

11-57 The Code of Recommended Practice on Data Transparency

To all APSE main contacts in England , Wales, Scotland and Northern Ireland

Key issues;

- The Coalition Government from the start of its administration stressed that they wished to make data, about how services perform and how public money is spent, to be made available in an understandable form.
- Government has already asked Council's to make publically available any spending over £500.
- The Code of Practice for Local Authorities on Data Transparency sets out details as to the publication of information by local authorities about the discharge of their functions.
- The scope of the paper is England only however the Welsh Assembly Government is now consulting on introducing similar measures as is the Scottish Parliament.

1. Introduction

In May 2010 The Coalition Government published *'The Coalition: Our programme for Government'* which set out its main policy ambitions for its term. One of the key statements within that agreement was *'The Government believes that we need to throw open the doors of public bodies, to enable the public to hold politicians and public bodies to account. We also recognise that this will help to deliver better value for money in public spending, and help us achieve our aim of cutting the record deficit. Setting government data free will bring significant economic benefits by enabling businesses and non-profit organisations to build innovative applications and websites'*.

The Government has since made several announcements which relate to the release of spending over the sum of £500 by local councils, senior staff salaries and the publication of certain Government data on spending as part of a national databank. Government also made clear its intentions to ensure that all data published by public bodies is published in *'an open and standardised format so that it can be used easily and with minimal cost by third parties'*.

2. Where will it apply?

The Code is issued by the Secretary of State for Communities and Local Government, under section 2 of the Local Government Planning and Land Act 1980. The Code does not supersede or replace existing legal frameworks such as the Freedom of Information Act and other requirements. The Code applies to England only. The Code applies generally to local authorities, fire and rescue authorities, a police authority and the Metropolitan Police Authority, a joint authority (established under part V of the Local Government Act 1985) and joint waste authorities (under section 207 Local

Government and Public Involvement in Health At 2007) and other miscellaneous authorities the full list of which is produced within the Code.

3. Scope and purpose

The Coalition Government believes that data transparency is a means by which the public can hold public bodies to account by examining how money is spent and highlighting inefficient use of public money. The Code also states that the publication of data should also be used to 'open new markets for local business, the voluntary and community sectors and social enterprises to run local services or manage public assets'.

'Public data' is defined as that which is objective, factual 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. Public data will not generally include personal information and such data should only be used if it did not contravene the Data Protection Act and should in any event meet a 'legitimate public interest'.

4. Principles

The Code contains a number of principles which local authorities are asked to use to underpin their decisions on the release of public data. These principles are replicated in full below and are listed as 'demand led', 'open' and 'timely'. Certain exemptions are also listed below.

a. Demand led

There are growing expectations that new technologies and publication of data should support transparency and accountability. Local authorities should not pre-determine the value of their public data and the level of public demand; rather they should understand what they hold, what their communities want and then release it in a way that allows the public, developers or the media to use it. This may involve users combining it with data from other sources to create new information.

The Freedom of Information Act 2000 requires local authorities to operate 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.

Local authorities should build and maintain an inventory of the public data that they hold so that people are able to know what is available to them. If public data would be released under Freedom of Information it should be included in the inventory. As this inventory is highlighted to the widest possible audience demand should grow and local authorities should expect to publish more.

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.

As a minimum, the public data 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.
- Senior employee 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 employee salaries' is defined as all salaries which are above £58,200 and above (irrespective of post), which is the Senior Civil Service minimum pay band. Budgets should include the overall salary cost of staff reporting to each senior employee.
- An organisational chart of the staff structure of the local authority including salary bands and details of currently vacant posts.
- The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole of the authority's workforce.
- Councillor allowances and expenses.
- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Grants to the voluntary community and social enterprise sector should be clearly itemised and listed.
- Policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position.
- The location of public land and building assets and key attribute information that is normally recorded on asset registers and
- Data of democratic running of the local authority including the constitution, election results, committee minutes, decision - making processes and records of decisions.

b. Open

Provision of public data should become integral to local authority engagement with residents so that it drives accountability to them. Its availability should be promoted and publicised so that residents know how to access it and how it can be used. Presentation should be helpful and accessible to residents and other interested persons.

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

Publication should be in open and machine-readable formats. The recommended 5 step journey to a fully open format is:

* Available on the web (whatever format) but with an open license

** As for one star plus available as machine-readable structured data (e.g. Excel instead of image scan of a table)

*** As for two star plus use a non-proprietary format (e.g. CSV and XML)

**** All the above plus use open standards from the World Wide Web Consortium (such as RDF and SPARQL21) and

***** All the above plus link your data to other people's data to provide context

Local authorities should use a risk management approach with strong internal control arrangements to reduce the risk of any payment fraud as a result of publishing public data. Local authorities should refer to the Chartered Institute of Public Finance and Accountancy Red Book 2 – *Managing the Risk of Fraud – Actions to Counter Fraud and Corruption*.

c. Timely

The timeliness of making public data available is often of vital importance. It should be made published as soon as possible following production even if it is not accompanied with detailed analysis. Where practical, local authorities should seek to publish in real time.

Public 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 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. The best way to achieve this is by having robust information management processes in place.

Where errors in public 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. Meta data on data.gov.uk should be amended accordingly.

5. Exclusions and exemptions

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 sections 100A, 100B or 100F LGA 1972. Where information would fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, INSPIRE Regulations 2009 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.

6. APSE comment

Much of the detail contained within the Code will not surprise local authorities and many are already 'compliant' with large proportions of the Code. Most council websites for example already contain a vast amount of published information and

councils add to this data in response to Freedom of Information Requests and other matters.

Many councils have also moved to publish spending above £500 and details of senior salary data alongside councillors expenses and allowances.

One area of concern to APSE however is that the level set of £500 for spending data which could be a cumbersome level at which to set the bar, requiring voluminous data input when councils have already faced reduced staffing resources as a result of budget constraints. One would question whether this level is appropriate or indeed meaningful to the public.

In APSE briefing 11-01 we highlighted APSE's response to the *House of Commons Communities and Local Government Committee New Inquiry and Call for Evidence on the Audit and Inspection of Local Authorities*. As part of that response we stressed that overly-simplistic reporting of data could be misleading and rather than informing the public, about the performance of a local council, it could in fact lead to data being misinterpreted. APSE also stressed that as part of new performance arrangements a more flexible performance framework should allow for the reporting to local tax payers of a mixture of easily understandable, and identifiable, performance outcomes including a mixture of cost and productivity, quality and customer satisfaction indicators and associated data.

APSE has also pressed for local flexibility to be integrated into such an approach by councillors choosing which data or indicators best match local priorities but to allow comparisons, to other councils, through a national 'guideline set' of the types of indicators that ought to be available to the public. For example a council elected on a 'green agenda' could choose to report its performance on the amount of waste that it has converted into useable green energy or a council committed to public health outcomes could choose to report on participation levels within local leisure centres.

By simply reporting all public data, whilst welcoming greater transparency generally, APSE is concerned that it will still be difficult for members of the public to judge local performance purely on public data without any interpretive / comparative data with which to compare performance. In that sense APSE believes that to truly ensure local accountability, aside from simple compliance with the publication of public data, local councils should consider publishing a good performance indicator set, locally managed, controlled and reported. This of itself would help to demonstrate that the local council is managing resources effectively. This may indeed help councils to meet the 'five star' level of data transparency, as detailed above in the Code, which is to *'link data to other people's data to provide context'*.

Authorities who, for example, already use APSE performance networks data may choose to publish key indicators about their performance over different service areas. They could use existing performance indicators for context and comparable performance within the Standings Reports, produced by APSE on an annual basis to provide a more contextual understanding of local performance. This is likely to be a more preferable format to the rather than sizeable chunks of data that potential

generate more questions than answers in terms of data transparency and holding councils to account on efficiency.

One further concern of APSE is the commercial sensitivity of data. Councils have a statutory Best Value Duty (see APSE briefing 11-53) and where services or supplies are subject to external tests of competitiveness it is not unreasonable to assume that competitors will carry out research on current service costs or pricing, using published data. This could lead to prices being 'fixed' at what a supplier or provider believes the local government market will stand rather than local authorities being able to obtain 'Best Value'. Whilst APSE accepts the reference to the CIPFA guidance on avoidance of fraud there are serious questions as to whether this level of data publication undermines 'Best Value'. Such pricing may not be unlawful or fraudulent but it could help 'sellers' in terms of suppliers or service providers rather than the 'buyers' in terms of local authorities and police authorities. Nevertheless creating greater transparency in contracts that are outsourced will be welcomed by many as a matter of public interest.

The new Code will be discussed at the APSE Service Improvement and Performance Management Advisory Group on the 20 October 2011. To register your interest in attending this group please email megerton@apse.org.uk

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