

By: Chief Executive

To: Kent and Medway Fire and Rescue Authority - 18 December 2012

Subject: DATA TRANSPARENCY – GOVERNMENT CONSULTATION ON THE CODE OF RECOMMENDED PRACTICE FOR LOCAL AUTHORITIES

Classification: Unrestricted

## **FOR DECISION**

### **SUMMARY**

The Government is consulting on the making of Regulations to require local authorities to publish data falling within certain descriptions of information specified in the Code of Recommended Practice for Local Authorities on Data Transparency, which was issued on 29 September 2011 under section 2 of the Local Government, Planning and Land Act 1980. The Regulations will also require authorities to publish information in the manner and form specified in the Code. The Code is concerned with making data generated by local authorities available and accessible to the public.

The report highlights the additional requirements proposed in the consultation document, and seeks Members' approval to the draft response attached at **Appendix 2**.

### **RECOMMENDATIONS**

Members are requested to:

1. Approve the draft response to the Government's consultation on the Code of Recommended Practice for Local Authorities on Data Transparency (para 13 and **Appendix 2** refer);
2. Note that all transactions of £200 and above will be published on the Authority's website (para 4 refers);
3. Note the assessment of the Authority's current position against the proposed amendments to the Code of Recommended Practice for Local Authorities on Data Transparency (para 3 and **Appendix 1** refers).

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BACKGROUND PAPERS: None

## COMMENTS

### Background

1. Following the publication of the Code of Recommended Practice for Local Authorities on Data Transparency (**the Code**) in September 2011, Ministers are now minded, subject to consultation, to make the Code a legal requirement via Regulations. The Code asks all local authorities, including fire and rescue authorities (FRAs) to follow three principles of transparency when publishing data they hold. These are:-
  - responding to public demand;
  - releasing data in open formats available for re-use; and
  - releasing data in a timely way.

The data to be published includes information on senior pay, the structure of the workforce, tenders, contracts, councillor expenses, voluntary sector funding, meetings, and frontline service data so that 'armchair auditors' can clearly see the decisions being made on their behalf.

2. The consultation proposes amendments and additions to the Code to facilitate greater clarity as to what data must be published, when, and in what format. It also adds clarity to the requirements detailed under the proposed revised Regulations. To take account of experience and improved best practice, it is proposed that the Code will be revised and updated as and when needed.

### Amendments to the Code

3. The requirements of the Code for publication of data are set out in **Appendix 1** alongside a commentary on the Authority's current position. Largely, the Authority already publishes the information required, but there are some additional requirements specified:
4. **Expenditure reporting** - The Authority has for some time been publishing details of all items of expenditure over £500, as have many other local authorities. As one of Government's transparency trailblazers, the Department for Communities and Local Government has now extended this requirement to include the publication of all transactions above a new threshold of £250, but this is not mandated within the proposed new Code. However, in light of these latest proposals, the Authority has now reduced the disclosure level for detailed expenditure to individual transactions in excess of £200.
5. **Use of staff time on trade union activities** - The Code also requires the publication of data relating to the use of staff time on trade union activities. The Authority has previously had a Freedom of Information request from the Taxpayers' Alliance on the cost of staff performing trade union duties and the data held was released. Therefore there is no reason why it should not be included in the Code and published.

6. **Senior staff salary information** - The Code suggests a salary level of £58,200 above which details of the postholder must be published. This will mean a change to the Authority's current position, where currently only salary-related information for the Chief Executive, Directors, and Assistant Directors is published. The proposed revised salary level would, however, increase the number of postholders covered by the disclosure requirements, and would include all Area Managers, and some Green Book members of staff below Assistant Director level. The Code also suggests that the information published about this group of senior staff, should include not only names and salary levels, but also job descriptions, responsibilities, budgets and numbers of staff managed. Additional clarity is requested from the Government on what is meant by salary, and whether this should include staff employed under multiple contracts, or in receipt of specific allowances.
7. **Organisational structure** - The Code suggests publishing an organisational structure chart, including salary bands and vacant posts. Members will appreciate that given the size, complexity and the various types of conditions of service (grey, green and gold books) which apply across the Authority, a detailed structure chart may be difficult and complex to produce.
8. **Contracts and tenders** - The Code recommends publishing all contracts and tenders. However, there are confidential aspects to most contracts that the Authority would not wish to publish. Invitations to Tender and Requests for Quotations must comply with the Government's Transparency agenda requirements, which requires the publication of certain information, including specific contract details. The Authority therefore asks tenderers to indicate if they agree to the disclosure requirements, but providing them the opportunity to indicate if they wish any information they submit within their tender, that is commercially sensitive, to be redacted. That said, as a responsible organisation, the Authority would redact anything it believes to be commercially sensitive over and above that indicated by the tenderer.
9. Part of the Government's Transparency requirement has been for all public sector bodies to publish all tenders over £10k on its Contracts Finders website. Publishing all tenders at this level will be administratively burdensome on the Authority and therefore it is planned to publish all tenders over £75k in value from January 2013 on Contracts Finder, in line with the tender limit in the Authority's Procurement Service Order. It is also planned to use the newly introduced Kent Contracts Portal, which replaces the old South East Contracts Portal.
10. **Assets** - The Code recommends publishing details of the assets (buildings and land) the Authority owns, including information such as footprint size of the building, geo-locations, and ownership details. This is an additional information requirement and, while it can be seen as relevant to councils, which may own land that could be subject to a community right to bid, it is not clear why the Government feels that this information should be made available by FRAs. In light of the exclusion within the

guidance for sites of national security, the draft consultation response at **Appendix 2** suggests that this requirement should not be applied to FRAs.

## **IMPACT ASSESSMENT**

11. The Secretary of State has the power to enforce the Code through Regulations via the Local Government Planning and Land Act 1980, Section 3.
12. Overall the proposals to enforce by Regulation the data which must be made available under the Code do form an additional administrative burden on the Authority, which does appear to be at odds with the Government's drive to remove red tape and bureaucracy. However, this is largely related to officer time and extending the information currently available, and therefore the requirement is not onerous.
13. A copy of the Government's consultation document can be accessed electronically via the link below:-

<https://www.gov.uk/government/consultations/improving-local-government-transparency>.

Responses to the consultation must be received by 20 December 2012. A draft response is attached at **Appendix 2** for Members' approval.

## **RECOMMENDATIONS**

14. Members are requested to:
  - 14.1 Approve the draft response to the Government's consultation on the Code of Recommended Practice for Local Authorities on Data Transparency (para 13 and **Appendix 2** refer);
  - 14.2 Note that all transactions of £200 and above will be published on the Authority's website (para 4 refers);
  - 14.3 Note the assessment of the Authority's current position against the proposed amendments to the Code of Recommended Practice for Local Authorities on Data Transparency (para 3 and **Appendix 1** refers).