

## **The Local Government Transparency Code for parish councils with a gross annual income or expenditure exceeding £200,000 (England only)**

### **Introduction**

The Local Government Transparency Code was published by the Department of Communities and Local Government on 1 May 2014. With reference to paragraph 10 of the new code, the new code applies to certain local authorities which include a parish council which has gross annual income or expenditure (whichever is the higher) exceeding £200,000. The new code also applies to district, county and London borough councils and other specified public authorities.

The new code recommends minimum requirements for the publication of certain information by the various authorities that it applies to. Part 2 recommends the publication of i) certain information quarterly (e.g. expenditure over £500) and ii) other information annually (e.g. relating to local authority land, grants to voluntary, community and social enterprise organisations, staff organisation charts which exclude staff with a salary of less than £50,000, controlled on and off-street parking spaces in the authority's area, senior officer salaries over £50,000). Part 2 confirms that information should be published in a format and under a licence that allows open re-use, including for commercial and research activities.

Part 3 of the new code recommends that the authorities to which it applies go further than the minimum publication requirements set out in Part 2 and that, for example, they publish i) information on a monthly rather than a quarterly basis, or ideally, as soon as it becomes (commonly known as 'real-time' publication ii) details of all transactions that exceed £250 instead of £500 and iii) additional information not specified in Part 2.

### **Statutory background**

The new code was issued under s. 2(2) of the Local Government, Planning and Land Act 1980 ('the 1980 Act') which gives the Secretary of State the power 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. s.2(1) of the 1980 Act defines local authorities and parish councils are included in that definition. S.2(10) provides that the Secretary of State may issue a code under s.2(2) for different kinds of local authorities, as defined. This explains why the new code does not apply to all parish councils.

## **Legal consequences of the new code**

The authorities that are subject to the new code are recommended to observe it. It is not mandatory for them to do so. s. 3 of the 1980 Act provides for the Secretary of State to make regulations requiring authorities to publish any description of information specified in the code issued under s. 2 if, in his opinion, regulations are necessary to ensure that they publish such information. It is the Government's intention to introduce regulations which will make Part 2 of the new code mandatory. The regulations are expected to be made within about 3 months of the Code being issued.

With reference to paragraph 16 of the new code, Part 2 will not be mandatory and will remain recommended for a parish council with a gross annual income or expenditure (whichever is the higher) between £200,000 and £6.5 million even when the new regulations are in force. When the new regulations are in force, Part 2 of the new code will be mandatory for all authorities with a gross annual income or expenditure (whichever is the higher) which exceeds £6.5 million.

The new code does not replace or undermine a parish council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. A parish council that is subject to the new code must ensure that the publication of that information is compliant with such legislation. Information which includes data about an individual can only be published if this would not contravene provisions of the Data Protection Act 1998. Parish councils have a duty under the Freedom of Information Act 2000 to maintain a publication scheme listing the classes of information they routinely make available. The new code does not replace these existing arrangements.

## **Further reading**

It is important that parish councils to whom the new Code applies read the new Code in full. The new code and answers to frequently asked questions about it are available on the Department's website at <https://www.gov.uk/government/publications/local-government-transparency-code-2014>.

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