



Department for  
Communities and  
Local Government

# Draft transparency code for parish councils with a turnover not exceeding £25,000

Consultation summary of responses

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# Section 1

## Introduction

- 1.1. The Local Audit and Accountability Act 2014 received Royal Assent on 30 January. The Act sets out a new audit framework for local public authorities which are currently covered by the Audit Commission regime. Under this new framework, smaller authorities with an annual turnover not exceeding £25,000, including parish councils, will be exempt from routine external audit. Instead, these parish councils will be subject to new transparency requirements.
- 1.2. On 10 March 2014 the Government launched the *Consultation on a draft transparency code for parish councils with a turnover not exceeding £25,000*. The purpose of this consultation was to gauge the views of organisations affected by the proposed code, and any other parties with an interest in local audit and transparency. The consultation closed on 9 May 2014. This document summarises the comments received and sets out the Government's response.

## Overview of the Government's response

- 1.3. The consultation paper asked for views on the content and application of the draft transparency code for parish councils with a turnover not exceeding £25,000 in the following areas:
  - whether the code should be mandatory;
  - whether parish meetings should be exempt from complying with the code;
  - whether to apply a threshold above which individual items of expenditure should be published;
  - whether any exemptions should apply to information published to explain negative responses to internal controls objectives;
  - whether the code should require electronic publication; and
  - the level of additional staff time and cost involved in publishing the required data online.

A list of the consultation questions is available at Annex B.

- 1.4. 150 responses were received. The majority of these responses (93.3%) were from local government: parish councils, parish meetings, district councils, and their representative bodies. Responses were also received from the Audit Commission, the Information Commissioner's Office, audit and accountancy firms, a media company and members of the public. A breakdown of the number of responses by sector is included in Annex A.
- 1.5. We are grateful to all those that responded to the consultation. On balance, the draft transparency code for parish councils with a turnover not exceeding £25,000 was positively received by the majority of respondents. The following section provides a summary of the responses to each consultation question, along with the Government's response.

# Section 2

## Summary of responses and Government response

### **Question 1: The government proposes that the code will be mandatory for parish councils with an annual turnover not exceeding £25,000. Do you agree?**

- 2.1 Question 1 sought views on whether the code should be mandatory for parish councils with an annual turnover not exceeding £25,000. 135 responses directly answered this question and of these, 102 (75.6%) explicitly supported the Government's proposal. Those in favour of making the code mandatory included 82 parish councils, 2 district councils, 11 representative bodies including the Society of Local Council Clerks, and the Information Commissioner's Office. These respondents welcomed the proportionate nature of the code and stressed the necessity of making it mandatory since it will represent a substitute for external audit. The Information Commissioner's Office also noted how the proactive publication of key governance and financial information is in the spirit of the Freedom of Information Act 2000. Increased transparency should help reduce the administrative burden on parish councils when responding to Freedom of Information requests.
- 2.2 33 responses (24.4%) were not in favour of making the code mandatory at this time. These included responses from 27 parish councils, three representative bodies and the Audit Commission. While respondents were keen to express their support for the goals of transparency and proportionate accountability arrangements, the most commonly cited concern was that the code may not represent an adequate substitute for external audit. Another common objection was the perceived burden (administrative and financial) of complying with the code, particularly for the very smallest parish councils and those that do not have their own website (see responses to consultation questions 5 and 6 below). Respondents also noted that electors already have access to such information, either by making a Freedom of Information request or by exercising their inspection rights during the specified inspection period. The National Association of Local Councils' view was that, while the code should not be made mandatory immediately, parish councils should be expected to move towards full compliance over the next two years. A decision on whether to make the code mandatory could then be taken in 2017, based on progress made by the parish councils. Six parish councils and two representative bodies also suggested that smaller authorities should have the option of continuing to comply with the existing system of external audit instead of implementing the transparency code if they so wish.
- 2.3 13 respondents (all parish councils) and the National Association of Local Councils (NALC) also questioned the £25,000 threshold to which the code would apply. While some requested that the threshold be set at a higher rate, others, including NALC, recommended that the £25,000 threshold should be based on the parish council's annual precept rather than its turnover. This, it was suggested, may provide greater stability over time, and would reduce the likelihood of parish

councils breaching the threshold on a frequent basis if they received a one-off funding grant (and therefore requiring an external audit). A further two parish councils expressed a preference for applying a three-year smoothing period to the threshold for the same reason, while two other respondents suggested that the £25,000 threshold should be adjusted annually in line with inflation.

### **Government response:**

- 2.4 The transparency code will represent a substitute for external audit for parish councils with an annual turnover not exceeding £25,000. Three quarters of consultation responses agreed with the proposal that the Code should be mandatory. The Government therefore intends to introduce regulations to make the Code mandatory.
- 2.5 By issuing this code, the Government intends to place more power into citizens' hands to increase democratic accountability. The proactive approach this code takes to publishing key governance and financial information means that local people will have readily available the information they need to hold local public bodies to account. Alongside the retention of important rights, which allow local electors to inspect an authority's accounts during the specified inspection period and raise a question or an objection with an external auditor, the Government believes this code represents both an adequate and proportionate substitute to the external audit regime. Parish councils that wish to continue to have an external audit will be able to choose to do so. However, we do not propose that they will be exempt from the new transparency requirements.
- 2.6 The Government consulted on the proposed external audit threshold of £25,000 in 2012 and the majority of respondents agreed that this amount struck the right balance between the need for assurance and the small amounts of public money handled by these bodies.<sup>1</sup> The Government intends to base the threshold on a parish council's annual turnover to ensure consistency with the external audit exemption threshold. Whilst a number of respondents suggested basing the threshold on the annual precept, it is the Government's view that this could result in a number of parish councils with responsibility for large amounts of public money being exempt from external audit.

### **Question 2: The government proposes that parish meetings will be exempt from complying with the code. Do you agree?**

- 2.7 Question 2 asked whether parish meetings should be exempt from complying with the code. Parish meetings do not generally have staff or websites and the Government considers that it would be unreasonably onerous to place them under a duty to comply with the code. 117 responses directly answered this question. Of these, 98 (83.8%) respondents, comprising 77 parish councils, 12 representative bodies including NALC, the Audit Commission, and the only parish meeting to

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<sup>1</sup> <https://www.gov.uk/government/consultations/draft-local-audit-bill>

respond to the consultation, supported the Government's proposal. Two of these respondents highlighted that some parish meetings have larger precepts than the smallest parish councils.

- 2.8 19 respondents (16.2%) did not agree that parish meetings should be exempt from complying with the code. These included 12 parish councils, three representative bodies and the Information Commissioner's Office. The most commonly cited reason for not supporting this proposal was that respondents felt that parish meetings should be treated in the same way as parish councils, since transparency and accountability principles should apply to all levels of parish decision-making and use of public funds. The Information Commissioner's Office also noted that, as public authorities, parish meetings are still subject to the Freedom of Information Act 2000, and are therefore required to produce a publication scheme listing the types of information that they routinely make available.

### **Government response:**

- 2.9 The Government does not believe that it is proportionate to place parish meetings under a duty to comply with this code. Parish meetings do not generally have staff or websites and to do so would represent an unreasonable burden for them. The Government notes that, as public authorities in receipt of public funds, parish meetings remain subject to the Freedom of Information Act 2000. Parish meetings will therefore continue to be required to develop a publication scheme and ensure key financial and governance information is available to local electors upon request.

### **Question 3: Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?**

- 2.10 Question 3 sought views on whether to apply a threshold above which individual items of expenditure should be published. 120 respondents directly answered this question. Of these, 82 (or 68.3%) responses, from 69 parish councils, ten representative bodies including NALC, and three others, agreed that a threshold should be applied. The most frequently proposed threshold was £100 (34 of 81 responses or 42%). Alternative expenditure threshold proposed by a substantial number of respondents included £250 (23 responses), £50 (15 responses), and £500 (nine respondents). The Audit Commission noted that the burden on parish councils to publish this information should be minimised by providing guidance, for example in the form of a template, on the level of detail required for each expenditure item.
- 2.11 38 respondents (31.7%) did not agree that a threshold should apply to the publication of individual items of expenditure. These included responses from 28 parish councils, three representative bodies, the Audit Commission, Society of Local Council Clerks and the Information Commissioner's Office. The most common reason given for not supporting an expenditure threshold was that to do so would undermine internal controls, as well as the principle of transparency that this code seeks to promote. Some respondents, including the Society of Local Council Clerks, also noted that it would take more time for clerks to delete items of expenditure that fall below the threshold than it would to publish the parish council's list of

expenditure in full. The Information Commissioner's Office also pointed out that, as parish councils are public authorities subject to the Freedom of Information Act 2000, all expenditure information is potentially accessible via a Freedom of Information Act request. To make all expenditure information available proactively would therefore reduce the burden of responding to individual requests.

### **Government response:**

2.12 The Government agrees that a threshold above which individual items of expenditure should be published should be set at £100 (including VAT where it cannot be recovered). Whilst we acknowledge some respondents' view that the threshold should be set at a level consistent with that of central government departments, we believe that this amount is proportionate to the low levels of public spending these bodies are responsible for. Parish councils may choose to publish a complete list of expenditure transactions if they prefer. Expenditure information should be published for each individual spending transaction rather than each item bought.<sup>2</sup> Since parish councils remain subject to the Freedom of Information Act 2000, the Government notes that councils should continue to ensure that all expenditure information is available to local electors upon request.

### **Question 4: What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?**

2.13 Question 4 asked whether any exemptions should apply to information published to explain negative responses to internal controls objectives. 103 responses directly answered this question and of these, 71 (68.9%) agreed that some exemptions should be permitted. The vast majority of these respondents, including the Audit Commission, the National Association of Local Councils and the Society of Local Council Clerks, felt that any information which might prejudice a current fraud investigation or prosecution should be exempt from publication. The Audit Commission also noted that requiring publication of internal audit reports may reduce their frankness and therefore reduce the value of internal audit.

2.14 Respondents also noted that current exemptions under the Data Protection Act 1998 and Freedom of Information Act 2000 should apply in this context. This is set out in the code at paragraphs 2.10 and 2.11. The Information Commissioner's Office stated that the most relevant exemptions under the Freedom of Information Act 2000 are those relating to law enforcement (section 31), personal data (section 40) and information provided in confidence (section 41). While accepting the need to exempt information relating to fraud cases from publication, the National Association of Local Councils concluded that any exemption should be conditional on full information being published at the earliest opportunity.

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<sup>2</sup> For example, it is sufficient to group all items in stationary order as one item of expenditure, rather than breaking the order down further.



2.15 31 respondents (31.1%) disagreed with the Government's proposal to exempt from publication certain types of information that explained negative responses to the internal controls objectives. These included responses from 26 parish councils and two representative bodies.

**Government response:**

2.16 The Government agrees that exemptions under the Data Protection Act 1998 and Freedom of Information Act 2000 should apply to data published in accordance with this code. These relate to law enforcement, for example information which may prejudice a current fraud investigation or prosecution, personal data, and information provided in confidence.<sup>3</sup> These exemptions are conditional and the Government will require parish councils to publish full information at the earliest opportunity. The Information Commissioner's Office has published guidance on the anonymisation of datasets, enabling the publication of data.<sup>4</sup>

2.17 The Government notes respondents' concerns regarding the proposal to publish additional internal audit reports (other than information on internal audit required in the Annual Return audit form) where available. Objective internal audit processes are critical for evaluating and improving the effectiveness of an organisation's risk management, internal control and governance procedures. We agree that requiring the publication of additional internal audit reports may be counter-productive. Therefore, parish councils will only be required to publish an annual internal audit report according to the format included in the Annual Return audit form in order to comply with this code.

**Question 5: The government proposes to require electronic publication. Do you agree? and**

**Question 6: How much additional staff time and cost will be involved for authorities in publishing the required data online?**

2.18 Question 5 sought views on whether the code should require electronic publication of key governance and financial information. 127 respondents directly answered this question. Of these, 88 (or 69.3%) responses, comprising 77 parish councils, eight representative bodies including the National Association of Local Councils and the Society of Local Council Clerks, agreed that the information outlined in the code should be published electronically. The Information Commissioner's Office noted that electronic publication is the most efficient and effective way of disseminating information and promoting transparency. Parish councils, the Office noted, should therefore be encouraged to publish information via the internet wherever possible.

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<sup>3</sup> Guidance on exemptions under the Freedom of Information Act 2000 can be found at: <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>  
<sup>4</sup> [http://ico.org.uk/for\\_organisations/data\\_protection/topic\\_guides/anonymisation](http://ico.org.uk/for_organisations/data_protection/topic_guides/anonymisation)

- 2.19 One county association described how it currently administers a joint scheme whereby parish councils have an opportunity to have their website hosted by the county council and external technical support is provided. Another suggested that it is possible for parish councils to create websites at no cost and very little expertise via existing web portals. In order to comply with the requirement, the Information Commissioner's Office stated that parish councils may only need to develop a website with a document management system, rather than a series of 'flat' webpages.
- 2.20 Respondents also recognised the importance of parish councils continuing to make hard copies of key governance and financial information available to all residents upon request and in accordance with established electors' inspection rights. This would be particularly important in areas where parishioners may not have easy access to the internet.
- 2.21 Of those who supported the government's proposal, more than 40% of respondents recognised that, for many of the smallest parish councils, the additional burden placed on clerks tasked with preparing the required information for publication may be significant. Some communities may not have the necessary expertise available to run and manage a dedicated website. Two respondents argued that this may result in the loss of a clerk or could discourage local residents from wishing to become one.
- 2.22 39 respondents (30.7%) disagreed with the government's proposal to require electronic publication, and these included responses from 32 parish councils, two representative bodies and the Audit Commission. A clear correlation was apparent between the small size of the parish council and their lack of support for this proposal. The most common reason cited by parish councils for not supporting this proposal was the perceived additional burden – both in administrative and financial terms – that the requirement to publish information electronically would place on them. Another concern raised by parishes was that many local residents are not computer-literate and would therefore not look online for such information, especially since broadband coverage remains poor in some parts of the country.
- 2.23 Regarding the suggestion that parish councils publish the required information on their billing authority's website, some respondents pointed out that district and county councils may need to be encouraged to facilitate this process. The two district councils that responded to the consultation observed that this approach would place an additional burden on them. This would particularly be the case in areas where large numbers of small parish councils exist. The approach, observed some, would only be a viable solution if billing authorities have in place a simple way for parishes to provide them with the necessary information.
- 2.24 Given these concerns, some respondents suggested that the proposal to publish information electronically should be an aspirational requirement rather than a mandatory one. The Information Commissioner's Office stated that it would be premature to require parish councils to publish all information electronically until it is clear that there are practical and cost-effective means for them to do so. Similarly, many respondents, including the National Association of Local Councils and the Society of Local Council Clerks, concluded that if electronic publication is to be mandatory, the Government should phase in the requirement; perhaps after an

initial two-year period. This would give parish councils the necessary time to prepare for the new arrangements. Many respondents, including the National Association of Local Councils, also suggested that the establishment of a government-funded programme to help smaller parish councils create and maintain their own website is needed, along with the development of a template for uploading the data onto them.

- 2.25 Question 6 asked how much additional staff time and cost would be involved in publishing the required data online. 132 respondents answered this question. Of these, 10 respondents (7.6%) considered that electronic publication would not entail any additional staff time and cost, 68 (51.2%) thought the cost involved would be minimal, 41 (31.1%) believed that related costs would be significant, while a further 13 respondents (9.8%) were unable to estimate what the likely staff time and cost would be.
- 2.26 Of the 78 respondents (59.1%) who estimated that additional staff time and cost involved would be either none or minimal, 73 responses were from parish councils, two were from representative bodies, and the remaining were received from accountancy firms and a private individual. In most cases, these parish councils were already publishing the required information online. For others without a website, most felt that, after an initial set-up period, the process of uploading the required information annually would be relatively straight forward. Some parish councils also suggested that staff time and costs could be minimised further by the development of guidance and/or templates to aid the process.
- 2.27 Of the 41 respondents (31.1%) who considered the additional staff time and cost involved to be significant, 27 responses were from parish councils and nine were from representative bodies. A further five responses were from the Audit Commission, district councils and private individuals. Many parish councils highlighted that their clerks were only employed on a part-time basis and the additional staff time required could only be paid for by increasing the council's precept.

#### **Government response:**

- 2.28 The Government welcomes the support its proposal to require electronic publication of key financial and governance has received from the majority of respondents. Electronic publication, either on a parish council's own website or that of its billing authority is the most effective way of promoting transparency locally, and the Government agrees that this requirement should become mandatory. Taking a proactive approach to sharing information in this way should help reduce the administrative burden on parish councils when responding to future Freedom of Information requests.
- 2.29 The Government does not share the view that requiring electronic publication of data will prevent local electors from accessing this information (i.e. those without access to the internet). Important inspection rights, which allow electors to inspect an authority's accounts during the specified inspection period and make a complaint to an external auditor, will be retained under the new audit regime. Electors will also continue to be able to make requests for information under the Freedom of

Information Act 2000 in the usual way.

- 2.30 We have listened to the concerns some parish councils and billing authorities have raised regarding their capacity to publish information electronically. In light of these consultation responses, the Government intends to work with the sector to develop a package of support that best meets its needs.

## Section 3

### The Government's next steps

- 3.1 The Government is grateful to all those that responded to the consultation. The draft regulations will be developed and amended as noted in section 2 of this document.
- 3.2 The Government issued a consultation on a draft transparency code for other smaller authorities (internal drainage boards, charter trustees and port health authorities) with a turnover not exceeding £25,000 on 19 June.<sup>5</sup> Regulations to create a variant of the transparency code for other smaller authorities will be developed based on the responses received from that consultation.
- 3.3 The intention is to lay regulations for making the transparency code for parish councils and other smaller authorities mandatory later on this year.

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<sup>5</sup> <https://www.gov.uk/government/consultations/local-audit-regulations>

# Annex A

## Respondents by sector

Type of respondent	Number of responses	%
Parish councils	123	82.0%
Parish meetings	1	0.7%
District councils	2	1.3%
Representative organisations – local government	14	9.3%
Public sector organisations	2	1.3%
Audit and accountancy firms	3	2.0%
Media company	1	0.7%
Personal responses	4	2.7%
<b>Total</b>	<b>150</b>	<b>100%</b>

# Annex B

## List of consultation questions

1. The government proposes that the code will be mandatory for parish councils with an annual turnover not exceeding £25,000. Do you agree?
2. The government proposes that parish meetings will be exempt from complying with the code. Do you agree?
3. Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?
4. What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?
5. The government proposes to require electronic publication. Do you agree?
6. How much additional staff time and cost will be involved for authorities in publishing the required data online?