

Redefining corruption: Public attitudes to the relationship between government and business

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Foreword

The recent leak of the Mossack Fonseca ‘Panama papers’ has focused attention on how wealthy individuals have established companies in off-shore tax havens as a method of tax avoidance.

Panama is an ocean away and seems to confirm the perception that in order to avoid tax, the wealthy must salt their money away in less regulated foreign climes. Yet, about half of the companies represented by Mossack Fonseca are registered in British tax havens, reflecting the fact that a significant share of this global practice is in territories that are responsible to the British Crown. Indeed, some of these havens are very close to home, such as Jersey and Guernsey.

Whilst much of this is probably legal, the public reaction to the ‘Panama papers’ and the opaque nature of these arrangements, demonstrates widespread concern about the collusion between the wealthy and their tax advisers, and, crucially the UK’s global leadership role in facilitating such arrangements that deny revenue to the public purse.

In this *Briefing*, David Ellis and David Whyte consider whether such collusive relationships are also a feature of domestic governance, and bring to the fore the question of how corrupt British government practices are, and challenge the belief that such activities are rare in the ‘mother of all democracies’. Over the last generation, the revolving door between the private sector and government departments, and the ever closer relationship between them, has made many question in whose interests government ministers and civil servants are working: public service or private benefit?

The results of the YouGov survey, commissioned and analysed by the authors in this *Briefing*, will leave the reader in little doubt that the public believe a number of established practices, including the Private Finance Initiative, introduced by the Conservative Government in the 1990s, should be prohibited because they represent a collusion between government and the private sector at the public’s expense. The authors call for a national conversation about what they describe as the ‘collusive relationship’ between government and private business.

This *Briefing* reflects the Centre for Crime and Justice Studies’ commitment to fostering a greater knowledge of the potential harms faced by citizens, and of how they might best be regulated and reduced.

Will McMahon, Deputy Director, Centre for Crime and Justice Studies

Executive summary

This public survey, drawing on a representative sample of British residents, asked five key questions about the relationship between the public and private sector. Key results are summarised below:

- 73% say that the practice of ministers accepting corporate boardroom appointments should be banned
- 75% say that the practice of senior civil servants accepting corporate consultancies should be banned
- 62% say that inviting corporations into government to help shape the regulation of business should be banned
- 68% say that Private Finance Initiatives (PFI) arrangements for funding public projects should be banned
- Where frauds occur in the contracting out of public services, 57% thought that both government and the private company involved should be held accountable for such frauds¹

Introduction

This survey is based on questions put to a nationally representative sample (n=1,745) of British adults polled in January 2016 about the relationship between the public and private sectors.

It provides a gauge of what people in Britain think about a series of practices in government that are now commonplace. The practices the survey asks about are not defined by governments as corrupt, but are practices that are mostly within the law and the acceptable rules of business.

The survey therefore asks about a range of practices that would not necessarily be regarded by any standard definition as 'corrupt'. Corruption scholars distinguish between collusive corruption (where two parties collude for their common benefit) and extortive corruption (where one party is compelled to make a bribe payment to another) (Klitgarrd, 1998; Hindricks at al., 1999). None of those practices described in our scenarios involved the extortive corruption that tends to be the major focus of government control efforts. The extortive corruption that Western governments and transnational governmental organisations are pre-occupied with is perhaps

not widespread in Britain (Whyte, 2015). Collusive corruption, the type of corruption that arises from a common interest that exists across particular groups of people in government and in business, is a concept more suited to describing the issues that are captured in this survey.

The debate on what is and isn't appropriate in current practice has been a growing concern in public debate for some time. Our examples are drawn from specific cases that have raised profound concerns about the ways in which the revolving door between government and business appears to be spinning faster and faster. Furthermore, cases have raised equally profound concerns about the contractual relationships between government and business.

All of the scenarios we included in this survey are based on real examples. Although specific names were omitted and the precise details of the practices have been changed, they do closely approximate the real circumstances in key cases that have fueled controversy in British public life in recent years. Those cases involve the following examples:

- The appointment of a government minister to the board of a private health company (now a routine practice of ministers across departments).
- The relationship between senior civil servants at HM Revenue and Customs (HMRC) and private businesses involved in tax negotiations that has the subject of several interventions by the Public Accounts Committee. Describing the relationship as 'unduly cosy', the Committee has described one former Permanent Secretary at HMRC as 'the most wined and dined mandarin in Whitehall' (House of Commons Committee of Public Accounts, 2011).
- The appointment of the 'big four' accountancy firms to assist in the ongoing reform of law, again the subject of a major Public Accounts Committee investigation. The Committee reported that it was 'very concerned by the way that the four firms appear to use their insider knowledge of legislation to sell clients advice on how to use those rules to pay less tax' (House of Commons Committee of Public Accounts, 2013a).
- The use of PFI contracts for major public sector construction projects, in this case a scenario that is based on a typical hospital project. HM Treasury has conceded in a key policy document that 'the private sector has made windfall gains

1. YouGov have approved the representation of the statistics in this publication.

on projects, through the refinancing of debt and the sale of equity investment to third parties' (HM Treasury, 2012).

- The contract between the Department of Work and Pensions and a private contractor Atos to assess benefit claims that the House of Commons Work and Pensions Select Committee condemned the contractor for poor value for public money and level of service (House of Commons Work and Pensions Committee, 2014). Referring to another government contract involving the same firm, the Public Accounts Committee noted that the government should be held accountable for the failing to apply 'sufficient rigour or challenge to Atos' (House of Common Committee of Public Accounts, 2013b).

The survey seeks to gauge the legitimacy of the practices highlighted in those scenarios. That is why we asked – in stronger terms than the questions asked by the parliamentary committees cited above – whether those practices should be prohibited. The questions therefore seek to understand the gap in public sentiment between the general public and the UK Parliament. The results indicate very clearly that the British public want rid of those collusive practices of government.

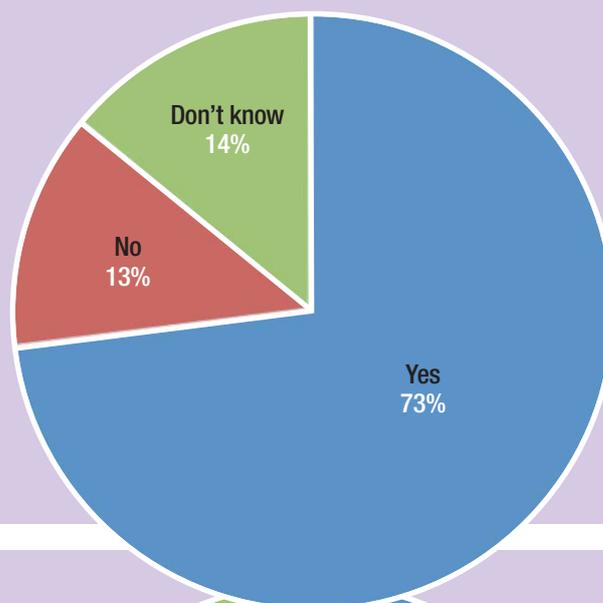
The Results

The following scenarios and follow-up questions were put to the survey respondents.

Scenario 1

A government minister who served in the Department of Health is part of a committee that awards a major contract to a private healthcare provider MHB Ltd. Less than a year after leaving office, the same minister joins MHB Ltd. as a director. He is paid £100,000 a year and given a one-off gift of shares in the company worth £250,000. This appointment is within the current rules.

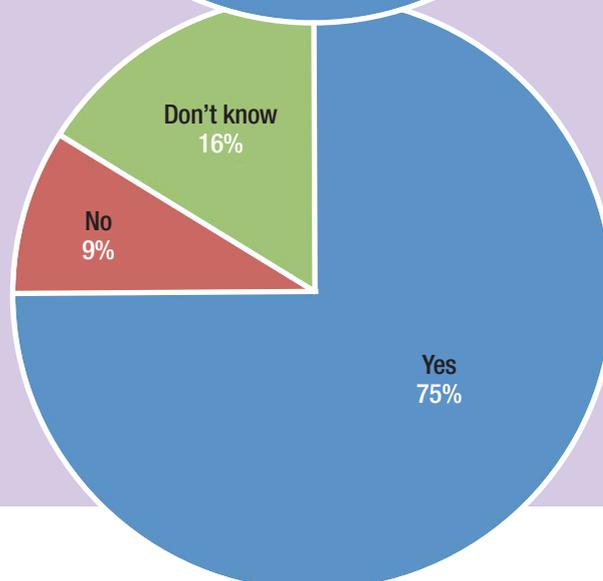
Do you think profiting from political experience in this way should be prohibited?



Scenario 2

MHB Ltd has a tax bill for £250 million. The head of the government tax authority, Her Majesty's Revenue and Customs (HMRC), negotiates a tax settlement with MHB Ltd. and reduces its tax bill to £50 million. After leaving HMRC, the former head is appointed as a special advisor to the accountancy firm that helped MHB Ltd. during negotiations with the government. This appointment is within the current rules.

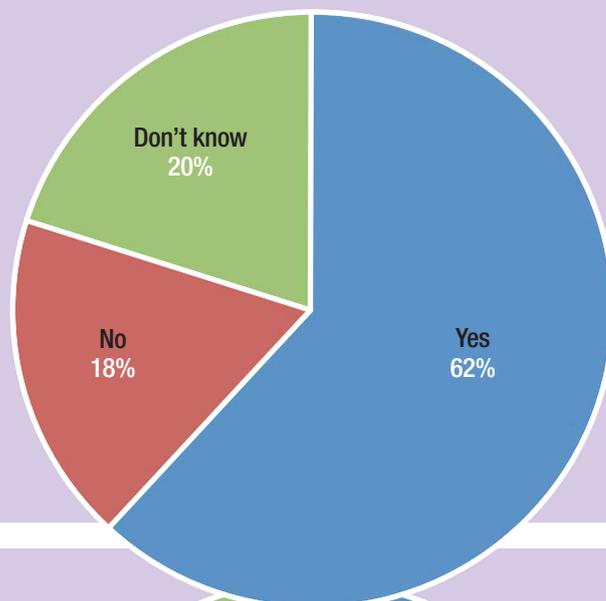
Do you think appointments like this should be prohibited?



Scenario 3

A government minister invites a senior representative of a major UK accountancy firm to help in the design of tax reform policies. This company provides technical advice that helps major corporate clients in tax avoidance.

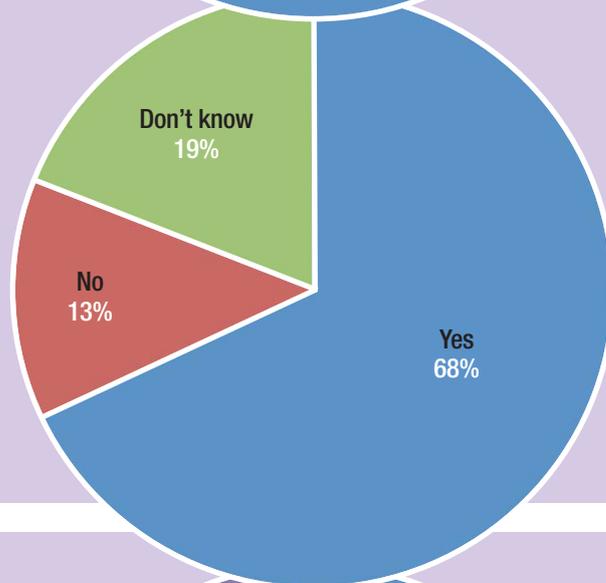
Do you think this type of appointment should be prohibited?



Scenario 4

A local government department agrees a contract with a private building firm to build a hospital. Rather than being paid immediately for the work, the building firm will be allowed to rent the building back to the local authority on a 30 year lease. By the end of the contract, the building firm will earn a sum valued at around five times the original cost of the hospital. This cost will be at the expense of taxpayers.

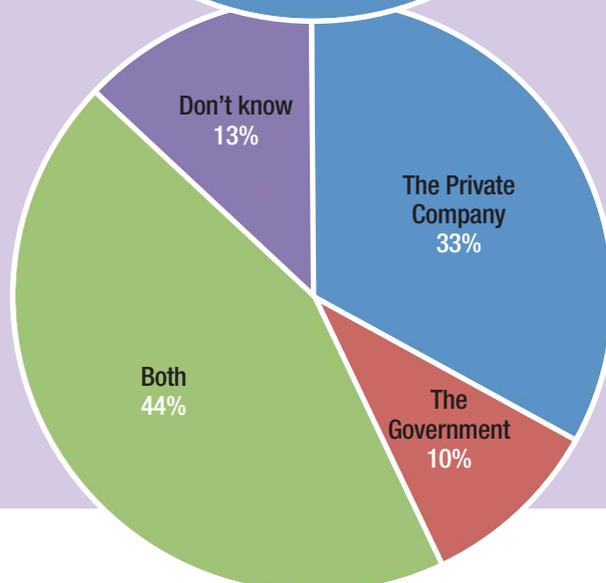
Do you think this type of contract should be prohibited?



Scenario 5

A private company that is contracted by the Department of Work and Pensions (DWP) to assess welfare claimants' capability for work is found by a government investigation to have breached its contractual terms. In order to boost profits, managers in the private company have been encouraging staff to reject all benefit claims in the first instance, whether claimants could work or not. As a result of the investigation, the private company is strongly reprimanded and has its contract with the DWP cancelled early.

Who should be held accountable for this failure?



Analysis

The results from the five scenario-based questions indicated very clear opposition to some of the practices that have been the subject of debate about the nature of the relationship between public and private interest, and about who gains and who loses from this relationship?

Thus, the survey indicated opposition to a range of practices that have become established as normal practice in government. Indeed, responses to the scenarios in this survey indicate very strong opposition to so-called 'revolving door' appointments. This opposition is strongly expressed in relation to appointments that revolve in both directions: from the private sector into government and from government into the private sector. There are four major findings of this survey.

First, there was clear opposition to the practice of former government politicians and officials joining the boards of private companies. The practice of a government minister joining the board of a company he was involved in awarding a contract to is very strongly opposed. Similarly, the case of the former head of HMRC joining a company that he had negotiated with in government generated strong objection.

Second, clear opposition was expressed to appointments that enable representatives of large corporations to influence government policy. Responses to scenario 3, based upon the real example of UK government tax authorities inviting seconded staff to help in the design of tax reforms, indicate strong opposition to this practice.

Third, the survey also indicated strong opposition to the currently preferred model of commissioning large-scale public building projects. Responses to a question based upon a real scenario of a public/private finance deal that provided major long-term profit incentives to private investors was overwhelmingly opposed.

Fourth, the survey responses indicated that where frauds occur in public procurement deals, both the government and the private company involved should be held accountable. In a scenario of malpractice in a DWP contract put to the public, although the private contractor appeared to be the main perpetrator of the fraud, survey responses indicated a very strong view that the government should bear responsibility for the malpractice.

Conclusion

The survey opens up new ground in the discussion of what we might begin to regard as 'corruption'. None of the five scenarios that we asked about in the survey involved practices that would be defined unambiguously as corruption or indeed as illegal. The scenarios involved practices that are normal and routine in government, but have in recent months attracted a great deal of public condemnation.

In our findings, we find a clearly expressed public sentiment that revolving door appointments between government and private corporations should not be permitted; that the current practices of public procurement known as PFI should not be permitted; and that government sub-contracting of core duties should not imply the sub-contracting of responsibility. In those respects, the survey shows that the British public view as worthy of censure a number of practices in government that are not currently regarded as corrupt.

The survey results reported here indicate that collusion between private and public sectors is of acute concern to the general public.

It demonstrates clear evidence to suggest that we need to have a national conversation about the collusive practices across government and the private sector that are strongly viewed by the public as worthy of prohibition.

Annex 1: Survey methods

The data was generated from an online survey commissioned from the polling organisation YouGov. The sample was comprised of a panel of 1,745 adults from Great Britain, polled on 4 and 5 January 2016. The survey was carried out online. In order to generate a nationally representative sample, the data presented in this report is weighted across a range of variables, including age, gender, newspaper readership, region, social grade demographics and voting preference in the 2015 General Election.

The survey was divided into two parts. In the first part, the part that is reproduced in this report, respondents were asked a series of five scenario-based questions, in which a series of government practices were described. Although the details were changed, the scenarios all drew

upon details of real events or circumstances. The scenarios therefore reflected real, widely used government practices. The first four of those scenarios asked about practices that, despite not being illegal or outside normal government rules, have been subject to some public debate that focused upon their legitimacy. The last of the scenario questions asked about a case of public sector procurement fraud that was unambiguously illegal. None of the real events or circumstances that the scenarios were based upon had taken place or been the subject of sustained media commentary in the 12 months preceding the survey. But all had been reported widely in the previous three years. The scenarios were therefore chosen to elicit respondents' views on real events that they may have remembered, but were at the time of the survey not being discussed or debated in public.

About the authors

David Ellis is Research Associate and **David Whyte** is Professor of Socio-legal Studies, both at the University of Liverpool.

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