



## **Open Data and Transparency Obligations for Private Organisations Delivering Public Services**

Where private companies are commissioned to deliver public services, data generated in doing so effectively disappears from public accountability. Private contractors are exempt from the Freedom of Information Act, and transparency obligations are applied inconsistently through individual contracts – where they exist at all.

Our direct experience illustrates this acutely. Working with a local authority on a major public building refurbishment worth over £300 million, the council actively supported transparency and open contracting across a complex chain of subcontracts. The main contractor faced no legal obligation to cooperate and repeatedly obstructed progress until the project became unviable. The contract award notice was not findable on any public procurement portal. Public money, public building, public interest – but no public data.

This is not isolated. Civil society and VCSE organisations we work with routinely encounter commissioned services – in care, housing, employment support and environmental protection – where data about delivery, performance and spend is held by private contractors and inaccessible to the communities those services are supposed to serve. We are also aware of instances where public bodies are required to pay contractors for access to data generated through delivery of their own services.

Commit to embedding mandatory open data obligations in all public service contracts above a defined threshold, including standard clauses requiring publication of non-personal performance and spend data to agreed open standards, unambiguous data ownership provisions confirming publicly-funded data belongs to the commissioning body, and transparency obligations on contractors equivalent to those on public bodies

under FOI.

Public money should produce public data. This directly addresses transparency and accountability, builds on existing procurement reform, and could be co-created with open contracting, civil society and procurement specialists already working in this space.