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### GOVERNMENT IT

# Government fails on election transparency pledge to publish contracts

Mark Ballard

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The UK government has failed to meet its 2010 election pledge to publish all contracts in full as part of its digital reforms of the public sector.

Whitehall has published many contracts almost in full after a compromise that allows suppliers to keep secret some information on the grounds of commercial confidentiality.

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But government has regularly neglected to publish contracts for major projects, while those contracts it has published have often comprised little more than templates stripped of distinguishing details.

Computer Weekly's research of the public contracts the government has published under its transparency programme since 2010 found £5bn of public deals without contracts published at all, just by looking up a random shortlist of the coalition's major projects (*see below*).

## Transparency commitments

This casts doubt over transparency commitments on public contracts that prime minister David Cameron made in 2013 to the Open Government Partnership, an international agreement for computer-led reforms to make governments more transparent and accountable.

The prime minister made full public contract transparency an election pledge, a manifesto commitment and a clause in the coalition agreement with the Liberal Democrats.

"We'll publish every government contract worth over £25,000 in full – every clause, every performance measure, every penalty trigger – so people cannot only search for waste but small businesses, charities and social enterprises can compete to provide government services," said Cameron when he first pledged to publish public contracts on 22 February 2010 at the launch of the Network for the Post-Bureaucratic Age thinktank.

He committed the pledge to policy in a letter to all government departments on 31 May 2010, after he became prime minister.

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But the Cabinet Office subsequently qualified the pledge in a private letter to suppliers. Bob Ager, then head of procurement at the now-defunct Central Office of Information, told suppliers on 22 October 2010 they would be allowed to redact information they deemed confidential. This became a standard Cabinet Office contractual clause in 2012, allowing suppliers to redact information they believed to be "commercial in confidence" under the Freedom of Information Act.

Charles Kenny – who has led research into government contract transparency for the Global Center for Development, a Washington, DC think-tank involved in developing open contracting standards – said the UK policy had been "good in theory".

## Government shies from confrontation

But he said: "Far too much is blacked out. It is very difficult to find individual contracts, which frequently disappear. Price data is routinely redacted on spurious bounds of commercial confidentiality. So a great first step [but] needs more.

"It is easier to over-redact and avoid an angry confrontation with a contractor than to under-redact and face very limited pressure from civil society. It's easier just to black out all price information than ask, 'Is the price you pay for a desk chair really commercially sensitive?'"

Gavin Hayman, director of the Open Contracting Partnership – which took responsibility for the open contracting initiative from the World Bank in January – said the UK had still not signed up to the [Open Contracting Data Standard](#), a key part of the UK's 2013 open government commitments.

- The government has committed to providing greater visibility around suppliers' performance, costs and revenues when outsourcing services.
- The UK government has committed to a data standard which claims it will transform procurement in the UK and improve transparency.
- A report outlines how Parliament should embrace digital technology to be more transparent.
- The government needs a better understanding of the costs benefits of its transparency agenda, said the National Audit Office.
- The first contract to be published under the government's new transparency drive has been posted on BusinessLink's Contract Finder website.



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Hayman had been struggling to find out whether the UK was committed to open contracting or not, he said, after questions were raised about it in Parliament. He said he couldn't get a straight answer, but added the Cabinet Office had started to show more interest. Nonetheless, it remained a "shame" that the UK had still not signed up to the standard it committed to 18 months ago, said Hayman.

"This is public money. The public deserves to know what's going on," he said.

Helen Darbishire, executive director of campaign group Access Info Europe, said public contracts were suppressed by a combination of weak political will and lobbying from private companies, who wanted to keep their affairs confidential. "We as the voting public have a right to know whether a good deal is being negotiated," she said.

## Widespread inconsistency

Officials and campaigners alike commended the UK for having made more progress than many other countries in publishing information about public deals. But Computer Weekly's research of the government's contract pledge discovered widespread inconsistency: Some contracts had not been published, or published with redactions so thorough as to leave only a contract shell; and procurement documentation routinely published in template or not at all.

The [Contracts Finder website](#), launched by the prime minister in January 2011, held no records for eight deals with a total value of £5bn, chosen randomly, and most of them recognised formally as major projects.

A spokeswoman for the Cabinet Office said Contracts Finder was not meant to allow public scrutiny of contracts the government had already awarded. It was meant to give prospective government suppliers information about upcoming opportunities to bid for government business.

"Its primary purpose is to pull together all the contracts central and local government will award so, if you want to bid for government work, you can just see what contracts are available. It's not meant to be for every government contract that was ever awarded," she said.

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The Cabinet Office has portrayed Contracts Finder primarily as a means for suppliers to find opportunities to do business with government. But it was justified in official policy as a means for public accountability as well.

The prime minister said Contracts Finder would publish public contracts in full for "scrutiny by potential competitors and the general public", when he launched it on 11 February 2011.

On the same day in 2011, Cabinet Office made publishing contracts the formal policy of Contracts Finder. It would "publish procurement and contracting information in one place, including procurement opportunities, tender documents and contracts", said [Cabinet Office Procurement Policy Note 05/11](#).

Cabinet Office minister Francis Maude repeated this in a statement to [the Public Administration Select Committee](#) in March 2011, as did HM Treasury in its March 2012 response to the 2011 Open Public Services consultation.

The UK also made Contracts Finder the basis of its commitments in 2013 to the Open Government Partnership. "All new central government contracts [will] be published in full from January 2011. The vehicle for publication is Contracts Finder," said the UK commitment, presented by the prime minister in person and reaffirmed in an official restatement on 30 September 2014. It cited the prime minister's 2010 letter to all government departments, in which he pledged contract transparency "in full".

The Cabinet Office also cited the prime minister's 2010 policy letter when it released specifications for Phase 2 of its Contracts Finder in May 2014.

## The missing contract details

The Cabinet Office neglected to publish contracts for a £200m document storage deal it signed with Capita, TNT and three other suppliers on 3 April 2012. It published



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procurement documentation with blank questionnaires, zeroed pricing matrices and unsigned, uncompleted templates of the agreements it made.

The same department published no contract for a £3.2m telephony service procured with HM Treasury from Level 3 Communications on 7 October 2011. Contracts Finder published procurement documentation with blank criteria and milestones.

The [Crown Commercial Service](#) – the Cabinet Office agency in charge of procurement – forbade publication of contracts for its [£2bn national Public Services Network](#) in December 2014 because, it said, there was "some commercially sensitive information" in proposals submitted by suppliers, which included BT, Capita, Fujitsu, Thales, Virgin and Vodafone. It published instead generic contract clauses and other information necessary for other departments to buy services under the main contract.

Contracts Finder held no information about a [£2bn Broadband Delivery UK deal](#) that, according to its report to the Official Journal of the European Union, the Department of Culture, Media and Sport (DCMS) agreed with BT and Fujitsu on 28 March 2013. Computer Weekly recorded Contracts Finder's report that it held no record for the £2bn DCMS Broadband UK deal before asking DCMS why it was not there. DCMS later said it was. Contracts Finder subsequently reported that it did hold a record of the deal after all.

The Department of Communities and Local Government (DCLG) published no contracts or procurement documentation for its £24m Connect Project. Otherwise known as DCLG ICT Relet or [Desktop Refresh](#), its [replacement of 2,500 desktop computers](#) was monitored as a major project by the Cabinet Office. DCLG did its deal under an existing pan-government contract with Fujitsu, but neglected to publish details of its own contract arrangements.

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HM Treasury paid accountants Ernst & Young (EY) an estimated £19m for a project called the Online System for Central Accounting and Reporting (Oscar), but omitted documents from the Contracts Finder because, it said, the work was done under another contract. Other projects have recorded such call-off contracts. The Treasury reported EY's fee as £0 in Contracts Finder, but £19m in a report to the Major Projects Authority.

When Computer Weekly began researching these contracts in December 2014, a Cabinet Office spokesman said it should be possible to find them on the Contracts Finder website. He cited an £84,000 IT contract the Met Office struck with Brighton-based FDM Group in May 2014 as proof the government was publishing contracts. Contracts Finder held a redacted Met Office purchase order for unspecified FDM services, but no contract.

## Widespread redaction of contract details

Contracts Finder also held no contracts for other [Met Office deals](#) – such as £95m on a [supercomputer](#) with Cray UK on 3 November 2014. It published purchase orders but no further documentation.

The Home Office neglected to publish contracts for the [£600m Next Generation Outsourced Visa deal](#) it signed in September 2013 with VF Worldwide Holdings and Teleperformance. A spokesman for the Home Office said: "Most of the contracts are not made publicly available because of commercial sensitivities."

Contracts Finder held no record of the Visa deal. The Home Office later issued a statement with a link to a Contracts Finder record for that deal. It listed documents by name but did not make them available. The Home Office said there was a fault with the website. Other Contracts Finder records did not have this problem.

When published at all, simple contracts for small deals, where the only distinguishing contractual factors were price and personnel, have typically had prices and personnel redacted. Contracts for more complicated procurements have typically been redacted

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extensively.

The Cabinet Office published an unsigned framework contract for its [£2bn Shared Services Connect joint venture with Steria](#) in November 2013, after redacting profit-sharing arrangements, key performance indicators, subcontractors, dividend payments, price bands, conditions and controls, departmental costs, management fees, financial forecasts, head office responsibilities, insurance cover, the names and fees of seven directors and executive officers and other senior staff.

## Commercial confidentiality

The contract relied on various strategic documents and supplier proposals that were all either omitted or entirely redacted. Steria claimed commercial confidentiality over details of its work and fees, service level agreements, key personnel, transformation plans, and budget, audit and benchmark reports. Plans for each of 13 participating departments were omitted and their contract terms redacted.

Equifax and Dunn & Bradstreet redacted details of their software, data sources, subcontractors, pricing, methods and customer references from £1.5m contracts for financial information they struck with the Cabinet Office in April 2012.

DCMS published an unsigned contract for its [£150m Mobile Infrastructure Project with Arqiva](#) in June 2013, after redacting a wide range of information, including costs, targets, concept drawings and project plans. It also redacted the list of redactions requested by Arqiva.

In October 2012 HM Treasury published a £800,000 contract for Deloitte to oversee its National Loan Guarantee Scheme for banks after redacting the project plan, delivery schedule, resource requirements, value-added services provided, contract signatories, director names, and consultant names and rates.

Other HM Treasury contracts redacted fees, signatories, liabilities, discounts, service levels and the names and fees of directors and other senior staff such as project architects.

Cabinet Office contracts were typically unsigned and redacted distinguishing terms



such as pricing, project milestones, requirements and service level agreements, details of software systems and data models, customer references and subcontractors.

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