

## ITEM NO: 5

**REPORT TO:** STANDARDS COMMITTEE

**DATE:** 8 April 2014

**REPORT OF:** Borough Solicitor (Monitoring Officer)

**SUBJECT MATTER:** CONSULTATION ON A DRAFT TRANSPARENCY CODE FOR PARISH COUNCILS

**REPORT:** The Department for Community and Local Government has issued a consultation document on a draft Transparency Code for Parish Councils with a turnover not exceeding £25,000, a copy of the consultation document is appended.

The Local Audit and Accountability Act 2014 sets out a new audit framework for local authorities. Under the framework Parish Councils with a turnover not exceeding £25,000 will be exempt from routine external audit. Instead these parish councils will be subject to the new transparency requirements laid out in the attached consultation document.

The consultation document states that the information which should be published is:

- All items of expenditure;
- End of year accounts;
- Annual governance statement;
- Internal audit report;
- Location of public land and building assets;
- Agendas, approved minutes and papers for formal meetings; and
- List of councillor responsibilities.

The Consultation document asks the following questions:

1. The government proposes that the Code will be mandatory for parish councils with an annual turnover not exceeding £25,000. Do you agree?
2. The government proposes that parish meetings will be exempt from complying with the Code. Do you agree?
3. Should there be a threshold above which individual items of expenditure must be published? If yes what should the threshold be (e.g. £50, £100)?
4. What exemptions, if any, would need to be made to information published to explain negative responses to the internal controls objectives(e.g. information relating to a current fraud case)?
5. The government proposes to require electronic publication. Do you agree?
6. How much additional staff time and cost will be involved for authorities in publishing the required data online?

**RECOMMENDATION(S)** (i) That the Standards Committee consider and comment on the attached consultation document.  
(ii) That the consultation document be referred to Mossley Parish.

**FINANCIAL IMPLICATIONS:** At present Mossley Parish Council is above the £25,000 amount referred to in the consultation document and would therefore not be subject to the transparency code as it currently stands.  
**(Authorised by Borough Treasurer)**

**LEGAL IMPLICATIONS:** The draft transparency code is made under the Local Audit and Accountability Act 2014 which set out the new audit framework for local authorities.  
**(Authorised by Borough Solicitor)**

**RISK MANAGEMENT:** Mossley Parish Council will need to ensure it is compliant with the new framework under the Local Audit and Accountability Act.

**LINKS TO COMMUNITY PLAN:** Appropriate arrangements for ethical and corporate governance help to ensure that the public can have confidence in local government.

**ACCESS TO INFORMATION**

**NON-CONFIDENTIAL**

**This report does not contain information which warrants its consideration in the absence of the Press or members of the public.**

**REFERENCE DOCUMENTS:** Further information can be obtained from the Council's Borough Solicitor and statutory Monitoring Officer by contacting 0161-342-3028 or by e-mail [Sandra.Stewart@tameside.gov.uk](mailto:Sandra.Stewart@tameside.gov.uk)



Department for  
Communities and  
Local Government

# Consultation on a draft transparency code for parish councils with a turnover not exceeding £25,000

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# Section 1

## 1. Introduction

- 1.1 The Local Audit and Accountability Act 2014 received Royal Assent on 30 January. The Act sets out a new audit framework for local public authorities which are currently covered by the Audit Commission regime. Under this new framework, smaller authorities with an annual turnover not exceeding £25,000, including parish councils, will be exempt from routine external audit. Instead, these parish councils will be subject to the new transparency requirements laid out in the draft Code included in this consultation document.
- 1.2 This Code will act as an audit substitute, enabling local electors to access the information they need about the authority's accounts and governance in order to hold the authority to account. It is issued to meet the government's desire to place more power into citizens' hands to increase democratic accountability.
- 1.3 We have already consulted on the government's intention to introduce an audit-substitute transparency code for these smaller authorities. The Command Paper published alongside the Draft Local Audit Bill (July 2012) proposed the types of information these authorities would be required to publish under the code.<sup>1</sup> It also set out the government's intention that smaller authorities publish this information online, either on their own website or that of their billing authority, and that, as a direct substitute for external audit, the code be mandatory. The government consulted on these proposals in July- August 2012 and its response to the consultation was published in October 2012.<sup>2</sup>
- 1.4 This consultation for the new audit-substitute transparency requirement is for parish councils only. The government intends to issue a separate consultation on further draft transparency code(s) for the smaller authorities that will be imported to section 2 of the Local Government, Planning and Land Act 1980 in due course.

### Who are we consulting?

- 1.5 This consultation document seeks the views of any organisations affected by these proposals and any other parties with an interest in local audit and transparency.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8350/2174738.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8350/2174738.pdf), see paragraphs 94 – 100.

<sup>2</sup> <https://www.gov.uk/government/consultations/draft-local-audit-bill>

## How to respond

- 1.6 Your response must be received by Friday 9 May. Comments may be sent by email to: [fola@communities.gsi.gov.uk](mailto:fola@communities.gsi.gov.uk)

Responses may also be returned to:

The Local Audit and Fraud Team

The Department for Communities and Local Government

Zone 3/J6, Eland House

Bressenden Place

London SW1E 5DU

Please entitle your response '*Consultation – transparency code for parish councils*'.

- 1.7 It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

## Publication of responses – confidentiality and data protection

- 1.8 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000, the Data Protection Act 1988 and the Environmental Information Regulations 2004).
- 1.9 If you want any information you provide to be treated as confidential, you should be aware that under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.10 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give any assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.11 The Department will process your personal data in accordance with the Data Protection Act 1988 and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.
- 1.12 Are you satisfied that this consultation has followed these criteria? If not, or if you have any other observations about how we can improve the process please contact:

DCLG Consultation Co-ordinator

The Department for Communities and Local Government

Zone 3/H10, Eland House

Bressenden Place

London SW1E 5DU

or by e-mail to: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

## Section 2

### 2. Audit-substitute transparency code for parish councils with a turnover not exceeding £25,000

- 2.1 In accordance with section 3(11) of the Local Government, Planning and Land Act 1980 (“the 1980 Act”), the government is consulting on a draft code of recommended practice for parish councils with a turnover not exceeding £25,000 to publish the information specified in the code. The government intends to issue the following code, subject to responses to the specific questions which are included at the relevant point of the draft code below.
- 2.2 The government proposes that the code will be mandatory and therefore intends to make regulations under section 3 of the 1980 Act. Regulations would require parish councils with an annual turnover not exceeding £25,000 to publish the data specified in the code in the manner and form and on the occasions specified in the code. This is considered necessary because the code will be a direct substitute for routine external audit. This will ensure that local electors have access to the documents and information which would formerly have been seen by the external auditor.
- 2.3 The government is also consulting on whether the code should apply to a parish meeting of a parish which does not have a separate parish council. Unlike a parish council, a parish meeting has only one elected member; its chairman. All local government electors in the parish are entitled to vote at a parish meeting. Parish meetings do not generally have staff or websites and the government considers that it would be unreasonably onerous to place them under a duty to comply with the code.

### Draft audit-substitute transparency code for parish councils with a turnover not exceeding £25,000

#### Part 1: Introduction

##### Policy context

- 2.4 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.
- 2.5 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 parish councils with an annual turnover not



exceeding £25,000 will be exempt from routine external audit.<sup>3</sup> In place of routine audit, parish councils will be subject to the new transparency requirements laid out in this Code. This will enable local electors to access relevant information about the authorities' accounts and governance.

- 2.6 The government considers that publication of the items in this Code will provide the local electorate with a clear picture of the activities of a parish council. Most of this information is already produced by the majority of 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. The government will publish a revised impact assessment on the Local Audit and Accountability Act 2014 in Spring 2014.

## Application

- 2.7 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 Act"), 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.
- 2.8 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.
- 2.9 This Code applies to parish councils in England with an annual turnover not exceeding £25,000. Turnover will be calculated as the higher of a parish council's gross income and gross expenditure in a given year.

**Question 1: The government proposes that the Code will be mandatory for parish councils with an annual turnover not exceeding £25,000. Do you agree?**

**Question 2: The government proposes that parish meetings will be exempt from complying with the Code. Do you agree?**

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<sup>3</sup> DCLG has consulted on the specific circumstances where the exemption will not apply: <https://www.gov.uk/government/consultations/future-of-local-audit-consultation-on-secondary-legislation>. The government will publish a summary of responses to the consultation shortly.

## Data protection

- 2.10 Where parish councils 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 about councillors or senior local authority officers, because of the public interest in the scrutiny of such senior individuals and decision makers. The Information Commissioner's Office has published guidance on the anonymisation of datasets, enabling publication of data.<sup>4</sup>
- 2.11 This Code complements existing provisions relating to public access to the decision-making process of parish councils, for instance Part 11 of, and Schedule 12 to, the Local Government Act 1972 and the Public Bodies (Admission to Meetings) Act 1960. Parish councils 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, Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2009 or falls within Schedule 12A to the Local Government Act 1972 then it is in the discretion of the parish council whether or not to rely on that exemption or publish the data. However, the government believes that local transparency can be implemented in a way that complies with the Data Protection Act 1998.

## Part 2: Information which should be published

- 2.12 Parish councils should publish:
- a. all items of expenditure (see paragraphs 2.15 and 2.16);
  - b. end of year accounts (see paragraphs 2.17 and 2.18);
  - c. annual governance statement (see paragraphs 2.19 and 2.20);
  - d. internal audit report (see paragraphs 2.21 – 2.24);
  - e. location of public land and building assets (see paragraphs 2.25 and 2.26);
  - f. agendas, approved minutes and papers of formal meetings (see paragraphs 2.27 and 2.28); and
  - g. list of councillor responsibilities (see paragraph 2.29).
- 2.13 The data and information referred to in this section should be published annually and no later than 1 July of each year. This is particularly important to enable local government electors to scrutinise financial information so that they are able to exercise their rights to question and make objections to the auditor.
- 2.14 It is recommended that certain types of information, for example the agendas and approved minutes of formal meetings, be published more frequently than once a year.

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<sup>4</sup>[http://www.ico.org.uk/for\\_organisations/data\\_protection/topic\\_guides/~media/documents/library/Data\\_Protection/Practical\\_application/anonymisation\\_code.ashx](http://www.ico.org.uk/for_organisations/data_protection/topic_guides/~media/documents/library/Data_Protection/Practical_application/anonymisation_code.ashx)

## **All items of expenditure**

- 2.15 Parish councils should publish details of each individual item of expenditure.
- 2.16 Copies of cash books, vouchers and receipts, etc. do not need to be published, but should remain available for inspection by interested persons during the specified audit inspection period set out under Regulation 14 of the Accounts and Audit (England) Regulations 2011, or under equivalent regulations to be made under section 32 of the Local Audit and Accountability Act 2014. The right to inspect can be exercised on giving reasonable notice.

**Question 3: Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?**

## **End of year accounts**

- 2.17 Parish councils should publish their statement of accounts according to the format included in the Annual Return audit 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 Responsible Financial Officer and the Chair of the meeting approving the statement of accounts.
- 2.18 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**

- 2.19 Parish councils should publish their annual governance statement according to the format included in the Annual Return audit 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 Chair and Clerk of the authority.
- 2.20 Where the governance statement contains any negative responses, these should be explained fully, including how any weaknesses will be addressed.

## **Internal audit report**

- 2.21 Parish councils should publish their annual internal audit report according to the format included in the Annual Return audit 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.
- 2.22 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.
- 2.23 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.
- 2.24 Parish councils should also publish any additional internal audit reports, where available.

**Question 4: What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?**

## **Location of public land and building assets**

- 2.25 Parish councils 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.
- 2.26 In accordance with proper practices, a parish council's asset and liabilities register should include the following information on public land and building assets:
- a. description (what it is, including size/acreage);
  - b. location (address 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**

- 2.27 Parish councils should publish the agenda and approved minutes from all formal meetings (full council, committee and sub-committee meetings).
- 2.28 The papers of formal meetings (other than the agenda and approved minutes) do not need to be published, but should be made available to interested parties upon request.

## **List of councillor responsibilities**

- 2.29 Parish councils should publish a list of councillor responsibilities. This includes the following information:
- a. names of all councillors;
  - b. committee membership and function (if Chair or Vice-Chair); and
  - c. representation on external local public bodies, such as a Village Hall Committee, Shop Committee, or Trustee of a local group (if nominated to represent the parish council).

## **Part 3: Method of publication**

- 2.30 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), local authorities should publish revised information making it clear where and how there has been an amendment.
- 2.31 The data must be published electronically. For example, this could be achieved by publishing the data on the authority's website or that of its billing authority (district or borough council).

**Question 5: The government proposes to require electronic publication. Do you agree?**

**Question 6: How much additional staff time and cost will be involved for authorities in publishing the required data online?**

## List of questions:

- Question 1: The government proposes that the Code will be mandatory for parish councils with an annual turnover not exceeding £25,000. Do you agree?
- Question 2: The government proposes that parish meetings will be exempt from complying with the Code. Do you agree?
- Question 3: Should there be a threshold above which individual items of expenditure must be published? If yes what should this threshold be (e.g. £50, £100)?
- Question 4: What exemptions – if any – would need to be made to information published to explain negative responses to the internal controls objectives (e.g. information relating to a current fraud case)?
- Question 5: The government proposes to require electronic publication. Do you agree?
- Question 6: How much additional staff time and cost will be involved for authorities in publishing the required data online?

# Annex A

## Draft audit-substitute transparency code for parish councils with a turnover not exceeding £25,000

Public data that parish councils should publish

Information title	Information which should be published
<b>All items of expenditure</b>	Annual publication no later than 1 July. Publish details of each individual item of expenditure. Copies of cash books, vouchers and receipts, etc. do not need to be published but should remain available for inspection.
<b>End of year accounts</b>	Annual publication no later than 1 July. Publish signed statement of accounts according to the format included in the Annual Return audit 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.
<b>Annual governance statement</b>	Annual publication no later than 1 July. Publish signed annual governance statement according to the format included in the Annual Return audit form. Explain any negative responses to governance statements, including how any weaknesses will be addressed.
<b>Internal audit report</b>	Annual publication no later than 1 July. Publish internal audit report according to the format included in the Annual Return audit form. It should be signed by the person who carried out the internal audit. 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. Publish any additional internal audit report, where available.
<b>Location of public land and building assets</b>	Annual publication no later than 1 July. Publish details of all public land and building assets – either in the authority’s full asset and liabilities register or as an edited version. Information should include: a) description (what it is, including size/acreage); b) location (address or description of location); c) owner / custodian, e.g. the authority manages the land or asset on behalf of a local charity;

Information title	Information which should be published
	d) date of acquisition (if known); e) cost of acquisition (or proxy value); and f) present use.
<b>Agendas, approved minutes and papers of formal meetings</b>	Publish agenda and approved minutes from all formal meetings (full council, committee and sub-committee meetings). No requirement to publish papers of formal meetings, but make them available upon request.
<b>List of councillor responsibilities</b>	Publish list of councillor responsibilities, including: a) names of all councillors; b) committee membership and function (if Chair or Vice-Chair); and c) representation on external local public bodies (if nominated to represent the parish council).