

Update on Transparency: March 2012

Summary

This report gives an update on recent developments and ongoing work related to transparency, to meet the objectives of the work plan agreed at the last Improvement Board in January 2012.

The report also gives an update on the issue of councillor notification under the Data Protection Act, provided by the Information Commissioners Office.

Recommendation

The Improvement Board to note the ongoing work of the transparency programme, and comment where appropriate.

Action

The Research and Information Team will continue to develop the programme in the light of the Board's views.

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1. This report gives an update on data transparency and policy issues since the last Improvement Board in January, and outlines some development work to be undertaken by the Research and Information Team over the next few months.
2. Since January we have engaged with key government departments involved in transparency including the Department for Communities and Local Government (DCLG), the Cabinet Office and the Information Commissioner's Office (ICO) to discuss policy and regulation around the code of practice on transparency, the open data policy and information assurance. Meetings have been proposed with the Department for Work and Pensions (DWP) to lobby for access to data, the Ministry of Justice (MoJ) to determine the impact of proposed changes to the Freedom of Information Act and the Department for Transport (DfT) to consider opening up of local government transport data identified in the open data measures autumn statement. We are meeting with the Department for Environment, Food and Rural Affairs (Defra) on an ongoing basis to assess the impact of INSPIRE on local authorities.

Open data policy

3. The Cabinet Office has published the response to the 'Making Open Data Real' consultation and is working on an open data policy white paper planned for publication in late spring. Currently, the Cabinet Office is working on governance arrangements for transparency and the set-up of the Open Data Institute, which will advise government on open data policies and innovation. The LGA Research and Information Team has been invited to present LG Inform and the local government approach to open data at the next Transparency Board meeting at the end of March.
4. In addition, we are planning to meet with DWP to discuss the opening up of datasets of relevance to local government including information about the National Work Programme. We are also compiling a list of other datasets we would like to be opened up to local authorities, such as academy data submissions, meals on wheels data, and the HMRC register for voluntary and charitable organisations and social enterprises. This list will be presented to the Cabinet Office for them to consider. In the meantime, central government departments have submitted their proposals for open data strategies.

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Code of practice on transparency

5. The code of practice on transparency, published by DCLG in September, defines what data local authorities have to publish as good practice. Recent research by the National Audit Office revealed that, of the councils reviewed, 89 per cent have published spending data by month, and 88 per cent have published senior pay information.
6. The code is currently voluntary, but DCLG is seeking to make it mandatory through regulation. However, our recent discussions with the ICO suggest that secondary regulation may be in conflict with the proposed amendments to the Freedom of Information Act under the Freedoms Bill (which intends to change the requirement to give access to information, to a requirement to provide information for reuse).
7. We are now awaiting the outcome of the Freedoms Bill review and the proposed consultation on the regulation to make the code mandatory before we review our existing guidance (in collaboration with DCLG and the ICO) to help authorities meet the requirements of open data. In the meantime we are supporting local authorities to make better use of data through the collation of best practice, support to develop robust standards for comparing spending data, and the further development of LG Inform.

Councillor notification for data protection

8. The ICO requires councillors to be independently registered under the Data Protection Act. While the work within the council is covered under the local authority registration, and canvassing is covered under the party political registration, constituency work is regarded as independent work which requires separate notification. However, the ICO acknowledges that parish councillors and small constituencies could be registered under a no-fee arrangement. This would be in line with no-fee registration for sole traders. However, at the moment, a decision on how to progress this is pending agreement between DCLG and MoJ. The LGA continues to lobby to get this resolved in favour of local authorities. Further advice for councillors is available at:
http://www.ico.gov.uk/for_organisations/sector_guides/~media/documents/library/Data_Protection/Practical_application/advice_elected_and_prospective_members_local_authorities.ashx.

Information assurance

9. Local authorities are responsible for ensuring that personal information is handled properly and that vulnerable people are protected. The Information Commissioner (IC) has raised a concern to local authorities, in a joint letter with the permanent

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secretary from DCLG, about recent incidences of data loss – in particular when services are outsourced. The IC emphasises that the authority is still liable if it has not taken care to ensure that contractual obligations are being followed out in full.

10. With the proposed changes to the health and social care bill and the extra responsibility for public health, it is important that information governance receives high level support in local authorities. Failure to protect can lead to substantial fines of up to £500,000 and a loss of confidence in the ability of local authorities to handle personal data properly. Transparency and the opening up of data have to go hand in hand, to ensure that personal and sensitive data is protected. The ICO is providing guidance, and the LGA will promote best practice through further signposting and training.

Impact assessment of INSPIRE

11. The European INSPIRE regulation requires authorities to publish certain data with location/geographical information to specific standards, which are likely to have cost implications for councils. A recent LGA survey revealed that only 5 per cent of local authorities have the capability to meet the technical requirements of these standards, whereas more than half have less than 50 per cent capability to comply. The LGA is currently evaluating a range of possible solutions for meeting the technical requirements and the associated costs of INSPIRE generally, to be presented to Defra as part of an impact assessment. However, it is anticipated that local authorities will benefit from INSPIRE because it will lead to better internal data management, easier access and reuse of data to meet their own needs, better decision making from that data, and fewer burdensome data requests as data are more easily accessible.

Single Data List

12. The single data list, which is the list of all data returns that local authorities must make to central government, will shortly be published for 2012/13. We are expecting it to contain a reduced list of data returns compared to last year, although there are still likely to be around 160, which still feels very burdensome.
13. The LGA is currently working with DCLG officials to set up a gateway process to challenge future additions to the single data list and, as importantly, review existing returns on the list with a view to reducing it further.

Comparable data

14. DCLG will shortly be publishing an accountability system statement, that describes accountability within local and central government. DCLG notes that the public requires comparable information on spending and the outcomes

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achieved by councils, to be locally accountable; and that they are supporting councils with their efforts to improve the availability of comparable data. DCLG have indicated that they will be encouraging councils, on a voluntary basis, to publish data on their websites to allow citizens to easily compare local performance and spend. This will be likely to take the form of letter from the permanent secretary to chief executives.

15. The LGA and DCLG ran a workshop with councils in February to discuss the voluntary publication of spend and performance data on their websites. They gave DCLG a strong steer that LG Inform should be used to help authorities do this easily, rather than need each council individually to have to pull together such data or give each authority a spreadsheet of comparable data to publish.
16. As a result of this, the LGA is currently reviewing how LG Inform might be developed to help with this exercise. In particular, we are focusing on work to allow authorities to build their own headline report of comparable data, in which they can select data items that reflect local priorities. They will then be able to save this report as a pdf file that they can publish on their council website. This option will be offered to authorities who choose to undertake this voluntary exercise, and will be mentioned in the letter that the DCLG permanent secretary is planning to send to chief executives.

Next steps

17. We are meeting with Cllr Cheetham in March to discuss proposals for a transparency strategy, demonstrating best practice and benefits from making use of open data. We will be seeking views from Members and officers about the form transparency takes at a local level, and how it can support people and businesses locally.