

Consultation Response

Strengthening Local Government Transparency: Consultation on changes to the Local Government Transparency Code 2015

Response by London Councils

London Councils represents London's 32 borough councils and the City of London. It is a cross party organisation that works on behalf of all its member authorities regardless of political persuasion.

General comments

Overview

1. London Councils welcomes the opportunity to respond to the government's consultation on changes to the Local Government Transparency Code 2015.
2. London Councils agrees with government that transparency is the foundation of local accountability, and that common availability and formatting of data can aid the analysis of public spending and the management of public assets.
3. However, given the resource and cost implications, we also believe the data requirements on councils must be reasonable and proportionate in terms of the burden on local authorities and the benefit to local taxpayers. Data should be collected and published for a specific reason, with clear evidence it will be used for certain purposes, rather than publishing information for its own sake.
4. Achieving the right balance between the costs and benefits of data collection is arguably more important now than ever. The analytical and performance capacity of local government has been reduced as a result of significant funding pressures on the sector. For example, London local government will have seen core funding cut by 63 per cent in real terms over course of the decade, during which time local government has taken on a number of new burdens and responsibilities that have either been underfunded or not funded at all. The transfer of Council tax support, Local Welfare Provision and the increasing impact of people with No Recourse to Public Funds are three examples that have particularly impacted on London, and all have data management requirements. As such, London Councils firmly believes that any new data requirements that involve local authorities incurring costs must be fully funded under the new burdens doctrine.
5. The cost benefit analysis of further data requirements on councils must also consider the potential costs to effective administration and management of attempts to standardise data collection. While there may be some benefits to commonality in availability and formatting, these are far from guaranteed and each requirement must be considered on its merits. Providing data for the convenience of central government at the expense of

effective local management arrangements would not be an acceptable use of resources, and would inevitably lead to the imposition of inappropriate burdens and processes on a range of authorities given the diversity of the organisations to which the Transparency Code applies. This is well illustrated by the proposal in the land and property assets section that suggests Excel spreadsheets. This would impose a lower quality solution at additional cost in place of higher quality local solutions that are already in place.

6. More widely, uniform imposition inhibits innovation and improvement in local government administration, and therefore threatens to stifle the sector's self-improvement agenda.
7. The importance of recognising that a one size fits all approach is not appropriate to local government is a central tenet of the devolution agenda, and is as applicable to data management as it is to powers and governance arrangements.
8. Overall, a flat approach to data collection and publication based on standardisation risks imposing unnecessary costs, introducing inefficiencies, and disrupting locally optimal solutions, as well as being out of keeping with the governments broader devolution agenda.
9. With this in mind, it is important to retain focus on the objectives and principles of data collection management and publication. If the purpose of these activities is to support accountability through transparency and access, and to inform better management of public assets, then new duties under the code must either grant tax payers access to information that they could not otherwise obtain, or provide benefits that outweigh the above risks of standardisation, and justify the additional expenditure in terms of benefit to those that fund it. They should not increase the risk of fraud, should not require local authorities to operate less effective systems than those already in place for the convenience of central government data gathering, and should not use transparency to promote other, unrelated policy aims.
10. London Councils has considered the proposals in the consultation in light of these general principles of data collection, and is unconvinced that many of them would add sufficient benefits to transparency, public administration and value for money to justify the additional costs of introduction. Some of these proposals appear more concerned with providing information for the convenience of central government, or to promote implicit policy objectives under the guise of transparency, and could actually deliver dis-benefits as they would disrupt locally optimal solutions; others lack sufficient detail to enable a meaningful assessment of the costs and benefits involved.
11. More specifically, London Councils is very concerned by the proposals asking local authorities to publish information to justify why a service is being kept in-house. This is not consistent with the purpose or principles of data transparency, and crosses the line that separates access to factual information from more normative judgements concerning the efficacy of policy. As such this is not appropriate for consideration as part of the Transparency Code. We further register our concern that there appears to be an assumption underlying the proposal that in-house provision is inherently inefficient, whereas outsourced services are not. There is no data to support such an underlying assumption.
12. Similarly, London Councils is also concerned by the proposals regarding whether land is surplus to requirements, and whether there are plans for the release of land for housing development. These are planning policy matters, not transparency considerations, and should be dealt with accordingly. We further note that the London Plan and local planning policy documents already provide significant quantities of information on housing and planning in the capital, and that the Housing and Planning Act 2016 will extend this still further through introduction of a brown field register to aid identification of housing land. As such this is not appropriate for consideration as part of the Transparency Code.
13. London Councils is not in a position to answer the detailed questions regarding costs and benefits, added costs/savings and impact on man hours at individual authority level due to the considerable costs that would

be required to collect such information. This response therefore takes an overview of the proposals relating to each of the main topics covered:

- Land and property assets
- Procurement
- Contracts
- Parking
- Method of publication
- Small and Medium-Sized Enterprises

Land and property assets

Proposal for local authorities to record details of their land and property assets in a consistent way on ePIMS

14. London Councils is broadly in favour of the proposal for authorities to record details of their land and property assets in a consistent way on ePIMS, and we can see the benefit in collecting data on local authority land in a central space. Local authorities have new duties to provide replacement homes for properties disposed of under the Housing and Planning Act 2016, and we would welcome initiatives that help our members to meet this duty so long as they are sympathetic to local conditions.
15. However, most of our members' data is exported in a format ready for publishing on their website with minimal manual manipulation required. If further handling is required for the data to be compatible with ePIMS, then this should be done by the hosts.
16. In addition, local authorities must already publish this information on their own website and, in London, provide it to the London Land Commission. We believe that the process of emailing Excel spreadsheets outlined in the consultation document seems retrogressive for linked, public, open data. It would breach the principle that data publication requirements should not force local authorities to adopt less effective approaches for the convenience of central government. The government should consider other options, such as data harvesting from local authority portals. The primary purpose of the Transparency Code is for local government to be accountable to its electorate and this should remain its focus. The starting principle should, therefore, be that data is published once in one place by its owner and republished by others where necessary.

Proposal for local authorities to record additional data in a consistent way on ePIMS

17. While London Councils understands the rationale behind the proposal, we have further reservations about the more detailed plans to collect new data on:
 - the extent of the land in hectares for each piece of land;
 - whether that land is surplus to requirements;
 - whether there are current or future plans to release the land for housing development;
 - if there are plans to release the land for housing development, what is the current planning status;
 - if there are plans to release the land for housing development, how many homes can be accommodated; and
 - for properties of 10,000 square foot or larger, the floor area of that property, the number of floors and the number of car parking spaces that property has.
18. Firstly, while it is not clear what the additional cost to authorities would be, this could be considerable as the data is likely to be held in different places in a variety of formats. One of our member boroughs currently has over 1700 entries on its published register, and to map this additional data to the existing data could be a very resource intensive task. Further details about the process for collecting the data are therefore needed before any firm endorsement.
19. Secondly, as the consultation paper notes, judgements on whether land is surplus to requirement and suitable for housing development are subjective and local authorities would need definitions of these terms if there is

to be consistency across the country. Also decisions around land issues can be very fluid as priorities shift and the intended use can change quite dramatically. Clarity on these subjective areas is therefore sought.

20. Thirdly, it appears that this may be the method by which the government intends local authorities to comply with s208 of the Housing and Planning Act – the duty of public authorities to prepare a report of surplus land holdings. London Councils asks that government confirms whether this is the case and if so to make it explicit. We would not want members to have to prepare a separate s208 report.
21. Finally, there is a risk that publishing this data could disadvantage local authorities in their negotiations with potential buyers for sites, as it could lay bare their property strategy and commercial assumptions.

Procurement

Proposal for authorities to publish procurement data in a fixed format to a central source

22. London Councils can see the benefit of publishing procurement data in a fixed format. However, our experience is that it has been difficult to deliver a regional pan-London contracts register and spend analysis tool that are universally used because London boroughs use a number of different procurement and contract register solutions, partly because of pre-existing arrangements with suppliers. Publishing in a fixed consistent format is therefore more important, in our view, than it being sent to a central source. The differences between authorities' arrangements reflect local needs and local resources, and are therefore the most locally appropriate response to the prevailing local circumstances. To impose a one-size-fits-all solution in these circumstances would be very difficult to justify to local tax payers as it would increase costs whilst reducing effectiveness.
23. For London boroughs the vast majority of opportunities and benchmarking would be with other London boroughs on a regional basis, therefore publishing to a regional source would be more suitable than a national one.
24. While the consultation focusses on detecting fraud, bribery and corruption as the main driver for the proposal, we believe that first and foremost it would allow a consistent comparison of data and contracts to enable boroughs to work collaboratively, using their economies of scale to leverage better deals with suppliers. Aligning consistent contract and spend data, whether at regional or national level, has to be the first step in this process.
25. We are clear however, that publishing to a central source should not increase the data burden on local authorities. Further information is required regarding exactly what format the central source will take and whether this will include additional fields/information. In our view, this should take place via harvesting to data.gov.uk with no requirement for councils to manually republish the data.

Contracts

Proposal for authorities to publish information about the decision making process of retaining or taking a service in house

26. As set out in paragraph 11, London Councils has considerable concerns about these proposals. If the Government's policy is to promote out-sourcing of service delivery it should say so, and not seek to promote it through amendments to the Transparency Code. Furthermore, it is not clear from the consultation document exactly what is being proposed: the document as drafted is inconsistent about whether the publication requirement applies to the decision to bring a service back in house, or to all services that are directly delivered by councils.
27. Despite referring several times to the "decision" to bring services in-house, the proposal appears to be suggesting that all services that are currently provided in-house must publish information to justify why they

are they are not outsourced. Notwithstanding the fact that this would clearly be outside the intended scope of the Transparency Code, the administrative costs of compliance with this duty for every service currently not outsourced by an authority would be considerable. The suggested threshold of £500,000 and the rolling seven year period of assessment appear to be entirely arbitrary.

28. Before requiring local government to undertake this exercise, the government should provide an evidence-based case to justify increasing this data burden on local authorities, for example where authorities have been through this process and saved money or changed decisions.
29. Moreover, this suggestion appears to be a centralist approach seriously at odds with devolution policy and aimed more at data collection than supporting local accountability.

Parking

Proposal that authorities publish further details of their parking finances and enforcement

London Councils accepts that authorities should openly publish, in an easily accessible and digestible form, statistics regarding parking related income, expenditure and enforcement. Annex A of the Department for Transport Statutory Guidance on the Civil Enforcement of Parking Contraventions under the Traffic Management Act 2004 already sets out what enforcement authorities should publish. As such, if the Government wishes to change the requirements, it should do so through the appropriate formal process for reviewing and reissuing the Statutory Guidance. Seeking to introduce minor amendments to Statutory Guidance through the Transparency Code is both inefficient and inappropriate. Any discrepancy between the requirements of the Statutory Guidance and the Transparency Code would lead to confusion, inconsistency and greater inefficiency without clear guidance on which data were mandatory and which merely recommended.

30. We also believe that the current timescales of six months in producing these reports should remain to ensure both the accuracy and consistency of the data across authorities.

The benefits/disbenefits of publishing the parking data described in the consultation documentation

31. London Councils acknowledges that there is much external suspicion of the parking industry, and that publishing reports and statistics may go some way in reassuring motorists and interested parties that parking is not being used as the revenue generating tool it is often accused of being, and may reduce the number of Freedom of Information requests that authorities receive with respect to parking data, which will save time and resources. However, as already stated, that data is already specified and published: if authorities are required to provide it in a different format or report other than their annual report this would result in avoidable additional burden for no additional benefit.

The added costs or added man-hours associated in publishing this extra data.

32. Authorities in London already provide much of the data requested, so if the requirements broadly mirrored what is currently being produced there would be no additional costs or added man-hours in publishing this data. However, this would depend on the exact specifications and formatting requirements of any revised publications, which could have some cost and man-hour implications. Without knowing the final details these are currently impossible to quantify.

Method of publication

Proposal that authorities should ensure that their transparency data is clearly signposted and easy to navigate

33. London Councils agrees with this proposal. The very principle of openness and transparency relies on the ability of the public to be able navigate to the required information as quickly and accurately as possible. Therefore, it is essential that the information is clearly signposted. The LGA has already produced a set of practical guidance documents to support local authorities in understanding and implementing the Transparency Code 2015 and to help them publish the data in a meaningful and consistent way, and that signposting is common practice across the sector. It is not clear what additional benefit the proposals would bring; building a common template web page that lists the data required by the Code would have cost implications that would need to be covered by the new burdens doctrine.

Proposal to publish certain local authority data in a standardised format to a central source

34. London Councils believes there is benefit in collection standardised data to a central source and that this could (and indeed should) facilitate analysis, comparison and benchmarking of that data. However, again the consultation is vague about exactly what it is proposing to be collected and why, and we once again point out that there must be cost benefit analysis of the proposals that includes an appreciation of the potential dis-benefits of standardisation in relation to innovation and best practice. Publication should promote accountability to local residents, not merely facilitate central data collection. The suggested list covers a wide range of different areas: “such as expenditure exceeding £500, housing asset values, grants to voluntary, community and social enterprise organisations, senior salaries, pay multiples and fraud”, with no justification for why these things should be collected or any evidence to suggest how this data could be used. As such it is difficult to see how these additional burdens could be justified in terms of benefits to local residents, and if this is to be taken forwards, the Transparency Code is not the appropriate vehicle for it.
35. London Councils believes in the collection and analysis of data for benchmarking, as long as there is a clear purpose behind it. Further information about this proposal is needed before it could be endorsed, and again the government should develop its proposal in more detail, explaining the benefits with evidence before trying to rush this policy through within the Transparency Code.

Small and medium-sized enterprises

Proposal for the Transparency Code to recommend that authorities publish information about their dealings with small and medium-sized enterprises

36. Again, this is a matter of data to support policy, not transparency. Notwithstanding this point, local government is well aware of the potential policy benefits of spending with small firms and many local authorities already publish SME spend data as part of their local sustainability programmes. Research by the Centre for Local Economic Strategies for the Federation of Small Businesses found that, on average, local authorities spend 47per cent of their total procurement spend with SMEs¹. This is significantly higher than the aspirational target that central government is aiming to achieve by the end of the parliament.

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July 2016

¹ Federation of Small Businesses & the Centre for Local Economic Strategies, “*Local Procurement: Making the most of small business, one year on.*” July 2013, p 8.