

Report of the Deputy Chief Executive

Report to Corporate Governance and Audit Committee

Date: Wednesday 9th April 2014

Subject: Mandatory implementation of the DCLG Code of Recommended Practice for Local Authorities on Data Transparency

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Central government has made recent changes to the Code of Recommended Practice for Local Authorities on Data Transparency. Some elements of the old Code are to be removed and replaced by other new pieces of data and information. The existing *recommended* Code is to become mandatory and enforceable by legislation.
2. Some of the work which will be required to publish will not be inconsiderable. Services directly affected by the changes will need to consider what they are currently publishing, how this conforms to the Code, and what changes to processes may need to be made in order to comply.
3. This report provides members of the Corporate Governance and Audit Committee with the assurance that work being undertaken across the council will ensure compliance to the mandatory requirements of the amended Code of Practice for Local Authorities on Data Transparency.

Recommendations

4. Corporate Governance and Audit Committee is asked to consider the contents of this report and the assurances provided, to ensure the council meets its obligations in complying with the Code.

1 Purpose of this report

- 1.1 To provide Corporate Governance and Audit Committee with assurance that the council is meeting its obligation to publish mandatory datasets as prescribed by the Code of Recommended Practice.

2 Background information

- 2.1 The Code of Recommended Practice for Local Authorities on Data Transparency was originally published in September 2011. It recommended that ten pieces of data/information be published by local authorities not only to promote openness and transparency, but also to engage with the wider Open Data agenda.
- 2.2 Open Data could be considered as 'the publication of non-personally identifiable or non-business sensitive data produced in the course of an organisation's ordinary business, which has been released under an unrestricted licence'. The UK Government's open data white paper, 'Unleashing the Potential' outlines how it sees the publication of public sector data as key to driving economic growth, innovation and empowering citizens.
- 2.3 A year after the Code's initial publication, the government carried out a consultation exercise looking at whether the focus should shift from 'recommended' to 'mandatory' publication of datasets. Consultation ended on 22nd December 2012. The council submitted a response which consisted of comments from those services directly affected as well as those who have a wider interest in open data, information governance, and data transparency. Please refer to Appendix A for details of the council's response.
- 2.4 Ministers published their findings in December 2013. Some of the datasets listed in the initial publication were removed and replaced by others. It also stated that the code would become law and be monitored by the Information Commissioner's Office (ICO) using existing Freedom of Information Act powers.

3 Main issues

- 3.1 As an authority, Leeds City Council has made good progress in publishing the required datasets. All datasets outlined in the original Code of Transparency, will be published by 1st April 2014. DCLG is proposing amendments to the specifications of some of the requirements. For example, it is proposed to reduce the threshold for contract and tender publication to £5,000, and to include budget and responsibility information for senior officers. Clarification on some aspects of these changes is still awaited from DCLG. A summary of the progress made on publishing each of the datasets is listed in Appendix B.
- 3.2 The datasets required by the revised code are listed below. The report highlights whether these datasets are on the existing code, are listed but have been amended, or are new datasets:

- **Existing:** Expenditure exceeding £500 (quarterly publication)

- **New:** All Government Procurement Card transactions (P-Cards) (quarterly publication)
- **Amended:** Procurement information – contracts, commissioned activity etc. above £5,000 (quarterly publication)
- **Existing:** Local authority land and buildings (annual publication)
- **Existing:** Grants to voluntary, community and social enterprise organisations (annual publication)
- **Amended:** Organisation chart for the top three tiers (annual publication)
- **New:** Trade union facility time (annual publication)
- **New:** Parking revenues (annual publication)
- **New:** Controlled parking spaces (annual publication)
- **Amended:** Senior officer salaries for those paid over £50,000pa (annual publication)
- **Amended:** The council constitution (annual publication)
- **Existing:** The pay multiple for the organisation - the ratio between the highest paid salary and the median salary of the whole of the authority's workforce (annual publication)

3.3 Datasets which have been **removed** from the original Code include:

- Councillor allowances and expenses
- Policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position

3.4 The main issue following Ministers' comments on the consultation is the reduction in the contracts and tenders threshold from £10,000 to £5,000. Procurement has consulted with other authorities in the Yorkshire and Humber region and there is widespread agreement that the threshold reduction to £5,000 would be problematic because it would place a significant administrative burden on existing resources to comply with the amended requirement.

3.5 It is acknowledged, even by DCLG itself, that the exact detail of what is being asked for with some datasets is still unclear. They state that they are still awaiting comments from Ministers. Until it has been made clear exactly what information needs to be included in all datasets, as an authority we will make a judgement on a case by case basis and publish what we believe is acceptable.

3.6 Since the publication of the consultation, work has been undertaken to identify which service areas would need to publish the above datasets. The approach taken was one of being proactive rather than reactive and the focus was on

aiming to comply with the Code as far as possible to enable ease of transition should it become mandatory. This is seen as 'phase 1' of the council's overall open data strategy.

- 3.7 'Phase 2' is focusing on the proactive publication of datasets which fall outside the scope of the Recommended Code of Practice. This has involved engagement with service areas across the council and the Leeds digital community, with work being aligned to the council's involvement with digital cities. Furthermore, council datasets are being published in line with the Re-Use of Public Sector Information Regulations, with the aim of providing re-use of council data across the city and wider region. It is widely acknowledged that releasing public sector data can help stimulate the economy by allowing the re-use of data for purposes other than it was originally collected. The digital community are keen to re-use council data in their websites and mobile phone apps, which could lead to the employment of local people.
- 3.8 We are reinforcing the message to services that publication of datasets is not a one-off event and will require continual maintenance. Guidance about publication of datasets is to be drafted to ensure the council has a consistent methodology for proactively publishing information, and ensure compliance with privacy legislation.
- 3.9 Committee considered a report about the Code of Recommended Practice on Local Authority Data Transparency on 8th December 2011 and since this time much work has been carried out in ensuring we have a fully functioning Open Data platform to easily publish our data to.
- 3.10 The council's Publication Scheme – listings of all published data and information – has been incorporated into the Open Data site providing an interactive portal for citizens and businesses to easily search for, and access all published information. The council is leading on a project to store data from across the city, 'Leeds Data Mill'. All council data, along with other organisations across the city, will eventually be stored on this platform. Some of the first datasets to be published here will be those listed in the Code.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Following publication of the consultation document in September 2011, key officers from directorates and services who would potentially be affected were consulted. Corporate Leadership Team, along with representatives from Legal Services, Information Governance and Intelligence teams, Data Practitioners, and Information Governance Management Board members were consulted.
- 4.1.2 Following publication of Ministers' findings in December 2013, a short 3 week (excluding Christmas) window was given for further feedback from local authorities on the proposed changes being made. The proposed changes included slight amendments to the content of the Code in terms of what should be published, and the inclusion of the 'mandatory' element.

4.1.3 Services directly involved with publishing mandatory datasets, and those officers with an interest in the Code were consulted for further feedback. This feedback was submitted to DCLG by the due date of 17th January 2014 and was also presented to them at a workshop in Wakefield on the 16th January 2014. Details of these comments can be provided upon request. Final comments from Ministers are expected by mid-April 2014.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 This Code is being implemented by central government, however equalities, diversity, cohesion and integration are all being considered as part of delivering the requirements laid out in the Code of Recommended Practice for Local Authorities on Data Transparency. This refers to the way training is being delivered to enable publication of the datasets, as well as how this impacts on staff and partners.

4.3 Council policies and City Priorities

4.3.1 The Code in itself does not affect any council policies or have any implications on city priorities. However, the work being conducted does link to one of the council's values in being an open, honest and trusted organisation.

4.4 Resources and value for money

4.4.1 There are resource implications to those services which would need to publish this data. In some cases, publication is already happening (e.g. Finance – publication of expenditure over £500), however, for those areas where this is a new piece of work it needs to be recognised that there may be initial up-front resource implications.

4.4.2 Not all datasets will require much additional work (e.g. Salary multiples of the organisation). This is an annual publication and a minor piece of work. Publishing all invitations to tender and awarded contracts over £5,000 would require a significant amount of work. This information is currently published over £10,000 however there is a disproportionate increase in the information which will need to be supplied between £5,000 and £10,000 in proportion to the value of these lower contracts.

4.4.3 Publishing council datasets not only aids transparency but can also increase their value. In many cases they are re-used by the digital community for purposes other than original usage within the council. Publication contributes to the council's values of Being Open, Honest and Trusted and Spending Money Wisely.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The proposal by government is to make the Code a legally binding document as of 1st April 2014. There is no expectation that all datasets listed in the code must be published by that date, however it is expected that they will be published by the next occurrence. For example, a dataset which needs to be published on a quarterly basis must be published by 30th June 2014 at the latest and a dataset

which needs to be published on an annual basis would need to be made available by 31st March 2015 at the latest.

- 4.5.2 It is understood that Government intends using existing powers within the Freedom of Information Act 2000 to enforce the Code. Whilst there will be no monitoring to ensure compliance, the Information Commissioner's Office (ICO) will investigate any instances which are brought to their attention where publication has not been carried out.

4.6 Risk Management

- 4.6.1 The main risk associated with not publishing data and information listed in the Code is that the authority could be reported to the ICO and the council ultimately be forced to publish where the Code hasn't been complied with.

5 Conclusions

- 5.1 The council is compliant in respect of publishing the requisite datasets listed in the DCLG Code of Recommended Practice for Local Authorities on Data Transparency. However, following consultation, DCLG and Ministers are now considering some minor, but significant amendments to some of these datasets.
- 5.2 DCLG has informed the council to expect a decision by Ministers regarding proposed amendments by mid-April 2014. A decision to amend the code may result in additional work for some services. This would be necessary to ensure full compliance with a further amended Code.
- 5.3 This Committee will receive a further report if difficulties are experienced in attaining full compliance to an amended Code approved by DCLG.

6 Recommendations

- 6.1 Corporate Governance and Audit Committee is asked to consider the contents of this report and the assurances provided to enable Leeds City Council in meeting its obligations in complying with the Code.

7 Background documents¹

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.