



Code of recommended practice for local authorities on data transparency

Consultation



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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000
Website: www.communities.gov.uk

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Consultation on a code of recommended practice for local authorities on data transparency

Introduction

1. The Government is consulting on a new Code of Recommended Practice for local authorities on the publication of data ('the proposed Code'). The proposed Code is concerned with making data generated by authorities available and accessible to the public. It is intended to set out the requirement to publish data and minimum expectations and considerations. A draft of the proposed Code is attached and comments are welcomed.

Why we are consulting?

2. The Government wants to place more power into people's hands to increase transparency by seeing how their money is spent. For democratic accountability to increase, local people need to be able to hold local authorities to account over how their council tax is spent and the decisions that are made on their behalf.
Transparency through publication of open and reusable data should act as the trigger enabling local tax payers to see how local authorities are using public money. It also shines a spotlight on waste, establishing greater accountability and efficiency, open up new markets and improves access for small and local businesses and the voluntary sector.
3. Transparency is the foundation of this accountability. If people are to play a bigger role in society, they need to have the tools and information to enable them to do so.
4. The Coalition Programme for Government committed to extending transparency to every area of public life. The Secretary of State for Communities and Local Government wrote to all local authorities in England on 4 June 2010 expressing his expectations that they publish items of spend over £500 as well as publishing invitations to tender and final contracts on projects over £500 from January 2011.

The Secretary of State also challenged them to go further by giving easy open access to data on salaries, councillor expenses, financial position, performance data, licensing applications, transport information and hygiene reports for food outlets.

5. The Secretary of State wishes to strengthen this expectation further by issuing a statutory Code of Recommended Practice in exercise of his powers under section 2 of the Local Government, Land and Planning Act 1980. This section permits the Secretary of State to issue a Code of Recommended Practice as to the publication of information by local authorities about the discharge of their functions and other related matters.

What are we proposing?

6. This proposed Code is intended to provide a high level but formal statutory basis to the local transparency agenda, support current sector standards and complement publication and disclosure requirements under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (SI 2004/3391). It is for local authorities working with others, to determine detailed implementation arrangements.
7. Comments are invited on the draft Code. In particular:
 - Does the proposed Code and the principles contained within it help to create the conditions whereby local people will be able to hold local authorities to account?
 - The Government believes it is essential local people know how much funding is directed towards the voluntary and community groups and wants to increase local accountability on such spending decisions and the transfer of services to this sector. Are there additional, existing data sets that should be specified to increase transparency in this area?
 - Does the proposed Code sufficiently support the publication and reuse of public data?
 - Do you believe all the bodies covered in paragraph 3 of the proposed Code should be included?
 - The Government's preference is for a threshold of £58,200 to apply to disclosure of senior salaries in local authorities. This is intended to increase accountability

and ensure salaries are consistent with level of responsibility. Would a 'function test' such as that used in Audit and Account Regulations in 2009 be better e.g. "a person who has responsibility for the management of the relevant body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons"? Or a definition based on legal definitions e.g. the salaries of the head of paid staff, statutory chief officers, non-statutory chief officers and deputy chief officers, as defined in the Local Government and Housing Act 1989?

Who are we consulting?

8. We would welcome comments from any organisations affected by this proposed Code and any others with an interest in open public data. This document is available on the Department for Communities and Local Government website (www.communities.gov.uk) and we will be drawing it to the attention of all principal councils in England. It is open to all to make representations on the proposed code, which will carefully be considered.

How to respond

9. Your response must be received by 14 March 2011. We will be running a forum at www.communities.gov.uk/forums/ or comments may be sent by email to: transparencycode@communities.gsi.gov.uk

Responses may also be returned to:

Stuart Macleod

The Department for Communities and Local Government

Zone 3/J4

Eland house

Bressenden Place

London SW1E 5DU

10. Please title your response 'Response to Transparency Code consultation'.

11. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen next?

12. The Department will take account of the responses received to this consultation. A summary of the responses and the final Code will be published at the same time.

Publication of responses – confidentiality and data protection

13. Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes (These are primarily the Freedom of Information Act 2000, the Data Protection Act 1988 and the Environmental Information Regulations 2004).

14. If you want any information you provide to be treated as confidential you should be aware that under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

15. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give any assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

16. The Department will process your personal data in accordance with the Data Protection Act and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

Revising the proposed Code

17. The Government expects that from January 2011, all English local authorities will have started to publish the data on £500 expenditure, contracts, tenders and senior

salaries. The local transparency agenda is an evolving one, not least as new standards, expectation and technologies develop. The Secretary of State therefore intends to review the content and scope of the Code within 18 months to account for experience and improved best practice.

Annex 1: Draft code of recommended practice for local authorities on data transparency

Introduction and application

1. This Code is issued by the Secretary of State for the Department of Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 to issue a Code of Recommended Practice (The Code) as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
2. The Code applies in England only.

Definitions

3. In this Code:

“the Act” means the Local Government, Planning and Land Act 1980;

“local authority’ means:

- a county council;
- a district council;
- a parish council;
- a parish meeting of a parish which does not have a separate parish council;
- a London borough council;
- the Common Council of the City of London;
- the Council of the Isles of Scilly;
- a National Park authority for a National Park in England;
- the Broads Authority;
- the Greater London Authority so far as it exercises its functions through the Mayor;
- the London Fire and Emergency Planning Authority;
- Transport for London;
- the London Development Agency;

- a fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, and a metropolitan county fire and rescue authority);
- a police authority, meaning:
 - (a) a police authority established under section 3 of the Police Act 1996;
 - (b) the Metropolitan Police Authority;
- a joint authority established by Part IV of the Local Government Act 1985 (fire and rescue services and transport);
- joint waste authorities, i.e. an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007;
- an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- a combined authority established under section 103 of that Act;
- waste disposal authorities, i.e. an authority established under section 10 of the Local Government Act 1985;
- an Integrated Transport Authority for an integrated transport area in England.

Scope

4. Greater transparency of public bodies is at the heart of enabling the public to hold politicians and public bodies to account. Where public money is involved there is a fundamental public interest in being able to see how it is being spent. Public data should also be used to highlight inefficiency and open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.
5. “Public data” therefore means the objective, factual, non-personal data on which policy decisions are based and on which public services are assessed, or which is collected or generated in the course of public service delivery. This should be the basis for publication of information on the discharge of local authority functions.

6. The Freedom of Information Act 2000 requires local authorities to have a publication scheme approved by the Information Commissioner's Office that sets out information that must be routinely published. Local authorities must comply with these requirements.

Principles

7. The following principles should underpin decisions about publication and local authorities should respond to best practice as it develops. This requires a proactive approach to review and pursue higher standards.

DEMAND-LED

8. There are growing expectations that new technologies and data should support transparency and accountability. Local authorities should not seek to pre-determine the value of their data and the level of public demand; rather they should understand what data they hold, what their communities want and then release it in a way that allows the public, developers or the media to present it in new ways that makes its meaning more apparent. It is this process that will create demand for data.
9. As a minimum, the datasets that should be released are:
 - Expenditure over £500, (including costs, supplier and transaction information). Any sole trader or body acting in a business capacity in receipt of payments of at least £500 of public money should expect such payments to be transparent.
 - Grants and payments under contract to the voluntary community and social enterprise sector should be clearly itemised and listed.
 - Senior salaries, names (with the option for individuals to refuse to consent for their name to be published) job descriptions, responsibilities, budgets and numbers of staff. "Senior salaries" is defined as being all salaries which are above £58,200 (irrespective of post), which is the Senior Civil Service minimum pay band.
 - An organisational chart of the staff structure of the local authority.
 - Councillor allowances and expenses.

- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Policies, performance, audits and key indicators on the authorities' fiscal and financial position
- Data of democratic running of the local authority including the constitution, election results, committee minutes, decision - making processes and records of decisions.

10. Local authorities should develop an inventory of the data that they hold and ensure it is published. As data is highlighted to the widest possible audience public demand should grow and local authorities should expect to publish more information.

11. These inventories should be registered on data.gov.uk to support a single point of access for all public data from national and local government.

OPEN

12. Information should be made easily accessible to the public for use and re-use. For most local authorities it will mean publishing data online and where possible there should be a single access page for data being published.

13. Information must be published in a format and under a licence that allows open re-use, including commercial and research activities, in order to maximise value to the public. The Open Government Licence published by the National Archive is the recommended standard. Where any copyright concerns exist with information, these should be made clear.

14. Local authority information should be, where possible, published in open and machine-readable formats. The recommended five-step journey to a fully open format is:

* Publish the available data on the web in whatever format;

** Make it available as structured data, for example in a spreadsheet rather than a .pdf document;

*** Publish it in non-proprietary format such as comma separated values (CSV);

**** User Uniform Resource Identifiers (URIs) to define and describe your data, thereby helping users discover and explore it, and understand its meaning and context, and;

***** Using URIs, incorporate links in your data to related external sources.

15. Publication in both .pdf and .csv formats should be the minimum requirement.

16. Local authorities should have controls in place to reduce the risk of any payment fraud as a result of publishing data. A risk management approach should be used to support these open standards. Potential measures to support this are suggested at Annex A of the Code.

TIMELY

17. Data will often be of most use in its raw format. It should therefore be published as quickly as possible after it is produced. For example, expenditure should be published on a monthly or quarterly basis depending on functionality of in-house systems; organisational information should be published in line with central Government.

18. Data should be as accurate as possible at first publication. While errors may occur the publication of information should not be unduly delayed to rectify mistakes. Instead, publication and use of the data should be used to help address any imperfections and deficiencies. This concerns errors in data accuracy not errors in redacting personal data, which is covered below.

19. Where errors in data are discovered, or files are changed for other reasons (such as omissions), local authorities should publish revised information making it clear where and how there has been an amendment.

Exclusions and exemptions

20. Local authorities must comply with the law on data protection and so must not release data if that would contravene the Data Protection Act 1998 or section 100A(2) LGA 1972. Where information would fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, or falls within Schedule 12A LGA 1972 then it is in the discretion of the local authority whether or not to rely on that exemption or publish the data. However, the Government believes that local transparency can be implemented in a way that complies with the Data Protection Act.

Annex A: Anti-fraud measures

1. Local authorities should have controls in place to reduce the risk of payment fraud occurring. Typically, controls might include:

- Only accepting requests for changes to supplier standing data in writing.
- Seeking confirmation from the supplier that the requested changes are genuine, using contact details held on the vendor data file or from previous and legitimate correspondence; and not contacting the supplier via contact details provided on the letter requesting the changes.
- Ensuring that there is segregation of duties between those who authorise changes and those who make them.
- Only authorising changes when all appropriate checks have been carried out with legitimate suppliers and only making the changes when the proper authorisations to do so have been given.
- Maintaining a suitable audit trail to ensure that a history of all transactions and changes is kept.
- Producing reports of all changes made to supplier standing data and checking that the changes were valid and properly authorised before any payments are made.
- Carrying out standard checks on invoices before making any payments.
- Regularly verifying the correctness of standing data with suppliers.

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