

MAKING OPEN DATA REAL – PUBLIC CONSULTATION

Section 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?

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

By strengthening data protection safeguards to ensure local authorities do not inadvertently fall foul due to publication.

If the open data concept is to be realised, this would need to be the main focus for authorities. An additional right to data sitting alongside current FOI legislation would create a two tier system which would be detrimental to either the open data concept (multiple benefits) or management of FOI (personal or specific benefit). This could cause confusion as to whether incoming requests were categorised as FOI or right to data. A managed move to open data would be beneficial but difficult to achieve alongside the conflicts with FOI requests.

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?

A regulatory body could undermine the efforts of the local authority to move towards open data. Plans to manage and meet these requirements could be continually de-railed due to a regulator determining which data sets the local authority were to publish, in what format and how frequently. However, the Information Commissioner would seem to be a logical choice to move this agenda forward.

What would happen if an authority decided to cease publication of data sets as they were no longer used to inform decision making, could this be appealed? Local Authorities would need to be able to manage publication of data to meet local needs rather than publishing because 'we've always done it'.

What would happen if a local authority refused to publish a specified dataset and the requestor wanted to appeal this decision? This could create a cottage industry to manage any appeals process. Where would the ultimate decision lie? And how would vexatious requests be managed?

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

Additional guidance would be required to manage the risks arising through data matching of disparate sets of published data (jigsaw de-anonymisation).

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?

Setting specific standards for the publication of open data would place a burden on local authorities. This could relate to investment in IT & governance infrastructures to manage and meet publication standards particularly the star rating for publication formats & the creation and management of data inventories. The plan to create an independent body to oversee the 'right' to data would create an additional management and/or monitoring process that would need to be resourced. In the current climate investment in anything other than frontline services would have limited support from the local community or elected members.

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

Any standards would need to be specific to enable them to be embedded. Turning these standards into a reality could be challenging for ICT providers. This could impact on pricing for new contracts as suppliers attempt to quantify the impact of these requirements. Any retrospective application would incur significant costs to the local authority.

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Section 2 - Setting transparency standards: what would standards that enforce this right to data among public authorities look like?

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

A clear Code of Practice to support local governance frameworks. Provider access to training to up skill staff – would need to cover technical and other elements including robust anonymisation techniques.

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

Comparing like with like is always useful but achieving this across all public services could be very difficult to achieve. Best practice guidance could be useful.

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

Use of intermediaries could introduce an unnecessary layer of complexity, cost & expectation but could ensure data users had access to data with a contextual element. Accreditation could include clear information relating to funding sources and political/other affiliations to help contextualise the motives of the intermediary. This already happens in a number of 'advisory' website who clearly state how the site is funded to build confidence with users.

Section 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, organizational 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?

Ensure that public providers produce & publish a clear governance and monitoring framework to move to open data with a published commitment to do so.

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?

This should rest with the Senior Information Risk Owner (SIRO) or equivalent role.

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

A sanctions framework could be counter productive and move resources from frontline delivery to back office management and monitoring, something often criticised by customers but imposed on local authorities. This could create a cottage industry.

Public service providers would welcome any improvements that would manage FOI and other information requests more efficiently but will not be in a position to resource this area in a way that achieves such efficiencies in the short term.

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

What benefits would a board deliver particularly when split between, national, and local and sector elements. Could create a conflict of interests.

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Section 4 - Meaningful Open Data: how should we ensure collection and publication of the most useful data, through an approach enabling 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?

The data inventory included in *The Code of Recommended Practice for Local Authorities on Data Transparency* seems to already cover this. However, more guidance would be needed on information to be included in data inventories. Would this be any data collected broken down by service area, database? Or would it be specified datasets produced following this collection?

It is worth noting that compilation of data inventories (particularly when linked to reviewing 'unnecessary' data collection) would be a time consuming task particularly if there was a fixed deadline for completion. Such inventories will require regular review and updating to keep them current. A common framework to develop inventories over time with a clear focus on high priority and high value data might be a way to ensure all public sector providers move forward in sequence.

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

The National Archives Public Sector Data Unlocking Service seems to have attempted to deliver this. What lessons have been learnt from this? Access to national information on what data is required (more than one request) and from whom would assist public sector providers to manage and prioritise data publication over time.

A split of responsibility for data sets between central government and public sector providers could ensure that statutory returns and National Indicators were a central government responsibility with providers freed up to review and assess other data sets that would otherwise be unlikely to be published from a priority perspective.

There would need to be guidance on which recipient group had the greatest priority – commercial organisations to develop products and services or local communities to support the localism agenda.

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

Local Authorities submit significant amounts of data to Central Government Departments. It would be useful if ALL data held by Government Departments was collated & published from a single point with a clear listing of data available, when publication occurs and who to contact with queries. This would enable 1 version of the truth and assist local authorities to manage open data more effectively. One major benefit if this approach is that data sets being compared across authorities have been produced at a specified point in time & users are therefore comparing like with like. Once data has been submitted, publication would be the responsibility of this central point rather than the local authority thus minimising duplication of effort and the potential for reporting errors. This could be easily achieved by development of the data inventory which could list responsibility for publication & whether the data set was available.

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

Who would decide what data sets are unnecessary? A move to meet the needs of local communities could mean collecting data that was seen to be 'unnecessary' elsewhere. Managing data inventories would assist providers to identify data collected but no longer utilised and would therefore be cleansed prior to inclusion on the inventory. Ongoing data protection work also ensure that data is not collected unnecessarily.

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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?

This would depend on the risks to the authority of publishing data that could subsequently be challenged. If lower quality data was published to meet timeliness requirements and was used by another organisation, would the local authority be subject to a legal challenge if the lower quality data caused a financial loss?

Data sets could be rated on general Data Quality & Data Protection principles by use of spot checks but this would be resource intensive and need to be maintained over time. It would only give a snapshot of data at a point in time. However, the release of data with inaccuracies and the subsequent waiting time for central verification and subsequent updates/amendments that would be required would also create significant work to achieve.

Authorities could be in a position of having to review published data if questions were raised on quality only to find the data was in fact accurate but the ‘reader’ has misunderstood/misinterpreted the information. Once a query is raised, it will need to be responded to.

Section 5 - Government sets the example: 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?

Need clear lines of accountability & responsibility for the publication of specified data sets.

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

A split of responsibility for data sets between central government and public sector providers could ensure that ALL data & returns made to central government were centrally published with providers freed up to review and assess other local data sets that would otherwise be unlikely to be published from a priority perspective. This would also assist specific sector publication.

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

Neither approach will meet all needs.

Section 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?

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?

This would contradict the concepts in Open Public Services White Paper – devolving responsibility to the lowest level. Transparency makes it clear that public authorities should not pre-judge the value of the data they hold but move to a point of understanding what they hold, what data local communities want & make a decision to meet those needs locally. Centralised decisions imposed on local authorities could be seen to be divisive and could ultimately be detrimental to the localism agenda.

GLOSSARY OF KEY TERMS

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

Yes, but may need to be developed further.

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

Individual Government Departments already have processes in place to manage and prioritise the inclusion of specific data items for publication e.g. DFES. These processes are in place to manage & prioritise change. How will open data impact on these established control mechanisms?

- Immediate & on-going costs of producing the data set.
- Compliance with Data Protection Act
- Links to FOI exemptions & the Public Interest Test
- Data quality and confidence rating
- Risks associated with subsequent use particularly relating to data quality
- Prevention of fraud
- Inadvertent divulging of sensitive or restricted data through data matching

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?

Difficult to quantify. If publication is a 'one off', payment on that basis would be feasible. However, if an expectation exists to maintain data sets once published this would be detrimental to the local authority and could affect the decision to release or withhold the data set undermining the open data concept.

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?

Any changes should apply to all public sector providers – no exceptions to the rule. Consistency of practice across public service providers would be essential to meet the requirements of open data. Having different standards for different organisations would defeat the objective & undermine achievement of this concept.

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

See previous comments.