

1. *The Values of Sound Public Governance*

OECD like-mindedness is based on a set of shared fundamental values. “These fundamental values include a commitment to pluralist democracy based on the rule of law and the respect of human rights, adherence to open and transparent market economy principles and a shared goal of sustainable development” ([C\(2013\)110/FINAL](#)).

Sound Public Governance constitutes a sine qua non condition for countries to give effect to these values in practice, and effective democratic institutions lie at the core of sound public governance: they constitute indispensable means to engage in open, equitable and inclusive decision-making in the public interest and in concert with citizens to enhance wellbeing and prosperity for all. Sound public governance is therefore not an end in itself but a tool to improve individual and societal outcomes.

Box 1. Definition of Sound Public Governance

Sound public governance is the design, execution and evaluation of formal and informal rules, processes, and interactions between the institutions and actors comprising the State, and between the State and citizens, whether individually or organised into civil-society organisations, businesses or other non-state actors, that frame the exercise in the public interest of public authority and decision-making in a way that enables the proper anticipation and identification of challenges and in response sustains improvements to general prosperity and wellbeing.

Sound public governance is the combination of three interconnected elements:

- *Values*: key behavioural traits that guide public governance across all of its dimensions in a way that advances and protects the public interest.
- *Enablers*: an integrated nexus of practice that enables the correct identification of issues and challenges and the design, implementation and evaluation of reforms in response that sustain improvements to outcomes.
- *Instruments and tools*: a set of policy instruments and management tools for effective policymaking.

The shared goal of sustainable development, expressed in **the UN Agenda 2030 Sustainable Development Goals (SDGs)**, defines a clear set of commitments within goal 16 to achieve “peace, justice and strong institutions”². SDG 16 includes the creation of peaceful and inclusive societies that guarantee access to justice for all along with effective, accountable and transparent public institutions at all levels of government. These commitments include such targets as the reduction of corruption and bribery in all their forms; guaranteeing rights of minorities; ensuring responsive, inclusive, participatory and

² UN Sustainable Development Goals : <https://www.un.org/sustainabledevelopment/peace-justice/>

representative decision-making at all levels; guaranteeing freedom of the press and public access to information; and protecting fundamental rights and freedoms of the individual in accordance with national legislation and international agreements.

A proactive commitment to these basic values is more important now than ever. Countries around the world are increasingly facing challenges to traditional democratic pluralism on both the right and the left of the political spectrum; only an OECD average of 43% of people still trust their governments³. This is partly the outcome of a detachment between people and their political systems, while the role of traditional representative democratic channels, such as unions or political parties, is being questioned inter alia through lower participation rates in the democratic process. The impact of other more direct channels of participation, such as the effect of public consultations using social media on the quality of democracy, is for its part not yet clear.

Public trust in the institutions of government is generated by more than simply an administration's effectiveness in delivering policies. Trust is about citizens being able to rely with confidence on the understanding that political and policy decisions are made in the public interest, that resources are being spent in the most honest and efficient way possible and that the ultimate goal of public servants is to work in the public interest to improve people's lives. Lack of trust erodes democracy and compromises the willingness of citizens and business to commit to public policies. Lack of trust therefore represents a barrier to inclusive social and economic development to secure prosperity and well-being for all (OECD, 2017).

Government efforts to strengthen – and sometimes rebuild – essential democratic bonds require harnessing a governance culture based on public values and ethics that reflect a society's goals and aspirations. Those values and ethics are context-based and are rooted in historical and cultural traditions that represent the broadest of societal consensus; this consensus can take decades, sometimes centuries, to crystallise. In their pursuit of sound public governance over the past decades, OECD countries have identified and committed themselves to what has turned out to be a common set of governance values which not only contribute to more democratic and effective policy-making, but to more inclusive economic growth⁴. These values are of course interconnected through their common focus on promoting and defending the public interest in pursuit of inclusive growth and development outcomes.

While boundaries between them are difficult to draw, these public values can be clustered around the four axes of *transparency*, *integrity*, *accountability* and *participation*⁵. These interconnected and mutually reinforcing values, along with such operating principles as *effectiveness*, are cornerstones that serve to structure and orient the public sector toward

³ OECD (2017), Trust and Public Policy: How Better Governance Can Help Rebuild Public Trust, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264268920-en>

⁴ The evidence presented in this Policy Framework is drawn from lessons learned from over a decade's worth of work on public governance reform conducted by the OECD with Member and Partner governments, whether using the OECD's cross-cutting, integrative Public Governance Review assessment and benchmarking tool or sector-based assessments in such areas of public governance as Budgeting, Regulatory Policy, Integrity, Human Resources Management or Innovation reviews.

⁵ See the OECD *Recommendation on Open Government* (2017)

serving citizens' needs in a manner that is free of corruption. Building a values-based culture of sound public governance is a continuous and challenging process of shaping organisational and individual practices and behaviour through the identification, design, implementation and evaluation of systemic multifaceted public-governance reforms. Even though there is no perfect (nor single) reform recipe, concrete steps can be taken to move the public sector, both culturally and institutionally, toward more democratic, values-based behaviour as a means to serve citizens better, generate inclusive growth and rebuild trust.

Evidence suggests that reforms that aim to create or strengthen a values-based culture of sound public governance cannot be implemented through siloed or sector-based approaches. Crosscutting, multidimensional reform strategies forged through robust coordination across government silos to incorporate all relevant strands seem to work best.

Most of the practices that the evidence suggests work have been embodied in OECD legal instruments on public governance: the *Recommendation on Improving the Quality of Government Regulation*, (1995) the *Recommendation on Guidelines for Managing Conflict of Interest in the Public Service* (2003), the *Recommendation on Regulatory Policy and Governance* (2012), the *Recommendation on Budgetary Governance* (2015), the *Recommendation on Gender Equality in the Public Life* (2015), the *Recommendation on Public Integrity* (2017), and the *Recommendation on Open Government* (2017).

1.1. Integrity

Integrity is the cornerstone of any system of sound public governance. It is vital for governing in the public interest for the prosperity and well-being of society as a whole. It reinforces such other fundamental values as the commitment to a pluralistic democracy based on the rule of law and respect of human rights.

That said, no country is immune to violations of integrity, and corruption remains one of the most challenging issues facing governments today. Corruption is the misappropriation or theft of public resources for private gain. Corruption erodes public governance and democracy, and citizens' confidence in them because it wastes public resources, widens economic and social inequalities, and breeds discontent and political polarisation (OECD, 2016b[1]).

Building an integrity system in the public sector is a critical component not only for preventing corruption but also for safeguarding democratic institutions and the rule of law. A strategic and sustainable response to corruption therefore places public integrity at its core (Box 2).

Box 2. Definition of Public Integrity

Public Integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in public-sector behaviour and decision-making.

Source: OECD (2017), *OECD Recommendation of the Council on Public Integrity*, <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>

Over the years, OECD countries have adopted legal and institutional frameworks to strengthen integrity in the public sector. Indeed many countries rely heavily (or solely) on compliance and enforcement mechanisms. Such approaches usually stress the importance of both increasing the costs and lowering the benefits of undesired behaviour through controls and sanctions. The aim is to reduce the discretion of decision makers in order to diminish their scope for misbehaviour. However, evidence suggests that the effects of overly-rigid compliance regimes tend to be limited and can actually act as a deterrent on a person's behaviour (Box 3).

Box 3. The hidden costs of control

A series of behavioural experiments, looking at the effects of compliance programmes on a person's intrinsic motivation for integrity, found that some of the more traditional methods of control were, in fact, promoting corruption rather than preventing it.

For example, the "four-eye principle" requires approval by at least two equally responsible individuals and is based on the argument that it is harder to successfully corrupt two people than it is to corrupt one. However, experimental evidence has found that involving additional actors to a decision-making process without giving them a unique responsibility might not necessarily be an effective approach to promoting integrity.

Indeed, the principle is motivated by distrust and can have adverse impact on employees' intrinsic motivations. Moreover, it enables the diffusion of responsibility between individuals, taking away moral responsibility from the individual decision. The principle also encourages people to develop solidarity with one another and can entrap them in a corrupt network.

Source: Schikora, J. (2011), "Bringing the four-eyes-principle to the lab.", Münchener Wirtschaftswissenschaftliche Beiträge: VWL: discussion papers., <http://www.econbiz.de/Record/bringing-the-four-eyes-principle-to-the-lab-schikora-jantheodor/>

The OECD *Recommendation on Public Integrity* (2017) incorporates much of the existing knowledge on integrity practices in the public sector, but shifts the focus from ad hoc integrity policies to a context-dependent, evidence and risk-based approach with emphasis on promoting a cultural change and examining integrity policy-making through a behavioural lens. The *Recommendation* includes a number of new crosscutting considerations and promotes coherence with other key elements of public governance. For example, it highlights the need for effective coordination across institutions and levels of government to harness each relevant area of responsibility in the design and delivery of a coherent, integrated public-sector integrity framework. Moreover, as risks to integrity can be caused by interactions between the public sector, the private sector and civil society, the *Recommendation* incorporates a whole-of-society approach tailored to the specific integrity risks of sectors, organisations and officials.

In particular, the *Recommendation* provides guidance to policy makers for developing a public integrity strategy that is built on three pillars: (i) building a coherent and comprehensive integrity system, (ii) cultivating a culture of public integrity, and (iii) enabling accountability and transparency (Figure 2).

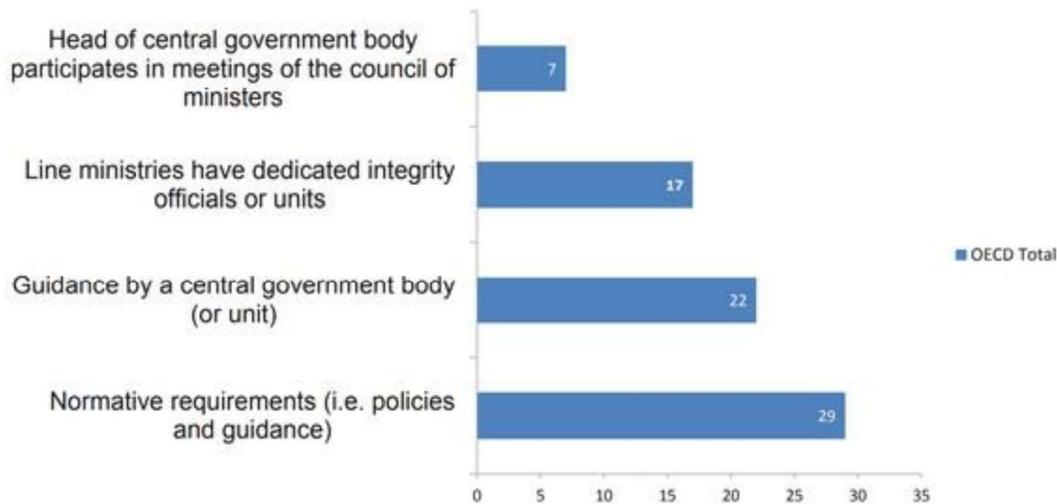
Figure 2. The three pillars of the OECD Recommendation on Public Integrity: System, culture, accountability



Source: OECD (2017), *OECD Recommendation of the Council on Public Integrity*, <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>.

A **coherent and comprehensive public integrity system** aims to ensure that policy-makers develop a set of interconnected policies and tools that are coordinated and avoid overlaps and gaps:

- The growing empirical evidence gathered by behavioural scientists shows that emphasising commitments at the highest political and management levels sets the tone for how integrity is perceived across the public sector and society (OECD, 2018a[2]).
- Similarly, ensuring that institutional and personal responsibilities are clearly identified not only increases the effectiveness of the overall integrity system but also strengthens the integrity of individual decision-makers.
- In OECD countries, the Centre of Government often leads inter-institutional coordination among public officials, across administrative silos and between levels of government in designing, implementing and evaluating the performance of integrity frameworks (Figure 3).

Figure 3. Mechanisms to mainstream integrity policies across line ministries

Source: OECD (2016), *Survey on Public Sector Integrity*, OECD, Paris.

- A growing number of OECD countries has recognised the importance of developing a strategic, risk-based approach and setting high standards of conduct to promote values-based decisions in the public sector and society. For example, codes of conduct define central duties and prioritise adherence to public-service values to reflect integrity in the overarching strategy, as well as in management goals and performance appraisals.

Cultivating a culture of integrity, aims to appeal to the intrinsic motivation of individuals to behave ethically – in the public sector, the private sector, and in society as a whole:

- Awareness campaigns and educational programmes for children and youth (OECD, 2018b[3]) can enable a whole-of-society culture of integrity that engages the private sector, civil-society organisations and citizens to exercise more readily their roles and responsibilities in preventing and fighting corrupt practices.
- Governments and public entities in OECD countries also increasingly invest in the integrity leadership of public managers, promote a merit-based professional public service, for example by integrating integrity into job-selection processes, and provide guidance and training programmes for public officials.
- The pillar also includes supporting an open organisational culture where ethical dilemmas, public integrity concerns and errors are discussed freely and resolved in a timely manner. Awareness-raising activities on reporting violations of integrity are therefore crucial to change the culture around whistleblowing and break down negative connotations associated with it.

Enabling effective accountability builds on risk-based controls and real responsibility for integrity violations:

- It involves applying an internal control and risk-management framework to safeguard integrity, developing effective enforcement responses to all suspected

integrity violations as well as strengthening the role of external oversight and controls.

- Supreme Audit Institutions (SAIs) are important actors of a country's accountability chain. Traditionally known for their oversight of public expenditure, their roles are evolving to inform governments on what works and what does not in public governance (OECD, 2016[4]).
- Accountability encourages transparency and stakeholder participation at all stages of the political process and policy cycle. To avoid policy capture of public policies by narrow interest groups, governments can develop conflict-of-interest management frameworks as well as instil transparency in lobbying activities and in the financing of political parties and elections campaigns. The Recommendation on Principles for Transparency and Integrity in Lobbying (2010) and the Recommendation on OECD Guidelines for Managing Conflict of Interest in the Public Service (2003) provide clear roadmaps to address these issues.

Core questions for consideration by governments

- *System*: In order to guarantee the coherence of integrity policies, are there mechanisms in place to mainstream integrity policies across line ministries? Is coordination between different relevant bodies at the central and subnational levels ensured?
- *Culture*: Are there measures to promote a culture of integrity in government (e.g. merit-based recruitment, training, awareness raising)? Are there measures to promote a culture of integrity in society (e.g. awareness raising and education programmes, codes of conduct/responsible business conduct practices for public employees, etc.)?
- *Accountability*: Are policies and practices for identifying, assessing and responding to integrity risks effective and efficient? Is the interaction between public officials and interest groups regulated?

Additional resources

OECD legal instruments:

- [OECD Recommendation of the Council on Public Integrity \(2017\)](#)
- [OECD Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service \(2003\)](#)
- [OECD Recommendation of the Council on Principles for Transparency and Integrity in Lobbying](#)

Other relevant OECD tools:

- Behavioural Insights for Public Integrity - Harnessing the Human Factor to Counter Corruption (2018a)
- Education for Integrity - Teaching on Anti-Corruption, Values and the Rule of Law (2018b)
- Government at a Glance (2017)

- Integrity Framework for Public Investment (2016a)
- Investing in Integrity for Productivity (2016b)
- Financing Democracy - Funding of Political Parties and Election Campaigns and the Risk of Policy Capture (2016c)
- Supreme Audit Institutions and Good Governance (2016d)
- Lobbyists, Governments and Public Trust, Volume 3: Implementing the OECD Principles for Transparency and Integrity in Lobbying (2014)
- Managing Conflict of Interest in the Public Sector - A Toolkit (2005)
- Managing Conflict of Interest in the Public Service - OECD Guidelines and Country Experiences (2004)

1.2. Openness

The OECD defines **Open Government** as a culture of public governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth⁶. Given the importance of openness in governance and policy-making, open-government strategies and initiatives have become a pillar of public-governance reforms. These reforms can range from initiatives to improve **transparency** by, for example, guaranteeing public access to information and open data, to more complex practices to increase **accountability** and **stakeholder participation** in decision-making.

Open Government is not an end on itself; it is a tool to achieve policy objectives. As with public integrity, open government principles and practices can be applied to all decision-making regardless of the theme or sector, and across all Branches of Power (when Open Government frameworks and principles are adopted by a country's Legislative and Judicial Branches in addition to the Executive, the OECD refers to this phenomenon as an Open State). When policies are decided, designed and implemented in a transparent and inclusive way, they contribute to building citizens' trust and to achieving policy outcomes more effectively, because openness allows governments to broaden the range of input for decision-making. Open Government can contribute to political equality too, because it requires governments to reach out to those populations and sectors that are less prone to public participation. For this reason, OECD Recommendations in different areas of public governance, from regulatory policy to public integrity and digital government, advocate for the adoption of open government principles and practices.

By highlighting evidence on those practices that work best in this area across OECD countries, the OECD Recommendation on Open Government (2017) advises that governments develop, adopt and implement open government strategies and initiatives that promote the principles of transparency, integrity, accountability and stakeholder participation in designing and delivering public policies and services. In this regard, policy makers could:

- **Ensure the existence of an enabling environment**, such as the design and implementation of a robust open government legal and regulatory framework,

⁶ Recommendation of the Council on Open Government (2017)

ensuring human, financial, and technical resources and promoting open government literacy;

- The success of open government strategies depends largely on the existence of a policy and legal framework that sets the rules for both government and stakeholders, such as the existence of access-to-information frameworks. Successful implementation of open government strategies are usually coupled with the strategic use of digital government and public sector innovation tools.
- **Develop an implementation framework**, through co-ordination mechanisms across government; monitoring, evaluation and learning mechanisms for open government strategies and initiatives; as well as stakeholder participation processes. In addition, effective communication can support the OG implementation framework as communication serves not just as a means of informing the public, but as a strategic tool to support policymaking and service delivery by enhancing transparency and participation.
 - Since an open government strategy cuts across different policy sectors and public governance areas, the active role of the Centre of Government can be instrumental in providing leadership and effective policy co-ordination. According to the 2016 OECD Survey on Open Government and Citizen Participation, 85% of the surveyed countries have a dedicated office responsible for horizontal co-ordination of open government initiatives (Figure 4). Moreover, a sound monitoring and evaluation system for open government initiatives can be pivotal to ensure that policies are achieving their intended outcomes, make corrections if needed and therefore enable open-government initiatives to generate greater impact. However, this is a challenging task: while 91% of countries say they monitor open government initiatives, only half evaluate them.

accountability, and should be actively involved in national open government agendas.

Box 4. The importance of pursuing transparency

Transparency is critical to include citizens in policy-making and to build trust in public institutions. The opening-up of government processes, proceedings, documents and data for public scrutiny and involvement is a prerequisite to achieve better stakeholder engagement, inclusiveness, integrity and accountability in public governance. In this regard, the OECD, through its Recommendation on Open Government (2017), suggests that governments should make available clear, complete, timely, reliable and relevant public sector data and information that is free of cost, available in an open and non-proprietary machine-readable format. The OECD also recommends governments to adopt transparent practices in other public governance areas such as public integrity, budgeting, public procurement and regulatory policy.

Source: OECD Recommendation of the Council on Open Government (2017).

Core questions for consideration by governments

- To optimise the benefits that an open government culture can generate, is the appropriate enabling environment in place, including institutional, legal and regulatory frameworks, human, financial and technical resources, and oversight mechanisms to ensure their implementation?
- Are there mechanisms in place to guarantee effective horizontal and vertical co-ordination across level of governments?
- Are policies planned in collaboration with citizens and all relevant stakeholders and are they associated with monitoring, evaluation and learning mechanisms to ensure impact?
- When developing stakeholder participation initiatives, is communication considered as integral to this process?

Additional resources

OECD legal instruments:

- [OECD Recommendation of the Council on Open Government \(2017\)](#)

Other relevant OECD tools:

- OECD (2016) Open Government: The Global Context and the Way Forward

1.3. Inclusiveness

Governments can take active measures to design, apply, and monitor **equality in governance and decision-making**, with a special focus on empowering and integrating historically marginalised, disadvantaged and/or vulnerable groups into public life. Applying a **gender equality and inclusiveness lens** in decision-making process, in

combination with openness and transparency, can help governments better understand the needs of both women and men across the broadest of cross-sections of society, and how to respond to them effectively. Such a lens also helps decision-makers assess the differentiated impacts of their decisions - across policy themes or sectors - on women and men from different backgrounds. Governments pursue inclusiveness by leveraging the information, ideas and resources held by all stakeholders, including citizens, civil society organisations and the private sector, and by better engaging with them in tailoring policies and services to societal needs.

Youth is an additional key actor for improving diversity in policy-making. With young men and women politically empowered and more actively engaged in policy-making, societies can be more cohesive and resilient, and democracies more vibrant. However, according to the OECD Youth Stocktaking Report (2018), in 17 out of 30 OECD countries for which data exists, youth express less trust in government than their parents (aged 50+) and their participation in formal processes appears to be on the decline.

A first enabler to ensure inclusiveness in public-governance approaches and decision-making processes is sustaining **strong institutional mechanisms, tools and accountability structures**. In this regard, the 2015 OECD Recommendation on Gender Equality in Public Life provides important guidance in this regard which can be applied to all inclusiveness approaches:

- **Adopting a “whole-of-state” governance approach** to gender and broader equality mainstreaming: the Recommendation proposes a system-wide approach which recognises that all public institutions and branches of the state have a strong role to play in promoting gender equality and inclusiveness. The Centre of Government (CoG) can play a critical role as the "power house" influencing change across the system.
- **Leveraging all core government decision-making tools** to promote inclusiveness: All ministries and government agencies can integrate evidence-based assessments of gender impacts and considerations into various dimensions of public governance and in the early stages of all phases of the policy cycle. Decision-makers can also consider integration of the gender perspective in all phases of the budget cycle so that transparency regarding gender-relevant resource allocation decisions is maximised.
 - This approach can also be applied with respect to youth. For instance, several countries has launched national youth policies/strategies to unite ministries, different levels of government and non-governmental stakeholders around a joint vision that delivers youth-related policies and services in a coherent manner with the active participation of young people. Moreover, countries can implement youth checks, which assess the expected impact of new regulations on young men and women and hence broaden the default “adult” perspective in regulatory policy-making.
- **Strengthening accountability and oversight mechanisms** for gender equality and inclusiveness mainstreaming initiatives across and within government bodies.

A second key enabler of inclusive governance is **effective stakeholder participation**. Actively engaging citizens contributes to the well-targeted use of limited state resources and better public service design and delivery, for example through consulting citizens for the identification of their needs. Active participation goes beyond votes and elections and recognises the capacity of citizens to co-generate policy options (OECD, 2016). As the

previous section highlighted with respect to Open Government/Open State contributions to sound public governance, stakeholder-participation increases government inclusiveness, accountability, broadens citizen empowerment and influence on decisions and builds civic capacity. Stakeholder-participation “improves the evidence base for policy-making, reduces implementation costs and taps wider network for innovation in policy-making and service delivery” (OECD, 2009⁷). For instance, as it will be observed in chapters 3 and 4, stakeholder engagement is a key component of a sound regulatory policy

For instance, stakeholder engagement is a key component of a sound regulatory policy. The OECD Recommendation on Regulatory Policy and Governance (2012) suggest that governments “establish a clear policy identifying how open and balanced public consultation on the development of rules will take place” (OECD 2012, Principle 2.1). In this regard, and as is the case for integrity and openness frameworks, best practice identified by the OECD on stakeholder engagement in regulatory policy includes:

- A clear, crosscutting, government-wide guiding policy should exist on how to engage with stakeholders, setting clear objectives.
- Leadership and strong commitment to stakeholder engagement in regulation-making are needed at all levels, from politicians, senior managers and public officials.
- Capacities in public administration to conduct effective and efficient stakeholder engagement should receive adequate attention.
- Mechanisms to ensure that civil servants adhere to the principles of open government and stakeholder engagement in regulatory policy.

While many countries are making important progress in the design and implementation of participatory initiatives, data shows that their full potential is not yet being achieved, especially during the final phases of the policy cycle. As for open government strategies, the development of specific policy and legislative frameworks for greater inclusiveness should favour the use of participatory practices at all points in the policymaking cycle by defining which mechanisms to use and how stakeholder participation should be encouraged at each stage. Making the business case for effective engagement - measuring the cost associated with such exercises and their final impact - will also be essential for improving the strategic use of citizen-participation practices.

A third important element to build inclusiveness is to ensure **gender equality, diversity and inclusiveness in decision-making**. The OECD recognises that “fostering gender diversity in public decision-making is critical for achieving inclusive growth at all levels of government, as well as anticipating current and future steps needed to increase citizen trust and well-being” (OECD Recommendation on Gender Equality in the Public Life). Yet women still make up for only one third of leadership positions across all three branches of power. Moving forward, the OECD Recommendation on Gender Equality in Public Life provides guidance to countries on how to achieve gender balanced representation in decision-making positions in public life, and improve the gender equality in public employment, including at the top.

The OECD also underlines the opportunities provided by the open government agenda to enhance youth participation and representation in public life. OECD countries have developed different initiatives; inter alia, improved arrangements for civic and citizenship

⁷ OECD Studies on Public Engagement - Focus on Citizens (2009)

education, online consultations, the strategic use of social media and more traditional initiatives such as the establishment of national and local youth councils. Moreover, there is increasing recognition that young people should be represented adequately in elected bodies, the government cabinet and the public administration to embrace their innovative potential and deliver on young citizens' needs.

Core questions for consideration by governments

- Have you identified government-wide objectives to mainstream inclusiveness across the public sector? Are these objectives supported by governance and performance strategies? Are they integrated into government-wide policy objectives and priorities?
- Is there a whole-of-government institutional framework in place, with clear roles and responsibilities assigned for the centre of government, gender institutions, all line ministries and agencies and oversight institutions – accompanied by sufficient resources, adequate capacities and coordination structures – to systematically embed and oversee the implementation of gender equality and an inclusiveness lens in decision-making?
- Is gender-disaggregated data and information – including information on intersecting identity factors (e.g., age, ethnicity, religion, etc) -- available and used to inform decision-making?
- Are policies, mechanisms and tools in place to promote gender-balanced and inclusive participation in decision-making and leadership in the public sector?⁸

Additional resources

OECD legal instruments:

- [OECD Recommendation of the Council on Gender Equality in Public Life \(2015\)](#)
- [OECD Recommendation of the Council on Open Government \(2017\)](#)

Other relevant OECD tools:

- OECD Toolkit for Implementing and Mainstreaming Gender Equality (2018)
- OECD Best Practice Principles on Stakeholder Engagement in Regulatory Policy (forthcoming)
- OECD Youth Stocktaking Report (forthcoming)

1.4. Rule of law and access to justice

The rule of law represents one of the foundational values of the like-mindedness of OECD countries. It is intertwined with the other governance dimensions of accountability,

⁸ The elements of such an enabling environment are outlined in the OECD Recommendation on Gender Equality in Public Life and its accompanying Toolkit

transparency, openness and integrity, and defines these dimensions' interdependence. Sustainable Development Goal (SDG) 16.3 calls on countries to “promote the rule of law at the national and international levels, and ensure equal access to justice for all”.

Effective and efficient justice systems are crucial to sustaining the rule of law and sound public governance - notably of policy and regulatory performance. For instance, effective anti-corruption efforts depend on sound and accessible justice institutions at all levels of government within a framework that guarantees that every last individual in society is equal under the law and that no individual or group obtains special treatment under the law by virtue of origin or background, socio-economic circumstances or links to society's power structures.

Constitutional justice performs important functions in the consolidation and maintenance of democratic governments by guaranteeing the protection of individual rights and liberties, establishing the separation of powers between government branches and bodies, and enabling capacity for dialogue between the people and their government.

Administrative justice is one of the main interfaces between public administration and people. For example, the Recommendation on Regulatory Policy and Governance (2012) highlights that judicial review constitutes a litmus test of good regulatory practice by:

- ensuring that regulators exercise authority within the scope of their legal powers
- providing an incentive for regulators to adhere to good governance and best practice principles
- protecting regulators from undue influences from government
- enhancing trust and legitimacy of regulatory activity as part of economic policy agenda

Access to - and satisfaction with - justice services are important contributors to, and drivers of, trust in government. Access to justice and legal empowerment are important tools to advance the Open Government/Open State agenda as drivers of open government policies, social accountability, public-sector integrity and inclusive growth. Legal empowerment advances more meaningful civic engagement by ensuring that people understand how the law allows them not only to confront injustice in their lives but to participate in law-making and the implementation of legislation for society's benefit.

A sound and functioning legal and justice system contributes to a thriving business environment and longer-term investment decisions. It supports contract enforcement, reduces transaction costs and levels the playing field for market stakeholders by instilling confidence in “the rules of the game,” ensuring fair competition and protecting property rights. The OECD Policy Framework for Investment (PFI) highlights that when key elements of effective access to justice are missing or inefficient (e.g. complex, costly, and lengthy procedures), companies including SMEs tend to limit their activities in that jurisdiction/country.

Access to justice lies at the centre of inclusive growth strategies aimed at improving policy outcomes. Access to justice engenders equality of access to opportunities and public services. According to the OECD Framework for Policy Action on Inclusive Growth (2018), it is a key building block for enabling stakeholders to “invest in people and places that have been left behind”.

People's unmet legal and justice problems (e.g. family, racial, employment, housing, violence against women; consumer-related) can have adverse effects on other areas of

everyday life, e.g. health, social welfare and economic well-being. Conversely, direct and indirect benefits are attributable to meeting particular legal needs and providing legal assistance and access-to-justice programmes, notably in such areas as better housing, supporting inclusion, enhancing consumer and financial protection, supporting positive outcomes for migrants and immigrants, reducing domestic violence and facilitating access to healthcare.

One of the most important trends in OECD countries is the shift towards **people-centred justice** as a guiding principle, which implies providing access to legal and justice services from the individual's perspective and experience. It acknowledges that specific groups, notably the disadvantaged, may have additional legal needs and face extra barriers in accessing justice services.

Effective access to legal and justice services presupposes an enabling framework for an effective and efficient justice system. Such frameworks encompass a growing spectrum (or "continuum") of services, processes and procedures, and tend to include a legal architecture, institutional arrangements and alternative dispute-resolution mechanisms (specialised mediation services; problem-solving courts; justice-access centres; etc), strategic planning and performance management, data system exchanges, monitoring and evaluation systems, sound HR provisions related to the professional career (judicial and non-judicial), among others. Indeed acknowledging the relationship between effective access to justice and broader socio-economic outcomes has prompted countries to co-ordinate justice and social services under an outcome-based approach, i.e. addressing both people's justice needs and their accompanying social or health issues (e.g., domestic violence, drug and alcohol abuse, mental illness, juvenile delinquency).

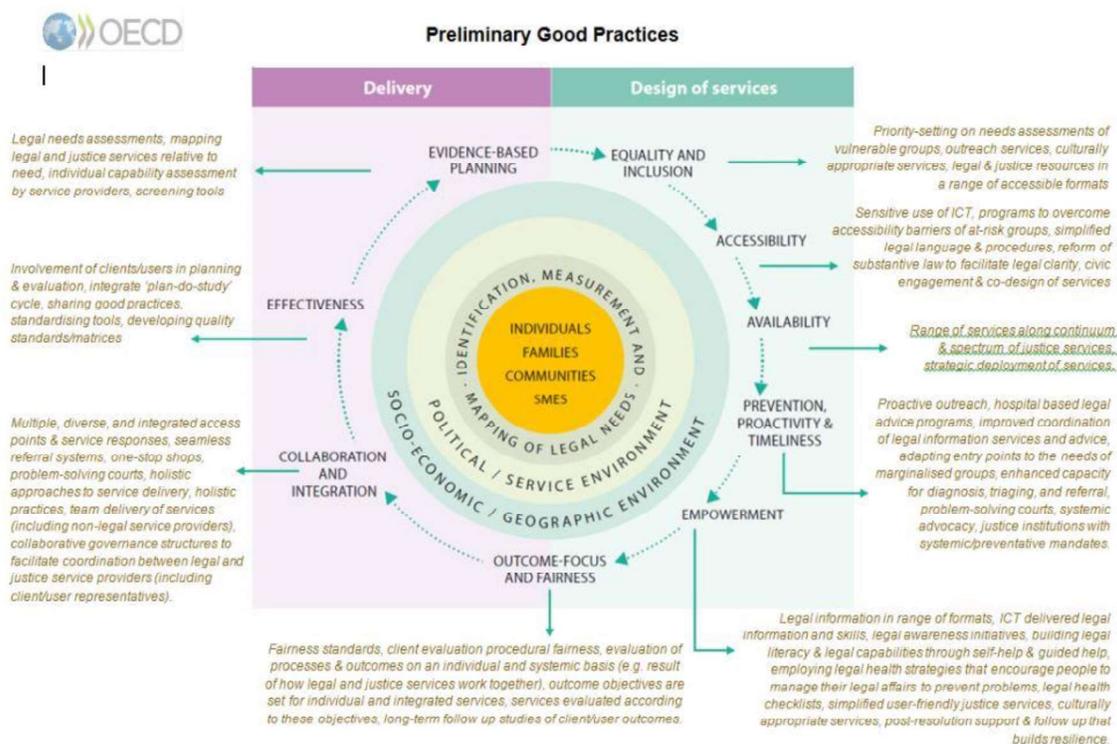
Evidence of good practice of OECD Members and Partners shows that designing and delivering people-focused legal and justice services require a coherent approach shaped by effective coordination across strategic priority areas optimising the use of available resources in a way that best reflects the specific political, socioeconomic and service environment of the country. This approach calls for:

- *the systematic identification, measurement and mapping of legal needs*, to help determine who experiences legal needs where (at the national, sub-national and local levels), along with the nature and scope of these needs. A number of OECD countries are using legal needs survey methodologies – in combination with different types of administrative data - to allow policy makers to understand the actual scope of legal needs and people's pathways to resolving them.
- *designing and delivering people-centred legal and justice services*, to effectively respond in a targeted and fair manner to identified legal needs. Practice in OECD countries suggests that legal and justice services are people-centric and effective when they are provided in an inclusive manner and available both to the general population and specific vulnerable groups, are effectively responsive; help build empowerment; prioritise proactivity, prevention and timeliness; and focus on substantive outcomes (see Figure 5).
- *adopting a data-driven approach* to identify measures of demand, supply and outcomes. This helps deliver justice services in a manner that can optimise the relative costs of different strategies, identify alternative financing possibilities to achieving a desired outcome for specific groups of the population and ensure that justice services generate value for money. Several evaluation methods (such as

cost-effectiveness, cost-benefit analysis, economic impact analysis) can be used for this purpose.

Figure 5. Planning for Effective Access to Justice: What works practices in designing and delivering

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Core questions for consideration by governments

- Is there a sound justice framework grounded in effective and efficient justice institutions and coherent enforcement capacity?
- Is there a systematic process for mapping legal needs and experience to understand if and how appropriate types of services are being matched to the needs of different groups of population across all regions in the country?
- Are there effective coordination and communication channels vertically (across levels of government) and horizontally (between various legal and justice services including courts) to support governance and alignment in justice services?
- Is there a data management or exchange system covering formal and non-formal legal and justice services and based on common data protocols and standards? Is this information readily available to the public?

Additional resources

- OECD (2018), Opportunities for All: A Framework for Policy Action on Inclusive Growth, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264301665-en>
- OECD (upcoming), People-centred Legal and Justice Services and What works practices: fostering Inclusive Growth through Equal Access to justice
- OECD-OSF (2018 upcoming), Toolkit on Legal Needs Surveys and Access to Justice
- OECD Business case for investing in People-centred Access to Justice (upcoming)