

STRENGTHENING CIVIL SOCIETY PROGRAMME: FUTURE FUNDING THEMES

Scoping paper: Corporate accountability

By Nick Perks

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About this paper

The Baring Foundation's Strengthening Civil Society (SCS) programme aims to support organisations within civil society to make effective use of the law and human rights-based approaches to tackle discrimination and disadvantage and bring about wider social change. This includes changes in policy, regulation and law; changes in behaviour, attitudes and norms; and new ways of designing and delivering services or support for individuals.

As part of considering the future direction of the programme, in 2025 the Foundation commissioned four scoping papers on the themes of Human Rights, Criminal Justice, Environment and Human Rights, and Corporate Accountability, one or more of which might become a future focus for the programme.

This paper considers the area of Corporate Accountability, particularly in relation to the role of companies in perpetuating or creating discrimination and disadvantage.

ABOUT THE AUTHOR

Nick Perks is a freelance charity and philanthropy consultant, Carbon Literacy trainer, and founder of the Funder Commitment on Climate Change. He was previously Trust Secretary at the Joseph Rowntree Charitable Trust, where he managed a programme of grants on democratic, corporate and media power and accountability. He was also formerly a Trustee of the Joffe Charitable Trust, which works to improve financial integrity and fix the UK's dirty money problem. He lives and works in York.

Summary & methodology

SUMMARY

- Corporate power and the harm it can cause is significant in the UK for the general public, and for marginalised or vulnerable groups such as prisoners, migrants or people in care.
- The combination of powerful and influential companies, under-resourced regulators, rapidly changing technology, and limited access to justice for ordinary people mean that there are significant gaps in the accountability of the private sector.
- UK civil society has developed a range of approaches to corporate accountability. The 'corporate accountability sector' includes some effective organisations, but overall it is relatively small, not clearly defined, somewhat fragmented and under-resourced.
- Legal approaches to corporate accountability can be used in fields such as competition law, labour law, administrative justice, procurement and laws governing modern slavery.
- There is a clear opportunity for the Baring Foundation to show leadership and add value by supporting civil society to use the law in relation to corporate accountability.

- Given the rapidly changing context and the relatively small existing sector, an open and flexible approach, combined with sensitive field building, would be most appropriate.
- Focusing on corporate accountability and the law would be a distinctive choice, with the potential for high impact, but it will require patience and long-term commitment.

METHODOLOGY

This short paper has been informed by bilateral conversations with a small number of funders and civil society organisations working in this field, by publicly available research and data, the author's own experience of running a grant programme which encompassed corporate accountability, and guidance and feedback from Baring Foundation staff. It is not a systematic or exhaustive review.

Context

The private sector has a major influence on the life of everyone living in the UK, from the provision of routine daily needs through to delivering some of the most sensitive and high-risk state actions. For example:

- Over 27m people in the UK work in the private sector, some 81% of all those in employment;¹
- Almost all domestic energy in the UK is supplied by private companies, and water companies in England are also private companies;²
- Around one in five UK homes are privately rented;³
- There is extensive private sector involvement in delivering health services, including NHS services;⁴
- Around 17,000 people, 20% of the prison population in England and Wales, are held in privately run prisons, and there is a further privately-run prison in Scotland;⁵
- Over 100,000 people in the UK in the asylum system are currently living in accommodation provided by three large private companies under government

contracts,⁶ and a further 1-2,000 people are held in Immigration Removal Centres,⁷ also run by private contractors;

- Across the UK, over 350,000 people are in residential care or nursing homes run by the private sector;^{8,9,10,11}
- Privately-owned software and platforms are used by every statutory body, including to communicate, provide services, store data, monitor users, and increasingly to make decisions;
- Online spaces of various kinds, owned and shaped by private companies, are an integral part of most people's lives, for work and leisure, meetings and debate, support and belonging, and many other functions.

There are political choices, well beyond the scope of this paper, about the what the best division is between public, private and third sector delivery of goods and services. Views and practice on this have changed over time. However, it is self-evident that discrimination, unfair treatment and abuse of rights can happen in any sector. Within the private sector, the profit motive can at times be a driver of innovation, high standards and good customer

1 www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/publicandprivatesectoremploymenttemp02

2 weownit.org.uk/who-owns-our-water

3 www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/dwellingstockbytenureuk

4 It is very complex to put a figure on the proportion of NHS spending or activity that is carried out via the private sector, with estimates ranging from 7% to 26%. See for example blogs.lse.ac.uk/politicsandpolicy/nhs-spending-on-the-independent-sector.

5 prisonreformtrust.org.uk/publication/bromley-briefings-prison-factfile-february-2025

6 www.nao.org.uk/reports/the-home-offices-asylum-accommodation-contracts

7 migrationobservatory.ox.ac.uk/resources/briefings/immigration-detention-in-the-uk

8 Public Health Scotland's 2023/24 report estimated that there were 49,565 people in care homes, of which are 80% privately run: publichealthscotland.scot/publications/care-home-statistics-for-scotland/care-home-statistics-for-scotland-support-and-services-funded-by-health-and-social-care-partnerships-in-scotland-202324

9 Office of National Statistics for England for 2022/23 estimated that there were 372,035 people in care homes: www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/socialcare/articles/carehomesandestimatingtheselffundingpopulationengland/2022to2023 of which 85% are privately run: www.ft.com/content/43273df4-c89d-4dab-a8e9-a25c5725a15a.

10 Care Inspectorate Wales data for 2023/24 estimated that there were 20,293 people in care homes app.powerbi.com/view?r=eyJrjoiMmM3Mzg1OGYtNzY1Mi00NWFlLTg2NmMtNzU4NGEzZjdmZDBliiwidCI6ImEyY2MzNmM1LTkyODAtNGFhYjY0ODg3LWQwNmRhYjg5MjE2YjI9 No data was found on ownership in Wales.

11 In Northern Ireland, 12,176 residential and nursing home care packages were in effect; no data was found on total number of people in care homes, or ownership. www.northernireland.gov.uk/news/publication-statistics-community-care-adults-northern-ireland-2023-2024.

service, whilst at other times – often when combined with monopolistic concentration of power – it can lead to exploitation, cost cutting and abuses.

Corporate wrongdoing can have deep and broad consequences. For example, the Post Office / Horizon IT scandal led to the wrongful imprisonment of over 200 staff,¹² and several suicides, with many more bankrupted or otherwise seriously harmed.¹³ The VW / Dieselgate deliberate cheating of exhaust tests meant hundreds of thousands of cars in the UK (and millions globally) were more polluting than claimed. It is estimated that across the UK and EU this has already led to 124,000 premature deaths, 90,000 new cases of asthma in children, and an economic cost of €760bn.¹⁴

Alongside high-profile cases like these, there are many more examples of corporate harm. For example, [Violation Tracker UK](#) records over 120,000 enforcement actions brought against companies by government agencies across the four nations of the UK since 2010, involving issues such as financial misconduct, workplace abuses, environmental offences and anti-competitive practices. Workers, service users and consumers from oppressed or marginalised groups are more likely to be affected by corporate harm, and less able to secure appropriate remedy.

These enforcement actions will themselves represent only a small proportion of wrongdoing by companies. Many issues will not be reported, and most regulators are struggling with resourcing. Between 2009-2019, key regulators suffered an average funding reduction of 41% in real terms.¹⁵ As a result, there have been steep falls in staffing and in the number of regulatory actions. For example, half of local authorities in England and Wales didn't prosecute *any* private landlords or letting agents between 2019 and 2021 despite more than 314,000 complaints in that period. In 2023, enforcement action taken by the Environment Agency was at 12% the level it was in 2010. Local Authority Health and Safety visits in England, Wales and Scotland fell by 78% in the decade to 2019.

¹² www.bbc.co.uk/news/business-67956962

¹³ www.gov.uk/government/publications/post-office-horizon-system-offences-bill-supporting-documents/horizon-scandal-factsheet-post-office-horizon-system-offences-bill

¹⁴ www.clientearth.org/latest/news/we-re-pushing-governments-to-take-action-after-dieselgate

¹⁵ All the statistics in this paragraph collated in: unchecked.uk/wp-content/uploads/2024/06/UnChecked_GJF_Protecting_Report_JUNE2024_V8.pdf.

Civil society responses

There are a number of different approaches through which civil society organisations seek to hold corporate power to account. These are sketched out briefly below, with UK-based examples. Most of these are not primarily legal approaches, but it is helpful to understand the context in which use of the law may contribute, and where there may be synergies. These are roughly ordered from the most collaborative to the most oppositional, although there will be a variety of positioning and tactics within each approach, as well as grey areas and overlaps between different categories.

BUSINESS ETHICS

Providing advice, support, peer networking and other means to encourage and facilitate ethical business behaviour. Examples: [Institute of Business Ethics](#).

CERTIFICATION

Voluntary standards and kitemarks of various kinds, to incentivise, reward and communicate companies that act to higher standards in their governance, products, or across multiple domains. Stronger certification schemes are typically owned by civil society organisations and independently audited. Examples: [B Corps](#), [Good Business Charter](#), [Fair Tax Mark](#). Some schemes, such as [organic status](#), are protected by law.

RESEARCH, INFORMATION, REPORTING FRAMEWORKS

Collating, organising and presenting information on companies and their activities, often drawing on statutory reporting and / or additional voluntary reporting. This in turn can inform and influence campaigners, consumers, investors, or the companies themselves. Examples: [Business and Human Rights Resource Centre](#), [Violation Tracker UK](#) (see page 7), [CDP](#), [Ethical Consumer](#). An interesting new entrant is [Social LobbyMap](#),

which aims to increase transparency and analysis around corporate lobbying on human rights legislations.

ADVICE AND CASE WORK

Supporting individuals and families who have been adversely affected by the actions of private sector companies, for example acting as employers or landlords, with advice about their rights and / or support to take cases to tribunals or courts. Often part of more general advice and legal services to the public by civil society. Examples: [Citizens Advice Bureaux](#), [Law Centres](#), [Which?](#)

INVESTIGATION

Using research and other journalistic tools to unearth and analyse various forms of corporate harm, up to and including illegal activity. Publishing this information to a variety of audiences as the previous entry, also potentially informing regulators or police. Examples: [Corporate Watch](#), [DeSmog](#), [Unearthed](#), [Tax Policy Associates](#).

SHAREHOLDER ACTIVISM

Engaging and mobilising individual or institutional shareholders (such as foundations) to encourage or pressure companies and their directors to address social and environmental concerns. Example: [ShareAction](#).

CAMPAIGNING AGAINST CORPORATE ACTIVITY

Mobilising general public concern about corporate harms to put pressure on companies, often those with prominent direct-to-consumer brands, using tactics such as protest, stunts, petitions and boycotts. Examples: [Labour Behind the Label](#), [Boycott, Divestment, Sanctions \(BDS\)](#), [Campaign Against the Arms Trade](#), [Greenpeace](#).

LEGISLATION AND POLICY

Using campaigning, coalitions, research, and subject expertise to seek to bring or amend legislation or government policy to reduce corporate harms. This includes holistic campaigns e.g. for mandatory human rights due diligence in supply chains or revision of the Companies Act, through to more topic-specific policy asks. Examples: [Corporate Justice Coalition](#), [B Lab Better Business Act](#), [Anti-Slavery International](#), [Focus on Labour Exploitation](#).

TRADE UNIONS

Trade unions are the traditional counterbalance to corporate power. The first duty of unions is towards the interests of their members rather than general public benefit, and many unions are politically affiliated, and therefore normally outside the scope of charitable funding. However, many unions play an active role in wider campaigns and movements,¹⁶ and union or union-like frameworks have been used in some more recent corporate accountability campaigns and initiatives. Examples: [Acorn](#), [CICTAR](#), [IWGB](#), [London Renters Union](#).

LITIGATION AND LEGAL REMEDY

Using legal strategies, up to and including litigation, to hold companies to account for harms, seeking to compel changes to practice, and / or redress to victims. Legal strategies are often combined with other forms of investigation, advocacy and campaigning. Actions may address companies directly, or indirectly through regulators, or statutory agencies that have commissioned services delivered by private companies. Examples: [Client Earth](#), [Foxglove](#), [Global Legal Action Network](#), [Good Law Project](#), [Law for Change](#), [RAID](#).

State of the sector

Although there are a number of examples of UK civil society organisations which do engage with corporate harm, the ‘UK corporate accountability sector’ – if it exists at all – consists of a small number of organisations, with very few specialist funders, and limited infrastructure. Of the categories of activity listed in the previous section, only the advice sector and trade unions are substantial groupings, and these both have much broader remit than just corporate accountability.

The Corporate Justice Coalition (CJC) is perhaps the nearest that the corporate accountability sector comes to an infrastructure body. Structurally, around 70 organisations are partners in the coalition, including large international development and environmental NGOs for whom corporate accountability is one area of interest, small specialist corporate accountability charities, trade unions and law firms active in this field. CJC facilitates information sharing and peer exchange, and highlights the work of its members, as well as co-ordinating and mobilising campaigns. CJC is a small organisation, with a turnover of only around £200k and four staff. In recent times it has focused particularly on seeking to introduce a new Business, Human Rights and Environment Act.

The Joseph Rowntree Charitable Trust is the only UK funder known to the author which has “corporate accountability” as a specific aim, one of three sub-themes within its Power and Accountability programme, which in total distributes around £1.5-£2m annually. The Joffe Charitable Trust has a particular interest in strengthening financial integrity in the UK, which often engages issues of corporate power, distributing around £0.5m annually on this topic. It has also channelled funds from the Open Society Foundation to this goal. The Sigrid Rausing Trust, which operates internationally, has funded CJC and

its European equivalent, and supports other grantees engaging with corporate power outside the UK.

There are other large funders with an interest in corporate power at the global level, such as [Luminate](#) and the [Sage Fund](#) but these have a limited UK presence. Other UK funders which have funded more than one of the specialist groups listed above include the Baring Foundation itself, Barrow Cadbury Trust, Esmée Fairbairn Foundation, Friends Provident Foundation, Paul Hamlyn Foundation, Trust for London, Thirty Percy Foundation, and Unbound Philanthropy. Often these grants are made through a human rights, migration and/or environmental frame. A few groups, such as the Good Law Project, receive a significant proportion of their income from individual donations by the general public.

A search on the 360 Giving GrantNav database is another indicator of the small size of the corporate accountability field. The following phrases were searched for in grant titles and descriptions since 2020:

Phrases searched ¹⁷	<i>Climate change</i>	<i>Human rights</i>	<i>Corporate accountability</i>
No. of grants	12,977	541	7
Total value (£)	1.398bn	87.6m	434K
No. of funders	78	60	2
No. of recipients	7,212	411	6

These results come with significant caveats: the first two phrases are much more common in general usage than the third,¹⁸ and projects and programmes may well have some element of corporate accountability but not explicitly state this. Nevertheless, the overall pattern is striking.

¹⁷ Searches for “corporate responsibility” and “corporate power” returned even fewer results.

¹⁸ See for example frequency of these phrases in publications via Google Ngram bit.ly/43INXnO.

Legal avenues

As set out in an earlier Baring Foundation report,¹⁹ effective use of the law by civil society organisations can take numerous forms, from public legal education and training, through law reform to litigation.

A similar breadth of activity is possible in relation to private sector companies, and while human rights approaches are traditionally considered in relation to state actors, human rights responsibilities can extend to the private sector.²⁰ For example, the 2011 UN Guiding Principles on Business and Human Rights provide a general expectation that business should respect human rights, and the UK Human Rights Act (1998) requires “any person²¹ certain of whose functions are functions of a public nature”²² to uphold Convention rights. In addition, in constitutional case law “if the body in question is exercising public law functions, or if the exercise of its functions have public law consequences, then that may...be sufficient to bring the body within the reach of Judicial Review”.²³ More widely, corporations based or operating in the UK are subject to a range of laws, many of which have an element of rights protection.

On the other hand, corporate power over members of the public, and influence over state bodies, is often only weakly accountable to the wider public good, particularly where regulation is weak or under-resourced, or compromised to serve other government priorities. The most influential private sector companies, such as major technology platforms or large outsourcing firms, have very large

resources at their disposal, and will not hesitate to mobilise legal teams and other capacity if their business interests are threatened. Legal routes to accountability are often uncertain, with barriers including establishing legal standing and covering costs. It can therefore be difficult and risky for civil society to challenge such companies directly. Other actions against companies can be hampered by complex corporate structures and limited legal responsibility for supply chains.

Nevertheless, civil society organisations have been creative in finding ways to use the law and legal approaches to try to hold companies to account. Some relevant areas are explored below.

COMPETITION LAW

Companies have significant responsibilities under competition law not to fix prices, collude with competitors, or abuse a dominant market position. Fines by the Competition and Markets Authority for anti-competitive practice can be tens of millions of pounds.^{24,25}

Since the Consumer Rights Act 2015, it has also been possible to take class actions in the UK for competition cases, under which a described group of consumers can be regarded as claimants, unless they choose to opt-out.

Some 44 claims have been filed at the Competition Appeal Tribunal in the intervening 10 year period, but the first case (against BT) only came to trial last year, and failed.²⁶

19 *Revised framework for effective use of the law: Effective use of the law by civil society organisations and the role of strategic legal partnerships*. Professor Lisa Vanhala and Professor Jacqueline Kinghan. 2024. baringfoundation.org.uk/resource/revised-framework-for-effective-use-of-the-law.

20 For an academic overview, see Birchall D. Corporate Power over Human Rights: An Analytical Framework. *Business and Human Rights Journal*. 2021;6(1):42-66. doi:10.1017/bhj.2020.23.

21 This would include legal persons, such as limited companies.

22 www.legislation.gov.uk/ukpga/1998/42/section/6

23 R v Panel on Take-Overs and Mergers ex p Datafin [1987] QB 815.

24 violationtrackeruk.goodjobsfirst.org/?offence_group=competition-related+offences&agency_code%5B%5D=UK-CMA&order=penalty&sort=desc

25 This is relatively modest in comparison to the EU, which under the Digital Markets Act and other competition legislation has issued multi-billion euro fines, particularly against large tech companies for restrictive practices.

26 www.whitecase.com/insight-alert/justin-le-patourel-v-bt-group-plc-failure-uks-first-opt-out-class-action

Walter Merricks, former chief ombudsman of the Financial Ombudsman Service, led a claim against Mastercard which was ultimately settled out of court for a greatly reduced sum.²⁷ He has also established a network to support other class actions.²⁸

The scale of these claims has made the regime attractive to third party litigation funders – a large if contentious resource – making this one of the most active areas of potential litigation against larger companies, although it is still relatively early days in terms of impact.

This regime is limited to claims before the Competition Appeal Tribunal and is therefore unlikely to be of particular help to those suffering discrimination or abuse by companies. However, there are some efforts to use this law in the public interest, including claims brought by Professor Carolyn Roberts against water companies on the basis that under-reporting of pollution incidents allowed them to charge higher prices than would have been permitted. Which? the consumer protection charity is also leading on major claims against Apple²⁹ and Qualcomm.³⁰ We will know more as the track record of cases develops.

LABOUR LAW

Since 1970, the Equal Pay Act and subsequent amendments have given a right for women and men to receive the same pay and conditions for similar work and work of equal value. A series of important cases, including Pam Enderby³¹ in 1997, Birmingham City Council³² in 2012, and Next³³ in 2024 have helped extend and clarify the scope of this right, including several

multi-million pound settlements against public bodies and private companies where large groups of workers have been found to have been paid unfairly. Currently, pay discrimination under any other protected characteristic would also be illegal, but remedy can only be sought via a discrimination case under the Equality Act.³⁴ However, the government has introduced draft legislation³⁵ which would extend the right to equal pay claims at Tribunal on the basis of ethnicity or disability, along with mandatory ethnicity and disability gap pay reporting, which could help evidence such claims.

The UK gender pay gap is currently estimated at 7% with an improving trend,³⁶ while the disability pay gap is nearly 13% and has worsened in recent years.³⁷ There is no single ethnicity pay gap figure,³⁸ but the most recent official statistics show that Black, African, Caribbean and Black British people earn less on average than White employees, and that workers born outside the UK also earn less on average across a number of ethnic groups.³⁹ The new legislation mentioned above could open up new opportunities to assist workers receiving unequal pay and to close the remaining pay gaps.

MODERN SLAVERY

There are no definite figures for the number of people suffering modern slavery in the UK, but there are credible estimates⁴⁰ of over 100,000. Internationally, over 17 million people are estimated to be in forced labour exploitation in the private sector.⁴¹

²⁷ www.lawgazette.co.uk/news/200m-mastercard-settlement-cleared-by-competition-appeal-tribunal/5122448.article

²⁸ classrepresentativesnetwork.org

²⁹ www.which.co.uk/news/article/which-files-3bn-legal-claim-against-apple-for-competition-law-breach-aj8DE0j83Q41

³⁰ www.which.co.uk/news/article/qualcomm-smartphone-claim-axZqd7B5Wlpg

³¹ www.genderequalitiesat50.ed.ac.uk/timeline/pamela-enderby-v-frenchay-health-authority

³² www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=12106

³³ www.lawgazette.co.uk/commentary-and-opinion/equal-pay-whats-next-after-next-loses-landmark-decision/5120707.article

³⁴ www.cipd.org/uk/views-and-insights/thought-leadership/insight/where-next-equal-pay

³⁵ www.gov.uk/government/consultations/equality-race-and-disability-bill-mandatory-ethnicity-and-disability-pay-gap-reporting

³⁶ www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2024

³⁷ www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/disabilitypaygapsintheuk/2021

³⁸ Differences between ethnic groups are significant, with for example Asian employees on average earning more than White employees in terms of the raw data, or slightly less (but still significantly more than Black employees) when adjusted for various external job factors. See the following reference for details.

³⁹ www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/ethnicitypaygapsingreatbritain/2012to2022

⁴⁰ www.antislavery.org/slavery-today/slavery-uk

⁴¹ www.antislavery.org/slavery-today/modern-slavery

The Modern Slavery Act 2015, Human Trafficking and Exploitation Act (Scotland) 2015 and Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 all clarified and strengthened laws around modern slavery and human trafficking. The England and Wales Act, following a successful civil society campaign, also included a requirement that large companies include a statement on their website and in their annual report setting out the steps that they have taken to ensure that slavery and human trafficking is not taking place in its business or – crucially – in its supply chains.

In practice, while the Act certainly brought modern slavery into greater prominence, it has been undermined by a number of factors including draconian immigration legislation which limited any support to victims, and a lack of resources and attention to enforcement, including in relation to the business reporting requirement.⁴² The Independent Anti-Slavery Commissioner has called⁴³ for various improvements, including Mandatory Human Rights Due Diligence for companies, similar to laws introduced in several other jurisdictions.⁴⁴

While the current government continues to use extremely hostile rhetoric around immigration, there may be some opportunities to address modern slavery as a driver of people trafficking, as well as to build on the Modern Slavery Act framework to improve UK-based business impact on supply chains domestically and internationally.

REGULATORS AND ADMINISTRATIVE JUSTICE

There are a number of statutory regulators with significant influence over the private sector, and also voluntary or business-led schemes that carry weight. These regulators may themselves be influenced by civil society information, engagement, scrutiny or legal pressure.

Complaint mechanisms can provide an accessible route for individuals or organisations to access administrative justice. Legal thinking, knowledge and approaches can be helpful in making effective use of such processes.

For example, the Advertising Standards Authority (ASA) is an independent regulator that covers most adverts and promotions across all media, and can direct that adverts must be amended or withdrawn. The fact of an ASA ruling can then be helpful to associated campaigns. For example, if the ASA (as it often has done) rules that environmental claims are not substantiated, this gives objective weight to civil society claims of corporate greenwashing.

There are many other independent regulators across the UK including the Information Commissioner's Office, Pensions Ombudsman and Independent Betting Adjudication Service.⁴⁵ Civil society groups have also used complaints and legal submissions to statutory regulators such as the Financial Conduct Authority.⁴⁶

As noted above, public bodies and some other bodies exercising functions of a public law nature can also be challenged by way of Judicial Review. While even a successful Judicial Review generally only requires the agency to revisit process, a well-informed and designed review can be a useful mechanism to create delay and chance for reflection, to discover information, or clarify argument – alongside parallel campaigning activity.

For example, in June 2024, Global Legal Action Network and the World Uyghur Congress successfully won a ruling at Appeal that the National Crime Agency's previous decision not to investigate alleged offences in connection with cotton products imported to the UK likely made with forced labour in the Xinjiang Uyghur Autonomous Region of China. While the case dealt directly with a relatively narrow point on NCA decision making, it helped clarify that the British government agrees in principle that the Proceeds of Crime Act could apply to companies importing cotton from Xinjiang.⁴⁷

⁴² commonslibrary.parliament.uk/research-briefings/cdp-2025-0073

⁴³ www.antislaverycommissioner.co.uk/news-insights/strategy-survivors-voices-and-supply-chain-legislation-the-independent-anti-slavery-commissioners-key-asks-at-the-home-affairs-selects-committee

⁴⁴ www.business-humanrights.org/en/big-issues/governing-business-human-rights/mandatory-due-diligence

⁴⁵ For independent ombudsmen schemes, see www.ombudsmanassociation.org/find-ombudsman.

⁴⁶ E.g. www.glanlaw.org/dirty-metals or www.leighday.co.uk/news/news/2025-news/research-identifies-probable-links-between-shein-backed-industrial-park-and-xinjiang-textile-manufacturing.

⁴⁷ www.glanlaw.org/uyghur-forced-labour-uk-action

This in turn may be of assistance to subsequent legal actions or influencing of government or relevant companies.

OUTSOURCING AND PROCUREMENT

As noted above, many public services are delivered in whole or in part by private companies, with a third of all state spending being on procuring goods and services from private suppliers.⁴⁸ Both the decisions to award contracts, and the performance of the companies concerned may come under scrutiny or challenge. While some services such as waste collection have generally been successfully outsourced, there have been controversy and failures elsewhere, with problems ranging from Olympic security to court transcripts, to shocking conditions in immigration and youth offending centres, and most spectacularly in the temporary outsourcing of the probation service.⁴⁹ Some of the largest servicing companies have been the focus of student, activist and trade union campaigns, including “Mitie Must Fall” and “No to G4S”. Unsurprisingly, some of these high value contracts have been the subject of legal dispute between government and providers, and have on occasion been challenged by competitors, including from civil society.⁵⁰

The 2023 Procurement Act (which came into force in February 2025) introduced significant post-Brexit changes, including greater flexibility, steps to encourage the use of smaller businesses and social enterprises, and some greater transparency. The government also shapes ongoing procurement through an annual National Procurement Policy Statement⁵¹ and numerous Procurement Policy Notes.⁵²

In 2024, the charity JUSTICE published *Beyond the Blame Game*,⁵³ advocating for a more responsible and rights-based approach to government contracting. It concluded that outsourced services were often “*opaque, unaccountable and in the hands of the lowest bidder, regardless of quality*” and that “*time and again it has taken high-profile public scandals or widespread service failure to expose human rights abuses*”. Significantly it noted that as well as the real suffering for many service users, the costs of failure are often borne by government, whether in legal cases, public inquiries, or picking up responsibility for failing services.

JUSTICE advocates for greater human rights protection in outsourcing, including through an early assessment of risks to rights, exclusion of bidders with a history of rights breaches, and building in responsibility to uphold rights (with commensurate penalties) into contracts.

Given the relatively new regime for statutory procurement, there may be opportunity for civil society to influence developing culture and practice, as well as to protect rights in specific cases. Government procurement is also a largely a devolved responsibility, and so a potential focus for corporate accountability work in the devolved nations.

⁴⁸ www.instituteforgovernment.org.uk/publication/report/government-outsourcing-reform

⁴⁹ *Ibid.*

⁵⁰ E.g. www.localgovernmentlawyer.co.uk/employment/395-employment-news/31829-high-court-challenge-over-award-of-helpline-contract-to-g4s-fails.

⁵¹ www.gov.uk/government/publications/national-procurement-policy-statement

⁵² www.gov.uk/government/collections/procurement-policy-notes

⁵³ justice.org.uk/beyond-the-blame-game-a-responsible-and-rights-centred-approach-to-government-contracting-press-release

Questions and findings

The Baring Foundation asked for information on the following questions set out in blue.

Does the theme have a clear link to the purpose of the Foundation – to protect and advance human rights and promote inclusion by enabling civil society to work with people experiencing discrimination and disadvantage and to act strategically to tackle the root causes of injustice and inequality?

Yes. The private sector has broad and deep influence over all of our lives, including people experiencing discrimination and disadvantage, and those in highly vulnerable situations. Proper regulation of corporate power, including access to justice and redress when things go wrong, is a necessary part of protecting and realising human rights in a free and fair society. Civil society has shown many ways that this can be done, from supporting individuals with employment or housing cases, up to innovative litigation against some of the UK's and world's largest companies. At the same time, relatively little funder and civil society attention has been paid to corporate power, and it would be strategic for a programme to recognise and respond to this imbalance.

Will the theme have the potential to strengthen civil society in a real and lasting way?

Yes. As noted above, corporate power has received much less attention from civil society, even as many public services are privatised or outsourced, and corporate power and reach has grown.⁵⁴ Making a contribution towards civil society developing greater interest and capacity to address corporate power, through use of the law, could have a significant and lasting legacy. This area of civil society is not

well resourced, so relatively modest funds and attention – if committed over time – could have a material impact on the sector.

Can we retain our supportive and engaged approach, responding flexibly, creatively and pragmatically to the needs of our partners?

Yes. Indeed, these qualities will be essential if the Baring Foundation is to focus its Strengthening Civil Society programme on corporate accountability. Building up trust for legal action takes time, particularly when working with victims or survivors or other vulnerable groups. Opportunities to litigate may be sudden, and litigation and other legal strategies can be prolonged, and develop in unpredictable ways.

A corporate accountability and law programme is likely to fund a relatively small number of partners (see below) which could enable close and trusting relationships to be formed. The Foundation also needs to be alert to risks of such relationships becoming burdensome or extractive; even well-intentioned consultation or convening initiatives can take significant time from hard-pressed grantees, who typically have to manage multiple funding relationships.

Are there opportunities for the Foundation to establish itself as a thought leader and a distinctive funder in this area? Will it enable us to communicate our knowledge and influence others?

Yes. There are few funders in the UK focusing on corporate accountability, and none that focus specifically on legal tools and approaches in this field, so a Baring Foundation contribution would be very welcome and distinctive. With current levels of corporate monopolistic and technological power, it is very likely that this

⁵⁴ In 2018 it was estimated that 157 of the largest 200 entities in the world were companies, with the remainder states. The level of personal data collected by digital companies, and the potential for misuse and abuse, is self-evident.

issue will be as – or more – salient in coming months and years, and of therefore potentially increasing interest to other funders.

Are there opportunities for innovative grantmaking, especially at a macro-level?

Maybe not. In the short to medium term, there are likely to be relatively few organisations that are positioned to lead on legal approaches to corporate accountability, and many of these are relatively small organisations. In this context, simple, straightforward grantmaking is likely to be more appropriate than process innovation, and extra care is needed not to burden applicants and grantees. However, see also notes on operationalising the programme below.

Does the theme offer options for collaborative grantmaking with other funders?

Yes, to some extent. As noted above, there are few funders in the general field of UK corporate accountability. There are no established UK collaborations for the Foundation to join⁵⁵ but funders that do have an interest would be keen to collaborate. There are also opportunities to make links and exchange with international funders of corporate accountability who recognise the role of the UK as a financial and legal centre.

Is the available budget of c.£1.3m per year sufficient to have an impact?

Yes, to some extent. This budget is small relative to the scale of the issues, and to the resources available to larger companies. However, it is material relative to the scale of some of the key organisations, and to the limited other philanthropic funding available.

How can this thematic area engage with core parts of the current programme, in particular racial justice and migrants' rights?

There are clear synergies between corporate accountability, racial justice and migrants' rights, including the disproportionate impact

of corporate harm on people of colour (e.g. some forms of modern slavery, some forms of bias in automated systems) and corporate involvement in immigration systems.

How might this theme intersect with current strategic priorities:

1. supporting expert legal 'hub' organisations and/or the hub model;

Using the law to further corporate accountability for the public good will often require expertise and potentially innovative legal approaches, while cases often involve local situations or harm, so a continued hub model would be relevant.

2. access to public law and human rights frameworks;

There is an increasingly blurred line between public and private institutions, and growing interest in how both public law and human rights apply to businesses.

3. geography – particularly how any new area of focus connects to activity in the devolved nations;

The international importance of English law and London as a centre of commerce may make this theme lean towards London, though corporate harm can take place in any jurisdiction or geography. There are some corporate accountability issues which are specific to Scottish law.⁵⁶

4. leadership development related to the use of the law.

The small size of the current corporate accountability sector, the scale of the challenge, and the rapidly developing context mean that there is a need for leadership – both to build the civil society organisations, capacity and confidence to use the law effectively, and in terms of innovative and creative legal tactics.

⁵⁵ The UK Funders Collaborative Hub lists 206 collaborations, none of which directly concern corporate accountability (May 2025). www.funderscollaborativehub.org.uk.

⁵⁶ For example, Scottish Limited Partnerships have been an ongoing focus of concern in relation to money laundering and secrecy. www.occrp.org/en/news/uk-plans-to-scuttle-loop-hole-used-for-money-laundering theferret.scot/muirhouse-slp-and-the-king-of-fraud.

How might this theme fit with the Foundation's Arts and International Development programmes?

While it is always possible to find connections, there is no clear synergy with the Foundation's Arts programme or the International Development programme. However, there is a strong connection between corporate accountability and broader solidarity with the Global South, as many large UK-based or UK-listed companies operate transnationally, and often the most egregious corporate harms are perpetrated in countries with weaker political, civil and labour rights, and less well-resourced and independent judiciary and regulatory systems, often in supply chains that ultimately link to UK companies. Strengthening corporate accountability in the UK will therefore have benefit in the UK and beyond.

How might a programme on this theme be operationalised?

As seen above, the scope of corporate accountability is broad, with many possible ways that the law might be used. However, given both the rapidly changing context and the small size of the existing civil society sector, it would be a mistake for a programme to be focused down too narrowly. In the short to medium term at least, the programme is likely to have much more impact if it is fairly open and non-proscriptive.

The application process could also be open, as there is little risk of a flood of proposals. Grant support could be unrestricted for specialist organisations whose whole (or majority) activity focuses on corporate accountability and who are using (or might use) legal approaches. Restricted grants may be more appropriate for larger organisations for which this is only one element of their work. Multi-year funding is strongly recommended from the outset.

In addition to grants to individual organisations, the Baring Foundation could also have a role in helping resource co-ordination and space for joint thinking in this field. The Joffe Trust's approach to supporting the development of the equally small and specialist anti-corruption field could provide a useful model.

Finally, while there can be some immediate impact from grants, the depth of the challenge and small size of the field means that significant impact is likely to take time, and the Foundation should not enter this field unless it is willing to have a reasonably long-term commitment to it.

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