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**From:** Roger Gough, Cabinet Member for Business Strategy, Performance and Health Reform  
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**To:** Policy and Resources Cabinet Committee

**Date:** 8 January 2013

**Subject:** Kent County Council response to the “improving Local Government transparency” consultation

**Classification:** Unrestricted.

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**Summary:** This report is to inform the P&R Cabinet Committee of KCC’s response to the Department for Communities and Local Government consultation on improving Local Government transparency. The response highlights KCC’s general approach to transparency within Local Government.

**Recommendation:** The P&R Cabinet Committee is asked to note the response and comment on the general approach to future transparency in KCC.

## 1. Introduction

- 1 (1) The Department for Communities and Local Government’s (DCLG) launched a consultation in October 2012 on improving local government transparency through making the code of recommended practice for Local Authorities on data transparency enforceable by regulations. The consultation focuses on introducing regulations to require Local Authorities to publish data falling within certain descriptions of information specified in the Code of Recommended Practice for Local Authorities on Data Transparency, which was issued on 29 September 2011 under section 2 of the Local Government, Planning and Land Act 1980. The regulations will also require authorities to publish information in the manner and form specified in the Code. The Code is concerned with making data generated by authorities available and accessible to the public.
- 1(2) Draft comments on each of the consultation questions were gathered from the relevant Services that may be affected through the introduction of any new legislation. These were pulled together into a draft report which was

discussed at CMT and Corporate Board. The Cabinet Member for Business Strategy, Performance and Health Reform approved the final response which is shown for information in section 3.

- 1(3) The general premise of KCC's response is that it supports transparency and access to local public data but only where it meets local needs and demand and where the cost of provision does not outweigh the value that the public derive from having access to this information. The P&R Cabinet Committee's view is sought on this approach, in order to help shape future open data and transparency work and to respond to the results of the consultation.

## **2 Summary of the consultation and proposed changes**

- 2(1) Along with making the code of recommended practice on data transparency a legal requirement, the DCLG is also proposing to require authorities to publish information in the manner and form, and at the times specified in the revised Code. A summary of the proposed changes is shown in the bullet points below:

- Regulations under section 3 of the Local Government, Planning and Land Act 1980 to make it a legal requirement to publish data in accordance with the regulations and the code.
- Set timelines for meeting two and three star publishing requirements (machine readable format initially, non-proprietary format 6 months later).
- Require 'public data to be made available as soon as reasonably practicable after it is produced by, or comes into the possession of, the local authority.
- Requiring authorities to maintain an inventory of public data held and register that inventory on data.gov.uk.
- Adding greater definition to the descriptions of data streams to be published.
- Specifying contracts and tenders of £500 and over to be published.
- Requiring the use of "Contracts Finder" to enable greater access.
- Clarification of the definition of voluntary, community and social enterprise sector.
- Clarification of the definitions of the data streams covered by 'policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position'.
- Adding detailed attributes to be included when publishing details of local authority land and building assets.
- Clarification of the definitions of the data streams covered by 'data of democratic running of the local authority'.
- Set out non-compliance process.

- 2(2) The consultation also covers additional data streams that Local Government would be required to publish. These are shown in the bullet points below

- Trade Union facility time - authorities should publish the amount spent on providing support and facilities to trade unions within their workforces, and specify which unions.
- Parking charges - authorities should publish: revenue from off-street parking charges; revenue from on-street parking charges; the number of off-street parking places; the number of on-street parking places; the revenue from parking fines; and the number of free parking spaces available (in line with The Portas Review).
- To councillor allowances and expenses – will add “and any other payments made to councillors from the public purse”.
- Corporate charge cards, credit cards or procurement cards - spending on goods and services made via these types of cards should be identified as payments to the underlying merchant/supplier, not spending on the card company itself.

2(3) There were a number of questions posed by the consultation, the answers to which form the basis of KCC’s consultation response shown in 3 below. The questions were split into general questions and those on land and building assets and were as follows:

### **General Questions**

1. What amendments or additions could be made to paragraphs 10 and 11 of the Code to aid compliance? (Paragraphs 10 and 11 refer to publishing inventories of data on data.gov.uk).
2. What data streams could be added to the Code to aid transparency where services are contracted-out; and help greater access to contract information?
3. Are there other data sets which would be useful to the public which code could be added to paragraph 12 of the Code? In particular is there any data that would:
  - a. Support small and medium-sized enterprises and local businesses
  - b. Support the release of surplus local authority land and property?
4. Is the description of the minimum standards and proposed timing to achieve them correct?
5. Is the process of what will happen if the Code is to be enforced clear?

### **Local Authority land and building assets questions**

B1. Do you agree with the information being published?

B2. Are there other attributes that should be published to help hold councils to account or to help drive performance?

B3. Should all of this information be mandated under the regulations?

B4. Should the Open Government Licence be applied to asset information? If so how?

### **3. KCC response**

Kent County Council supports transparency and access to local public data where it meets local needs and demand. One of the three stated aims in our Medium Term Plan is to “put the citizen in control” and providing the information to support local people to take responsibility for their own community and service needs is a key step. However providing a surfeit of data to tick a Central Government requirement is a backward step in terms of the localism agenda. Publication is not the same as communication, and open data should be about encouraging a dialogue with the local community, citizens and businesses.

A question running through this entire consultation is the burden and cost associated with the additional work that local authorities will have to undertake, compared to the enthusiasm (or rather lack of) from the public for this information.

KCC already publishes information and data in line with the recommendations of the current Code, along with other data in which we think there is interest from the public. Currently we publish a range of data from average class sizes to overseas travel details, lots of performance data and council meetings information along with Kent area profiles plus general facts and figures relating to the County.

Our approach to open data has been to engage with local residents to inform our progress. Through surveys of community groups, staff and developers our initial, partnership led, pilot project provided a general direction. Work continues to establish a roadmap which reflects the demand-led priority for further publications and the format(s) that can be achieved both initially and in the future.

Any further legal requirement to publish particular information should be backed by evidence that the requirement by the public for this information and the value derived from it outweighs the cost of provision.

***Question 1 - What amendments or additions could be made to paragraphs 10 and 11 of the Code to aid compliance?***

Paragraphs 10 and 11 do not need to be complicated and they currently convey the two points well.

**Question 2** - *What data streams could be added to the Code to aid transparency where services are contracted-out; and help greater access to contract information?*

Mandating the publishing of contracts and tenders of £500 and over could have serious impacts. At present our register of contracts over £50k runs to around 3,500 entries and increasing the entries required would exponentially increase the man hours required to maintain it.

As with the monthly publishing of invoice data for payments of over £500, which we are reducing to £250 from December 2012, changing the description of the data published could require costly changes to the system collecting the data or require intensive re-training of staff in all areas of the authority to meet the new dictate.

It is hard to see how the substantial costs that this would incur could be justified when our experience to date suggests that this is not necessarily the data that is being sought.

All tenders for larger projects are currently advertised on Contracts Finder and this is supplemented by the Kent Portal which is designed to help us focus on Kent Businesses.

A concern would be that publishing contract information may discourage some traders from working with the authority due to concerns around commercial sensitivity, in particular sole traders.

**Question 3** - *Are there other data sets which would be useful to the public which could be added to paragraph 12 of the Code? In particular is there any data that would:*

- a. *Support small and medium-sized enterprises and local businesses*
- b. *Support the release of surplus local authority land and property?*

Further clarity on the definition of voluntary, community and social enterprise sector would be useful.

Data sets that could be added to the list of recommended data for publication are;

- Local level demographic data
- Public Health Observatory data (from April 2013)

Paragraph 12 bullet point 3 requires an organisational chart of the staff structure of the local authority to be published. We do not have a mechanism or software to show all 13,500 posts within KCC. Even if we did a structure of that size would be neither practicable nor useful. Should the Code be mandated we would ask that the code be revised to require a top level structure together with a summary of posts that sit below it.

The Council understands the Government's interest in publishing the cost of Trade Union facilities time. However, in order to comply with a requirement to publish this information the Council will need to introduce new structures to help it gather this data. These changes would be required as Kent County Council currently provides support in a number of different ways which are not quantified in terms of cost, although some unions do have a set budget. Therefore, if these new systems weren't established, the picture in relation to the cost of facilities time would not give an accurate representation of the support provided. Alternatively, and to avoid the authority having to make these changes, we would suggest that under the proposal this information could be published in a variety of different forms.

A number of parking and enforcement indicators are already reported by the district councils of Kent on their websites as part of improving transparency in local government. Parking indicators must be considered as part of balanced transport strategy to support and regenerate town centres by encouraging shoppers through pricing as well as other indicators reflecting measures to tackle congestion and improve sustainable transport.

Councillor allowances and expenses are already published and there are no other payments from KCC. Responsibility for publishing other allowances paid from the public purse by any other public body(s) should remain with that public body. Similarly the corporate charge card details published already identify the underlying merchant/supplier.

**Question 4** - *Is the description of the minimum standards and proposed timing to achieve them correct?*

The 5 step journey to a fully open format is aspirational, and that is good. However compelling all local authorities to publish data at level 2 initially and level 3 six months later does not allow for variations in situation from authority to authority. We would suggest concentrating on meeting level 2 as a minimum and that a longer time-frame would be required with dedicated support from a sector body or Government department/agency to achieve further steps.

Whilst the setting of deadlines can have a motivational effect there are risks and barriers associated with opening up data. These include the speed at which skills and expertise can be acquired, additional resources, balancing the needs of privacy and transparency, and trust.

**Question 5** - *Is the process of what will happen if the Code is to be enforced clear?*

The other thread running through this consultation is the reserve power of the Secretary of State to be able to intervene if "an authority is in breach of its obligations". This is top-down and unnecessary – even more so when the Coalition Government has committed to localism, for example with the Standards Regime and getting rid of central targets.

The example of the 'London Data Store' – you can achieve a minimum standard via a co-productive and participative approach. The 'London Data Store' approach has also drawn in other bodies and agencies, not directly covered by the Local Government label – which is desirable for a holistic view of a local place and the fear is that applying top-down enforcement will not achieve the best result for the end-user.

**Question B1** - *Do you agree with the information being published?*

No. Vacant land and buildings are particularly vulnerable from squatting, theft and criminal damage. KCC has evidence of this to a closed property in Dover. Releasing the actual address provides a ready list to those not wanting the information for legitimate purposes to easily target buildings. By the same token we do not release the addresses of residential tenanted property as we would be concerned about how the information could be used to gain entry (our tenants are generally old, vulnerable people). The risk of knowing full details of non-operational properties in the public domain are likely to be expensive and a drain on the tax payer's purse.

Using CIPFA's description of property assets would be useful as a basis and also to consider in more detail the excluded properties.

We have concerns about the sensitivity of the information for publication detailed in attributes 9-13.

The asset valuation should be available but any other valuations including market valuations are commercially sensitive.

Whilst it is important that information is available through FOI and the wider transparency agenda, under the consultation some of the proposed information for publication may prejudice KCC's use of operational and non-operational properties. Although KCC does not have a social housing portfolio (which is exempt under the consultation proposals) it does have residential properties.

KCC does not provide details of property transactions as this information is available via Land Registry.

**Question B2** - *Are there other attributes that should be published to help hold councils to account or to help drive performance?*

No.

**Question B3** - *Should all of this information be mandated under the regulations?*

Best practice or guidance only

**Question B4** - *Should the Open Government Licence be applied to asset information? If so how?*

Pilot the use of the Open Government Licence in one locality initially and then use the experience to provide a best practice model.

**5. Recommendations**

- 5(1) The P&R Cabinet Committee is asked to note the consultation response and to comment on the general approach to future transparency in KCC.

**6. Background Documents**

- 6(1) Copy of the full consultation

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