22 of the consultation paper. Situations in which private sector organisations add minimal value whilst charging for the same data which is provided for free by public sector organisations should be discouraged by ensuring that local authorities retain the ability to charge for data that is supplied as part of an essentially commercial service. The consequences of the alternative, that the council tax payer to

provide a hidden subsidy to certain commercial organisations, must be avoided. Local authorities should therefore be permitted to compete in the same way as private sector organisations do for value added data and services.

25. In most instances, current practice in local government charges the end user for the data. However, as an alternative, local authorities may charge a fee at the point of a change request as is currently practice for planning applications. This model could be adapted to any change request including addressing, streets, regulation or management zones, service change, etc. In this case, it might be possible for end users to benefit from free access to data pending further service charges under INSPIRE.
26. Local government would prefer a simpler and harmonised charging and licensing option. The UK Government License Framework is a welcoming step in that direction as it distinguishes between three different licensing models: free for commercial reuse, free for non-commercial reuse and other special licence models where charges apply.
27. Within the licensing proposal we would welcome the ability to share and make data which includes third party intellectual property rights from trading funds more freely available especially to community and voluntary organisations for non-commercial use. Local government would welcome a presumption in favour that data with a location reference (point data) can be published openly and not limited by Public Sector Mapping Agreement (PSMA) licensing restrictions. Within the PSMA we welcome the ability to apply for exemption from third party restrictions to make data available for free-use, however, the process could be further simplified. It is recognised that changes such as these potentially impact on the commercial position of bodies such as Ordnance Survey, and could not be achieved without wider review of the licensing model.
28. With the widening of open data rights and regulations we would welcome a government independent regulator to with particular powers for regulating public and private sector data access and reuse. It would be helpful to extend the role of the Information Commissioner to cover all information access and reuse regulation instead of the current split between different government departments.

Appendix: Local Government Response to the Making Open Data Real Consultation Questions

The Local Government Association has sought the views from local authorities on the *Making Open Data Real* consultation. This appendix reflects a summarised view of the individual responses received.

Overall, we felt that the consultation document on *Making Open Data Real* was confusing, as the questions

- were not consistently numbered throughout the whole consultation document leading to omissions and errors
- did not consult on some of the key principles proposed in the consultation.

Hence, in some instances, we have added further comments within the specific sections.

Glossary of key terms (p. 7)

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

1. Open data may have two meanings, one relates to the openness of data in respect to access and reuse and the other to open technical standards. We understand that open in this context refers to openness related to business interoperability, making data freely available for access and reuse.
2. According to the key terms, data that is charged for would therefore not be considered to be “open” even if it meets open data standards. It would be helpful if a clear terminology could be provided for those data that follow open data standards.
3. The definition of which datasets should be released as a by-product of delivery needs to be further explored and defined. Local authorities may have differing values and interpretations for defining those datasets. Hence, it would be difficult to determine nationally what these datasets are. The single data list should form the basis of an agreed national data list for local authorities.

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

4. Local government is working towards a presumption of opening all datasets unless there is a reason for privacy or security (as defined in the Freedom of Information (FOI) Act and Data Protection Act (DPA)). A final decision to provide access to data under the FOI Act is based on a public interest test. The same test could apply for a decision to make datasets open.

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?*

5. The decision to make data open should be made locally, based on demand (number of FOI requests) and need, decided by local citizens, businesses, community groups and local service providers based on the principles of the Localism Bill. The decision will need to take into consideration not only accountability and transparency, but also affordability (when it is unaffordable to collect, maintain and publish data) and sustainability (where it is unsustainable to maintain and publish a dataset to certain standards in the long term).

6. Local government support the general presumption in favour of opening up data under the Open Government Licence to improve transparency and accountability. This would apply in particular to data which account for the performance of services. However, the maintenance and publishing of data is not cost-free. Key datasets will not be of the same quality without additional funding.
7. Any charging option needs to recognise that the creation and maintenance of data involves substantial costs to local authorities. Local authorities rightly have the power both to raise revenue through council tax and through trading and charging for services to recover their costs, and this should apply to datasets that are properly part of the public data infrastructure, in the same way as for trading funds or private sector organisations, for the reasons set out in 1.20-1.22 of the PDC consultation paper. It is also vital that local authorities preserve the right to decide on the balance between charging for local services, and providing services free of charge out of local taxation revenue.
8. We advocate a consistent approach to licensing and charging. Situations in which private sector organisations add minimal value whilst charging for the same data which is provided for free by public sector organisations should be discouraged by ensuring that local authorities retain the ability to charge for data that is supplied as part of an essentially commercial service. The consequences of the alternative, that the council tax payer to provide a hidden subsidy to certain commercial organisations, must be avoided. Local authorities should therefore be permitted to compete in the same way as private sector organisations do for value added data and services.
9. Local government therefore reserves the right to use the full range of the UK Government Licence framework, which provides licensing models for total commercial free use, for free non-commercial use and for licensing and charging.
10. Local authorities currently charge for some of the intellectual property rights of their dataset to offset costs for data maintenance, improvement and publishing where there is a shortfall in tax revenue. This affects, in particular, datasets connected to geographic and/or temporal ranges that frequently change and are of high quality. Charging for services to view and download this data is in line with current INSPIRE legislation.
11. We therefore suggest authorities should be permitted to charge for the release of data:
 - if the data is outside of the agreed single data list,
 - for a low frequency request under FOI and if the release of the data costs more than the fees applied in the FOI regulation
 - where charging under INSPIRE or RPSI is permitted and authorities:
 - add value through additional consistent coding and standards,
 - quality check the data to be consistent and highly accurate
 - publish frequently changing datasets at short intervals
 - other reasons within the right of local authorities to set charges.
12. Of course, any datasets that would be charged for under these circumstances could be made freely available if authorities' costs were compensated through funding from government grants, commercial sponsorship, charges for collective service agreements or other service charges.

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?*

13. The range of organisations included should be in line with existing government policy and legislation on data access and reuse (FOI, EIR, RPSI and INSPIRE). Any organisation that provides a public service whether for profit or not and any organisation in receipt of major or regular public funding to support its business should be considered for inclusion as per the definition supplied. However, there needs to be proportionality to when this would apply.

14. Compliance with open data rights needs to be extended through contractual arrangements to organisations that have been contracted or commissioned by a public service agency to provide a service including the community and voluntary sector. Current contracts often do not oblige commissioned services to comply with open data and transparency requirements. This would need to be addressed over time.

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

15. The opening of data should be through encouragement rather than enforcement. All but one local authority opened up spending data following encouragement. This was achieved as the LGA provided guidance and support to local authorities in making spending data and senior salary data available online. Additional legislation would be perceived as a burden by the sector at a time when statutory duties are to be reduced. Instead of central legislation, we would prefer an approach of encouragement, leaving the decision to open up data to local decisions and policies, based on demand and need (see first question).

16. Local authorities recognise ongoing barriers that hinder the opening up of data because of:

- existing systems and contracts that do not cater for open data,
- a lack of understanding about what open data means and what processes are required to adopt an open data approach,
- a lack of skills to open up data and meet open data standards
- a confused legislative landscape without clear guidance on charging and licensing.

17. We propose to help local authorities overcome those barriers and encourage the publication of data, through incentives and providing best practice, guidance and skills support. This can be achieved through a collaborative approach between local government, central government, suppliers and developers rather than enforcement.

Enhanced right to data (p.25)

How do we establish stronger rights for individuals, businesses and other actors to obtain, use and re-use data from public service providers?

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

18. Local government supports the general principle for the presumption to publish data openly when created as part of public service delivery unless it breaches existing FOI

exemptions. However, it should be left to local decisions to determine how and to what extent individual datasets are published, meeting local accountability, need and demand and which is proportional to affordability and sustainability. (See answers above).

19. Local authorities are in some cases reluctant to release data as they do not want to take the risk of litigation if the data does not meet the quality standards of certain uses. Under the Open Government Licence there is no warranty to data providers for any liability due to omission or errors in the data. Hence, where an Open Government Licence is used the risk in releasing the data is low. Where this risk cannot be mitigated, the publication of data should include a health warning that the data owner cannot be made responsible for any litigations due to data use. However, there is a danger that, if data is published that does not meet the highest quality standards, this may have an impact on the reliability for future use.
 20. Furthermore, local government would welcome a presumption in favour that data with a location reference (point data) can be published openly and not limited by Public Sector Mapping Agreement (PSMA) licensing restrictions. Within the PSMA we welcome the ability to apply for exemption from third party restrictions to make data available for free-use and a move towards releasing some of the licensing restrictions for providing data online through web mapping services. However, the process needs to be further simplified to make it less bureaucratic.
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?*
21. Local government advocates the role of the Information Commissioner's Office (ICO) as an independent body to safeguard the right to access and reuse data while at the same time protecting privacy and security. This would link the current responsibility of the ICO for FOI Act and DP Act with the open data policy.
 22. However, for the ICO to be most effective it would be beneficial to:
 - streamline processes for handling requests
 - set a time limit to respond to referrals of cases – local authorities have reported cases that have taken more than a year to determine
 - assist or advise public bodies to meet their access to information duties
 - enhance the right of challenge against decisions not to publish data to the Information Commissioner.
3. *Are existing safeguards to protect personal data and privacy measures adequate to regulate the Open Data agenda? (see also question 1 under corporate responsibility)*
23. Current safeguards related to the Data Protection Act are sufficient to regulate the open data agenda. However, the regulation is too complex and would require simplification or further guidance to help inappropriate disclosure/non-disclosure control within the transparency principles.
 24. We also propose that open data is regulated at a local level by the same governance structures that regulate personal data. This would enable data guardians to protect personal data and privacy measures within the open data context. While guidance how to handle transparency and privacy are welcomed, it should be left to individual authorities to review procedures to ensure that local governance structures apply to transparency and privacy before releasing any datasets.

25. There is also concern that personal information aggregated in anonymised dataset can be revealed through increased publishing of datasets and advances in analytical techniques. Further guidance is required to help public authorities to decide on a case by case basis if publication of a dataset could breach privacy.
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?*
26. The publication of datasets has resource implications to local authorities at a time when resource and skill levels to handle information requests are reduced. This could be significant at a time when changes to commissioning and service provider models and shared services organisations covering back office delivery add further layers of complication.
27. The cost for releasing data generally increases for datasets which:
- frequently change and are of large volume
 - have to comply with standards and formats different to how data are held and used internally and published
 - contain personal or security information and requires the data to be either redacted or aggregated
 - held in IT systems that do not cater for their routine release
 - are held by commissioned bodies or contractors and need to be requested in specific formats
 - are difficult to understand and require additional explanation and coding (else FOI requests may increase)
28. *Open Kent* carried out an analysis of the resource implications of an enhanced right to data for the public service agencies. This shows that the key resource implications are affected by the level of understanding by staff of the open data standards and clarity of the process of managing information requests.
29. Local government acknowledges that the resource implications may decrease once open data procedures and a culture of opening up data have been established and citizen are able to use and understand open data and reduce the number of FOI requests.
30. We propose the following measure to ensure that the burden is proportionate to the aim of open data:
- Instead of a prescriptive central legislation the decision to publish data should be left to local needs and demands. Local taxpayers should decide what resources should be provided to open up data, to be accountable to its citizens and to help social and economic growth locally unless funding is provided centrally
 - Provide guidance in collaboration with local authorities, government and suppliers to develop data architectures that focus on improving the collection and management of open data. The local government esd-toolkit⁷ is already providing a source for standards related to the local government business model.

⁷ Esd toolkit: <http://www.esd.org.uk/esdtoolkit/default.aspx>

- That Government rationalises the different regulatory instruments⁸ on the re-use of data to improve the process by which councils make it available. This could help reduce the incorrect application of exemptions of these different instruments which can lead to information being withheld inappropriately.
 - That the opening up of data is proportionate to the demand and that people requesting open data should evidence that they have not been able to find the required datasets on the internet. This could help reduce the number of requests asking for data that has already been made available.
 - Current access to information request thresholds are set with regard to proportionality of effort and a review of those thresholds would be helpful in line with open data.
 - Publication of data inventories that state what data will be published and which cannot be published with reasons due to resource constraints, lack of demand or need or other privacy or security issues.
31. With particular reference to the proposed amendments to current fees regulation under the FOI Act, an increase in fee limits or removal could have an impact at a time when resources are severely depleted because of spending cuts. Some local authorities indicated that up to 10% more data would have to be released for free and that resources would have to be diverted from frontline services to handle the FOI requests within given timeframe and cost limits.
32. Local government would also welcome aligning the time limit for handling information requests between EIR and FOI Act. In general local authorities are able to respond within the 20 day limit. However, certain reviews may take longer especially when several organisations are involved to respond to the request. In this case, and when public interest tests are reviewed, we propose an extended time frame of 40 days.
5. *How will we ensure that Open Data standards are embedded in new ICT contracts?*
33. Authorities also expressed the wish to focus on improving the opening up of datasets. There are still many barriers to overcome before opening up of data becomes a straight-forward process. Work needs to be done with system suppliers, contractors and internal businesses to facilitate the opening up of data through processes and standards that meet the needs of an open data agenda.
34. To ensure consideration of open standards in ICT contracts, local government suggests for government in liaison with local government and suppliers to:
- reform procurement rules for ICT systems to ensure that new systems are designed in ways that enable easier data extraction. Take-up by suppliers of open data could be encouraged through set procurement criteria and by an open/digital charter for system suppliers to the public sector to sign up
 - publish sample contractual clauses as OGC did for FOI when it first came out
 - specify for all future tenders and contracts that any non-personal data produced by a service provider should, over time, be collected in a way that meets open data standards
 - for authorities to create inventories of “data that is held in a way that is too costly to release”. This can provide lessons learned to define future procurement of technical systems to enable the opening of data without these barriers.

⁸ Open Government Licence, Freedom of Information Act, Environmental Information Regulations, Data Protection Act, Re-Use of Public Sector Information Regulations and the INSPIRE Regulations.

35. We would also welcome a sufficient time frame until changes to ICT systems can be enforced, as data is held in historic systems and renewal of systems need to meet extended OJEU rules.

Setting Open standards (p.28)

What would standards that enforce this right to data among public service providers look like?

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

36. Local authorities who explore the uses of open data acknowledge that the use of a higher star rating standard would be useful and improve the ability for the public to compare information between datasets from different organisations. However, linked data is not widely understood or utilised currently in the sector and needs some work around capacity building.

37. As the majority of data would not be in linked data from the start it would require additional resources to meet higher star ratings and turn them into linked data. Resources would need to be freed up from elsewhere in the organisations to implement this, notwithstanding the potential lack of expertise in local authorities to know how to do this. This would particularly affect smaller organisations with less developed skill levels. Given the current resource situation, it is unlikely that local authorities will want to divert resources from the frontline to this task.

38. For linking some high level value datasets between local authorities (e.g. spending), the case may be made on an individual basis to combine data into a central source and create the higher standard rating centrally.

39. However, overall we do not believe that standards should be written into legislation but that local authorities should be encouraged to comply with standards where there is the business case. To encourage the take up of standards and make them meaningful, local authorities suggest to:

- Develop standards in collaboration with the local government sector based on user experience and best practice examples instead of enshrining standards into law.
- Demonstrate the need to adopt standards more widely through a business case.
- Provide guidance about acceptable reusable formats but allow public sector bodies to determine which format is best to use for their organisation and the way data is held.
- Assist local authorities to meet compliance with standards through guidance and capacity building.
- For those authorities that have achieved compliance to support and share their learning with those that don't.
- Phase in open standards compliance to meet at least some of the star ratings.
- Create a common register for standards and associated vocabularies and classifications (this is in part already available through esd-toolkit but requires central coordination across sectors).

40. The standards suggested in the consultation only consider access criteria to data. However, data may become meaningless without establishing criteria for the quality of data such as currency, accuracy and interoperability.

2. *Is there a role for government to establish consistent standards for collecting user experience across public services? Is there a role for setting sector specific standards?*

41. Standards are vital for the effective sharing and use of data and information. Sector specific standards should only be developed where there is a lack of national and importantly international standards or a need to substitute them. It is our belief that the collection of user experience is essential in order to develop standards and processes to become more efficient and user friendly.

42. There is a role for sector specific standards as already exemplified and used through esd-toolkit⁹ which links standards to the local government business model. The Local e-Government Standards Body¹⁰ and esd-toolkit are working together to develop user scenarios for the use of standards in local government and for sharing data between central and local government and across sectors. It would be important to strengthen their role as coordinating and advisory body for standards and fund them appropriately.

43. There is also a clear need to publish controlled lists and vocabularies, URI sets and ontologies to be used for linkable and linked data and the provision of conversion tools to allow public service providers to push tabulated data sets and create compliant datasets. This could be linked into the esd-toolkit Local Government Business Model but would also require central coordination.

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

44. Unless government takes a lead role in holding the data, compliance with the 4/5 star ratings require specialist expertise and new practices to be implemented. As such, it is difficult to identify how to assure the quality of the data from information intermediaries in terms of these ratings. Therefore a scheme for accreditation of information intermediaries would be welcomed, but only on the basis that there would be no additional costs at a local level and where the business case and demand requires such accreditation.

Corporate and personal responsibility (p. 30)

How would public service providers be held to account for delivering open data through a clear governance and leadership framework at political, organisational and individual level?

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. (see also question 3 under Enhanced right to data)*

45. Public sector bodies already handle different types of data which involves managing privacy and security considerations. We recommend building the commitment to open data on existing process and responsibilities which should be linked to a risk approach not to breach privacy and security consideration. Hence, local authorities advocate a combined corporate role for data transparency and privacy. This role could be linked to the existing SIRO

⁹ Esd toolkit: <http://www.esd.org.uk/esdtoolkit/default.aspx>

¹⁰ Local e-government standards body: <http://www.legsb.gov.uk/>

(senior information risk owner). We would welcome this to be a statutory post/or a post with statutory responsibilities which would mean that there would be an element of accountability and a commitment to open data and privacy across all public service sectors.

46. Mainstreaming the open data agenda into day to day decision making requires a cultural and behaviour change which will take time. However, councils may best to consider for themselves how to address compliance of transparency and privacy.
47. Councils suggested several different approaches to address this culture change to:
 - Develop statements of how open data will underpin accountability and transparency while protecting privacy, and
 - Develop practices that provide an agreed approach to collecting, organising and publishing data within an organisation and local partnership.
 - Develop tools for applying Privacy Impact Assessments to new technology that forms part of the procurement decision process and is auditable.
 - Manage demand for open data – by prioritising the opening up of data based on the frequency of requests and a measure in how far the datasets underpin local accountability and transparency.
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?*
 48. The organisational mechanics of managing this new agenda should be left to the public body to decide for themselves. This may require a leadership approach to take corporate responsibility to manage information and data obligations whilst meeting the organisation's balance of information risk between the benefit and harm of disclosure.
 49. Corporate responsibility has already been assigned for Freedom of Information and data protection through a senior information risk owner and the chief information officer. If organisations have not already done so it would make sense to combine the two roles.
3. *Would we need to have a sanctions framework to enforce a right to data?*
 50. We do not see the need for a 'sanctions framework' as such and would prefer the process of positive 'rewards' instead. It should be left to local partnerships to determine what data is required to underpin transparency and accountability. Demanding at high level what needs to be published counteracts the Localism Bill devolving powers to local government, local communities and local people.
4. *What other sectors would benefit from having a dedicated Sector Transparency Board?*
 51. The local government sector is currently represented through the Local Public Data Panel. However, there may be a need for local government representation on topic specific panels such as transport, environment, education, etc.

Meaningful Open Data (p. 31)

How should we ensure collection and publication of the most useful data, through an approach that enables public service providers to understand the value of the data they hold and helps the public at large know what data is collected?

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

52. Local authorities are generally in favour of creating data inventories to publish their data holdings. This would add to an understanding of issues and allow clear information to be provided to the citizen about what data is to be published and why. However, the responses vary in the approach to be taken. A few suggestions are listed below:

- The FOI publication schemes, non-personal information asset registers and any other non-personal data and information lists should be categorised in a standardised way and integrated into a unique information asset register which can be published in an open data format to show to the public what data is available.
- Development of a sector specific inventory (for example, use of esd-toolkit for a local government specific inventory which would base the publication of data on the local government business model).
- Inventories should specify
 - what data sets are held by local authorities,
 - whether they are open or not (pending privacy, national security restrictions or other factors that currently prevent the publication of the data) and the priority set by the authority of opening up the data (depending on requests and technical and contractual ability to publish the data).
 - if they use agreed standards
 - statements about quality and currency and intended use

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

53. The prioritisation of data and inclusion in an inventory should be left to local decisions based on local demand and needs. Councils recommend linking prioritisation to council's strategic priorities, most popular requests (e.g. linked to FOI requests), the agreed single data list and statutory requirements. Priorities could also be linked to the opportunities stated in the open data proposal for: Accountability, Choice, Productivity, Quality and Outcomes, Social Growth, and Economic Growth. However, how councils define and prioritise data for publication should be clearly stated to the public to manage expectations. This could be accompanied with the schedule of release and will help reduce the burden of information requests.

54. The value of the data to the public good cannot be easily measured where data is published but will be measured by the users of data. There is an issue of how and who perceives a value in the use of the datasets. A local authority gave as an example the publication of empty properties. The datasets were used by local squatters to occupy empty houses, while there was a cost to local authorities and police in handling the illegal occupation. There needs to

be a balance struck between datasets to be published for the public good and the prevention of misuse.

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

55. We would expect central government to publish all data collated from local government and local authorities to publish data on:

- Information on how to access and use their services.
- The performance of their services. This would include expenses, money spent, contracts issued. This type of information could be tied to the single data list.
- Data that is used to inform the development of policy and decision making processes locally.

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

56. Collection for datasets which is not on the single data list or fall outside of statutory duty may not be collected.

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?*

57. Under the open data proposal data should be published 'as is', in the format it is held. Data should not be polished when published in its rawest form. However, public bodies may manipulate data to improve its quality and usability, for example by making the data linkable. However, those datasets may be published in addition to the raw data. This could be regarded as a value added service and charging should be permitted under the RPSI.

58. Datasets which are authoritative and relate to a statutory requirement should be of high quality meaning accurate and current. However, data quality is often poorly defined under statutory requirements. The lack in data quality could lead to unreliable decision making and misinterpretation.

59. The quality of datasets may also vary depending for which purpose they were collected and used and depends on its future use. For example, defining the exact boundary of a property in planning decisions or legal cases is important, whereas roughly knowing where a service is provided is sufficient to find the nearest service.

60. Under the Open Government Licence data providers are not providing any warranties for the data and are not liable for any errors and omissions in the data or the resulting consequences from its use. However, we recommend that all data should accompany a narrative in the inventory stating for what purpose the data were collected, when they were last updated and to which accuracy levels they were collected and a health warning about its reliability.

Government Sets the Example (p. 33)

In what ways could we make the internal workings of government and the public sector as open as possible?

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?*

61. Responses from local authorities to this question varied. Some proposed a central portal approach so that data is consistent, securely stored and available from one location whereas others favoured a departmental/local portal approach linked to where the data was created and used with the possibility for syndicating web content to facilitate opening of data

62. The implementation of INSPIRE (the European spatial data infrastructure) may provide an answer which caters for a central and departmental/local portal view. The UK Location Programme implemented a federated approach to publishing location data in response to the INSPIRE regulation. Data can be published at source to given publishing and data standards with the requirement to register the data and publishing services centrally at data.gov.uk. Data.gov.uk has the facility to harvest the metadata from local portals providing a central inventory of all location based datasets. The UK Location Programme provides a free tool for creating metadata to encourage compliance with the standards.

63. A similar approach could be adopted for open data, by standardising the data inventories and providing tools to public authorities to create and publish the data to given standards. Data providers would then only be required to register their data stores but can publish the data locally according to their given requirements. Bristol City Council and Barrow Borough Council have adopted this approach and are publishing some metadata directly on data.gov.uk harvested from source.

64. The decision about whether to publish the data through local, regional or a central portal should be left to the public authority. Obviously, there may be arguments of efficiencies where data is published through portals instead of leaving it to individual organisations to implement the infrastructure. In some instances, there may be value in creating national datasets according to common standards. A federated approach can still be adopted here but it is important that a government department takes ownership and funds a consistent approach to publishing data. Examples would include, cycle routes, public land and property data, schools performance databases, flood risk registers.

65. Wherever and whichever way data is published or used in applications, the application should provide a web link back to the originator of the data so the data can be accessed and reused from source.

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

66. . This should be decided on a case by case basis based on need, demand and the technical ability to publish data (see previous sections).

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

67. Respondents commented on data overload, that too many datasets are published which provide no meaning. Instead of widening the publication of data it is recommended to publish fewer but more meaningful data in the form

that is understood by the majority of citizens. The priority should be on the value citizens place on the publication of data. There needs to be greater emphasis on how data is made open and how it can be reused, instead of how much data is open. This could be linked to a rating if citizens make use of the data, the usability can be improved.

68. Based on a resident survey carried out by Open Kent, approximately 70% of respondents said that all local public services data should be openly accessible online, although just over 50% said that improving the quality of existing open data is more important than releasing new open data. Over 80% advised that local public services should provide tools that make it easier for citizens without technical expertise to look inside open datasets.

69. To stimulate use of data and ensure open data becomes of value to the citizen, Kent learnt to involve people in ways which are meaningful to them and which they have the capabilities to contribute. This is why *Open Kent*¹¹ and other portals such as *Digital Birmingham*¹², Bristol's *B-Open*¹³, London's *Data Store*¹⁴ and others have invited people to come up with ideas on how technology and applications can help people make better use of the data. These sites like data.gov.uk host applications and services alongside their data stores which add to the understanding and usability of the data.

70. Authorities also expressed the wish to focus on improving the opening up of datasets. There are still many barriers to overcome before opening up of data becomes a straight-forward process. Work needs to be done with system suppliers, contractors and internal businesses to facilitate the opening up of data through processes and standards that meet the needs of an open data agenda.

Innovation with open data (p. 36)

To what extent is there a role for government to stimulate enterprise and market making in the use of open data?

1. *Is there a role for government to stimulate innovation in the use of Open Data? If so, what is the best way to achieve this?*

71. Public authorities have to justify the benefits of publishing open data. This is not fulfilled by just publishing data in its rawest form. Encouraging innovative data uses helps to stimulate the use and understanding of data, drives data improvements, stimulates pride in the data and drives productivity improvements and self-regulation, not only in the private sector but in public authorities. Stimulating innovation will therefore be a key consideration to benefit from open data and should involve close working between public sector bodies, citizen and developers and seeking case studies of examples of good practice and learning.

¹¹ Open Kent: <http://www.openkent.org.uk/>

¹² Digital Birmingham: <http://www.digitalbirmingham.co.uk/>

¹³ Bristol B-Open: <http://www.bristol.gov.uk/page/bristols-b-open-datastore>

¹⁴ London Data Store: <http://data.london.gov.uk/>

72. There are a range of examples across the local government sector including *Digital Birmingham*, *Open Kent*, Bristol, *London Data Store* that have not only published the data but encouraged its use through applications. The esd-toolkit and LG Inform¹⁵ are two further examples, where the publication of data have driven innovation which leads to self-regulation and productivity increases. For example, the esd-toolkit provides a conversion tool for converting spending data to linked data formats which allows the easier comparison with other authority spend for similar service lines. LG Inform, a sector-owned data access, sharing, analysis and reporting tool, harvests a range of performance data available in open format and enables authorities to compare their own performance with and across local authorities.
73. Stimulation of innovation through open data could also be directly linked to stimulating innovation in the key strategic drivers for local authorities. This would maximise the impact of the use of open data and encourage commissioning of applications for it.

¹⁵ LG Inform: <http://www.local.gov.uk/inform>