

# Parliamentary Scrutiny of Aid Spending: The Case of the Global Challenges Research Fund

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This article argues that the UK is now facing an increasingly complex aid landscape and that this poses significant problems for parliamentary scrutiny. It explores one of the most important of the Official Development Assistance (ODA) innovations of recent years, the Global Challenges Research Fund (GCRF). The fund constitutes a significant investment of ODA money in research. The GCRF provides an important case study of changing aid spending. The article locates the GCRF in the wider context of UK aid over the past two decades and considers the wider parliamentary scrutiny and accountability issues to which aid-funded research gives rise.

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## 1. Introduction

In the past three years, the nature of the UK's Official Development Assistance (ODA) spending has changed significantly. By enacting the International Development (Official Development Assistance Target) Act 2015, the UK became the first member of the Organisation for Economic Cooperation and Development (OECD) to enshrine an aid target in law. Although Norway spends 1% of Gross National Income (GNI) on aid, and the Nordic countries and Luxembourg have reached the 0.7% target, the UK is the only country now compelled by law to spend 0.7% of GNI annually on ODA. In addition, the UK Aid Strategy published in 2015 announced that the Department for International Development (DfID) would not be the sole Government Department responsible for disbursing ODA. Instead, aid funds would be spread throughout Whitehall, including to the Foreign and Commonwealth Office (FCO), the Ministry of Defence (MOD) and the Department for Business, Skills and Innovation (BIS).

The Aid Strategy envisages that 30% of ODA would be spent by Other Government Departments (OGDs) by 2020.

In addition, considerable innovations are taking place in the structure of funding, such as the blending of ODA and non-ODA, which makes the work of traditional bodies of scrutiny more difficult. In this new, more complex ODA landscape, important questions arise about how best to scrutinise spending on development assistance. This has been recognised by the Independent Commission for Aid Impact (ICAI), the independent body in charge of monitoring aid effectiveness, which has noted that ODA spending by non-DfID Departments will grow rapidly in coming years, from £1.7 billion in 2015 to £4 billion in 2020 ([Independent Commission for Aid Impact, 2016](#)). Despite this, ‘there is no single place where the public can find a clear explanation of the amounts and objectives of non-DFID ODA’ ([Independent Commission for Aid Impact, 2015](#)). There is now significant uncertainty as to the role of the bodies that traditionally provide scrutiny of aid. In relation to traditional aid, this role is fulfilled by the ICAI, the National Audit Office, and the International Development Select Committee. In the face of increasingly complex ODA spending, it is unclear how these bodies will exercise their mandates. These potential difficulties have also been recognised in a recent report to the International Development Committee (IDC) created to monitor DfID, which has stated that there is currently ‘no simple line of parliamentary accountability for the aid strategy’ and no agreed way for all Departments to report on their aid spending ([Independent Commission for Aid Impact, 2016](#)).

In this article we explore the challenges an increasingly fragmented ODA landscape might pose for parliamentary scrutiny. We do this by reference to one of the most important ODA innovations of recent years, the Global Challenges Research Fund (GCRF). The GCRF is a £1.5 billion fund announced by the UK Government in November 2015 ‘to support cutting-edge research that addresses the challenges faced by developing countries’ ([Research Councils UK, 2017](#); [GCRF 2017](#)). Available over five years, the fund constitutes a significant investment of ODA money in research. Aid-funded research on this scale is entirely new for the UK. The GCRF provides an important case study of the UK’s changing aid landscape. It sits alongside other innovations in the spending and management of aid that have recently been subjected to criticism, such as the Conflict, Stability and Security (CSS) Fund, a £1.3 billion fund with programmes in fragile and conflict-affected regions such as Syria and Yemen. The CSSF is a joint fund delivered through multiple departments—DfID, the Home Office and the FCO—after the latter successfully bid for the funding. It provides the UK’s contribution to peacekeeping, security and defence activities. This fund, together with the £260 million Prosperity Fund and the £140 million Empowerment Fund, was criticised by the NAO in its 2017 report for its lack of transparency

and unclear management. They are examples of efforts to redirect resources from the aid budget to other purposes, including meeting domestic and external security concerns. Unlike these funds, however, there has been little attention paid to the GCRF and no work that reflects critically on this substantial new programme for aid-funded research (see [Manji, 2016](#); [Manji and Mandler, 2017](#)).<sup>1</sup> In what follows, we consider the questions of parliamentary scrutiny and accountability to which aid-funded research may give rise before discussing the GCRF in the context of UK aid over the past two decades.

## 2. Parliamentary scrutiny of ODA

In this section we analyse three relevant bodies that have been responsible for watching traditional aid, the Independent Commission for Aid Impact, the National Audit Office, and the International Development Select Committee. We argue that in the face of increasingly fragmented ODA spending, it is unclear how these bodies will exercise their mandates. According to the ICAI, ‘there is no single place where the public can find a clear explanation of the amounts and objectives of non-DFID ODA’ ([Independent Commission for Aid Impact, 2015](#)). Scrutiny carried out by these bodies will almost certainly be hampered by the fact that the information and data on non-DfID ODA is not uniformly published but is instead made available in a variety of forms, as the ICAI has recognised.

These potential difficulties have also been recognised in a recent report by the ICAI (2017) to parliament’s IDC which was created to monitor DfID and exists in a one to one relationship with that Department. The report points out that the IDCs mandate in relation to ODA scrutiny is unclear now that a range of Departments are disbursing aid because there is currently ‘no simple line of parliamentary accountability for the aid strategy’ and no agreed way for all Departments to report on their aid spending ([Independent Commission for Aid Impact, 2017](#)). In the face of significant reconfigurations in which Government Departments are spending ODA, the IDC itself counters that it must have an overview of *all* ODA spending, not just that spent by DfID, although it struggled to maintain this position in the face of Osborne’s wide-ranging Treasury policymaking.

More positive developments can be expected in relation to the role of the ICAI, a body enshrined in the 2006 Transparency and Reporting Act. This body will have to evolve in relation to monitoring aid spending now that the delivery and architecture of aid is changing. Although its Framework Agreement ([Independent Commission for Aid Impact, 2015](#)) was drawn up to govern the

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<sup>1</sup>We are grateful to our colleagues in the Arts and Humanities Alliance for suggesting this article following discussion of the GCRF at our October 2016 meeting.

relationship between the ICAI and DfID at a time when DfID was the main aid dispensing Department, it is in fact sufficiently widely drawn to enable the ICAI to be responsible for scrutiny no matter which Department is doing the spending. The ICAI can rightly claim to be mandated to have oversight of all ODA. This should assist the ICAI in making a strong case for its scrutiny of non-DfID ODA, including GCRF.

The National Audit Office will continue to scrutinise all public spending but, crucially, asks only value for money questions. Although this is a narrow mandate that will not allow the NAO to scrutinise lawfulness and compliance, questions about value for money are central to scrutiny of non-DfID spending and especially GCRF.

There are considerable risks for effectiveness and value for money as non-DfID aid grows. Indeed, DfID itself has recently faced questions about the effectiveness of its spending. In 2015, in preparation for the new aid target, the National Audit office warned that DfID needed to guard against ‘pushing money out the door’. The NAO did not pull its punches in 2015 when it raised questions about the rush and lack of strategic focus at DfID when the Department was faced with a sudden increase in its budget in the financial year 2014–2015 (when aid spending reached 0.7% GNI even before the aid Target Law was passed) (National Audit Office, 2015; Manji, 2016).<sup>2</sup> In 2017, the National Audit office made this point forcefully in a further report assessing progress in the management of the 0.7% aid target:

‘The government has decided that departments and cross-government funds other than DFID should have responsibility for expenditure which makes up the 0.7% aid target. This means that meeting the target has become a more complex undertaking and the resulting gaps in accountability and responsibility require more effort to manage. HM Treasury and DFID, together with other relevant bodies, should now focus on developing ways to demonstrate the overall effectiveness and coherence of ODA expenditure.’ (National Audit Office, 2017)

If a Government Department, DfID, whose sole purpose is to disburse aid, might sometimes have struggled to do so strategically and without sufficient evidence of planning, this clearly raises difficult issues for non-traditional ODA Departments. Herein lies a real danger for the GCRF: that difficult questions will have to be answered about value for money and evidence of strategic spending as a result of the very fast roll out of the funding and the pressure to disburse ODA funds for research activity. We turn to these issues next.

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<sup>2</sup>For a detailed discussion of the NAO report on the 2014–2015 FY, see Manji (2016).

### 3. The creation of the GCRF

The UK Aid Strategy published in 2015 announced the creation of a new research fund to be known as the Global Challenges Research Fund ([HM Treasury/ Department for International Development, 2015](#)). Although it was presented as a joint Treasury-Department for International Development document, the new Aid Strategy was widely known to have been driven by the Treasury. The Chancellor of the Exchequer George Osborne had, like his predecessor, taken an active interest in Departments beyond the Treasury. He played a leading role in the development of the Aid Strategy. In the 2015 Spending Review and Settlement, it was announced that the new GCRF would be disbursed to the UK Research Councils through their sponsoring ministry, the Department for Business Innovation and Skills (BIS) (which became the Department for Business, Energy and Industrial Strategy [BEIS] in July 2016) ([HM Treasury, 2015](#)).

In March 2016, BIS published its Allocation of Science and Research Funding 2016–2020 in which it described the GCRF as follows:

‘The Global Challenges Research Fund (GCRF) is a new Resource funding stream announced as part of Spending Review 2015. It provides an additional £1.5bn of Resource spend over the next five years to ensure that UK research takes a leading role in addressing the problems faced by developing countries. This fund will harness the expertise of the UK’s research base to pioneer new ways of tackling global challenges such as in strengthening resilience and response to crises; promoting global prosperity; and tackling extreme poverty and helping the world’s most vulnerable ([Department for Business, Innovation and Skills, 2016](#)).’

The Aid Strategy, the Spending Review and Settlement, and the Allocation of Science and Research Funding signal a significant departure for UK aid. For the first time since its creation in 1997, the Department for International Development would not be the sole Government Department responsible for disbursing aid. Neither would it now be the only Government Department commissioning and supporting research on development issues. Instead, aid funds would be spread throughout Whitehall, including to the FCO, the MOD and the Department for Business, Innovation and Skills (BIS). The GCRF can be described as part of a new crop of ‘cross Government aid instruments’. In the previous three years, there had been some attempts to foster non-DfID research capacity and to make ODA money available to Research Councils. An important precursor to the GCRF was the Newton Fund, launched in 2014 with fifteen partners (including the Royal Society and the British Academy) and funded through ODA. The aim of the fund is to ‘use science and innovation partnerships to promote economic development and social welfare of partner countries’ ([Newton](#)

Fund, 2017). The Ross Fund, a partnership between DfID and the Department for Health focused on combatting infectious diseases in the developing world, announced at the same time as the GCRF in late 2015, is also presented as an innovation in ODA spending (Department for International Development/Department for Health, 2016).

These innovations can be said to have added considerable complexity to the work of aid. Departments not traditionally associated with disbursing aid have found themselves in charge of substantial ODA funds. How to account for this new, more expansive approach to aid disbursement? Part of the explanation lies in austerity and in the Government's commitments to ring-fence both aid spending and science and research funding (amongst other things) whilst also making overall spending reductions. In this context, transferring some ODA funds for use by other departments was a useful device for plugging a substantial funding gap. In other words, applying portions of two ring-fenced funds to a single purpose would enable the Government to reduce overall spend without violating its commitments.

Those who study foreign aid have long debated how to count aid and shown how different donors calculate their aid activity by different rules. For example, French aid is now taken to include expenses for students from developing countries coming to study in the French system of higher education (Cumming, 2013). There is considerable flexibility and room for manoeuvre in relation to defining what counts as aid spending. Aid spending can be inflated by including other amounts in its calculation. The contents of the 'aid envelope' can be altered over time as donors choose what is to be counted as aid. In the face of spending targets and with weak mechanisms for scrutiny, it will be possible to stretch the definition of ODA or to take advantage of ambiguities in order to meet the 0.7% target.

The creation of the GCRF raises interesting questions about counting UK aid. The 2016 BIS Allocation contains one short paragraph stating that:

'GCRF is protected science spend that is also part of the Government's pledge to allocate 0.7% of Gross National Income to Official Development Assistance (ODA).' (Department for Business, Innovation and Skills, 2016)

Thus, the GCRF makes up both the Science budget and is also part of the government's efforts to meet its 0.7% target, raising questions to which we now turn.

The first question is whether ODA money is being used to plug a hole in the UK's science and research budget. The answer is that it is indeed being used in this way. It is clear that ODA funds are being double counted, both as part of the UK's commitment to spend 0.7% GNI on aid, and also as its funding of science and research. A lack of transparency in the precise science allocation means we

cannot be sure of the exact extent of this double counting, but we estimate that half or more of the ODA funds allocated to research are being double counted (Department for Business, Innovation and Skills, 2016).<sup>3</sup> Although it is considered bad practice for aid funds to be counted against more than one commitment, in the UK aid funds are now being reported against two separate promises: an aid target and a research allocation.

In the 2016 BIS Allocation, GCRF is counted as part of the ring-fenced budget of funding councils. Over half the GCRF is to be found in this pot. It is clear that ODA funds in the form of GCRF have therefore substituted for core funding. Only 'unallocated' GCRF, to be dedicated to interdisciplinary projects following the recommendations of the Nurse Review (2014) of Research Councils' support for research, is 'new' money that will be subject to competitive bidding beginning in 2017. Is this approach designed to obscure the double-counting of core funding? If the intention is that GCRF will continue to grow after 2021, then it will be important to have clarity as to how much of this 'new money' is actually new and how much of it is substituting for core funding.

As the 2016–2021 allocations are already set, the shape and aims of future allocations after 2021 will be important to study. Will the GCRF be permanently and increasingly built into the core research budget? The eligibility requirements for GCRF funding, which we discuss in detail below, can be expected to have an impact on the nature of the research that is now capable of being funded in the UK. On the one hand, research which is not concerned with the developing world and cannot be funded under this heading now has available to it a reduced pot of money. The promise to continue to increase the GCRF raises the prospect of an ever-shrinking share of allegedly ringfenced science and research budget being available to non-ODA related research. On the other, there is an apparent scramble to be ODA eligible by proposing projects relating to the developing world and, as we argue below, it is now critical that the effectiveness and value for money of those projects receiving funding be subject to scrutiny and review.

#### 4. The scale and significance of the ODA commitment

The urgency of some solution along these lines is driven by the scale and significance of the ODA commitment. In 2015, after a long campaign by advocates of aid, the UK passed the International Development (Official Development Target) Act (Manji, 2016).<sup>4</sup> This legislation compels the UK to spend of 0.7% of gross

<sup>3</sup>For example, taking GCRF alone, it appears that £530m has been allocated to the research and funding councils as part of their ring-fenced science budget, while £377m is 'unallocated' GCRF, to be bid for by the councils, but lying outwith the ring-fence. Department for Business (2016, pp. 6, 18).

national income on ODA each year. This is an unprecedented commitment: the UK is the first OECD country to enshrine an obligation to reach an aid target in law ([International Development \(Official Development Assistance Target\) Act 2015](#), 2015). Today, ODA spending is at its highest ever level, with an estimated total of £12.2bn disbursed during 2015 ([The Week](#), 2017).

The Target Act is the latest addition to the legal framework for UK aid. The evolution of the current legal framework for UK aid can be traced to the landmark 1994 Pergau Dam case (*R v Secretary of State for Foreign Affairs, ex parte The World Development Movement Ltd* [1995] 1 W.L.R. 386., 1995). This was the first case to challenge the provision of development assistance. The High Court ruled that a decision to fund a dam project to the tune of 315 million dollars in exchange for the securing of a major arms deal with Malaysia was unlawful. The overriding objective of the International Development Act when it came into force in 2002 (replacing the Overseas Development and Cooperation Act 1990) was to end so-called ‘tied aid’. The legislation was introduced to ensure that, in future, development assistance could not be used to further commercial and other interests. Aid was no longer the responsibility of the Foreign Secretary and the Foreign and Commonwealth Office. Instead, a newly created Department for International Development would be put in charge of ODA. In addition, section 1 of the International Development Act provided that development assistance would only be lawful if it was ‘likely to contribute to a reduction in poverty’. The International Development (Reporting and Transparency) Act 2006 sets out that scrutiny will be carried out by the ICAI and the International Development Select Committee which reports on ODA spending to Parliament ([International Development Reporting and Transparency Act, 2006](#)).

It is these three laws, enacted over more than a decade, that are relevant to the UK’s development activity. The IDA 2002 can be described as the ‘qualitative’ legislation—it provides the objectives of aid spending; the Reporting Act 2006 lays out the mechanisms for scrutiny of spending; and the Target Act 2015 is a short piece of legislation, the aim of which is quantitative: it enshrines a commitment to hit the 0.7% GNI target annually.

Despite this proliferation of laws, and the widespread perception that tied aid is no longer possible, the governance of UK aid is in reality rather weak. It is by no means certain that a Pergau-like scenario could not reoccur. There are two reasons for this. The first is that the requirement that aid must contribute to a reduction in poverty is too vague to create strong accountability for aid. Patrick McAuslan made this point in his 2003 analysis of the new International Development Act. His view was that despite the assurances that we had a new legal dispensation, the UK did not in fact have ‘an effective legal backbone to the

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<sup>4</sup>For a detailed analysis, see [Manji \(2016\)](#).

aid relationship'. The IDA, he argued, allows the international development secretary very wide discretion as to how aid is spent. To illustrate his criticism, McAuslan argued that decisions to fund 'a state of the art traffic control system' or 'a striking new building to house the country's Supreme Court' could be lawful under the IDA (McAuslan, 2003).

The second reason why the legal framework is weaker than is widely thought can be found in the arguments formulated by Rose LJ in the Pergau Dam case. The reason why the Secretary of State's decision was unlawful was because the project was manifestly economically unsound (*R v Secretary of State for Foreign Affairs, ex parte The World Development Movement Ltd* [1995] 1 W.L.R. 386, 8. 1995). The Foreign Secretary had been advised of this but had not sought the advice of lawyers who, it later transpired, would have told him that the lending would be illegal (Sedley, 2014). The Court struck down his decision because the aid had not been given for sound development purposes as required by the Overseas Development and Cooperation Act then in force. This line of reasoning suggests that so long as development spending can be shown to be for 'sound development purposes' or, in the present day and under the IDA, 'for the purposes of poverty reduction', it would not be unlawful if the Secretary of State also used the assistance for some other purpose. This point has become more salient after the vote to exit the European Union and in light of statements by the then Secretary of State for International Development, Priti Patel, that UK aid will be used post-Brexit to 'incentivise' trade deals (Independent, 2016). Despite warnings by organisations such as Global Justice Now that the Secretary of State's plans to use the UK's aid spend to win allies ahead of trade talks might be illegal (Global Justice Now, 2016), it is in fact clear that such spending is capable of being lawful so long as any assistance can also be shown to be likely to lead to poverty reduction. As Tim Lankester, the civil servant in charge at the time of Pergau Dam, reminds us in his account of the case, we should not rule out the possibility that tied aid and Pergau-like lending could take place again (Lankester, 2012).

## 5. Governing non-DfID aid

In the case of the ODA now being spent by Departments other than DfID, even the weak legal framework set out above does not apply. The International Development Act 2002 only binds the Secretary of State for International Development and her Department. The result is that a number of Departments now disbursing large amounts of ODA and whose spending is counting towards meeting the 'quantitative' Target Act 2015, are formally doing so outside the purview of the main legislative provisions governing how aid is to be spent, and are not bound by the 'qualitative' IDA with its provisions on the aims of aid spending.

That so much of the UK's ODA spending has been effectively cut loose from its moorings in the IDA is a critical change that has not received the attention it deserves. The parliamentary debates on the Target Law are full of references to the millennium development goals, to the UK's obligations to 'the world's poorest, and to the need to keep the promises made to legislate the aid target (Booth and Lunn, 2014).<sup>5</sup> The strong implication was that any new legislation enshrining an aid commitment in law would be read in tandem with the IDA which set out the aims of such spending. Two years on, the connection to the IDA has been severed. Newer players in the field of ODA will assist in meeting the aid target commitment, but are freed of the UK's commitment to poverty alleviation as established by the IDA (Manji and Mandler, 2017).

In the case of some Departments, there appears in practice to have been a voluntary opt-in of sorts. In response to written questions put to a number of Government Departments by the chair of the International Development Select Committee, Stephen Twigg, the Foreign and Commonwealth Office and the Department for Business, Energy and Industrial Strategy have stated that although they are not bound by the Act they will 'be guided by the aims' of the IDA 2002 (Parliament, 2016). Others, such as the Ministry of Defence, have responded that they are not bound by the IDA in handling ODA. They state that expenditure on overseas development assistance is governed by the Supply and Appropriation Acts, the general legislative means by which Government Departments are authorised to spend money (Hansard: 23 February 2016). In relation to the GCRF, BEIS has stated that it has opted not to use the International Development Act as the basis of its spending. Instead, it has stated that the Science and Technology Act and Higher Education Act form the legal bases its GCRF expenditure. BEIS argues however that the GCRF is in the spirit of the International Development Act 2002 because its aim is to maximise development impact for the poor (ICAI 2017).

In addition to this, it is important to remember that Departmental cultures are very different across Whitehall. DfID has had the Pergau Dam case and the IDA hanging over its head for nearly 20 years. The FCO and BEIS have not. Even where Departments have taken in specialist DfID staff on secondment to assist with their involvement in ODA, as the FCO has done, the priorities of these Departments—promoting Britain's place in the world or leading the Government's relationship with business—are very different. They are not always compatible with the aims of poverty alleviation, as the recent Malawi oil and gas case revealed. In this instance, a Freedom of Information request by Friends of the Earth showed that the FCO had used ODA funds to support a project on a UNESCO site in Malawi with the aim of securing Britain as the preferred partner

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<sup>5</sup>On promises made to legislate an aid target, see Booth and Lunn (2014).

for that country's oil and gas sector ([The Guardian, 2016](#)). Even where Departments say they will be guided in practice by ODA law, the concern must remain that they neither know this law nor much care to do so. And whereas all Departments have also stated that they will comply with the Organisation for Economic Cooperation and Development guidelines on aid spending, this can provide little reassurance that considerable amounts of ODA will be properly spent. We elaborate on this point below.

We are witnessing an increasingly fragmented ODA landscape in which the governance of ODA appears to be diverging. DfID is bound in its spending by the provisions of the IDA 2002, but the duties and responsibilities of new, non-traditional aid actors is dependent on their broad attitude to the IDA 2002 and, as we show below, on weak OECD rules.

## 6. The meaning of compliance

Many, if not most, applicants for research funding to the GCRF will have little knowledge of the history of ODA. They are nonetheless confronted in making their applications with an important legal question which has so far not received the attention it merits. Unaware of the complex background to the governance of ODA, those applying to the GCRF are asked to show that their proposed project is ODA eligible and/or ODA compliant. The Research Councils appear to use the words 'eligibility' and 'compliance' as if they are synonymous. The guidance issued by RCUK states that the GCRF forms part of the UK's ODA commitment, monitored by the Organisation for Economic Cooperation and Development ([Research Council UK, 2016](#)). The guidance offers what appears to be a two limbed test:

'ODA funded activity focuses on outcomes that promote the long term sustainable growth of countries on the OECD Development Assistance Committee (DAC) list *and* is administered with the promotion of the economic development and welfare of developing countries as its main objective.' ([Research Council UK, 2016](#))<sup>6</sup>

The first limb of the guideline appears straightforward. A project will be in the ball park for eligibility if it is proposing to work on/in one of the countries on the DAC list. Part of the intention of the guidance—noting that any country on the DAC list of eligible countries can provide the focus for a project—is to distinguish the GCRF from precursors such as the Newton Fund which is restricted to only 16 selected DAC partner countries. The second limb of the OECD guideline is more problematic. It is more directly concerned with the requirement of

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<sup>6</sup>(Italics added). See accessed at <http://www.rcuk.ac.uk/documents/international/gcrfodaguidance-pdf/> on 18 August 2017.

compliance. When does a proposed project have the promotion of economic development and welfare of a developing country as its main objective? There does not appear to be a coherent and uniform approach to this question. Instead, as we show below, practice appears to be inconsistent, ad hoc and 'lumpy'. This raises important questions for parliamentary scrutiny.

In its recent report on GCRF, the Independent Commission for Aid Impact made the following critical statement on the question of ODA eligibility:

'On the basis of the information shared with us, we find that GCRF funding spent through the Funding Councils has not been subject to a systematic process capable of verifying its use for ODA eligible activities. We have brought this to the attention of the government for its further consideration.'<sup>7</sup> (*Independent Commission for Aid Impact, 2017*)

The question of when ODA spending on research is also eligible to be counted as ODA is one which we believe deserves greater scrutiny by parliament. The lack of systematic processes to verify that ODA is being properly used for research activities is concerning and deserves the further consideration by government that the ICAI recommends. The ICAI assessment is not surprising. When the GCRF was set up, RCUK stated that, in consultation with DfID, it had developed a text to provide general guidance on ODA compliance. It noted that this was for guidance only although in places we have found references in funding calls variously to OECD 'rules', 'guidance' and 'requirements'. (*Research Council UK, 2017*).<sup>7</sup> RCUK further stated that the text has not been endorsed by the OECD. The guidance provided by RCUK reads:

'Only research directly and primarily relevant to the problems of developing countries may be counted as ODA.'<sup>7</sup> (*Research Council UK, 2016*)

This guidance cannot be said to be marked by any degree of precision. The OECD guidelines stipulate that the aim of development assistance is the welfare of developing countries, economic development and long-term sustainable growth. None of these terms has a precise legal meaning. Instead the guidelines are drafted in broad terms. Take the example of the phrase 'directly and primarily relevant'. Is it acceptable for the proposed project to be primarily relevant to the problems of developing countries but also potentially to benefit the developed world in some way? Is a medical research project aimed primarily at a developing context which may result in findings that benefit a cohort of patients in the UK ODA compliant? In the face of these uncertainties, it comes as no surprise that the ICAI's report to parliament pointed to deficiencies in systematic scrutiny.

<sup>7</sup>For example, see GCRF previously funded calls, accessed at: <http://www.rcuk.ac.uk/funding/gcrf/gcrfprevcalls/> on 18 August 2017.

The ambiguity we have identified raises two problems. First, it makes it more difficult for potential applicants and for those judging proposals to say with any confidence whether a project is compliant. The decision seems at present to rely entirely on the exercise of an individual's soft judgement. Secondly, it can be argued that the guidance is far laxer than the current provisions for ODA spending that bind DfID. So whereas DfID research is bound by the S.1 International Development Act 2002 aim of poverty reduction, non-DfID research is not. The anomalous result may be that non-DfID research activity has to reach a lower threshold for compliance than DfID commissioned and funded research, although it is not yet clear what that threshold is and who will adjudicate it. This puts into question whether—if GCRF and other non-DfID research is operating to a lower threshold for compliance—it should properly be allowed to count for the purposes of the aid target.

A further critical question that has thus far been avoided is whether GCRF is capable of amounting to tied aid. Tied aid is defined as ODA spending that is spent in the donor country without the substantial involvement of developing countries. This means that no conditions should be placed on the recipient country to purchase goods or services from the country providing the aid. Section 4(3) of the International Development (Reporting and Transparency) Act 2006 provides the following definition of untied aid as spending which is:

‘either not subject to a condition restricting the states from which goods or services may be purchased using the aid, or (if it is subject to such a condition) the states from which goods or services may be purchased using the aid include all the member states of the OECD and substantially all states which receive aid from any source.’

The UK and other OECD DAC members have committed to phase out such aid. However, in its review of the GCRF in 2017, the ICAI left open the important question of GCRF's status in this regard. Its treatment of this issue is worth setting out in full. The ICAI begins by setting out why there is potential for GCRF to amount to tied aid:

‘Most of the Research Councils require a UK research institution to be the primary applicant for funds, even though partnerships with southern institutions as sub-grantees are encouraged. This has the effect of excluding universities from both developing countries and other donor countries from applying directly to the GCRF – although both are present in GCRF-funded research consortia. In addition, grants from the GCRF through the Funding Councils are available exclusively to UK higher education institutions.’

It goes on:

‘There is a question as to whether this is consistent with the UK government’s commitment to untied aid . . . . While the international agreement on phasing out tied aid does not cover research funding, the UK government has been committed since 1 April 2001 to untying all of its aid – a commitment reaffirmed in the 2015 Aid Strategy.’

According to the ICAI rapid review report, DfID has advised BEIS that GCRF funding ‘could be classified as untied’. The ICAI defers a final determination of this question however by stating that as BEIS has not finalised its reporting on its ODA spending, it is ‘requested that BEIS and DFID look further into whether the funding conditions of the GCRF are consistent with the UK government’s established position on tied and untied aid’ (ICAI, 2017, p. 27). In its response to the ICAI review of the GCRF, the Government did not address question whether the GCRF is capable of amounting to tied aid (HMG September 2017). Its response announced that a cross-Whitehall Strategic Coordination of Research (SCOR) Board had been created, to be chaired by Professor Peter Piot, which ‘will play a strong role in bringing greater strategic coherence to the Government’s ODA research’ (HMG, 2017, p. 4).

Beyond parliament, the OECD would in all likelihood treat the GCRF as a specific purpose fund. Members are permitted to create such funds under OECD rules ([The Organisation for Economic Co-operation and Development, 2008](#)). The frequent references to OECD ‘definitions’ and ‘rules’ in the promotion of the GCRF has the effect of suggesting a firm legal framework is being adhered to in promoting aid-funded research. In fact, the OECD criteria only determine what is countable as ODA spending when a member is reporting to the DAC committee. The guidelines have been developed by the OECD in order to regularise reporting and to reduce the scope for subjective interpretations of ODA spending. The OECD itself recognises that what is and is not reportable is not always easy to determine and has stated that what counts as ODA is often dependent on ‘intention’. It has advised that ‘[m]embers must use their judgement as to whether contributions have an ODA character’ ([The Organisation for Economic Co-operation and Development, 2008](#)).

It is also clear that there is no specific sanction for contravention of the OECD criteria. Non-compliance with the definition would mean that the spend would not be countable as ODA. Although this might cause political problems at the OECD and in relation to the UK’s own Target Act, it is an extraordinarily weak sanction in relation to a great proportion of ODA spending by the UK. There can be little more than a slap on the wrist for the UK should the DAC committee of the OECD not be persuaded that the way in which research money is being spent makes it countable as ODA. The substitution of a stringent public law standard

under the IDA which allows us to test when ODA spending is lawful and when it is unlawful, by a subjective criterion that determines when ODA is countable and when it is not countable—whilst appearing to suggest to applicants that the OECD rule is legally meaningful—is problematic.

Although the current RCUK guidance has been developed in consultation with DfID (presumably to draw on expertise in Whitehall and make use of DfID knowledge of ODA), this approach has three shortcomings. Firstly, it is unlikely that DfID can advise in a meaningful way on non-DfID research activity. This is entirely new, non-traditional aid about which DfID's expertise cannot be assumed. Secondly, it is important to remember that the funds being disbursed are ultimately the responsibility of the Department from which they have come: legally, responsibility for compliance on GCRF lies with BEIS. DfID may be willing to advise but it does not have to accept any responsibility should things not work out. Thirdly, it is important to consider whether DfID is more rival than partner in relation to aid-funded research. DfID published its long-awaited Research Review in 2016 ([Department for International Development, 2016](#)). It committed to spend 3% of its budget on research, amounting to £390 million annually. The review mentions the Global Challenges Research Fund and appears to fold it into a wider consideration of 'UK aid-funded research' which includes work commissioned by non-DfID Departments and that funded by other government departments. In reality, however, there now exist two different types of development research, DfID funded research and non-DfID funded research activity, each with its own standard for compliance. DfID development research has to comply with the International Development Act 2002 and must have poverty alleviation as its primary aim. Spending on this type of research will be scrutinised as all DfID activity through traditional channels: the International Development Committee, the ICAI and the NAO is responsible. Non-DfID development research spending, however, is not subject to the IDA 2002 and, as we show above, the role of traditional scrutiny bodies is not yet clearly established.

It might be argued that a lower threshold for compliance favours research councils and aid-funded research activity. This gives scope for innovation, creativity and exploratory research projects ('blue skies' projects). We think this approach is fundamentally flawed. The very wide discretion that is currently to be exercised under the guidance is undesirable. It does not give the appearance of adequate scrutiny. At a time of vocal aid scepticism, adhering to a standard of lawfulness should not be the only consideration for those involved in aid-funded research projects. The appearance that newcomers to the field of aid are not being held to at least the same standard as DfID—and being compelled to have poverty reduction as their overriding aim—is problematic. Indeed, the risks that now accompany aid spending being spread across Whitehall have been recognised by the IDC, which recently called on the Government to 'make reducing poverty a

legal obligation for the spending of all ODA, regardless of which Department is spending it' ([House of Commons, International Development Committee, 2016](#)).

## 7. Beyond parliament: devolved institutional responsibility

The question of ODA compliance is complex and, with the creation of the GCRF, Higher Education Institutions (HEIs) are now having to consider what constitutes compliance for the purposes of ODA. This is because at present some GCRF funding calls are accompanied by institutional limits so that a University can only make two or three submissions and must select these internally. As a result, Research Offices are involved in filtering proposals. In this capacity, they appear to be having to make decisions over compliance when proposals are received by them to be passed on to the Research Councils.

A number of Universities have published guidance for their researchers on the determination of ODA compliance. However, we detect at play a common-sense approach to ODA: vague notions of development and terms such as 'improving the lot' of people in the developing world are being used. This does not suggest a legally robust approach or clarity as to aims of significant funding pots. Non-technical language and everyday definitions are currently operating in place of robust and clear legal obligations.

There is considerable risk that different standards are being applied and varying understandings of compliance are at play because of the devolved nature of some calls. Many institutions are clearly taking the opportunities provided by the availability of ODA research monies very seriously. One institution has created a GCRF steering group ([University of York, 2017](#)). But the chief purpose of such groups seems at present to be to identify and support projects that can target ODA funds rather than to concern themselves with questions of compliance.

## 8. Future issues for parliamentary scrutiny

In this section we set out some of the questions that we believe remain to be considered in the course of parliamentary scrutiny. Most importantly, this scrutiny should in future take note of the problems that might arise because of the overlap between ODA and academic funding. The Haldane principle that funding for Higher Education research should not be subject to government direction is engaged by the creation of GCRF. Its creation has shrunk the distance between government and core research funding which raises important questions about accountability.

There are also important questions raised about the uses to which ODA is being put by HEIs in relation to overheads, as the ICAI Rapid Review has recently noted (*Independent Commission for Aid Impact, 2017*). First, consistent with the research councils' policy of granting 80% of 'full economic costing' for sponsored research, something like half of the research-council spend on research grants goes to cover overhead costs rather than directly to the sponsored research. While this is a reasonable policy to fund the actual cost of research, it does mean in the case of research counting towards the ODA target that a large proportion of this ODA spend is actually supporting university infrastructure rather than directly contributing to the development goals. It is already the case that a larger percentage of research costs is permissible to universities to cover 'delivery' than has been the custom in DfID-sponsored research, something like 4% versus 1.5%. Secondly, GCRF makes an additional allocation to the funding councils (HEFCE and its partners) of £130m—it is in fact the largest single item in the GCRF budget—which is then distributed to universities as infrastructure (or quality-related) funding, apportioned on the basis of assessment under the Research Excellence Framework (REF). As far as we know, there is no direct accountability from the universities receiving this £130m to ensure that it is actually supporting development goals (which it must be to do as it forms part of the GCRF spend). It may of course be that universities are spending their additional allocation to make up for the 20% of full economic costing not covered by research-council grants. But there is no connection between the sums universities receive in research-council grants (allocated by competition) and the sums they receive as QR (allocated by the REF). So there is no obvious way to connect the expenditure of this £130m from GCRF to ODA research, although it is still being counted towards the target. Furthermore, at least some of this GCRF allocation appears to be included in the HEFCE ring-fence so that it is both double-counted and less accountable even than the research council allocations.

We believe it will be important to monitor how any unspent GCRF funds is treated in the wider context of the 0.7% aid target. Might underspent GCRF funds cause the UK to undershoot the aid target, or more likely, how will research councils respond if this looked likely to happen? Will they respond by pushing money out of the door, as the National Audit Office reported happened in the case of DfID spending in two reports in 2013 and again in 2017. We do not know at what point disbursement of ODA funds is counted towards the aid target. Is it at the point of disbursement to the research councils or will there be a responsibility on research funders to report full disbursement and spending of any ODA money (including the allocations through QR)? We know that not all commitments made in funding bids necessarily materialise. Will the disbursement of

ODA to research projects assist in meeting the aid target but in fact not be spent? Or might underspend by researchers lead to the UK undershooting its target and thus trigger the Reporting and Transparency Act 2006?

The questions we have raised above suggest there is a need for disbursement of the science and research budget in the form of the GCRF to be subject to closer scrutiny. It remains to be seen with whom responsibility for this will lie. The International Development Select Committee because ODA funding is involved? The Business, Energy and Industrial Strategy Committee because this is the allocated science budget? The Senior Officials Group appointed by the Treasury to support the delivery of the ODA target? Or, more remotely, the Research Councils, by committing themselves to ODA reporting requirements?

The other important issue to be monitored in future is how the OECD (or more accurately its DAC Committee) responds to the creation and working of the GCRF. RCUK (2016) state that their guidance on ODA compliance has not been endorsed by the OECD. Nonetheless, there is good reason to expect that that the GCRF will be treated as a model to be emulated by other donors. On the DAC committee, which is composed of 30 members, the UK is considered a leader in the ODA field, especially since it passed the new target law. And the government has shown itself able to influence DAC rules. In 2016 it lobbied successfully for a decision by the OECD's Development Assistance Committee to include some military and defence spending as ODA ([The Guardian, 2016](#)) although in 2017, Priti Patel, then International Development Secretary, had less success in changing DAC rules about what counted as foreign aid. She had sought changes that would allow military spending to count as ODA when the army, navy or air force were deployed to establish security or to deliver humanitarian assistance (BBC News 2017). It is unlikely that meaningful scrutiny of its GCRF will come from the OECD.

## 9. Conclusion

The GCRF has been created at a time of considerable regulatory and political uncertainty, as the UK's aid landscape is changing rapidly, and in the face of political turmoil following the decision to exit the European Union. The implications of a significant chunk of the UK's research activity now being funded by its foreign aid budget has not received the attention it merits. The GCRF has been characterised by significant spending under time constraints and with a lack of strategic direction, and by unanswered questions about its status as tied aid. The UK is arguably closer to a model of tied aid now than it has been since Pergau Dam. In this article, we have argued that established avenues of scrutinising ODA spending are under strain. The work of the international development committee, the ICAI and the NAO is increasingly difficult as new aid instruments, programmes and

responsibilities are created and whilst the UK's aid spending rises to meet its 0.7% legal obligation. In this article we have explored the GCRF as an example of a new type of ODA spending which poses significant challenges for coherent research (UKCDS 2017), parliamentary scrutiny and accountability for aid spending.

### Conflict of interest

The authors report no conflicts of interest.

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