



**ISER**

Facilitating Social Justice

**INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS**

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# **Accountability In Public Private Partnerships (PPPs)**

Policy framework and practice in  
Implementation of PPPs for Uganda's  
Universal Secondary Education  
Programme

**DECEMBER**  
2017

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## ACKNOWLEDGEMENT

This Policy Advocacy Brief is a publication of the Initiative for Social and Economic Rights (ISER) and forms part of the organization's monitoring and documentation work on the right to education in Uganda.

ISER is pleased to acknowledge Ms. Salima Namusobya, Ms. Angella Nabwowe, Ms. Saphina Nakulima and Mr. Mugoya Musa who took lead on putting this brief together.

This Policy Brief is published with support from the Fund for Global Human Rights (FGHR) and Open Society Foundation- Education Support Program.

**This brief is published with support from**



## LIST OF ACRONYMS

<b>BoG:</b>	Board of Governors
<b>BRMS:</b>	Basic Requirements and Minimum Standards
<b>DES:</b>	Directorate of Education Standards
<b>ESIP:</b>	Education Sector Investment Plan
<b>ISER:</b>	Initiative for Social and Economic Rights
<b>MoES:</b>	Ministry of Education and Sports
<b>MoFPED:</b>	Ministry of Finance, Planning and Economic Development
<b>PPP:</b>	Public Private Partnerships
<b>PSI:</b>	Private School and Institutions
<b>UPOLET:</b>	Universal Post O’level Education and Training
<b>UPPET:</b>	Universal Post Primary Education and Training
<b>USE:</b>	Universal Secondary Education

## INTRODUCTION

In the discussions about Public Private Partnerships (PPPs) for provision of key social services, the justification, in both support for and opposition to the concept revolves mainly around accountability and risk management to ensure value for money. The essential question is whether the presumed efficiencies of the private sector are strong enough to override the concerns about social, democratic and financial accountability from private sector players. Consequently, most guidelines for best practices in framing and implementing PPPs place the need for strong institutional responsibilities and public participation in the governance high up on the priority list. The emphasis is that PPP arrangements should only be pursued when they represent the best value for money in delivering a service and not as ways to circumvent fiscal constraints.<sup>1</sup> This also implies that accountability for any PPP project begins with the design, which should capture the various forms of safeguards to guarantee social justice and financial risk management.

This brief interrogates the accountability framework for PPP contracts in Uganda's Universal Secondary Education (USE) policy implementation in terms of policy design, institutional set up and implementation practice. On the one hand, it addresses the question of whether the relevant government institutions have been accountable in ensuring a robust policy and supervision mechanism for PPPs in the USE programme. On the other, it assesses the social and financial accountability practice in the implementation of USE PPPs. From the analysis, the brief discusses that there can be effective accountability options for policy and practice regarding the current or future PPP arrangements in implementation of education projects in Uganda.

1 Public Private Infrastructure Advisory Facility (PPIAF), Note 1. May 2012. PPP Basics and Principles and PPP Framework, World Bank Group, P.7

## Framing the Accountability Issue for PPP in USE Implementation

Although accountability is an increasingly fashionable term and buzzword, its exact import is not universally understood.<sup>2</sup> At the very basic level, accountability would refer to the willingness and practice of individuals or institutions to take responsibility in given positions or arrangements and ensure that assigned roles are played, obligations and commitments are fulfilled and expectations are met in a demonstrable manner. Here, accountability is seen, not just as a reporting mechanism, but more so, as an assurance tool for social responsibility, which, nevertheless has to be demonstrable.

Accountability should be to and in the interests of the beneficiaries, to whom the agents are answerable. This assertion raises the questions of who accounts to whom, for what and how? In public policy management, the agents who are public officers, need to account to the citizens by being responsive to their needs and interests, as well as being answerable to them. This relates to what is commonly referred to as social accountability, where “government officials and public service providers develop and establish feedback and response mechanisms and procedures to listen to citizens’ grievances and demands and to respond appropriately in a timely manner and be answerable to citizens for inadequate or non-performance and responses.”<sup>3</sup>

With regard to PPP in USE implementation, the policy accountability question is whether the responsibility centers in government developed and established an effective feedback and response mechanism to address concerns of stakeholders, especially learners, parents, teachers, education service contractors and policy implementation supervisors. In the USE implementation guidelines for PPP schools and the signed MoU, for example, are there adequate provisions for holding different players to account? Similarly, did the policies and guidelines provide adequately for equity and social justice?

## Overview of the PPP Framework in Uganda’s USE Policy

In 2007 Government of Uganda started to implement Universal Secondary Education (USE) policy following ten years of implementing Universal Primary Education (UPE). The government’s articulated objectives of the USE programme included; (i) expanding general as well as special groups access to secondary education (ii) adding value to the sustainability of UPE and (iii) reducing high cost of secondary education to the parents.<sup>4</sup>

2 Steets, Julia (2010) *Accountability in Public Policy Partnerships*, Palgrave Macmillan, P.14

3 USAID (2015). *FFP Strategy Consultations: Social Accountability and Governance* P.17

4 Ministry of Education and Sports (2006) *Universal Post Primary Education and Training (UPPET) Policy*

In respect to the first objective, the Ugandan government takes the sub-county as the basic planning unit in the provision of secondary education. To achieve regional equity, therefore, government plans to have at least one secondary school in each sub-county. However, at the time of initiating the USE programme, 271 sub-counties did not have a government secondary school,<sup>5</sup> although some had private community schools and schools founded by faith-based organizations, as well as for-profit schools. Given the political expediency of fulfilling its election campaign promise, government was eager to start the implementation of USE across the country somehow. It, therefore, needed little prompting from its Education Development Partners (EDPs), especially the World Bank<sup>6</sup> to embrace PPP as a financing option. A PPP arrangement for USE implementation was adopted to implement the programme in both public and not-for-profit private schools<sup>7</sup>. Currently, over 850 private secondary schools (both not-for-profit and for-profit) across the country are under this partnership. They represent about 48% of all USE schools and enroll about 46% of the learners on the programme<sup>8</sup>.

The critical point emerging from the foregoing is that the PPP for USE implementation is not a government policy of choice; rather, it was a stop-gap implementation measure improvised to roll out the programme. However, its formulation did not involve adequate consultation with the key stakeholders and yet, it is these stakeholders, for example the parents, the owners and managers of private schools and the local government officials, who would go on to play important roles in the implementation. Similarly, financial risk management and social accountability safeguards were not adequately factored in, and this is quite evident in the MoU government signed with owners and managers of contracted private schools. This has had dire consequences on accountability practice during implementation<sup>9</sup>.



- 5 Ministry of Education, (2015) *A Paper on the Proposed Phasing out of Public Private Partnership (PPP) Schools in UPPET Implementation*, P.3
- 6 Brans, Bo-Joe (2011) *Public Private Partnerships in Education: Analyzing PPPs as a policy tool for Universal Secondary Education in Uganda*, Universiteit van Amsterdam
- 7 Ministry of Education 2006 General Implementation Guidelines for USE, section 5 on enhancing public private partnerships referred to signing an MoU with private community schools to participate in USE in the sub-counties without a Government secondary school. However, by the time of implementing USE in 2007, reference to not-for-profit schools had been dropped apparently because some of the sub-counties did not have even a private community school, but had entrepreneur private school.
- 8 Ministry of Education and Sports (2016), Education and Sports Sector Factsheet 2002 – 2016
- 9 Ministry of Education and Sports (2012), *Memorandum of Understanding between Ministry of Education and Sports and Foundation Bodies/Proprietors of Private Schools under Public Private Partnership*.

## Policy and Legal Context for PPP Accountability

The Ugandan PPP arrangement for USE implementation is not a policy, but rather, as stated above, a policy implementation tool. It was adopted as part of the implementation strategy for the USE policy. The PPPs are recognized as a crucial aspect of the government of Uganda National Development Plan and are perceived as a strong incentive for improving the quality and efficiency of public services<sup>10</sup>. One of the Ministry of Education and Sports' strategic objectives is "to formalize, build and enhance public-private partnerships in service delivery."<sup>11</sup>

It is within this strategic trajectory that the government incorporated PPP in the implementation of USE and now UPOLET (Universal Post-'O' Level Education and Training) programmes.

The overarching Ugandan education policy and legal context comprise international commitments, such as Education for All (2000), Millennium Development Goals (MDGS) and the Sustainable Development Goals (SDGs) as well as regional commitments (See Equitable Access to Quality Education below). Uganda is also a signatory to international human rights instruments that guarantee the right to education, for example the International Covenant on Economic, Social and Cultural Rights and Convention on the Rights of the Child. At the national level, the Constitution of the Republic of Uganda (1995), The Government White Paper on Education (1992), The Education (Pre-Primary, Primary and Post-primary) Act 2008, The National Development Plan (2010), Revised Education Sector Strategic Plan 2007-2015, Universal Post-Primary Education and Training (UPPET) Policy 2007 are key reference points. The enduring thread running through all these commitments, policies and laws is the obligation on Government to guarantee equity and quality in provision of education.<sup>12</sup> These, therefore, should have been the guiding principles when government was designing strategies to implement USE.

The adoption of PPP for USE implementation in 2007 preceded the formulation of a policy and enactment of a law on PPP.<sup>13</sup> Nevertheless, Uganda's education provision has historically been leveraged on some form of PPP. Faith based organizations founded many of the well-established schools in the country at both primary and

10 Government of Uganda (2010), *National Development Plan (2010/11 – 2014/15)* P.63

11 Ministry of Education and Sports (2008), *Revised Education Sector Strategic Plan (2007-2015)*, P.17

12 Constitution of the Republic of Uganda (1995), Article XVIII. Education Objectives states that, "The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible." The Education (Pre-primary, Primary and Post-Primary) Act (2008), in Section 5 (1- j) on responsibilities of government compels government to ensure "equitable distribution of education institutions.

13 *The Public Private Partnership Framework Policy* was approved by Cabinet in March 2010, and *The Public Private Partnership Act* was assented to in August 2015, years after the PPP for USE implementation were in effect.

secondary levels. Government only came in under what is referred to as “grant-aiding”, to support the largely community schools. In practice, government takes over the core staff wage bill as well as their recruitment and deployment. It also provides for infrastructure improvement, instructional materials and nominal operational costs. The foundation body retains management control of the school through the Board of Governors and has a major say in the recruitment of the head teacher, in addition to determining school fees to be paid by parents. It should be noted, however, that this arrangement has never been contractual or business oriented as the current PPP. In fact, grant-aided schools are essentially public schools and government maintains administrative oversight through deployment of public service officers, who are likely to be more accountable through well-established public service standing orders.

Under the USE policy (2007), the formal and contractual PPP framework was created to support its implementation. In framing the PPP arrangement for USE implementation, the agencies of government in the ministries of education and finance and planning, needed to have taken responsibility and ensured that the fundamental principles of financial risk management, equity and social justice are built in. It was also incumbent upon the policy makers to ensure that the PPP framework is compliant with the law. Indeed, they had the social responsibility to provide for the establishment of institutional mechanisms which would guarantee compliance of the contracted schools with the stipulated terms and conditions of the MoU, as well as agreed performance targets.

The justification for the PPP framework was based on unsettled arguments and unverified claims. The National Development Plan (NDP) 2010-2015 alluded to “international experience” supporting PPPs in education service provision.<sup>14</sup> Intriguingly, even the ardent proponents of PPPs in education do not offer unqualified proof that PPPs in education service provision work.<sup>15</sup> Most attempts to justify PPPs in education provision are qualified with “if properly implemented and regulated”. In developing countries like Uganda, with structural challenges, this should be adequate to discourage any hasty adoption of PPPs in education service. The Ugandan case is a clear example of public policy accountability failure in the sense that national policy makers rationalized a drastic policy implementation strategy on inadequate evidence.

Basic principles and practices demand that PPPs are well-structured, with risks allocated appropriately, are procured at minimum cost, and are developed and implemented efficiently. In addition, effective PPP framework requires a clear PPP Policy, a dedicated PPP unit, clear procedures and defined responsibilities for implementation and establishment of a mechanism for evaluation. Government of Uganda abdicated this account ability



14 Government of Uganda (2010), *National Development Plan (2010/11 – 2014/15)* P.63

15 Norman LaRocque, identifies fundamental risks of PPP in developing countries as being; too complex to design, implement and monitor, inadequate regulatory and policy framework and limited government capacity which may lead to loss of accountability to the public.

responsibility when it failed to adequately factor in these considerations in formulating the PPP framework for USE implementation. Interestingly, USE programme was rolled out without specific guidelines for implementation in PPP schools. There was no comprehensive policy document defining the contractual relationship between government and the private schools under PPP framework. Indeed, at the launch of the programme, the same implementation guidelines applied to both government schools and partnership schools.<sup>16</sup>

While comprehensive policy guidelines for implementation of USE in PPP schools were later formulated by Ministry of Education and Sports, they were never published and disseminated to stakeholders. Their application has therefore been undermined by limited awareness and buy in. In the MoU, government is responsible for, among others, providing guidelines on specific implementation aspects. Ideally, all guidelines should have been referenced in and availed with the MoU to ensure that management of partnership schools understood and agreed to the detailed terms and conditions of the contract. As it turned out, private school owners signed the MoU before comprehensive guidelines were in place. Needless to say, this set the conditions for accountability challenges during the implementation phase.

## Review of the MoU and Implementation Guidelines

As already noted, the PPP MoU was premised on implementation guidelines that were not yet in existence at the time of the policy launch. An overview of the MoU shows that in general terms, it covered some of the key provisions which, if they were operationalized through guidelines and effectively implemented, could have ensured a certain level of accountability (Figure 1.).

In the MoU, government's responsibility included quality assurance, policy guidance, monitoring and evaluation. Although it was explicitly provided that government would ensure that PPP schools sign performance agreements, no such express responsibility was placed on government to ensure that the schools undergo a periodic review, which was supposed to be core to the accountability mechanism.

The belated guidelines for implementation of USE in PPP schools went a little further in detailing responsibilities and obligations of the partnership stakeholders. In particular, they outlined "eligible cost centres" for expenditure of the USE grant and clarified on utilization, financial accounting and reporting issues. But even here, the guidelines tend to transpose School/Institutions Financial Accounting Regulations designed for public

16 Ministry of Education and Sports Circular No. 1 of 2008, referenced ADM/48/315/01 and headlined USE/UPPET Guidelines, 2008 was addressed to Headteachers of both Government and Private Schools 'participating in USE programme.' The circular outlined general principles and responsibilities for government, school boards, head teachers and parents/guardians.

institutions and apply them to PPP schools.<sup>17</sup> There is a fundamental problem with this; in the first instance, owners and head teachers of private schools are not public officers subject to the well laid out Public Service Standing Orders and its elaborate disciplinary processes. Secondly, private schools are operationally set up differently, with power over finances concentrated in the hands of the owners, not the school board or the head teacher, who, in the case of government schools, is the accounting officer. And yet, the guidelines required that the chairperson of the school board and the head teacher take charge of the financial management and accounting. This oversight has negatively impacted accountability practice, especially given that there is a very high turnover of head teachers in private schools<sup>18</sup> and Boards are weak and ineffectual.

The guidelines also attempted to provide for community participation in ensuring accountability by the PPP schools through what is called mandatory public notices, which include government publishing USE grant releases to each school and schools displaying on notice boards amounts of USE grants received and how it has been expended. While this anticipates that the public will access the information and possibly hold the school management to account, no enabling guidelines and mechanisms are provided for parents, and the public in general, to effectively carry out this responsibility. For some reason, the guidelines remained silent on the role of parents and the public in ensuring accountability.

### *Figure 1. Key General Accountability Principles in PPP MoU*

- ✓ *Once a school has been accepted to participate in the programme, regardless of the character of the foundation body, it is expected to be national, non-sectarian and egalitarian in its operation and activities*
- ✓ *An institution which overstates the number of beneficiaries of the bursary shall immediately cease to benefit from the bursary and all the monies received fraudulently refunded to government.*
- ✓ *An institution selected to participate under the PPP arrangement will undergo periodic review to assess the level of performance. The assessment period will be 2 years ...*
- ✓ *Each school will be required to sign a performance agreement indicating performance targets expected to be met. An institution failing to perform according to set standards or flouting the programme regulations and guidelines, will have the PPP programme terminated.*

Ministry of Education and Sports

17 Section 5.3. Schools/Institutions: USE and UPOLET Accounting Procedure, provides that the financial and accounting procedures for the USE/UPOLET grant should “comply with regulations laid down by the relevant authorities for government financial transactions generally (Revised Public Finance Act 1964 and the schools/institutions Financial Accounting Regulations).”

18 Ministry of Education and Sports (2017), *Guidelines for Staff Employment in Private Schools and Institutions* were formulated to address this problem and objective 5 states, “minimize the high staff turnover and attrition in private schools and institutions for better education service delivery”.

Regarding social safeguards for justice and equity, the guidelines do not do much to guide on how the general principles in the MoU could be implemented to guarantee these. The focus is primarily on finances with about half of the document dwelling discursively on financial management issues. Nowhere in the implementation documents is there mention of, leave alone provision for, gender equity and inclusivity for special needs learners and other marginalized groups. It is quite inexplicable that while the USE programme was primarily meant to increase equitable access to secondary education especially by the poor, the implementation MoU and guidelines for PPP schools did not provide any guarantees against exclusion of some learners resulting from extra charges by the schools. The only clear document against extra school charges came in form of a May 2007 circular.<sup>19</sup> In all consideration, ensuring affordability for the economically challenged communities should have been a central tenet in the PPP MoU and implementation guidelines.

In a nutshell, a review of the PPP MoU and implementation guidelines reveals major gaps in terms of policy provisions for risk management and social safeguards. This is exacerbated by a weak institutional framework when it comes to the need for ensuring compliance with provisions of the partnership.

## Institutional Framework for Implementing the MoU with PPP schools

The importance of strong and effective institutional framework in ensuring successful implementation of PPP cannot be over emphasized. A dedicated PPP management unit,<sup>20</sup> supported by clear linkages with line departments and local governments could be a crucial beginning point. However, there has to be institutionalized and streamlined responsibility centers for monitoring, evaluation, reporting and accounting. In absence of such structuring and clarity, accountability chaos reigns and undermines the function. Undeniably, most of the accountability challenges facing PPP schools under USE programme result largely from an opaque institutional framework. The 2010 Public Private Partnership Framework Policy proposed an elaborate PPP project development and delivery mechanism with steps that include; service needs identification, value assessment, options analysis, setting up the projects team, inviting expression of interest from bidders and negotiating terms with



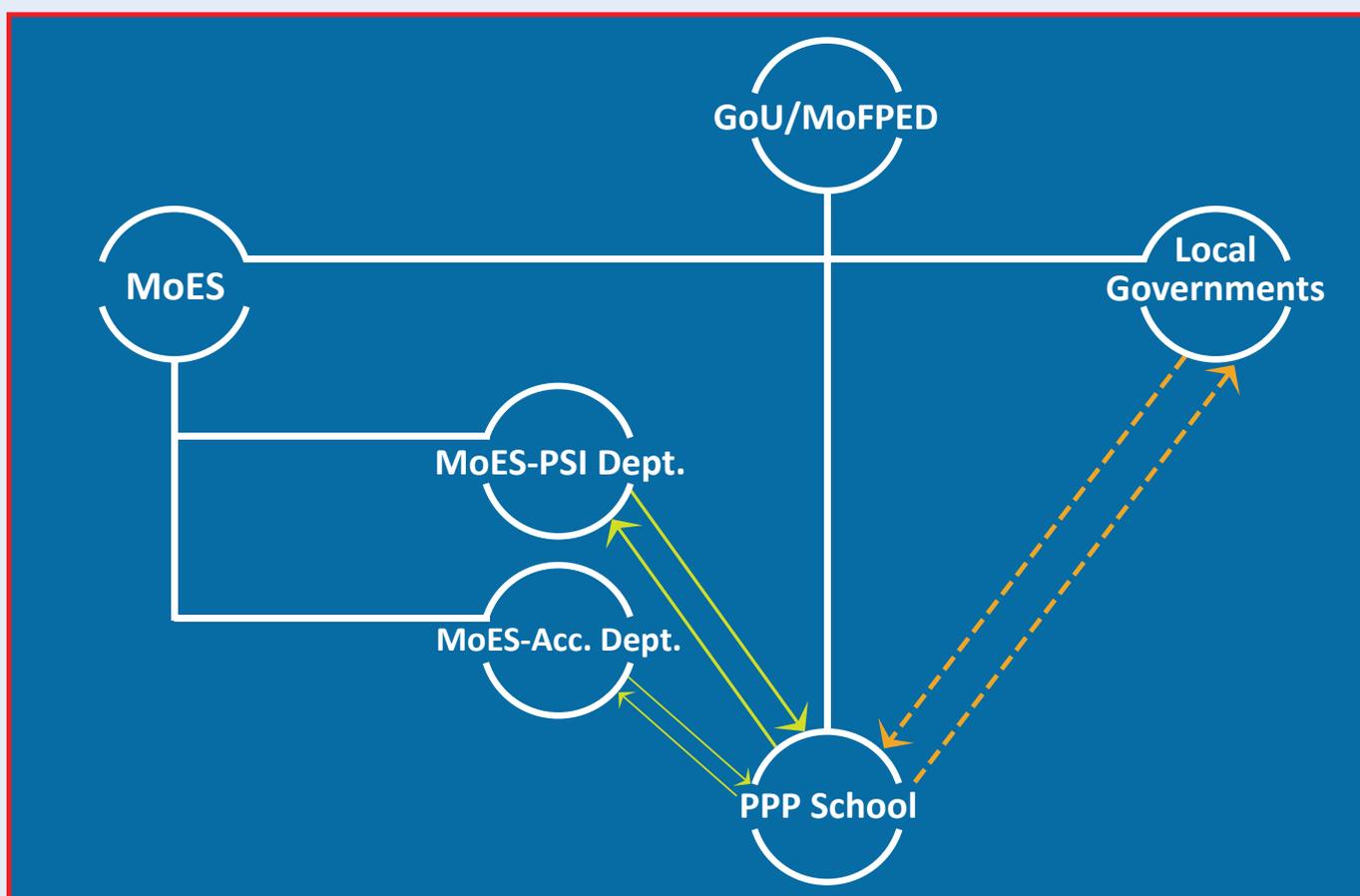
19 Ministry of Education and Sports Circular No. 8/2007 of 2nd May 2007 directed that no school under the Universal Secondary Education (USE) should levy any charges on benefiting students

20 The Public Private Partnership Unit in Ministry of Finance Planning and Economic Development was established by the Public Private Partnership Act 2015, eight years into the education PPP for USE programme. Even then, the PPP Unit in MoFPED is meant to offer policy and technical guidance to line ministries/department that should have their own institutional mechanisms to manage the PPP projects.

selected partners.<sup>21</sup> Such involved steps would have required a strong institutional setup in Ministry of Education and Sports to effectively execute the PPP project for USE; however, this was clearly missing.

As indicated, the financial management and accountability approach adopted for PPP schools was a carryover from what is done in government schools. Even in the Guidelines for USE Implementation in PPP schools, which came out much later, the public schools system was largely adopted. For-profit PPP schools do not by default conform to procedures of “government financial transactions” and needed a robust regime that would nudge them towards compliance with the regulations. Such a regime was not constituted under the policy to support PPP accountability.

*Figure 2. Reporting and Accountability Framework for PPP Schools<sup>22</sup>*



21 Ministry of Finance Planning and Economic Development, Public Private Partnership Framework Policy 2010, Pg. 24-25

22 Adapted from the reporting and accountability procedures in Policy Guidelines For The Public – Private Partnership in the Implementation of Universal Post Primary Education and Training (UPPET) and Universal Post ‘O’ Level Education And Training (UPO-LET) 2013

At the national level, USE policy is implemented by Ministry of Education and Sports through the relevant departments of Education Planning and Policy Analysis, and of Secondary Education. The programme is budgeted for under secondary education Vote and the Ministry identifies the schools, signs the MoUs, conducts head-count of learners and initiates payment schedules to Ministry of Finance Planning and Economic Development (MoFPED). Upon approval of the payment schedule, MoFPED wires the USE grants directly to beneficiary schools; however, the funds released to all USE schools in a given local government (district) is indicated as part of that local government's financial quota from central government.

While MoES holds this function, there was inadequate reconstitution to create a clear institutional structure to effectively monitor the implementation of the PPP framework. Although the Ministry was restructured in 2008<sup>23</sup> to create a department of Private Schools and Institutions (PSI), the new department's structure was never meant to specifically address the implementation of USE through PPP. Rather, it was to oversee all private schools in general. Its two divisions (i) Policy and Regulation (ii) Monitoring and Support Supervision, were not directly targeted at USE implementation, let alone PPP framework. In effect, no institutional capacity was deliberately developed for monitoring and supervising the implementation of USE through PPP. This contrasts sharply with the fact that for government schools, the restructured secondary education department also has two divisions, but with one (Division of USE Schools) directly responsible for implementation of USE in government schools.

In terms of financial accountability, PPP schools submit annual work plans and budgets to PSI, but submit accountability for USE grants utilization to MoES accounts department. Neither PSI, nor accounts department have special units to receive, review and advise on PPP accountabilities on a regular and formal basis. Given that they handle thousands of other schools, it is only in reported and extreme cases of PPP implementation abuse that they act.

*SCHOOLS WHERE PARENTS ARE CLOSELY INVOLVED TEND TO HAVE BETTER TEACHERS, PERFORM BETTER AND GENERALLY THERE IS DISCIPLINE AND ACCOUNTABILITY*

- PONTIAN KABEERA MARCH 18, 2014

Given that USE funds are released as part of the local government budgetary quota under the Local Government Act, it would imply that the local government would take charge of ensuring effective utilization of the funds allocated for the benefit of its people. This would require that the PPP schools account directly to local governments and are accordingly supervised. Obvious as this would seem, the fact that secondary education was not decentralized together with primary education<sup>24</sup>, means that local

23 Ministry of Public Service (2007), *Report of the Restructuring of Ministry of Education and Sports*

24 Government of Uganda (1997) Local Government Act in Second Schedule Part 2 includes "education service which cover nursery, primary, secondary, trade, special education and technical education" as functions and services for which district councils are responsible. However, the oversight over secondary education is yet to be fully operationalized.

that local governments have limited control of secondary schools including PPPs. In effect, PPP were required to report and account to the central government through MoES. This has further disempowered local communities and weakened their ability to demand for accountability from PPP schools.

At the school level, the guidelines provide that BoG (Chairperson and Head teacher) manage the USE funds in accordance with regulations. It is assumed that BoG represent the community and can therefore ensure community interests by demanding financial, performance and equity accountability. This assumption is premised on a fallacy that the school boards are functional, empowered and effective. In reality they are not.<sup>25</sup> For private schools, a proprietor may manipulate the formation of school board to the point that the body that is formed dances to his tune and rubberstamps his decisions. Such school boards cannot ensure social accountability.

The provision for mandatory public notices was meant to get community participation in ensuring accountability from the schools. Where the institutional framework is non-existent, weak or already compromised, compliance with this provision is difficult.

## Policy Rhetoric vis-à-vis Accountability Practice

Ministry of Education and Sports underlines its mission as ensuring equitable provision of quality education to all Ugandans. The articulated strategic objectives, as reiterated in the various planning and policy documents, commit the ministry to promoting the following: increasing access to education, promoting equity in education provision, ensuring quality of education provided and achieving efficiency and effectiveness in its operations at the various levels.<sup>26</sup>

USE policy was meant to primarily promote access to secondary education and the adoption of the PPP framework was justified on the same objectives of promoting equitable access and ensuring quality through efficiency measures.<sup>27</sup> It was reasoned that PPP framework would enable government to roll out USE in all sub-counties and thereby ensure equitable regional access. It was also argued that PPP schools would help decongest over-enrolled government USE schools in the promotion of quality. Finally, it emphasized that the PPP arrangement would encourage efficient resource utilization as the private schools can more flexibly implement cost-cutting

25 In its FY2015-16 sector annual performance review report, MoES underscores the non-functionality of school boards as a major management challenge

26 Ministry of education and Sports (2008) *Strategic Plan for Universal Secondary Education (2009-2018)* had three broad objectives: 1. Increase and improve equitable access to quality secondary education 2. Improve the quality and relevance of secondary education and 3. Improve effectiveness and efficiency in delivery of secondary education.

27 Ministry of education and Sports (2008) *Strategic Plan for Universal Secondary Education (2009-2018)* Pp.20-21

measures such as lower remuneration for staff as well as effective supervision of the teaching and learning process.

It only stands to reason that in assessing government performance in implementing the USE programme through PPP framework, one should begin by inquiring into how accountable government has been on the stated commitments. Under the PPP framework, the social accountability question is, to what extent has government lived up to its own national and international commitments as well as social expectations in regard to equitable provision of quality education? Did government “develop and establish feedback and response mechanisms” to ensure that parties in the partnership are demonstrably answerable and responsive to the citizens? To answer these questions, we look at the following basic accountability parameters of (i) equitable access (ii) financial risk management and reporting (iii) quality service provision and (iv) community engagement.

## Equitable Access to Quality Education

Under international commitments, including Education for All (EFA) and Millennium Development Goals (MDGs), Uganda committed to providing equitable access to quality and affordable education to all Ugandans. Uganda has also signed on to the African Charter on Human and People’s Rights, the International Covenant on Economic, Social and Cultural Rights and the East African Community Bill on Rights (2009). At the national level, the Equal Opportunities Commission Act (2007) mandates government to work towards eliminating discrimination and inequalities against any individual or group(s) of people.<sup>28</sup> In education, the Education Sector Investment plan (ESIP) - 1998-2003, which sought to implement the recommendations of the Government White Paper on Education (GWPE) - 1992, prioritized reducing inequalities of access between sexes, geographical areas, and social classes.<sup>29</sup>

These are the commitments to which government has to be held accountable when evaluating the performance of PPP in USE implementation. To the extent that PPP framework ensured increased access to secondary education under USE in sub-counties where there were no government schools, it ought to be commended. In this respect, regional equity in basic terms of access can be said to have been addressed. Likewise, gender equity in access to secondary education, it can be argued, was promoted by PPP framework in two respects. First, given that PPP schools increased available places for enrolment in secondary education and reduced the cost of

28 Ministry of Education (2016) Education for All: The Uganda National End of Decade Assessment of Education for All 2001-2010 Pp.16-18

29 Ministry of Education and Sports (1998) Education and Sports Sector Investment plan 1998-2003, P.26

education on the family, more girls were able to go to school. Second, by reducing distances between home and a USE school, girls were allowed and could walk to and from school. Distractions and temptations on the way to and from schools which lead many girls to drop out due to early pregnancies and marriage, were now minimized. This could also apply to special needs learners like the physically challenged who could not travel long distances.

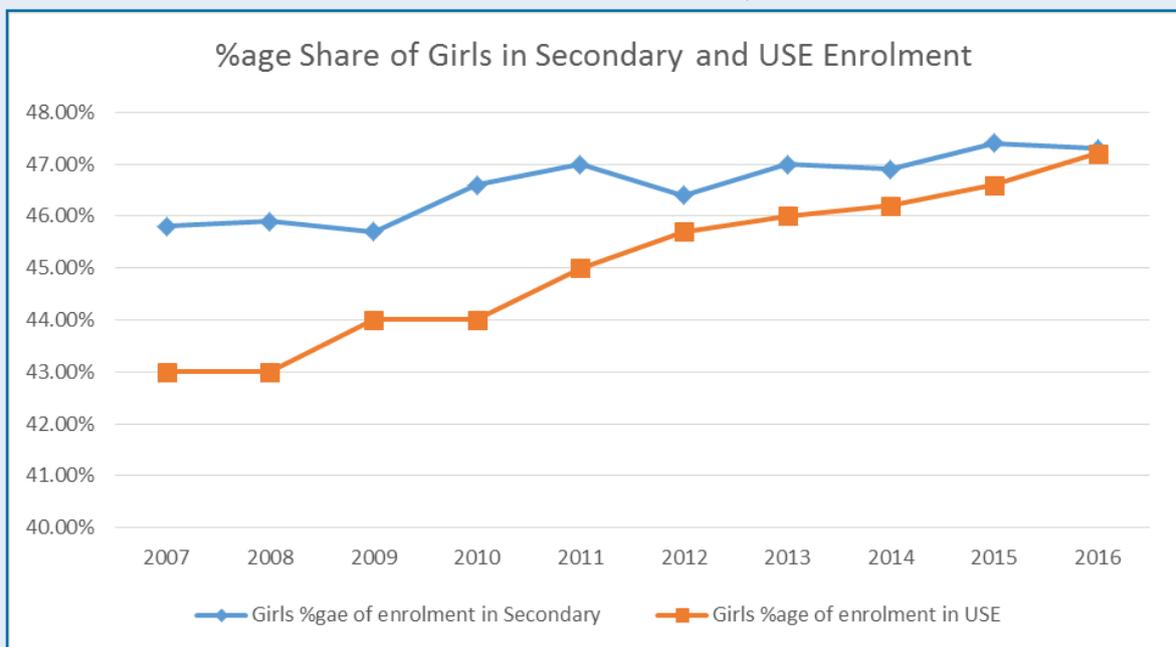
Tempting as these arguments are, on closer scrutiny they are theoretical and tenuous. For one, while available statistics seem to indicate that gender disparity in secondary education enrolment has slightly reduced since the introduction of USE (Figure 3.)<sup>30</sup>, there is no conclusive evidence to demonstrate that girls’ increased access to secondary education is a correlative of the PPP framework. On the contrary, most PPP schools lack basic sanitary facilities such as clearly separated latrines and washrooms to support girls’ education.

Similarly, schools under the PPP arrangement have been faulted by a number of reports for failing to match minimum quality standards.<sup>31</sup>

**Figure 3. Gender Parity Enrolment Trends**

*(Source: Ministry of Education and Sports: Education and Sports Sector*

*Fact Sheet 2002 – 2016)*



30 Ministry of Education and Sports (2016), Education and Sports Sector Fact Sheet

31 National Assessment of Progress in Education (NAPE) reports by UNEB indicate that on average, S2 students in PPP/USE schools show the lowest proficiency in English, Mathematics and Biology compared to Government

This is a clear indictment of the quality of education in PPP schools and is indicative of the inequitable access to quality education which is promoted by weaknesses in both policy and institutional frame work as discussed above. It is by policy that a learner in a PPP school is funded at a considerably lower rate than one in a Government USE school, when staff salaries are factored in.

*Table 1. Equity Gap in Funding of USE Student in a PPP school*<sup>32</sup>

Ownership	Govt.	PPP	Funding and Performance Variance
Govt. Funding per Student	211,279/=	47,000/=	-78%
Proficiency in Biology	13.3%	9.4%	-3.9%
Proficiency in Mathematics	38.8%	30.5%	-8.3%
Proficiency in English	39.9%	32.8%	-7.1%

The impact of the inequitable funding on learning outcomes is apparent. However, it goes beyond the lower learning achievements which are occasioned by the inevitable employment of unqualified teachers and low remuneration. In addition, the low funding means that development of supportive facilities for girl-child education such as washrooms and separate latrines is not prioritized.

Perhaps the most damning indictment of the funding inequality, is that it leads to schools levying fees on learners. This defeats the very essence of the USE programme and forces some children whose parents cannot pay to drop out of school. A study by Initiative for Social and Economic Rights (ISER) on equity issues in PPP schools revealed that some schools charge as much as 270,000 shillings in additional fees per term, which is almost six times the 47,000 shillings paid by government per child.<sup>33</sup>

Aside from government failure to ensure funding parity between Government and PPP schools, the weak institutional framework undermines the required supervision and monitoring. In the absence of effective supervision and monitoring, compliance to performance targets is severely compromised and equitable access remains rhetoric.

<sup>32</sup> Ministry of Education and Sports (2015) *A Paper on the Proposed Phasing out of Public Private Partnership (PPP) Schools in UPPET Implementation*, P.9

<sup>33</sup> Initiative for Social and Economic Rights (2016) *A threat or Opportunity? Public Private Partnership in Education in Uganda* P.25

## PPP Financial Accountability in Practice

As shown above, the implementation guidelines for USE in PPP schools dwelt at some considerable length on how schools should plan, budget, expend, account and report in regard to USE grants. The school board is mandated to approve school USE grant expenditure budget as per the stipulated cost centers. Meanwhile, the head teacher manages the expenditure and accountability. In this respect, numerous submissions are supposed to be made to MoES (PSI and Accounts departments). These include: annual work plan, budget, progress reports, bank reconciliation statements, monthly accountability statements and annual audited books of accounts.

The guidelines remained silent on what the role of the government institutions should be and what procedures would be followed to enforce compliance. In effect, in spite of, and perhaps because of, all these elaborate cumbersome requirements, the practice has been to the contrary. Indeed, the over-centralization of financial accounting, coupled with the cumbersome requirements and no developed capacity for verification, has meant that it is difficult to comply. For example, if all PPP schools (856) submitted accountability for a particularly term's USE grant to be verified by MoES before the next release is effected, it would lead to delays in releasing funds, affecting school operations. By and large, these monthly, term and annual submission requirements have been ignored as a result.<sup>34</sup> What is still being carried out is the annual headcount of USE students, upon which USE grant amounts are released to schools.

As discussed under institutional framework (Figure 2.), the reporting structure is rather incoherent. Accountability for USE funds are submitted to MoES accounts department; however, work plans, budget, progress reports and related documentation, are supposed to be submitted to MoES PSI department. It is not clear how Accounts department is supposed to verify the submitted accountability without reference to approved expenditure plans. The role of local governments in ensuring accountability is not provided for in this reporting structure.<sup>35</sup> It goes without saying that school owners take advantage of this weakness to spend USE funds outside agreed cost centers and not necessarily for the benefit of the learners.

34 Ibid P.36

35 Ministry of Education and Sports (2013), *Policy Guidelines For The Public – Private Partnership in the Implementation of Universal Post Primary Education and Training (UPPET) And Universal Post 'O' Level Education And Training (UPOLET)*

## Accountability for Quality Service Provision

In PPP frameworks for social services provision, the critical social accountability focus is on the quality of service provided. The PPP MoU and implementation guidelines attempted to cater for quality assurance through two main provisions; (i) performance agreements and (ii) periodic reviews. Every PPP school was expected to sign a performance agreement with MoES with specific performance indicators and targets.<sup>36</sup> For whatever reason, but perhaps because of absence of a dedicated institutional structure, these performance agreements were never drafted and therefore never signed. In their absence, performance benchmarks were referred to provisions of the guidelines and contextually construed to be relating to Basic Requirement and Minimum Standards (BRMS) for Education Institutions among others. The performance indicators captured in the implementation guidelines included: non-discriminatory admission of students, ensuring a Student Class Ratio (STR) of not more than 60:1, having in place an approved and functional BoG, recruiting a graduate head teacher and appropriately qualified teachers, ensuring effective teaching and learning and ensuring financial propriety and accounting.

Means of verification regarding compliance with performance agreements was mainly to be a periodic review after every two years. Again, this has never been conducted on any PPP school. It should be noted that, in fact, the performance of the entire PPP framework has never been reviewed within the mechanisms of the policy.<sup>37</sup> In lieu of this quality assurance mechanism, a robust community accountability practice could have served to ensure some level of accountability. However, as already shown and will be elaborated in the next section, this was also never clearly provided for or established.

Apparently, it was assumed that school owners would exercise their fiduciary responsibility towards the community and provide quality service. Needless to say, this was imprudent as clearly many school owners saw USE grants, released in a lump sum, as an opportunity to make a quick return on investment. Without a stringent system to ensure accountability, they could easily divert the USE funds to personal use. No wonder, PPP schools rate very poorly in comparative assessments as shown in Directorate of Education Standards (DES) schools inspection reports, NAPE reports<sup>38</sup> and support supervision reports. They are generally poorer in terms of facilities and quality of education teaching and learning. This social accountability failure is particularly concerning

36 Ministry of Education and Sports (2012), *Memorandum of Understanding between Ministry of Education and Sports and Foundation Bodies/Proprietors of Private Schools under Public Private Partnership*

37 The World Bank that funded the USE programme and played a key role in adoption of PPP strategy sponsored a study, *Public Private Partnership in Education: Evidence from a Randomized Controlled Trial in Uganda*. Although its focus was mainly on how PPP impacts participating private schools, it rather strangely concluded that, “These results establish the viability for private schools to partner with government and support the countrywide goal of quality education for all” P.23

38 Uganda National Examinations Board (UNEB) (2013), *National Assessment of Progress in Education: The Achievement of S2 students in English Language, Mathematics and Biology 2012 Report*. Kampala, Uganda

given that education impact is long term and generational. Social injustice is the resultant effect in a situation where a section of learners are subjected to an inferior education quality occasioned by unequal inputs and a policy framework that is not accountable to the people.

## Community Engagement in PPP Accountability

At the conceptual level, mandatory notices were an important provision for facilitating social accountability. Although primarily one way, the information flow would be important for interested members of the public to crosscheck against the observable, for example, enrolment figures, number of teachers, activities carried out and school facility improvement. In practice, mandatory notices are largely ignored by both sides. Ministry of Education does not consistently publish USE grant releases in the media as required and most schools do not bother to display on notice boards amounts received, work plans, budgets or expenditure reports. As it is, the society hardly has any information about the performance of the programme supposed to benefit them and, therefore, cannot ask important questions. Whilst they may get some information from different sources, they do not have clear channels to express their concerns and get feedback.

Because of unclear responsibility centers in ensuring accountability, weak institutional framework and lack of clear and concrete performance indicators based on citizens' expectations, community engagement in PPP accountability has been quite low. The limited community participation in PPP accountability is also a consequence of the fundamentally problematic nature of PPP frameworks in education service provision. A PPP school occupies a tricky position in terms of school-community engagement, basically because it is neither entirely private nor entirely public. The school owner will continue to see the school as an investment in which he needs to protect his business interests. The community, which has hitherto known the school to belong to a private owner, and do not completely appreciate the full significance of a PPP arrangement, are uncertain about their right to demand for accountability.

In communities where education levels are low and social justice and human rights are only beginning to be understood by the common person, a private school partnering with government is not expected to act as government school. Indeed, community members; are more likely to take a manager of government school to task than of a PPP school. The former is seen as "our school" while the latter is viewed as somebody's business. Precisely for this reason, even where there is a PPP school, the community will continue to lobby for establishment of a government school, either through grant-aiding or construction of a new school.<sup>39</sup>

39 In the report of Rapid Sub-county Mapping for Establishment of Government Secondary Schools in the remaining Sub-counties without any, all sub-counties recommended either grant-aiding a community founded school or construction of a Seed school.

It is rather optimistic to expect members of the local community to demand for accountability, especially when knowledge about the PPP framework has not been sufficiently disseminated. The community can be an effective participant in demanding for accountability only if the details of the PPP agreement, performance indicators and targets, as well as expectations, rights and responsibilities are made adequately clear to all. At the very minimum, community leaders should be conversant with the PPP agreements to spearhead demands for accountability; however, even at this level knowledge and awareness are scanty.

A 2014 report of a World Bank sponsored study, evaluating the impact of PPP in the USE programme, made an interesting finding on community participation, even as its conclusions tended to support the PPP framework. On governance, the study concluded that, “The likelihood of having an active Board of Governors does not appear to be altered by public funding to private schools.”<sup>40</sup> The full significance of this statement can only be appreciated against the fact that generally, private schools tend not to have functional school boards. The implication is that a private school will continue operating as a private school at a governance level, even when it enters the PPP agreement with government. When this obtains, as it indeed does, the casualty is accountability to the citizens.

## Conclusions and Recommendations

As the foregoing has shown, accountability in PPP framework for USE implementation is problematic, to say the very least, at both the level of policy provision and implementation practice. At the policy level, the elemental dilemma for accountability is the PPP was designed and promoted almost exclusively as a financing option, rather than as an optimal measure for equitable social development. Consequently, the planning priority was to see the numbers multiplied as regards access to secondary education. However, in terms of social justice, the tradeoffs were costly. In this respect, PPP for USE implementation does not stand up to the social and democratic accountability test. It disadvantages, many young Ugandans, mainly the poor and marginalized, by subjecting them to lower quality education. Quality and equity issues, as tradeoffs, can and will have generational impacts on the affected persons and communities.

Regarding quality, it is generally understood that implementation of mass enrolment programmes like UPE and USE will negatively impact quality unless corresponding increase in resource allocation is guaranteed. The trouble with the PPP framework is that it made no attempt to equitably spread this opportunity cost.

40  Osoro et al. (2014) p. 19 *Public Private Partnership in Education: Evidence from a Randomized Controlled Trial in Uganda*, The World Bank, Kampala

On the contrary, it encouraged a starkly unequal system, in terms of resource allocation, against children who enroll in the PPP schools.

The argument that private sector efficiency would be a compensatory factor in PPP schools, in that the USE grant would be more optimally utilized, was flawed. In reality, the grant to PPP schools is more prone to abuse, as we have seen, because of weak governance and accountability mechanisms. Not only are school boards in PPP schools too disempowered to make important decisions, but also the school owner will factor in his preferred profit margin, depleting further available resources for quality education provision. A 2015 study into PPPs revealed that “some head teachers have little knowledge of USE funds received by their respective schools because they are not signatories to school USE accounts”.<sup>41</sup> This is echoed in the study by ISER.<sup>42</sup>

Considering that self-regulation and accountability are not possible in PPP schools, there needed to be a strong and effective system of supervision for compliance. However, we have seen that the monitoring and supervision have not been adequate. Similarly, the setup denies the communities a real opportunity of demanding and obtaining accountability. Under the circumstances, it is reasonable to conclude that PPP framework has not been an appropriate intervention for equitably promoting access to quality secondary education in Uganda.

Although the PPP framework was touted as a stop-gap measure for USE implementation, strong accountability measures should have been factored in to facilitate equity and value for money. Now that government is poised to review the PPP framework<sup>43</sup> for USE implementation, it should critically examine the impact of PPPs under USE. It is interesting that a decision has already been made to begin the phase out of PPP as government gradually establishes its own schools through grant-aiding community schools and construction of Seed schools.<sup>44</sup> The ongoing formulation process of the education sector strategic plan should be an opportunity to correct, but also to avoid, the mistakes that were made in adopting the PPP strategy.

It is our considered view, as shown here, that government should not be hasty in adopting any other form of PPP in education without extensive overhaul of laws, policies, institutions and even mindsets for effective

41 Barungi et al. (2015), *Performance of Public-Private Partnerships in Delivering Social Services: The Case of Universal Secondary Education Policy Implementation in Uganda*, Economic Policy Research Centre, Kampala

42 In an interview, a DEO reported that in most PPP schools, a head teacher is just a figurehead with real authority held by the school owner. P.36

43 In collaboration with Ministry of Education and Sports, DfiD has contracted ARK to undertake a study of the PPP framework with a view to making policy proposals on PPP in education options.

44 Ministry of Education and Sports is to start phasing out the current PPP schools beginning with S1 class of 2018 and completing with S4 in 2012.

accountability.<sup>45</sup> Given that such an overhaul is most unlikely in the short to medium term, governments should undertake to fulfill its national and international commitments regarding equitable provision of quality education through public schools. To achieve Sustainable Development Goal 4 (SDGS) of ensuring inclusive and equitable quality education and lifelong learning opportunities for all, government should eschew similar PPP arrangements which promote social injustice and inequality. Future PPPs should be based on unequivocal evidence that the PPP option is the right intervention for promoting inclusive and equitable quality education.

Finally, many of the recommendations for effective PPPs in education could significantly improve public provision of education with better accountability. Such recommendations include:

- i. providing output specifications that define performance standards;
- ii. facilitating the measurement and tracking of quality and school efficiency;
- iii. defining operating requirements and performance standards,
- iv. rewarding innovation and quality improvements;
- v. helping private schools to deliver high-quality education;
- vi. Implementing capacity-building interventions.<sup>46</sup>
- vii. Relying on human rights principles on the right to quality education for all in developing the regulatory framework

If such measures are implemented to support public schools, it would not be necessary for government to engage in convoluted and unaccountable PPP schemes in education service provision. The enactment of Public Private Partnership Act 2015, under the PPP policy framework of 2010, should not be taken as sufficient guarantee that future PPPs in service delivery would work. Indeed, the policy framework under the statement of principles warns against using PPPs as way of avoiding public responsibility, stating that “PPP do not absolve Government institutions from the responsibility for provision of public service. Government will remain responsible for the delivery of the infrastructure service outputs, including where PPPs are used to deliver those outputs. Public Institutions cannot transfer this accountability to the private sector.”<sup>47</sup>



45 Patrinos et al. (2009) *The Role and Impact of Public-Private Partnerships in Education* calls for “defining the place of private providers in the national education strategy”, as prerequisite to effective PPPs, P.5

46 Ibid P.69

47 GoU Public Private Partnership Framework Policy 2010, P.10

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