

DRAFT OGP CIVIL SOCIETY CONSULTATION PROPOSAL TABLE – FOR DISCUSSION

Colour Key

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| Green | Civil society proposal is essentially currently being implemented (as part of a current Government initiative) or is expected to be implemented (as part of a planned or possible future initiative). |
| Amber | The objective / aim of the civil society proposal is being addressed under a current / expected future Government initiative. |
| Red | Civil society proposal is not recommended for implementation. |

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| No. | Summary of Recommendations included in the Report of a Consultation with Civil Society Representatives and Citizens on Ireland’s Participation in the Open Government Partnership ¹ | Response |
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| 1. Accountability | | |
| 1.01.1 | Set high standards of accountability. E.g.: Implement outstanding Mahon and Moriarty recommendations | A major legislative project is currently being undertaken by the Department of Public Expenditure and Reform to overhaul the legislative framework for ethics. This project is examining the implementation of the proposals of the Mahon Tribunal in particular the detailed recommendations relating to the conflicts of interest drawing on international experience and best practice. Many of the recommendations contained in the Mahon and Moriarty Tribunal Reports have already been implemented and implementation of others is being progressed where feasible and consistent with Government approval by relevant Departments. |
| 1.01.2 | Set high standards of accountability. E.g.: Publish Attorney General’s advice. | The Attorney General has a constitutional responsibility to act as the legal adviser to the Government. The Attorney General’s advice is legally privileged and cannot therefore be published. The publication of the legal advice to the Government would potentially disadvantage the State in litigation by providing the other party to the legal action with detailed information on the legal analysis that has informed the State’s legal case. It is important to note that where the Attorney General’s advice is relied on to determine the Government’s approach to any particular issue, the substance of that advice is, in general, communicated publicly (e.g. in the context of the passage of legislation through the Oireachtas). |
| 1.02.1 | Enhance the Powers and Remit of the Comptroller and Auditor General e.g., role in determining the evidence base for proposed performance measures for public bodies | This recommendation may impact on the C&AG’s constitutional role and could potentially require constitutional change. As set out in response to 2.04 below, proposals for constitutional change are not considered appropriate for inclusion in the OGP Action Plan. In practical terms the recommendation could conflict with the Comptroller and Auditor General’s constitutional and statutory role in auditing the accounts of public bodies which of necessity is carried out on an |

¹ Report is available online at the following link: <http://www.ogpireland.ie/2013/10/02/final-report-ogp-consultation/>

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| | | <p>ex-post facto basis. There is an inherent potential conflict of interest between the C&AG’s audit role and involvement in determining the evidence base for proposed performance measures for public bodies or carrying out <i>real-time</i> reviews of public expenditure.</p> |
| 1.02.2 | <p>Enhance the Powers and Remit of the Comptroller and Auditor General e.g., role in determining the evidence base for proposed performance measures for public bodies, Real time reviews of public expenditure, Real sanctions for departmental waste.</p> | <p>There is a detailed and comprehensive constitutional / legislative framework for the control and oversight of public expenditure with a particular focus on securing value-for-money. Please see Public Financial Procedures at http://govacc.per.gov.ie/public-financial-procedures-booklet-by-section/ and the Mullarkey Report at https://www.dcu.ie/sites/default/files/ocoo/5.%20Mullarkey%20Report%202003.pdf for further information including in relation to the onerous responsibilities and personal liability of Accounting Officers in relation to public monies.</p> <p>The Programme for Government committed to giving the Comptroller and Auditor General additional powers to carry out VFM audits of State programmes. Discussions are continuing between D/PER and the Office of the Comptroller and Auditor General to discuss the implementation of these proposals in the context of the overall mandate of the Comptroller and Auditor General, including the VFM, financial reporting and inspection mandates.</p> <p>Consideration of any change in the role of the Comptroller and Auditor General must take account of initiatives for the management and reporting of public expenditure. This includes, for example, as part of the annual estimates process, the introduction and development of performance budgeting. Relevant developments at EU level include the introduction of common standards for the accounts of public bodies, while, as part of a joint initiative with the Department of Finance, recommendations made in a recent IMF Report on enhanced fiscal transparency are under consideration.</p> <p>The strengthening of accountability systems requires a clear sighted examination of the forms and structures of accountability that best support the broader agenda of public service reform and its core objective of high quality</p> |

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| | | <p>and more efficient provision of public services. This wider accountability framework includes the work of the C&AG in terms of both financial auditing and value for money reports.</p> |
| 1.03 | <p>Measures to improve accountability in the financial sector: Enquiry into financial collapse, bankers charter, stricter auditing of banks</p> | <p>A comprehensive programme of the reform of financial regulation has been implemented in Ireland in response to the financial crisis including the development of a new supervisory framework at EU level, reform of corporate governance in financial institutions, more stringent capital requirements, regulation of credit ratings agencies and regulation of the shadow banking sector.</p> <p>At national level the reforms include the strengthening of supervisory structures through the integration of financial regulation within the Central Bank of Ireland. There has been a very substantial increase in the number of staff employed in the Central Bank and there has been a particular focus in ensuring that the Bank possesses the skills and expertise to effectively supervise financial institutions. The powers of the Central Bank have been significantly enhanced. The Central Bank (Supervision and Enforcement) Act 2013 empowers the Bank to take such steps as may be necessary to intervene, direct, regulate and if necessary, sanction financial service providers to ensure compliance with financial services legislation.</p> <p>The Central Bank has taken a number of steps to improve accountability in the financial sector</p> <ol style="list-style-type: none"> 1. The Central Bank has in place a statutory Corporate Governance Code for Credit Institutions (i.e. banks) and Insurance Companies. This imposes various governance requirements on banks (a revised and updated version of the Code is due to become effective on 1 January 2015). <p>http://www.centralbank.ie/regulation/poldocs/consultation-papers/Documents/CP41%20-%20Corporate%20Governance%20Requirements/Corporate%20Governance%20Paper%20-%204%20November%20(3)%20Amended%2023%20Feb%202011.pdf</p> |

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| | | <p>2. In December 2013 the Bank published the revised Auditor Protocol (effective in 2012) which aims to enhance the information sharing between the Central Bank and auditors of regulated financial service providers, thereby improving the regulatory and statutory audit processes.</p> <p>http://www.centralbank.ie/regulation/Documents/The%20Auditor%20Protocol.pdf</p> <p>3. The Bank is also currently working on a regime for the audit of internal governance in certain institutions, including banks.</p> <p>4. The Bank has a Fitness and Probity regime which came into effect on 1 December 2011 for all regulated financial service providers (including banks, but excluding credit unions). This new regime was fully implemented by 1 December 2012. 41 senior positions are prescribed as Pre-Approval Controlled Functions (PCFs) for the relevant firms. The prior approval of the Central Bank of Ireland is required before an individual can be appointed to a PCF.</p> <p>http://www.centralbank.ie/regulation/processes/fandp/serviceproviders/Pages/default.aspx</p> <p>The Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, provides a statutory framework to assist the Houses of the Oireachtas in conducting inquiries including a banking inquiry within current constitutional parameters. It is expected that the Houses will begin such an inquiry later this year.</p> |
| 1.04 | Introduction of Financial Crimes legislation: Behaviour such as reckless trading (including lending) and misfeasance in office should be criminalised in a Financial Crimes Act. | The Central Bank (Supervision and Enforcement) Act 2013 introduced a number of reforms in the Irish financial services sector. In an October 2013 letter to the Chairman of the Committee of Public Accounts the Minister for Finance stated that further work is needed at Central Bank level to develop a viable proposal on the issues of reckless trading and presumptive liability for directors. The |

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| | | Minister for Finance and the Minister for Justice have asked the Central Bank to examine this issue. |
| 1.05.1 | Impose corporate criminal liability | According to the Law Reform Commission it is well established in Irish law that a corporate entity can be criminally liable and the principle pre-dates the foundation of the state. A number of pre-1922 statutes allowed for summary prosecution of bodies corporate. Corporate criminal liability continued to develop over the course of the 20th century. For example, section 13 of the Restrictive Trade Practices Act 1953 and section 100 of the Factories Act 1955 explicitly provide for corporate liability for offences under those Acts. The Interpretation Act 1937 allows for companies to be tried for criminal offences in the same way as natural persons, both summarily and on indictment. Most of the earlier offences were offences of strict liability and did not require any detailed consideration of the corporate entity's 'state of mind'. More recent Irish legislation has specifically countenanced corporate criminal liability, not only for strict liability or 'regulatory' crimes, but also for crimes requiring a mental element. The Criminal Justice (Theft and Fraud Offences) Act 2001, the Competition Act 2002 and the Prevention of Corruption (Amendment) Act 2001 allow for corporate liability for crimes which require proof of a mental element for conviction. These later Acts also provide for criminal liability of managers who contributed to the corporate offence. |
| 1.05.2 | Impose corporate criminal liability – set up a register of the beneficial owners of all companies registered in Ireland | There are a number of mechanisms already in company law through which beneficial ownership of shares can be identified. For example, any person with a financial interest in a private company may apply for a court order, under section 98 of the Companies Act 1990, to ascertain details of ownership of that company. Additionally, in regard to public companies there is a requirement, set out in Part IV, Chapter 2 of the Companies Act 1990, to disclose interest in shares when such interest reaches a specified percentage threshold. Due consideration will be given to this issue as part of the final agreement on the 4th anti-money laundering directive being negotiated at EU Council at present. See http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad2013121200053?opendocument#EEE00900s |
| 1.06 | Improve effectiveness of accountability mechanisms: Proposed planning | Very substantial reforms are underway with regard to the strengthening of |

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regulator should report to the Oireachtas, Creation of more anonymous complaints procedures, Adequate numbers of administrative and specialised staff for accountability institutions, Increased inter-agency co-operation, Publication of disaggregated civil service performance data, Publication of more detailed information relating to Garda activities

regulatory structures in a number of sectors of the economy, including financial regulation, planning etc. Notwithstanding significant budgetary constraints, accountability structures have and are being strengthened (e.g. the Ombudsman's remit was significantly increased under the 2012 Act and the FOI Bill will bring many more bodies under FOI) and substantial resources continue to be provided to these and other regulatory bodies.

The Protected Disclosures Bill 2013 does not prohibit workers who make anonymous complaints from benefiting from protections available in the Bill. This reflects a change from the published Heads of Bill.

A new Office of the Planning Regulator (OPR) is to be established as a new and separate corporate identity. The Planning Regulator will carry out independent appraisal of all relevant statutory plans – including local area plans, development plans, regional planning guidelines etc. The Planning Regulator will advise the Minister on the content of the plans and where appropriate provide advice that all or part of a plan should be amended or rejected (through a Ministerial Direction). This advice will be published. Final decision on whether to issue a Direction will reside with the Minister who will be accountable to the Oireachtas for his or her decision. The OPR would also be mandated to carry out the research, training and education roles identified by the Tribunal.

The broader issue of the accountability framework was one of the main elements of the Government's July 2013 Policy Statement on sectoral economic regulation.

The publication of disaggregated civil service performance data is likely to conflict with Data Protection legislation.

The FOI Bill when enacted will result in An Garda Síochána becoming subject to the FOI Act in terms of its administrative functions. This will lead to publication of more information relating to Garda activities.

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| | | <p>Greater scrutiny of ethics disclosures is under consideration in the context of the overhaul and reform of the ethics framework.</p> <p>On increasing accountability at local level, Part 12A of the Local Government Act 2001 (as inserted by section 61 of the Local Government Reform Act 2014) provides for a National Oversight Audit Commission, which will oversee Local Government Finance and service provision, making use of performance indicators.</p> |
| 1.07 | <p>Publish Ireland’s plan for implementation of United Nations Convention against Corruption (UNCAC), in particular Articles 6 and 13.</p> | <p>Ireland ratified this Convention in 2011. With regard to Article 6 of the Convention (Preventative anti-corruption body or bodies) it is considered that the existing bodies, including the Standards in Public Office Commission, the various Ombudsman's Offices and the Director of Corporate Enforcement, already fulfilled this role within the State, while also taking account of the general role of the Garda Síochána in policing corruption. Ireland's obligations under Article 6 are consequently addressed by a range of bodies.</p> <p>Article 13 (Participation of Society) requires each State Party to take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector. This is a matter for each individual office/organisation to consider in the context of its particular responsibilities.</p> <p>With regard to the implementation of the Convention, a review mechanism has been agreed by the State Parties to the Convention. Therefore Ireland's implementation of the Convention is now subject to the established oversight mechanism. The Department of Justice and Equality has indicated to the UN Evaluation Team that it would welcome an onsite visit by the Evaluation Team. It is also planned that this visit would afford the Evaluation Team the opportunity to engage with Civil Society representatives in relation to the particular Chapters under examination (Chapters III and IV).</p> |
| 1.08 | <p>Tackle legal costs as a barrier to accountability - Amendment of rules on costs in public interest cases to provide that a) as a general rule parties will bear only their own legal costs and b) the court has discretion to award a successful</p> | <p>The rule that costs follow the event is a well-established principle. "Public interest cases" are a legally defined and fairly narrow category of cases. To say that the court has discretion to award a successful public interest party their</p> |

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| | applicant and public interest notice party his/her costs. | costs, would rule out costs to an unsuccessful public interest party - which is occasionally the current position. This would not be regarded as an improvement in the law. |
| 1.09 | Strengthen Provisions in the Regulation of Lobbying Bill 2013 to ensure that it regulates both lobbyists and the public representatives and officials who are the subject of lobbying. | <p>The Bill is currently being drafted and any proposals received in relation to it will be reviewed in the context of the drafting of the Bill for the consideration of Government. A provision is included in the Bill requiring the preparation of a Transparency Code for public officials.</p> <p>The proposed Bill will be complementary to other transparency arrangements already in place including arrangements for accountability to the Oireachtas, the Freedom of Information and the Ethics and Standards in Public Office legislation. These existing arrangements already put the onus on office holders and on the public service to meet certain transparency objectives and to assist the public in understanding the policy making process and in ensuring that ethical standards are being met.</p> |
| 2. Citizen Participation | | |
| 2.01 | Strengthen Civic Participation – Children and Young People as Citizens e.g.: Reform of the Civic Social and Political Education (CSPE) course, new leaving certificate course in politics and society, promoting student involvement as part of Whole School Evaluations (WSE), Audit of the ‘health’ of the Comhairle na nÓg in each country, Strong promotion of EU SiS catalyst initiative, Measures to foster active citizenship in formal education system, Pilot Schools Programme. | <p>The Department of Children and Youth Affairs:</p> <ul style="list-style-type: none"> • is developing the first Government policy on children and young people's participation in decision-making to ensure that they have a voice in their individual and collective everyday lives. This national policy will be published during 2014. • establishing a Children and Young People's Participation Hub, as a national centre of excellence to support implementation of the participation policy through the provision of information and training. • oversees and monitors improvements in the operation of Comhairle na nÓg in every local authority area, through compliance with application and reporting requirements under the Department's Comhairle na nÓg Development Fund. The Department also funds three Participation Officers to provide training and support for organisers and young members of Comhairle na nÓg. Through these initiatives, the Department collects data on trends and developments in Comhairle na nÓg. |

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| | | <p>Significant work has been done in this area by Department of Education with a new CSPE course being introduced on a phased basis and a new Leaving Certificate course on Politics and Society. The WSE is a collaborative process involving engagement with students, boards of management and parents' representatives. The D/CYA's National Children and Young Peoples Policy Framework (2013-17) will allow for development of a national youth participation policy.</p> |
| 2.02 | <p>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.</p> | <p>Citizen engagement has been promoted widely under for example Leader programmes, local agenda 21, planning, environmental forums, etc. over the years and through participation on policy proposals at national level and more recently through the Convention. The specific proposal does not appear to meet the SMART criteria for inclusion in the OGP National Action Plan. Its impact is also uncertain. Furthermore, it is considered that better use should be made of existing infrastructure to promote greater citizen engagement.</p> |
| 2.03 | <p>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, and bringing critical thinking and energy to solving local issues and needs.</p> | <p>There are already structures in place at local level to enable citizens to engage with city and county councils to solve local issues and needs. The proposals put forward by the OGP working groups were to be SMART, have high impact and fit well with the OGP objectives. A pilot model such as this will not meet the high impact criterion. The Open Data initiatives will improve the quality and breadth of information available to citizens to support them to participate more fully – it will allow all citizens to engage whether in relation to healthcare, transport, education, or other. Initiatives such as 'Fixyourstreet' are designed to encourage participation on local needs. It is considered that better use should be made if existing infrastructure and initiatives to promote greater citizen engagement.</p> |
| 2.04 | <p>Introduce Citizens' Initiatives at local regional and national level. Would allow citizens to initiate a referendum to propose constitutional change and/or propose or oppose legislation, if sufficient support can be gathered from the electorate.</p> | <p>Public consultation comprises a key element of the Better Regulation agenda and it is, therefore, very common practice for such consultations to take place including for example, in the context of the preparation of Regulatory Impact Analysis, and following the publication of General Schemes and Bills. Oireachtas Committees provide pre-legislative scrutiny which in turn provides another forum for consultation with interest groups on issues of concern.</p> |

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| | | <p>The Convention on the Constitution is a forum of 100 people, representative of Irish society and parliamentarians from the island of Ireland, with an independent Chairman. The Convention was established by Resolution of both Houses of the Oireachtas to consider and make recommendations on certain topics as possible future amendments to the Constitution. The Convention is to complete its work within 12 months. For its part, the Government has undertaken to respond to the Convention's recommendations within four months by way of debates in the Oireachtas and where it agrees with a particular recommendation to amend the Constitution, to include a timeframe for a referendum. The Constitutional Convention is a major initiative for citizen participation which is a key OGP objective. Proposals for constitutional change are not considered an appropriate for consideration for inclusion in the OGP National Action Plan.</p> |
| 2.05 | Reduce Voting Age to 16 | <p>The Government has committed to holding three referendums in 2015 arising from recommendations of the Convention on the Constitution on same-sex marriage, reducing the vote age to 16, and reducing the age of candidacy for Presidential elections.</p> <p>See http://www.merrionstreet.ie/index.php/2014/01/speech-by-the-taoiseach-at-the-15th-annual-philip-monahan-memorial-lecture-towards-a-renewed-public-service/</p> |
| 2.06 | Promote voting for first time voters | <p>As well as publicising referenda the Referendum Commission has a role in encouraging people to vote in them. See for example the comments of the commission chairperson here: http://www.refcom.ie/en/News-Media/Press-Releases/Public-Information-Campaign-Launched-by-Referendum-Commission.html</p> |
| 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. | <p>Public officials have very significant experience and expertise in relation to public consultation and engagement with citizens reflecting the very extensive engagement and lobbying that takes place in Ireland in relation to public policy and the high degree of accessibility of the political and the administrative system. In addition, both central and local government and many public bodies engage in extensive public consultation on policy proposals and legislation. The preparation of the first National Action Plan will present an opportunity to foster and strengthen the skills required by civil servants and citizens to</p> |

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| | | successfully participate in the OGP. |
| 2.08 | Incorporate OGP at Local Level: Establish formal OGP citizen engagement structures at local government level. | See above response to 2.07. Furthermore, very significant opportunities for citizens to engage at local level exist. |
| 2.09 | Develop best practice initiatives for Local Government Consultation and Engagement Online & Offline | <p>There is already significant citizen consultation at local government level for policies and processes, for example in the area of planning.</p> <p>Once sections 36 and 44 of the Local Government Reform Act 2014 are commenced; section 66B of the Local Government Act 2001 will require Local Community and Development Committees (LCDCs) to engage in public consultations when developing the community elements of Local Economic and Community Plans (LECPs) and will require local authorities to engage in public consultations when developing the economic elements of LECPs. Furthermore LCDCs and local authorities will be required to publish reports on submissions received and have regard to them when preparing the LECPs.</p> <p>Furthermore, once section 46 of the 2014 Reform Act is commenced; section 127 of the 2001 Act will enable local authorities to take all appropriate steps to consult with and promote effective participation of local communities in local government. One of the principal implementing provisions will be the adoption by each local authority, in accordance with Regulations to be made under the Act and the issuance of Guidelines from the Department of the Environment, Community and Local Government, of a framework for public participation in local government, which will set out the mechanisms by which citizens and communities will be encouraged and supported to participate in the decision-making processes of the local authority. The adoption of the framework is a reserved function.</p> |
| 2.10 | Make Official data more user friendly: Best practice guidelines on user-friendly language and data presentation, data related to local public services made available to citizens in a timely manner, competitions in local authority areas to source innovation in the use of public information, Set standards for clarity and simple language for all government publications. | Measure have been taken to encourage the use of plain English in official documentation, another of the working group requests. The greater use of plain language is an important part of the Government’s Public Service Reform agenda. The National Adult Literacy Agency plays an important role in this area. The Minister’s Open Data initiative including adoption of the Open Data Charter would be expected to result in making a greater amount of data available including in relation to public services in a timely manner. The |

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| | | introduction of publication schemes under the FOI Bill and the focus on the proactive publication of information by public bodies is also expected to make an important contribution in this area. |
| 2.11 | Introduce Participatory Budgeting at Local Government Level: This involves setting aside a percentage of local authorities' annual budgets for decision by citizens working together with officials, civil society and councillors. | <p>Sections 102 and 103 of the Local Government Act 2001 set out the local authority budget process, which includes –</p> <ul style="list-style-type: none"> • the issuing of a public notice of the fact that the draft local authority budget has been prepared, and • inspection and purchase (not exceeding the reasonable cost of reproduction) of a draft copy of the budget by members of the public. <p>Sections 109 and 110 of the Local Government Act 2001 provide for the creation of community funds, financed by local householders, to develop and deliver community initiatives.</p> <p>http://www.irishstatutebook.ie/2001/en/act/pub/0037/sec0109.html#sec109 http://www.irishstatutebook.ie/2001/en/act/pub/0037/sec0110.html#sec110</p> |
| 2.12 | Introduce Participatory Budgeting on Allocation of Discretionary budgets: As above, relating to discretionary budgets. | See 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. | This proposal is unclear and in any event is unlikely to have a high impact in achieving greater citizen participation. It is unclear how this proposal relates to OPG priorities. |
| 2.14 | Enshrine a commitment to sustainability in the constitution | See response to 2.04 – In line with the Programme for Government commitment the Constitutional Convention is the forum established by Government for citizen participation in examining the case for constitutional change |
| 2.15 | Hold a referendum to Introduce an Irish Bill of Rights | See response to 2.13 above. |
| 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. | <p>This appears to be covered by point 2.09 and is a well-established principle and practice in the development and scrutiny of policy and legislative proposals.</p> <p>The Programme for Government outlined an ambitious agenda for Dáil Reform to be introduced in a phased process over the lifetime of this Government. One</p> |

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| | | <p>of the proposed reforms focuses on more public involvement in law making, including expanding the current Oireachtas Committee Pre-Legislative Stage. The Pre-Legislative stage before the relevant Oireachtas Committee will be required for all non-emergency legislation. Where a Minister does not bring a Bill to Committee for Pre-Legislative Stage, they will be required to outline to both the Cabinet and the Dáil the reasons for this decision. This will allow for an unprecedented and extensive engagement by the public in law making. The Committee can consult with citizens with expertise in the area, civic society groups and other interested groups – crucially, this will take place before the Legislation is drafted.</p> <p>Post Legislative Review: A Minister will report to the relevant Oireachtas Select Committee within 12 months of enactment to review the functioning of the Act. This will allow for the Committee to consult with civil society groups and individuals with expertise in the relevant area.</p> |
| 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. | <p>The European Commission routinely conducts open public consultation exercises prior on draft legislation, usually at pre-publication stage, and some Government Departments have publicised these on their websites.</p> <p>Closer to home, while there is no structured public consultation process in place at national level, it is important to note that EU scrutiny is now "mainstreamed" across all sectoral Committees, meaning that all sectoral Committees are mandated to consider draft EU proposals under their terms of reference. Committees are increasingly engaging with stakeholders/civil society in the course of their ongoing work and are also uniquely equipped to do so in a public and open way. Committees publish their EU scrutiny decisions on oireachtas.ie and, where a Committee decides to conduct further detailed scrutiny on a particular proposal which it considers to be of importance, it will usually invite the relevant Department/other expert witnesses to a public meeting which will be flagged in advance on the oireachtas website, with all public meetings being webstreamed live.</p> |

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| | | Detailed information on EU consultations is already freely available on the EC website: http://ec.europa.eu/ireland/the_eu_and_you/making_yourself_heard/consultations/index_en.htm |
| 2.18 | Support the Direct Election of the European Commission President | Changes in the EU Treaties are not within the proposed scope of the preparation of the OGP NAP. |
| 2.19 | Raise Public Awareness of the Aarhus Convention in local authorities | The Department of the Environment has advised that Ireland has fully implemented in national law the provisions of the Aarhus Convention and there are currently no proposals to embark on a publicity campaign to raise public awareness. The Department is promoting stronger awareness and knowledge of the requirements of the Convention in local authorities. Extensive information is freely available on the D/ECLG on the Convention. |
| 2.20 | Establish Environmental Forums in Every County or Local Authority | <p>Measures that address environmental threats may fall under the OGP Grand Challenge relating to ‘Creating Safer Communities’. There is already extensive scope to engage on environmental issues both at local and national level – the D/ECLG undertakes extensive public consultation on environmental issues (e.g. wind energy guidelines, planning guidelines, waste management guidelines, tyres and waste, Building Regulations etc as well as in relation to key strategy documents such as the Climate Change Strategy, the Sustainable Development Strategy, Waste Management Strategy etc). Public consultation underpins all policies made at local Government level and there are many fora in place for such engagement to take place. Other mechanisms in place for civil society to engage with environmental issues include under the Aarhus Convention.</p> <p>In view of the extensive scope for the public to engage in environmental issues as outlined above, the broad range of possible priorities for inclusion in the OGP National Action Plan and the constraints on the number of actions that can be included in the Plan and other priorities, it is not proposed to include environmental measures in the NAP. In any event, the impact of this proposal is unclear, and it does not align with the main themes proposed for inclusion in the OGP NAP.</p> |
| 2.21 | Institutionalise the Constitutional Convention: Establish a Citizens’ Assembly | See 2.04 above – in line with the Programme for Government commitment the |

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| | modelled after the Constitutional Convention as a permanent institution of State. | Constitutional Convention is the forum established by Government for citizen participation in examining the case for constitutional change. |
| 2.22 | A new vision for dynamic citizenship for post-2016. | This proposal does not appear to conform to the guidelines for shaping Working Group documents who participated in the consultation process on Ireland's National Action Plan for the Open Government Partnership that proposals should be clear, useful in terms of OGP objectives and SMART. Initiatives being taken by D/ES and D/CYA summarised in response to 2.01 in this document will help promote engagement by young people. The Open Data initiatives will improve the quality and breadth of information available to citizens to support greater participation. |
| 3. Technology and Innovation | | |
| 3.01 | Release Reference Spatial Data at no charge, under open licenses | <p>This broad issue will need to be considered in the context of the Open Data project and the release of data held by public bodies. In this instance, the Geological Survey or Ireland provides digital data free of charge but printed copies are provided at a fee and there is a fee for any customisation of data, any interpretation of it etc. In relation to the Ordnance Survey Ireland however, the proposal to release the reference spatial data at no charge would have significant implications as 85% of Ordnance Survey Ireland's funding model comes from data licensing revenue.</p> <p>The Property Registration Authority, the Valuation Office, and Ordnance Survey Ireland have a keen understanding of the policy drivers at national and EU level relating to "Open Data" and the provision of wide access to public sector information (PSI). All three organisations hold a variety of information, including national spatial information sets managed on behalf of the State. In this context, it is important to note that providing zero cost access to existing commercial datasets could have a detrimental effect on the maintenance of data quality and the future development of data content without first putting in place sustainable organisational funding models to facilitate open access to these datasets.</p> |
| 3.02 | Identify data sets for release, publish data sets in central catalogue (e.g. | As part of the Minister for Public Expenditure and Reform's Open Data Initiative |

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| | data.gov.ie) | announced at the London OGP Summit in autumn 2013, the Department of Public Expenditure and Reform has following the completion of a competitive tendering process recently initiated a project with the Insight Centre for Data Analytics to identify priority areas for the future publication of datasets held by public bodies and the development of an alpha website on which these datasets could be published. |
| 3.03 | Standardise data formats: All published government data must be published in machine-readable, 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. | As part of the Minister for Public Expenditure and Reform's Open Data Initiative announced at the London OGP Summit in autumn 2013, the Department of Public Expenditure and Reform has following the completion of a competitive tendering process recently initiated a project with the Insight Centre for Data Analytics to develop best practice standards for the publication and re-use of open data. |
| 3.04 | Adopt the G8 Open Data Charter | As part of his Open Data Initiative announced at the London OGP Summit, the Minister for Public Expenditure committed to propose to Government that Ireland should adopt the G8 Open Data Charter. |
| 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. | This is a requirement under the G8 Open Data Charter obligations – see response to 3.08. |
| 3.06 | Publish Government Spending Above Specified Levels | The current practice is that Departments publish spending above €20,000 and Local Authorities publish spending above €500. |
| 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. | See response to 3.03 above. |
| 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. | A key objective of the Open Data Initiative announced by the Minister for Public Expenditure and Reform at the London OGP Summit in autumn 2013 is to develop and implement a detailed framework which will, <i>inter alia</i> facilitate and promote the commercial potential of Open Data. In this regard the implementation of the Open Data Initiative is included a specific initiative included in the Action Plan for Jobs. |
| 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 | The Government wants to ensure as wide a participation as possible in public consultations so that it can take account of the views of citizens and businesses from across Ireland. All consultations now have an online element. The |

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| | <p>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.</p> | <p>Oireachtas public petitions system, which allows for the submission of public submissions to parliament is an example of the continuing progress being made in this area. (see http://petitions.oireachtas.ie/online_petitions.nsf/PetitionForm?openform&type=intro+to+petitions&lang=EN&r=0.006028022384271026`))</p> <p>The establishment of the Oireachtas online petitions enables greater citizen interaction with the parliamentary system on matters of general public concern or interest. Petitions may be addressed to the Houses of the Oireachtas on a matter of general public concern or interest in relation to their legislative powers or an issue of public policy. Only one signature is required for a petition to be submitted. Petitions submitted are considered by the Joint sub-committee on Public Petitions. Having considered a petition the sub-committee may then report to the Dáil/Seanad with recommendations, including a request that the report be debated by the Dáil/Seanad.</p> <p>The Programme for Government notes the need for greater collaboration with citizens in ensuring that services are designed to meet their needs. This is acknowledged in the Public Service e-government strategy 2012 – 15. The office of the Chief information officer (OGCIO) is working on implementing this strategy, and is also assessing exemplary international models to consider how they might be adopted in Ireland.</p> |
| 3.10 | Require Code Sharing or Publishing Open Source | See response to point 3.07 above. |
| 3.11 | Public Procurement Open Days | A best practice guide, launched by Minister Brian Hayes on Feb 13, 2013 is designed to address the issues that inhibit SME participation in public sector procurement. The guide was developed by the Enterprise Europe Network at Dublin Chamber of Commerce. The aim of this EU-funded project is to help improve SME access to the public procurement markets in both Ireland and the UK. One of the best practice recommendations included in the guide relates to improving the accessibility of public procurers. The best practice guide can be |

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| | | <p>found at www.procurement.ie/publications</p> <p>The Office of Government Procurement will be a centre of procurement expertise and will provide guidance and advice to procuring organisations. In relation to public procurement open days, the Office of Government Procurement continues to support InterTrade Ireland in the delivery of the Meet the Buyer events which get public sector buyers together with SMEs.</p> |
| 3.12 | Allow voter registration online | This proposal is not favoured owing to security concerns and the risk of voter fraud. |
| 4. Transparency | | |
| 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 | The current Citizen Information Board strategy sets the objective of exploring the potential of social media and networking to deliver an online Citizens Information Centre in keeping with the eGovernment Strategy 2012 – 2015. |
| 4.02 | Improve Budget Data Transparency & 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. | <p>A number of important reforms have already been introduced by the Department of Public Expenditure and Reform and others are in train to further improve Budget Transparency and Timeliness - details available on www.per.gov.ie.</p> <p>Oireachtas Committees can review the annual Stability Programme Update provided by the Government to the EU between April and the summer recess and provide Departments with a report in advance of the October Budget. The draft budget for central Government is published on www.finance.gov.ie and comes into legislative effect following consideration by and passage through the Oireachtas of the Finance Bill, the Social Welfare Bill and Financial Resolutions underpinning the revised estimates volume. The October Budget enables earlier publication of the revised estimates volume. This facilitates much earlier consideration of the Estimates by the relevant Oireachtas Committees, prior to any significant funding being spent. The budget process and the extensive and detailed information and data available on the budget both from official and other sources provides very wide scope for review of and engagement on proposed Budget measures.</p> |

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| | | <p>In addition, the annual Estimates campaign has been replaced by a modern, multi-annual framework which allows for full transparency on the allocations available to each Department over the coming three year period. It opens the way for structural, medium-term planning and prioritisation within each area, with full public input and parliamentary oversight. Departmental Estimates are now presented in a new format organised on the basis of ‘strategic programmes’ linking the Estimates process with the Statements of Strategy and allowing for performance information to be scrutinised by Dáil Committees at the same time that public money is being requested. Evaluation of public expenditure and all value for money studies are now published. All of the above reforms allow greater opportunities for the Oireachtas members, as representatives of the public, to play a more substantive role throughout the entire budgetary process, from initial allocation of funds, through to holding Ministers and public service managers to account for the achievement, or non-achievement, of stated performance targets.</p> |
| 4.03.1 | <p>Improve Transparency on Impact of Policy Measures with Particular Regard to Equality Outcomes: Budget impact assessments</p> | <p>Income distribution analyses are a form of impact assessment and these are published when the draft budget is announced. On the expenditure side, new initiatives have been introduced such as performance budgeting. When Government is considering capital expenditure or policy matters the impacts of this expenditure must be set out as are impacts, if any, on equality/gender.</p> <p>There is already a well-established structure in place which enables the Oireachtas, on behalf of the public, to hold Government to account for its performance and budget management. During the second half of 2012, meetings took place between Ministers and the relevant Oireachtas Committees concerning the prospective Estimates for 2013, framed within the context of expenditure ceilings. It was the first time that such an ex ante process of considering the Estimates had been undertaken by the Oireachtas. Arrangements are in place to ensure that process becomes further embedded in the work of the various Committees. It will allow the Committees to exercise their functions more rigorously in scrutinising public expenditure and performance against relevant indicators and thus providing a necessary</p> |

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| | | oversight of which policies and programmes are being supported, the impact of such expenditure proposals and the extent to which such expenditure is coherent and joined up. |
| 4.03.2 | Improve Transparency on Impact of Policy Measures with Particular Regard to Equality Outcomes: abolish Economic Management Council. | The organisation and conduct of Government business is not within the scope of the OGP National Action Plan process. |
| 4.04 | Improve Transparency and Accountability in Local Government & Create Better Local Data; revise service indicators. | <p>The Local Government Reform Act 2014 provides for a wide range of reforms to local authorities including: new regional assemblies, with a more robust role in spatial and economic planning, as well as management of EU funded programmes, to replace the current eight regional authorities and two assemblies; a range of provisions relating to local authority governance and management, focussed particularly on strengthening the role of the elected council; stronger oversight of local authority performance, particularly through a new independent National Oversight and Audit Commission for Local Government (NOAC); and provisions relating to community development in the context of local government, involving the establishment of Local Community Development Committees in place of the City and County Development Boards. See also http://www.environ.ie/en/LocalGovernment/LocalGovernmentReform/</p> <p>Following commencement of section 61 of the 2014 Reform Act,; Part 12A of the Local Government Act will empower NOAC to scrutinise local government performance, in fulfilling national, regional and local mandates, scrutinise value for money where State funds are channelled through local government, and will support the development of best practice and enhanced efficiency in the performance of local government functions. It will report to the Minister and to other relevant Ministers in respect of services within their areas of responsibility discharged by local government bodies. As part of its remit, NOAC may scrutinise the performance of any local government body against or in comparison with any relevant indicator that it considers appropriate to refer to.</p> <p>Following commencement of section 50 of the 2014 Reform Act, section 134A</p> |

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| | | <p>of the Local Government Act 2001 will also provide that local authorities will prepare Annual Service Plans which will, <i>inter alia</i>, identify the services to be provided and the levels of standards to which they are expected to deliver.</p> <p>The Plans provide for a new methodology whereby local authorities can gauge and be gauged on its own year-on-year performance and will cover the principle functions in each local authority. In addition, each local authority's Annual Report will include a comprehensive review of performance of the Service Plans against Performance Standards by reference to agreed Performance Indicators.</p> <p>The provision of local authority service delivery plans and the work of NOAC is tied in closely with the proposed move from the current (quantitative) service indicators reporting to a more qualitative performance indicator/ performance standard model.</p> |
| 4.05 | <p>Review FOI bill: 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.</p> | <p>The Heads of Bill were published and this was subject to pre-legislative scrutiny and constitutes a substantial strengthening of the legislative framework for FOI in Ireland in line with the Programme for Government commitment. http://per.gov.ie/the-minister-for-public-expenditure-and-reform-mr-brendan-howlin-t-d-today-announced-the-publication-of-the-freedom-of-information-foi-bill/</p> <p>Section 52 of the FOI Bill provides that it is an offence to destroy documents without lawful excuse and liable to a class B fine (ie. a fine not exceeding €4,000). The Office of the Attorney General advises on the penalties appropriate to particular offences in legislation to ensure a consistent approach to offences / penalties in legislation. Legal professional privilege is an accepted principle - there are certain matters relating to a client's legal position on which advice should be sought in complete confidence and without disclosure.</p> |
| 4.06 | <p>Abolish fees for FOI and AIE requests</p> | <p>The Minister for Public Expenditure and Reform is currently considering proposals in relation to FOI fees and will be bringing proposals to Government for approval in due course.</p> <p>There are no application fees for AIE requests but under EU law it is permitted to charge reasonable costs for supply of information.</p> |

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| 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. | Specific actions to secure improvements in this area will be considered in the context of the implementation of the proposed Code of Practice on the implementation of FOI. |
| 4.08 | Improve Public Awareness of Access to Information Regimes | See comments on point 4.01. There is already a very high degree of public awareness of FOI. Each Department's website contains a reference to the re-use of Public Sector Information (http://psi.gov.ie/government-departments/) and the transposition of the revised EU PSI Directive will provide further opportunity to increase awareness of the FOI regime. The FOI Bill references the re-use of public sector information and AIE regimes which will create greater awareness of these regimes. The FOI Bill allows decision-makers to consider whether information requested under FOI could be released under other access regimes. Legal actions relating to the requests for information under the AIE Regulations has also assisted in raising awareness of this access regime. |
| 4.09 | Improve Active Dissemination of Information | This is a key objective of the Minister for Public Expenditure and Reform's Open Data Initiative announced at the London OGP Summit in autumn 2013. See also responses to 3.02-3.05 above. A major priority of both the FOI Bill and FOI Code of Practice is to achieve greater proactive publication of information by public bodies. |
| 4.10 | Improve IT services across the public service: IT processes should be simplified and automated across the public service and systems should be integrated. | A new Government ICT Strategy will be published later this year that will address the use of new and emerging technologies, ensuring that eGovernment is designed around real needs and taking steps to improve the take-up of 'digital government'. As part of this new strategy, it is intended to capture data on the top transactional services on which the citizen engages with the State, which will help inform what further services will be put online. |
| 4.11 | Increase legislative transparency: Each bill should include a legislative footprint explaining the consultation process, new bills should be accompanied by a legislative impact assessment. | The Programme for Government outlined an ambitious agenda for Dáil Reform to be introduced in a phased process over the lifetime of this Government. One of the proposed reforms focuses on more public involvement in law making, including expanding the current Oireachtas Committee Pre-Legislative Stage. The Pre-Legislative stage before the relevant Oireachtas Committee will be required for all non-emergency legislation. Where a Minister does not bring a Bill to Committee for Pre-Legislative Stage, they will be required to outline to both the Cabinet and the Dáil the reasons for this decision. This will allow for an |

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| | | <p>unprecedented and extensive engagement by the public in law making. The Committee can consult with citizens with expertise in the area, civic society groups and other interested groups – crucially, this will take place before the Legislation is drafted.</p> <p>Post Legislative Review: A Minister will report to the relevant Oireachtas Select Committee within 12 months of enactment to review the functioning of the Act. This will allow for the Committee to consult with civil society groups and individuals with expertise in the relevant area.</p> <p>The Government have also decided that under a unicameral system, the next Dáil would include an enhanced Oireachtas Committee system and an additional pre-enactment stage in the legislative process.</p> <p>Any Memorandum for Government seeking approval for legislation involving changes to the regulatory framework including the transposition of EU Directives and Regulations must be accompanied by a Regulatory Impact Analysis (RIA).</p> <p>Consultation processes are usually published on websites in the course of progressing Bills.</p> |
| 4.12 | Transparency in Relation to Court Judgements | <p>The decision as to whether to give written reasons for the judgment of the court is matter of judicial discretion unless there is a statutory or other regulatory provision requiring that the reasons for the decision be given in writing. The position is that the Courts Service publishes on its website written judgments of the Superior Courts and - in cases where they are provided - written judgements furnished by judges in the courts of local and limited jurisdiction, as those judgments are made available to the Courts Service. The Courts Service is not aware of any common law jurisdiction where judgements of lower courts are made available as a matter of course.</p> <p>It should be noted that all court decisions are required by law to be founded on express reasoning, and with certain exceptions are given in public.</p> |

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| | | <p>Considerations such as volume of caseload, the precedential value if any of a case and the prospect - as in the case with appeals from the District Court and, in civil cases, the Circuit Court - that an appeal will be by way of full re-hearing may have a bearing on whether a written judgment is seen as feasible or indeed necessary. Decisions on liability for costs are required to be reasoned and are informed by published case-law.</p> |
| 4.13 | Change the Culture of Official Secrecy – abolish official secrets act | <p>The Programme for Government contains a commitment to amend the Official Secrets Act 1963 and the Government Legislation Programme includes of an Official Secrets Act (Amendment) Bill. The commitment is as follows; “We will amend the Official Secrets Act, retaining a criminal sanction only for breaches which involve a serious threat to the vital interests of the state.” The present position is that preliminary work is underway in the Department of Justice and Equality on the preparation of a general scheme of the Official Secrets Act (Amendment) Bill to amend the Official Secrets Act 1963 to reflect the Programme for Government commitment. The proposal to abolish the Act and deal with the matter by way of FOI exemption is not considered appropriate.</p> |
| 4.14 | Publish Lists of Advisers contact details | <p>The proposals put forward by the OGP working groups were to be ‘clear, useful and SMART’. This proposal does not meet that criteria and it is not considered to be consistent with OGP objectives.</p> |
| 4.15 | Measures to Encourage Public and Civil Servants to answer press questions | <p>This proposal is assumed to propose that civil servants should answer press questions on their own behalf rather than on behalf of their minister. As set out in the consultation paper <i>Strengthening Civil Service Accountability and Performance</i> (see link, below) under the doctrine of ministerial responsibility which has a constitutional basis and is given statutory effect through the Minister and Secretaries Acts and also reflecting the operation of the Carltona principle, civil servants, act (and speak) at all times on behalf of their minister. Civil servants are precluded from expressing views on the merits of policy or the merits of the objectives of government policy. This is central to maintaining the political impartiality of the civil service. Press queries are, therefore, answered by civil servants on behalf of their minister. Technical briefings for press or for Opposition spokespersons take place on briefings on policy proposals and legislation. The reform options for consultation included in the SCSAP paper</p> |

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| | | which relate to the reform of the principle of ministerial responsibility is currently the subject of public consultation at (http://per.gov.ie/civil-service-accountability-consultation-process/) |
| 4.16 | Publish Consolidated Material on Public Policy, clear statements on ‘current policy’ across the full range of functions of government, a consolidated list of all live public policy documents. | <p>Policy statements are published. If policies change, the new policy is published. Legislation is consolidated where appropriate. Each public body is responsible for publishing its own policies and these may be found easily through internet searches. It would create an unnecessary burden to have all policies available in one consolidated list which would need to be updated.</p> <p>Section 8 of the FOI Bill and the FOI Code of Practice are intended to promote much greater publication of information outside of FOI including routine information sought regularly.</p> |
| 4.17 | Publish Revised Outcome/Performance Indicators for Government Departments & Public bodies. | <p>For all Votes, the 2014 Estimates have been supplemented with key performance information regarding Programme outputs and impacts and almost all Votes have now been restructured on a Strategic Programme basis, consistent with the presentation of Departments’ Statements of Strategy. This is part of an ongoing initiative intended to facilitate the work of Dáil Éireann and its Select Committees in holding Ministers and Heads of Department to account for the proposed allocation and effective utilisation of public funds.</p> <p>See also 4.04 regarding the National Oversight and Audit Commission for Local Government (NOAC);</p> |
| 4.18 | Measures to increase transparency in relation to Meetings of Government: Publish Agenda & Minutes, as well as other relevant documents, from meetings of Government & sub-committees. Publish all documents that are currently required to be made public under EU law. | Cabinet confidentiality is guaranteed under the Constitution. The FOI Bill which has completed Committee Stage in the Dail will reduce the prohibition on the release of Cabinet documentation from 10 years to 5 years. A 5 year rule compares favourably with rules in place in other jurisdiction on access to cabinet papers under FOI. A substantial amount of information is provided following the meetings of Government by Ministers on particular items agreed by Government including publication of policy documents, reports and through press releases and press briefings as well as through responses to Leaders Questions and Parliamentary Questions in Dáil Eireann. |
| 4.19 | Improve Transparency in Extractives Industry – Local Authorities should be | The Extractive Industries Register is live and it has been available on-line on the |

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| | <p>obliged to complete the extractive industries registers they currently hold.</p> | <p>Environmental Protection Agency website since 31 December 2010. Ireland's 34 local authorities are responsible for updating the inventory. The register is fully available to the public and features a fully searchable function. Information on any site may be accessed by its register number, the status of the site (active, closed), the local authority area and/ or name'</p> <p>The EU has adopted a mandatory disclosure requirement that requires listed and large unlisted industries active in the extractive (oil, gas and mining) and logging of primary forest sectors to disclose their payments to governments on a country and project basis (Country-by-Country Reporting). The Accounting and Transparency Directives were adopted on June 2013 with the objective of enhancing transparency by providing relevant information to civil societies and Parliaments in order for them to hold governments to account on receipts from multinationals for exploiting natural resources.</p> |
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