



**ARTICLE NO:**

**CORPPRATE & ENVIRONMENTAL  
OVERVIEW & SCRUTINY  
COMMITTEE**

**MEMBERS UPDATE 2016/17  
ISSUE: 1**

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**Article of: Borough Solicitor**

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**SUBJECT: CONSULTATION ON CHANGES TO THE LOCAL GOVERNMENT  
TRANSPARENCY CODE 2015**

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Wards affected: Borough wide

**1.0 PURPOSE OF ARTICLE**

1.1 To provide a briefing on the Department for Communities and Local Government's consultation document issued on 12 May 2016 which proposes changes to the Transparency Code, together with a summary of the Council's formal response which was made on 20 June 2016. The Council's full response is appended to this Update.

**2.0 BACKGROUND AND CURRENT POSITION**

2.1 The Council complies with the Local Government Transparency Code 2014 (amended 2015) which requires that local authorities publish the following information on the internet:

Quarterly: Expenditure exceeding £500  
Invitations to tender for contracts exceeding £5,000  
Details of contracts exceeding £5,000

Annually: Local authority land  
Social housing assets  
Grants to VSCEs  
Organisation chart  
Trade union facility time  
Parking account  
Parking spaces  
Senior salaries  
Constitution  
Pay multiple  
Fraud

This information can be accessed using links provided on the "Open Data" page on the Council's website.

- 2.2 The DCLG has set out its proposals for updating the Transparency Code in a consultation which closes on 8 July 2016:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522767/Strengthening\\_the\\_local\\_government\\_transparency\\_code\\_consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522767/Strengthening_the_local_government_transparency_code_consultation.pdf)

The Local Government Association requested comments to inform their collective response by 20 June 2016. These timescales were too short to be able to compile a report for Cabinet, so the Leader agreed that the Borough Solicitor should prepare a response via delegated authority for his consideration, issue it to DCLG and the LGA, and share it with members in the form of a Members Update.

### 3.0 PROPOSALS AND COMMENTS

- 3.1 The DCLG's proposals are summarised below, together with a brief explanation of the Council's responses. The responses themselves are shown in the Appendix.

- 3.2 **General comments:** Many of the requirements set out in the Consultation appear to be moving away from transparency for the benefit of the general public and local businesses, and more towards facilitating comparisons between councils and framing how the Council should conduct its business. The information that is being proposed appears to be well in excess of what the public may require, and is directed in some cases to benefit only those organisations that are capable of, and have a commercial interest in, analysing large public sector datasets.

### 3.3 Land Assets

**Proposals:** Extension of the current provision for publishing land assets with additional requirements, in particular around planning and housing provisions, and the publication of the data through the government ePIMS (electronic Property Information Management System) portal.

**Comments:** The information about land and property held by the Council is currently published by Estates in real time (not using ePIMS), and this exceeds the current Transparency Code's mandatory requirements. If the Council were to publish in ePIMS, it is estimated that significant additional data input effort would be required to transfer the data in the first instance.

The requirement to add planning information is also likely to add significant additional costs. The planning status of a site is already available to the public on the Council's website.

The usefulness of some of the proposed changes is obscure, for example data on the number of floors for larger properties.

### 3.4 Procurement information

**Proposals:** Making procurement information available in a standard format through a central portal. The DCLG proposes creating a national reporting mechanism for procurement data in a more prescriptive format. This will enable

the data to be more easily interrogated for the purpose of detecting fraud, bribery and corruption, and to allow local authorities to compare data.

**Comments:** This measure will be beneficial to the extent that it will allow purchasers to see which suppliers are being used by other councils. This may help them to compile lists of potential bidders for future tenders, and will promote informal contact between public bodies to gain feedback on supplier performance.

It is repeatedly stated in the consultation document that this will assist with the detection of fraud or corruption, but it is not explained how.

Separately listing each invitation to tender in a fixed format will involve a duplication of effort, since we will continue (and are legally required) to use the government's Contracts Finder website as our primary tender notification medium.

Any significant changes to the data headings when arriving at the fixed standard format are likely to involve additional work. Useful local information about contracts may be lost in an attempt to make the data fit a prescribed format.

### 3.5 **Contracts**

**Proposals:** Provision of further details about in-house services and how they have been market tested, in a prescribed form.

**Comments:** The proposals add an element of prescription to the Council's Duty of Best Value by implying an expectation that all services costing over £500,000 should be tested against provision by private firms at least every 7 years. An explicit decision-making process would be required to justify the retention in-house of all services down to that level. The medium- to long-term burden of conducting market engagement and tendering exercises to meet this requirement should not be underestimated. Employee transfer ("TUPE") issues would also need to be considered.

### 3.6 **Parking**

**Proposals:** Extension of the current provision to also include a breakdown of income from parking charges and details about penalty charges notices.

**Comments:** The data proposed are extremely detailed, and the volume of statistics they would generate is unlikely to be of use to the public.

### 3.7 **Method of publishing**

**Proposals:** Extension of the current general provision of publishing data anywhere on the council's website to publishing data on specific websites in specific formats, using links from a standard-format 'landing page' on each council's website.

**Comments:** A common 'landing page' for all transparency links is a useful proposal. However, standardisation of publication of specific transparency data to a central source will only be helpful if local data can be viewed and extracted

easily. The proposals are rather vague as to which information should be made available in this way. Large consolidated datasets are likely to be off-putting to the public.

### **3.8 Small and Medium-Sized Enterprises**

**Proposals:** Extension of the current provision to publish spend data to include the proportion of spend that is made annually to Small and Medium-sized Enterprises (SMEs) (recommended not mandatory).

**Comments:** The recommended changes would involve flagging all suppliers (or all payments) on the payments system to show whether they are (or relate to) SMEs. This would involve additional effort. Third party organisations can provide this data on a subscription basis, although there may be technical issues in transferring the data into the payments system.

## **4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

4.1 None of the proposals are likely to have an impact on sustainability.

4.2 Absorption of financial data into a large central dataset and its removal from the Council's website is likely to reduce the ability of local people to acquire information about the Council's activities.

## **5.0 FINANCIAL AND RESOURCE IMPLICATIONS**

5.1 The implications of each of the proposed changes are described in section 3 above. There would need to be new burdens (or similar) funds made available to enable delivery in respect of several of the proposals consulted upon. Principally this would need to cover officer time and standardisation of software to facilitate automation of process. These costs are not capable of being identified at this time.

## **6.0 RISK ASSESSMENT**

6.1 The changes are proposals at this stage, and there is uncertainty as to which, if any, will be adopted. Any risks should be assessed in more detail when the Transparency Code is amended.

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### **Background Documents**

There are no background documents (as defined in Section 110D(5) of the Local Government Act 1972) to this Article.

### **Equality Impact Assessment**

The Article is for information only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendix:**

Strengthening Local Government Transparency: Response to Consultation by West Lancashire Borough Council (letter to DCG dated 20 June 2016, copied to LGA).