

The UK's First Open Government Partnership National Action Plan: Civil Society Perspectives

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1. Introduction

The United Kingdom was a founding member of the Open Government Partnership (OGP) and will become co-chair of the partnership in April 2012. The OGP is an important new global forum for governments and civil society to work together to bring about gains in the transparency and accountability of government, and the open participatory nature of policymaking. The OGP declaration also highlights the potential of openness not only to improve the processes of democracy, but also to drive efficient, 21st Century government through the application of technologies. Countries submit a National Action Plan (NAP) based on the principles of open government that are articulated in the OGP Declaration¹.

The OGP is framed within the “Universal Declaration of Human Rights, the UN Convention against Corruption, and other applicable international instruments related to human rights and good governance”. The OGP declaration commits governments to: Increase the availability of information about governmental activities; Support civic participation; Implement the highest standards of professional integrity throughout our administrations and to Increase access to new technologies for openness and accountability. OGP members make commitments in their own National Action Plans (NAP).

This document aims to provide initial civil society perspectives on the UK's commitments to the OGP as in the first UK Action Plan published in 2011, and the wider policy context in early 2012. It highlights general strengths and weaknesses in the current National Action Plan, pointing to areas where further engagement with civil society can strengthen a shared agenda for more open government.

Detailed discussion and monitoring of the individual UK commitments is beyond the scope of this initial document, and will be carried out via a collaborative online process in the coming months.

This document has been drafted ahead of the Brasilia meeting of the OGP in April 2012 by a initial network of UK based civil society groups that work on a wide range of issues from transparency and open government - both in UK and internationally -- to open data and public technology policies. These include Campaign for Freedom of Information, Christian Aid, ONE, Open Rights Group, Publish What You Fund, Tiri and Transparency International.

The aim of this paper is to serve as a starting point for widening and deepening UK civil society engagement with the OGP process, and to constructively contribute to the UK co-chairmanship. We invite other civil society groups to get involved at **www.opengovernment.org.uk**.

The main findings of our analysis are summarised here:

1. The UK government must improve its engagement with civil society including wider consultation and clear mechanisms for collaborative design and progress monitoring of the national action plan.
2. The current national commitments are too focused on open data, information technology and public services and should be expanded to cover a comprehensive model of open governance.
3. Internationally, the UK is a global leader on aid transparency. However, the UK must now address the transparency of natural resource revenues and international corporate transparency more broadly.

¹ <http://www.opengovpartnership.org/open-government-declaration>

² <http://www.cabinetoffice.gov.uk/resource-library/making-open-data-real-public-consultation>

2. General issues: NAP process and context

This section takes a critical look at the overall aims of the UK National Action Plan and the policy environment, raising general questions about process that do not relate to any specific government commitments.

2.1. Consultation and process

The OGP is very clear that the NAP should be developed [in consultation with civil society](#) including running awareness raising activities, publishing a consultation (at least online), and developing a forum for discussion. A summary of consultation responses must be published.

The [UK National Action Plan](#) was delivered in September 2011 and draws heavily upon the Open Data Consultation, carried out in the summer/autumn of 2011 via the document "*Making Open Data Real*". The analyses of responses were published in January 2012. Final policy decisions on these options are due to be published in an Open Data White Paper in 2012.

The stated consultation plan aims to channel communications primarily via existing bodies: Public Sector Transparency Board, the Local Public Data Panel and the Transparency Sector Boards. However, these are government run advisory boards, without accountability to civil society or the wider public.

A [separate consultation on Open Standards](#) is taking place linked to the section of the NAP on open standards, and the [Standards Hub of data.gov.uk](#) provides an opportunity for input into selection of open standards, but these consultation exercises are not directly linked to the OGP, are not focused on civil society engagement, and have limited scope focusing on implementation rather than choice of policy commitments.

NAP commitments around Digital Engagement and the NAP commitments to international actions and leadership have not been independently consulted on.

We note that there has been no dedicated and comprehensive consultation with civil society on the UK's OGP commitments. We do not consider the current efforts to constitute an adequate 'Open Government Partnership' consultation framework. Over 2012 the UK Government will need to take steps in collaboration with Civil Society to develop an updated NAP that takes account of a broader range of concerns - which we set out fully below.

We also encourage government to adopt innovative methods for engaging with civil society that go beyond the publication of a dense consultation document. We will be very happy to collaborate in the development of channels that increase democratic participation.

UK Civil Society organisations are currently identifying positive ways in which other governments have engaged with civil society, and will share best practice lessons for the UK Government³.

² <http://www.cabinetoffice.gov.uk/resource-library/making-open-data-real-public-consultation>

³ See some excellent explanations here

http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/page_files/Summary%20of%20SC%20Action%20Plan%20Consultations_1.pdf

2.2. Grand challenges

The OGP invites governments to address a number of grand challenges⁴:

1. **Improving Public Services**—measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications and any other relevant service areas, by fostering public service improvement or private sector innovation
2. **Increasing Public Integrity**—measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom
3. **More Effectively Managing Public Resources**—measures that address budgets, procurement, natural resources and foreign assistance
4. **Creating Safer Communities**—measures that address public safety, the security sector, disaster and crisis response, and environmental threats
5. **Increasing Corporate Accountability**—measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement

National Actions Plans are designed for two years, but are ‘living documents’ and so can be revised and developed over the two-year period. The UK NAP contains a series of concrete commitments focusing on two of these grand challenges:

- *Improving Public Services* and
- *More Effectively Managing Public Resources*.

The current UK NAP commitments aim to deliver the following outcomes:

- accountability
- informed choices
- improved outcomes and quality
- productivity in key services through informed comparison
- transformation of social relationships – empowering individuals and communities
- dynamic economic growth

While we can see the value in these choices, we believe that the chairmanship of the OGP should be an opportunity for the UK to lead international open government efforts with a broader set of challenges. We hope that the review of the UK NAP will present an opportunity for this to happen.

Civil society organisations have proposed the extension of the UK OGP commitments to cover the areas of Public Integrity and Corporate Accountability. There is evidence that although the UK may not have a serious corruption problem by international standards, there is no room for complacency. In addition to events in the past year - ranging from phone hacking to political donations - the OECD has recently raised concerns about the transparency of UK’s anti-bribery efforts⁵.

Besides taking on more OGP challenges, there is also potential to expand on the existing UK challenges, particularly in relation the management of natural resources for sustainable development outcomes.

⁴ <http://www.opengovpartnership.org/country-commitments>

⁵ http://www.oecd.org/document/42/0,3746,en_21571361_44315115_50025386_1_1_1_1,00.html

We believe it will be important to establish clear accountability procedures for delivering the plan, with both overall responsibility across government and named individual officials responsible for each commitment.

2.3. Existing initiatives and policy context

The UK NAP sets out current initiatives that have taken place in the UK and are not new commitments. It explains that there have been two open letters from the Prime Minister, David Cameron, to his Cabinet instructing them to open government. In the first,⁶ published in May 2010, the focus was on government transparency and increasing the availability of data in an open standardised format. This partially followed on several initiatives of the previous administration⁷.

The second letter from July 2011⁸ shifted the focus to data around public services, in particular: health, education, criminal justice, transport and government financial information. Many of the UK's commitments are articulated as part of an 'open public services' agenda, which focuses on increasing competition in the delivery of public services⁹. Although this new policy layer is meant to add to the previous one, there are concerns that the original political transparency objectives are being displaced by a focus on public services performance.

In addition to the commitments made to release specific datasets in these letters, the following actions have also been taken:

- **The Public Sector Transparency Board** has been established as an advisory body chaired by the Minister for the Cabinet Office and including external data specialists.
- **The Public Data Principles** have been drafted to provide basic guidance for public bodies on release of public data.
- **Data.gov.uk** has been developed as a central data portal
- **The Open Government Licence** has been provided as a default for most public sector information. It is intended to be interoperable with widely used models such as Creative Commons and Open Data Commons. It supports the inclusion of machine-readable descriptions and semantic web properties.
- **The E-petitions** service has been relaunched. The new online service allows anybody to create an e-petition about anything that the Government is responsible for and now if it gets at least 100,000 signatures, it will be eligible for debate in the House of Commons.
- **An Independent review of the impact of Transparency on privacy** was commissioned. The review was published on September 2011 and serves to ensure that as the Government develops its transparency agenda, it continues to uphold high standards of personal privacy.

Many of the initiatives outlined above have resulted from interaction between government, civil society and the private sector campaigning for access to open data. The formalisation of open data policy creates both opportunities and threats for effective civil society participation. **We note that whilst the Transparency Boards include some civil society members, there is no formal agreement on civil society representation in these structures, and that new structures currently in development (Open Data Users Group; Data Strategy Board, sector boards etc.) contain limited roles for civil society membership.**

⁶ number10.gov.uk/news/letter-to-government-departments-on-opening-up-data

⁷ <http://www.opsi.gov.uk/advice/poi/power-of-information-review.pdf>

⁸ number10.gov.uk/news/letter-to-cabinet-ministers-on-transparency-and-open-data

⁹ <http://www.openpublicservices.cabinetoffice.gov.uk/>

We note that international initiatives, such as the development of the International Aid Transparency Initiative (IATI), the Construction Sector Transparency Initiative (CoST) and the Extractive Industries Transparency Initiative (EITI) operate through on-going partnerships of governments and civil society.

We welcome the leadership provided by the UK in developing the Open Government Licence and Public Data Principles.

However, we also note that the Open Data Privacy Review mentioned in the NAP, which received substantial input from a variety of organisations and was widely praised, has not been accepted by government. It is thus unclear what guidance the government is currently following on this matter. Outstanding concerns remain about the extent to which privacy issues are being properly addressed in the extension of the open data agenda. Accepting the Privacy Review would be an important starting point, but wider consultation with privacy organisations should follow.

We note the heavy focus of existing initiatives on open data, and the need to continue to monitor the implementation of the Public Data Principles. Further discussion of the UK's existing initiatives on public participation would be valuable. The e-petitions site has achieved huge success in attracting citizens, but unfortunately this has not been matched by increasing capacity in Parliament¹⁰, resulting in limited practical effect.

A positive development not mentioned in the NAP is the creation of a new Open Data Institute to help innovative start up businesses and improve capacity in the public sector. Civil society groups have already approached the project team to ensure that it also includes a civic strand in its activities.

¹⁰ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/procedure-committee/news/e-petitions-report-published/>

3. UK commitments: key issues

The UK NAP makes a number of commitments, divided into three sections:

(1) Open Data commitments

these are set out under six levers of change:

1. **The Right to data:** creating new powers for ‘appropriate independent organisations’ to secure release of valuable public datasets; new time limits for FOI internal reviews and higher cost-caps for requests to access data held in IT systems¹¹; mandating phased introduction of ‘Public by Default’ in new generation of IT systems.
2. **Setting standards:** setting standards for publication of open data, with a monitoring process; using the five stars of linked data to publish data; setting out how citizens can challenge failures in publication.
3. **Corporate and personal responsibility:** placing responsibility at Board level in government for open data; extending the sector transparency board model.
4. **Collecting and publishing the right data:** creating data inventories; prioritising inventories ‘by value’; reducing ‘unnecessary data’ collection; developing data.gov.uk and other channels to provide access to data and tools.
5. **Maximising the opening up of data:** routinely publishing evidence and database behind policy statements; routine publication of data underlying surveys alongside analysis and examining ways to improve use of existing published data for policy and research.
6. **Stimulating the market for innovative uses of open data:** public services to report on how they are building collaborative relationships with user community, including the commercial sector.

(2) Overseas development aid: transparency and accountability

Commitments here include:

- Using OGP eligibility criteria and related datasets as part of assessment processes, which determine the readiness of partner governments for UK budget support.
- Spending 5% of budget support (as additional funds) on strengthening local accountability to support progress against OGP¹²
- Publishing aid information from all government departments who spend overseas development assistance in line with IATI.

(3) UK Government ICT Strategy

The Government ICT Strategy involves a commitment to move to a ‘digital by default’ approach for public services, with ‘assisted digital’ services for those for whom digital channels are less accessible. Additional measures here will include:

- Crowdsourcing data standards
- Mandating digital channel shift in selected government services
- Standardising government APIs to allow third parties to build on government information and services
- Including an online channel in all government consultations

¹¹ This proposal only relates to requests for data held in IT systems procured after July 2012, not FOI requests in general, for which there have been calls to reduce the cost limit, thus reducing access.

¹² <http://www.dfid.gov.uk/Documents/publications1/5-percent-Briefing-Note-apr11.pdf>

- Embedding social media as a mainstream channel for engagement with citizens, business and internal communication
- Established standardised formats for user satisfaction data

In the sections below we identify key considerations for government to take into account in delivering on these commitments.

3.1 Open data

The UK rightly deserves praise as a leading country in open government data and the commitments generally point in the right direction. These commitments were subjected to a consultation and a subsequent white paper is expected in the first half of 2012.

From the review of consultation responses, there are some concerns that perceived resource implications may slow the release of open government data, particularly if the policy relies on future ICT capacity that may not materialise in time. This leads to pressure for prioritisation of selected datasets, but there is no agreement on what criteria should apply. There is widespread feeling that external demand should drive releases but this requires improved engagement. While it is important for open data to drive economic activity, as in current OGP commitments, this should explicitly take place alongside collaboration with the civic sector to identify demand for datasets that support social innovation, and to ensure releases are driven by civic as well as business needs.

One important commitment for civil society organisations relates to the release of data related to research and policymaking. It is of some concern that this was not mentioned in the review of consultation responses.

While introducing standards is important to compare and track progress, it is unclear that a single model would fit all data and purposes. Alongside the technology centred 5-star model proposed by Tim Berners-Lee and mentioned in the current commitments, there are other models - for example based on citizen engagement¹³. The practical usefulness of data to citizens should be a primary criterion in evaluating open data publication.

There are also wider issues that may complicate delivery and need to be addressed when monitoring the commitments. The good efforts of the Cabinet Office and a few other departments, such as Transport, are unevenly matched across government. In particular the department of Business, Innovation and Skills (BIS), which holds important trading funds such as Ordnance Survey that currently sell public data, has fiercely resisted greater openness.

This lack of consistency means that the quality of data that is currently published is often poor, and publication may be intermittent, which is unhelpful for business in particular. Data may be published without clear explanations of context, meaning that in reality it is difficult to use. Fundamentally, the right to continued access to a dataset, once released, does not exist. One key obstacle is that the culture within the public sector and with public service providers is not currently focused on making data available.

3.2. Overseas development

3.2.1. Global leadership

¹³ <http://www.opendataimpacts.net/engagement/>

We welcome the UK Government's leadership in improving public financial management; strengthening human rights; increasing domestic accountability and reducing poverty. The UK Action Plan commitments include the OGP eligibility criteria and related datasets for UK budget support; to spend up to 5% of budget support (as additional funds) on strengthening local accountability to support progress against related OGP goals; and publish aid information from all government departments who spend overseas development assistance (ODA) in line with the International Aid Transparency Initiative (IATI) standard.

In line with the UK's commitment to fragile and conflict-affected countries¹⁴, including the [New Deal for Engagement in Fragile States](#) and the [UK Building Stability Overseas Strategy](#), further commitments should be made to strengthening local accountability and participation in these contexts.

As highlighted in the [Independent Commission for Aid Impact's Approach to Effectiveness and Value for Money](#), mechanisms to support and strengthen local accountability include "proven and cost-effective methods such as 'public audits' used in communities". These forms of citizen engagement are an important complement to transparency and open data initiatives, such as IATI, CoST, GIFT and EITI, and are at the heart of open governance.

The UK's Action Plan is silent as regards transparency about natural resource revenues in developing countries, a surprising omission given the UK Government's stated support for EU legislation to match the USA's groundbreaking legislation on transparency of the extractive sector.

3.2.2. Aid transparency

The UK has been a crucial leader in aid transparency, in both the development and implementation of the International Aid Transparency Initiative (IATI) Standard for publishing timely, comparable and comprehensive information about aid. DFID was the first donor to begin [publishing to the IATI Registry](#) in 2011 and is continuing to improve the quality and comprehensiveness of its data. The CDC Group, the UK's development finance institution, has [also signed IATI](#) and is developing an implementation schedule.

The coalition government also introduced a [UK Aid Transparency Guarantee](#) in June 2010, committing itself not only to publishing detailed aid information but also to allowing reuse of this open data and encouraging user feedback. It also pledged to encouraging or requiring other actors in the international aid system to transparency. DFID is requiring its civil society organisation grantees to publish to IATI; this requirement for transparency needs to be applied equally to all implementing agencies and partners, including commercial entities.

The most significant aid component of the NAP is the whole-of-government approach to publishing aid information. The NAP commits to publish aid information to this common standard (IATI) from all government departments that spend "overseas development assistance". These departments (and agencies) include the Foreign and Commonwealth Office (FCO), Department of Energy and Climate Change (DECC), Treasury, the Export Credit Guarantee Department (ECGD) and the Ministry of Defence (MOD). A timetable for implementation from all relevant departments will be finalised by September 2012. An ambitious timetable that requires publication of all external assistance information (with the use of best practice exemptions policies where necessary) would be a significant achievement and would maintain the UK's global leadership in this important area.

¹⁴ <http://www.dfid.gov.uk/Documents/publications1/op/gov-frag-sts-dept-2011.pdf>

3.3. ICT Strategy

Technology is a very important enabler of transparency in the digital world and open government more generally. However, this section of the commitments appears rather like a collection of existing initiatives bolted on together as an afterthought. We would hope that the review of the NAP would provide an opportunity to better examine the interaction between the sections of the plan towards a comprehensive open government model.

3.3.1. Open Standards

The coalition government has been widely praised for its commitments to the reform of public ICT, including introducing open standards and increased interoperability to lower costs and reduce dependency on multimillion-pound contracts.

There are grave concerns however those government commitments to open standards are in danger after extreme lobbying by proprietary software firms ¹⁵. This has already led to the freezing of the policy pending an official consultation that has seen a major mobilisation by large commercial interests. A reversal of this policy would be a serious blow to the credibility of the current government's attempts to transform a public ICT plagued by inflated costs and delays.

3.3.2. Public participation

The NAP includes a commitment that 'departments will ensure that an online channel is included in all government consultations', and there have been a number of large scale and effective online consultations over the last year, including consultations that make use of commentable online documents. However, in many instances the online channel offered for consultation is simply an online form to complete, and the potential of the Internet to support for participatory policy making is underexploited.

The development of standard formats for user satisfaction data can act as an important part of giving service users an opportunity to express their views on public provision. However, we would like to see further exploration of how such feedback not only allows individuals to "*departments will ensure that an online channel is included in all government consultations*" (National Action Plan §3), but also influences decision-making within public services, and supports a wide range of citizen participation in shaping public services.

¹⁵ <http://www.computerweekly.com/blogs/public-sector/2012/03/microsoft-redeploys-ooxml-in-o.html>
<http://www.computerweekly.com/blogs/public-sector/2012/01/microsoft-hustled-uk-retreat-o.html>

4. Emerging issues in UK Open Government

This section looks at some of the key challenges facing the development of a UK Open Government policy. It expands beyond the UK NAP document to provide a wider analysis and contextualisation of the proposed commitments, and potential lines for expansion and modification of the NAP.

4.1. FOI reform and right to data

Remarkably, the NAP currently makes almost no reference to the Freedom of Information (FOI) Act or Environmental Information Regulations either in the section describing open government achievements to date or that outlining the government's new commitments. This represents a surprising omission given the central role FOI plays in opening up government and the coalition government's commitment to "extend the scope of the Freedom of Information Act to provide greater transparency".¹⁶ It is also an area where the UK could share expertise of implementation with other countries.

The operation of the FOI Act is currently subject to a major review by the House of Commons Justice Committee¹⁷ that is likely to recommend changes to the law. While this presents an opportunity to improve the Act and increase the availability of information in accordance with the OGP Declaration, civil society organisations are concerned that it may result in restrictions to the right of access. The review was initiated by the Ministry of Justice which has published its own assessment of how the Act is working, which highlights specific areas of concern¹⁸. In particular, there is significant pressure from public authorities for fees to be introduced for making requests and for it to be made easier for requests to be refused on cost grounds. There is also pressure for greater protection to be given to information about policy discussions.

Concerns about the government's approach to transparency were reinforced by recent comments by the Prime Minister, David Cameron, to a committee of senior MPs that "real freedom of information is the money that goes in and the results that come out" as distinct from the "endless discovery process" of FOI which "furs up the whole of government".¹⁹ CSO's are concerned that government may see open data as a substitute for the right to information provided by FOI.

The NAP states that "open data enables accountability; it improves outcomes and productivity in key services through informed comparison; it transforms social relationships – empowering individuals and communities". We agree that the publication of data is valuable but it will not, in itself, realise these objectives without the broader right to information and scrutiny that the FOI Act provides. That makes it possible to put the data in context, discover what lies behind differences in outcome, understand why more progress has not been made and identify further steps that may be needed.

One of the 'levers' of change identified in the NAP open data commitments is a 'right to data', establishing stronger rights for citizens and organisations to obtain data in a re-usable format. The government is taking steps to do this, at least for public authorities, via amendments to the FOI Act that the current Protection of Freedoms Bill will make when it becomes law in the next few weeks.

However, an acute concern exists in relation to information held by the commercial or voluntary sector providers of public services. The government's 'open public services' agenda proposes to "switch the default from one where the state provides the service itself to one where the state

¹⁶ http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

¹⁷ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2010/foi/>

¹⁸ <http://www.justice.gov.uk/downloads/publications/policy/moj/post-legislative-assessment-of-the-foi-act.pdf>

¹⁹ <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmliaisn/uc608-v/uc60801.htm>

commissions the service from a range of diverse providers”²⁰. As such independent providers, who are outside the scope of the FOI Act, come to play an increasingly significant role the citizen’s rights to information will be weakened. The government is considering whether these bodies should be subject to a new right to data²¹ - but a strong case exists for also making them subject to the FOI Act.

4.2. Does the UK have a corruption problem?

The UK has a sound legal framework that is compliant with the United Nations Convention against Corruption (UNCAC), but there remain serious problems:

- a) The UK's Bribery Act 2010 is one of the best in the world. However, the Ministry of Justice guidelines released on March 2011 risk weakening the legislation in certain areas and create unnecessary confusion for companies. For example, the guidelines state that companies raising capital in the UK (listed in the London Stock Exchange) but have no other business in the UK will not be covered by the Act. More importantly, if bribery is carried out by a joint venture company overseas, there would be no liability for UK company involved in that joint venture. It is worth noting that in the extractive industry joint ventures are the most common arrangement. The guidelines also state that subsidiaries involved in bribery do not make the parent firms liable. In other words, it seems that the MoJ guidelines have created unnecessary loopholes.
- b) Embezzlement and misappropriation are crimes in the UK. But monitoring and auditing will be weakened by the impending abolition of the Audit Commission²², and arrangements for its replacement are unsatisfactory.
- c) The UK has a robust legal framework to criminalise the laundering of proceeds of corruption. However, there has not been enough action against lawyers, bankers, and accountants, even real estate agents that handle transactions involving corrupt or stolen money. For example, a Financial Services Authority review of banks' know-your-customer rules showed that up to 75% of British banks might be handling corrupt money²³. It appears that the real estate market and global financial hub of the City of London incorporate the proceedings of corruption happening in many countries around the world.
- d) Despite government claims to the contrary, we maintain that the UK is not improving standards on critical reforms relevant to open government. The UK does not collect information on the ultimate or beneficial owners of UK companies. Neither does it exert pressure on Crown Dependencies and Overseas Territories to publish their company registries -- hence, many of them have become key secrecy jurisdictions that facilitate transfer pricing and other forms of tax dodging.
- e) The so-called 'revolving door' -- for example when defence officials become executives of defence companies after their terms of office -- remains a key problem in the UK. The recently publicised case of MI6 official Sir Mark Allen illustrates this point. Sir Mark allegedly arranged the rendition of a Libyan national and his wife - who were subsequently tortured - as part of the rebuilding of relationships between Libya and Britain, which included helping BP enter the country.

²⁰ Open Public Services, para 5.2 <http://www.openpublicservices.cabinetoffice.gov.uk/wp-content/uploads/2012/03/OpenPublicServices-WhitePaper.pdf>

²¹ Making Open Data Real, paragraph 4.8

²² <http://www.transparency.org.uk/all-news-releases/180-transparency-international-concerns-over-localism-bill->

²³ http://www.fsa.gov.uk/pubs/other/aml_final_report.pdf

He then went to work for BP on a £200k/year salary²⁴. We are not accusing all these officials though of involvement in criminal acts. The concern is more around how this practice is eroding standards in public life. Transparency International UK recently published a report that concludes that the revolving door between government and business is broken and needs a radical overhaul. The report outlines recommendations to help reduce the risk of unethical behaviour and maximise the system's benefit to society²⁵.

f) The UK provides strong and comprehensive protection for workplace whistleblowing, through the Public Interest Disclosure Act (PIDA) 1998. But a YouGov survey commissioned by Public Concern at Work shows that 3 out every 4 adults do not know anything about this legislation ²⁶.

g) The Levenson enquiry appears to confirm the findings from a study by Transparency International ²⁷, which outlined particular concerns about increasing corruption in many key national institutions, including: prisons, political parties, parliament and sport. The report - which examines the levels of corruption in 23 UK sectors and institutions - concludes that in some areas of UK society, corruption is a much greater problem than recognised and that there is an inadequate response to its growing threat. The enquiry has heard of widespread payment to "a network of corrupt public officials" by journalists²⁸.

h) Lobbying and the extent of influence corporations and rich individuals have in shaping public policy remain some of the most serious open governance issues facing developed countries, including the UK. In most cases this is not straightforward criminal corruption but a generalised undermining of public trust that makes citizens feel powerless. Extreme examples include the collusion between the nuclear industry and government officials to downplay Fukushima²⁹ and the recent scandal of Conservative donors "buying access" to David Cameron. Current proposals for a register of lobbyists and reforms to party finance could be positive steps if implemented properly, but would only cover the more overt forms of influence.

The responsibilities for dealing with corruption are spread across Whitehall offices: Department for International Development (DfID) leads on UNCAC; the Department for Business, Innovation and Skills (BIS) leads on the OECD conventions; Ministry of Justice leads on the G20 Anti-Corruption Working Group, and Kenneth Clarke is international anti-corruption champion.

The Open Government Partnership provides a unique opportunity for the Cabinet Office to work with other departments to improve the coordination of efforts.

4.3. Open Public services

The consultation on open data made explicit that the policy has as its main objective the advancement of the Open Public Services agenda, which has been presented as white paper and is now in further development.³⁰

²⁴ <http://www.guardian.co.uk/commentisfree/2012/apr/12/war-on-terror-corrupting>

²⁵ <http://www.transparency.org.uk/publications/140-cabs-for-hire-fixing-the-revolving-door-between-government-and-business/download>

²⁶ http://www.pcaaw.org.uk/files/PCAW_Review_beyondthelaw.pdf

²⁷ <http://www.transparency.org.uk/ti-uk-programmes/corruption-in-the-uk>

²⁸ <http://www.guardian.co.uk/commentisfree/2012/feb/28/leveson-inquiry-uk-corruption-problem>

²⁹ <http://enews.com/leaked-emails-show-british-govt-worked-with-nuke-industry-on-pr-campaign-to-downplay-fukushima-degree-of-collusion-truly-shocking>

³⁰ <http://www.openpublicservices.cabinetoffice.gov.uk/>

Scrutiny is needed to check OGP commitments are not perceived to instrumentalise a focus on openness as a framework for the marketisation of public services in ways that could diminish public accountability, reduce the provision of comprehensive high-quality service to citizens and undermine the need for a clear democratic mandate in any reform of public services.

Besides the need raised in the section above for extending transparency regulations to non-state actors, there are particular issues where opening information on public services is combined with new organisational structures. There are concerns, such as those expressed in the debates around the NHS bill, that these may also involve shifting ultimate responsibility for service delivery from elected politicians to bureaucrats or to private entities without clear public accountability. Accountability through the market is qualitatively different from political accountability.

4.4. Personal data, big data and privacy concerns

There are significant concerns about the conflation in policy of open data initiatives, data sharing and generating value from data-mining of citizens' data.

The privacy implications of several of these measures are particularly worrying where anonymisation technologies are being deployed uncritically. The vast majority of computer security experts are raising doubts about the effectiveness of these technologies to prevent re-identification in an open data environment.

Some examples of problematic recent data releases:

- Health: Clinical Practice Research Datalink (CPRD), where “unidentified individual level records” as linked data to be shared with medical companies.
- Justice: Publication of anonymised individual-level re-offending and sentencing outcome data in a re-useable format.
- Welfare: Anonymised Fit-note data to be shared with companies, and generally “linking welfare datasets to other government and commercial datasets to increase their value to industry”

A related issue is the right of the state to sell or share with commercial enterprises databases composed of “anonymised” citizen data. While this is common practice in the private sector, it is unclear the public sector should engage in similar practices. While there is undoubtedly great economic value in these data, it would be worth exploring a public interest national data policy.

4.4. Core reference data

Open data advocates have been demanding for a long time the release of government funded Core Reference Data that is needed to contextualise and complement much other open government data. This includes Ordnance Survey mapping, postcodes, and national registers such as Land Registry, Companies House, etc. The UK is among the few countries where these public data institutions function like businesses, called Trading Funds, mostly financed by the sale of data and services. Attempts to reform this sector towards an open data model have been fiercely resisted by incumbents, resulting in a complex system centred on a newly created Public Data Group³¹.

Government has tried to separate the reform of public data trading funds, perceived as an economic innovation matter, from wider open data issues related to transparency. For example, these reforms were presented in two separate consultations in 2011. However, there are good reasons to argue that Public Core Reference Data is a base element for any open government data programme, in the same way that widespread access to Internet infrastructure is to e-government developments.

³¹ <http://www.cabinetoffice.gov.uk/resource-library/data-strategy-board-public-data-group-and-open-data-user-group-resources>

Commercial companies providing free online services, such as Google Maps, currently fill the gap. However, as evidenced in recent debates around Google's changes to its privacy policy, free online services are in fact normally paid by personal data.

As part of the analysis of the OGP commitments we hope to see a clear evaluation of where the absence of Core Reference Data impacts on the exercise of accountability.

4.5. Devolved administrations and local government

The OGP commitments are ostensibly about the UK, but much of transparency and public data policy is in the hands of the devolved administrations and local government. This aspect should be analysed in more detail at the next review of the commitments and the implementation plan.

5. Developing the dialogue

This document is intended to highlight areas for deeper dialogue both within civil society, and between civil society and government on the development of the UK's Open Government Partnership commitments and action plan. It has offered an initial assessment of key topics, drawing together inputs from a number of organisations.

In the coming months there will be many events in UK relating to the Open Government Partnership, culminating in a major high profile conference. We hope this effort leads to an enhanced participation from NGOs and the civic sector.

Overall, we believe current UK policy will need more explanation on what it aims to achieve. Any discussion on 'Open Government' needs clarity³² on where the emphasis lies and what is the focus of openness in a particular context:

- Being open about its processes - e.g. transparency, FOI
- Being open with its information assets - e.g. open data
- Being open to input and feedback from citizens - e.g. consultation, participation
- Adopting option methods to provide public services - e.g. co-producing, or introducing greater use of markets

More widely we believe that if the potential of the Open Government Partnership is to be realised, three points need to be taken on board:

- The Open Government Partnership must be about citizens as well as governments. Government is only part of a governance equation that has citizens and their relationships with the state and the private sector at the centre.
- The Open Government Partnership must be about more than open data. Transparency and information are only the starting points for better governance.
- The Open Government Partnership and countries' plans to open governance must not stop at the borders. In a globalised world, people, profits, pollutants and poverty – as well as information – flow and extend across borders. So does the impact of national regulations.

We hope that it supports an on-going conversation, both at <http://www.opengovernment.org.uk> and more widely.

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³² Robinson and Yu in *The New Ambiguity of Open Government* (2012) highlight the potential for Open Government to mean many different things, and the need for greater clarity in discussions.