

Report to Cabinet

Subject: Local Government Transparency Code 2014

Date: 7 August 2014

Author: Council Solicitor and Monitoring Officer

Wards Affected

Borough wide.

Purpose

To notify Cabinet of the requirements of the Local Government Transparency Code and the action the Council intends to take to secure compliance.

Key Decision

This is not a key decision.

Background

- 1.1 On 28 September 2011, the Department of Communities and Local Government [DCLG] issued a Code of Recommended Practice for Local Authorities on Data Transparency to meet a desire to place more power into citizen's hands, increase democratic accountability and make it easier for local people to contribute to local decision making. The Code was not legally binding, but the Council did publish certain data in line with the Code. In the main, this was data the Council was already required to publish as part of its Publication Scheme or data the Council already held which was easy to publish. However the following categories of data were not published:
 - Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector
 - The location of public land and building assets and key attribute information that is normally recorded on asset registers
- 1.2 In May 2014, DCLG issued the Local Government Transparency Code, a copy of which is attached at **Appendix 1**. A Frequently asked questions document issued by DCLG is also available at

<https://www.gov.uk/government/publications/local-government-transparency-code-2014> . This is a statutory code issued under the Local Government, Planning and Land Act 1980, which the Council must comply with. DCLG has decided to make Regulations to make compliance with certain aspects of the Code a legal requirement for local authorities. Part 2 of the Code will become mandatory when those Regulations come into force. The reason for this is that publication of datasets under the previous code have been inconsistent and mandating key datasets is designed to address the main barriers to publishing open data: Lack of resources, data protection and organisational culture.

1.3 As at the time of writing this report, the Local Government (Transparency)(Descriptions of Information)(England) Order 2014 has been made but is not yet in force. This Order will require the following descriptions of information to be published:-

- Information about any expenditure incurred by authorities; and
- Information about any legally enforceable agreement entered into by authorities and any invitations to tender for such agreement

Further legislation is expected in due course to require the Council to comply with the rest of the requirements in Part 2 of the Code, although it is not known when this may be.

1.4 Members will note that the Code sets out two categories of information: information which must be published and information recommended for publication. The types of data falling within these 2 categories are set out concisely in Appendix A to the Code. The Code also details what format the data should be published in. Data covered by Part 2 of the Code must be published in an open and machine-readable format (such as excel instead of pdf). The Code recommends that Councils go further than this and data should be published in three star formats alongside open and machine-readable format within 6 months of the Code being issued (i.e. October 2014).

1.5 Once the data is published in accordance with the Code, there is an ongoing requirement to publish up to date data on an annual or quarterly basis. There is also a requirement to publish revised information where errors are discovered or data amended for other reasons. Legal Services will monitor that this is being done on an annual basis. The Council has a separate obligation to publish information as part of its Publication Scheme and it would seem sensible that the two are monitored together.

1.6 Much of the information which must be published under Part 2 the Code is already published on the Council's website although not in an open and machine readable format in all cases, so some work will need to be carried out to change the format in some cases. The main categories of

information which are not currently published are:

- Procurement information;
- Local authority land;
- Trade union facility time;
- Parking revenues; and
- Controlled parking places.

- 1.7 The Information Commissioner's Officer will not monitor compliance with the Code, but will react to complaints from the public. The public may also complain to the Local Government Ombudsman if the Council fails to discharge its duty under the Regulations. The Council could also become subject to judicial review for failing to comply with a statutory obligation.

Proposal

- 2.1 It is proposed that the Council takes steps to publish the data which must be published (Part 2 of the Code) in an open and machine readable format. However due to the burden on resources, it is not proposed that the Council publish the recommended data (Part 3 of the Code) at the present time.
- 2.2 It is proposed that the service area responsible for the data, with the support of Legal Services, should gather the data and ensure that it is published on the website and kept up to date. Legal Services will put processes in place to enable the Open Government licence to be used to allow open re-use of the data published.
- 2.3 The Council does not currently have an up to date record of its landholdings which can be published in accordance with the Code and as a result collecting the data to be published is likely to be a significant piece of work requiring input from Estates, Legal Services and Public Protection (GIS). This cannot be contained within existing resources and further discussions need to take place to determine how this can be delivered.
- 2.4 Currently the Council holds data relating to contracts over £50,000 on its Contracts Register. However the threshold for publishing data regarding contracts is relatively low (£5,000), which means that contracts which are not tendered/quotes are not sought will be caught. The Procurement Officer and Legal Services are not involved in the preparation of all contracts and there is currently no central database. As a result this information can only be produced with input from all service areas.

Alternative Options

- 3.1 Not to comply with the mandatory provisions of the Code, however to do so would expose the Council to complaints or judicial review.

To publish all of the data recommended in the Code in a full open format, however this could not be accommodated within existing resources

Financial Implications

- 4.1 Compliance with the Code is likely to require additional resources but the exact figure is not known at the present time. Work is being undertaken to assess the resource implications and indicative costs. The Council has already received an initial payment of £2,588 from Government under the new burdens principle as a contribution towards the implementation costs and more funding is to follow. DCLG has estimated that the set up costs per authority will be £2,600 with ongoing costs (per annum) per district council at £7,900. These figures are based on the assumption that there will be no set up costs other than the land and building assets data. It is not known whether the funding will be sufficient to cover the actual costs and if so, further funding may need to be sought from elsewhere. Funding for this additional burden will form part of the Council's annual financial settlement from Central Government.

Appendices

- 5 **Appendix 1 – Local Government Transparency Code 2014**

Background Papers

None.

Recommendations

THAT:

- a) the provisions of the Local Government Transparency Code 2014 be noted; and
- b) the Council takes steps to publish the data detailed in Part 2 of the Code in accordance with statutory requirements.

Reasons for Recommendations

- 7.1 To alert the Executive to the introduction of the Code and forthcoming legislation and raise awareness of the implications.
- 7.2 To comply with legislative requirements.