

Independent Reporting Mechanism

United Kingdom Co-Creation
Brief 2023

Open
Government
Partnership



Independent
Reporting
Mechanism

Introduction

This brief from the OGP's Independent Reporting Mechanism (IRM) serves to support the co-creation process and design of the United Kingdom (UK)'s sixth action plan and to strengthen the quality, ambition and feasibility of commitments. It provides an overview of the opportunities and challenges for open government in the country's context and presents recommendations. These recommendations are suggestions, and this brief does not constitute an evaluation of a particular action plan. Its purpose is to inform the planning process for co-creation based on collective and country-specific IRM findings. This brief is intended to be used as a resource as government and civil society determine the next action plan's trajectory and content. National OGP stakeholders will determine the extent of incorporation of this brief's recommendations.

The co-creation brief draws on the results of the research in [prior IRM reports for the UK](#) and draws recommendations from the data and conclusions of those reports. The brief also draws on other sources such as [OGP National Handbook](#) and [OGP Participation and Co-creation Standards](#), to ensure that recommendations provided are up-to-date in light of developments since those IRM reports were written, and to enrich the recommendations by drawing on comparative international experience in the design and implementation of OGP action plan commitments as well as other context-relevant practice in open government. The co-creation brief has been reviewed by IRM senior staff for consistency, accuracy, and with a view to maximising the context-relevance and actionability of the recommendations. Where appropriate, the briefs are reviewed by external reviewers or members of the IRM International Experts Panel (IEP).

The IRM drafted this co-creation brief in February 2023.

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Section I: Action Plan Co-Creation Process

In August 2022, OGP's Criteria and Standards Subcommittee [placed](#) the UK under Procedural Review after the ORM's 2021-2023 [Action Plan Review](#) found it had acted contrary to OGP process for a third consecutive action plan cycle. In December 2022, the Subcommittee [ruled](#) that the UK Government must provide evidence of meeting OGP's minimum standards during the implementation of the 2021-2023 action plan by 30 June 2023 to avoid being recommended for inactivity. Given the UK's current membership on OGP's Steering Committee, the UK should ensure that its domestic OGP process sets a positive example for other members in the Partnership.

The upcoming sixth action plan offers an opportunity for the Cabinet Office, the Open Government Network (OGN), and the multi-stakeholder forum (MSF) to revitalise the OGP process. Particular attention should be paid to ensure that the process meets, and preferably exceeds, the requirements of OGP's [updated co-creation and participation standards](#). It will also be important to address the challenges from the previous co-creation process, particularly resource constraints for civil society, ministerial approval procedures of the draft action plan, and the need to provide reasoned response to stakeholders on how the government arrived at its final decisions for the commitments.

To this end, the ORM recommends the following for the co-creation of the sixth action plan:

1. Design a co-creation process that enables meaningful dialogue, while also being realistic and accounting for resource constraints.
2. Develop a mechanism to gather input from a range of stakeholders, such as an open call for proposals from the public.
3. Ensure that stakeholders have a clear understanding of the aims of each step of the co-creation process.
4. Engage ministers throughout the co-creation process and ensure ministerial awareness of commitment proposals prior to the approval of the final action plan.
5. Prior to adopting the final action plan, report back to stakeholders on how their contributions from the co-creation process were considered.

RECOMMENDATIONS

Recommendation 1: Design a co-creation process that enables meaningful dialogue, while also being realistic and accounting for resource constraints.

The co-creation of the UK's fifth action plan aimed for nine thematic working groups, but only [five were realised](#). In large part, the discrepancy between the ambition and the result was due to limited financial resources and time constraints for the OGP process. This was particularly acute for the civil society side, as members of the OGN volunteered their time to organise consultation events.

When designing the sixth action plan's co-creation process, the Cabinet Office and the OGN should ensure that the process is realistic, given the resource constraints. This could entail reducing the number of thematic working groups so that time and resources of stakeholders are not overextended. Ideally, the Cabinet Office could allocate more of its own resources to support the co-creation process to relieve the burden on the OGN, such as hiring independent facilitators to help organise and facilitate consultation events.

In addition, the amended fifth action plan includes a [commitment](#) to create a working group around diversity and inclusion in the UK's OGP process. It will be important to provide this working group with resources for it to achieve its objectives during the sixth action plan.

Recommendation 2: Develop a mechanism to gather input from a range of stakeholders, such as an open call for proposals from the public.

While the above-mentioned resource constraints should be considered, the sixth action plan's co-creation process should also be open to new ideas from the public, particularly in the early stages when deciding potential themes. The Cabinet Office and the OGN could start the process with an open call for proposals to gather ideas from a wide range of stakeholders. The Cabinet Office and the OGN can then consolidate the ideas into concrete themes for further discussion in the working groups, depending on the levels of interest among stakeholders. This way, the process will be open to new ideas, even if most working groups consist of organisations with technical expertise. An open call for proposals would also be in line with OGP's updated minimum co-creation and participation requirements, which call for a mechanism to gather inputs from a range of stakeholders during an appropriate period.

Recommendation 3: Ensure that stakeholders have a clear understanding of the aims of each step of the co-creation process.

During the fifth action plan's co-creation process, the effectiveness of the working groups varied by topic. For new topics, working group discussions were less focused due to lack of past experience in OGP processes. As a result, several priority areas were excluded from the draft action plan because the working groups were unable to agree on a set of activities that the Cabinet Office considered workable. Moreover, the Cabinet Office noted that it was challenging in some working groups to achieve a balance between having a diversity of views and the necessary expertise in the topics.

To avoid similar challenges during the sixth action plan, the MSF and the Cabinet Office should ensure that participating stakeholders (in government and civil society) understand the intended aims of each stage of the co-creation process. For each stage of the process, it will be important to think about what type of input is preferred and from whom (i.e., gathering input from specialists with technical knowledge or having an open call for proposals). The MSF and the Cabinet Office could jointly develop a co-creation methodology that provides stakeholders with a set of goals for each stage of the process, such as distilling topics down to potential activities and drafting the commitment proposals.

Recommendation 4: Engage ministers throughout the co-creation process and ensure ministerial awareness of commitment proposals prior to the approval of the final action plan.

The Cabinet Office shared the draft commitments of the fifth action plan with ministers for their approval shortly before the deadline to adopt the plan. At that stage, many draft commitments saw activities removed or significantly reduced in ambition, without further explanation or consultation with stakeholders. The OGN [criticised](#) the final action plan because it differed significantly from the proposals discussed in the thematic working groups. For the sixth action plan, the Cabinet Office should engage relevant ministers throughout the co-creation process and from the beginning. Ministerial awareness of and involvement in the co-creation process, particularly in its early stages, can reduce the likelihood that draft commitments are changed or removed during the ministerial approval procedure.

The Cabinet Office should provide ministers with information on their expected role in the process and in approving the final commitments. Ideally, the Cabinet Office should invite ministers to attend MSF meetings and working group sessions, so they can clarify to participants when a proposal might not be politically feasible. As ministerial attendance is subject to their availability, the Cabinet Office could provide relevant ministers with written summaries of working groups discussions and offer them an opportunity to give direct feedback on proposals.

Recommendation 5: Prior to adopting the final action plan, report back to stakeholders on how their contributions from the co-creation process were considered.

The IRM found the UK acting contrary to OGP process during the past two action plan cycles because the government did not report back to stakeholders on how their contributions from the co-creation processes influenced the final plans. During the fifth action plan, the ministerial approval procedures resulted in significant last-minute changes but did not allow the Cabinet Office to give stakeholders feedback on how or why the changes were made.

For the sixth action plan, the UK should comply with OGP's minimum requirements for co-creation by documenting stakeholders' contributions during the co-creation process *and* reporting back to stakeholders before the final plan is adopted on how their contributions were considered. The UK Government should report back to stakeholders on the reasons behind any changes made during the ministerial approval procedures and explain how it arrived at its final decisions for the commitments. Preferably, ministerial involvement in the co-creation process will reduce the need for major changes to the action plan before it is approved. But if late changes to the draft are made again, the government must report back to stakeholders on why and how these changes occurred.

For maximum transparency, the Cabinet Office could publish the reasoned response on the OGN's website, accompanying the readouts from MSF meetings and working group discussions. Following [Finland's example](#) from its 2019-2023 action plan, the Cabinet Office could produce a tracked-changes version of the draft action plan after it returns from ministerial approval so that anyone could follow the changes that emerge from the approval procedures. The Cabinet Office could also publish a final summary of the proposals and feedback on how the proposals were considered. For example, Canada [published](#) a report called 'what we heard' with feedback on the input received during the co-creation of its 2022-2024 action plan.

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

The UK could use the sixth action plan to pursue ambitious commitments that address pressing domestic and international policy areas. This could include areas that were not included in the fifth action plan, like standards in public life, or that were added to the amended action plan, such as freedom of information and transparency of official development assistance. The sixth action plan could also build on ongoing priority areas, such as international illicit finance (including beneficial ownership transparency) and open contracting.

AREA 1. Standards in public life

The issue of [ethical standards](#) in the UK political system is important to OGP stakeholders but was not addressed in the fourth action plan. The UK can explore reforming the framework of public standards in the sixth action plan, ideally with the support of the Committee on Standards in Public Life (CSPL).

Potential commitments could respond to the findings and recommendations from the CSPL's [Standards Matter 2 report](#) and the [Boardman review](#) to strengthen standards in public life. These include requiring lobbyists to disclose the ultimate person paying for, or benefitting from, their lobbying and broadening the definition of an official meeting for reporting purposes to include more informal communications. In line with the CSPL report, the Cabinet Office could commit to collating all departmental transparency releases and publish them in an accessible, central and searchable database. The UK Government could also commit to publishing a formal response to these reviews and engage civil society in co-creating a reform agenda around ethical standards.

Useful resources

- House of Lords Library: [Standards in public life and the democratic process](#);
- Transparency International UK: [Restoring Integrity in Public Life](#);
- Committee on Standards in Public Life: [Upholding Standards in Public Life: Final report of the Standards Matter 2 review](#);
- Institute for Government: [Boardman review needs to lead to change in government](#);
- Partners that can provide technical support: Transparency International, Institute for Government.

AREA 2. Freedom of information

The UK Government's performance on answering Freedom of Information (FOI) requests on time and in full [declined](#) during the COVID-19 pandemic and the Information Commissioner's Office (ICO)'s backlog of active FOI cases [remains high](#). In July 2022, the ICO [announced](#) that it would take more systemic FOI enforcement action, including issuing more 'enforcement notices' which require authorities to address backlogs of overdue FOI requests. The amended fifth OGP action plan includes a [commitment](#) to establish an information rights user group to discuss how to improve FOI compliance.

In the sixth action plan, the ICO could improve transparency, participation and accountability in enforcing the FOI compliance. The ICO could commit to timely reporting on the corrective measures taken by public authorities that consistently fail to meet their FOI obligations, particularly those that have been issued enforcement notices. The ICO could work with the information rights user group to develop clear guidelines on issuing enforcement notices and how it monitors compliance when notices are issued. In addition, the Campaign for Freedom of Information [raised concerns](#) about the ICO's proposal to streamline how it handles complaints by rejecting more complaints as 'frivolous or vexatious' without investigation. The ICO could commit to safeguarding appeals processes against prioritisation decisions so that legitimate FOI requests are not rejected without investigation. To ensure transparency around these decisions, the ICO could explore the Campaign for Freedom of Information's [recommendations](#) that its monthly summary of open casework include the number of prioritised cases and its quarterly datasets of completed complaint cases indicate which cases have been prioritised. Lastly, it will be important to ensure that the ICO has enough resources to implement any future OGP commitment that it may oversee.

Useful resources:

- Campaign for Freedom of Information: [ICO Freedom Of Information Backlog](#);
- mySociety: [Reforming Freedom of Information: Improvements to strengthen access to information in the UK](#);
- Centre for Law and Democracy: [Global Right to Information \(RTI\) Index: UK](#);
- Partners that can provide technical support: Campaign for Freedom of Information, mySociety, Access Info Europe.

AREA 3. International illicit finance and beneficial ownership transparency

The UK [launched](#) the world's first public beneficial ownership register in 2016. The UK has since [implemented](#) OGP commitments on beneficial ownership transparency and [joined](#) OGP's Beneficial Ownership Leadership Group. The fourth action plan [included](#) a commitment to counter international corruption and illicit finance, including helping Overseas Territories implement public registers of beneficial ownership. Russia's invasion of Ukraine has provided greater momentum to address international kleptocratic wealth in the UK, with the passage of the Economic Crime Bill in March 2022.

Both Overseas Territories and Crown Dependencies have [committed](#) to introduce public beneficial ownership registers by the end of 2023. However, [according to Transparency International \(TI\) UK](#), the slow pace of this process provides opportunities for those using these territories for criminal conduct. The UK could use the sixth plan to continue supporting Overseas Territories in developing their registers, by committing to concrete steps towards this goal rather than statements of intent. TI UK also [notes](#) that Companies House lacks powers to check the accuracy of information it receives. The UK could introduce transparent verification checks for information submitted to Companies House, particularly the identity of individual beneficial owners and their statement of their ownership with the company. Finally, for effective implementation of the Economic Crime Bill, the UK Government can introduce transparent verification checks on the new [Register of Overseas Entities](#) and investigate and remove false information. For example, the Slovak Republic [uses](#) third parties such as lawyers, notaries, banks and auditors to check all information on its register, and companies can be held liable if found to be providing false information.

The November 2022 judgment of the European Court of Justice on public beneficial ownership registers in the EU may indirectly have implications to the UK's approach to beneficial ownership, [including for Overseas Territories](#). When developing future commitments, the UK should explore how this judgement might indirectly affect beneficial ownership transparency in the UK.

Useful resources:

- OGP: [Policy Progress Report: Beneficial Ownership Transparency](#);
- House of Commons Foreign Affairs Committee: [The cost of complacency: illicit finance and the war in Ukraine](#);
- Open Ownership: [Publication of Revised Open Ownership Principles](#);
- Tax Justice Network: [Beneficial ownership verification: ensuring the truthfulness and accuracy of registered ownership information](#);
- Transparency International UK: [Partners in Crime](#);
- Partners that can provide technical support: Open Ownership, Publish What You Pay, Tax Justice Network, Transparency International.

AREA 4. Open contracting and public procurement

In the fourth action plan (2019-2021), the UK Government increased the availability of above-threshold contracts on [Contracts Finder](#) and the adherence of Contracts Finder to the Open Contracting Data Standard (OCDS). The fifth action plan included an ambitious commitment to increase the availability of above-threshold tenders and awards and require all contracting authorities to implement the OCDS. Meanwhile, the UK Anti-Corruption Coalition [noted](#) that the draft Procurement Bill does not explicitly commit to best practice disclosure standards, in contrast to the proposals in the government's [Green Paper](#), which promised a single rulebook with transparency across the full life cycle of public contracts.

The sixth action plan offers an opportunity to build on the past commitments in open contracting and address gaps in existing publication practices identified in the [IRM Action Plan Review](#). For example, the UK could pursue commitments around adopting unique organisation identifier numbers in Contracts Finder to make it easier to track all contracts with a specific company, as well as limiting the over-use of confidentiality clauses and redactions in procurement contracts. Other potential commitments could put in place mechanisms for checking the accuracy of the data on Contracts Finder (beyond OCDS) and set up mechanisms to enable reporting of suspected abuse or corruption of procurement. Since a goal of the Procurement Bill is to reduce structural inequalities and discrimination, the sixth action plan could explore how to use open contracting data to help local communities manage and recover from the impact of COVID-19 and to support small businesses and social enterprises to benefit from government procurement opportunities. Lastly, the UK can revisit the long-standing civil society priority to amend the Freedom of Information Act to cover private contractors that provide public services.

Useful resources:

- OGP: [Open contracting and public procurement](#);
- Cabinet Office: [Green Paper: Transforming public procurement](#);
- [Boardman Review of Government Procurement in the COVID-19 pandemic](#);
- Open Contracting Partnership: [OCDS Data Quality Checklist](#);
- Partners that can provide technical support: Commerce and Spend Network, Open Contracting Partnership, University of Oxford's Procurement of Government Outcomes club, World Commerce and Contracting.

AREA 5. Transparency of Official Development Assistance (ODA)

The UK's official development assistance (ODA) sector has undergone major changes in recent years, including the merger of the Foreign, Commonwealth and Development Office (FCDO) and the government's [reduction](#) in ODA funds. As a result, the FCDO [performed worse](#) in the Aid Transparency Index compared with the Department for International Development (DfID)'s past performances. However, the amended fifth action plan included a [commitment](#) to improve ODA transparency by addressing the recommendations in the Aid Transparency Index and in the Independent Commission for Aid Impact (ICAI)'s [rapid review](#).

In the sixth action plan, the UK can continue pursuing ODA transparency, particularly the recommendations from the Aid Transparency Index and the ICAI. For example, the FCDO could commit to expand the scope of data on the [DevTracker](#) portal to include financial and budgeting data, as well as evaluation and performance information. It could also commit to providing an overview of the implementing activities and the target groups of projects and programmes. The FCDO could also engage civil society and other donor partners to better

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understand the needs of DevTracker users and to support greater use of [International Aid Transparency Initiative \(IATI\)](#) data. For example, Germany's 2017– 2019 action plan [involved](#) dialogue with civil society to improve the quality of its IATI reporting.

Useful resources:

- FCDO: [The UK government's strategy for international development](#);
- OECD Development Co-operation Peer Reviews: [United Kingdom 2020](#);
- [IATI Standard](#);
- Partners that can provide technical support: Bond Transparency Working Group, IATI, Publish What You Pay.