

Department for
Communities and
Local Government

Transparency code for smaller authorities

December 2014
Department for Communities and Local Government



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Part 1: Introduction

Policy context

1. This Code is issued to meet the Government's desire to place more power into citizens' hands to increase democratic accountability. Transparency gives local people the tools and information they need to hold local public bodies to account.

2. The Local Audit and Accountability Act 2014 sets out a new audit framework for local public authorities which are currently covered by the Audit Commission regime. Under the new audit framework smaller authorities, including parish councils, internal drainage boards, charter trustees and port health authorities, with an annual turnover not exceeding £25,000 will be exempt from routine external audit. In place of routine audit, these smaller authorities will be subject to the new transparency requirements laid out in this Code. This will enable local electors and ratepayers to access relevant information about the authorities' accounts and governance.

3. The Government considers that publication of the items in this Code will provide the local electorate and ratepayers with a clear picture of the activities of these smaller authorities. Most of this information is already produced by the majority of smaller authorities with a turnover not exceeding £25,000, and the Government therefore considers that compliance with this Code will not place a significant burden on these authorities.

Application

4. This Code is issued by the Secretary of State for Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 ("the 1980 Act"), as amended by section 38 of the Local Audit and Accountability Act 2014, to issue a code of recommended practice as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.

5. This Code does not replace or supersede the existing legal framework for access to and re-use of public sector information provided by the Freedom of Information Act 2000 (as amended by the Protection of Freedoms Act 2012), Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2005 and Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009.

6. This Code applies to the following types of authorities in England with an annual turnover not exceeding £25,000: parish councils, internal drainage boards, charter trustees and port health authorities ("smaller authorities").

Turnover is defined as the higher of an authority's gross income for the year and its gross expenditure for the year.[1]

Data protection

7. The Government believes that local transparency can be implemented in a way that complies with the Data Protection Act 1998. Where smaller authorities are disclosing information which potentially engages the Data Protection Act 1998, they must ensure that the publication of that information is compliant with the provisions of that Act. The Data Protection Act 1998 does not restrict or inhibit information being published naming councillors, members or senior local authority officers who have taken certain decisions, because of the public interest in the scrutiny of such senior individuals and decision makers. The Data Protection Act 1998 also does not automatically prohibit information being published naming the suppliers with whom the authority has contracts, including sole traders, because of the public interest in accountability and transparency in the spending of public money.

8. This Code complements existing provisions relating to public access to the decision-making process of smaller authorities. Smaller authorities should ensure that they continue to comply with any such provisions, and any subsequent legislation regarding local authority minutes, notices and agendas. Where information would otherwise fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009 then it is in the discretion of the smaller authority whether or not to rely on that exemption or publish the data. [2]

Commercial confidentiality

9. The Government has not seen any evidence that publishing details about contracts entered into by smaller authorities would prejudice procurement exercises or the interests of commercial organisations, or breach commercial confidentiality unless specific confidentiality clauses are included in contracts. Smaller authorities should expect to publish details of contracts newly entered into – commercial confidentiality should not, in itself, be a reason for smaller authorities to not follow the provisions of this Code. Therefore, smaller authorities should consider inserting clauses in new contracts allowing for the disclosure of data in compliance with this Code.

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1 Where authorities are maintaining their accounts on a receipts and payments basis, 'expenditure' should be read as 'payments' and 'income' should be read as 'receipts'.
2 The most relevant exemptions under the Freedom of Information Act 2000 are those relating to law enforcement, for example information which may prejudice a current fraud investigation, (section 31), personal data (section 40) and information provided in confidence (section 41).

Part 2: Information which should be published

10. Smaller authorities should publish:
    a. all items of expenditure above £100 (see paragraphs 13 - 15);
    b. end of year accounts (see paragraphs 16 and 17),
    c. annual governance statement (see paragraphs 18 and 19),
    d. internal audit report (see paragraphs 20 – 22),
    e. list of councillor or member responsibilities (see paragraph 23), and
    f. the details of public land and building assets (see paragraphs 24 - 27),
    g. Minutes, agendas and meeting papers of formal meetings (see paragraphs 29 and 30).

Part 2.1: Information to be published annually

11. The data and information in this Part (2.1) must be published:

- on the first occasion, not later than 1 July 2015, and
- thereafter, not less than annually and not later than 1 July in the year immediately following the accounting year to which it relates.

12. This is particularly important to enable local Government electors, council tax payers and ratepayers to scrutinise financial information so that they are able to exercise their rights to question and make objections to the auditor.

All items of expenditure above £100

13. Smaller authorities should publish the details of each individual item of expenditure above £100. Publishing a complete list of expenditure transactions will also meet this requirement. Expenditure information should be published for each individual spending transaction above £100[3] rather than each item bought.[4]

14. For each individual item of expenditure above £100 the following information must be published:
    a. date the expenditure was incurred,
    b. summary of the purpose of the expenditure,[5]
    c. amount[3], and
    d. Value Added Tax that cannot be recovered.

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3 The threshold should be, where possible, the net amount excluding recoverable Value Added Tax
4 For example, it is sufficient to group all items in a stationary order as one item of expenditure.
5 This could be the descriptor that authorities use in their accounting system providing it gives a clear sense of why the expenditure was incurred or what it purchased or secured for the local authority.

15. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published, but should remain available for inspection during the specified inspection period set out under regulation 14 of the Accounts and Audit (England) Regulations 2011[6], or under any equivalent regulations made under section 32 of the Local Audit and Accountability Act 2014. The right to inspect can be exercised on giving reasonable notice.

End of year accounts

16. Smaller authorities should publish their statement of accounts according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The statement of accounts must be approved and signed by the Responsible Financial Officer and the Chairman of the meeting approving the statement of accounts.

17. The statement of accounts should be accompanied by:
    a. a copy of the bank reconciliation for the relevant financial year,
    b. an explanation of any significant variances (e.g. more than 10-15 percent, in line with proper practices) in the statement of accounts for the relevant year and previous year, and
    c. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.

Annual governance statement

18. Smaller authorities should publish their annual governance statement according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The annual governance statement should be signed by the Chairman and Clerk of the smaller authority.

19. Where the governance statement contains any negative responses, these should be explained fully, including how any weaknesses will be addressed. As referred to paragraphs 7 and 8, when publishing this information smaller authorities should consider whether the Data Protection Act 1998 imposes any restrictions or constraints on such publication and whether any of the information would fall within an exemption under the Freedom of Information Act 2000 and therefore could, or should, be withheld from publication.

6 S.I. 2011/817.

Internal audit report

20. Smaller authorities should publish their annual internal audit report according to the format included in the Annual Return form. Publication of the relevant page of the completed Annual Return form will meet this requirement. The internal audit report should be signed by the person who carried out the internal audit.

21. Where the internal audit report contains any negative response to the internal controls objectives, these should be explained fully, including how any weaknesses will be addressed. As referred to paragraphs 7 and 8, when publishing this information smaller authorities should consider whether the Data Protection Act 1998 imposes any restrictions or constraints on such publication and whether any of the information would fall within an exemption under the Freedom of Information Act 2000 and therefore could, or should, be withheld from publication.

22. Where the response to any internal controls objectives is 'not covered', an explanation of when the most recent internal audit work was completed in this area and when it is next planned should be provided. If coverage is not required, an explanation stating why coverage is not needed should be provided.

List of councillor or member responsibilities

23. Smaller authorities should publish a list of councillor or member responsibilities. The list should include the following information:
    a. names of all councillors or members of the authority,
    b. committee or board membership and function (if Chairman or Vice-Chairman) of each councillor or member, and
    c. representation on external local public bodies (if nominated to represent the authority or board) of each councillor or member.

Details of public land and building assets

24. Parish councils and port health authorities should publish details of all public land and building assets. Where this information is included in the authority's asset and liabilities register, this register may be published in its entirety or as an edited version displaying only public land and building assets.

25. Internal drainage boards should only publish the details of registered land and buildings that have a market value and which appear in their Fixed Assets Register.

26. When publishing the required data, parish councils, port health authorities and internal drainage boards should publish the following information in relation to each land and building asset:
    a. description (what it is, including size/acreage),

b. location[7] (address or description of location),
c. owner/custodian, e.g. the authority or board manages the land or asset on behalf of a local charity,
d. date of acquisition (if known),
e. cost of acquisition (or proxy value), and
f. present use.

27. Charter trustees will not be required to publish any land or asset information since they are not permitted to own either land or buildings under the Charter Trustees Order (1974) and therefore will not hold any relevant information.

Part 2.2: Information to be published more frequently than annually

28. The data and information referred to in this Part (2.2) must be published:
    - not later than the occasions specified in Paragraphs 29 and 30

Minutes, agendas and papers of formal meetings

29. Smaller authorities should publish the draft minutes from all formal meetings (i.e. full council or board, committee and sub-committee meetings) not later than one month after the meeting has taken place. These minutes should be signed either at the meeting they were taken or at the next meeting.

30. Smaller authorities should also publish meeting agendas, which are as full and informative as possible, and associated meeting papers not later than three clear days before the meeting to which they relate is taking place.

7 For example, street number, street name, postal town and postcode; or map reference using Ordinance Survey grid reference

Part 3: Method of publication

31. Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies. The best way to achieve this is by having robust information management processes in place. Where errors in public data are discovered, or files are changed for other reasons (such as omissions), smaller authorities should publish revised information making it clear where and how there has been an amendment.

32. The data and information specified in this Code must be published on a website which is publicly accessible free of charge. For example, one way that this requirement could be achieved could be by publishing the data on the smaller authority's website or that of the billing authority in its area (district or London borough or unitary council).

Ben Stoneman
A Senior Civil Servant in the Department for Communities and Local Government

Department for Communities and Local Government
17 December 2014

Annex A: Transparency Code for Smaller Authorities

Parish councils, internal drainage boards, charter trustees and port health authorities with an annual turnover not exceeding £25,000 should publish:

Information title	Information which should be published
All items of expenditure above £100	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish details of each individual item of expenditure. Copies of all books, deeds, contracts, bills, vouchers, receipts and other related documents do not need to be published but should remain available for inspection. For each individual item of expenditure the following information must be published: a. date the expenditure was incurred, b. summary of the purpose of the expenditure, c. amount, and d. Value Added Tax that cannot be recovered.
End of year accounts	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed statement of accounts according to the format included in the Annual Return form. It should be accompanied by: a. a copy of the bank reconciliation for the relevant financial year, b. an explanation of any significant variances (e.g. more than 10-15 percent) in the statement of accounts for the relevant year and previous year, and c. an explanation of any differences between 'balances carried forward' and 'total cash and short term investments', if applicable.
Annual governance statement	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed annual governance statement according to the format included in the Annual Return form. Explain any negative responses to governance statements, including how any weaknesses will be addressed.
Internal audit report	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Publish signed internal audit report according to the format included in the Annual Return form. Explain any negative response to the internal controls objectives, including how any weaknesses will be addressed. Explain any 'not covered' responses to internal controls objectives.

List of councillor or member responsibilities	Annual publication of councillor or member responsibilities no later than 1 July in the year immediately following the accounting year to which it relates, including: a) names of all councillors or members, b) committee or board membership and function (if Chairman or Vice-Chairman), and c) representation on external local public bodies (if nominated to represent the authority or board).
Location of public land and building assets	Annual publication no later than 1 July in the year immediately following the accounting year to which it relates. Parish councils and port health authorities to publish details of all public land and building assets – either in its full asset and liabilities register or as an edited version. Internal drainage boards to only publish details of registered land and buildings that have a market value and appear in Fixed Assets Register. The following information must be published: a) description (what it is, including size/acreage), b) location (address[7] or description of location), c) owner / custodian, e.g. the authority manages the land or asset on behalf of a local charity, d) date of acquisition (if known), e) cost of acquisition (or proxy value), and f) present use.
Minutes, agendas and papers of formal meetings	Publication of draft minutes from all formal meetings not later than one month after the meeting has taken place. Publication of meeting agendas and associated meeting papers not later than three clear days before the meeting to which they relate is taking place.

Annex B: Proposed timeline for smaller authorities' publication of information

December 2014	Transparency Code for Smaller Authorities issued as recommended practice
By end March 2015	Subject to Parliamentary approval Regulations to come into force to require compliance with Transparency Code for Smaller Authorities
Spring 2015	Proposed new burdens funding for smaller authorities to assist compliance with the Code
July 2015	Publication by smaller authorities of first annual set of data completed
April 2015 -	Publication of draft minutes from all formal meetings, not later than one month after each meeting, and of meeting agendas and associated meeting papers not later than three clear days before the meeting takes place
July 2016	Publication of second annual set of data completed