

# Local Authorities Data Transparency Code Local Government Association Response

## Purpose

1. We welcome the opportunity to respond to the Department of Communities and Local Government (DCLG) Draft Local Authorities Data Transparency Code, issued on 12 December 2013<sup>1</sup>. We have reviewed the code and sought views from local authorities to inform our response. Members of the LGA Improvement and Innovation Board have endorsed the LGA position on transparency and this response, which is in line with our response to the consultation on the earlier version of the Code. This response also requests some amendments to the code in order to clarify requirements, since there will be adverse consequences for local authorities if they do not comply due to misunderstanding.

## About the LGA

2. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.
3. We are a politically-led, cross party organisation, which works on behalf of local authorities to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.
4. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

## Overview

5. Local government is already one of the most transparent parts of the public sector, publishing information to inform citizens, communities and business about local authority democracy, accountability and finances, services and performance, and activities. Local authorities already publish their data based on statutory requirements and local needs and demands, which are often determined by local intelligence and Freedom of Information requests.

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<sup>1</sup> Draft Local Authorities Data Transparency Code <https://www.gov.uk/government/consultations/improving-local-government-transparency>

6. We are disappointed that DCLG sees the need to implement regulations mandating local authority publishing requirements, as opposed to allowing local needs and demands to determine what is required. This will introduce new burdens, which we raised in our response to the original consultation in 2012. However, we acknowledge that DCLG has reduced the proposed mandatory requirements from previous consultations and has recognised that the publication of data places a new burden on local authorities.
7. The proposed code adds some clarity about requirements to publish data compared to previous versions of the code. However, there are areas where the code is inconsistent, overly detailed or prescribes elements which are better left to be determined locally according to local needs and demands. The prescriptive requirements add further burdens where they could be avoided. The main areas of concern are summarised below.
8. The level of detail and limit for publishing invitations to tender and contracts with a value greater than £5000 is inconsistent with government procurement practice to publish contracts with a value greater than £10,000 on Contract Finder. Reducing the threshold to £5000 introduces additional processes, inefficiencies and burden. We therefore recommend increasing the threshold in line with government policy and practice elsewhere.
9. Local authorities have developed good practice in publishing procurement information through regional portals, providing additional context based on local needs and engagement with local businesses and voluntary and community organisations. We therefore recommend placing the detailed requirements for publishing procurement information into the 'recommended' category, and that DCLG should work with the sector to improve procurement practice in line with our proposed local government procurement strategy.
10. We recommend the same principle of promoting good practice rather than mandatory description for publishing grants and contracts to the voluntary, community and social enterprise sector which is in line with the response to the LGA consultation on voluntary, community and social enterprise spending<sup>2</sup>.
11. Salary calculations add further complication to already existing pay statements and audit accounts. Instead of prescribing them in a new code it would be more sensible to review existing account and audit guidance and work with the sector to determine what is practical.
12. We see little value in publishing the number of controlled parking spaces in isolation without a geographic reference to a town centre, because this gives no indication of the relationship between supply and demand, which will usually be affected by the availability of privately-owned car parks and the price of parking there. Requiring publication of the number of paid for parking spaces in isolation from the detailed context affecting each location will not shed light on the quality of the parking service provided or the reasonableness of the charges. It is more likely to obscure the facts than to reveal them and will impose a pointless, unfunded burden on councils. We therefore call for this requirement to be removed.
13. Some address information under local authority land information is third party-owned and cannot be released unless Ordnance Survey and GeoPlace grant exemption for the data to be used under open government licences. If the data cannot be exempt for release we

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<sup>2</sup> LGA consultation on VCS spending: <http://www.local.gov.uk/vcs-spending>

suggest placing the requirement for publishing this information under 'recommended' release. Also, the publication of vacant land may fall under exemption 31 (1) (a) under the Freedom of Information Act and should therefore be removed.

14. Further details about the publication of individual information items are provided in the Appendix.

## **Appendix: Detailed comments about the Draft Local Authority Data Transparency Code**

### **General comments**

1. The code makes assumptions that transparency and open data is well understood. Because the current financial pressures have caused councils to focus resources on front line services, the accompanying contraction of back office staff and more flexible use of resources mean it cannot be assumed that all staff dealing with this issue are fully aware of the detailed background. Therefore, it is important to use the code to enhance the understanding of transparency and open data.
2. Examples where further description and clarity would be helpful include:
  - Para 13 of Annex A states that metadata should be amended on data.gov.uk. There is no requirement for metadata to be published, so further clarification about the good practice of publishing metadata on data.gov.uk would be helpful.
  - Para 39: The code makes reference to publishing open and machine readable data. A description what is meant by open and machine readable is needed.
  - Para 10: the code defines what type of authority falls under the code. Further clarity is needed to determine if arms-length bodies are covered, and how organisations that are sharing services should publish their data.
  - Local authorities are unclear of the timing of the code coming into force and by when local authorities are required to be compliant.

### **Comments about information that must be published**

#### **Expenditure exceeding £500**

3. The code refers to the amount of expenditure to be published but does not clarify if it refers to the net or gross value. The LGA guidance refers to the net amount. Clarification in the code is required.
4. According to the code, expenditure information should include a merchandise category whereas all other procurement and grant information refers to a description of goods and service. The code should be consistent in referring to the goods and services for expenditure. In the recommended part, the code already includes reference to categorising goods and services according to the CIPFA Chartered Institute of Public Finance and Accountancy Service Reporting Code of Practice (SeRCOP) codes to enable comparison of goods and services information.

#### **Government Procurement Card transactions**

5. The Government Procurement Card has predominantly been used by central government according to the National Audit Office report<sup>3</sup> but is not necessarily used and understood in

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<sup>3</sup>National Audit Office Report on Government Procurement Cards <http://www.nao.org.uk/report/the-government->

local government. Further clarification is required if the code refers to the government procurement card transaction as used in central government or any government procurement card transaction promoted by card providers to public sector organisations.

6. The procurement card transaction statement may not include the description of goods and services in which case the information would have to be entered manually adding a burden to publishing the information, and would require new burdens funding.
7. We also recommend that the threshold for publishing transactions on procurement cards is the same as for expenditure. This would ensure that the publishing of expenditure is consistent between different parts of the code.

### **Procurement information**

8. The code specifies that authorities need to publish invitations to tender with values greater than £5000. Most local authorities use standing orders and requests for quotation for procuring contracts with values under £50,000. It would be helpful to clarify that local authorities only need to publish this information if they use invitations to tender at that lower level, otherwise the burden of providing additional data is very real for councils.
9. The publication of contracts with values greater than £5000 is inconsistent with government procurement practice to publish contracts with values greater than £10,000. Local authorities have invested heavily and often use this practice to publish contracts on regional portals (such as the NEPO portal, The Chest and Source Lincolnshire) to advertise and register their contracts. We understand that the Contracts Finder portal has the ability to 'scrape' this information and upload it onto the central system. Reducing the threshold to £5000 introduces additional process for publishing lower value contracts and potentially publishing contracts twice: first locally to meet the demands of the code, and secondly for contracts greater than £10000 on Contract Finder (which indeed the code requests under the recommended part). This duplication would add further inefficiencies and burden. We therefore recommend increasing the threshold in line with government recommendation and practice elsewhere and place the requirement to publish contracts to a specific limit into the recommended part of the code alongside the publication on Contract Finder.
10. Including purchase orders adds an additional burden as local government procurement processes and systems do not necessarily record all the information in a central place. Most local authorities do not have a centralised procurement department that deals with all spend at the low level. Low value (under £50k) spend would be dealt with by individual departments, so there is an extra burden in collating this information and adding it manually. This will be substantial resource strain on local authorities. We therefore recommend simply requiring the publishing of a contract register based on regional best practice and local demand within the area.

11. The code requests that local authorities tag suppliers according to whether they are small or medium sized enterprises<sup>4</sup> and/or voluntary or community sector organisations. Some councils collect data in a much more sophisticated way, including information about micro, small and medium enterprise to understand and support the local market, while other local authorities do not necessarily collate that information in their procurement or financial management system. Hence this information would need to be requested and collated separately adding an unnecessary burden. Overhauling council finance systems to accommodate this would incur considerable financial and time costs. We therefore recommend placing this requirement into the recommended category and working with the sector to improve procurement practice in line with a proposed local government procurement strategy.
12. Furthermore, the definition of voluntary and community sector organisations is inconsistent with the request to publish grant information for voluntary and community sector organisations and social enterprises. We recommend that the code uses the same requirement for both the contract and grant register.

### **Grant to the voluntary, community and social enterprise organisations**

13. Many local authorities already publish information about grants to the voluntary and community sector (VCS) and social enterprise organisations. Such information is published according to local priorities and demand; see for example those published by [Elmbridge](#), [Sheffield](#), [Worcestershire](#), [Hackney](#) and [Dorset](#), to name but a few. The LGA believes that forcing local authorities to publish information in this form, where there may be no local demand, is an unnecessary new burden. It makes more sense to allow councils to engage with the local VCS and social enterprises in a way that is appropriate for the local area.
14. Furthermore, there are not yet settled definitions of the VCS or the social enterprises sectors. A consultation the LGA ran in 2012<sup>5</sup> showed that councils did not have a consistent view of what the VCS is, and even less so with the social enterprise sector. Until there are agreed definitions, local authorities would not be in a position to know whether they are complying with the code or not.

### **Land information**

15. Not all local authorities will have digital records of their land and building holdings as requested in the code especially if there is little economic or social value associated with the land. Hence, the digital recording of the data would require additional resources to identify and record the mandatory information.
16. Indicating if a land asset is vacant should be excluded as it could fall under FOI exemption under section 31(1)(a) prevention of crime. The Information Commissioner Office has ruled in several tribunal cases that the publishing of vacant properties can be exempt if there is the likelihood of criminal damage.
17. While local authorities hold information about the property address and unique property reference number in their local land and property gazetteer, they do not hold the intellectual

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<sup>4</sup> A small or medium sized enterprise is defined as one which has less than 250 employees.

<sup>5</sup> LGA consultation on VCS spending: <http://www.local.gov.uk/vcs-spending>

property rights for all the information components. UPRNs are owned by GeoPlace while the easting and northing are owned by the Ordnance Survey if mapped using Ordnance Survey large scale mapping data. Under the Public Sector Mapping Agreement local authorities need to seek exemption for this information to be released. The Open Data User Group has made the case for the opening up of address information to be released, but without success so far.

18. For local authorities to consistently publish the information in line with the code we recommend that DCLG should seek an exemption from the Ordnance Survey for this particular category of data to be published under OS Open Data Licence by all local authorities. If this requirement cannot be met we recommend that the UPRNs and geographic reference be moved from the mandatory to the recommended part of the code.

### **Parking revenues and controlled parking spaces**

19. Local authorities already make a return under the single data list for civil parking enforcement, including penalties issued, penalties cancelled and the immobilisation of cars. We see little value in publishing the number of controlled parking spaces in isolation, without a geographic reference to a town centre, because this gives no indication of the relationship between supply and demand, which will usually be affected by the availability of privately-owned car parks and the price of parking there. Moreover parking charges may only apply for part of a day and the times may not be the same at every location. As the charge for parking is determined by the demand for it, requiring publication of the number of paid for parking spaces in isolation from the detailed context affecting each location will not shed light on the quality of the parking service provided or the reasonableness of the charges. It is more likely to obscure the facts than to reveal them and will impose a pointless, unfunded burden on councils. We therefore call for this requirement to be removed.

### **Trade union facility time**

20. The code refers to trade union activities under trade union facility time. However, the law distinguishes between trade union activity, which is discretionary and therefore difficult to record, and trade union duties which has to be paid time off. We therefore suggest that trade union facility time refers to trade union duties rather than activities, as information about duties can be recorded as it is paid by statute.

### **Senior salaries**

21. The code refers to remuneration and salaries in the same context. This is confusing and inconsistent as remuneration includes salaries and any other additional allowances as the code defines in paragraph 38. We assume that remuneration is defined as specified in the Localism Act under pay policy statement. Clarification is needed on whether the requirement to publish senior salary information applies to salaries greater than £50,000, or remuneration as defined in paragraph 38 and the Localism Act.

### **Pay multiple**

22. Calculating the pay multiple using the median earnings figures adds complexities to the currently required pay policy statement. It would be simpler to use the full-time equivalent salary instead of the median earning figures. This is because the median earning figures can vary depending on the date set and adds complex calculations taking into account staff moves, changing posts or alterations of contracted working hours. Systems are unlikely to

be set up to collate all this information and perform the necessary calculation. Consequently calculating the median earning adds extra new burden; the simpler lowest average FTE figure is similarly as meaningful but involves less extra burden. We therefore recommend replacing median earning figures with the lowest average FTE.



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