

Cabinet Member
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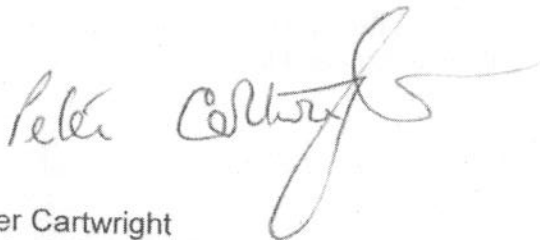
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Dear Sir/Madam

Making Open Data Real: A Public Consultation

Thank you for the opportunity to comment on the above mentioned consultation. As Cabinet Member for Finance and Resources, I am responding on behalf of Buckinghamshire County Council.

In general, Buckinghamshire County Council is in favour of the pro-active publication of datasets and other information. However we have some concerns about the potentially significant resource implications of delivering the Government's vision in this area, which are outlined in the attached documentation.



Peter Cartwright
Cabinet Member for Finances and Resources



Buckinghamshire County Council

Response to 'Making Open Data Real: A Public Consultation'

Glossary of Terms

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

In general the County Council considers the terms of reference are sufficient, however some examples may be useful. Specifically, the definitions could helpfully distinguish between anonymous datasets and those with personal details, as some summarisation would be required to ensure individuals are not identifiable (see also data protection issues commented on below).

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

In the County Council's opinion, in order that publication of datasets is cost effective, beneficial and safe, the following considerations should be taken into account when constructing tests:

- Cost of production or turning datasets into meaningful information
- A realistic approach to the level at which data should be provided. For example, what determined the publish spend threshold for local authorities of £500?
- Data protection in relation to the potential identification of individuals
- Implications for national/regional security
- Potential for the use of data for committing fraud
- Commercial confidentiality - e.g. opening commercially sensitive information may advantage or disadvantage certain commercial organisations
- Where opening data might mislead the public or stakeholders - for example where data is incomplete
- The accuracy and reliability of data
- How up to date the information is
- Whether data is draft/interim or final

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?

If the data is not available for publication in its current format and a large amount of 'processing' is required then a full recovery based charge should apply. Private companies/contractors providing public services should not be able to profit from providing data and consideration should be made to where data is to be used for commercial gain/profit.

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?

To ensure the delivery of the vision behind the Government's transparency agenda and raising the accountability of public services, we believe this cannot be a local government initiative, but that all public service providers should be included in this policy. However, a good starting point would be to devise a key set of datasets that will be most useful to people in general.

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

The County Council would not wish to see legislation in this area. There are a number of mechanisms which could be used to ensure compliance. These include:

- The creation of an easy-to-access central database with deadline dates for specific pieces of information
- Providing lists to the public and stakeholders of datasets that public service providers should produce and when and indicate which organisations have not produced the relevant information.
- Use of the statutory datasets already in place - these could be decreased or extended as appropriate
- Benchmarking of performance - classifying those not providing data as 'underperforming'
- Sharing good practice to make it easy for public service providers to publish data
- Clearly publicising production and timeline requirements to encourage providers and inform the public and stakeholders
- Setting timescales for publication following a request (similar to FOI - although please see concerns around timings for these below)
- Using any currently existing inspection/regulatory regime to report on availability of timely, accurate and open data.

An Enhanced Right to Data

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

Buckinghamshire County Council very much supports the concept of pro-active publication of information/datasets. However, we question whether there is any great need to legislate in this area, rather we would support the concept of 'Codes of Practice' suggesting what data should be published as a matter of course is the most appropriate path forward. For instance, local authorities have almost universally published £500+ spend data without the need for legislation. We believe that almost all authorities will respond positively to any lists of data 'required/suggested to be published' produced by the DCLG.

We would add a note of caution, in that publishing data is not resource neutral, there will be a cost from enhanced publishing and this is something that will need to be taken into account. Local residents/taxpayers may well question if it is appropriate to remove resources from frontline services to assist in publishing data that might well be only of use to non-local private sector organisations.



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There is also a danger in over estimating the level of 'self service' that occurs/will occur. Often people/organisations prefer to ask for data under FOIA rather than search websites for data that is already available.

We would also note that this consultation cannot be divorced from other on-going consultations/proposed legislation e.g. proposed additional FOIA clauses in the Protection of Freedoms Bill, post-legislative scrutiny of FOIA, the review of ROPSI etc.

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?*

BCC supports the concept of the ICO acting as regulator of any enhanced powers etc. However, we would suggest caution in introducing too many further powers etc., in that this has the potential to cause resource heavy appeals. The current system has several layers 'free' to the complainant but not the taxpayer. Any additional points of appeal could be resource intensive.

There is also a danger in being too prescriptive in allowing applicants to request data in specified formats or information of a specified quality (we are not sure what is meant by quality in this context). This could lead to numerous requests to repackage data in a way that it is not actually held (even potentially to require a public authority to explain its data). This would be a substantial resource burden and in any event would be very difficult to legislate for beyond stating that certain data should be provided in a re-usable format where possible.

We would support any proposal to introduce a statutory limit for internal reviews for FOIA in line with the EIR provisions. We would also support the introduction of a statutory limit for the ICO to complete/resolve complaints it has received.

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

BCC would note that the emphasis is very much on open data, and that there is a danger of 'privacy' being lost in these considerations. This danger can be mitigated to a large extent by the use of Privacy Impact Assessments etc. Nevertheless, the 'mosaic' effect and the unknown technology available to run programs to identify individuals from supposedly anonymous data cannot be ignored.

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?*

BCC believes that the proposals, while supporting the concept behind the proposals, will have substantial resource implications e.g. purchasing a system that automatically publishes FOIA responses on the Internet, more officers required to publish datasets etc.

To illustrate, between 2009 and 2010 there was a 500% increase in the use by the Council of cost limit refusals under S.12. This shows that applicants are now very knowledgeable of the 18 hour limit and are prepared to use the limit up to the full 18 hours on their information requests. Moreover, many of the applicants using the full 18 hours utilise

anonymous gmail accounts (although it is clear that they are mainly media and private sector applicants).

Accordingly, we would very strongly oppose any suggestions to extend the appropriate limit, as such a provision will be most likely abused. Answering requests that require the full 18 hours to respond is to the detriment of core functions, as responses often require the input of service deliverers, if they have to spend 18 hours in responding to a request that is 18 hours that cannot be spent on service delivery.

We would also suggest that whilst the present appropriate limit is understood and understandable, the suggestion that certain requests for certain data (e.g. datasets, data held within ICT systems procured after July 2010) could attract a longer appropriate limit will only cause confusion. We would oppose this suggestion. The cost limit provisions need to be uniform and no longer than the present limits.

Additional funding for 'open data' would obviously assist.

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

BCC believes that cloud computing offers the best route to enabling routine publishing of data on the Internet, and would suggest that Government should set the example in this area by ensuring all its ICT contracts go down this route. If this would be assisted by changing the ways in which ICT systems are procured we would support this.

In summary, we strongly support and believe in the present FOIA. We do not believe that any substantial changes are required, perhaps beyond changing S.11 to allow applicants to specify a format 'capable' of re-use for datasets, an enhanced Publication Scheme requiring the automatic publication of datasets and a time limit for FOIA internal reviews. This could be accompanied by codes of practice suggesting what types of data should be published as a matter of course.

Setting Open Data Standards

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

Central government support to service providers, especially initially, could be fundamental to achieving compliance on standards. Such support could be financial or other resources.

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

There is a role in helping establish useful, high level benchmarking opportunities and on service satisfaction. However other user experiences are generally measured locally and vary in how they need to be collected and used from issue to issue and service to service. Too much prescription in these areas would be unhelpful and should be decided at the local level based on local priorities and customer needs.



Corporate and Personal Responsibility

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.*

The commitment to data protection, confidentiality and open data would need to be part of the culture of every organisation. Internally each organisation would also need some sort of internal, high level quality assurance process, particularly where data is being published for the first time. An opportunity to learn from others through the sharing of good practice would be helpful.

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?*

Each organisation would need a nominated officer with responsibility for ensuring the Right to Data is being met and for data protection/privacy. Whether this is the same person would depend on the appropriateness for each organisation and its own information governance structures. As long as responsibility is clear, central prescription of the arrangements should not be necessary.

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

Buckinghamshire County Council does not consider it necessary to create a sanctions framework in this area. Such a scheme would be seen as another form of regulation that replaces those that have been abolished and there are better alternatives which could be explored (see above).

Meaningful Open Data

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

Data inventories should be used to allow benchmarking, highlighting those organisations not providing relevant data to encourage provision and should be used as a data quality tool. Ideally, from a provider and public viewpoint, a centralised database that feeds all services would be the optimal solution, enabling the co-ordination of datasets and better organisation of data processing.

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

Statutory data should be included in the first instance, with data not currently available elsewhere prioritised. Lists of datasets will have limited use and the value of datasets can only be established with the reasoning for collation ie what others can use them for.

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

Complaint information and information to understand the quality of services, such as customer access, customer service and value for money. We would also expect government to collect and publish data routinely on those areas that residents/taxpayers

consider priorities. In addition, government has a role in publishing good benchmarking data available, to enable public/stakeholders to compare performance.

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

From a public/stakeholder point of view data on internal processes may be classified as 'unnecessary' although it may be useful for the organisation. The identification of data for collection should be for local determination - individual organisations should be given the autonomy to collect any information deemed necessary and which benefits the operation of the organisation. The question is not whether it is unnecessary but whether it is useful to publish and, we would argue, each organisation is best placed to decide this.

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?*

It is important that for the public and stakeholders to make informed decisions and judgements or to hold organisations to account, data needs to be of a high enough quality. Data needs to be accurate, timely, complete, reliable and valid and needs to be trusted by the public and stakeholders. Most public service providers already define their data quality.

From an organisational point of view, the publishing of incorrect data could lead to additional and unnecessary public enquiries which will take up valuable resources.

In addition, datasets would need to be published with explanatory information to ensure the limitations of each dataset are made clear, such as whether the data is draft or interim and definitions of what the data indicates.



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