

Response to “Making Open Data Real: A Public Consultation” on behalf of Hampshire County Council

1. Hampshire County Council fully supports the drive for government, both central and local, to be open and transparent to the public. In fact, it has adopted a set of Transparency Principles that outline for the public the County Council's commitment to transparency and the publication of open data.
2. The publication of open data is not resource free, the aspiration to publish all public service data must be balanced by the resources needed to publish/sustain such data and a genuine benefit to the public. There needs to be a clear recognition that it will take some time and cost for us to deliver.
3. It is important to recognise that the publication of open data is not the only tool to deliver greater transparency and accountability in public services. A valuable addition though it may be, it should not become a substitute for existing democratic scrutiny and governance arrangements. Our experience of open data publication to date has been, that any associated scrutiny has, at best, been superficial and at worst, unnecessarily confrontational and destructive. Reliance on open data publication alone, without proper contextual information and in-depth analysis has the potential danger of undermining the democratic process, unless proper controls are in place and expectations of what it can achieve are realistic.
4. Hampshire County Council has been publishing a number of key data sets for nearly 12 months as open data (Councillors' Allowances, Senior Officer Salaries and spend over £500). Our experience has been that it has made no impact on the number of Freedom of Information requests whatsoever. The 50% increase in numbers of FOI requests we have received in the last six months is unrelated to any of the data sets we have recently published – or those included in the DCLG's recently published minimum recommended list.
5. Hampshire County Council is committed to publishing more open data not because of its possible effects on the numbers of FOI requests, but because it makes business sense for it to do so. The County Council recognises that it is in its own interest to ensure that the data it keeps is more useful to the public and helps inform its own decision making processes. Like other public service organisations, Hampshire County Council is not only a producer/publisher of data, it is also a major user of data, and therefore it welcomes the opening up of data that has hitherto been difficult to obtain.
6. The notion that the greater publication of open data may be in the business and strategic interest of public service organisations has been underplayed within the consultation document; substituted by a presumption that some form of regulatory compulsion is necessary to ensure that this happens at all. The

examples of Hampshire County Council and other local authorities demonstrate that progressive public service organisations are willing to progress towards greater transparency of their own volition.

7. It is therefore disappointing that the aspiration contained in the executive summary that, “more openness means ...less red tape”, is followed by some 50 pages discussing how to introduce centralised compulsion in this area; with the effect of increasing bureaucracy and greater resource burdens on public service organisations just at the time they are trying to reduce costs.
8. As a major user of data, Hampshire County Council welcomes the government intention to work with service providers outside the public sector where they hold data about public services.

9. **Vision**

Hampshire County Council supports the vision as outlined in section 4 of the consultation. It matches the aspiration of the County Council's own approach to open data publication, a public commitment that we have enshrined in our Transparency Policy Statement, which we have published on our website: <http://www3.hants.gov.uk/opendata/opendata-policy.htm> . The County Council is taking steps to proactively identify appropriate data for publication as open data. However, it also recognises that this programme will take time and proportionate resources to deliver.

10. **Costs and Privacy**

The County Council has a number of concerns over elements of section 6 relating to costs and privacy, specifically:

6.8 There are data sets where a charge has been made for data in order to cover the costs of collecting and providing that data. There is a danger that the effect of removing the ability to charge in these cases either results in genuine hardship (particularly for smaller public service organisations) or the ceasing of the collection of that data as it is no longer viable.

This loss of revenue could have a significant impact on organisations during a time when other funding sources are being cut.

6.11 There appears to be a misconception that a significant number of FOI requests are for data sets. Although data sets are requested by some areas of the media and lobby groups, the vast number of FOI requests we receive are for one off answers to specific questions. There is a clear distinction between the wishes of special interest groups and the media for sets of data and the general public who are asking us for useful, meaningful information.

We welcome however the emphasis on the publication of new data.

6.12 We welcome the commitment to provide greater guidance on assessing the balance between costs and benefits of publishing particular data sets, however we would suggest that it is linked to the existing public interest tests required

within the FOI Act regarding the use of exemptions, in order to ensure that any guidance and the requirements of the Act are in harmony. There should also be a recognition that public service organisations should take into consideration the need for future open data publication when making future IT investments to ensure that systems and infrastructure are geared towards efficient publication.

6.13 There are genuine concerns that although personal data may have been removed from particular data sets, that through the aggregation of a number of datasets personal data may be revealed. Although the County Council feels that the guidance issued by the Information Commissioners Office on redacting personal information in FOI requests is helpful in this area, it would welcome more detailed work and clearer guidance on this issue to protect the public, as outlined by Dr O'Hara in his published report.

11. Policy Challenge Questions - An Enhanced Right to Know (8.6)

1) Embedding the principle that data should be open by default in existing legislation.

The County Council would need to see greater detail before commenting on this issue.

2) Introducing a new requirement that all public bodies and providers of public service proactively publish data about the services they deliver.

The County Council would need to see greater detail before commenting on this issue. Any proposed requirement, should take into consideration the resources available to undertake publication and the reasonable time that organisations may have to take to achieve this, to ensure that local priorities for front line services are not compromised.

3) Establishing an enhanced right of challenge against decisions not to publish data to an independent body, accompanied by a power for that body to order not just the release of public datasets, but also the format, quality and regularity of publication.

Hampshire County Council believes that appropriate arrangements already exist within the provisions of the Freedom of Information Act and the responsibilities of the Information Commissioners Office and does not see the need to create a new quango and an additional bureaucratic burden.

4) Exploring whether the current fees regulations and cost limits under the FoIA should be amended to facilitate the release of more data.

The County Council does not believe that the extension of the time limit within the FOI Act would be productive, on the contrary we feel that this move would place a disproportionate burden on Local Authorities in particular, during a period when budgets and resources available have been severely cut. It would inevitably have the effect of further distracting front line staff away from their public facing duties.

The current time limits within the FOI Act provide a sufficient balance between the benefit to the public of receiving the requested information and the cost to the public purse of collating and providing that information.

The County Council does not believe that a higher cost limit for datasets is practical or proportionate. Our experience to date has been that in the few instances where datasets are requested as part of FOI requests, and we have been unable to provide them, either the County Council does not collect that particular set of information at all, or it does not hold it to the level of granularity requested, so for example, the County Council does not keep a list of the 5 most popular brands of biscuits that it purchases for its public cafes, nor does it keep a list of the location or frequency of hauntings in its public buildings – nor does it intend to do so, despite frequent FOI requests. There should not be a mechanism that forces local authorities to create data sets by default as a result of individual questions.

We do not believe that any additional cost burdens on public authorities are appropriate at this time. The Information Commissioner's Office provides an adequate avenue of address in this area.

The County Council believes that it is essential that consideration of the cost burden of publishing a particular dataset is a fundamental part of the decision whether to publish, and that this decision should ultimately remain in the hands of locally elected officials. It does not believe that the proactive publication of datasets be made mandatory. It believes the decision of what to publish and when is best made locally, to meet the needs of the local electorate.

The County Council is not averse to additional costs of producing datasets being made by the requestor, however that should not be allowed to distract a public service organisation from publishing other, more useful data. Therefore there would need to be consideration of the best use of the resources available, and that decision should rest ultimately with the public service organisation concerned.

The County Council does not view the proposal to impose a higher cost limit for FOI Act requests for ICT systems purchased after 2012 particularly effective, and would view any proposals to introduce higher limits as placing an unnecessary burden on public service organisations at an inappropriate time.

5) Exploring whether the Information Commissioner has sufficient powers to enforce the legislation.

Hampshire County Council believes that the Information Commissioner's Office has sufficient powers already.

6) Legislating to provide statutory time limits for internal reviews

Hampshire County Council endeavours to complete all of its internal reviews within 20 working days. This is a difficult task. Internal reviews by their nature are complex and can only be undertaken by a small number of competent people within an organisation. The imposition of a time limit of 20 days would impose a burden, particularly on small organisations. The County Council would however, welcome any move to introduce common standards and requirements between

the FOI Act and EIRs, so having a common requirement for internal reviews to be completed within 40 days would be a start.

7) Ensuring through procurement rules that data collected by public service providers is stored in ICT systems that minimise the cost and difficulty of publishing data online.

Hampshire County Council would not endorse any proposed regulation with the potential to increase procurement costs, particularly in the ICT area, but would welcome clear guidance to suppliers to ensure that there is a common standard that ensures that data can be easily published as open data from new ITC systems.

8) Mandating a phased introduction of „Open by Default‘, delivered through a new generation of ICT systems, and accompanying policies.

The introduction of government legislation that infers a wholesale investment in ICT seems inappropriate at this time. Procurement decisions are best made by the organisations concerned, with a clear understanding of the needs of the business.

Questions for consultation

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

This requires cultural as well technological change. It is clear that the confrontational and sensationalist style of some of the media is in itself a barrier to the greater acceptance of open data publication. There needs to be a greater awareness of the real benefits, this means greater persuasion, greater awareness raising rather than the introduction of additional regulatory burdens and an imposition of a “blame culture”.

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?

The Information Commissioner’s Office is the appropriate body, with sufficient powers to safeguard the public interest in this area.

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

We would welcome further guidance from Government in this area.

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?

We have outlined above where we feel that that any enhancement would place an unreasonable burden on the public purse. Current systems used for collection and storage of data were not designed or implemented with publication of data in mind, and therefore considerable work may need to be commissioned not only to improve the reporting capabilities of the system but also changes to business practices to ensure that the right information is collected.

Proper safeguards need to be in place to ensure that the appropriate balance is in place regarding the cost of collecting/publishing the data and the actual benefit to the public at large.

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

Through the acceptance by suppliers that IT systems should be so configured as to allow publication of open data as a default position.

12. Setting Open Data Standards

The role of Government in regard to data collection should be around ensuring that it has the information needed to make decisions within its remit, and to seek assurances in areas of work for which it is accountable. Standards for data collection should be made by Government where they meet these needs (i.e. around social care, health care, etc). Beyond this, organisations should be setting their own definitions as required to meet the needs of their customers and their communities (in line with the ethos of the Localism Bill). If Government does not benefit from data standards, and if they are not deemed necessary to the collecting organisation, it is not for Government to push for their inclusion.

Hampshire County Council would welcome a level playing field on open data publication with regards to standards across the whole of public service organisation, recognising of course that this is a potentially more difficult task for smaller organisations with less resources.

8.8 The County Council welcomes the proposal to publish data of lower quality in preference to holding it back. This matches the approach that Hampshire County Council has taken with regard to open data publication, recognising that it is a journey towards ever improving standards.

8.9 Hampshire County has already accepted the Public Data Principles and placed them at the heart of our Transparency Policy Statement, which we have published on our website.

8.9 Although we welcome the opportunity to compare our progress with other organisations, it is important that this does not result in creating additional reporting burdens.

13. Corporate and Personal Responsibility

Hampshire County Council welcomes the proposal to review the existing governance model for public sector information to ensure that guidance and standards are consistent for all public service organisations.

14. Meaningful Open Data

Questions for consultation

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

Hampshire County Council is already putting together a list of datasets that could be available for open data publication, this is the beginnings of a data inventory. However, there are some practical difficulties in defining what should be included, for example capturing data sets associated with centrally managed databases is relatively straight forward, but capturing locally held and managed databases and spreadsheets is considerably more complex. We can see that a publically available data inventory would be useful where we indicate what we are working towards publishing and when. There is clearly a link with our Publication Scheme, so that as datasets are published, they also appear on the Publication Scheme.

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

Hampshire County Council has prioritised those datasets that relate to how it spends Council Tax payers' money, it has now developed a further list of datasets linked to information on services. It has prioritised its efforts, focusing on those areas where there is a demand, where there is clear public benefit, and where data is in a form that it can be published as open data quickly.

There is a complication when it comes to publishing data collected within a partnership arrangement, where the existing agreement may preclude the sharing of data, or may restrict what data may be shared, with whom, and in the manner that it can be shared. We have also experienced difficulties where data has been derived from other data sources (e.g Ordnance Survey) and we would welcome further steps to address this issue.

The question of ownership of data can also pose difficulties (for example data collected on behalf of other organisations). Clear guidance, perhaps linking to the definition of data controller within the Data Protection Act, would be helpful.

Hampshire County Council believes that ultimately the prioritisation of what to publish and when, is a local decision, based on local need.

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

We feel that there should be a level playing field across all of the public services, with Government meeting the standards and levels of publication of the best Local Authorities.

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

Data which is “unnecessary” should be identified as that which is not linked to the organisations' work, which has a high cost of collection, and which is of low interest to the public (i.e. if the subject solicits a low number of hits on the website or very few instances of FoI requests). Such data collection should be “stopped” given that the costs of doing so noticeably outweighs the usefulness of

collecting it in these situations. In keeping with the themes in the foreword, the focus should be on minimising the reporting of data where it serves no purpose, and as such it should be for those wishing data to be reported who should make the case for collection. Not vice versa.

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?

Government data releases should be of a quality on which to base assumptions, i.e. it should be of high quality with caveats where it is unaudited. Perhaps it is for Government to identify “draft” data (where it is published without assurances on accuracy) and “final” data (where it is accepted as accurate by auditors or a third party). There will always be instances where there are inaccuracies in published data, but a system which highlights how likely this is to be the case would allow for intelligence in using the data for analysis both by the public and by organisations

15. Government Sets the Example

Previous experience with the Data Interchange Hub makes a central portal a possibly unattractive proposition. Whilst there is a clear benefit in a “one stop shop” for data access, the length of time taken to audit data before release and the lack of ability to download multiple datasets at once made data access a time consuming process. If a single access portal were to be set up it would benefit from assurances of data timeliness and ease of downloading (possibly using the model employed by the CIPFAstats download page which is quite user-friendly)

Whilst more data is generally a good thing, data collection should serve a purpose beyond “nice to have”. This applies to both the breadth and depth of data. There is no particular preference as to whether Government releases more data topics or more detail in current data topics. However, data should be published to the greatest level of detail to which it is available and with a clear purpose to the usefulness of the data. If it is assumed that Government currently publishes data which meets the needs of the public, then greater depth is more desirable than breadth. However, neither is expected without a clear business need to justify the additional cost.