

**Report of a Consultation with Civil Society Representatives and  
Citizens on Ireland's Participation in the Open Government Partnership**



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## Executive Summary

Ireland intends to join the Open Government Partnership, a global initiative aimed at securing commitments from governments to share more information about their activities, increase civic participation in decision-making, fight corruption and harness new technologies to strengthen governance.<sup>1</sup> As part of this voluntary initiative, Ireland has undertaken to develop an Action Plan through a multi-stakeholder process including the active engagement of citizens and civil society.<sup>2</sup>

This report documents the first step in that process.<sup>3</sup> It is based on the deliberations of individuals and civil society organisations which took part in public consultations on Ireland's OGP membership between July and September 2013.

The report presents the following two main outputs from this consultation process:

- Civil society's proposals for concrete commitments to be included in Ireland's OGP Action Plan, the rationale for these and an indication of commitment priorities.
- Civil society's views on how stakeholder participation in the OGP consultation process could be enhanced in the future, including options for the development and deepening of Ireland's OGP participation, in particular in facilitating participation by citizens and civil society interests.

A total of 62 proposed Action Plan commitments were generated by more than 100 participants who took part in three public meetings and online consultations.

The Action Plan recommendations came from four separate working groups established as part of the consultations. These were named for OGP's core principles of Accountability, Citizen Participation, Technology and Innovation, and Transparency.

There are obvious synergies, and in some cases overlaps, between the proposals from the four working groups. This is to be expected given OGP's wide vision of open government. In this vision, citizen participation and empowerment, supported by transparency and the use of new technology, generates accountability and economic growth.

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<sup>1</sup> [www.opengovpartnership.org](http://www.opengovpartnership.org)

<sup>2</sup> In the context of this project, this was defined by the Department of Public Expenditure and Reform as encompassing the wide array of non-governmental and not-for-profit organisations with a presence in public life including voluntary and charitable organisations, social and community groups, non-governmental organisations (NGOs) and advocacy bodies etc.

<sup>3</sup> On 20 May 2013 the Government Reform Unit of the Department of Public Expenditure and Reform invited tenders from suitable individuals/organisations to undertake and co-ordinate a consultation process with citizens and civil society and to report on the proposals to emerge from it for Ireland's participation in the Open Government Partnership. Following an evaluation process, Transparency International Ireland was selected as the preferred tendering party.

The proposals reflect a strong desire among citizens and civil society to be provided with the information they need to understand how decisions are made, how public funds are spent and how individuals and institutions are held to account. Many of the proposed Action Plan commitments are aimed at encouraging and enabling all citizens to play a more active role in their governance at both local and national level. The recommendations also strongly reflect the 21<sup>st</sup> century reality that releasing key information and data on public services contributes to innovation and business growth. In addition, they show a recognition that open government requires robust accountability mechanisms based on the highest standards, with strong oversight institutions and enforcement bodies in both the public and private sectors.

The Action Plan suggestions range from quite specific and targeted proposals to broad recommendations containing sets of detailed sub-measures. They straddle all of OGP's five 'grand challenges' of improving public services, increasing public integrity, more effectively managing public resources, creating safer communities, and increasing corporate accountability. The cross-cutting nature of many of the recommendations highlights the clear need for a holistic approach to formulating Ireland's first OGP Action Plan.

## Consultation Process

This consultation was carried out over approximately 12 weeks, from 10 June to 5 September 2013. All citizens and civil society organisations were welcome to take part. An open invitation was issued via a variety of channels, including NGO newsletters, e-mails, social media alerts and targeted media coverage. Three public meetings were held, attended by a total of 113 participants representing a diverse range of organisations and interests (see annexes for details of these events and information on attendees).

At the first public meeting, four working groups were established around OGP's core principles of Accountability, Citizen Participation, Technology and Innovation and Transparency. Each working group had a dedicated expert facilitator familiar with the OGP concept.<sup>4</sup> The four working groups remained in place throughout the consultation process, although their composition varied somewhat from meeting to meeting. This was due to both the open and inclusive nature of the process and also the fact that the consultation ran over the summer months when many people were on annual leave.

The consultation methodology used a three-stage approach to crafting proposed Action Plan commitments. At the first public meeting, working group participants identified barriers and solutions to open government. At the second meeting, they began turning the

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<sup>4</sup> The working group facilitators were: Accountability, Imelda Higgins BL; Citizen Participation, Ivan Cooper The Wheel and Diarmuid O'Sullivan Oxfam Ireland; Technology & Innovation, John Handelaar KildareStreet.com; Transparency, Nat O'Connor TASC and Sarah O'Neill Dailwatch.ie.

solutions identified into specific Action Plan proposals. These proposals were finalised and agreed upon at the final meeting.

To facilitate interested parties who were unable to attend the public meetings, the process also provided for online engagement. This included live-streaming of the first two meetings and live-blogging of all meetings. Detailed notes of all meetings were made available on a dedicated OGP consultation website,<sup>5</sup> along with summaries and transcripts of plenary sessions, videos and PowerPoint slides. Between meetings, participants had an opportunity to contribute to working documents based on the working groups' discussions. These were posted online via the website for collaborative input as part of an open and iterative drafting process. The Google Docs open web platform was used to allow multiple users to contribute to the same documents.

## Action Plan Proposals

The 62 Action Plan proposals represent the views and aspirations of a very varied group of collaborators. In order to facilitate such diversity, no overall consensus was sought on the proposals in their entirety. Instead, a voting exercise at the final public meeting provided those participants present with an opportunity to prioritise proposals *within* each working group.

The Action Plan proposals are set out below in four sections reflecting the working group headings. Each proposed Action Plan commitment is accompanied by a rationale. Where appropriate, best practice standards or examples of innovative initiatives in other jurisdictions are cited.

Each of the four sections is prefaced with a summary, highlighting proposals which gained most collective support in a voting exercise at the final public meeting. Given the 'snapshot' nature of this exercise, the priorities are presented here as a working 'shortlist' upon which to base a fresh conversation between civil society and government departments in the partnership process towards Ireland's first OGP Action Plan. However, each of the 62 Action Plan proposals in this longlist is considered a priority matter in its own right.

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<sup>5</sup> [www.ogpireland.ie](http://www.ogpireland.ie)

## 1 - Accountability

A total of nine Action Plan proposals related to the OGP core principle of Accountability were put forward. These place a strong emphasis on the need to empower and equip oversight agencies.

In particular, measures to **improve accountability in the financial sector** are prioritised as a means to rebuild public trust in government which has suffered due to the economic crisis. Four other priority proposals include a recommendation **to enhance the powers and remit of the Comptroller and Auditor General** and introduce sanctions for excessive waste of public resources. Measures to **improve the effectiveness and openness of accountability institutions** would help ensure that existing standards are adhered to in practice, while also promoting public confidence in the full implementation of those standards. On a related point, the publication of Ireland's **implementation plan for the United Nations Convention Against Corruption**, and in particular its provisions on corruption prevention and education, is considered an important step in promoting public accountability. A commitment to **high standards of accountability** would see Ireland implementing outstanding recommendations of domestic tribunals of inquiry and accountability bodies, as well as those from international organisations.

The following are the Accountability Action Plan proposals:

### 1.01 Set High Standards of Accountability

Standards of accountability should be determined on the basis of recommendations made by domestic tribunals of inquiry and other accountability bodies, as well as standards set by international organisations, including in particular the OECD, the Council of Europe, the UN and the EU. The following steps should be taken:

- Implement the outstanding recommendations of the Mahon and Moriarty Tribunals.

**Rationale:** The Mahon and Moriarty Tribunals made suggestions for improving laws in light of their inquiries. Not all have been implemented. Specifically, the Mahon Tribunal made extensive recommendations regarding reform of the Ethics Acts 1995 and 2001 and Part 15 of the Local Government Act 2001 which govern conflicts of interest on the part of public officials, whether elected or appointed. Both tribunals made recommendations regarding the reform of political finance laws.

- Publish Attorney General's Advice.

The State will make public any reasons why it cannot under law implement measures recommended by domestic accountability bodies or international organisations of which the State is a member.

**Rationale:** Reform attempts are sometimes refused on the grounds that the Attorney General has advised against them, but this advice is not disclosed. Where the Attorney General's advice is used to block reform measures then it should be made public.

## 1.02 Enhance the Powers and Remit of the Comptroller and Auditor General

The powers and remit of the Comptroller and Auditor General (C&AG) should be enhanced and sanctions should be imposed on those found responsible for wasting public funds. The following steps should be taken:

- Give the C&AG a role in determining the evidence base for proposed performance measures for public bodies.

**Rationale:** Public policy goals are rarely about a single bottom line (unlike businesses). Goals need to be expressed in different ways — e.g. in health administration, cases of illness occurring, waiting times for treatment, cost of treatment, success rates, etc. Interpreting what is 'good' policy requires some expertise and there is a temptation for politicians to pick the best (or worst) indicators for rhetorical purposes, or to change the indicators when they are in charge. To reduce this risk, which undermines good governance, some independence and objectivity should be maintained. Hence the proposal to give this role in determining the validity of public body performance measures to the C&AG, whose office is constitutionally protected from undue interference.<sup>6</sup>

- The C&AG should carry out reviews of public expenditure in real time and recommend corrective action if necessary.

**Rationale:** Allowing the office to conduct reviews in real time would enhance accountability in a timely manner, rather than merely producing lessons for the future. Currently the C&AG's reviews focus on past rather than on current expenditure. A 2011 report on governance in Ireland said recent high-profile cases indicated that this system often discovers failings and shortcomings only after they have occurred.<sup>7</sup>

- Sanctions for excess waste should be real and should both include and extend beyond Ministers. They should include dismissal of individuals. Managers found to have excess waste within their department should be red-circled and subjected to enhanced scrutiny over subsequent years.

**Rationale:** For true accountability, there must be sanctions for the waste of public funds.

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<sup>6</sup> This is done in Western Australia, see here regarding information system audits and KPIs: <https://audit.wa.gov.au/about-the-oag/what-we-do/>

<sup>7</sup> Brendan Walsh, Paul Mitchell, and Nils C. Bandelow, Sustainable Governance Indicators 2011: Ireland Report. [http://www.sgi-network.org/pdf/SGI11\\_Ireland.pdf](http://www.sgi-network.org/pdf/SGI11_Ireland.pdf)

### **1.03 Measures to Improve Accountability in the Financial Sector**

In view of Ireland's banking and economic crisis, improved accountability mechanisms in the financial sector are clearly necessary. Such mechanisms should include:

- The establishment of a commission of investigation into the events which precipitated the financial collapse and led to the bank guarantee. This commission would have a mandate to make findings of responsibility and recommendations as how to prevent a repeat of that collapse. It could refer files to the Director of Public Prosecutions.
- The introduction of a Bankers' Charter stipulating the duties and responsibilities of bankers to the public.
- More rigorous auditing standards for banks.

**Rationale:** Low levels of public trust in the Government are partly attributable to the lack of accountability over the financial collapse. These measures would restore a sense of social justice by enforcing strict standards of transparency on the Irish financial sector so that the more opaque policies of the Celtic Tiger years will not be repeated. At the moment financial institutions exercise a disproportionate amount of influence over government policy, and have clearly not been transparent in how they conduct their business. A Bankers' Charter would clearly outline bankers' duties and responsibilities to the public, similar to those required of the legal and medical professions. It could be drafted in part or in whole by a deliberative body of citizens.

### **1.04 Introduce Financial Crimes Legislation**

Behaviour such as reckless trading (including lending) and misfeasance in office should be criminalised in a Financial Crimes Act.

**Rationale:** Behaviour which causes demonstrable harm to the public welfare should be criminalised as a way of discouraging such behaviour.

### **1.05 Impose Corporate Criminal Liability**

Create a legislative basis for imposing corporate criminal liability and set up a register of the beneficial owners of all companies registered in Ireland or otherwise established in accordance with Irish law.



**Rationale:** Corporate entities engaged in illegal practices should themselves be the subject of criminal proceedings, in addition to individuals in those entities. This is a key recommendation of the Mahon Tribunal.<sup>8</sup>

### 1.06 Improve Effectiveness of Accountability Mechanisms

All accountability institutions must be fully financially and politically independent and equipped with sufficient resources, including specialised staff, to carry out the tasks entrusted to them. In addition, the following measures would improve the effectiveness of accountability mechanisms:

- The proposed Planning Regulator should report to the Oireachtas rather than to an individual minister.

**Rationale:** Reporting directly to a minister would compromise the Planning Regulator's independence. Moreover, reporting directly to the Oireachtas would give the Planning Regulator an improved public platform and profile.

- Complaint procedures from accountability bodies should be less formalised. There should be more anonymous complaint procedures.

**Rationale:** An open, effective, flexible and informal complaint procedure is the best way to encourage complainants to come forward. Moreover, while whistleblower legislation provides some protection for complainants, those who truly fear reprisals, or those who fear consequences outside the employment/legal context, such as social reprisals, are not protected under that legislation.

- Accountability institutions, particularly those within the public service, should have adequate numbers of administrative and specialised staff.

**Rationale:** Investigation is a specialised skill, generally requiring expertise in a variety of fields, including, for example, legal and accounting. To be effective, accountability mechanisms need access to staff with the necessary skills.

- Increased inter-agency cooperation to strengthen accountability should be facilitated and prioritised.

**Rationale:** More cooperation and cross-fertilisation between the various accountability agencies would help build an integrated approach to accountability. For example, ethics declarations should be routinely scrutinised for signs of illicit enrichment.

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<sup>8</sup> Mahon, Justice Alan, The Final Report of the Tribunal of Inquiry into Certain Planning Matters and Payments 2012. <http://www.planningtribunal.ie/images/finalReport.pdf>

- Disaggregated data arising from action taken under the Civil Service Disciplinary Code should be made publicly available. Disaggregated data relating to the award and non-award of performance-related increments should be published.

**Rationale:** The public has a right to know about the application of standards of accountability for public servants. Putting this information in the public domain would enhance trust in the public service.

- The Garda Síochána should be required to publish more detailed information regarding its activities, including disaggregated data on the number and subject matter of its investigations. The force should also be fully subject to the Freedom of Information Act 1997, as amended.

**Rationale:** While the Garda Síochána publishes some statistics at the moment, these tend to be too general to be fully informative. The current proposal to bring the administrative aspects of Garda business into the FOI Act is too limited: the Gardaí as a whole should be subject to the Act. There are enough exceptions in the FOI Act as it stands to protect the confidentiality of information in the hands of the Garda Síochána without a blanket exemption.

### **1.07 Publish UNCAC Implementation Plan**

Set out Ireland's implementation plan for the United Nations Convention against Corruption (UNCAC), in particular Articles 6 and 13.

**Rationale:** Ireland ratified UNCAC in 2011 and has committed to implement key provisions set out in the Convention. The Government should now publish its implementation plan to ensure full compliance with the Convention. This plan should clarify how the Government intends to promote the participation of civil society in the fight against corruption (Article 13) and implement Article 6, which requires State Parties to establish a preventive institution for promoting integrity. Article 13 of UNCAC requires State Parties to take appropriate measures to promote civil society engagement in the fight against corruption. Suggested measures include promoting public involvement in decision-making processes, undertaking public information activities and education, and access to information. In relation to Article 6, it is apparent that none of Ireland's existing accountability institutions has a role in disseminating information to the public on standards. Such a role needs to be conferred on one or all of the accountability institutions. While this would have cost implications, the current regime of impunity is probably far more costly. It is important to acknowledge that transparency, while desirable, is both uncomfortable and difficult and for many equates more with an invasion of privacy than an essential component of a well-functioning democracy. This needs to change and education is vital.

### **1.08 Tackle Legal Costs as a Barrier to Accountability**

Consideration should be given to amending Ireland's rules on costs in public interest cases to provide that: (a) as a general rule parties will bear only their own legal costs (as opposed to "loser pays"); and (b) the court has discretion to award a successful applicant and public interest notice party her/his costs (i.e., such that the party acting in the public interest can be awarded her/his costs).

**Rationale:** To ensure that accessing justice in public interest cases is not prohibitively expensive. The above-mentioned solution has been adopted in Ireland in the environmental context to comply with Ireland's international obligations.<sup>9</sup> This solution operates to protect applicants for judicial review in certain environmental cases from adverse costs awards (except in certain limited circumstances), whilst preserving the possibility of their being awarded costs if they win. This preserves the possibility of lawyers acting on a 'no foal, no fee' basis on the public interest side in such cases. We can see no reason why this solution should not be extended to all public interest cases.

### **1.09 Strengthen Provisions in the Regulation of Lobbying Bill 2013**

The Regulation of Lobbying Bill 2013 should be strengthened to ensure that it regulates both lobbyists and the public representatives and officials who are the subject of lobbying. (Currently, the proposed bill focuses on transparency on the part of lobbyists.) The lobbied – public bodies, public officials, and office holders – should be subject to enhanced transparency requirements including: default publication of written submissions on public policy by lobbyists; an updated code of conduct for elected representatives and public servants at national and local level; publication of Ministerial and advisory diaries; and requirements for all policies and legislation to include details of the organisations which the Department/Minister has been in contact with during their preparation.

Frequent reporting of lobbying activities and expenditure should be a requirement of all lobbyists. Reporting of financial information (good faith estimate of how much was spent lobbying on a particular issue) should be included on the lobbyist register so that the public is aware of the amount of money spent trying to influence policy decisions. The bill should include strong sanctions for breaches of the legislation with regard to financial reporting. Sanctions, similar to those which apply to failure to file in other legislation, such as the Companies Act, could be included in the regulation of lobbying legislation. The register and

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<sup>9</sup> See Article 9 of the Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (1998): <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>. See also section 50(b) of the Planning and Development Act 2000. [http://www.lawreform.ie/fileupload/Restatement/Second%20Programme%20of%20Restatement/EN\\_ACT\\_2000\\_0030.PDF](http://www.lawreform.ie/fileupload/Restatement/Second%20Programme%20of%20Restatement/EN_ACT_2000_0030.PDF) and Part 2 of the Environment (Miscellaneous Provisions) Act 2011 <http://www.irishstatutebook.ie/pdf/2011/en.act.2011.0020.PDF>

reporting system should be overseen by an independent public watchdog, with necessary resources and authority to ensure compliance. This oversight body should have powers to instigate inquiries, as well as the power to investigate alleged breaches.

**Rationale:** The recent past has seen considerable erosion of public confidence in the decision-making process in Ireland. Promotion of transparency and accountability in the policy-making process are key elements to maintain and strengthen the trust of citizens. The principle of transparency in decision-making imposes obligations upon government and all government departments, together with the wide range of stakeholders involved in the policy-making process. Sanctions are required to ensure high levels of compliance in both the registration of lobbyists and the reporting of financial expenditure on lobbying activities.

## 2 - Citizen Participation

A total of 22 Action Plan proposals relate to the OGP core principle of Citizen Participation. Naturally, these proposals focus on placing citizens at the heart of recommended reforms aimed at fostering active citizenship and putting people before the economy.<sup>10</sup> A key recommendation in this area is for the introduction of **participatory budgeting in local government** as an innovative form of democratic engagement which involves citizens in the allocation of public finances.<sup>11</sup> The other 12 priority recommendations include the introduction of **Citizens' Initiatives** at local, regional and national level as a means to allow citizens to participate in complex decision-making and act as an active check and balance on the legislature. These would allow citizens to initiate a referendum to propose constitutional change, and/or to propose or oppose legislation. The importance of the **Aarhus Convention** in facilitating citizen participation, particularly at local level, is underscored in a proposal to raise public awareness of it and empower public authorities to support the rights it sets out. Measures to **enhance citizen participation in drafting legislation** would greatly enhance the consultation process, while measures to **make official data more user-friendly** would increase social inclusion. A proposal aimed at strengthening civic engagement focuses on measures to **encourage and enable children and young people to become the active citizens** of tomorrow. The rest of the priority recommendations are as follows: develop a **new social contract** using Transformative Scenario Planning methodology; **enshrine a commitment to sustainability** in the Constitution; **introduce participatory budgeting** in relation to local authorities' discretionary funding; **incorporate OGP at local level**; **train civil**

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<sup>10</sup> Edward Andersson, Sam McLean, Metin Parlak and Gabrielle Melvin (2013). From Fairy Tale to Reality: Dispelling the Myths around Citizen Engagement, draws on six innovative case studies from Europe and offers inclusive alternatives to how public services are delivered. <http://www.involve.org.uk/wp-content/uploads/2013/02/From-Fairy-Tale-to-Reality.pdf>

<sup>11</sup> This relates to Action Plan proposal 2.11

**servants and citizens in open government; institutionalise the Constitutional Convention;** and begin a national conversation to create **a new vision for citizenship.**<sup>12</sup>

The following are the Citizen Participation Action Plan proposals:

### **2.01 Strengthen Civic Participation – Children and Young People as Citizens**

Introduce measures to strengthen the participation of children and young people as citizens and enhance democratic processes for children and young people. These should include:

- Reform the Civic Social and Political Education (CSPE) course, and introduce it earlier in the Junior Certificate cycle. It should be taught in an engaging way to foster critical thinking about politics, encourage critical citizen engagement and familiarise students with the Constitution and political system.
- A new Leaving Certificate Course in Politics and Society.
- The Department of Education and Skills to look at the functioning of Student Councils and the work of Boards of Management in promoting student involvement as part of its Whole School Evaluation (WSE) and to consult Student Councils when undertaking WSEs.<sup>13</sup>
- An audit by the Department of Children and Youth Affairs of the 'health' of the Comhairle na nÓg in each county.
- The Minister and Department of European Affairs to strongly promote the EU SiS Catalyst initiative to engage children as agents of change (although this initiative relates to science, initiatives such as this with a specific focus are good, and can have a spill over effect into other areas).<sup>14</sup>
- Measures to foster active citizenship in the formal education system, including: essay-writing competitions and debates; encourage the role of student councils and encourage interaction between schools and elected representatives by, for example, inviting politicians to talk to students about their work; introduce CodeforAmerica style projects where students can join with other students, schools, businesses and citizens to code a piece of civic/political software.<sup>15</sup>
- Introduce a pilot schools programme, in partnership with local authorities, to involve students, teachers, parents and the wider community in citizenship, participation and

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<sup>12</sup> At the final public meeting, citizen participation working group members stated that any attempt to build a hierarchy of Action Plan priorities within the top thirteen that they had identified created an 'artificial distinction' between proposals, each of which had significant merit in its own right and substantial support within the group on the day.

<sup>13</sup> See: <http://www.education.ie/en/Publications/Inspection-Reports-Publications/Whole-School-Evaluation-Reports-List/>

<sup>14</sup> SiS Catalyst: <http://www.siscatalyst.eu/>

<sup>15</sup> <http://www.codeforamerica.org/>

decision-making. Pilot sites should address variety of contexts e.g. urban/rural, DEIS, etc. There could also be potential in involving sports and faith-based groups.

**Rationale:** Young people aren't sufficiently engaged in politics and social issues.

Experimentation is needed and must have a budget. These proposals combine both informal and formal opportunities to foster citizen engagement.<sup>16</sup> Currently, CSPE content is factual with no link between learning and active participation. The National Council for Curriculum and Assessment has already developed a draft syllabus for a new examinable Leaving Certificate subject in the area of social and political education following an extensive consultation. It is aimed at enabling students to be 'thoughtful responsible actors in their world' and includes modules on local democracy and an Active Citizenship project.<sup>17</sup>

## 2.02 Identify and Support Pioneering 'Hotspots' for Cultural Change in Engaged Citizenship

A government-run national competition to identify pioneering hotspots of cultural change in engaged citizenship, with resources for winning communities. This should aim to collect positive engagement stories and supply a platform to disseminate them. It should build on existing structures and initiatives including local networks and fora.<sup>18</sup>

**Rationale:** In order to foster active citizenship, we need to create sustainable cultural change. Encouraging and supporting competition between different communities in how to innovate local democracy could showcase reforms that could then be implemented nationwide. Unfortunately, much community infrastructure which is vital to local participation has been undermined by funding cuts and local cutbacks, and well as ongoing changes to local administration.

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<sup>16</sup> This could build on work done by Foróige which has been formally evaluated and found to be working well. See: UNESCO Child and Family Research Centre (2012.) The Foróige Youth Citizenship Programme Evaluation Report. [http://www.foroige.ie/sites/default/files/citizenship\\_evaluation\\_report.pdf](http://www.foroige.ie/sites/default/files/citizenship_evaluation_report.pdf). The Green Schools environmental education programme, which introduces the concept of an environmental management system, is another potential model. It is operated by An Taisce in partnership with local authorities with financial support from government and businesses. <http://www.greenschoolsireland.org/>

<sup>17</sup> The National Council for Curriculum and Assessment, Politics and Society Draft Syllabus for Consultation, (2009). [http://www.ncca.ie/en/Curriculum\\_and\\_Assessment/Post-Primary\\_Education/Senior\\_Cycle/Politics\\_and\\_Society/Politics\\_and\\_Society.html](http://www.ncca.ie/en/Curriculum_and_Assessment/Post-Primary_Education/Senior_Cycle/Politics_and_Society/Politics_and_Society.html)

<sup>18</sup> Examples of existing schemes include: LEAF in Co Laois, [www.laoisleaf.com](http://www.laoisleaf.com); A women in politics project run by Longford Women's Link, [www.longfordwomenslink.org](http://www.longfordwomenslink.org); SOWIT - Social Web for Inclusive and Transparent Democracy, a pilot deliberative forum scheme in Fingal Co Council, <http://sowit.eu/>; Community Planning initiatives in the UK and Scotland: <https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development>; and <http://www.communityplanningaberdeen.org.uk/Internet/home.asp>; RSA Ireland, the Royal Society for the encouragement of Arts, Manufactures and Commerce, runs regular civic conversations. See: <http://www.thersa.org/fellowship/where-you-are/Ireland/highlights2/civic-conversations-gatherings>

### **2.03 Develop and Implement Creative Citizenship Models at Local Level**

Pilot a Creative Citizenship model that looks to make an impact in two areas: sustaining creative thinking in local communities (which are so often overlooked in public policy); and bringing critical thinking and energy to solving local issues and needs.

**Rationale:** One of the main ways in which people engage in civic life is through their involvement in creative cultural activity. This is an untapped resource. By making the connection between that and local governance and decision-making, we could potentially broaden participation significantly and bring new people, skills and thinking into local decision-making.

### **2.04 Introduce Citizens' Initiatives**

Hold a referendum by no later than 2016 to introduce Citizens' Initiatives at local, regional and national level. This would allow citizens to initiate a referendum to propose constitutional change, and/or to propose or oppose legislation. Initiatives on ordinary legislation would require the support of one per cent of the electorate (that is, a number of registered voters equivalent to one per cent of the total number who voted at the previous general election). Two per cent support would be required to generate a referendum on constitutional amendments. There should be public consultation on drafting any constitutional amendment and in relation to the details of how the Citizens' Initiative would operate.

**Rationale:** There is a need for rights for citizens to participate in complex decision-making and act as an active check and balance on the legislature. There is momentum around this issue as the Constitutional Convention recently voted 83 per cent in favour of introducing citizens' initiatives with adequate safeguards, including in relation to respecting existing human rights obligations.<sup>19</sup>

### **2.05 Reduce Voting Age to 16**

Set a date in 2014 to hold a referendum to lower the voting age from 18 to 16.

**Rationale:** Allowing younger teenagers to vote will get our youth thinking critically about politics and involved in decision-making with an aim to fostering citizen participation. The Government has already accepted the recommendation of the Constitutional Convention to

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<sup>19</sup> Convention on the Constitution Report on Dáil Electoral System Submitted to Government (2013). <https://www.constitution.ie/AttachmentDownload.ashx?mid=f17ca0d8-240f-e311-a203-005056a32ee4>

lower the voting age from 18 to 16 and has committed that the matter will be put to referendum during the lifetime of this administration.<sup>20</sup>

## 2.06 Promote Voting for First Time Voters

Promote voting for first time voters.

**Rationale:** This targeted measure would help to inculcate democratic participation among young people. If young people from poorer backgrounds were required to vote, this might encourage their non-voting parents and grandparents to exercise this democratic right, thereby closing the political inequality gap between classes as well as generations. In addition, if politicians knew that young people would be voting in large numbers at their first election they would be more inclined to listen to their concerns and interests. The case for compulsory first time voting was recently made in the UK by a leading progressive think-tank. In that proposal failure to vote would result in a small fine.<sup>21</sup>

## 2.07 Train Civil Servants & Citizens in Open Government and Citizen Participation

Training to raise awareness of the importance of participation and to foster participation skills and techniques through workshops both inside the public service and in communities, based on best practice standards. A website could bring the workshop resources together and provide training materials and templates. This could build on existing guidelines on consultation for public sector bodies,<sup>22</sup> which are often not implemented, as well as work already carried out by the Combat Poverty Agency.

**Rationale:** Many people have spent their careers learning how *not* to foster active citizenship; it is not reasonable to expect the same people to suddenly have the skills and knowledge they need. The aim of this proposal is to help public servants to understand why participation and co-production is vital in creating better public policy and better outcomes for society and the economy ('fail to plan, plan to fail'). It would also offer practical opportunities for civil servants to engage in supporting such processes, rather than just policies and guidelines.<sup>23</sup>

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<sup>20</sup> See <http://www.kildarestreet.com/debates/?id=2013-07-18a.365>

<sup>21</sup> Guy Lodge and Sarah Birch (2013), The Case for Compulsory First-Time Voting. <http://www.ippr.org/articles/56/10725/the-case-for-compulsory-first-time-voting>

<sup>22</sup> Reaching Out - Guidelines on Consultation for Public Sector Bodies [http://www.taoiseach.ie/eng/Publications/Publications\\_Archive/Publications\\_2011/Reaching\\_Out\\_-\\_Guidelines\\_on\\_Consultation\\_for\\_Public\\_Sector\\_Bodies.doc](http://www.taoiseach.ie/eng/Publications/Publications_Archive/Publications_2011/Reaching_Out_-_Guidelines_on_Consultation_for_Public_Sector_Bodies.doc)

<sup>23</sup> There are also resources available for adults as well as workshops on change happening around the country. See <http://www.storyofstuff.org/movies-all/story-of-change/>. Many TED talks address the need for citizen led change. <http://www.ted.com/talks>



## 2.08 Incorporate OGP at Local Level

Establish formal OGP citizen engagement structures at local government level.

**Rationale:** Citizens are on the sidelines in decision-making. Formal structures would shorten the feedback loops between us, as citizens, and those fellow citizens who govern us, by providing a space for all sectors to work together. Legislation would need to be in place before local elections in 2014 for this to be introduced within the next two years.

## 2.09 Develop Best Practice Initiatives for Local Government Consultation and Engagement Online and Offline

Incentivise local authorities to pilot best practice public consultations which are tailored to the needs of communities by mixing innovative outreach, such as online consultations targeting young people, to hosting consultation sessions in communities in formats designed to meet the needs of particular audiences. Share pilot project case studies with other local authorities and support them to implement their own.

**Rationale:** It can be difficult for citizens to get information from local authorities which is readily available, accessible and in user-friendly. Exploring different methods will allow better citizen engagement and collaboration at local level.<sup>24</sup>

## 2.10 Make Official Data More User-Friendly

Measures to make official data more user-friendly, particularly data relating to local public services. Measures should include:

- Develop a set of best practice guidelines on user-friendly language and data presentation through consultations with citizen users, expert data users and journalists.
- Make data related to local public services – health, environment, education, housing, planning etc – available to citizens in a timely manner and user-friendly formats.
- Run competitions in local authority areas to source innovation in the use of public information from citizens, school children, businesses and colleges.
- Set standards for clarity and simple language for all government publications at both local and national level. For example, each piece of legislation published should contain a summary of each clause written in plain English.

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<sup>24</sup> See pilot participation and engagement website by Camden Co. Council: <http://camden.gov.uk/ccm/navigation/council-and-democracy/having-your-say/>. A Canadian activist, Dave Meslin, has written extensively about this issue. See his blog: <http://meslin.wordpress.com/> and this video on local government planning: <http://www.youtube.com/watch?v=5Knz100ldLM>

- Train public servants in the use of plain English.

**Rationale:** Ireland has a relatively high level of functional illiteracy and innumeracy. However, these are not barriers to reflective thought on public policy and every effort should be made to communicate policy for maximum social inclusion by the public in thinking about the merits of that policy. The routine use of plain English would remove unnecessary barriers to citizen participation.<sup>25</sup>

### 2.11 Introduce Participatory Budgeting at Local Government Level

Introduce Participatory Budgeting in local government. This involves setting aside a percentage of local authorities' annual budgets for decision by citizens working together with officials, civil society and councillors. It should incorporate the following six criteria: Discussions of financial/budgetary expenditure; decentralised districts with an elected body that has some power over administration; a repeated process (it cannot be a once of meeting or series of meetings); public deliberations which involve horizontal discussions between citizens (opening up administrative or council meetings to citizens is not participatory budgeting); accountability on the output; active measure to ensure diverse participation – some individuals and/or groups might need to be supported to ensure more equal participation.

**Rationale:** Participatory budgeting is an innovative form of democratic engagement that involves citizens in the allocation of public finances. It mobilises citizens and promotes good local governance by giving citizens power to control and shape the distribution of public resources through deliberation and negotiation. The Putting People First action programme proposes the creation of new municipal districts with local policy and regulatory roles.<sup>26</sup> If participatory budgeting, which is also included in the action programme, is introduced at this level in Ireland, it would not only give citizens a clearer understanding of the link between raising and spending public monies, but would make local decision-making more transparent, participatory and representative. It also has the potential to improve democratic responsibility, accountability, community identity, subsidiarity and responsiveness to local issues. In particular, it could help legitimate the property tax if some of the monies received from it were decided locally using participatory budgeting processes.

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<sup>25</sup> See the National Adult Literacy Agency's plain English guidelines: <http://simplyput.ie/>

<sup>26</sup> Department of the Environment, Community and Local Government (2012). Putting People First Action Programme for Effective Local Government. <http://www.environ.ie/en/Publications/LocalGovernment/Administration/FileDownload,31309,en.pdf>

## 2.12 Introduce Participatory Budgeting on Allocation of Discretionary Budgets

This proposal involves citizens working together with officials, civil society and councillors to decide on the allocation of local authorities' discretionary budgets across all programmes. The rationale for this proposal is the same as above.

## 2.13 Develop a New Social Contract using Transformative Scenario Planning

Convene cross-society gatherings of key institutions to draw up a new social contract for a sustainable future using Transformative Scenario Planning methodology.<sup>27</sup> This would include a consultation phase (employing a consultant) to prepare a grounding document which would then feed into meeting sessions of parties representing all major societal interests to consider robust and realistic future scenarios as a basis for developing a new social contract to a desired sustainable future.

**Rationale:** We need a new social contract for a sustainable future. A methodology already exists for this large system process.<sup>28</sup> The Green Foundation Ireland has been considering this.<sup>29</sup>

## 2.14 Enshrine a Commitment to Sustainability in the Constitution

The Constitutional Convention should convene a meeting to discuss enshrining environmental protection into the Constitution. A referendum on its recommendations could be held within the next two years.

**Rationale:** Enshrining a responsibility upon the State and society to safeguard the environment will form a constitutional basis on which the environment can be protected for future generations. Legislation can arise from such an Article in the Constitution that would ensure that the interests of private wealth do not trump the well-being of society.

## 2.15 Hold a Referendum to Introduce a Bill of Rights

Establish a deliberative forum within two years to draft a Bill of Rights and Responsibilities for Ireland for the 21<sup>st</sup> century. Either the Constitutional Convention or another citizen-led

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<sup>27</sup> Adam Kahane and Kees van der Heijden (2012), Transformative Scenario Planning: Working Together to Change the Future. <http://www.amazon.com/books/dp/1609944909>

<sup>28</sup> A German precedent exists. See German Advisory Council on Global Change Report (2011), World in Transition A Social Contract for Sustainability. [http://www.wbgu.de/fileadmin/templates/dateien/veroeffentlichungen/hauptgutachten/jg2011/wbgu\\_jg2011\\_en.pdf](http://www.wbgu.de/fileadmin/templates/dateien/veroeffentlichungen/hauptgutachten/jg2011/wbgu_jg2011_en.pdf)

<sup>29</sup> <http://www.greenfoundationireland.ie>

deliberative body could do this work. The deliberative body must ensure wide public participation and the output would be put to referendum.

**Rationale:** There is a lack of clarity over what Irish citizens are entitled to and responsible for. It could be useful in affirming the welfare of society over economic interests.

## 2.16 Citizen Participation in Legislation and Engagement

Introduce measures to enhance citizen participation in legislation. These should include the publication of all Heads of Bills, along with a summary of the intent of the proposed legislation. Citizens should be invited and encouraged to submit views to the appropriate Oireachtas Committee. Citizens and other stakeholder groups would also be given an opportunity to submit views in advance of the publication of bills and at the relevant stages of the passing of bills through the Oireachtas. Online discussions of legislative proposals should be enabled, and these should be displayed with the published bills.

**Rationale:** There is a case for a much more robust, transparent and accessible system through which citizens can be at least more aware, and preferably more involved, in the legislative process.<sup>30</sup> An enormous volume of legislation goes through the Oireachtas often without the public having any awareness of it, even when the legislation is of huge public interest. It is not general practice to publish Heads of Bills – the key point at which the general intent of a bill is being considered by government. Those 'in the know' will lobby TDs, and get meetings with Ministers. Currently, some bills are accompanied by a call for written submissions. Such submissions tend to be time-consuming to draft. Permitting people to make online observations would greatly facilitate their opportunity to participate in the legislative process. It would also mean that the public could easily respond to suggestions made by other persons, potentially leading to a cross-fertilisation of ideas.<sup>31</sup>

## 2.17 Publicise and Promote EU Consultations

The Minister and the Department of European Affairs should adopt a proactive programme of publicising and promoting citizen engagement in EU consultations. This would be a parallel process to that suggested above for domestic legislation through which citizens can contribute to EU legislation in a structured way.

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<sup>30</sup> For a user-friendly account of how legislation is prepared, see: National Youth Council of Ireland, Legislative Process in Ireland: <http://www.youth.ie/nyci/Legislative-Process-Ireland>

<sup>31</sup> Article 13 of the UN Convention Against Corruption requires State Parties to take appropriate measures to promote civil society engagement in the fight against corruption. Suggested measures include promoting public involvement in the decision-making processes. [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

**Rationale:** Although the OGP Action Plan relates to Ireland, our interests as Irish citizens are intertwined with our status as citizens of the EU. Our public sphere is shaped by legislation that originates in Europe and also by the opportunities that the EU offers to strengthen citizen participation throughout the union. The so called 'democratic deficit' at EU level is well recognised and addressing it is the subject of several initiatives as well as substantial expenditure. However, Irish citizens need to be more fully informed about these initiatives, so that they can engage and participate. In addition, Irish citizens can take action to help strengthen democratic participation across the EU.<sup>32</sup>

## 2.18 Support the Direct Election of the European Commission President

The Government should support the direct election of the European Commission President.

**Rationale:** This would give EU citizens a direct stake in the election to a key and powerful role in European affairs, raise awareness about the role and work of the Commission, and create a further level of direct accountability to citizens.

## 2.19 Raise Public Awareness of the Aarhus Convention

Raise public awareness of the Aarhus Convention<sup>33</sup> and empower public authorities to support the rights it sets out. This is a requirement of the Convention which has significant implications for citizen participation, particularly at the local level. There should be an individual in every local authority who understands the Aarhus Convention. This person must have the authority to ensure awareness, education and compliance, and should work with national and international networks.

**Rationale:** The Aarhus Convention establishes a number of rights of the public with regard to the environment. It provides for Access to Environmental Information, Public Participation in Environmental Decision-making and Access to Justice. The Convention has a broad reach that makes it a powerful framework for supporting citizens to become informed, participate actively in matters that affect their environment, and hold governments more accountable. It is directly relevant to those issues that are important to people at the local level such as county development plans, water, heritage, infrastructure and energy. However, the rights guaranteed by the Convention are only meaningful if they are exercised. Raising public awareness of the Convention is therefore crucial for its

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<sup>32</sup> For example, as part of the 2013 European Year of Citizens there is 'Debate on the Future of Europe', a year-long campaign to foster national and local debates on three major areas - the economy, citizens' rights and 'the future'. See: [http://ec.europa.eu/debate-future-europe/index\\_en.htm](http://ec.europa.eu/debate-future-europe/index_en.htm)

<sup>33</sup> Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

effective implementation.<sup>34</sup> As the 'gold standard' on public participation globally, the Aarhus Convention is a valuable precedent to inform policy-making on public participation in Ireland beyond its immediate environmental focus.

## **2.20 Establish Environmental Forums in Every County or Local Authority.**

Establish an Environmental Forum in each county or local authority to foster, promote and implement sustainable development. Each forum would need a paid local administrator and national coordination to ensure continuity and capacity. The forums would bring various stakeholders together at local level to discuss sustainable development and environmental issues and agree on appropriate actions.

**Rationale:** There are numerous reports, directives, guidelines, policies and laws to support the role of the environment in a socially just, ecologically sound society. The Government's Local Agenda 21 for sustainable development grew from the United Nations Global Conference on environment and development in Rio de Janeiro in 1992.<sup>35</sup> Its aim is to encourage greater local ownership of and participation in local decision-making for sustainable development. The Aarhus Convention is also an environmental directive.

## **2.21 Institutionalise the Constitutional Convention**

Establish a Citizens' Assembly modelled after the Constitutional Convention as a permanent institution of State.

**Rationale:** This would ensure that citizens' voices are heard on all important policies and referenda.

## **2.22 New Vision for Dynamic Citizenship for Post-2016**

Initiate a national conversation on citizenship to culminate in the publication and endorsement of a new vision for citizenship for 21st Century Ireland in 2016, as part of the centenary commemorations.

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<sup>34</sup> As noted by Marek Belka and Achim Steiner (2006), A simplified guide to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, page IV. [http://www.unece.org/fileadmin/DAM/env/documents/2006/pp/ece%20mp%20pp%205\\_E.pdf](http://www.unece.org/fileadmin/DAM/env/documents/2006/pp/ece%20mp%20pp%205_E.pdf)

<sup>35</sup> Department of the Environment and Local Government (2001), Towards Sustainable Local Communities - Guidelines on Local Agenda. <http://www.environ.ie/en/Environment/LocalAgenda21/PublicationsDocuments/FileDownload,1834,en.pdf>

**Rationale:** The articulation of a new vision for dynamic citizenship would be a powerful affirmation of the country's commitment to its citizens in this new century.

### 3 - Technology and Innovation

There are 12 Action Plan proposals related to the OGP core principle of Technology and Innovation. These underscore the clear need for Ireland to unlock the potential of open data to drive innovation and economic growth, improve public services and strengthen democracy by creating a culture in which government information is widely accessible and useful.

The need for central government to **identify and publish data sets for release by all public bodies in a central online catalogue** emerged as a key priority in this area. In particular, the release of **reference spatial data under open licenses** is identified as a priority commitment, not least because of the expected boost to economic activity that it would bring.

Five other open data-related Action Plan proposals identified as priorities are aimed at ensuring that existing e-government strategy is implemented in full and that international standards are met. A commitment to **standardise data in machine-readable non-proprietary formats** would help ensure that open data which is useable becomes open knowledge which empowers citizens and improves governance. Similarly, the adoption of the **G8 Open Data Charter** by government would demonstrate Ireland's commitment to opening up data to international standards.

Measures to ensure the **timely and predictable release of data** would go some way to encouraging commercial data reuse, while the introduction of **guidelines to promote the use and publication of open source software** by government would both support and benefit from external innovation. The introduction of a dedicated web platform to **promote participation in government** would encourage wider engagement with politics and policy using online tools.

The following are the Technology and Innovation Action Plan proposals:

#### 3.01 Release Reference Spatial Data at No Charge Under Open Licenses

Make the boundary data (or, if applicable, point data) for Dáil constituencies, European constituencies, Local Electoral Areas, District Electoral Divisions, census survey areas, Small Area Population Statistics (SAPS) area boundaries and the forthcoming postcodes available as cost-free data sets under a license compatible with the 'open definition'.<sup>36</sup> Additionally, departments and agencies should collect and publish detailed spatial data in all areas of

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<sup>36</sup> For the Open Knowledge Foundation's definition: <http://opendefinition.org/>

work where that work relates to geographical location (which for example may include, but is not restricted to, planning applications, crime statistics, environmental matters, and health).

**Rationale:** Ireland is at a disadvantage as a nation compared to our neighbours – others have more and better data available. The UK estimated in June 2013 that the net benefit to the UK economy, after loss-of-revenue costs, of opening Ordnance Survey data will be between £13.0m and £28.5m in 2016 (of which up to £8.3m is expected to be new tax revenue).<sup>37</sup> While opening its datasets in 2009, the UK cited estimates that making public data available for could generate as much as a billion pounds for the UK economy.<sup>38</sup> While the sums here would obviously not be equivalent, it's reasonable to assume that a similar move in Ireland would result in a significant boon to the Irish economy also.

### 3.02 Identify Data Sets for Release, Publish Data Sets in Central Catalogue (data.gov.ie)

- Central government should aggregate data sets, and information about data sets, held by all public bodies into a single catalogue, and publish that catalogue on the web. Initially records in this catalogue will be descriptions of data sets (including information about format, frequency of compilation, and other relevant information); over time each record – wherever possible – should have the actual data set added in open and machine-readable formats to complete the record. The catalogue site's operating body should seek the opinions of potential data users to prioritise the release schedule of data sets.

**Rationale:** Broadly this action point seeks to solve the problem of citizens being unable to request information without knowing what information is held. Section 15 of the Freedom of Information Act already requires public bodies to publish "classes of records held". This data should exist under current law. Action 23 of the Government's eGovernment action plan requires each public body to identify data sets it holds and release them by default.<sup>39</sup>

- Undertake a 'data audit' or stock take of what datasets are available in each government department and public sector organisation and the format that they exist in. This would produce a catalogue of the metadata of the data, describing what datasets exist. Information which is not in a format which is appropriate for release should be brought up to standard to ensure machine-readability. Create a central set of good practice standards,

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<sup>37</sup> John Carpenter and Phil Watts (2013), Assessing the Value of OS OpenData™ to the Economy of Great Britain – Synopsis, page 20.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207692/bis-13-950-assessing-value-of-opendata-to-economy-of-great-britain.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207692/bis-13-950-assessing-value-of-opendata-to-economy-of-great-britain.pdf)

<sup>38</sup> Communities and Local Government (2009), Re-mapping the Future for Ordnance Survey - Making Public Data Public.

<http://webarchive.nationalarchives.gov.uk/http://www.communities.gov.uk/news/corporate/1385429>

<sup>39</sup> Department of Public Expenditure and Reform (2012), Supporting Public Service Reform eGovernment 2012–2015. <http://per.gov.ie/wp-content/uploads/eGovernment-2012-2015.pdf>



including responsive data formats and the timely release of data. Establish a central schedule/calendar of data release schedules to allow people to see what data is coming. Put in place a process to ensure the audit is updated.

**Rationale:** Ireland is at a competitive disadvantage as a nation compared to our neighbours – others have more and better data available.<sup>40</sup>

### 3.03 Standardise Data Formats

All published government data must be published in machine-readable,<sup>41</sup> non-proprietary formats consistent with best practice. A named agency or person should enforce this mandate and the Government should prevent the deployment of websites which don't have data channels. Procurement guidelines should be issued to all public bodies to make this a requirement of all web projects. Funding should be refused or recouped in the case of failure to comply. This should happen immediately – it has been government policy for well over a year already.<sup>42</sup>

**Rationale:** Open data which is usable and used becomes open knowledge which empowers citizens. It improves governance through increased transparency, enables better research and permits rapid reuse of material to develop new and cost efficient tools and services. However, and despite the fact this is already government policy, public web sites are still being commissioned and paid for which ignore that policy.

### 3.04 Adopt the G8 Open Data Charter

The government should adopt the G8 Open Data Charter.

**Rationale:** The G8 Open Data Charter commits G8 members to five open data principles: Open Data by Default; Quality and Quantity; Usable by All; Data for Improved Governance; and Data for Innovation. By adopting the Open Data Charter, the Government will be demonstrating a commitment to international standards in this area.<sup>43</sup>

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<sup>40</sup> Data.gov.uk brings together over 9,000 datasets from all central government departments and a number of other public sector bodies and local authorities.

<sup>41</sup> For a definition of machine-readable: [http://en.wikipedia.org/wiki/Machine-readable\\_data](http://en.wikipedia.org/wiki/Machine-readable_data)

<sup>42</sup> Supporting Public Service Reform eGovernment 2012–2015: <http://egovstrategy.gov.ie/ensure-that-public-service-data-is-available-for-re-use/>

<sup>43</sup> G8 Open Data Charter, June 2013.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207772/Open\\_Data\\_Charter.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207772/Open_Data_Charter.pdf)

### 3.05 Ensure Timely and Predictable Release of Data

Hold data providers to nationally-specified standards on quality and service levels to ensure timely and predictable release of data, and introduce sanctions for public bodies for failing to adhere to them. Such standards should include commitments to continue publishing data sets once publication commences, for as long as that data continues to be normally collected.<sup>44</sup>

**Rationale:** Users of open government data (including private companies whose use may result in tax revenue for the State) can have the data cut-off at any time without warning. Additionally data which may take months to arrive is, in some cases, somewhere between less-than-useful and worthless. This is a disincentive to business and to reuse in general.

### 3.06 Publish Government Spending Above Specified Levels

Set general publication thresholds for government spending above certain levels for different levels of government. The threshold to be determined but should be broadly in line with the UK example.<sup>45</sup>

**Rationale:** While budget data is published in Ireland there is no connection between that data set (which is aspirational in nature) and the information about what monies were actually spent. *Both* sides of the process must be published for public spending to be regarded as 'open'.

### 3.07 Standardise Local Government Open Data

The Department of Environment, Communities and Local Government to define a standard list of datasets which all local government entities ought to be producing, and mandate them to produce it in standardised formats and at specified frequencies.

**Rationale:** To allow the reuse of open data, it must be available nationally. It is currently being produced by 34 different local authority entities.<sup>46</sup>

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<sup>44</sup> See the Sunlight Foundation's Ten Principles for Opening Up Government Information: <http://sunlightfoundation.com/policy/documents/ten-open-data-principles/>

<sup>45</sup> In the UK, all central government departments must publish details of their spending over £25,000, and publish monthly information by the last day of each month. At local government level, the threshold is all spending over £500. See: <https://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/dclg-spending-over-250>. See also this Practitioners Guide for Local Government Spending: <http://localspending.readandcomment.com/files/2011/02/LocalSpendingData-APractitionersGuide-V7-10.pdf>

<sup>46</sup> This would avoid the current situation where Fingal Co. Council has datasets that no other local authority replicates.

### 3.08 Raise Awareness of Open Data's Commercial Opportunities

Task the Department of Enterprise, Jobs and Innovation with promoting the commercial potential of the use of open government data, in order to help stimulate awareness and economic activity in the area of the use of data.

**Rationale:** There are benefits both to the economy and to efficiency in government itself related to the use of open data. The direct impact of open data on the EU27 economy was estimated at €32 billion in 2010, with an estimated annual growth rate of seven per cent.<sup>47</sup> The aggregate direct and indirect economic impact from applications of open data and their use across the EU27 economy is estimated to be €140 billion annually.<sup>48</sup> Promoting the use of open data in commerce can produce jobs and tax revenue, making it a benefit to the State.<sup>49</sup> A push for intra-government sharing could come first as this is where the initial drive for efficiencies is being made.<sup>50</sup>

### 3.09 Measures to Encourage Online Participation in Government

Create a single resource (website and suite of apps) that houses all of the published data and resources mentioned in the OGP process, combines all government websites into one, and facilitates ongoing two-way communication between citizens and government. It is expected this will include political education, policy discussion, and online voting. Smart integration with existing social media will help this to attract and engage citizens. In summary, this will be an easy to search data resource and a social media type platform for citizens to participate in all areas of government.<sup>51</sup>

**Rationale:** People are disengaged with politics because of its closed and confusing nature (it's difficult to find out what's going on, who's doing what and how things work). Those who are willing to engage get frustrated at the lack of opportunities for participation.

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<sup>47</sup> Graham Vickery (2011), Review of Recent studies on PSI reuse and Related Market Developments, page 3. <http://assets.sunlightfoundation.com.s3.amazonaws.com/policy/papers/Review-of-recent-studies-on-PSI-re-use-and-related-market-developments%20copy.pdf>

<sup>48</sup> European Commission (2011), Digital Agenda: Commission's Open Data Strategy, Questions & Answers. See: [http://europa.eu/rapid/press-release\\_MEMO-11-891\\_en.htm](http://europa.eu/rapid/press-release_MEMO-11-891_en.htm)

<sup>49</sup> In the Netherlands, the geo-sector accounted for 15,000 full time employees in 2008. See: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on Regions (2011), Open Data An Engine for innovation, Growth and Transparent Governance. [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=EN&type\\_doc=COMfinal&and oc=2011&nu\\_doc=882](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=EN&type_doc=COMfinal&and oc=2011&nu_doc=882)

<sup>50</sup> The Department of Environment, Community and Local Development's development plan sharing website, [www.myplan.ie](http://www.myplan.ie), provided data which allowed the Department of Education to deliver ScoilNet Maps. This saved an estimated €200k per annum for the Department. See: <http://www.esri-ireland.ie/case-study/scoilnet-maps>

<sup>51</sup> A combination of gov.uk, Facebook, Twitter and a voting platform like [www.loomio.org](http://www.loomio.org) would be the goal for this website. A presentation on such a platform was prepared by a participant at the OGP consultations, Ross O'Mullane. See: <http://www.slideshare.net/rossom/propos>

### 3.10 Require Code Sharing or Publishing Open Source

Introduce guidelines to promote the use and publication of open source software by government.

**Rationale:** By publishing the software used to create websites, tools and online applications, the government can both support and benefit from external innovation. Open source working practices have accompanied open data initiatives in the US, UK and elsewhere. The UK Government Service Design Manual gives clear guidance on how open technologies can be incorporated into public sector projects. Similar guidance should be adopted by the Irish public sector.<sup>52</sup>

### 3.11 Public Procurement Open Days

Public procurement open days should be held where government consults outside on what to buy.

**Rationale:** In the area of public procurement of large IT projects, neither the civil service nor those tendering for contracts may be experts in the areas in question. There needs to be greater opportunities for civil servants to engage with experts to ensure good decisions are made.

### 3.12 Allow Voter Registration Online

Voter registration should no longer be a paper process, and the electoral register should be updated on a rolling basis rather than once per annum. It should be available online.

**Rationale:** Online registration would facilitate better citizen engagement in representative democracy.

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<sup>52</sup> See: Project Open Data: <http://project-open-data.github.io/governance/>; Open Data Institute ("Open by Default"): <http://theodi.github.io/>; CDEC Open Data Health Platform: <https://cde.catapult.org.uk/health-open-data>; Government Digital Service ("Coding in the Open"): <http://digital.cabinetoffice.gov.uk/2012/10/12/coding-in-the-open/>; the UK Government Service Design Manual: <https://www.gov.uk/service-manual/making-software/choosing-technology>.

## 4 - Transparency

A total of 19 Action Plan proposals relate to the OGP core principle of Transparency. Many of these highlight the importance of access to information in holding government to account, ensuring better use of resources and enabling meaningful collaboration between citizens and public servants.

There is strong emphasis on the need for more and better information in relation to public policy formation, public services and government spending at both national and local levels. The existing 'data deficit' in these areas not only denies citizens ready access to information to which they are entitled, it also inhibits robust and informed public discussion and analysis.

A key proposal in this area is for the **abolition of Freedom of Information fees** which are widely viewed as a barrier to the public's use of the Act in the public interest. Five other priority proposals in this area share a common focus on enabling citizens and other stakeholders to better participate in decision-making at national and local level. A proposed Action Plan commitment to **improve budget data transparency and timeliness** would facilitate more mature and reflective debate and analysis. Similarly, provision for **regular budget impact assessments** across all public bodies would open up economic policy making to better scrutiny. Proposed steps to **improve transparency in local government** would allow citizens to better see how public money is spent, while suggested **measures to increase legislative transparency** and make **information about current policy** readily available would provide citizens with much-needed clarity about current laws as well as plans and strategies in relation to public policy.

The following are the Transparency Action Plan proposals:

### 4.01 Create a One-Stop Shop for Citizen Information

Create a searchable and up-to-date online data portal in engaging and citizen-friendly language, and using data visualisation/interaction, to explain public policy (beyond the information provided by the Citizens Information website, but perhaps building on it).<sup>53</sup> This proposal will need to be underpinned by publication of statements about public policy and clear performance indicators for public bodies. It should be divided under thematic categories with filtering tools which cater for refined searches and allow individuals to penetrate large amounts of public sector information. This website should facilitate content-specific user feedback with structured capturing of inquiries and the use of analytics to drive improvements, as well as commitments to undertake improvements. It should contain

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<sup>53</sup> [www.citizensinformation.ie](http://www.citizensinformation.ie)

details of what each government department does so that citizens know where to direct requests for information.<sup>54</sup>

**Rationale:** It is vitally important that data is made available to the general public in a user-friendly and accessible manner. Such a site would overcome the current data deficit, give citizens better access to information they are entitled to, and spur civic participation.<sup>55</sup>

#### 4.02 Improve Budget Data Transparency and Timeliness

The proposed Budget should be published well in advance of its passage through the Oireachtas so as to permit adequate time for public discussion and analysis, including participatory budgeting. Budget data should be available in a more granular format and should be linked with spending data, contract values and contract outcomes. Revised estimates should be made available in a timely manner. Like in other jurisdictions, e.g. Canada, confidential briefings should be given in advance of the publication of the Budget. This would facilitate more mature and reflective debate on the announcements. (The first example of this happening is the Fiscal Council gaining advance sight of the outline of the Budget adjustments.)

**Rationale:** Most Budget decisions will not lead to behaviour change in the economy and can therefore be discussed ahead of time, to get maximum input of different analysis and perspectives, before decisions are made. At present, debate is stifled by the unnecessary secrecy surrounding most Budget Day announcements. Budget policy discussion in the media is often superficial because neither journalists nor opposition politicians are given sight of the documents before the Minister for Finance begins speaking.<sup>56</sup> The Global Initiative for Fiscal Transparency has High Level Principles intended to guide policy makers and all other stakeholders in fiscal policy in their efforts to improve fiscal transparency, participation and accountability.<sup>57</sup>

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<sup>54</sup> See UK citizen-oriented website: <https://www.gov.uk/> and searchable data website: [data.gov.uk](http://data.gov.uk)

<sup>55</sup> See the Council of Europe Draft Charter on Shared Social Responsibilities which outlines proposals regarding access to information and how it should be used by all stakeholders in decision-making:

<http://www.socialjustice.ie/sites/default/files/file/Social%20Policy%20Conference/2011-09-14%20-%20Chapter%201%20-%20Draft%20of%20Council%20of%20Europe%20Charter%20on%20SSR.pdf>

<sup>56</sup> It should be noted that most European countries do not engage in the same Budget Day theatrics as Ireland. Instead, aspects of taxation and public spending are debated by parliament and wider society throughout the year. For details on a media 'lock up' and briefings given 6½ hours in advance of a major economic policy statement in Canada, see here: <http://www.fin.gc.ca/notices-avis13/2013-03-14-eng.asp>

<sup>57</sup> <http://fiscaltransparency.net/>. See also this filter tool for interrogating government spending in the UK: <http://www.gist.cabinetoffice.gov.uk/index.html>

#### **4.03 Improve Transparency on Impact of Policy Measures with Particular Regard to Equality Outcomes**

- Conduct and publish budget impact assessments, with particular regard to equality outcomes across all public bodies. Enshrine a strong system of duties in law to ensure equality and fairness are fostered rather than undermined along the lines of the Scottish Equality Budget approach, including human rights and anti-poverty aspects.<sup>58</sup>

**Rationale:** Particularly since the onset of the economic crisis, certain sections of Irish society have disproportionately felt the effects of austerity, and there have been increases in inequality.<sup>59</sup> Rather than undertaking analyses of the impact of certain policies retrospectively, policy measures should be assessed with regard to their likely impact before implementation. Such information should further be made available to members of the public and to legislators to inform political decision-making and debate. Lack of transparency, particularly with regard to economic policy-making, is undermining not only public confidence in the political process, but inevitably leads to poorer decision-making. Equality Budgeting is practiced in dozens of jurisdictions worldwide and is a holistic approach to take account of poverty, inequalities, etc.

- Ensure transparency in economic policy making by abolishing the Economic Management Council, and introduce consultation with the full range of citizens and civil society.

**Rationale:** The Economic Management Council, consisting of four senior politicians, is generally perceived to be unaccountable and unreflective of the wider populace. On this basis, it should be abolished, to allow Cabinet, legislators, and civil society to feed into the political processes in political decisions that critically affect them.

#### **4.04 Improve Transparency and Accountability in Local Government and Create Better Local Data**

Measures to improve transparency and accountability in local government and create better local data. These should include:

- Guidelines or a code of practice for local authorities should set out in detail the kind of information they should routinely make public on a timely basis and in user-friendly and machine-readable formats.<sup>60</sup> This should include all councillors' allowances and expenses,

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<sup>58</sup> <http://www.scotland.gov.uk/Topics/People/Equality/18507/13477>

<sup>59</sup> Department of Social Protection (2013), Social Impact Assessment of the Main Welfare and Direct Tax Measures in Budget 2013. See: [https://www.welfare.ie/en/downloads/2013-03\\_SIABudget2013\\_Final.pdf](https://www.welfare.ie/en/downloads/2013-03_SIABudget2013_Final.pdf) and; TASC (2011) Winners and Losers? Equality Lessons for Budget 2012: <http://www.tascnet.ie/upload/file/Winners%20and%20Losers%20141111%20final.pdf>

<sup>60</sup> See UK Local Government Association, Local Transparency: Guides to Publishing Data. <http://localtransparency.readandcomment.com/>

minutes of meetings and all expenditures over a fixed level including tenders, contracts and payments.<sup>61</sup>

**Rationale:** By publishing this information, local people can hold councils to account over how taxpayers' money is spent — they can highlight examples of inappropriate spend and suggest ways of providing better value services which meet local needs.

- Revise the existing Service Indicators in Local Authorities set of indicators and use these as the basis for better public information on the activities of local authorities.

**Rationale:** Local government performs a wide range of services. It would be useful for the public to see examples of how public money is being used locally.<sup>62</sup>

#### 4.05 Review Freedom of Information Bill 2013

The FOI Bill 2013 should be scrutinised and compared with OGP standards to ascertain if its provisions are appropriate. There should be higher penalties for destroying documents (proposed penalty under the current draft of the bill is only €4,000). Legal professional privilege under the bill should also be scrutinised.

**Rationale:** An opportunity exists to ensure the new FOI legislation sets good practice standards and is consistent with OGP's core principles.

#### 4.06 Abolish Fees for FOI and AEI Requests

Fees for all stages of FOI and Access to Environmental Information requests should be abolished.

**Rationale:** FOI requests of a non-personal nature are more likely to address issues of public policy and should be encouraged. The introduction of fees led to a halving of non-personal requests, including from requesters outside of business and journalism.<sup>63</sup> Whatever the point about professionals being able to afford fees, ordinary citizens should not have barriers put in front of them when seeking to inform themselves about policy. Ireland stands with Canada and Israel as the only three countries in the world that charge upfront fees for access to information, out of 93 countries with access to information laws. Ireland is also the

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<sup>61</sup> See UK's Local Government Group (2010), Local Transparency: A Practitioners' Guide to Publishing Local Spending Data: <http://localspending.readandcomment.com/files/2011/02/LocalSpendingData-APractitionersGuide-V7-10.pdf>

<sup>62</sup> Local Government Management Agency (2011), Service Indicators in Local Authorities: <http://www.lgcsb.ie/en/service-indicators-local-authorities-2011>

<sup>63</sup> Information Commissioner, Review of the Operation of the Freedom of Information (Amendment) Act 2003, June 2004. <http://www.oic.gov.ie/en/Publications/Annual-Reports/Previous-Annual-Reports/2004-Annual-Report/Review-of-the-Operation-of-the-Freedom-of-Information-Amendment-Act,-2003.html>



only country in the European Union to charge FOI application fees.<sup>64</sup> All letters requesting information sent to public bodies in Scotland are considered *de facto* to be FOI requests and have to be responded to adequately. Fees are against the spirit of FOI.<sup>65</sup> At the same time, answering FOI requests drains resources for other activities, so training and support needs to be given to more junior civil and public servants to refuse requests that are vexatious or voluminous. Likewise, they should be encouraged to seek clarification on requests in order to assist requestors while also reducing the administrative burden.

#### 4.07 Reform Record Management

Make changes to record management, such as simple colour coding or filing, to make it clear when a document is created within a public body whether or not it should be available under FOI.

**Rationale:** This would greatly reduce the time and effort spent by senior civil/public servants in refusing requests or redacting information.

#### 4.08 Improve Public Awareness of Access to Information Regimes

Improve public awareness of access to information rights and institutions, and include them in civics education at secondary level.

**Rationale:** This would ensure compliance with existing legal obligations and ensure that citizens are in a position to exercise their rights. For example, see Article 3(5) of the AIE Directive, which provides that: "Member States shall ensure that public authorities inform the public adequately of the rights they enjoy as a result of this Directive and to an appropriate extent provide information, guidance and advice to this end." However, as the Commissioner for Environmental Information noted in a 2008 speech: "What we have instead are Regulations which, while broadly transposing the strict requirements of the Directive, take little account of the need to create a wider framework within which the access regime might actually be effective. As of now, I think it is fair to say that public awareness in Ireland of the AIE regime is very low indeed."<sup>66</sup>

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<sup>64</sup> Transparency International (2012), *Money, Politics and Power: Corruption Risks in Europe*, page 37. <http://www.transparency.org/enis/report>

<sup>65</sup> Tom Felle and Maura Adshead (2009) *Democracy and the Right to Know-10 Years of Freedom of Information in Ireland*, page 17. [http://www.ul.ie/ppa/content/files/Felle\\_democracy.pdf](http://www.ul.ie/ppa/content/files/Felle_democracy.pdf)

<sup>66</sup> Address by Emily O'Reilly, Commissioner for Environmental Information at the Irish Environmental Law Association (2008). <http://www.ocei.gov.ie/en/News/Access-to-Information-on-the-Environment-Regulations-2007-.html>

#### **4.09 Improve Active Dissemination of Information**

Improve active and systematic dissemination of information to the public by all government departments and public bodies.

**Rationale:** In addition to obligations to provide information on request, public authorities have separate duties to take steps to actively disseminate information in their possession. For example, Article 7 of the AIE Directive provides: "Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available....Member States shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunication networks." This obligation is particularly poorly implemented in Ireland at present. This action may require a revision of the role of press offices to satisfy the requirement for proactive transparency rather than simply responding to queries.

#### **4.10 Improve IT Services across the Public Service**

In order to facilitate transparency, IT processes should be simplified and automated across the public service and systems should be integrated. Common IT standards should apply. For example, consistency between different public bodies, common data formats, machine-readable data formats, etc.

**Rationale:** The choice of databases and formats underpins public bodies' ability to easily make data publicly available.

#### **4.11 Increase Legislative Transparency**

Measures should be introduced to increase legislative transparency and make it easier to access up-to-date legislation. The following steps should be taken:

- As well as an explanatory memorandum, each bill should include an appendix of those consulted in formulating the bill – a legislative footprint, explaining the consultation process used and steps undertaken to draft the bill. Once the bill is enacted, this footprint should remain linked to the act so that those consulting the act can readily refer to it.

**Rationale:** Publishing a legislative footprint could help improve transparency over the process of legislative formulation and indicate who is influencing what and when.<sup>67</sup> It helps to ensure that interest groups' influence on policy-making is not disproportionate, which could, otherwise, lead to undue influence and state capture.<sup>68</sup> The implementation is under discussion in the European Parliament and voluntary footprints can already be found there.

- All new bills should be accompanied by a legislative impact assessment explaining the impact of the bill on other legislation, and, for transparency, laws should be publically visible 'as amended' (e.g. unlike the online Irish Statute Book, which displays laws as enacted not as currently amended and in force).<sup>69</sup> Official website hyperlinks to existing legislation, for example the Ethics Acts 1995, should also list and link any amending legislation, for example, the Standards in Public Office Act 2001. Where the Law Reform Commission (or other body) has published an unofficial consolidated version of an act, the link to this version should also be included with the link to the act. Where a bill proposes amending existing legislation, the link to that bill should also link to that legislation. In addition, the link to that legislation should itself include a link to the bill.

**Rationale:** For effective transparency, all citizens must be able to determine the law on a particular issue, both for the purpose of complying with it themselves and in holding others accountable for their compliance. What is needed for transparency is for citizens (and lawyers) to have access to consolidated versions of legislation to ensure that all amendments are clearly 'visible'. This does not require new legislation to formally consolidate legislation (such as the periodic VAT Acts). While the latter also provides visible clarity, the process of legally consolidating all laws is bigger than simply providing 'as-amended' versions for public transparency.<sup>70</sup> The lack of consolidated legislation in Irish law is a significant impediment to transparency in this area. The Law Reform Commission is currently engaged in a programme of legislative consolidation. This programme should be continued. In the interim, determining the content of legislation could be easily facilitated by including hyperlinks to amending legislation so that interested parties can at least determine how the original act has been amended. Hyperlinks should also be included to unofficial consolidations completed by the Law Reform Commission. Assessing the potential impact of a legislative proposal would also be facilitated by indicating the areas of law likely

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<sup>67</sup> See: Lukas Obholzer (2011), A Call to Members of the European Parliament: Take Transparency Seriously and Enact the 'Legislative Footprint', CEPS Policy Brief:

<http://www.ceps.be/book/call-members-european-parliament-take-transparency-seriously-and-enact-%E2%80%98legislative-footprint%E2%80%99>

<sup>68</sup> Legislative footprints play only a small role in the wider discussion about lobbying and transparency. See principle 6 of the OECD Principles for Transparency and Integrity in Lobbying:

<http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=256&InstrumentPID=%20250>

<sup>69</sup> This could build upon the work of the current Statute Law Revision Programme. See <http://per.gov.ie/wp-content/uploads/The-Statute-Law-Revision-Programme.pdf>

<sup>70</sup> A group in UCD is examining the codification of criminal law, which overlaps with this proposed action.

to be affected by it. This proposal would not appear to require the commitment of significant resources and would significantly improve legislative transparency.<sup>71</sup>

#### **4.12 Transparency in Relation to Court Judgments**

Ensure all court judgments are in writing, are made publicly available, and are published on the Courts Service website without undue delay.

**Rationale:** There is a serious problem with the accessibility of court judgments. In certain categories of cases a judgment may be delivered *ex tempore* and no written judgment is ever produced for publication. This is quite often the case in practice with rulings on liability for costs in the High Court and the Supreme Court. This should apply to all judgements, including environmental, commercial courts, public interest cases, etc. For example, as a result of the current situation, there is a general lack of transparency around costs matters in planning and environmental cases and it is difficult to gather reliable data and to track trends on this important practical issue. Beyond the Superior Courts, judgments of the Circuit Court and the District Court are rarely published on the Courts Service website. In the interests of transparency and consistency, it is vital that planning and environmental decisions taken in the Circuit Court and the District Court are recorded in an accessible format that is publicly available online in a timely manner.

#### **4.13 Change the Culture of Official Secrecy**

Abolish the Official Secrets Act and replace it with protection of confidential information in the Freedom of Information legislation.

**Rationale:** There is no need for separate information legislation, as it engenders uncertainty about whether or not information can be shared by public servants. One set of robust exemptions would defend national security, policing and other sensitive areas, with appropriate penalties. The continuing existence of an Official Secrets Act casts a pall over the whole civil service and promotes a continued culture that everything is secret, which is not appropriate for a mature democracy.

#### **4.14 Publish List of Advisers**

Publish contact details and information on all official (i.e. paid) advisers to elected representatives and political parties, especially Ministers and spokespersons, to facilitate civil society and citizens to engage with them around public policy.

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<sup>71</sup> See: <http://www.legislation.gov.uk/>

**Rationale:** Advisers have an important role to play in providing Ministers and spokespersons with specialist knowledge. They also assist politicians to influence the civil servants under their remit. However, although appointments are sometimes reported in the press, there is a lack of transparent, public information about who they are and what roles they play.

#### 4.15 Measures to Encourage Public and Civil Servants to Answer Press Questions

Give senior (policy level) civil and public servants a right to answer questions about public policy posed by journalists and encourage those working on policy to publish in journals and to engage in public intellectual life in an open way.

**Rationale:** Public policy is increasingly about complex social problems, technical legislation, etc. Ireland's relatively small civil service cannot possibly have all of the necessary knowledge and competence to make public policy. However, academics, civil society and other willing experts are unable to make useful and constructive contributions to improving public policy without engagement from civil and public servants, including their active participation in conferences, writing in journals, etc. The goal should be a de-politicised, mature public debate on policy options, which this would allow.<sup>72</sup>

#### 4.16 Publish Consolidated Material on Public Policy

Make information about current policy readily available. The following steps should be taken:

- Publish clear statements on 'current policy' across the full range of functions of government.<sup>73</sup>

**Rationale:** There is a surprising lack of clear statements on what actually is current public policy. Sometimes old strategies continue to be in circulation, but it is not clear if the government is still following them or not. One has usually to rely on academic textbooks to describe actually existing policy, in the absence of official statements. Clarity on public policy has to be pieced together by reference to statements made in the Oireachtas, statements on departments' websites, statements made to UN committees, etc. All of this

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<sup>72</sup>In Sweden and other Nordic countries, there is an entitlement for public servants to answer press questions. See: <http://www.sweden.se/eng/home/society/government-politics/facts/swedish-system-of-government/>. Another principle in the Swedish Freedom of the Press Act (1949) is the freedom to communicate information. Under this principle, everyone in Sweden is entitled to give information to the media that they consider important and that they feel should be made public.

<sup>73</sup> See, for example, the UN categories for the ten main 'functions of government' and their sub-categories: <http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=4>

should be consolidated if the idea of a one-stop shop (see above) is going to provide clarity to citizens.

- Publish a consolidated list of all 'live' public policy documents (i.e. strategies, plans, recommendations that have been accepted, etc.).

**Rationale:** Currently, the public has access to legislation, Oireachtas debates, and the websites of public bodies, as well as policy explained via the mass media and academic analysis. The biggest missing piece is clarity about what are the current plans and strategies in relation to public policy.

#### **4.17 Publish Revised Outcome/Performance Indicators for Government Departments and Public Bodies**

Revise or replace the Annual Output Statements of each government department, and extend this to all public bodies. Publish information in relation to each department's performance in matters such as equality impact assessments and social impact assessments, with respect to each of their areas of competence.

**Rationale:** Annual Output Statements seem to have been introduced across government departments (and public bodies under them) in around 2007. In theory, this was a good idea, but it was possibly not adequately resourced or adequately developed at the outset. There is public interest in having more information about the activities of government departments and public bodies, and something similar to Annual Output Statements/Key Performance Indicators would help provide more clarity.<sup>74</sup>

#### **4.18 Measures to Increase Transparency in Relation to Meetings of Government**

The following steps should be taken:

- Publish the agenda and minutes, as well as other relevant documents, from meetings of government and its sub-committees.

**Rationale:** There is no reason for the vast majority of government business not to be done in the open in this way. While defending the right of government to have robust discussions

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<sup>74</sup> An attempt was made in the past to get each department to draw up business plan-type goals, and to report on their progress annually as part of their annual reports. See: <http://www.finance.gov.ie/viewdoc.asp?DocId=-1&CatID=64> and: <http://www.ahg.gov.ie/en/AboutUs/AnnualOutputStatements/> The production of these seems to have ceased.

and debate in private, there is no reason why citizens should not know the topics being discussed as well as factual information being presented by Ministers.<sup>75</sup>

- Publish all documents that are currently required to be made public under EU law, even if they are cabinet documents.

**Rationale:** EU law requires the publication of documents showing emissions into the environment and 'cabinet confidentiality' is not an eligible reason for not doing so.<sup>76</sup>

#### 4.19 Improve Transparency in Extractives Industry

Sign up to the Extractive Industries Transparency Initiative (EITI). Local authorities should be given a strong obligation to complete the extractive industries registers that they currently hold (as per The Waste Management (Management of Waste from the Extractive Industries) Regulations 2009 (SI No. 566 of 2009)).<sup>77</sup>

**Rationale:** Article 10 of Bunreacht na hÉireann makes specific reference to natural resources, including "all forms of potential energy" as belonging to the State, and by extension to the people of Ireland. Given the major economic importance of resource extraction, as well as potential pollution and harm to local environments, transparency in this area is absolutely essential. Ireland should also be a supporter of EITI based on our good reputation for development aid, given that lack of transparency by extractive industries in developing countries is often a major problem and one reason for the lack of tax revenues in those countries to provide better public services. EITI aims to ensure comprehensive transparency and accountability in the governance of natural resources, from the decision to extract to the granting of concessions, the collection of revenues and the management of resource revenues.<sup>78</sup>

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<sup>75</sup> See here for the current sub-committees of Government in Ireland: [http://www.taoiseach.gov.ie/eng/Taoiseach\\_and\\_Government/Cabinet\\_Committees/](http://www.taoiseach.gov.ie/eng/Taoiseach_and_Government/Cabinet_Committees/)

<sup>76</sup> See: Article 4(2) of Directive 2003/4/EC (the AIE Directive): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:pdf>

<sup>77</sup> <http://www.irishstatutebook.ie/pdf/2009/en.si.2009.0566.pdf>

<sup>78</sup> See: <http://eiti.org/>. See also: <http://www.ogphub.org/the-guide/extractive-industries-oil-gas-and-mining/>

## Enhancing Stakeholder Participation in OGP

The Open Government Partnership offers a new opportunity for collaboration between government and civil society that hinges on the commitment and capacity of both. At international level, an OGP steering committee has been established, comprised equally of governments and civil society organisations. This consultation sought participants' views on how Ireland's OGP engagement could be strengthened in the months and years ahead. These are the proposals that emerged from working groups and online input:

### OGP Engagement Structures

- New formal structures are necessary to ensure ongoing engagement between civil society and government. A steering group/committee/council should be set up to allow civil society to engage with government departments in drafting Ireland's first Action Plan.
- One specific proposal prescribed a seven-member civil society secretariat/committee, with members elected in an online procedure as individuals not representing any particular group. This secretariat could draw on the support of a panel of expert advisors working in a voluntary capacity.
- It is important that any committee or steering group reaches outside Dublin and does not only operate within office hours.
- Civil society must monitor the implementation of Ireland's Action Plan commitments. This could entail quarterly or bi-annual Action Plan progress reports
- The process of engagement must be resourced. This could be through a combination of public and philanthropic funds as well as funding from an alliance of civil society groups.
- On the government side, engagement must go beyond the Department of Public Expenditure and Reform. The establishment of an interdepartmental implementation committee would signal wider engagement.

### Need for Diversity, Openness and Inclusivity

- Civil society needs to be defined in new ways as part of OGP. It is frequently understood in terms of public benefit special interest organisations that do not reflect the wider public sphere. Within this definition, ordinary non-mobilised citizens are 'outside' civil society. This matters for civil society engagement on behalf of citizens in OGP.
- OGP has the potential to increase cultural capital; to do so it must be open to the entire public. It should be permanently open to any organisation or individual.



- There should be ongoing opportunities for online and offline engagement in the OGP process. This could include a permanent website, the use of social media, YouTube etc, regular forums around the country and staff to resource this, whether contractual or from the civil service. There could be an online forum with a mediator to stimulate engagement.
- Investment is needed in promotion and national awareness-raising, including resources for advertising. Outreach work could include visits to colleges to engage with students and academics.
- Civil society organisations receiving public funding could take steps to demonstrate an open spirit and lead by example on OGP. They could do so by making their internal processes more open, innovating in engagement, working with the full range of perspectives on an issue and in general invigorating the public sphere. This would help support the concept of a public sphere to re-emerge in government-citizen relations.
- Strong connections should be made between the innovation-driven start-up and social enterprise community, civil society and the wider public sphere.

### **Need for Clarity, Transparency and Feedback**

- Actual demonstrable results are crucial to any future engagement in OGP. Engagement will deepen when people feel that they can have a voice, their voice is heard and they can effect change.
- Transparency is vital to ongoing engagement. This includes transparency about all OGP submissions made to government. There must also be clarity in relation to the process, particularly regarding what happens between now and the finalisation of the first Action Plan.
- Feedback is crucial if trust in the new partnership is to be built. This means government departments giving reasons for any of the Action Plan proposals being considered not feasible.
- Consultations must continue while the first Action Plan is being written.

### **Submissions**

A total of five submissions were made during the consultation period. These were from ASH Ireland, the Irish Medical Organisation, the National Women's Council of Ireland, Oliver Moran, and the Open Knowledge Foundation - Ireland.<sup>79</sup>

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<sup>79</sup> These are available at: <http://www.ogpireland.ie/2013/09/02/submissions-ogp-consultation/>

## **Annex I – Details of Consultation Meetings**

The details of the agendas and attendees at the three consultation meetings are set out below. Feedback was sought after each meeting through evaluation forms distributed to participants in hard copy and by follow-up email. A total of 19 completed or partially completed evaluation forms were received from participants at all three meetings.

### **Meeting I C July 10 2013**

The inaugural public meeting, a full day event, took place on July 10 2013. Its aim was to introduce OGP and the consultation process. The Minister for Public Expenditure and Reform, Mr Brendan Howlin, took part in an opening discussion moderated by RTÉ radio journalist Dr Gavin Jennings. Four 'primers' on key aspects of open government were delivered by the following speakers: Prof David Farrell UCD; Gavin Sheridan journalist; Denis Parfenov Active Citizen, John Handelaar Kildarestreet.com. OGP's independent Civil Society Coordinator, Paul Maassen, addressed the meeting by Skype, providing an overview of OGP internationally. Four working groups were established around OGP's core themes of Accountability, Citizen Participation, Technology and Innovation, and Transparency. Expert facilitators guided participants in identifying challenges and barriers to open government as well as possible solutions. Facilitators summarised their respective working group discussions in plenary session. Just over 83 per cent of those who completed evaluation forms found the structure of the first meeting as excellent, with the other 17 per cent rating it as good. A total of 66 per cent considered the content, moderation and logistics of the meeting to be excellent, with 33 per cent rating these as good.

### **Meeting II – August 8 2013**

The second public meeting, a half day event, took place on August 8 2013. Participants learned how the Open Government Partnership has worked in other countries from two invited speakers – Paul Maassen, independent Civil Society Coordinator for OGP, and Simon Burall, director of the NGO Involve which has coordinated civil society engagement with the OGP in the UK. The working groups came together again to discuss how solutions identified in the first meeting and through online collaboration since then could be framed as proposed OGP commitments that were SMART – specific, measurable, ambitious, realistic and time-bound. A total of nine civil servants were invited into working groups as resources for the groups and to offer information on current policy. Facilitators summarised their respective working group discussions in plenary session. A presentation on the use of the inclusive multi-optional decision-making methodology, the Modified Borda Count, was made by Peter Emerson of The de Borda Institute.<sup>80</sup> This was presented to participants as a way to prioritise Action Plan proposals at the final meeting. Just over 55 per cent of participants who filled in evaluation forms described the structure and content of the

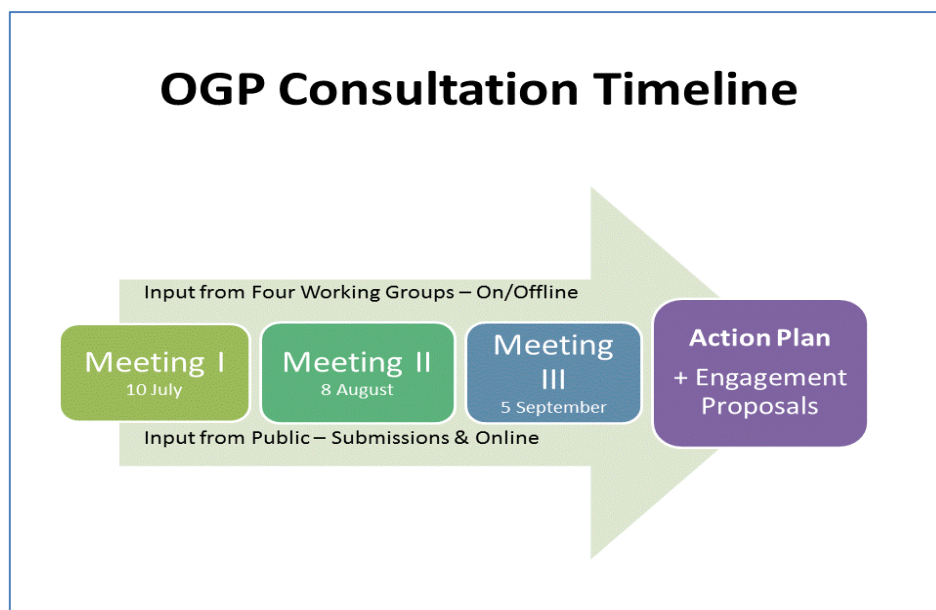
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<sup>80</sup> See: <http://www.deborda.org/>

second meeting as very good, with 44 per cent rating it as good. A total of 67 per cent considered the moderation of the meeting as very good, with 22 per cent saying it was good and 11 per cent that it was poor. A total of 56 per cent found the logistics of the meeting were very good, with 33 per cent saying they were good and 11 per cent that they were poor.

### **Meeting III – September 5 2013**

The final public meeting, a half day event, took place on September 5 2013. This meeting was a practical session with each of the four working groups fine-tuning their Action Plan proposals in the online documents. (Considerable consolidation had already been done on several of these online working documents before this meeting.) After they had signed-off on their proposals, participants then used the Modified Borda Count method to indicate their priority Action Plan proposals. This is designed to facilitate groups wishing to collectively prioritise a set of options. Participants voted within each of the four working group to prioritise their respective Action Plan proposals. This exercise identified proposals with the highest level of overall support within each working group on the day. It was clearly understood by participants that the aim of this exercise was to produce a 'shortlist' as guidance for the Department of Public Expenditure and Reform and other departments and that *all* of the proposals generated during the consultation process would be presented to the Department for consideration in drafting Ireland's first OGP Action Plan. Working group participants also discussed next steps in OGP in Ireland in both the short and long-term. Facilitators summarised their respective working group discussions in plenary session. A third of participants who completed evaluation forms rated the structure of the meeting as excellent, with a third saying it was very good and a third that it was good. The content of the meeting was described as very good by 67 per cent of participants and good by the remaining 33 per cent. The moderation of the meeting was considered excellent by 67 per cent of participants and good by 33 per cent. The logistics of the meeting were rated very good by 67 per cent of participants and good by 33 per cent.



### **Informing the Consultative Process on Relevant Good Practice**

During the three public meetings participants were advised on appropriate good practice in developing effective open government commitments in line with OGP objectives. This included presentations from invited expert speakers and the distribution of original explanatory materials which drew on best practice examples internationally, based on source material from OGP, Global Integrity and individual country plans. All documents, including the OGP Public Consultation Guidelines, were made available on the OGP Ireland consultation website. In addition, much of the website copy for [www.ogpireland.ie](http://www.ogpireland.ie) was generated by TI Ireland, based on its research.

## Annex II – Attendees at Consultation Meetings

| Working Group  | Meeting 1  | Meeting 2 | Meeting 3 |
|--|------------|-----------|-----------|
| Accountability   | 10         | 9         | 5         |
| Citizen Participation  | 12         | 9         | 10        |
| Technology and Innovation  | 10         | 11        | 10        |
| Transparency   | 5          | 8         | 7         |
| <b>Total attendees</b>   | <b>44*</b> | <b>37</b> | <b>32</b> |
| *Total number of working group participants was 37. Not all attendees joined working groups. |            |           |           |

| Civil Society & Academic Organisations            |                                       |   |
|---|---------------------------------------|---|
| Active Citizen                                    | Interactive Design Centre             | Social Justice Ireland                        |
| An Taisce   | Irish Heart Foundation                | TASC (Think-tank for Action on Social Change) |
| Burren College of Art                             | Klawitter Theatre Group               | The de Borda Institute                        |
| Climate Gathering                                 | LEAF Laois Environmental Action Forum | The Story.ie                                  |
| Crosscare   | National Women's Council of Ireland   | The Wheel                                     |
| Dailwatch.ie                                      | National Youth Council of Ireland     | Transparency International Ireland            |
| Digital Enterprise Research Institute, NUI Galway | Nexus                                 | Trócaire                                      |
| Digital Rights Ireland                            | Open Knowledge Foundation             | United Minds                                  |
| Dóchas  | Oxfam Ireland                         | University College Dublin                     |
| Green Foundation Ireland                          | Royal Irish Academy                   | University of Ulster                          |
| Irish Feminist Network                            | Second Republic                       |   |

| <b>Government Agencies</b>                          |                                       |  |
|---|---------------------------------------|--|
| Cavan Co. Council                                   | Dept of Public Expenditure and Reform | Local Government Management Agency                 |
| Dept of Environment, Community and Local Government | Dun Laoghaire Rathdown Co. Council    | Office of the Government Chief Information Officer |
| Dept of Foreign Affairs and Trade                   | Fingal Co. Council                    |  |
| <b>Business</b>                                     |                                       |  |
| 10Gen   | Dublin Business Assoc.                | GAMMA  |
| Bluereek Limited                                    | Esri Ireland                          | Park Ya Dublin                                     |
| Colgan & Associates                                 | Feeney Enterprises                    | The Civic Works                                    |
| <b>Political Parties</b>                            |                                       |  |
| The Green Party                                     | The Labour Party                      | United Left Alliance                               |