

Making Open Data Real: A Public Consultation

NAVCA's response

October 2011

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NAVCA is the national voice of local support and development organisations in England. We champion and strengthen voluntary and community action by supporting our members in their work with over 160,000 local charities and community groups. NAVCA believes that voluntary and community action is vital for vibrant and caring communities.

We provide our members with networking opportunities, specialist advice, support, policy information and training. NAVCA is a vital bridge between local groups and national government.

Our specialist teams take a lead on the issues that matter most to local support and development organisations. We influence national and local government policy to strengthen local voluntary and community action.

For more details about the full range of ways that NAVCA can help you please go to www.navca.org.uk or call us on 0114 278 6636.

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1 Introduction

- 1.1 NAVCA strongly supports the principles of openness and transparency because we believe that citizens should have access to relevant and meaningful information about the services they use and fund. Wider access to data will allow voluntary and community organisations (VCOs) and public bodies to tailor their services to local demand and needs and plan more effectively. Despite this, we recognise that there is a danger that open data simply becomes an additional burden that fails to live up to its potential because it is seen as bureaucratic rather than empowering. We are particularly concerned that many local voluntary and community organisations will not have the administrative capacity required; this could become particularly problematic with the introduction of more personalised services and the opening up of public services.
- 1.2 We particularly want to highlight the following issues:
- Making sure data is used effectively
 - The need for support to access and release data
 - The need for clarity about which organisations and relationships are covered
 - Burdensome reporting requirements
 - Publication of poor quality data
 - Potential damage to VCOs
- 1.3 We have a number of concerns in relation to these issues, which if not addressed could impose significant additional work and expense at a time of reduced resources without realising any tangible benefits.

2 Effective use of data

- 2.1 NAVCA agrees that local and national public bodies collect a significant amount of data which at the moment is not fully utilised. It could, for example, be better used to inform a more intelligent approach to commissioning by helping prioritise needs and contributing to service design and specification. A focus on the purpose of data collection and the outcomes to be achieved would ensure that the needs of local people are fully understood and addressed. Feedback from members indicates that data already supplied as part of funding agreements is not always being used in this way to inform decision making processes. This must be addressed as it is vital that data is not only

open and publicly available but also that it is used effectively to make a difference; failure to do so will erode the credibility of this initiative.

- 2.2 NAVCA takes the view that simply publishing data does not always achieve transparency. It is just as important that the processes surrounding the data are transparent and that sufficient information is disclosed to enable people to draw meaningful conclusions from the data. For example, funders need to disclose the process behind the decisions they make and not simply the data about how much was allocated and to whom; the *why* provides crucial context.

3 Supporting the sector to use and release open data

3.1 Support to access data

- 3.1.1 Open data can also be of real use to the voluntary sector, both those that are delivering publicly funded services and those that are not. It can help them to better tailor their services to the needs and requirements of users, identify issues to campaign upon and target their support work more effectively. However, many small voluntary and community organisations (and, indeed, private individuals) will not have the resources, capacity or skills to process and interpret data and will not necessarily be able to afford commercial products that have been created from the data. If this is not addressed there is a danger that open data will in practice be only available to those organisations or companies that can finance their own in-house analysis operations or afford to purchase processed data. This would seem to undermine the principles of openness and transparency if the ability to access it is related to financial means available and risks making open data available to those who are already fully empowered.
- 3.1.2 Local support and development bodies are currently facing significant financial pressures, so it is important to guard against a further unfunded support requirement being created. It is therefore vital that as much data is released in a form which is easily understood by everybody, so that any extra support requirement is minimised. We believe there is a role for NAVCA's members in challenging public bodies to see the value of releasing data in accessible formats. Support can also be provided in terms of better signposting to existing sources of data. This will enable more organisations to be aware of the sources that are available to them. However to fully realise the potential of open data, there is also likely to be a need for some investment in support to organisations to make the best use of the available information.
- 3.1.3 We believe that there is also a need to demonstrate the importance of open data to encourage organisations to invest in their own capacity. In order to achieve this, there is

a need to promote examples of VCOs that have invested in data and where this has made a difference for their organisation and those they support. NAVCA would welcome the opportunity to work with Government to identify and publicise such examples.

3.2 Support to release data

- 3.2.1 VCOs often generate data that could be used to inform decision making processes. However as with accessing data, they will often lack the skills, knowledge and resources to release data. This is particularly relevant for small organisations which often will be delivering a very small and niche piece of work and will not have the capacity to engage with the full detail of open data policy and practice.
- 3.2.2 Whilst some of the technologies to release data are free or low cost, the processes of collecting and releasing data are not without cost. In an era of diminishing funding it is vital that the costs of open data are kept to a minimum. Most VCOs are stretched to the limit and will not be able to afford to incorporate any extra demands within their existing budgets so consideration will need to be given as to how this is financed.
- 3.2.3 It will not always be possible for VCOs to turn data into commercially viable products. Whilst the data can be extremely useful for commissioning or to inform work it is unlikely that there will be a significantly wide enough audience to make it a commercial proposition. Consequently it would be unrealistic to think that all VCOs would be able to finance the costs of collecting and processing data by commercialising it.
- 3.2.4 We believe there needs to be serious consideration the resources needed to support the release of data. Similarly the proportionality of any demands placed on recipients of funding requires careful consideration. We discuss this further in our section on funding and relationships.

4 Funding, relationships and open data

- 4.1 NAVCA believes that greater clarity could be provided on the definition of a public service and which organisations are covered. This should be expressed in terms of distinctions between goods and services but also in terms of what relationships are covered and considered to be public service delivery. The definition appears to focus primarily on contractual relationships that wholly fund a particular service. However the nature of relationships between public and voluntary sectors is much more complex and is not always defined purely in terms of delivering a public service:

- Often the funding is a grant in general support of a VCO's objectives – it would be unclear what data exactly was covered by the provisions and could lead to disproportionate burdens for a low level of funding
- Often a public body does not fully fund the service being provided and will frequently be a minority funder. It would be unjust if a small amount of public money were to lead to a requirement to release data about services that were primarily funded by independent means.
- It is unclear whether in kind donations to voluntary and community organisation by public bodies, such as peppercorn rents, would be construed as funding and, therefore covered by the proposals. Where this to be the case, we would expect the duty would fall on the public body, rather than the VCO.
- VCOs often work in partnership with public bodies so there may not be a direct funding relationship. It would need to be clear whether such partnership working would bring an organisation into a situation where it was covered by open data requirements.
- The amount of funding involved can be minute. For example if a public body gives a £50 donation to running a community fair, are the organisers of the fair now deemed to be providing a public service and would they expect to release data? Clearly any obligation beyond proving the event happened would be unduly burdensome.
- Sometimes the local authority provides funding to enable a VCO to expand or process information that that it already holds and over which it holds the intellectual property rights. In such circumstances, contracting arrangements should not make it a requirement for the VCO's data to become public data as this could affect the commercial viability of the organisation.
- Sometimes the local authority will purchase access to pre-existing information as part of a service contract. There is a danger that local authorities then expect that this data can or must be released. However this is actually really a product that they are buying.

4.2 We are concerned that unless there is greater clarity and some of these issues considered the proposals could unwittingly put a considerable burden on organisations which receive a tiny amount of taxpayer funded investment. This would be a retrograde step at a time when the direction of policy is to reduce unnecessary bureaucratic burdens.

4.3 NAVCA believes that in order to resolve these issues:

- Obligations placed upon VCOs funded by public bodies should be proportionate to the amount of funding involved and contracts and agreements should fully cover the costs of providing the data.
- Consideration should be given to a de minimus level of funding below which the obligations and expectations are not imposed.
- Organisations should be only obliged to provide data on the actual services that they are contracted to provide. Whilst we would encourage information sharing irrespective of the legal requirements, we do not think that it would be reasonable for an organisation to disclose substantial amounts of data about their broader work, governance and financial arrangements merely because they receive a small amount of public funding. There are precedents where local authorities have used funding agreements to impose conditions that go beyond legislative requirements or impose obligations that are unrelated to the piece of work being funded. It is important that public bodies do not seek to exceed their powers by gold-plating contracts in order to guarantee compliance.
- For many VCOs much of the data they hold will not have been funded by general taxation. It will also constitute their intellectual property and be fundamental to their income generation capacity. It is important that in such cases pressure is not brought to bear to share data under open data initiatives.
- Where public sector bodies wish to access and build on existing data produced by other organisations, care needs to be taken that the contracts do not place an obligation on the data producer to release all their source data and therefore undermine the financial viability of the original data collection. An example would be a voluntary sector directory; such directories frequently originate in membership databases and have generally been funded, at least in part, by membership fees. They are often commercially important to the producing organisation and a valuable piece of intellectual property. If the public body wishes to access the data it should do this through a licensing arrangement which does not permit it to release the data in a way that would undermine intellectual property rights or commercial interests.
- The primary responsibility for disclosing data to the public should rest with the public body that funds a particular service. It should retain the accountability and ensure that obligations are met. Devolving accountability will make it difficult for the public to identify where the data is held and how to access it.

5 Collecting the correct data?

- 5.1 VCOs produce a significant amount of data in reports to statutory funders, much of which is never actually used. Sometimes VCOs are required to provide detailed performance and organisational information which is unrelated and irrelevant to the

service being delivered. For example VCOs are often asked to provide detailed expenditure breakdown in a way that would never be expected of a private contractor and in circumstances where performance against targets should be the only relevant measure. Data collected should also only relate to the delivery of the particular service and not be broader in scope or relate to services which are not publicly funded. We are also aware that public bodies can ask for minutely detailed information which is wholly disproportionate to the amount of funding involved.

- 5.2 The Government has reduced the burdens on local authorities by creating a single data list and promising extra funding if extra data is required. It is vital that local authorities adopt a similar culture of seeking to reduce unnecessary data reporting. It will not be possible for local authorities to create a single list due to the diverse nature of their funding and contracting relationships but the principle should be universal that data should only be collected where it is relevant and useful and that extra requirements should not be expected on an unfunded basis.

6 Poor data

- 6.1 NAVCA does not believe there is a simple answer as to whether poor data should be published and then quality improved or it should only be published when it will be useful. We accept that there are circumstances when it will be useful to know that data is available and that publishing the data could lead to pressure being brought to improve its quality or solutions being devised that improve public understanding of the data. However we can also envisage scenarios where publishing poor data or data without supporting information could significantly damage VCOs and cause community tensions. For example publishing comparative performance data about funded providers without data about the nature of their client base could lead to inaccurate conclusions being made. Publishing data about funding allocations without explanations of the decision making process could fuel unfair debates about fairness of allocation.

7 Potential damage to organisations

- 7.1 Care needs to be taken when publishing information. We are already aware of data that has been released that will potentially damage providers and stifle innovation. The publication of Work Programme contracts has resulted in detailed methodologies being released to competitors and competitive advantage is potentially lost. Many VCOs are simultaneously partners and competitors. In some circumstances releasing data runs the risk of damaging many of these relationships and threatening the organisational independence.

- 7.2 There is also the risk of causing damage by careless publishing. For example, we are aware of information that has been published online as a Microsoft Word document with commercially sensitive data redacted by using black highlight. Removing the highlight reveals the redacted information. In this particular instance, we are unclear whether the fault lies with the provider of the information or the publisher but it illustrates the risks involved. Therefore clear standards need to be established with specific remedies being available if damage is caused by disclosing information.

Peter Horner