

Making Open Data Real - Consultation Response

Durham County Council

The Council welcomes the principle of making public sector datasets more transparent, and able to be more easily used and reused. The consultation highlights the link between information and citizen satisfaction:

‘the more citizens feel informed the more they tend to be satisfied with public services and their local authority’ (p.40).

We believe that the need to publish datasets must be balanced by the ongoing need for local authorities and their public sector partners to publish clear information on local public services. At a time of significant changes to the organisation of public services at a local level, it is vital that our attention is strongly focused on providing clear information on services affected by change for the users of those services, and that this should come before time spent on publishing datasets. If the resource requirements for open data do become a burden and become an industry in itself, then it will not deliver what it promises.

The move to open data has to be seen as part of a wider movement to bring services closer to the public. As such, we are also mindful of the need to look beyond the data sets to the analytical tools needed to make the data effective. The analytical tools have to be developed and distributed to unlock the information’s full potential. There is little point in publishing large quantities of data early, if they can’t be easily accessed, interpreted and analysed.

For both the above reasons, a gradual approach to publishing datasets, focusing on the specific datasets, which can add most value to the general public would be best. This is Durham’s preferred approach. Such a gradual approach will protect against the risk of excessive costs associated with extracting information and administering it, as well as minimising the risk of privacy issues which could arise from ‘deanonymisation’ resulting from publishing several datasets together.

Alongside this, we believe that the current legislative and regulatory frameworks are largely adequate to support publication of data. National direction on the issues of individual councils’ corporate governance arrangements for open data and the development of transparency standards should be minimal, in line with localism principles. It would then be up to individual authorities to develop their own governance and standards.

A minimal approach to legislation and regulation, alongside a gradual staged approach to publishing datasets is in line with the Government’s ‘Red Tape Challenge’ and desire for better regulation of public services.

Set out below is Durham County Council's response to the individual consultation questions.

Detailed Responses.

Question 1: An enhanced right to data: how do we establish stronger rights for individuals, businesses and other actors to obtain, use and re-use data from public service providers?

Response: We do not see a need for new legislation in this area. Guidance and best practice would help to establish stronger rights for individuals, businesses and other actors to obtain, use and re-use data.

At the moment, the current system is working, albeit with uncertainty. What we suggest is greater clarity around what rights an individual has to information and greater regulatory consistency of the existing rights.

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

Response: We do not see the issue around a presumption of publication. Instead, what would help is clarity over what is expected as core data sets that should be available in each council.

1.2 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?

Response: Yes, there is a need for a regulator on this issue. Otherwise, one council's system can be vastly different from another's without any clarity as to how to resolve the difference.

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

Response: There has to be a way to understand and mitigate the risks associated with publishing large datasets that are based on our may contain anonymised personal data. By that we mean, data sets based on information that is drawn from personal information, while it may be considered anonymous, has an origin in personal information. As a result, what may appear anonymous and be anonymous to the average person may still be opened up with the right tools and techniques.

1.4 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?

The resource implications are potentially very significant. To turn data originally developed for internal use into data sufficiently clearly expressed to be accessible to the public, will take time and resources. At a basic level, there is the need to develop systems and data quality checks to provide the necessary minimum quality for publication. A gradual implementation programme is therefore essential, with initial focus on a small number of datasets. In many ways, the Council will be learning by doing. As a result, there is much to be gained from getting it right on the first data sets rather than rushing into publish large numbers of various data sets.

Although the information will exist within an organisation, the additional work will be found in preparing the documents and coordinating the publication. Over time, organisations will adapt so that they will work on projects and programmes with an understanding that the data sets which result will be published

The burden can be made proportionate to the aim by setting a series of deadlines for a basic group of datasets. For example, the £500 spend was achievable because the deadline was set in advance so organisations could gather themselves and prepare a response. Some authorities were already well prepared while others required additional time.

1.5. How will we ensure that Open Data standards are embedded in new ICT contracts?

Response: From experience with dealing with FOIA requests for data, it would help to have clarity over who owns data generated within a public sector contract. We do not see the need for additional legislation in this area. Rather, we would like to see guidance and best practice about understanding who owns the data and what financial considerations have to be considered when public sector information is used. For example, guidance over what the legal status is of public sector data created by private sector providers and whether private sector suppliers or contractors retain a right of use or control once the contract ends.

Question 2 Setting transparency standards: what would standards that enforce this right to data among public service providers look like?

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

Response: The best option would be a code of practice, transparent to citizens, which would allow compliance to be challenged through the FOI process and with the ICO. A star rating system would be over burdensome and would generate additional costs.

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

Response: In Local Government a large number of statutory surveys assessing public and user experience of services have been scrapped, but many councils are continuing to collect much of this data, albeit often using more cost-effective methodologies. In the North East we are attempting to develop a common approach to some of this data collection, as we are in danger of losing comparability. It would be worth considering with the LGA whether a minimum set of standards could be developed to aid comparability across authorities, for example linking to the LGA's work on a bank of 'place survey' style questions with IPSOS MORI.

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

Response: The scheme is nice in theory, but the practicality is that the accreditation becomes an end in itself rather than an enable or a means to an end. If someone has the accreditation, what will it mean? Will they still be there in 5 years? Can someone still deliver the same service without the accreditation? If the accreditation does exist it has to be seen more as a benefit and less as a burden or a barrier to involvement. Moreover, the accreditation has to be seen to be serving the end user, the citizen, rather than becoming an industry in its own right.

Question 3. Corporate and personal responsibility: 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?

3.1 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?

Response: We believe that public challenge through the FOIA process, together with the ICO's enforcement arrangements would provide an adequate accountability framework to ensure any new commitments are honoured.

The O'Hara review has made some important recommendations in this area. In addition to that work, we would suggest that the Data Protection Act and the Human Rights Act afford citizens the right of redress should their privacy be breached.

3. 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?

Response: An integrated approach to the right to data and privacy is important but it should be left to individual councils to determine their own governance arrangements for implementing open data and privacy requirements.

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

Response: The sanctions framework within the FOIA should be sufficient to support the right to data. If someone makes a request and it is not met, then they can complain to the organisation. If that does not succeed, they can go to the ICO

3. 4 What sectors would benefit from having a dedicated Sector Transparency Board?

Response: The Sector Transparency Board is a good idea as long as it does not become an end in itself. The focus has to be on the value added from the board which could include developing good practice guidance in relation to governance arrangements and advice on datasets to be published and the approach to publication.

Question 4. Meaningful Open Data: 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?

Response: The challenge is to find a common value measure so that the public service provider can quantify the value of data held. Moreover, the data's value may change for the end user. Thus, what an organisation may see as highly valuable, may not be of interest or use to the public.

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

Response: It would be helpful if a data inventory for local government is linked to the existing publication scheme requirements. A gradual approach to implementation is important to avoid overburdening councils as described above. Initially the focus should be on key front line service areas which have datasets associated with them, focusing on subsets of fields that all councils will be likely to collect. Proposals should be developed in partnership with the Local Government Association. It is important that issues of comparability of data and timeliness are considered as part of this approach.

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

Response: Priorities should focus on customer transaction data at a local authority level which relate to core statutory functions, but also on which sets of information have fewest quality and technical problems associated with publication. Its value should be established by considering for each datasets potential citizen benefits. A Local Government working group should be used to establish a focused set of data to bring with.

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

Response: The major service areas should be considered such as health, education, social services, and environmental services.

4.4 What data is collected ‘unnecessarily’? How should these datasets be identified? Should collection be stopped?

Response: The key issue is for government to consider in each case the use made of the data collected, and standardise and streamline requests as much as possible.

4.5 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?

Response: Durham’s experience with the publication of data showing expenditure over £500 suggests that **high quality data is critical** to achieve the benefits outlined in the consultation paper. The danger with mandating publication of information which is held for internal processing purposes only is that, whilst sufficiently accurate for management monitoring, when presented in public it can give a distorted picture and generate misinformation. Once the information is discredited, it would be likely to be ignored, and would be an additional burden and cost to the organisation with no real benefit to the public.

We also wonder whether it would be possible for the Government to consider some requirements regarding responsible use of open data, for example referring any analysis or inferences drawn back to the originating organisation, if these are to be published.

Question 5. Government sets the example: in what ways could we make the internal workings of government and the public sector as open as possible?

5.1 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?

Response: We believe a central portal would be best for the government’s approach to the release of existing data. When governments change or departments are restructured, their web pages are archived or they get changed so that previously accessible information is lost from sight. When pages are redesigned or changed, links get broken and data is interrupted. The page may take months to rebuild the links completely. A central data point could reduce the gap that is created by those changes.

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

Response: Priority should reflect the needs of the end user and then the organisation. We believe that frontline services should not be compromised by the publication of datasets so the priority has to reflect the need to deliver frontline services. From that top priority, the others will follow. For example, datasets that reflect service performance should be

published. Next, the priority should be on datasets for the overall performance of the organisation.

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

Response: The question presents a false alternative. The granularity of data starts with what is usable. If there is too great of focus on the detail of the data, we miss out on its availability and its wider usability. If we focus on broad sets of data we miss out on the detail needed for analysis and connection. If the choice has to be made, a broad set of data should be provided so that detail can be added.

Question 6. Innovation with Open Data: to what extent is there a role for government to stimulate enterprise and market making in the use of open data?

Response: The government has a central role in supporting the market by providing the information. Moreover, it has to set the boundaries for what is available so that better quality data is provided and in a format that is useable.