

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny
DATE	27 June 2023
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Local Government Transparency Code
REPORT NUMBER	CUS/23/179
DIRECTOR	Andy MacDonald
CHIEF OFFICER	Isla Newcombe
REPORT AUTHOR	Lucy McKenzie
TERMS OF REFERENCE	4.4

1. PURPOSE OF REPORT

- 1.1 This report has been prepared in response to the notice of motion by Councillor Kuszniir on 22 February 2023, requesting the preparation of a feasibility study to explore the establishment of a parallel Local Government Transparency Code, similar to the one in place for local authorities in England. The report will consider the requirements of the English Code, the existing data publishing practices in Scotland, and the specific context of Aberdeen City Council.

2. RECOMMENDATION

- 2.1 That Committee:
- (i) note the current position regarding data publication and compliance.
 - (ii) note that a report from the Chief Officer – Customer Experience and People & Organisational Development will be provided pending the outcome of Scottish Government consultation and further review.

3. CURRENT SITUATION

Local Government Transparency Code 2015

- 3.1 The Local Government Transparency Code in England sets out key principles for local authorities in relation to transparency, accountability, and openness. It mandates the publication of specific data sets, including expenditure, procurement, assets, and decision-making processes.
- 3.2 The Code requires the publication of information related to the following themes:
- expenditure over £500
 - government procurement card transactions
 - procurement information (tenders and contracts)
 - waste contracts
 - grants to voluntary, community and social enterprise organisations

- organisation chart
- senior salaries
- the pay multiple
- trade union facility time
- local land assets
- social housing asset value
- parking accounts and parking spaces
- fraud
- the constitution

3.3 The Transparency Code includes accompanying guidance providing specific information around mandatory and non-mandatory data sets to be published for each category. The Transparency Code also expects data to be updated at regular intervals (quarterly for some datasets, annually for others). Details of the Transparency Code 2015 can be accessed at www.gov.uk/government/publications/local-government-transparency-code-2015

3.4 There is no direct equivalent to the English Transparency Code for local authorities in Scotland.

Model Publication Scheme

3.5 As a local authority in Scotland, Aberdeen City Council's approach to proactive publication is outlined by the Freedom of Information (Scotland) Act 2002 (FOISA) legislation, as governed by the Scottish Information Commissioner's Office (OSIC).

3.6 Section 23 of FOISA currently requires each authority to adopt and maintain a publication scheme setting out information to be published by that authority. Publication schemes must be approved by the OSIC, and authorities thereafter have a duty to publish the information in accordance with the approved scheme.

3.7 The Model Publication Scheme (MPS), developed by the Scottish Information Commissioner's Office, is a framework that encourages transparency and access to information within public authorities in Scotland. The Model Publication Scheme requires public authorities to:

- Publish the classes of information that they make routinely available.
- Tell the public how to access the information and what it might cost.

3.8 The Scheme involves a 'Guide to Information', which each authority tailors to their own circumstances. The guide should include:

- The classes of information the authority publishes or intends to publish.
- How this information can be accessed.
- Whether there's a charge for the information.

3.9 The MPS requires authorities to publish information in nine classes, if such information is held by the authority.

- **Class 1: About the authority:** Information about the authority, who we are, where to find us, how to contact us, how we are managed and our external relations.
- **Class 2: How we deliver our functions and services:** Information about our work, our strategies and policies for delivering our functions and services and information for our service users.
- **Class 3: How we take decisions:** and what we have decided Information about the decisions we take, how we make decisions and how we involve others.
- **Class 4: What we spend and how we spend it:** Information about our strategy for, and management of, financial resources (in sufficient detail to explain how we plan to spend public money and what has actually been spent).
- **Class 5: How we manage our human, physical and information resources:** Information about how we manage our human, physical and information resources.
- **Class 6: How we procure goods and services from external providers:** Information about how we procure goods and services and our contracts with external providers.
- **Class 7: How we are performing:** Information about how we perform as an organisation and how well we deliver our functions and services.
- **Class 8: Our commercial publications:** Information packaged and made available for sale on a commercial basis and sold at market value through a retail outlet e.g., bookshop, museum or research journal.
- **Class 9: Our open data:** The open data we make available as described by the Scottish Government's Open Data Strategy and Resource Pack, available under an open licence.

3.10 In Scotland, local authorities have some discretion about exactly what to publish under each category, but they have an obligation to consider the public interest.

3.11 Details of the Aberdeen City Council publication scheme and how our customers can access information about us, can be found on the website www.aberdeencity.gov.uk/services/council-and-democracy/access-information/what-information-available. This includes links to the Contracts Register as a statement of current and future contract opportunities; the Public Contracts Scotland portal where all tenders are publicly advertised; and the Council's unaudited accounts, including remuneration information, which are published annually for transparency and public awareness.

3.12 The table in Appendix A provides information around where there is alignment with the Transparency Code 2015. Where met/partially met, the information is

published on the Council website, although the specific details and frequency of publication may differ to the English Transparency Code. Where not met, analysis has not identified a recognisable public interest in the data.

- 3.13 OSIC have approved the Council's publication scheme and have confirmed ongoing compliance when undertaking periodical reviews.
- 3.14 The information the local authority releases in accordance with the publication scheme represents the minimum that must be disclosed. If a member of the public wants information not listed in the scheme, they can still ask for it. Customers seeking information have a variety of channels to do so including Freedom of Information and Environmental Information Regulations. Where personal information is involved, customers can request information under Subject Access Request, Data Protection Request and Education Regulations Request procedures.
- 3.15 Data outlining the total volume of requests for each of category and compliance in meeting statutory timescales in 2022/23 are detailed below.

	Received	On Time	Compliance Rate
Freedom of Information Request (FOI)	1399	1178	84.2%
Environment Information Regulation Request (EIR)	252	209	82.9%
Subject Access Request (SAR)	382	250	65.4%
Subject Erasure Request (SER)	8	8	100.0%
Subject Processing Objection (SPO)	1	1	100.0%
Subject Portability Request (SPR)	2	2	100.0%
Subject Processing Restriction Request (SPRR)	1	1	100.0%
Subject Rectification Request (SRR)	14	13	92.9%
Education Regulations Request (ERR)	14	13	92.9%

Open Data

- 3.16 In Scotland, the Scottish Government has published an Open Data Strategy, which encourages public sector bodies to make their data open and accessible. Aberdeen City Council have a public platform <https://spatialdata-accabdn.opendata.arcgis.com/> providing access to open data sets. The platform continues to be developed and customers can submit a data request if there are spatial data sets that they believe may be of value.

Potential Changes

- 3.17 A consultation from Scottish Government relating to Access to information rights in Scotland took place recently, seeking feedback on OSIC proposals to strengthen the current publication scheme. This includes the introduction of a new statutory duty to publish information, supported by a new enforceable Code of Practice on Publication. The Code would set out certain key requirements and principles for all authorities such as:
- what must be published (if held by the authority);
 - how the published information must be made available and searchable;
 - how long it should be available for.
- 3.18 It is proposed that the Code would be updated as necessary in light of developments in Scottish public authorities' use of information, developments in technology etc. making it more future proof than the current model. The Commissioner would prepare the code and continue to provide guidance and oversight to authorities in terms of compliance.

Next Steps

- 3.19 As described above, there is commonality between the Transparency Code 2015 and the MPS. While both schemes aim to increase transparency and accountability of public bodies, they have slightly different focuses. The MPS is broader and deals with the publication of various types of information, whereas the Transparency Code is more specific and focuses heavily on datasets that enable citizens to scrutinise local authority performance and expenditure.
- 3.20 The Council are compliant with statutory requirements in Scotland. All information released through FOI is published on the disclosure log and through our requirements under the Model Publication Scheme. As a local authority, the Council also proactively publish information under other statutory duties, such as the Environmental Information Regulations. The approach will be strengthened further through the proposed introduction of an enforceable Code.
- 3.21 Given the resource implications of proactively publishing data – which includes the collection, management and publication of data as well as ensuring compliance with a Code, it is important that the data published is of value to the public and that there is sufficient demand so that any resource implications are offset by the benefit to the public and to the local authority. Our current approach provides flexibility and includes a section on 'Commonly Requested Information' which allows for any data sets, including potentially those outlined in the English Transparency Code, to be published should demand require this.
- 3.22 The Scottish Government consultation closed on 14 March 2023. The Council is open to improvement and will undertake a review once the response to the consultation is published. This includes consideration of the Transparency Code 2015 approach, should legislation allow.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from the recommendations of this report.

6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

7.1 The assessment of risk contained within the table below is considered to be consistent with the Council's Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	Low (L) Medium (M) High (H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	If we do not promote openness and transparency around our actions and decision making, then there is risk that we do not meet our strategic objectives.	Support in handling access to information requests and publishing data is available to responding officers through a variety of methods and there is a centralised team in place to monitor compliance. Decision reviews are carried out by senior staff.	L	Yes
Compliance	The OSIC is the regulatory body for local authorities in Scotland. If we are non-compliant in publication requirements, or in our handling of access to information	Support in relation to access to information is available to responding officers through a variety of methods. In addition, all FOI/EIR responses are also	L	Yes

	requests, then there is risk that this is highlighted by the OSIC.	quality assured to ensure that responses are appropriate. Officers receive full training to ensure they have the necessary knowledge.		
Operational	There are resource implications associated with the proactive publication of data. This includes the collection, management and publication of data as well as ensuring compliance with a Code, which all place additional resource pressure on the council impacting our ability to undertake other duties.	There are robust operational models in place to manage access to information requests. Ongoing engagement with services around the proactive publication of data. The Council has responded to consultations highlighting that any changes in approach must come with appropriate financial support to ensure resource is in place to meet requirements.	L	Yes
Financial	Where information is publicly available to customers this reduces the need for access to information requests which is avoidable contact. It is important to ensure that the data published is of value to the customer as the proactive publication of data is also costly. It is important to correctly handle access to information requests as it is more costly to the organisation to deal with reviews and appeals. There is	The proactive publication of data to reduce access to information requests procedure is encouraged across the organisation and trends identified centrally. A disclosure log and online tool is available to customers to find relevant information provided in previous requests without the need to submit a new request. There is guidance and training in place to support staff in effective access to	L	Yes

	also risk of financial penalty in relation to data protection requests if we fail to meet statutory requirements.	information request handling to avoid escalations. The financial benefit of early resolution is highlighted to responding officers in training.		
Reputational	Non-compliance carries reputational risk. Customer perception of the council could also be negatively impacted if the organisation is seen to not be open and transparent. This includes where access to information requests are not handled correctly.	There is a centralised Access to Information team responsible for ensuring that requests are being handled consistently and appropriately across the council. Staff across the organisation receive comprehensive training to ensure requests are handled correctly and there is a robust model in place to ensure information is available to the public.	L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
	Impact of Report
<u>Aberdeen City Local Outcome Improvement Plan 2016-26</u>	
Prosperous Place Stretch Outcomes	The proposals within this report support the Prosperous Place Theme within the LOIP. FOI/EIR information engages and informs the public by promoting openness and transparency in the policies, procedures and undertaking of Aberdeen City Council and the shaping of Aberdeen City.

9. IMPACT ASSESSMENTS

Assessment	Outcome
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Integrated Impact Assessment	Full impact assessment not required.
Data Protection Impact Assessment	Not required.
Other	None

10. BACKGROUND PAPERS

10.1 There are no relevant background papers related directly to this report.

11. APPENDICES

Appendix A – Table outlining alignment with the Transparency Code 2015

12. REPORT AUTHOR CONTACT DETAILS

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Appendix A

Data Set	Met / Partially Met	Not Met
Expenditure over £500		✓
Government procurement card transactions		✓
Procurement information (tenders and contracts)	✓	
Waste contracts	✓	
Grants to voluntary, community and social enterprise organisations		✓
Organisation chart	✓	
Senior salaries	✓	
The pay multiple		✓
Trade union facility time	✓	
Local land assets	✓	
Social housing asset value		✓
Parking accounts and parking spaces	✓	
Fraud	✓	
The constitution*	✓	

*Does not apply in Scotland. However, the Standing Order and Terms of Reference for Aberdeen City Council are published.