

**Sunderland City Council Response to:
Cabinet Office: Making Open Data Real: A Public Consultation
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Proposed Response to Consultation

General Comments

- The consultation document is a thoughtful attempt to debate some of the issues associated with Open Data in the spirit of the Open Public Services White Paper. Sunderland City Council sees the potential that lies in improving access to Open Data and is committed to ensuring that the city benefits from its robust role in championing the use of public data in public services to release the opportunities of Open Data discussed in the consultation: accountability; choice; social growth; productivity; quality & outcomes; economic growth. The Council continues to support the work of the Open Public Data Panel.
- The consultation is understandably better at the general issues than specific ones at this stage, and might not fully reflect the work on development and publication of individual national data sets (which is often extensive in individual Government departments). Whilst open access to datasets are to be welcomed, one of the main issues in the approach described is that these are, in reality, often specialist datasets that information specialists are able to compile and analyse. Sunderland's research with residents suggests the added value at a local level the public sector can provide is in terms of transforming data into information and intelligence – what the data may mean in its context – rather than providing “open data”. Nonetheless, the release of open access provides an opportunity for the public and businesses to provide this transformation themselves (if they desire).

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?

The combination of standards within this section form the basis of a strong set of conditions about which local and national Government can be held accountable in terms of the public's rights to obtain and use public service data. Specifically local authorities would welcome:

- Embedding the principle that data should be open by default through existing legislation;
- Introducing a new requirement that all public bodies and providers of public service proactively publish data about the services they deliver. The Coalition Government should continue to provide guidance to all public bodies, including the grounds on which it is acceptable not to publish and require each body to record the reasons for non- publication;
- However, there might be circumstances in which the latter may be complicated, e.g. if public services are outsourced from the private sector. To help reduce administrative burden on private sector companies, one

option is that data-sharing (e.g. minimum data-set) requirements should form part of individual contracts – with the expectation public bodies as commissioners should combine and publish this data;

- In terms of ensuring open data standards are embedded in IT contracts, the key is open standards, which may mean options such as Rich Format licensing (Such mechanisms make it easier to build additional open data systems at a later date). Embedding the standards in contracts might be achieved by centralised validation services (e.g. Council as commissioners) which could be part of “standard” Terms & Conditions for awarding contracts;
- Explore possibility of enhanced right of challenge against decisions not to publish data to an independent body, such as Information Commissioner, but building on existing powers;
- We believe the existing information governance safeguards to protect personal data and privacy measures are adequate to regulate the Open Data agenda. It is probably important to bear in mind that Open Data only refers to data that is not subject to valid privacy concerns. There can be issues that arise from aggregating apparently impersonal data (particularly if qualitative in nature). This is a very complex area, with no easy solutions. So it is important to bear in mind that any presumption in favour of publication must first be clear that there are no privacy concerns
- We agree with the general principle of non-charging of publicly accessible data, whilst charging for value-added data and information. However, there is a significant risk that – as with Freedom of Information requests – that the routine publication of data will increase real costs to Councils. There is also a risk of increasing the administrative burden to private- and Third-Sector contractors.

2. Setting transparency standards

What would standards that support an enhanced right to data among public service providers look like?

We believe that are three key elements to this question:

- Technical standards;
- Citizens expectation of these standards;
- A consequence of such standards: the development of public service provider information assets in the community domain.

Technical Standards

In terms of ensuring open data standards are embedded in IT contracts, the key is open standards, which may mean options such as Rich Format licensing (Such mechanisms make it easier to build additional open data systems at a later date). The principles of accreditation may not work, particularly in the development phase, as its costs might stunt the growth of the marketplace. This is another reason for the joint development of common formats such as RF.

A body such as the Information Commissioner is probably necessary to provide guidance and enforce transparency to technical standards - and one with powers to sanction. The simple existence of an entity with such powers

would focus the minds of people working with public data on the issues involved, and help to create a presumption of publication.

Citizen expectation of these standards

Whilst we would welcome some general guidance about citizens' expectation of these standards, much of this will build on well-established principles about the standards associated with, use and publication of "standardised data sets", e.g. those widely used already for Government statutory returns, which will include meta-data and anonymised defined minimum dataset requirements and timescales for publication etc. (some of this analysis is included in Annex 2). There is therefore a body of good practise that already exists in the public-sector about these issues.

What is less well-established in national public-sector publications are arrangements to share resident and service user feedback, and further guidance about this, within an appropriate information governance framework, would be welcomed. This may be particularly problematic (but not insurmountable) in terms of information governance, as at least some of this feedback may be very specific and potentially personally identifiable to some individuals.

Development of information assets in the community domain

An added complication, as noted in Q1 is the potential requirements for private sector providers commissioned to deliver public services to conform to these standards – this could be reinforced locally through the public-sector commissioning role.

More generally, the adoption of Open Data standards across public-sector commissioned and civil society providers ("in the public interest", e.g. Third Sector agencies), who may not be commissioned may present an additional burden on these providers (particularly Third Sector providers) who may not always have the information and IT specialists to manage what may be complex requirements.

Nonetheless, an advantage of the adoption would be the development of standardised information – not just about available services, but also their utilisation and outcomes – as a local community asset. This would mean the free access to public data for personal, research, social enterprises and SME commercial research/development purposes.

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?

We believe there is a need to set standards and expectations about outcomes of governance that need to be achieved. This might include appropriate responsibilities at Board level, with an emphasis on integrated responsibilities for both privacy *and* open data to ensure both requirements are balanced. These responsibilities will need to be integrated at an agency, local community and national level, with the Information Commissioner have overall

responsibility for governance (and hence a sanction framework for challenging perceived non-compliance against these standards).

The particular issues of private sector providers commissioned to deliver public services expected to conform to standards are explored in Q1 & 2, but the expectation would be that such providers would need to comply with national governance expectations, with local standards being enforced through mechanisms such as public-sector contracts.

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?

The development of a data inventory would be welcome, as the main issue that local authorities experience is the range and lack of coordination of production of statutory returns from the national Government, which does not appear to be well-coordinated. Given the huge scope of public sector data, it's our view that the national Government should consider the potential scope of this inventory before any thought is given to which areas are prioritised for inclusion. Furthermore, there should be a central point which keeps track of public data inventories and signposts them accordingly for re-use, e.g. at www.data.gov.uk, to improve coordination. By definition, this central point should publish the data-sets which are being collected – or planned for collection – as per the Single Data List and draw together the development and review of these dataset collections from working groups and others (see below).

As a generalisation, there is usually a working group associated with the development of national statutory data requirements, part of whose role is exploring whether these requirements are still needed and exploring future developments. Such groups should also consider whether the need for high quality releases is needed, as this tends to slow up sharing of this information. The national Government needs better coordination of these groups, and to challenge whether the business case for these returns still exists, including whether they are “measuring the right things”. Our experience is that details with the returns (and the returns themselves) continue for some time after changes in policy weaken their ongoing business case.

The default position of Government publishing routine information should be that data is available unless there are good reasons not to publish in the spirit of Open Public Services. Such a policy will mean that open data is there to be used by all, including for purposes that no-one has thought of. This will also help reduce “time to publication” (which in national Government departments often means coordinating and analysing myriad local datasets, a function no longer necessary to the public): “release early and release often” is the key to success. It may also help improve the quality of data-sets in the longer-term.

However, it should be noted that the main difficulty in the release of open access to data, is that these are, in reality, often specialist datasets that

information specialists have to compile and analyse. Our research with residents suggests that the added value at a local level the public sector can provide is in terms of transforming data into information and intelligence – what the data may mean in its business context – rather than provide the “raw data” itself. Our experience suggests the main interest from the public is either for very specific issues or interpreted data (information). However, good practise would suggest the need for good quality open data *and* interpretative analysis available to the public.

To partially address this issue, more consideration needs to be given to whether the data provided is generally of public use, and, even it is, how there might be greater public awareness and marketing of its availability and usefulness for public exploration.

5. Government sets the example

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

We believe the most convenient option for research would be a central point to support people to find and use material they are looking for - and impossible to come across things they weren't. However, that does not mean that data should be stored centrally, just a set of pointers to the data held throughout different government departments.

The issues around prioritisation of dataset publications are discussed above: the Government needs to better understand the complete range of returns across its departments and their business case prior to deciding on publication priorities. To enable this, the Government would be better to publish a broader set of less detailed information, as integration, rather than detailed definition (of data that there may be no robust business case) ought to be the priority. The datasets that were being used would then provide “public user feedback” about usefulness of their content and format and what else was needed to improve and prioritise the next wave of data release. This could be enabled as with open source software projects, in which change requests are published via an issue tracker, that can show when an ‘issue’ was raised, what it’s current status is, and how it was resolved. Related approaches include services like WhatDoTheyKnow or GetTheData.

It should be recognised that Local Government has a community leadership role in opening data, e.g. opening data through procurement requirements with private-sector partners etc. and supporting others to manage these data standards (e.g. Third Sector partners).

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?

All levels of Government clearly have a role in stimulating enterprise and market making in use of Open Data, including the roll out of tools to the public to transform data into customised information.

Local Government has a community leadership role in opening and exploring data (as discussed in Q5). This includes in development of information as a community asset. This would mean the free access to public data for personal, research, social enterprises and SME commercial research/development purposes.

If it is the 'marketplace' (*for information services*) which will generate the context that adds value to data then Local Government must be active in managing this marketplace for its residents:

- supporting exemplars
- facilitating critical infrastructures
- fostering new businesses
- ensuring standards
- contributing to trust frameworks
- assuring governance

Appendix 1 – Glossary of Terms

These are the definitions of key terms used throughout the consultation document but we are asking, through this consultation, a question about whether we have got them right.

Term	Description
Dataset	Factual data, structured or unstructured. In relation to public services, this data will typically have been collected as a by-product of delivery. This includes, for example, key public datasets about public services; user satisfaction data; and the performance of providers. For non-government bodies providing public services, information about aspects unrelated to the delivery of their public service function are not in scope.
Information	Interpretation and analysis of data that when presented in context represents added value, message or meaning.
Public Data	"Public Data" is the objective, factual, non-personal data on which public services run and are assessed, and on which policy decisions are based, or which is collected or generated in the course of public service delivery.
Open Data	Data which can be freely used, re-used and redistributed by anyone. In relation to public services, Open Data means data available under the terms of the Open Government Licence. The presumption is that data about public services will be Open Data. It may be that some data held in relation to public is made "available" but is charged for
Public services	Public services are either provided by public bodies, or providers who have been funded, commissioned or established by statute to provide a service.

Additional Consultation Questions & Responses

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

Generally seem sound proposals. However, one issue relates to Third Sector organisations that might be indirectly (or even not at all) funded by a public body but not directly commissioned. Should these always be included in the term "public services"?

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

At a strategic level, this depends on the extent to which the data and information level is about publicly-delivered services. In line with the spirit of the Open Public Services Paper, as few constraints about the "public interest" as possible should apply to release the opportunities of Open Data discussed in the consultation: accountability; choice; social growth; productivity; quality & outcomes; economic growth.

At a functional level, a dataset should be constrained within the principles of public data discussed in Annex 2, which include compliance with robust information governance requirements set out by legislation and case law. More fundamentally, data should comply with good practise characteristics produced by the Audit Commission, i.e. relevant, timely, accurate etc. A better question, explored in the Policy Section, is which access to datasets should be prioritised for development first.

- 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?**

Potentially this would be “full-cost” or as a standard national tariff as the answer to Q1 would be a relatively “low threshold” of publishing data sets.

- 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 is a concern: see answer to Q1 about issues associated with Third Sector and answers to Policy Questions which relate to concerns about:

- Adding to administrative burden on private & Third Sector providers;
- Issues about provider-commissioner responsibilities.

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

In line with the spirit of the Open Public Services Paper, as few constraints about the “public interest” as possible should apply to release the opportunities of Open Data discussed in the consultation. Sanctions, as with Freedom of Information requests, should apply for the non-publication of data (with the Information Commissioner having these powers).