

12 December 2022

Open Government Partnership Team
Te Kawa Mataaho Public Service Commission
P O Box 329
Wellington 6140

DELIVERED BY EMAIL: ogpnz@publicservice.govt.nz

Dear Open Government Partnership Team

DRAFT - New Zealand's Fourth National Action Plan 2023 - 2024

The International Association for Public Participation Australasia would like to take this opportunity to acknowledge and congratulate Te Kāwanatanga o Aotearoa (New Zealand Government) for the draft of New Zealand's Fourth National Action Plan 2023 – 2024.

This is a significant piece of work, IAP2 Australasia congratulate you on your commitment to public participation as the first of the four key themes that have been prioritised. Additionally, we thank you for applying and acknowledging the IAP2 principles and spectrum, which are widely used and globally recognised.

The Commitments

IAP2A continues to support this kaupapa to strengthen public participation in New Zealand and shares further tools, resources and thoughts that could be considered useful as the practice of engagement evolves in a post-Covid world.

Commitment 1 – Adopt a community engagement tool

- [Engagement Methods Tool](#): a free online tool for IAP2 Australasia members, guides you through the engagement method principles, preparation and delivery for both virtual and in-person environments, as well as any tips of traps you need to be aware of. It helps you to bring people together, share information, collect and compile feedback, and ultimately, make better decisions.
- **Community of Practice**: IAP2 Australasia has almost 13,000 members with 10% of them in New Zealand, and three of our current directors live and work and actively contribute as engagement professionals in New Zealand. They could be a useful resource for the proposed Community of Practice and are happy to be involved.
- [Tools and resources](#): the IAP2 Australasia website is rich in resources, including:
 - Case studies, including from the Core Value Awards;
 - Research and white papers;

- Practice notes; and
- Six resource hubs
 - Virtual engagement
 - Diversity and inclusion
 - Natural disasters
 - Infrastructure
 - Local Government
 - COVID-19

Commitment 2 – Research deliberative processes for community engagement

IAP2 Australasia has a strong commitment to research that strengthens and advances engagement practice and outcomes and this could be an area of shared interest.

Additionally, a member recently received an IAP2 Core Values Award for their research project '*The Value of Deliberative Democracy*'. Their six-year longitudinal study to understand the impact of deliberative experience on participants; support continuous learning and advancement in the field; and create an evidence base around the value of investing in deliberative engagement processes, can be used to support advocacy, education and used as a platform for conversations with decision-makers.

Please do let us know if you would like to discuss either of these matters further.

Other items of interest

- We have been hosting a series of local '[Hidden Gems of Engagement](#)' events with engagement practitioners across the motu and will be holding an [NZ Symposium](#) at Te Papa in Wellington in March 2023
- We will be launching our new, updated [learning model, curriculum and training offering](#) in early 2023
- We are committed to develop our [post-nominal, professional recognition program](#) to lift professional levels
- Recently at the **IAP2 Australasian Conference** in Melbourne we announced our **Core Values Award Winners** – Far North District Council's Te Hiku o te Ika project won the Community Development, Project of the Year and International Project of the Year! It's a great example of the innovative work that takes place in Aotearoa – it focused on empowering local community to deliver initiatives via local businesses.
- IAP2 Australasia are committed to best practice Māori engagement in Aotearoa - we have been working on an organisational-level commitment and developed a draft **Māori Strategy**, we acknowledge that at a practice level we need to adapt our engagement processes to be inclusive and reflect Māori perspectives and cultural values. We plan to commence work with the NZ engagement community, and specialised iwi engagement advisors, as to how we progress with this initiative. We are working within the framework of both Te Arawhiti's Individual and Organisational Capability Components that aim to support a significant culture change across New Zealand's public service to strengthen and support Māori Crown relations.

Call to action for authentic engagement

IAP2 Australasia as the peak body for engagement professionals, representing almost 13,000 members, calls for that promise to become a commitment to ensuring that authentic engagement remains an integral component of government decision-making, and is embedded into policy and regulatory frameworks.

Minimise social risk through engagement

Conducting quality engagement provides:

- Communities, including Māori, the opportunity to input into projects providing valuable local knowledge
- the government with a channel to promote and increase understanding of its agenda;
- an important strategy in minimising social and political risk; and
- simply it provides best practice for the long-term reputation and legacy of being good stewards of public spend.

IAP2 Australasia policy position

As the peak body for the community and stakeholder engagement sector, IAP2 Australasia, believes that engagement, when done well, improves environmental, social, and governance outcomes and increases trust in the democratic process.

Our three calls to action are:

1. Ensure authentic engagement;
2. Demonstrate a commitment to social accountability; and
3. Improve environmental, social, and governance outcomes.

In closing

IAP2 Australasia calls for and encourages Te Kāwanatanga o Aotearoa to make a commitment to ensuring that authentic engagement remains an integral component of legislative and policy decision-making, improving environmental, social, and governance outcomes.

If you have any further questions, please do feel free to contact me directly using the details provided below.

Yours sincerely



Marion Short

CEO – IAP2 Australasia

MB: 9(2)(a) privacy | AU: 1300 4ENGAGE (4364 243) | NZ: 0800 4ENGAGE (4364 243)

EM: 9(2)(a) privacy

About IAP2 Australasia

The International Association for Public Participation (IAP2) is the leading public participation organisation globally which seeks to promote and improve the practice of community and stakeholder engagement.

As an international leader in public participation, IAP2 has developed tools that are widely used and acknowledged. These are the **IAP2 Core Values for Public Participation** for use in the development and implementation of public participation processes; and the **IAP2 Spectrum** which assists with the selection of the level of participation that defines the public's role in any community engagement program. The Spectrum is widely used and is quoted in most community engagement manuals. Additionally, there is the **Quality Assurance Standard for Community and Stakeholder Engagement**, which is recognised as the international standard for public participation practice.

IAP2 Australasia has almost 13,000 members throughout Australia and New Zealand – and is committed to advancing the practice of community and stakeholder engagement through education, advocacy and building partnerships.

Policy position

As the peak body for the community and stakeholder engagement sector, IAP2 Australasia, believes that engagement, when done well, improves environmental, social, and governance outcomes and increases trust in the democratic process.

We advocate for all communities to be authentically engaged in decisions that affect them through education and increasing awareness of authentic engagement and all its benefits, in alignment with the IAP2 Quality Assurance Standard for Community and Stakeholder Engagement.

Authentic engagement is founded on the IAP2 Core Values and recognises the six principles included in the UN Human Rights Council Guidelines on the effective implementation on the right to participate in public affairs;

- Enabling environment
- Safety
- Equality
- Empowerment
- Openness
- Remedies

The evidence for engagement

- Better functioning cities and towns could deliver a \$29B increase in GDP in the long term.
Source: The Australian Infrastructure Audit 2019
- Community opposition has contributed to the delay, cancellation or mothballing of more than \$20B of infrastructure projects in the last decade.
Source: The Australian Infrastructure Audit 2019
- 80% of Australians indicate it is important that government considers the views of the community when planning of investing in major infrastructure
Source: The Australian Infrastructure Audit 2019
- 82% of businesses said “communicating and engaging with stakeholders openly was seen as the most critical factor for building trust”
Source: Creating value and balancing stakeholder needs (KPMG and AICD survey – 2019)
- License to operate is the No. 1 ranked risk – 2 years in a row.
Source: Top 10 Business Risks and Opportunities – 2020 (EY)



8 December 2022

Open Government Partnership Team
Te Kawa Mataaho Public Service Commission
PO Box 329
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Blind Low Vision NZ feedback on New Zealand's Fourth Open Government Partnership National Action Plan.

Tēnā koutou katoa

Blind Low Vision NZ welcomes the opportunity to provide feedback on New Zealand's Fourth Open Government Partnership National Action Plan.

About Blind Low Vision NZ

Blind Low Vision NZ is the operating name of the Royal New Zealand Foundation of the Blind, an incorporated charitable society under the Incorporated Societies Act 1908. We are motivated as a 'for purpose' organisation. Our community includes those individuals who are blind, deafblind, have low vision or may have a print disability. Blind Low Vision NZ's mission is to empower New Zealanders who are blind, deafblind or have low vision to live the life they choose. We have approximately 15,500 clients but we know around 180,000 Kiwis are blind, deafblind or have low vision and we are forecasting these numbers will increase to 225,000 by 2028.

Our services include providing vision loss rehabilitation, equipment and training to continue reading and communicating, and services that facilitate mobility, socialisation, recreation, education and employment.

Blind Low Vision NZ Feedback

Blind Low Vision NZ fully supports Commitment 3. To establish an integrated, multi-channel approach to public service delivery and support which meet the diverse needs of all the people of Aotearoa and ensures access for all to public services and support.

When establishing the integrated multi-channel approach to public service delivery, Blind Low Vision NZ reminds the Public Service to take account of the 180,000 New Zealanders with print disabilities.

Public service delivery must follow the guidelines set out by the trans-Tasman Round Table on Information Access for People with Print Disabilities. The Round Table



guidelines were developed for the production of accessible formats, including audio, braille, large print, e-text and tactile graphics. These guidelines should be used by anyone producing alternate formats to ensure quality and usability for people with a print disability. For further information contact Blind Low Vision NZ, 0800 24 33 33.

Previous Open Government Action Plans have contained commitments that have not been supported by Government with the funding needed to do the work. This has led to either hopelessly under-resourced commitment implementation work, or forced departments to resource the work by taking money from elsewhere in their budget (which they resent).

Blind Low Vision NZ note that the Department for Internal Affairs (DIA) has been allocated to lead the commitment on multiple channels for service delivery. To ensure effective delivery of this commitment, Blind Low Vision NZ asks that specific funding is allocated to the project by DIA through a budget bid for Budget 2023.

Nāku noa, nā

Dianne Rogers
General Manager, Policy and Advocacy
Blind Low Vision NZ
9(2)(a) privacy [REDACTED]
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Open Government Partnership Team
Te Kawa Mataaho Public Service Commission
PO Box 329
Wellington 6140
[by email: ogpnz@publicservice.govt.nz]

12 December 2022

Re: Comments to New Zealand's Open Government Partnership National Action Plan 4 - 2023-2024

Dear Open Government Partnership Team

Amazon Web Services (AWS) New Zealand Limited would like to congratulate the Public Service Commission on producing its Open Government Partnership (OGP) National Action Plan 4. We look forward to having the opportunity to engage with the agencies who will lead each of the commitments over 2023-2024, and with the Public Services Commission in its role as overall coordinator of the action plan.

In light of the anticipated positive impact of these programmes and the importance to the general public of New Zealand we recommend that implementation of each of the 8 commitments be implemented in the same spirit of consultation and engagement as the OGP action plan process. We would appreciate invitation to comment on these 8 commitments once further opportunities for consultation become available.

We recommend that each lead agency should proactively seek public and industry collaboration on the implementation of their respective commitments, including through outreach to relevant industry bodies and industry leaders, to leverage the broader knowledge and resources available in New Zealand to support action plan implementation. For example, AWS would very much like to offer a cloud technology perspective and use cases/experiences on at least the following commitments, although not limited to these commitments only:

- Commitment 3 - Establish an integrated, multi-channel approach to public services and support (DIA): In addition to exploring additional multi-channel options, we believe it is also important for the technology industry to continue to evolve digital user interfaces that use human centred design practices to support access for all community members to improve inclusion significantly, as well as investment in skills development. In addition to improving digital channels, we believe there are significant opportunities to use technology to enhance other channels too.
- Commitment 4 - Design and implement a National Counter Fraud and Corruption Strategy (Serious Fraud Office): We believe technology plays a critical role in assisting in fraud detection and should be leveraged across sectors in both the private and public sector. Any national strategy that considers fraud analysis should consider how this involves observing, tracking, inspecting, and analysing behaviours across multiple channels (customers, employees, vendors) to identify the right and wrong trends and understand where intervention should be applied. Understanding where vulnerabilities exist and closing them through at-scale analysis reduces the risk of fraud.
- Commitment 8 - Improve transparency and accountability of algorithm use across government (Statistics NZ). This is an important piece of work and would be happy to share



some updates on what AWS and our affiliates are doing. The AWS AI research community has been focusing on rendering AI decisions more transparent by providing explanations of an AI's decision. Bias can be introduced or exacerbated in deployed machine learning (ML) models when the training data differs from the data that the model sees during deployment (that is, the live data). Using technology to detect bias and test ML models becomes important therefore in improving transparency and accountability of these systems. Responsible use of these technologies is key to fostering continued innovation. AWS is committed to developing fair and accurate AI and ML services and providing customers with the tools and guidance needed to build AI and ML applications responsibly. See more online [here](#).

Since 2013, AWS has been working closely with New Zealand businesses of all sizes and the public sector on improving their productivity, innovation and other digital transformation objectives. We welcome the opportunity to be a supportive resource in helping to implement New Zealand's OGP action plan.

As noted above, we further recommend that the OGP implementing agencies proactively seek support from relevant industry forums such as Digital Identity New Zealand, AI Forum, NZ Tech so as to leverage wider perspectives from industry on these important topics. We believe this would continue the open and consultative approach taken by the government in setting the national action plan.

We would be very pleased to meet with the OGP review team and the agency implementing teams, either in person or virtually, as you progress your work and we would be pleased to provide further written comments at the appropriate times. Please feel free to contact me at 9(2)(a) privacy or by phone on 9(2)(a) privacy

Yours sincerely,

Paul Keating
Head of Public Policy
Amazon Web Services New Zealand

9 December 2022

SUBMISSION TO the Social Services and Community Committee on the [Charities Amendment Bill](#) to amend the Charities Act 2005 (via www.parliament.nz), and the Open Government Partnership Team, Te Kawa Mataaho Public Service Commission, on [the draft Fourth National Action Plan document](#) (by email to ogpnz@publicservice.govt.nz).

SUPPORT FOR CLAUSE 20 OF THE CHARITIES AMENDMENT BILL

I support the proposal in clause 20 of the Charities Amendment Bill to insert a [new Section 42G \(Duty to review governance procedures\)](#) in the Charities Act 2005.

The proposal aligns with the principles in The Good Governance Code that was developed by the community sector, for the community sector, and published by the Community Governance Aotearoa Trust in November 2022.

If enacted, the annual duty to review governance procedures should be communicated to the public via digital channels in addition to legislation.govt.nz.

RECOMMENDATIONS

I recommend that the milestones in New Zealand's Fourth National Action Plan for the Open Government Partnership (2023-24, '**NAP 4**') are developed to:

1. include actions and deadlines to enable the implementation of the [Plain Language Act 2022](#) eg. appointment of [Plain Language Officer](#)(s) for <https://register.charities.govt.nz>
2. ensure that the Charities Service (Ngā Ratonga Kaupapa Atawhai) website is within the scope of 'Phase 1: Scoping of Work Programme' of **NAP 4 Commitment 3 (Establish an integrated, multi-channel approach to public services and support)**

Suggestions:

- the flowchart guidance on www.charities.govt.nz/news-and-events/blog/annual-reporting-timeline (refer **Appendix A**) should be integrated in the workflow and guidance via register.charities.govt.nz (and reminder email notifications, if any), so each charitable entity is encouraged to present its annual financial statements at its annual general meeting (as required by [Section 86 of the Incorporated Societies Act 2022](#)) before complying with the filing deadline in [Section 41\(1\) of the Charities Act 2005](#)
- the home page for the Charities Service (Ngā Ratonga Kaupapa Atawhai) website should be developed or replaced so it is easier for the target audiences to access and use relevant information and communication channels (refer **Appendix B**)

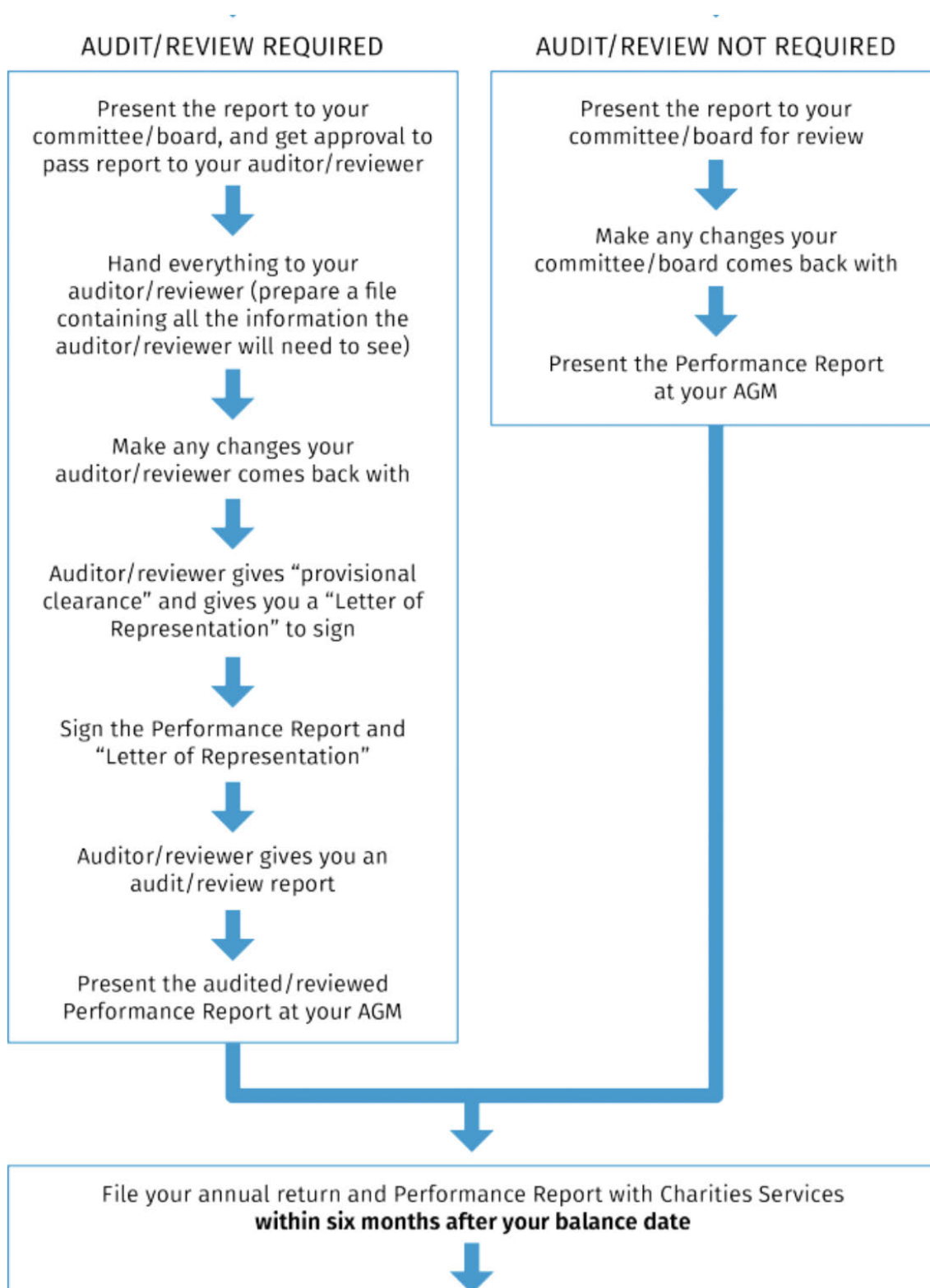
ACCESSIBILITY AND COMPLEXITY OF PUBLIC INFORMATION

Appendix C of this submission sets out seven pages of screenshots to illustrate the complexity and volume of the messaging via www.dia.govt.nz/Policy-decisions-to-modernise-the-Charities-Act-2005.

Please design future messaging with more care, to enable the positive impact that is envisaged by **NAP 4 Commitment 2 (Research deliberative processes for community engagement)**, and the Plain Language Act 2022.

Thank you for considering this submission.

Extract from www.charities.govt.nz/news-and-events/blog/annual-reporting-timeline



https://www.charities.govt.nz


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CHARITIES SERVICES

Ngā Ratonga Kaupapa Atawhai

Supporting charities

— in New Zealand —
for stronger communities



[Charities in New Zealand](#) | [Applying for registration?](#) | [I'm a registered charity](#) | [Reporting standards](#) | [Te Ao Māori](#)

- Annual returns/Ngā hokinga ā-tau >
- COVID-19 information >
- Reporting standards >
- Resources/He Rauemi >
- Update charity details >
- Te Ao Māori >

Hot topics
Newsletters
Events

One-on-one clinics with Charities Services every Thursday
 We are holding one-on-one clinics every Thursday! Come and talk to our team and get answers to the q...

All events >

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- Log in >
- Resources >
- Glossary >

Subscribe to Newsletters

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Te Kāwanatanga o Aotearoa
New Zealand Government



Te Tari Taiwhenua
Internal Affairs

Te Tari Taiwhenua | Department of Internal Affairs

Building a safe, prosperous and respected nation



Te Tari Taiwhenua
Internal Affairs

FOR PEOPLE, COMMUNITIES
AND BUSINESSES

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Policy decisions to modernise the Charities Act 2005

Charities Amendment Bill

Policy decisions to
modernise the Charities Act
2005

Targeted engagement
(2021) and stakeholder
feedback

Public consultation and
submissions (2019)

Background to the work to
modernise the Charities
Act

Overview of the charitable
sector and the Charities
Act

Frequently Asked
Questions

Updated 1 November 2022

- > [Policy decisions to modernise the Charities Act 2005](#) (June 2022)
- > [Frequently asked questions](#) (updated 23 September 2022)
- > [Cabinet material approving the introduction of the Charities Amendment Bill](#) (31 October 2022)
- > [Release of briefing papers leading to policy decisions](#) (July 2022)
- > [Policy documents 2018-2019](#)
- > [Contact the team](#)

The Minister for the Community and Voluntary Sector, Hon Priyanca Radhakrishnan has announced a suite of changes to improve the operation of the Charities Act. The policy decisions are set out below.

Read the Minister's announcement here: [Charities Act changes to benefit NZ Communities](#) 📄 (2 June 2022)

Regulatory decision-making

Changes will be made to the regulator's decision-making processes:

- › [Te Rātā Atawhai, the Charities Registration Board](#) (the Board) will be required to publish all decline and deregistration decisions and provide a clear process for charities to object to significant decisions.
- › The timeframe for submitting information to Charities Services on administrative matters (such as providing more information on an application) will be extended from 20 working days to two months.
- › Charities Services will be required to consult with the sector when developing significant guidance material.

These changes acknowledge that many charities are run by volunteers and need more time to engage with the decision-making process. The changes support charity participation in the regulatory system, provide greater clarity on regulatory decision-making, and allow charities to focus on their important mahi.

The number of members of the Board will also be increased from three to five. This will improve the Board's diversity of backgrounds and experience and address potential quorum and conflict of interest issues.

Appeals framework

The Taxation Review Authority will be used to hear first appeals under the Charities Act instead of the High Court. Stakeholders noted during consultation that the High Court was often inaccessible because it was legally complex, costly, and time consuming. The High Court will still function as an appeal court for decisions by the Taxation Review Authority.

The Taxation Review Authority will provide greater accessibility than the High Court in the appeals process by allowing charities to self-represent. This will reduce charities' costs and make the process less formal.

The range of decisions that can be appealed will include significant decisions made by Charities Services (as well as the existing decisions made by the Board). The timeframe for lodging an appeal will be extended from 20 working days to two months.

Compliance and enforcement powers

It is important to have the appropriate compliance and enforcement functions in a regulatory system to ensure the effective functioning of the system and make it clear for participants in the system to understand their obligations.

Three changes will be made to improve the compliance and enforcement functions for charities. These changes will:

- make explicit the currently implicit obligations for charities to remain qualified for registration. These obligations are maintaining charitable purpose, having a rules document, and having qualified officers;
- clarify what is meant by serious wrongdoing, defined as an offence punishable by two or more years of imprisonment; and
- allow the Board to disqualify an officer for serious wrongdoing or a significant or persistent breach of obligations, without deregistering the charity.

Charities accumulating funds

Larger charities in tiers 1 to 3 will be required to report the reasons for their accumulated funds (including cash, assets or other resources). The reporting is intended to provide greater clarity on why funds are held and improve public trust and confidence in the charitable sector.

This is not a legislative change and will be implemented through a change to the annual return form. Charities Services will work with iwi to design changes to the annual return form to reflect te ao Māori views of accumulation.

Reporting requirements for very small charities

The Department's Chief Executive will have the power to exempt very small charities from the financial reporting standards set by the External Reporting Board to reduce the compliance burden while balancing the needs of transparent reporting. The threshold will be developed in regulations (in consultation with the sector). The Department's analysis suggested a threshold of annual payments under \$10,000 and total assets under \$30,000 that would benefit 12 percent of all registered charities.

Charities that are exempt from the reporting standard will still be required to file an annual return with basic financial information.

Officers of charities and governance improvements

The definition of officer will be amended to capture all persons with significant influence over the management or administration of the entity, regardless of the type of entity. The definition in the Charities Amendment Bill will align with the definition of an officer in the Incorporated Societies Act 2022.

The disqualifying factors to becoming an officer will be updated. Persons who have been convicted of an offence relating to the financing of terrorism will be prevented from holding an officer role in a charity.

The minimum age requirements to be an officer will be changed. At least one officer of the charity will need to be 18 years old or over (while the remaining officers can be 16 years old or over).

Officers are collectively responsible for the governance of the charity. The Charities Amendment Bill will specify that the role of an officer is to support the charity to meet its obligations for greater clarity.

Charities will also be required to review their rules document every year to ensure its governance arrangements are up to date and appropriate.

These changes are intended to improve the accountability and governance of charities, as well as creating greater alignment with other legislation that charities might be governed by such as the Companies Act 1993, Trusts Act 2019, Incorporated Societies Act 2022, and the Charitable Trusts Act 1957.

Cabinet paper and Regulatory Impact Statement

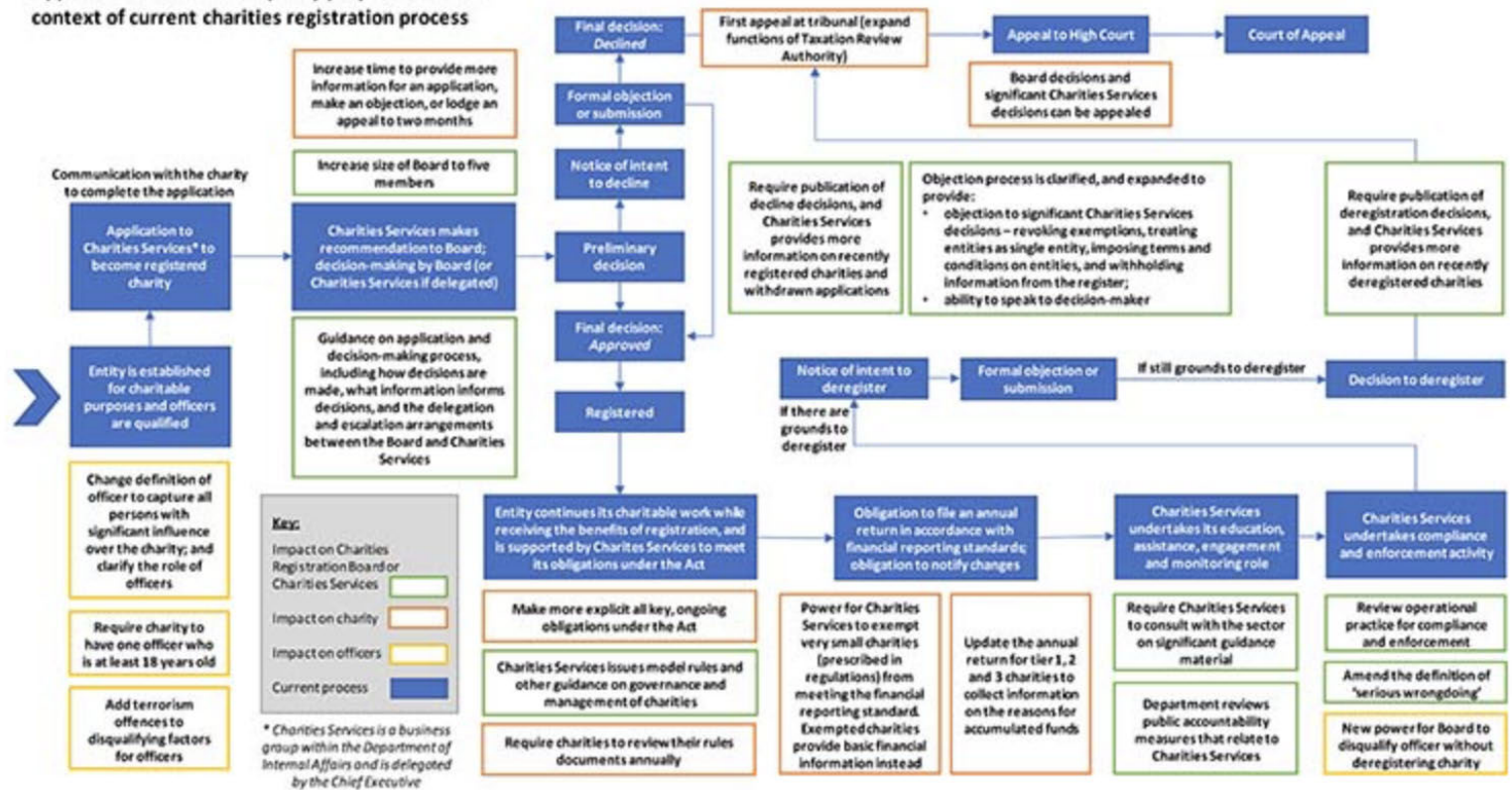
For more detail on the policy decisions, please refer to the Cabinet paper and the Regulatory Impact Statement here:

- [Minute and Cabinet paper - Modernising the Charities Act](#) (PDF, 1.3MB)
 - Minute of Decision: Modernising the Charities Act 2005
 - Cabinet paper: Modernising the Charities Act 2005: policy proposals

- [Regulatory Impact Statement - Modernising the Charities Act](#) (PDF, 2.1MB)

(To view diagram below, click on image for PDF version - 1MB)

Appendix A: Overview of policy proposals within context of current charities registration process



➤ [Diagram of proposed suite of changes within context of current process \(PDF, 1MB\)](#)

Cabinet material approving the introduction of the Charities Amendment Bill

- [Cabinet material approving the introduction of the Charities Amendment Bill](#) (PDF, 1.3MB)

Release of briefing papers leading to policy decisions (published July 2022)

The Department has proactively released briefing papers relating to the policy work to modernise the Charities Act:

Cover sheet: [Briefing papers relating to the policy work to modernise the Charities Act](#) [PDF, 129KB]

1. [Policy briefing - options for progressing work on the Charities Act](#) [PDF, 1.7MB]
2. [Policy briefing - scope of work to progress modernising the Charities Act](#) [PDF, 1.8MB]
3. [Objectives for modernising the Charities Act, and early analysis of reporting requirements for small charities](#) [PDF, 1.2MB]
4. [Information briefing - accumulation of funds by large charities](#) [PDF, 2.4MB]
5. [Information briefing - charities with business activities](#) [PDF, 1.5MB]
6. [Modernising the Charities Act - options to test with stakeholders - charities accumulating funds and charitable business activities](#) [PDF, 1.8MB]
7. [Modernising the Charities Act - options to test with stakeholders - reporting requirements for small charities](#) [PDF, 2MB]
8. [Modernising the Charities Act - introduction to the regulator](#) [PDF, 2MB]
9. [Modernising the Charities Act - introduction to appeals](#) [PDF, 1.5MB]
10. [Modernising the Charities Act - introduction to the obligations of charities and officer duties](#) [PDF, 1.5MB]
11. [Modernising the Charities Act - options to test with stakeholders - the appeals framework](#) [PDF, 1.2MB]
12. [Modernising the Charities Act - options to test with stakeholders - the regulator](#) [PDF, 3.1MB]
13. [Modernising the Charities Act - options to test with targeted stakeholders about officers of charities](#) [PDF, 12.5MB]
14. [Modernising the Charities Act - Advice on preferred option for charities accumulating funds](#) [PDF, 1.3MB]
15. [Modernising the Charities Act - Advice on recommended option for reporting requirements for small charities](#) [PDF, 2.4MB]

16. [Modernising the Charities Act - advice on recommended option for officers of charities](#) [PDF, 1.2MB]
17. [Final proposals to modernise the Charities Act 2005](#) [PDF, 3.1MB]
18. [Final Cabinet paper on policy proposals to modernise the Charities Act 2005](#) [PDF, 1.1MB]
19. [Modernising the Charities Act 2005 - Minor and technical amendments](#) [PDF, 1.2MB]
20. [Modernising the Charities Act 2005 - Taxation Review Authority Powers and Procedures for Charities Act Appeals](#) [PDF, 1.2MB]

Policy documents 2018-2019

- February 2019: [Modernising the Charities Act 2005 Discussion document](#) (PDF, 0.72mbs)
- February 2019: [Modernising the Charities Act 2005 Quick read](#) (PDF, 5.15mbs)
- February 2019: [Cabinet paper: Review of the Charities Act 2005: Release of Discussion Document](#) (PDF, 0.61mbs)
- February 2019: [Cabinet Social Wellbeing Committee Minute of Decision: Release of Discussion Document](#) (PDF, 0.64mbs)
- February 2019: [Cabinet Minute of Decision: Release of Discussion Document](#) (PDF, .62mbs)
- December 2018: [Review of the Charities Act 2005: Engagement Strategy](#) (PDF, 700KB)
- May 2018: [Terms of reference](#) (PDF, 217KB)
- May 2018: [Cabinet paper: Terms of reference to review the Charities Act 2005](#) (PDF, 731KB)
- May 2018: [Cabinet Social Wellbeing Committee Minute of Decision: Charities Act 2005 Review Terms of Reference](#) (PDF, 663KB)

Contact the team

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12 December 2022

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Kia ora koutou

Feedback on Draft National Action Plan under the Open Government Partnership

On behalf of our entire organisation, we want to convey how delighted we are to see the inclusion in the draft Fourth National Action Plan (NAP4) of *Commitment 3: Establish an integrated, multi-channel approach to public services and support*. As the Minister for Public Services, Hon Chris Hipkins, and Te Kawa Mataaho are aware, the CAB has been advocating in earnest for this approach to public service design and delivery for the past three years. The NAP4 reflects this by stating that the need for multi-channel access to support and services aligns with the Citizen's Advice Bureau New Zealand petition to 'Leave no-one behind – Campaign to address digital exclusion'.

We are pleased that the Open Government Partnership (OGP) process has provided a mechanism to progress this important aspect of open government. Ensuring people can access public services and support in a range of ways – online, face-to-face, and over the phone – is essential for social inclusion, civic participation, and trust in government.

We are confident that an integrated, multi-channel service delivery environment will improve people's access to their entitlements and their ability to fulfil obligations in respect of government. By creating integration – both between agencies and across channels – this will support all people to get the help they need in the ways they need it. It will have particular benefits for Māori who are significantly impacted by digital exclusion and have expressed the value of interacting *kanohi ki te kanohi*. It will prevent the individual and societal costs that result when people face barriers to getting the information and services they need, and will enhance social inclusion and individual and community wellbeing. It will also build resilience into public systems and services and protect against the risks of relying too heavily on digital services.

Citizens Advice Bureau New Zealand

Ngā Pou Whakawhirinaki o Aotearoa
Level 4, 93 Boulcott Street, PO Box 24249, Wellington 6142
Phone: 04 471 2735, Email: ceo@cab.org.nz



There have been various acknowledgements in government policy documents of the need for other channels to sit alongside digital services. However, to date, there has been no coordinated across-government initiative to make sure this happens. We are hopeful that this programme of work, undertaken in collaboration with civil society organisations, will result in transformative changes to public services in order to meet the diverse needs of all people in Aotearoa.

We note that the Department of Internal Affairs (DIA) has been named as the lead agency for Commitment 3. We look forward to working closely with DIA to progress this work programme. Given DIA has been leading the digital transformation process for government, we ask that the Minister provides DIA with clear direction about the requirement to broaden their scope. Our experience so far has been that DIA has struggled to accommodate a multi-channel approach alongside its deliberate emphasis on digital transformation, digital public services, and digital inclusion as a solution to meeting the needs of those who are not online. Championing an integrated, multi-channel design approach will require a mind shift, as well as an extension of the previous framing of Paul James' role as Digital System Lead.

It is essential that DIA is supported through an adequate budget allocation to carry out this work and implement identified solutions. This includes being able to resource civil society partners and others as part of the research, co-design, piloting and implementation phases. We understand from other civil society organisations that a lack of resourcing has been one of the fundamental failings of previous national action plans under the OGP. Without the necessary resources to implement the Commitments, government agencies are unlikely to engage as genuine partners.

Thank you for the opportunity to participate in the OGP process so far and we look forward to continuing this mahi.

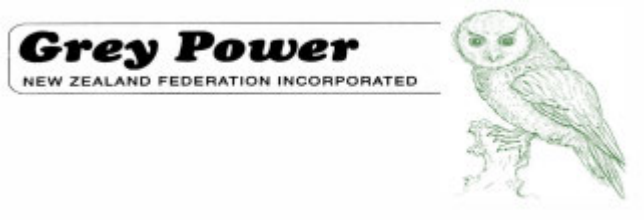
Ngā mihi nui

A handwritten signature in blue ink, appearing to read 'Sacha Green'.

Sacha Green
National Advisor – Legal & Strategic
Kaitohutohu ā-Motu – Te Ture me Ngā Rautaki

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[today.msg](#)

COMMENTS ON THE FOURTH OPEN GOVERNMENT PARTNERSHIP NATIONAL ACTION PLAN 2023-24

DATE 9/12/2022

1. Introduction

1.1 This submission is made on behalf of the **Grey Power New Zealand Federation Inc.**

1.2 The contact is

Jan Pentecost

9(2)(a)

privacy

1.3 The Grey Power New Zealand Federation (Inc) is a non-sectarian and non-party political, advocacy organisation that aims to advance, promote and protect the welfare and well-being of older people.

1.4 The Grey Power New Zealand Federation (Inc) is made up of some 73 individual Associations with an overall membership of approximately 50,000.

1.5 An Open Government Partnership (OGP) National Action Plan (NAP) is a group of commitments to be delivered during the plan implementation period. The journey to develop this fourth New Zealand Plan began in 2019 and included public consultation. Its commitments are about a genuine, inclusive partnership between civil society and the public service. The aim is to strengthen democracy, build trust, and improve wellbeing.

NB: The **Open Government Partnership** (OGP) is an international agreement by governments to create greater transparency, increase civic participation and use new technologies to make their governments more open, effective, and accountable. New Zealand joined the OGP in 2013, with the Te Kawa Mataaho | Public Service Commission taking the leadership role for the Government.

[\(https://www.publicservice.govt.nz/news/have-your-say-draft-fourth-national-action-plan-consultation/\)](https://www.publicservice.govt.nz/news/have-your-say-draft-fourth-national-action-plan-consultation/)

1.6 The Grey Power NZ Federation wishes to comment on commitments 1, 2 and 3 of the Fourth Open Government Partnership National Action Plan 2023-24 (draft).

2. Comments:

2.1 **National action plan commitment 1** is to adopt a community engagement tool by the Public Service of the Policy Community Engagement Tool (PCET) to lift the quality of community engagement.

Grey Power specifically believes that policy decisions, resulting from an inclusive and collaborative process, to achieve more credibility is worthwhile. And that requiring Public Service agencies to use the Policy Community Engagement Tool will improve how they design such engagement from the outset.

2.2 **National action plan commitment 2:** is to research and trial deliberative processes for community participation.

Grey Power considers that strengthening the range of available options for public participation is essential and we note that public authorities from all levels of government overseas increasingly use citizens' assemblies, juries, panels, and other representative deliberative processes to tackle complex policy problems (ranging from climate change to infrastructure investment decisions).

Grey Power agrees with the comment in the draft Fourth National Action Plan 2023/2024, p.13 that there is currently little use of deliberative processes in New Zealand. Consequently, there is an opportunity to improve community participation over a range of topics by government agencies and communities trialling and experimenting with deliberative processes.

Grey Power strongly recommends that a toolset and process that promotes true public engagement instead of the current method of requesting comments post policy development be implemented regarding commitments 1 and 2.

2.3 National action plan commitment 3 – To establish an integrated, multi-channel approach to public services and support.

Grey Power has supported the Citizens Advice Bureau New Zealand petition to ensure that no-one is left behind because they cannot or do not wish to engage online and we agree that it is essential that accessibility and inclusion standards for public services that include offline channels in the present and the future need to be provided.

We also support the Better Later Life – He Oranga Kaumātua 2019 to 2034 strategy which promotes the intent of this commitment that people who do not use technology can still access the services they need; that different ways of accessing government services that meet the needs of all older people are required.

Thus, the provision of integrated, multiple channels for public service delivery which will include options to meet the diverse needs of all the people of Aotearoa to ensure access for all to public services and support is extremely important to Grey Power – older people are a cohort that are particularly disadvantaged; many are digitally excluded and are unable to access public services. In fact, research discloses that people over 75 years of age are much less likely to use digital devices than their younger cohorts. In the 65-74 age group the percentage of non-users is 10 percent, in the 75-84 age group it is 25 percent and for those over 85 years of age the rate is 50 percent. (World Internet Project New Zealand Internet in New Zealand in 2017

- https://workresearch.aut.ac.nz/data/assets/pdf_file/0009/174915/WIP-2017.pdf

Therefore, the implementation of this commitment will address the barriers people face when government services are delivered online.

As Lips et al found in 2020, they face barriers such as lack of access to computers and the internet, limited digital literacy, general literacy difficulties, various disabilities, lack of motivation to be online and privacy and security concerns. This prevents them from accessing public services which are a vital function in their everyday lives and many of this group are frightened and stressed; they are incredibly anxious, because they have no idea how they will manage their affairs independently in the future.

Grey Power is, of course, aware that although its cohort of interest is vulnerable older people this is not only an older persons' issue it is a public service issue that goes to the heart of effective, efficient public service delivery. "This requires [government to] maintain multiple coherent service delivery channels, such as digital, in-person and telephone as a key aspect of resilience." Consequently, this commitment must be taken up as a whole-of-government issue, through a system leader approach and / or with Te Kawa Mataaho as the lead agency. The existing fragmented, ad hoc system must be changed (<https://trustdemocracy.nz/wp-content/uploads/2022/10/OGP-CSO-letter-to-Minister-Hipkins-07-10-22.pdf>)

NB: References throughout these comments have been utilised from the Fourth Open Government Partnership National Action Plan 2023-24 (draft).

3. Summary:

The Grey Power NZ Federation Inc. is pleased to have the opportunity to comment on this Fourth Open Government Partnership National Action Plan 2023-24 (draft) and we request that adequate, targeted funding, a specific allocation of resources and integration across public service agencies is provided to implement the commitments so that this plan does not just end up as a wish list.

This is important because several civil societies have commented that government national action plans are weak and that successive action plans have been treated by agencies as a set of commitments that just need to be ticked off rather than as tools to transform how government works with the public and civil society. Ministerial leadership will be needed to change this behaviour. (Letter to Minister Hipkins from the NZ Council for Civil Liberties, Internet NZ, Transparency International, Citizens Advice Bureau, Member Environment and Conservation Organisations of NZ, Trust Democracy and Network Waitangi Ōtautahi.

Commitment 1: Adopt a community engagement tool

Community engagement relies on trust and having modes of engagement that are accessible and easy to use. A “tool” that sets up a digital only model that isn’t accessible or available to more than 20% of the population would fail on both counts.

Top priorities need to be

- Improving Accessibility of Government Communications
- Resourcing community groups such as Citizens’ Advice Bureau who help people in Aotearoa overcome digital exclusion barriers
- Resourcing community groups such as Disabled Person’s Assembly and Maaori community groups and marae who provide alternatives to digital channels to support community engagement, representation and advocacy

Commitment 2: Research deliberative processes for community engagement

No. Work through a process of community led collaboration and codesign on what is needed and how to do it. There is already a wealth of information and examples within community circles and public sector agencies within Aotearoa of this being done. Don’t re-invent the wheel and don’t look to overseas for what is already here.

The Wellington based iwi and their use of citizen assemblies (Talanoa/Wananga) to work is good but BZ Government also needs critical voices on what should be done differently or better. Recommend Tina Ngata for one view, Anjum Rahman and Inclusive Aotearoa Collective and The Workshop for others.

Commitment 3: Establish an integrated, multi-channel approach to public services and support

Yes. Government needs to ensure resources are allocated to successfully carry out this work of supporting a range of channels for engagement and information, including and not limited to

- Resourcing community groups such as Citizens’ Advice Bureau who help people in Aotearoa overcome digital exclusion barriers
- Resourcing community groups such as Disabled Person’s Assembly and Maaori community groups and marae who provide alternatives to digital channels to support community engagement, representation and advocacy
- Making a commitment to and resourcing provision of NZ Sign Language in

Government info videos

- Providing Braille versions of consultation documents
- Requiring electronic documents and emails to be accessible for blind and low vision people including labelling images for screenreaders and providing documents in Word and/ or read online not just as PDFs. PDFs are NOT accessible.
- Supporting or paying navigators who help people with learning delays or other communication needs.

Endorse the aims of the Citizen's Advice Bureau New Zealand petition to 'Leave no-one behind – Campaign to address digital exclusion' but want more provision for people who would still be excluded through poor understanding of digital needs, and through issues of housing insecurity and poverty. More resourcing should be provided to libraries, marae and other community spaces for digital devices and assistance for those who can use devices with help but who lack access to them.

Commitment 4: Design and implement a National Counter Fraud and Corruption Strategy

One way to enhance fraud and corruption monitoring is to enable the public to have greater access to information and means to require evidence and documents to be presented. The Government should ratify the Aarhus Convention on sharing Environmental Information.

Whistleblower protections help but more scrutiny is needed. This could include implementing recommendations of the Chief Ombudsman with respect to OIA improvements and to also extend LGOIMA provisions along similar lines.

See also calls to Overhaul the OIA

<https://amnesty.org.nz/joint-calls-overhaul-oia>

Commitment 6: Improve Government Procurement Transparency

Definitely need to improve GETS and other Procurement channels but even more so, require agencies to follow them.

Look at recent allocation of \$5M by CreativeNZ to private sector company that had raised concerns with Callaghan Innovation. CreativeNZ didn't appear to follow

procurement consultation guidance and this has resulted in public misturst of decision.

<https://thespinoff.co.nz/pop-culture/05-12-2022/cnz-just-picked-embattled-agency-we-are-indigo-for-a-5m-digital-arts-platform>

.
Government should work with NZ tech industry group NZRise on better rules for procurement.

<https://nzrise.org.nz/sustainable-procurement-new-zealand/>

Commitment 7: Strengthen scrutiny of Official Information Act exemption clauses in legislation

Definitely Yes.

<https://www.rnz.co.nz/news/on-the-inside/480307/chief-ombudsman-s-oia-inquiry-another-pointer-to-govt-s-lack-of-transparency>

and

<https://www.stuff.co.nz/national/129170465/gagging-the-official-information-act-why-new-secrecy-clauses-are-a-worry>

Recommend Government work with NZ Council for Civil Liberties or similar civil society organisations on this

Commitment 8: Improved transparency and accountability of algorithm use across government

Objective

To strengthen the transparency and accountability of algorithm use across government through improved supports to implement the principles of the Algorithm Charter for Aotearoa New Zealand.

Yes and work with experts on Maaori Data Sovereignty on meeting their needs too.



Hon Chris Hipkins
Minister for the Public Service
c/o Public Service Commission | Te Kawa Mataaho
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2 The Terrace
PO Box 329
Wellington 6140

By email: xxxxx@xxxxxxxxxxxxxxxxx.xxxx.xx
x.xxxxxxx@xxxxxxxxxxx.xxxx.xx

12 December 2022

Dear Mr Hipkins,

Draft of Aotearoa's Fourth Open Government Partnership National Action Plan

1. We are writing to provide our comments on the draft of New Zealand's fourth National Action Plan (NAP) as a member of the Open Government Partnership (OGP).
2. The Council's response follows the structure of the draft NAP. However, we also urge the government to take advantage of the OGP's rules on 'challenge commitments' and add the commitment on co-creation of a National Interest Analysis of the Aarhus Convention to the NAP next year.

Introduction to the Plan

3. We are disappointed that, unlike previous NAPs, the draft NAP does not contain a ministerial foreword, as this is a valuable opportunity to signal ownership, leadership and expectations.
4. The very first sentence of the Plan's *Introduction* highlights the Te Kawa Mataaho's fundamental misconception of what the OGP is about. It seems to believe open government is about the Public Service, not the public, communities, civil society, local government, nor even government.
5. The second paragraph boasts about the Official Information Act (OIA) in a way that is oblivious to the history of the OIA in the context of OGP and previous New Zealand NAPs. Successive NAPs have failed to do anything of substance with regard to the OIA. No commitment was included in the third

NAP to strengthen the Official Information Act. Instead there was a weak commitment to consult on whether a review of the Act was needed. We continue to see poor behaviour by agencies and ministers with regard to the OIA despite the Commission's OIA Forum and publication of statistics.¹ The Commission itself has failed to comply with its duty to foster open government, by not seeking requesters' input into the advice it provided earlier in 2022 on an overhaul of the OIA statistics and publication of Cabinet papers. We highlighted the problem of secrecy clauses overriding the OIA in our briefing to you of December 2021. In spite of this, the commitment in this NAP relating to this issue does not include work to repeal or amend any of these clauses. In this context, trying to claim any credit for the OIA and its operation in the *Introduction* to this plan is quite strange.

6. The *Introduction* would be improved by focussing on the Public Service Act 2020 and its values and principles. The text does not even mention these. The Act's requirement for long-term insights briefings is welcome, but the processes for creating them and for stimulating public discussion leave a lot to be desired. For example, we note that Te Kawa Mataaho officials who were developing the Commission's LTIB on public participation refused a request from our Deputy Chair that they run a session with the civil society participants in the OGP NAP development process. This would have been a positive thing to cite in the *Introduction*. The OGP work is a major opportunity for the Government to give effect to the principles and values in the Public Service Act, and the failure to have situated NAP4 in this context undermines the assurances the Council and other CSOs received from the Public Service Commissioner at their meeting with him in June 2021.
7. The 4th NAP is an opportunity to build on commitments in previous NAPs, but the only place where this is made explicit in the *Introduction* is for engagement toolkit commitment in paragraph 4. The *Introduction* should explain the history of the other commitments – these are not the first commitments on the OIA, or the Algorithm Charter, or on publishing procurement data.
8. Likewise, we are disappointed by the failure of the *Introduction* to provide an update on commitments under previous NAPs. The Council believes this context is important and that people will be interested to know what is going to happen to commitments that were not completed (e.g. the creation and maintenance of an authoritative dataset of agencies that was commitment 11 in NAP3), and to know if there have been open government gains from previous commitments. This should explicitly draw upon the comments and recommendations made in the reports of Aotearoa's IRM reviewer, as they are an important part of the context for the new NAP.

¹ Documented by the Ombudsman in his September 2022 reports. <https://www.ombudsman.parliament.nz/news/ombudsmans-oia-probe-uncovers-significant-gaps>

Expert Advisory Panel's observations

9. The Council has repeatedly stated that the Public Service Commission's Expert Advisory Panel (EAP) does not meet the OGP's requirements for a genuine Multi-Stakeholder Forum (MSF), and we comment further on this issue in the section at the end of the plan on establishing an MSF.
10. The Council nevertheless welcomes the government's inclusion of the Advisory Panel's observations on the NAP creation process in the NAP.
11. The Council notes that the EAP "*recommended greater priority be given to the OGP and the authentic co-production of ambitious, potentially transformative commitments*". It is abundantly clear that, aside from Commitment 3 on multi-channel public services, the commitments in this NAP have not been co-created or co-produced, they are not ambitious and they are not transformative. We recognise that officials in Te Kawa Mataaho worked hard, but the turnover in staff during the NAP development period, combined with continuous failures of the department to steward institutional knowledge regarding the OGP, means that their efforts were misguided and have consequently reinforced a tired old trope of government retaining power, and civil society criticising them for it. This is not what the 'partnership' in OGP looks like when you read its guidance.
12. An underlying cause of the issues raised by the EAP is that after four NAP creation processes, it seems the Commission and government as a whole still does not understand the kaupapa and ethos of the OGP. The role you, as lead Minister, should play in the co-creation process does not seem to be understood. Nor is it apparent that the Commission knows how to leverage your and its own authority to ensure other government departments meet their responsibilities in the co-creation process.
13. To address this, Te Kawa Mataaho must invest in its officials, to ensure they are properly trained and have the skills to facilitate co-creation, as well as being adequately resourced to lead the high quality engagement with the public and multiple stakeholder groups that should be excited by the opportunity to get a project on a topic of their interest funded.
14. As the EAP contribution notes, civil society organisations (CSOs) wrote to you in March 2021 to highlight the importance of allocating sufficient funding to commitments. Without the incentive of bidding to be allocated additional funds to deliver commitments, other departments will regard engaging in OGP plans as additional work, with higher risks of public criticism, for no reward.
15. Without leadership and action to change the dynamic and incentives, it seems clear that this consistent record failure will continue, leading CSOs to decide that any work on OGP Action Plans is a waste of time and effort. We have structural weaknesses in civil society in Aotearoa, so any time allocated to OGP efforts comes with a significant opportunity cost. In the course of this NAP creation process, Hui E!, the Public Services Association, Child Poverty Action Group and Amnesty International have all withdrawn. It is apparent

from the drop-off in participation by officials from other government agencies that they too decided the potential benefits were not worth the work required.

16. The government should be under no illusion: civil society's trust in the NAP co-creation process has been breached yet again by the Commission and Commissioner during this NAP creation process and it will have to make major changes and put in serious effort to rebuild that trust.

Our Story

17. This section begins with a statement that is either inadvertently honest about who actually developed NAP4, or is deeply confused about whether the public and CSOs were part of the MSF:

The Fourth National Action Plan was developed by the Multi-stakeholder Forum (MSF), consisting of the EAP and officials from the Commission's open government partnership team.

18. If the former, we think this gives the EAP too much credit, since it is clear that the commitments in the NAP have been determined, with the exception of commitment 3, entirely by government departments. If the latter, it is seriously in error as neither the EAP nor the arrangements for public and civil society participation in the NAP development process are a multi-stakeholder forum according to the OGP's Independent Reporting Mechanism's reports.
19. Other use of the term 'Multi-stakeholder Forum' or 'MSF' also indicates that the Commission seems to think that the membership of the EAP is comprised of people *representing* various sectors of society, when in fact the EAP's terms of references are clear that people appointed to it by the Public Service Commissioner for their personal skills and knowledge alone.² The appointment criteria make no reference whatsoever in the list of candidates' attributes to the person needing to be empowered to represent an organisation or sector. Therefore EAP members are not representatives of any organisation, let alone a sector of society. The terms of reference go on to say that,

The EAP will be accountable for providing expert advice about OGP National Action Plan development and delivery to the State Services Commissioner.

20. People appointed in an individual capacity by the Commissioner and who are accountable to the Commissioner can in no way be described as representatives of anyone else besides themselves. The Expert Advisory Panel is therefore just that, a panel of people who know about open government, not a Multi-Stakeholder Forum. If the people appointed were stakeholders of a multiple number of sectors, they would be put forward for

² New Zealand Open Government Partnership Expert Advisory Panel Terms of Reference, September 2018. <https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf>

membership by those sectors, and be accountable to the people who put them forward, not the Commissioner.

21. This section continues with another inaccurate statement:

Following significant public workshops and engagement with civil society representatives in 2020 and 2021, in October 2021 the Minister for the Public Service identified four key themes for the Plan.

22. The Minister did not ‘identify’ those themes for the Plan. They were identified by Commission officials following discussion with the EAP and CSOs, and proposed to the Minister in the *joint* report to him of 22 October 2021.³ All the Minister did is confirm that he found those suggested themes acceptable.

23. Page 8 of the draft NAP, and the timeline on page 9, describes development of the plan with an assertion that the workshops held in April-May 2022 and the two meetings in July 2022 were “public”. This has the potential to be quite misleading both to the OGP and to New Zealanders.

24. If the use of the word ‘public’ is only meant to imply there were no restrictions on what attendees could say after the meetings about what took place, this would be accurate, but misleading in the context in which these statements are made in the ‘Our Story’ section on development of the NAP.

25. If this is meant to imply that the public were able to participate in these meetings it is simply false. No statement made by the Commission made in advance of the workshops and meetings indicated they were open to the public.

26. In its *OGP Update for March 2022*, the Commission stated:

Developing the next National Action Plan Workshops with our Expert Advisory Panel (EAP), civil society groups (CSOs) and government agencies on the fourth National Action Plan will now start in April.⁴

27. There is no indication that members of the public could attend the meeting, nor that the meeting would be livestreamed to people who could listen to the discussion but not participate. Similarly limited participation references were made in the 27 April, 17 May, and 23 June updates published by the Commission.⁵

³ Note recommendation (a) on page 2, which states “Note the advice in this joint report has been developed with the OGP expert advisory panel (EAP), a range of civil society organisations (CSOs) and government agencies”.

⁴ *OGP Update for March 2022*, Public Service Commission, 30 March 2022 <https://ogp.org.nz/latest-news/ogp-update-for-march-2022/>

⁵ See links to these updates from this page: <https://ogp.org.nz/latest-news/>

28. In a document dated 4 May 2022, distributed by the Commission to CSO participants in the April-May workshops on 26 May 2022, and entitled *Fact sheet: Open Government Partnership New Zealand*, it states in regard to the NAP development process:

NAP4 April-May 2022 workshops with our Expert Advisory Panel, civil society groups, and government agencies are underway.

29. Similarly, the agenda for both the 6 July and 13 July 2022 meetings, distributed by the Commission on 5 and 12 July, state that the meetings are between:

Meeting: *EAP, CSO and Officials Meeting*

30. The Council recommends the government amend the NAP to correct the statement that the meetings were ‘public’. The only public workshops during the NAP development process occurred in 2020 and early 2021, when ideas for commitments were collected at events organised by the Commission.

Te Tiriti o Waitangi

31. The Council welcomes the inclusion of a section headed ‘Te Tiriti o Waitangi’. This is welcome. However, recognition that Te Tiriti o Waitangi had to be addressed in Aotearoa’s OGP work only came about because of civil society insistence that this issue must be addressed. We are deeply concerned that nine years after the country joined the OGP, Te Kawa Mataaho does not have structures, mechanisms or relationships in place for significant Māori involvement in the development of National Action Plans.
32. We are also concerned by the Commission’s reluctance to show leadership on this issue. Its approach seems to be that honouring Te Tiriti obligations in the design and implementation of commitments was something that was only the responsibility of the departments or agencies that would lead the individual commitments, and that it had no role to ensure this happened. This may align with the accountabilities set out in section 15 of the Public Service Act, but section 14 places obligations on the Commissioner and says he has “responsibility for developing and maintaining the capability of the public service to engage with Māori and to understand Māori perspectives”. As the person to whom chief executives are accountable, the Commissioner can and should play a more active leadership role in ensuring commitment lead agencies honour Te Tiriti obligations in the design and implementation of NAP commitments.
33. The Council welcomes the fact that each commitment contains a section on Te Tiriti, but these are bland statements of aspiration and possible outcomes. They do not address key questions such as:
- How can honourable kāwanatanga be applied through the planning and implementation of the NAP4 and OGP commitments (Article 1).

- How can tino rangatiratanga be enhanced through the commitment (Article 2)
 - How can equality and equity be enhanced particularly for Māori through the commitment (Article 3).
34. This is likely due to the failure of commitment lead agencies to work with CSOs between mid-July and September 2022 to draft the commitments. If the government is to demonstrate that it takes Te Tiriti obligations seriously, lead agencies will have to work with Māori to develop answers to these questions as part of preparing their detailed commitment implementation plans.

Draft Commitments

35. While the Council particularly welcomes commitment three in this Action Plan, overall this draft NAP is the latest in a series of disappointing and unambitious OGP action plans, produced by successive New Zealand governments, that have been filled with programmes of work which were either already taking place or already planned to take place. CSOs' suggestions for strengthening commitments have mostly been ignored, which leads not only to questions about why civil society should lend credence to this work by participating in action plan development, but why New Zealand is a member of the OGP in the first place. The action plans have consistently failed to demonstrate what value is added by being a member of the OGP. The government spends \$250,000 per year on membership fees for this organisation but does next to nothing to learn from other countries, does not invest in the knowledge and skills to co-create plans with civil society and the public, does not incentivise departments to take part by providing additional funding, and then wonders why it's not getting any rewards or plaudits for the money spent. Neither the government nor the public are getting any serious return on this investment, and the starting point for changing this has to be what you said you wanted in March 2020: a *"much more ambitious plan"*.
36. A number of commitments contain milestones with start dates of January 2023. This is completely unrealistic, as no substantive work begins in the public service until the beginning of February, when everyone has returned from their summer holidays. The start dates should be in February 2023, with the end dates also put back a month, so that the full time period estimated for each milestone is actually available for the work.
37. The Council notes that the NAP does not use the OGP's template for commitments, and reverts to the poor structure of previous NAPs. This is very strange, considering Te Kawa Mataaho was using the OGP template earlier in the process. We note that in September 2022, CSOs provided officials with completed OGP templates for each commitment.
38. The failure to use the OGP's template is contrary to its requirements, and serves Aotearoa poorly. The OGP's change to the commitment templates was made in order to assist members with improving the quality of commitments by requiring greater explanation of the 'theory of change' or 'intervention

logic' for each commitment. This includes a proper problem definition (which is different from the 'status quo' statements in the NAP), analysis of the causes of the problem, a statement of the desired outcomes, as well as how each commitment will promote transparency, foster accountability and improve citizen participation in defining, implementing and monitoring solutions. The quality of the commitments in the draft NAP has therefore suffered from the government not using the OGP's template. Since Te Kawa Mataaho actually used the OGP template themselves earlier in the process, the shift away from them suggests that they couldn't be completed by commitment lead agencies in the time available. Running out of time in spite of being given an additional year to develop the plan is not satisfactory.

39. Throughout the NAP, government has rejected CSO recommendations that the work on each commitment be guided by a joint working group of agencies, civil society and iwi (with inclusion where relevant of other stakeholders). The claim that agencies are not resourced for this is both an unacceptable failure to comply with the statutory duty to foster a culture of open government and indicates profound ignorance of what the OGP is about, even after nine years of membership. The OGP itself states in relation to implementation of NAPs:

Once the action plan has been submitted, the real work starts: Implementation. There are a few options during this phase. Business as usual: government implements, civil society criticizes. Or the version where both sides build a partnership, working together, setting up on-going coordination mechanisms, drawing on each-others expertise. A hybrid, with some organizations on the inside and a few others on the outside undertaking monitoring efforts is the third option.⁶

40. The OGP's *National Handbook*, which sets out the rules and guidelines for OGP members says:

Evidence from IRM reports and OGP's Decade Report show that continued stakeholder dialogue and participation during the implementation process is strongly correlated with high levels of completion and stronger results.⁷

41. The Council is deeply disappointed that the government has, yet again, opted for what the OGP describes as 'business as usual': with government implementing and civil society criticising. For an agency that continually talks about the 'Spirit of Service' and boasts about levels of public trust in the

⁶ *Action Plan Cycle*, Open Government Partnership.
<https://www.opengovpartnership.org/process/action-plan-cycle/>

⁷ *OGP National Handbook: Rules + Guidance for Participants*, Open Government Partnership. Page 27. <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022/>

public service Te Kawa Mataaho has a strange way of trying to serve the public and strengthen levels of trust.

Commitment 1 – Community engagement tool

42. The Council agrees with making use of the Policy Community Engagement Tool (PCET) compulsory across the public service. This is implied both by the use of the word ‘requiring’ in the ‘Ambition’ section, and in the undertaking to ‘Develop a model standard’ in the second milestone. However, we are worried that nothing in the draft commitment indicates that Te Kawa Mataaho will itself model good practice by involving civil society and interested members of the public in the delivery of this commitment. In our view, not to involve people outside government in the development of outputs promised in this commitment means the Commission itself is failing to comply with its statutory duty to ‘foster a culture of open government’. We met with the Public Service Commissioner in June 2021 to reiterate that work on the OGP commitments had to model fulfilment of the duty to foster a culture of open government and the Commissioner agreed with this proposition. To see this abandoned calls into question whether the Commission has been acting in good faith.
43. The Council believes the NAP should be explicit that the PCET will be a standard issued under section 17 of the Public Service Act 2020. Standards under section 17 are about public service conduct, and can include matters relating to the section 12 public service principles. Public engagement activities are clearly a matter of public servants’ conduct, and linked to the public service principle of ‘fostering a culture of open government’ set out in section 12(1)(d) of the Act.
44. Milestone 1 for this commitment states that the PCET will be reviewed. The review should include input from people outside the public service who were involved in the public engagement exercises where it was used, and the results of the review should be published. Wording of the commitment should be amended, as experience with previous NAP commitments indicates that unless this is stated explicitly we cannot rely on this happening.
45. The draft commitment states that the PCET will be required for community engagement on ‘significant initiatives’. What ‘significant’ means is undefined, which is problematic. Aside from decisions on individual cases, government policies and decisions are nearly always significant for a significant number of people and communities. One of the reasons why the commitment outputs must be developed with civil society and public input is so that people outside the public service have input into the definition of ‘significant’ in the model standard.
46. We support the re-establishment of a community of practice (CoP) – the State Services Commission previously facilitated one until 2008 – and believe that the commitment should explicitly state that membership of the CoP is open to people working outside the public service, in civil society, academia, and the private sector. Government departments are clearly short on expertise and

skills regarding this key issue – as demonstrated by Te Kawa Mataaho hiring external facilitators for development of this and the previous two NAPs – so its CoP can only be strengthened by including external experts.

47. The establishment of a CoP is not sufficient to achieve the desired outcomes of *“lift[ing] the quality of community engagement”*. Significant additional measures will be required to improve the government (and communities’) practices around public engagement. The commitment should be strengthened by adding in design of the awareness raising, training, principles for revision of departmental strategies, policies and practices.
48. The Council strongly supports calls made by civil society groups during development of the NAP for the commitment to be extended to include co-creation of mandatory minimum standards for government consultation exercises. Since the UK had an all-of-government Code of Practice on public consultation more than 20 years ago, we were shocked by Te Kawa Mataaho’s claim to ministers that *“it is too early”* to do this. On the contrary, it is long overdue. The *Introduction* to the NAP talks about lifting the quality and consistency of community engagement. To do so, co-design and adoption of minimum standards on consultation exercises is a vital basic step towards improving the public service’s performance on the low end of the IAP2 Spectrum of Public Participation. Inclusion of a milestone and deliverable on this issue would be a key initiative to actually strengthen agencies’ practices – which would benefit them and members of the public – which is the intent of the OGP, after all.
49. In our joint letter to you of 7 October 2022, we also appended examples of what such a standard for public consultation could include. The government says it wants to move its engagement practices up the IAP2 Spectrum of Public Participation. But if it is unwilling to strengthen practices at the lower end of the spectrum, why should anyone have confidence that its work at the upper end of the spectrum will be high quality. Time and effort must be dedicated to laying solid foundations first.

Commitment 2 – Research deliberative processes

50. The Council finds bizarre the statement in the ‘Status Quo’ section that, *“The final audience for this work is agencies to support capability development and share lessons learnt”*. It shows, yet again, a profound misunderstanding of the OGP, which is not just about the public service but all New Zealanders, including communities, organisations and local government. The ‘audience’ is clearly much broader. As noted above regarding Commitment 1, this has implications for the creation of a community of practice, and further demonstrates why this must have much more inclusive membership criteria than government officials.
51. In view of the underfunding of NAP commitments, it is clear that the deliberative processes identified for this commitment will not be organised by government agencies. ‘Mining’ these deliberative exercises solely for the government’s education would be extractive and therefore unethical. The

commitment should therefore make clear what the public service is prepared to contribute to any public sector/civil society/community work that is undertaking a deliberative exercise. At the very least, Te Kawa Mataaho should commit to paying for independent process evaluation that is then published.

52. The commitment should be strengthened by responding to the civil society request that a multi-stakeholder oversight group be convened to guide the delivery of this commitment. This will be key for milestones 2, 3 and 5.
53. Milestone 3 states that it will “*evaluate the deliberative processes pilot*” (which, since the commitment refers to ‘at least two examples’, should be plural, not singular) to identify the lessons learnt. The commitment must specify that the evaluation will be published, so that the lessons learnt are shared with all.
54. Milestone 5 states that it will “*Identify future projects to use deliberative processes*”. The milestone should be strengthened to state that work will be done to design a fund open to all organisations (government, local government, community) to support the use of deliberative processes.
55. The fact that the commitment is only about researching deliberative practices being used by others, and not the establishment by government of projects that will use them, is another indication of what happens when government does not act on CSOs’ calls for money to be put aside to fund OGP commitments.

Commitment 3 – Multi-channel public services

56. The Council strongly supports this commitment. We have for some time been concerned about equitable access to public services by those who choose not to use digital channels, as well as those who are excluded for economic or accessibility reasons. Coherent, well-funded work is critical.
57. We are pleased that this commitment at least includes establishment of a cross-agency, civil society, and iwi working group. For this working group to succeed, civil society and iwi members of the group must be paid for their time, both at meetings and for work done in support of the commitment outside those meetings. To deliver this commitment, an ‘open’ approach to implementation will be essential. This would be consistent with the existing government Digital Service Design Standard principles such as Principle 1, “*Identify your users and understand their ongoing needs*” and Principle 7, “*Work in the open*”.⁸
58. Crucially, successful implementation will depend upon adequate funding for the work. We have seen too many commitments in previous NAPs lack in ambition, or fail to be delivered, due to the absence of additional funding

⁸ Digital Service Design Standard, <https://www.digital.govt.nz/standards-and-guidance/digital-service-design-standard/>

being allocated specifically for work on the commitment. This cannot be permitted to re-occur here. We expect the government to both invite and approve a budget bid by DIA to deliver this commitment.

Commitment 4 – National Counter Fraud and Corruption Strategy

59. The Council supports the intent of this commitment, but we see no indication of civil society participation in implementing it. Unless the commitment is amended to include CSO and other stakeholder participation, this should not be an OGP commitment.
60. The commitment is confusingly worded. The ‘Ambition’ section of the commitment refers to ‘Phase One’ of the strategy, and then says “*Future development of the strategy may include business and the private sector*”. The commitment needs to have a milestone relating to a ‘Phase Two’ for this future development of the strategy.
61. The Council hopes that Te Kawa Mataaho will be commissioning and publishing a post-implementation review of the Protected Disclosures (Protection of Whistleblowers) Act 2022. The commitment could be further strengthened by making an explicit connection between development of the strategy and learning from this review.

Commitment 5 – Beneficial ownership

62. Again, the Council supports the intent of this commitment, but again it does not belong in the NAP if civil society does not have an active role in delivering this commitment. MBIE’s complete failure to engage with civil society during the detailed commitment design stage of this NAP’s development (between mid-July and September 2022) indicates an unwillingness to work in partnership with civil society that is antithetical to the OGP’s ethos. It seems clear now that MBIE’s involvement in NAP4 workshops prior to mid-July 2022 was entirely defensive, to fend off proposals it did not already want to undertake. The government should not try to claim OGP credit for work that is not being designed or delivered in ways that not only exclude civil society but which would have been undertaken regardless of OGP membership. To do so will foster further scepticism (if not cynicism) about the OGP, when Aotearoa’s membership is already regarded by many as an ‘openwashing’ exercise.
63. The pre-existing nature of the project in this commitment is demonstrated by the milestones in the NAP showing that work on this commitment (milestone 1, drafting instructions for the legislation) commenced in September 2022, three months before this NAP will become ‘live’.
64. Unless the commitment is strengthened to ensure CSO and other stakeholder oversight of its delivery, non-public service input to the legislation will be limited to the eventual ability to make a submission to a select committee on the legislation. This is neither fostering a culture of open government, nor moving public service engagement with stakeholders up the IAP2 Spectrum.

65. Milestones 2 and 3 are both bizarrely shown as starting in January 2023. Since milestone 2 (drafting the legislation) must occur before milestone 3 (introduce the legislation) can commence, this needs to be fixed. Similarly, since Parliament does not sit in January, there is no way in which milestone 3 can begin then.
66. Access to information about beneficial owners is, like all access to official information, an exercise in weighing competing public interests. In this case, the privacy of owners against the public interest in being able to establish control over companies and partnerships to ensure compliance with laws. The MBIE work programme and commitment address the need to weigh these interests by stating that the public will only have access to a limited subset of the beneficial ownership data held by government and available to government agencies.
67. The European Court of Justice decision of 22 November 2022 on public access to registers of beneficial ownership in EU member states is that full public access was not an infringement on owners' privacy that had been adequately justified.⁹ This indicates that the government's approach to this may be prudent.
68. However, there has been considerable CSO and media disquiet with the ECJ's decision, since cutting off public access to the registers of beneficial owners means that they can no longer effectively investigate issues such as fraud, corruption and tax evasion. The commitment in the NAP needs to be strengthened by addressing this issue. First, by adding an explicit statement that experience to date shows that government agencies alone do not have the capacity to use all the data available to them in order to achieve the desired anti-corruption and fraud reduction outcomes. Second, by saying that the commitment therefore will explore – with civil society and media input – what is the minimum data needing to be published, as open data, to enable these key actors to play their part in investigating issues relating to corruption, fraud and tax evasion. This second statement needs to be reflected by adding a milestone for this work, which must be completed in time to inform the drafting of the legislation.
69. The government has demonstrated, in the Data and Statistics Act 2022, that it is willing and able to invest in building a system for deciding on researchers' applications to access the data held by Statistics NZ. Accordingly, this commitment should be strengthened to state that the legislative design stage will explore, with CSOs and the media, how such a mechanism for access to beneficial ownership data can be done in ways that enable connections to be made with other datasets (necessary to trace connections and actions that

⁹ *Anti-money-laundering directive: the provision whereby the information on the beneficial ownership of companies incorporated within the territory of the Member States is accessible in all cases to any member of the general public is invalid.* European Court of Justice media release, 22 November 2022. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-11/cp220188en.pdf>

may be unlawful). A process for applying to access the data must also have an independent complaints mechanism that can overturn decisions to refuse access.

70. The Council also supports Transparency International NZ's view that the commitment should be strengthened by having a milestone and deliverable for work to assess the risk posed to corporate governance by the use of trusts, and how to improve the transparency of their ownership and use.

Commitment 6 – Procurement information and data

71. Again, the Council supports the intent of this commitment – we proposed a commitment on this topic in our submission of 28 July 2021 – but given the value OGP places on participation and partnership, the NAP needs to be strengthened by requiring CSO, iwi, and other stakeholder involvement in implementing it. Again, we must point out that MBIE deliberately failed to work with civil society on the detailed drafting of this commitment in the mid-July to early September 2022 period.
72. Milestone one – design changes to the GETS application – must be strengthened to state that the design work will be undertaken with the input of civil society, iwi, media and representative groups from the private sector. This goes back to compliance with the government's Digital Service Design Standards on including users in the design of tools and services, as well as with the Public Service Act principle on open government.
73. Milestone two shows that this is a pre-existing work programme that has not been adapted in any way through inclusion in this NAP, because it has an end date after the end of the NAP lifespan. Failure to complete the work specified in milestone two by December 2024 will impact the ability of the OGP's Independent Reporting Mechanism to assess delivery of the commitment. The end date for milestone two should therefore be amended to end in December 2024.
74. Milestone two also needs substantial strengthening, to specify that the data gathered by the new 'integrated data system' will be published as open data. It is unacceptable that the 'Ambition' section of the commitment says only that the public will have access to procurement information "*via a suite of dashboards*". Since the commitment says that the data will be collected "*in alignment with the Open Contracting Data Standard*" the data should be published using this standard. The government will not achieve its desired outcomes regarding improved quality and value for money from public procurement if it limits the public only to dashboards, which are typically about visualising data, not publishing open data for re-use by others.
75. Milestone three needs to be strengthened in two ways. First by committing to pilot the system not just within the NZ Government Procurement team, but with a government department or agency outside MBIE. Second, by inclusion of an undertaking to publish the report on the piloting of the data platform and system.

76. Achievement of the government's desired outcomes would also be made more likely if the commitment were strengthened by requiring proactive publication of contracts and related documents, in line with the Open Contracting Global Principles.¹⁰ This would align well with the government's policy on proactive release of Cabinet papers and OIA responses. However, this policy needs to be underpinned by amending the Government Procurement Rules and any related legislation. Fundamentally, the government needs to embrace the principle that 'openness is the price of winning business from the public sector'.
77. If the government is not ambitious enough to do this immediately, the commitment could be strengthened by adding a milestone for the joint agency, civil society, iwi, media and private sector representatives to explore the issues involved in adoption of the Open Contracting Global Principles.

Commitment 7 – Secrecy clauses

78. The Council briefed you in December 2021 on the long-standing problem of successive governments introducing laws containing provisions that override the OIA. Such clauses are contrary to the clear intent of Parliament in enacting the OIA, section 5 of which states:

The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.

79. Every time the government relies upon the exception to the principle of availability, due to the phrase "*where that question arises under this Act*", by enacting secrecy provisions in other legislation, it is actively choosing to weaken the OIA. Crucially, it is also signalling that it does not trust Parliament's decision to empower the Ombudsman to make decisions on whether the disclosure of information would be harmful to the public interest.
80. While the Council is pleased that there is a commitment relating to this issue, it is also deeply disappointed by the weakness of the commitment.
81. Not only is there no reference to involving civil society in its delivery, but it does not include the other two key aspects of the civil society recommendation to you.
82. First, the commitment in the draft NAP is now weaker than the version that was circulated to us in advance of Cabinet considering it. The draft provided to us included the following statement:

¹⁰ The Open Contracting Global Principles, <https://www.open-contracting.org/what-is-open-contracting/global-principles/>

New legislation is scrutinised for compliance with the New Zealand Bill of Rights Act 1990. However, the Bill of Rights scrutiny does not recognise the Official Information Act 1982 as implementing section 14 of the Bill of Rights Act 1990 and Article 19 of the International Covenant on Civil and Political Rights.

83. This statement has been removed from the NAP published for consultation, even though it was entirely factually accurate.
84. The Council wants this commitment strengthened. We would prefer this to be done by simply including a statement that the government will assess new legislation that overrides the OIA against section 14 of the Bill of Rights Act. If it is not prepared to take this basic step to comply with international interpretation of Article 19 of the International Covenant on Civil and Political Rights, then a milestone should be added to the commitment. This should specify that the Ministry of Justice will convene a public event, perhaps in conjunction with the Law Commission and a university law school, and with panellists including those nominated by civil society groups, to discuss the amendment of Bill of Rights scrutiny of legislation to include assessment of section 14 compliance when new legislation will override the Official Information Act 1982 or its local government counterpart. The Ministry will produce and publish a report on the event and develop a joint submission to the Minister of Justice on the next steps.
85. Second, the commitment should be strengthened by including the other proposal made by civil society, that the government conduct a review of the existing secrecy clauses on the statute book and publish a report on which should be repealed and which amended. Failure to include this as a deliverable in the commitment signals not only that the government is not serious about reducing the official secrecy created over the years (with 20+ such provisions since October 2017 alone), but that by limiting the commitment to revised guidance for prospective legislation, it fully intends that further such secrecy clauses will be enacted in future. Is this really the signal that the government wants to send with its 4th OGP Action Plan?

Commitment 8 – Algorithm Charter

86. Yet again, the Council supports the intent of this commitment, but it needs amending to indicate how civil society will be involved in implementing it. This should not be an OGP commitment if civil society does not have an active role in overseeing delivery of it.
87. The commitment must therefore be strengthened by adding a preliminary milestone to establish a joint agency, civil society and Māori working group to oversee work on the commitment. Failure to create such a working group that includes Māori would seem to be a prima facie breach of sections 14 and 15 of the Data and Statistics Act, to accompany a failure to comply with the duty to foster open government.

88. The commitment also needs to be strengthened by amending milestone one to specify that the community of practice (or network) that will be created will include civil society, academics, private sector experts and interested members of the public.
89. The commitment should also be strengthened to make adoption of the Charter by all public sector agencies mandatory. The Council has long stated that the Charter is already too weak and that legislation is needed. It is quite unacceptable that even the low threshold of adopting a weak Charter is optional, at a time when the government says it is concerned about the use of algorithms and wanting to assure the public about their use within government departments and agencies.
90. Paragraph one of the 'Status Quo' section emphasises the independent review of the Algorithm Charter's first year of operation. In doing so it attempts to conceal that the Charter is several years old, and that a second and, just marginally, a third annual independent review should have been published by now. The Commitment should be strengthened by adding a new milestone for annual independent reviews of every agency's implementation of Algorithm Charter, and the degree of success that implementation has had on achieving the OGP Principles.
91. Paragraph two of the 'Status Quo' section claims a number of benefits for the Algorithm Charter: risk management policies, ethics committees, and stocktakes, amongst others. The Council notes that these benefits are not supported by the IRM, and therefore finds their assertion here to be suspect. The further claim that agencies have "been transparent with the public about the types of algorithms that are being used" is simply untrue. The Council believes that the reason that the IRM failed to substantiate the benefits claimed in paragraph two, is that the implementation of the algorithm charter is being performed behind a curtain of secrecy. The Council agrees with the IRM's assessment that a tiny handful of agencies have published a mere hint of information.
92. The commitment should be strengthened by adding a new milestone for every agency to make their algorithm risk management policies publicly available, and to keep them updated.
93. The commitment should be strengthened by adding a new milestone for every agency to establish an ethics committee to oversee algorithms. Each of those committees should include academic, iwi, and CSO representatives in addition to all of government experts from, for example, Statistics New Zealand. The membership of these committees, their decisions, and the minutes of their meetings should also be publicly available.
94. The commitment should be strengthened by adding a new milestone for government agencies to report on their use of algorithms in their Annual Reports.

95. The commitment should be strengthened by adding a milestone for government agencies to commission external audits of existing algorithms. Proposed new algorithms should also be externally audited before they are used. A schedule of annual audits should be established to establish public trust that the algorithms in use are the algorithms which were approved. All of these reports should be publicly available, with the pre-commissioning report for new algorithms published at least 30 working days before their first use.
96. Finally, the commitment should be strengthened by adding a new milestone for the lead agency, Statistics New Zealand, to conduct pre-implementation consultations for new algorithms, to commission an independent review of those consultations, and to prepare tools, guidance, and other supports so that other agencies are ready to commit to pre-implementation consultations in the next NAP.

Challenge commitments

97. Section 3.4 of the OGP's *National Handbook* sets out details of what the OGP calls 'Challenge Commitments'.¹¹ These enable countries to add one or two further commitments to their Action Plans after their formal adoption.
98. Challenge Commitments were introduced by the OGP in 2021 *"to enhance flexibility and allow countries that are implementing an action plan to respond to emerging national priorities by using the OGP platform and its participation and co-creation mechanisms"*.
99. Finalisation of Aotearoa's fourth NAP has been impeded by the failure of nearly all of the relevant government agencies to work with CSOs to draft the commitments between mid-July and early September 2022. The Ministry for the Environment did not speak to us at all before providing inaccurate advice that rejected even the idea of exploring the implications of accession to the Aarhus Convention.
100. The Council therefore believes that the government should take advantage of the opportunity presented by Challenge Commitments, and add one or two further commitments to the NAP in 2023.
101. Our first choice would be the commitment for civil society and government to co-create the National Interest Analysis of the implications of Aotearoa acceding to the UN's Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, known as the Aarhus Convention.
102. Environmental issues are continually emerging, and we highly doubt the OGP itself would reject Aotearoa proposing to add a commitment on this topic, given the OGP's own research has identified accession to the Aarhus

¹¹ *OGP National Handbook: Rules + Guidance for Participants*, Open Government Partnership, 2022. Page 27. <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022/>

Convention as a key way in which member countries can bolster open government approaches to addressing environmental challenges.¹² Latin American OGP members are already including commitments in their Action Plans to implement aspects of the parallel Escazu Agreement.

103. A second challenge commitment could adopt the Council's recommendation that a review be undertaken of the confidentiality terms imposed on external experts who serve on expert advisory groups across government. This was suggestion 8 in our submission of 28 July 2021. This issue continually affects the ability of CSOs who participate in government policy development work. Such confidentiality terms are, in our view neither necessary nor justified infringements on CSOs' freedom of expression rights, supposedly guaranteed under section 14 of the NZ Bill of Rights Act. Instead, they are designed to enable public servants to keep all the power in a policy development process. This is a clear open government issue, and one that is long overdue for the government to tackle.

Undertaking the Plan

104. The final section of the NAP contains three subsections: Implementation, The Multi-stakeholder Forum, and The Independent Reporting Mechanism. These are addressed below.

Implementation

105. The draft NAP states that:

Following the publication of the Fourth National Action Plan, the key stakeholders involved in the work under each commitment will continue to work on the implementation process. While the commitments may have milestones and specific outputs, the details of the specific activities required of stakeholders to realise the milestones will typically have more detailed plans.

106. As the Council has noted throughout this response to the draft NAP, it is very difficult to see how 'the key stakeholders' will be involved in the work, or the development of the detailed plans, given that – aside from commitment 3 – no mention is made in the commitments to the involvement of civil society or other stakeholders in the delivery of the commitment. Shockingly, this includes Te Kawa Mataaho itself, in spite of public participation being the subject of its own Long Term Insights Briefing and the two commitments it will lead being on the subject of public participation or 'community engagement'. As noted in our introductory comments, the OGP itself is very clear that governments can opt for 'Business as usual: government implements, civil society criticises', or it can invest in building a genuine partnership by setting up on-going coordination mechanisms to draw on each other's expertise.

¹² *Open Government Approaches to Environmental Justice*, Open Government Partnership, 2022. Pages 47-62. <https://www.opengovpartnership.org/documents/justice-policy-series-part-iii-accountability-for-democratic-renewal/>

107. The OGP now has 10 years of experience and data on the implementation of National Action Plans. It states that,

Evidence from IRM reports and OGP's Decade Report show that continued stakeholder dialogue and participation during the implementation process is strongly correlated with high levels of completion and stronger results.

108. The Council's experience of previous NAPs is that unless the commitments in the NAP are revised to specifically require civil society and other stakeholder participation in the delivery of commitments, this will not occur. Aotearoa's delivery of its Open Government Action Plan will then fall as short of the OGP guidance on delivery as it has on co-creation.

The Multi-stakeholder Forum

109. Statements made on page 29 of the draft NAP describe what a Multi-stakeholder Forum may be in the context of the OGP. It includes the sentence *"The Multi-Stakeholder Forum (MSF) is an established space for ongoing dialogue and collaboration between government and civil society representatives and lead the open government processes within a country."* As a statement of the model it is unremarkable.
110. What is really problematic is the statement on page 30 that *"During the first half of 2023, New Zealand's current MSF will be leading work on the design and establishment of a new Multi-stakeholder Forum."*
111. The assertion that New Zealand currently has a OGP-compliant MSF is simply untrue. The members of the EAP are not *"civil society representatives"* and they do not *"lead the open government processes"* within Aotearoa. The people appointed by the Commissioner as individual experts in matters relating to open government, are not representatives of civil society as a whole, nor even of any organisation they may lead or be involved with. Further, the EAP is only an advisory group and has no decision-making rights, so it cannot *"lead the open government processes"* in this country.
112. The Council is confident that if it and the other CSOs involved in the OGP work are not members of the purported current MSF, none exists.
113. Honesty is the first step in building trust between potential partners, so the government should simply be honest and state in the NAP that Aotearoa has not, up until now, had a genuine Multi-stakeholder Forum. A lack of honesty on this topic does not demonstrate good faith, which will be essential for the design and establishment of a Multi-stakeholder Forum.
114. Issues that must be addressed in the creation of a MSF include the following:
- Identification of the stakeholders
 - How a person may claim to be a representative of any stakeholder or sector of society that has a stake in the OGP work

- Evaluation of those claims – different sectors may have varying approaches to deciding who may legitimately claim to represent them
 - Obligations on representatives with regard to seeking input from those they represent, and reporting back to them
 - The functions, powers and decision-making rights of the Forum
 - Who chairs the Forum
 - Financial and resource support for the work of the Forum and paying members for their time
115. Development of this and previous NAPs has shown that while ultimate decision-making on the contents of a NAP rests in the hands of Cabinet, officials and ministers have been unclear on the role of the Minister for the Public Service in the process. This has led to failures of leadership, through a lack of participation in the co-creation work, a lack of visibility to other agencies that has led them to believe the OGP work can easily be ignored without consequences, and a lack of provision of ideas or negotiating brief to the officials undertaking the NAP development work on a day-to-day basis.
116. The Council firmly believes that the MSF must therefore be co-chaired by the Minister for the Public Service and a civil society representative. This would finally give meaningful effect to the word ‘Partnership’ in the title of the OGP.
117. Officials from the Commission and other government agencies should participate on the MSF as equals with civil society representatives, but this does not mean there should be an equal number of public servants who are members of the MSF as there are non-government members. Just as society is made up of greater number of people who are not public servants, the membership of the MSF should reflect this.
118. Māori, civil society and any private sector representatives on the MSF must be selected and appointed to the MSF only by the people and organisations they represent. There can be no question of public servants or the Minister vetoing who can serve on the MSF.
119. If the government wants the MSF to fulfil the role of ‘leading’ the open government processes in Aotearoa, and to take on the responsibilities described in the boxes on page 30 of the draft NAP, it is clear that the Forum will not be advisory, but executive. Te Kawa Mataaho’s role should be to provide the secretariat.
120. Civil society has had consistently poor experiences over the last nine years of Aotearoa’s membership of the OGP. If the government wants this membership to continue, and to have any meaning, the Council believes government ministers must have the courage to show leadership and require the creation of a truly empowered MSF.
121. The Council believes this is an essential action if civil society are to consider it worth their while to participate in the work again in future. Not only would this

move a key international commitment made by governments up the IAP2 Spectrum from the current sub-par 'consult' level towards the proper level of 'empower, but it would show Te Kawa Mataaho modelling expectations for the rest of the Public Service on giving effect to the duty to 'foster a culture of open government'. From a Te Tiriti o Waitangi perspective, the Crown would also finally be honouring its obligations in the OGP work. It would also be able to point to this when assessments are made of Aotearoa's progress on Sustainable Development Goal 16.7.

The Independent Reporting Mechanism

122. This section is weak. The Council believes that the shift in IRM products to include a *Co-creation Brief* being provided to government and civil society in advance of NAP development means that instead of only viewing the IRM as an accountability exercise that comes at the end of a NAP, this section should appear towards the start of the NAP.
123. This would also frame the update that the NAP should begin with, explaining how it will be addressing the insights and recommendations from not just the IRM report on the just-completed NAP, but on outstanding issues from all previous IRM reports. For example, this NAP completely fails to address the lack of completion for commitment 11 in NAP3, and how this could be addressed in NAP4.
124. With regard to NAP3 commitment 11, the IRM's March 2022 *Transitional Results Report* stated that:
- The Department of Internal Affairs has now scoped and identified resourcing required to deliver a two-phased implementation plan beginning in early 2022, involving Build and Release (phase 1) and Maintain and Develop (phase 2). Some of the required resourcing has been committed to Phase 1, with work ongoing to secure the remainder. The department is also working towards identifying a system owner for the dataset.*¹³
125. In spite of this, the Department of Internal Affairs has not communicated any information on progress to any of the non-government participants who voluntarily worked on implementation of this commitment between 2018 and 2021, and certainly not the 'two-phased implementation plan'. This is not good enough.
126. The section contains an inaccurate statement that "A key output of the IRM is the '*Transitional Results Report*', delivered at the end of the implementation of a National Action Plan." This highlights the loss of institutional knowledge about the OGP within Te Kawa Mataaho. First, the Transitional Results Report, as its name indicates, was an interim report format as the OGP's

¹³ New Zealand Transitional Results Report 2018-2021, Open Government Partnership, 2022, page 23. <https://www.opengovpartnership.org/wp-content/uploads/2022/03/New-Zealand-Transitional-Results-Report-2018-2021.pdf>

Independent Reporting Mechanism transitioned from an earlier assessment methodology to its current one. Second, the section omits to mention the IRM reviewer will first be producing an *Action Plan Review* that assesses the quality of commitment design and compliance of the process for creating the NAP with the OGP's standards. Finally, it also fails to mention that the IRM researcher will be producing a *Co-Creation Brief* ahead of the start of work on NAP5, to provide "*an overview of the opportunities and challenges for open government in a country context and presents recommendations drawing on lessons and examples from comparative international experience and previous IRM reports.*"¹⁴

127. This section should not only provide a link to where the IRM reports on Aotearoa's performance as a member of the OGP can be found on the OGP's website, but also to how the new IRM researcher, Dr Eppel, can be contacted by those interested in commenting on Aotearoa's OGP process and activities.

Conclusion

128. The Council, which has no paid staff, has actively participated in what we thought would be a 'co-creation' process to develop NAP4. We have donated hundreds of hours of volunteer time to trying to help the government comply with its OGP membership obligations. We have done so not for the sake of compliance, but so that the beneficial outcomes of compliance with the OGP's co-creation and participation standards could be realised, through commitments that are better designed and more ambitious because they were drafted together with CSOs and other stakeholders.
129. Many of the issues our submission highlights could and should have been worked through far earlier in the NAP development process. If the co-creation standards had been adhered to, we would not find ourselves in this tired old situation of attributing accountability for processes gone wrong, because higher quality participation would have resolved the issues earlier.
130. Some suggestions for the future, without which we may well not participate again:
- Create an MSF that has executive authority to lead NAP co-creation and oversee implementation (as detailed above);
 - Create an 'OGP commitment fund' in advance of the NAP development cycle, of between \$5-10 million, so departments are incentivised to participate instead of seeing it as a risk of being saddled with unfunded work; and
 - Put systems in place to safeguard institutional knowledge of the OGP, and to actively learn from other countries' experiences of the OGP.

¹⁴ These can be found here: <https://www.opengovpartnership.org/irm-products-and-process/>

Overall

- To strengthen open government impact, the commitments can proactively identify civil society leads, and the roles of civil society and the public in commitment milestones.
- To ensure that considerations related to Te Tiriti o Waitangi are fully embedded in implementation of each commitment, it would help to directly incorporate these considerations into the content of commitment milestones.
- For further IRM advice on commitments carried forward from the previous cycle, please see the IRM [Transitional Results Report](#) and [Design Report](#) for New Zealand's third action plan.

Commitment 1

- This commitment could concretize its intended scope - What will constitute a "significant initiative"?
- To embed agencies' use of the community engagement tool, TKM could link implementation of the tool to its assessments of agency Chief Executives meeting their duty under s. 12 of the Public Service Act 2020.
- Beyond reporting requirements, it would be valuable to incorporate milestones that, with civil society, measure agencies' uptake of the tool, and evaluate whether this form of public engagement has made implementation of policies smoother.
- Spain made a [related commitment](#) in the 2020 action plan that you may find useful for inspiration and learning.

Commitment 2

- As a useful resource, the OECD has outlined [ways to institutionalise deliberative democracy](#), including giving citizens a right to demand a deliberative process, requiring deliberation before certain kinds of policy decisions, sequencing deliberative processes throughout the policy cycle, or connecting deliberation to parliamentary committees.
- Exploring and testing the application of deliberative processes within New Zealand's context is an important and valuable exercise. There is a large amount of international evidence and case studies that could be drawn on to support this commitment. The OECD's Deliberative Wave report is one such resource to particularly consider. If helpful, the OGP Support Unit can point you to additional resources and connect you with peers in other countries for support and guidance. A peer learning exercise could be considered as an additional activity within the commitment, which we would be happy to support.

Commitment 3

- The commitment mentions identifying best practices from other service models. The OGP policy page also provides other examples ([Actions for Transparent and Accountable Digital Governance](#)) on digital transformation from other members that sought to enhance public services.
- It may be useful to consider specific targeted outreach to groups less likely to use the platform in order to ensure that their voices are also heard. We know from research into who uses similar digital platforms in other countries that people who are wealthier, better

educated, middle aged and male are often over-represented, while poorer and marginalized groups are under-represented. In addition to planning for outreach to Maori peoples to understand potential digital exclusion barriers, you may want to detail potential barriers for other stakeholders (eg women, youth, elderly, rural, etc) and state that you plan dedicated consultation with these communities or organizational representatives to understand their public service priorities, barriers to entry, and other unanticipated issues.

Commitment 4

- Can this commitment offer greater specificity on what is intended to be included in the National Counter Fraud and Corruption Strategy?
- What will civil society's role be in developing and implementing this strategy?
- It would be valuable to incorporate milestones that, with civil society, measure uptake of the strategy and evaluate its impact and lessons learned.
- As a useful resource, the commitment can incorporate the recommendations of the [National Integrity System Assessment](#) conducted by TINZ.

Commitment 5

- It may be useful to see further details with regards to the content of the legislation that will be proposed to the Parliament (for instance, clarify whether a central register of BO information will be created, the format intended for the disclosure of BO information, whether public availability will be guaranteed, etc.)
- This commitment could align the intended beneficial ownership database with Open Ownership's [Beneficial Ownership Data Standard](#).
- To allow the public to use the intended beneficial ownership database to fully contribute to accountability efforts, this commitment can plan for consultation with experts and civil society to ensure that the public has sufficient free access to beneficial ownership information.
- This commitment could add milestones to encourage utilization of the beneficial ownership database information.

Commitment 6

- Will this commitment release new government procurement information?
- This commitment could plan to update the Government Procurement Rules to support release of all awarded government contracts as open data and adoption of OCDS, as well as giving MBIE power to enforce compliance.
- As GETS contract notice releases represent a small portion of the total annual government expenditure, this commitment will be most impactful if it addresses all government procurement data, including actual contracts. This could span contracts awarded via tendering on the GETS platform, as well as those awarded via panels of pre-approved suppliers and those directly awarded without public tendering.
- It may be helpful to consider including an accountability aspect which CSO partners can help with. For instance, also explore activities that include CSO partners which can come in the form of identifying priority datasets for visualization, pilot sectors to look into,

or developing a feedback mechanism that can support policy reforms.

- The government can also take a look at the OGP's [Open Contracting and Public Procurement](#) policy page that provides recommendations to strengthen procurement systems. Also worth noting that the Support Unit is in the process of establishing a CoP on Open Contracting for Asia Pacific in collaboration with OCP, and we can invite them to join once operational.

Commitment 7

- Consider civil society requests to carry out the review independently, not by the Ministry of Justice.
- The planned review could include proactive publication policy and secrecy clauses.
- It would be valuable to plan for strong civil society and public engagement in the review process, and in the commitment's efforts to strengthen access to government information.
- This commitment could concretize plans to strengthen processes and guidance to better reflect the presumption of disclosure of government information and the application of the public interest test under the OIA.

Commitment 8

- To further improve the Charter's implementation, this commitment could offer greater clarity about cross-government leadership, oversight, monitoring, and appropriate data management.
- This commitment could take measures to ensure that the Chief Data Steward has enforcement power across government, that the Charter is being applied consistently across agencies, that agencies publish a catalogue of the algorithms they are using, and that the Charter's implementation support document provided to the Minister in 2020 is published.
- We look forward to creating opportunities to share learnings from this process with peer countries and tackle key implementation questions including as part of New Zealand's engagement in the [Open Algorithms Network](#).



**ENVIRONMENT AND CONSERVATION ORGANISATIONS OF
NZ INC**

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Phone/Fax 64-4-385-7545

Open government Partnership National Action Plan 4

Submission by the Environment and Conservation Organisations of NZ /Aotearoa Inc (ECO)

1. Introduction to ECO

ECO is a national organisation of organisations who hold a shared concern for the environment, for conservation and sustainability. We aim to give a voice to the environment while also respecting and honouring te Tiriti o Waitangi.

Our Details:

Details: NGO

Organisation:

Name: The Environment and Conservation Organisations of Aotearoa/NZ Inc

Email: eco@eco.org.nz (and copy in Cath Wallace as well please)

Tel 04 385 7545

Not for publication

Person Contact:

Cath Wallace, Vice-Chair ECO and the Climate Change working group ETS lead;

9(2)(a) privacy

ECO's long-standing interest in Open Government.

ECO has long followed the issue of open government and the choice and design of policies and policy instruments. We were instrumental in the genesis of the Official Information Act, have watched the evolution, opening and closing of official information in NZ and elsewhere the and promise and problems associated with the design, lack of funding and commitment to open government and successive OGP National Action Plans. We have been part of the core group of Civil Society Organisations who worked with officials and we are signatories to the letter expressing our disappointment at the lack of ambition in the proposed NAP4, including the rejection of doing even a National Interest Assessment of NZ acceding to the Aarhus Convention.

We will not rehearse again the detail of our disappointments or our critique of the limitations of what has been promulgated by officials and Cabinet as NAP4, instead we turn here to the further opportunities reinforce open government.

We are grateful to Andrew Ecclestone for the work he has done in coordination of the Civil Society Organisation Core Group. He has drawn our attention to the opportunity presented under s3.4 of the OGP National Handbook to provide for the addition of “Challenge Commitments” to the Commitments included in the NAP, in NAP4 in this case. We suggest two such Challenge Commitments below:

1 We know that the preparation and passage of the Resource Management Act replacement Bills and the policies and measures relating to climate, waste, fresh water and pollution, have stretched the capacity of the Ministry for the Environment this year, so we do understand why MfE may have baulked at further work. We ask that the issue of a co-created National Interest Analysis of NZ acceding to the Aarhus Convention be revisited. The Convention is titled the UN’s Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, and it has a South American counterpart, the Escazu Agreement.

2 Addressing problems with the Official Information Act’s implementation:

a) Having worked enormously hard for decades to get the Official Information Act in place and properly functioning, we are very concerned that there is a high degree of obstructionism from some government agencies in the implementation of the OIA, and we would like to see these issues addressed.

b) The resistance to the OIA has escalated to some agencies and some ministers actually presenting laws to Parliament that exempt these from the operation of the OIA: this is deeply corrosive of open government and we wish to see a programme to reconsider and reverse such exemptions.

c) Further, we ask that a commitment to include in this second Challenge Commitment also a review and reversal of policies to limit or shut down the right of experts and contributors to government stakeholder panels, advisory groups and peer review teams who have to pledge secrecy in order to engage in discussions. This means vital information and proposals are suppressed instead of being open for discussion.

These three practices are eroding open government and thus depriving Aotearoa of the very benefits of participatory open government that provide for high quality decisions, policies and laws and that underpin democratic legitimacy.

Thank you for your attention to these matters – we hope to work with you in the spirit of co-creation.

Nga mihi nui,

Cath Wallace, Vice Chair of ECO



12 December 2022

Open Government Partnership Team
Te Kawa Mataaho Public Service Commission

By email: ogpnz@publicservice.govt.nz

Dear Open Government Partnership Team

I appreciate the opportunity to provide comments on New Zealand's draft Fourth Open Government Partnership (OGP) National Action Plan.

General Comments

As the Chief Ombudsman, I am an Officer of Parliament independent of executive government. The remit of the Ombudsmen has expanded over time, and now includes:

- Investigating alleged or suspected maladministration on receipt of a complaint or of the Ombudsman's own motion under the Ombudsmen Act 1975 (OA).
- Reviewing decisions by central and local government agencies on requests for information under the Official Information Act 1982 (OIA) and the Local Government Official Information and Meetings Act 1987 (LGOIMA).
- An enhanced oversight role over Oranga Tamariki— legislated for but not yet in force — which will include new functions, duties and powers under the Oversight of Oranga Tamariki System Act 2022. The Act will extend the application of the OA (and thus the OIA) to care and custody providers as defined by that Act.
- Monitoring the rights of disabled people, in line with New Zealand's obligations under the United Nations Convention on the Rights of Persons with Disabilities (Disability Convention).

The OIA and LGOIMA hold special significance with respect to New Zealand's commitments under the Open Government Partnership. These Acts have their origins in the General and Supplementary Reports of the Committee for Official Information—also known as the Danks Committee—which were issued in the early 1980s.¹ In its General report, the Danks Committee recognised that even in 1981, it was:

...generally accepted that the Government has a responsibility to keep the people informed of its activities and make clear the reasons for its decisions. The release and dissemination of information is recognised to be an inherent and essential part of its functions.

¹ Danks Committee, *Towards Open Government - General and Supplementary* reports available here: <https://www.ombudsman.parliament.nz/resources/towards-open-government-danks-report>

...The assumption on which both the Government and interested groups are now tending to work is that official information should be made available to the public, unless there are good reasons to withhold it in the interests of the community at large.

...We therefore consider that the system based on the Official Secrets Act should be replaced by a new set of arrangements. The Government should, in our view, reaffirm its responsibility to keep the public informed of its activities and to make official information available unless there is good reason to withhold it. Grounds for withholding information from the public should be set out clearly, along with the basic principle.

The Danks Committee recommended the enactment of what ultimately became the OIA, including a starting presumption that official information must be made available on request unless good reason exists for withholding it.² This was followed 5 years later by the LGOIMA, with the same starting presumption.³

The Danks Committee recognised that its proposed freedom of information regime would both prompt and require a substantial cultural change within executive government. It helped pave the way for this cultural change by recommending that legislation expressly contain the purpose:

***To increase progressively the availability of official information to the people of New Zealand in order to enable their more effective participation in the making and administration of laws and policies, and thereby to enhance respect for the law and to promote the good government of New Zealand** (emphasis added).*

In doing so, the OIA tacitly endorsed and provided a framework for further progressive developments to open executive government up to the public's scrutiny.

It is in this context that it is helpful to recognise New Zealand's achievements, including recent innovations such as the proactive release of Cabinet material. Notably, it was the repeated release of Cabinet material under the OIA without adverse consequences occurring—sometimes at the recommendation of the Ombudsmen but, increasingly frequently, simply on request—that helped provide assurance to, and encouraged, executive government that proactive release should be explored.

Strengthening Commitments through reference to the Disability Convention

I am pleased to see that the Plan and a number of its Commitments recognise the needs for government information to be accessible and useable by all members of New Zealand society, and for engagement and consultation to be meaningful and effective. Notably:

- Commitment 1 notes that meaningful engagement requires those who are affected by decisions to have a say in policy design, development and decision making. Meaningful engagement with diverse people and communities, from an inclusive and collaborative

² Section 5 of the OIA.

³ Section 5 of the LGOIMA.

perspective, will help make better decisions and increase public trust and confidence in government.

- Commitment 2 notes the need to undertake research to learn more about how alternative deliberative processes, including representative deliberative processes, can be adapted to work in the New Zealand context.
- Commitment 3 recognises the need for executive government to provide integrated, multiple channels for Public Service delivery, including options which meet diverse needs of all the people of New Zealand and ensure access for all to public services and support.

I commend these initiatives, as they look likely to strengthen the ability of disabled people, including tāngata whaikaha Māori, to engage with and participate in democracy in New Zealand.

I also consider, however, that the Plan and the relevant Commitments could be further strengthened through explicit reference to New Zealand's obligations under the Disability Convention. Of particular relevance, the preamble of the Disability Convention recognises:

- that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others (Preamble, point 5); and
- the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices (Preamble, point 14).

As New Zealand is a signatory to the Disability Convention, its public sector agencies are required to have in place mechanisms that allow disabled people to use services independently, and to provide a variety of reasonable accommodations to disabled people and their supporters. 'Reasonable accommodation' is defined in Article 2 of the Disability Convention as:

...necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Also relevant is Article 9, which relates to accessibility and requires governments to take appropriate measures to ensure that disabled people are able to live independently and participate fully in all aspects of life. This includes access, on an equal basis with others, to information, communication and other services. These measures include the identification and elimination of obstacles and barriers to accessibility, including through:

- promoting other appropriate forms of assistance and support to disabled people to ensure their access to information (Art 9(2)(f)); and
- promoting access for disabled people to new information and communications technologies and systems, including the Internet (Art 2(9)(g)).

Almost a quarter of New Zealanders report having a disability. In a practical sense, New Zealand must and will, in giving effect to Commitments under the OGP, also give effect to its obligations under the Disability Convention. This being the case, it seems appropriate also to recognise the relevance of the Convention through express reference to it within the Plan and its Commitments.

Commitment 7 – Strengthen scrutiny of OIA exemption clauses in legislation

I am particularly heartened to see Commitment 7 within the draft National Action Plan, which seeks to strengthen the scrutiny afforded to draft legislative clauses that propose to override the disclosure requirements set out in the OIA (and, presumably, also the LGOIMA) (secrecy clauses).

Commitment 7 refers to a review process taking place over 2023 in this respect. I would expect to be consulted further as part of that process.

The Commitment recognises that there has been, over time, an increasing number of legislative clauses which have impacted on New Zealand’s freedom of information regime, some in ways that even the government has recognised is detrimental.⁴ It notes more than 85 secrecy clauses in legislation, of which 20 were added since 2019.

I agree that there needs to be careful scrutiny of future legislative clauses which seek to oust or modify the application of the OIA and the LGOIMA. This very concern has prompted me to make a number of submissions on related government policy or draft legislation. Recent examples include my submissions on the Accessibility for New Zealanders Bill,⁵ the Data and Statistics Bill,⁶ and the Civil Aviation Bill.⁷

My concerns centre on the risk that such secrecy clauses will detrimentally impact the ability of New Zealanders to exercise their constitutional and fundamental human rights to seek and receive information. The courts have described the right to seek information under the OIA and the LGOIMA as a ‘*constitutional measure*’,⁸ and ‘*an important component of New Zealand’s constitutional matrix*’.⁹ The OIA and the LGOIMA are also vehicles by which New Zealanders may exercise their fundamental freedom to seek and receive information, as enshrined in section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA). It follows that the OIA and the LGOIMA, as constitutional measures which reflect fundamental freedoms, should not be curtailed lightly.

Where it is proposed that Parliament legislates for a specific class of information, or for an agency, to be exempt from the application of the OIA or the LGOIMA, there ought to be a substantive and principled justification for doing so, and that justification must be weighed against the impact it would have on the constitutional and fundamental human rights of New

⁴ Andrea Vance of Stuff.co.nz, *Gagging the official information act: why new secrecy clauses are a worry*, 29 July 2022, available at: <https://www.stuff.co.nz/national/129170465/gagging-the-official-information-act-why-new-secrecy-clauses-are-a-worry#:~:text=%E2%80%9CA%20secrecy%20clause%20can%20cover,the%20ones%20in%20the%20OIA.%E2%80%9D>

⁵ Social Services and Community Committee submissions, *Accessibility for New Zealanders Bill - Office of the Ombudsman*, available at: https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCSS_EVI_125643_SS4062/office-of-the-ombudsman

⁶ Governance and Administration Committee, *Data and Statistics Bill – Chief Ombudsman*, available at: https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCGA_EVI_116197_GA20878/chief-ombudsman

⁷ Transport and Infrastructure Committee submissions, *Civil Aviation Bill – Chief Ombudsman*, available at: https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCTI_EVI_115765_TI2218/chief-ombudsman

⁸ *Commissioner of Police v Ombudsman* [1988] 1 NZLR 385 at 391.

⁹ *Kelsey v Minister of Trade* [2015] NZHC 2497, at para 19.

Zealanders to seek and receive information. This is particularly relevant where, as in many cases, there already appears to be grounds within the OIA and the LGOIMA which are designed to protect the interests cited as justification for an exemption or other form of carve-out.

I note that the draft recognises:

There are current safeguards in place, which include the legislative process, guidelines and the Legislative Design and Advisory Committee. It is also the Ministry of Justice's (MoJ) role, for example, to provide advice on Bills that interface with the OIA. This commitment will review existing guidance to identify any gaps in the application of the guidance or the guidance itself. It will propose recommendations to strengthen guidance and controls around this process. This may include consultation with the Office of the Ombudsman.

In addition, I note that Cabinet Manual currently states:

Officers of Parliament

7.42 Officers of Parliament should be consulted in their areas of interest as appropriate: for example, the Office of the Ombudsmen over the application of the Ombudsmen Act 1975 to a new agency. If proposed legislation would establish a new officer of Parliament, the Office of the Clerk should be consulted, following which the Minister responsible for the bill should consult the Officers of Parliament Committee (a select committee chaired by the Speaker) at an early stage before the legislation is developed.

Regrettably, however, the Ombudsmen have not always been consulted on policies or draft legislation which affect the application of the OIA and the LGOIMA. Where consultation has occurred, it often has been late in the process, and well after the proposed policy or legislation has already taken shape and provisions relating to information access and/or limits on disclosure have been crafted.

I therefore would suggest that steps be taken to ensure the Ombudsmen are consulted as early as possible in any policy-shaping or legislation drafting process including secrecy clauses, to ensure that any relevant concerns can be identified and addressed at the earliest possible stage. Taking this step would afford an appropriate significance to rights which are both fundamental and constitutional in nature.

For the same reasons, I also support a careful review of any and all **existing** secrecy clauses which impact on the application of the OIA or the LGOIMA, to ensure that the fundamental and constitutional rights of New Zealanders are not being curtailed unnecessarily and that any limitation on these rights is justified and proportionate. This is particularly necessary in circumstances where drafters of current and future legislation appear to be increasingly reliant on legislative precedent not just as a model for secrecy clauses but as a justification for their very existence.

Thank you again for the opportunity to comment on the draft Fourth Open Government Partnership National Action Plan.

Yours sincerely

A handwritten signature in black ink, appearing to read "Peter Boshier". The signature is written in a cursive style with some loops and a dot above the 'i'.

Peter Boshier
Chief Ombudsman



12 December 2022

The Open Government Partnership Team
Te Kawa Mataaho Public Service Commission
PO Box 329
Wellington 6140

By email: ogpnz@publicservice.govt.nz

SUBMISSION ON THE DRAFT FOURTH NATIONAL ACTION PLAN

About the Submitter

1. Founded by David Farrar and Jordan Williams in 2013, the *Taxpayers' Union's* mission is Lower Taxes, Less Waste, More Accountability.
2. We enjoy the support of some 200,000 registered members and supporters, making us the most popular campaign group championing fiscal conservatism and transparency. We are funded by our thousands of donors and approximately two percent of our income is from membership dues and donations from private industry.
3. We are a lobby group not a think tank. Our grassroots advocacy model is based on international taxpayer-group counterparts, particularly in the United Kingdom and Canada, and similar to campaign organisations on the left, such as Australia's *Get Up*, New Zealand's *ActionStation*, and *Greenpeace*.
4. The Union is a member of the *World Taxpayers Associations* – a coalition of taxpayer advocacy groups representing millions of taxpayers across more than 60 countries.
5. Nothing in this submission is confidential and we would welcome the opportunity to discuss this submission with you further.

Commitment 4

6. The *Taxpayers' Union* considers that that this commitment is far too weak and does not go anywhere near far enough, or fast enough.
7. We note, with great concern, the statements that:
 - a. NZ Police estimate between \$700m and \$1.4bn in government funds is lost to fraud every year; and
 - b. research commissioned by the Serious Fraud Office estimates that, taking into account loss due to error, between \$5bn and \$10bn is lost due to fraud and error every year and these estimates do not include losses attributable to corruption.
8. The draft states¹ that each year the government spends \$51.5bn on the goods and services to support public services, infrastructure, economic growth, and the wellbeing of New Zealanders.
9. If even approximately correct, these fraud and error figures are staggering and represent up to a 20% misappropriation or misreporting of government expenditure.
10. It is difficult to understand how the government's annual financial statements receive an unqualified audit report when it appears government expenditure may be materially misstated.
11. The draft action plan does not explain how these fraud and error estimates were derived and we welcome the Expert Advisory Panel's more detailed explanation of how these estimates were calculated. Regardless, the *Taxpayers' Union* will be following up this issue with the respective organisations to gain a complete understanding of how the estimates were prepared and what this means for the accuracy of the government's financial statements.
12. It's all very well to design a strategy, but the sheer scale of the estimated fraud and error demands immediate action and investigation – nothing less will do. The commitment must be to immediately investigate, prosecute and stamp-out fraud, error, and corruption.

Commitment 6

13. The *Taxpayers' Union* supports this commitment to improve the transparency of government procurement.
14. Increasing the transparency of government procurement processes will reduce compliance costs for businesses tendering for government contracts. This will facilitate greater competition and help reduce the costs to government and taxpayers.
15. Designing a new procurement system is not without significant cost and difficulty. The *Taxpayers' Union* supports the initial focus on further developing the Government Electronic Tendering Service (GETS) to improve the information it can publicly provide. However, care needs to be taken when looking at designing new systems as costs can rapidly escalate, especially if the scope begins to broaden. It is important to not let the pursuit of perfection be the enemy of the good.

¹ Page 23

Commitment 7

16. The *Taxpayers' Union* considers that that this commitment to scrutinise legislative clauses that propose to override the disclosure requirements of the Official Information Act 1982 (OIA) is too weak and does not go far enough.
17. In our view there should be no such clauses in any legislation. The OIA already has sufficient protections for privacy, commercial sensitivity, free and frank advice, amongst other reasons for non-disclosure of official information. The *Taxpayers' Union* is not aware that the existing non-disclosure provisions in the OIA are preventing the Government from obtaining any of the information it needs for decision-making. Inserting clauses in legislation to override the disclosure requirements of the OIA is unnecessary and therefore redundant.
18. The *Taxpayers' Union* is concerned that there are now more than 85 such clauses in legislation and that 20 of these have been added in the last three years. We regularly use the provisions of the OIA to obtain relevant information from government and fully understand how difficult it can be to obtain this information under the OIA. Inserting clauses to override the provisions of the OIA just makes it harder to obtain relevant information where there is a public interest in its disclosure and insufficient justification for withholding that information.
19. This commitment needs to be restated to remove all legislative clauses that override, or propose to override, the disclosure requirements of the Official Information Act 1982.

Concluding Comments

20. Of the three commitments that The *Taxpayers' Union* has commented on, only Commitment 6 looks fit for purpose. Commitments 4 and 7 are passive and need to be strengthened so that they are commitments for action. The estimated scale of fraud and error in government procurement is so large that it demands immediate action and investigation. Designing a strategy to address this potentially major problem is woefully inadequate.
21. Similarly, scrutinising legislation for clauses designed to get around one of the most important public policy disclosure requirements is simply inadequate. Immediate action is required to excise such unnecessary and redundant clauses from all legislation. A failure to do so belies any government's claim to openness, honesty and transparency.

Yours faithfully,

New Zealand Taxpayers' Union Inc.



Ray Deacon
Economist
9(2)(a) privacy



Open Government Partnership New Zealand
Te Kawa Mataaho Public Service Commission

New Zealand's 4th Open Government Partnership National Action Plan (NAP4)

3 December 2022

Thank you for the opportunity to submit on this matter. Our lead expert on this topic is Laurence Millar.

Other TINZ contributors to this submission include Julie Haggie.

TINZ submission:

We are pleased to take this opportunity to comment on the public consultation on New Zealand's 4th Open Government Partnership National Action Plan (NAP4).

Summary

The Open Government Partnership (OGP) offers an innovative model for co-development by civil society and government to improve public transparency and accountability. We are disappointed that this opportunity has not been seized in the three years that the NAP4 has been in development.

The process that was used for the development of the plan is not aligned with the OGP documented standards, nor the guide to public engagement created by the government in NAP3.

The huge effort from civil society and from the lead agency Te Kawa Mataaho (TKM) has delivered a plan that is primarily a collection of current work already under way within government. NAP4 does not reflect the stated wish of the Minister for the Public Service for bold initiatives, nor does it uphold the principle "to foster a culture of open government" set out in section 11 of the Public Service Act (2020).

Civil society groups have laboured with mostly volunteer resources, to drive real ambition in the plan. We brought intent and skills to the table, but most of our expertise and energy has been expended without purpose, because lead agencies were not willing to engage or make meaningful commitments.

We are pleased that our continued insistence on the importance of Te Tiriti o Waitangi as central to the commitments has been realised, and that there is a firm commitment for greater accessibility to government services and support.

Comments

TINZ has been involved throughout the development of NAP4, and has experienced frustration at the lack of effective engagement and meaningful participation with civil society organisations (CSOs). Our comments here are in two parts – the process used to develop NAP4, and the commitments that are included in the draft.

The process used to develop NAP4

The IAP2 defines a [spectrum of participation](#), and from the start of the NAP4 development process we encouraged Te Kawa Mataaho (TKM) to adopt a collaborative approach, as espoused by the OGP. The Policy Community Engagement Tool, which was developed during NAP3, is based on the IAP spectrum.

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

It is frustrating that the dominant mode of participation has been “Inform” with some aspects of “Consult”. A meaningful shift would have been towards “Involve”: *We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.* Had ‘involve’ been applied we would have seen active collaboration and co-leadership, co-design of commitments, enthusiasm towards innovative ideas, genuine discussion on practicalities and resourcing and broader and more targeted consultation.

The draft NAP4 describes (pp 7-9) the development of the plan in a way that suggests there was extended consultation and dialogue. That is not our experience or view. In March 2021, we signed, with other civil society organisations (CSOs), a letter to the Minister of State Services expressing our concern.

We applaud your government’s success in passing the Public Service Act 2020, which requires Chief Executives to uphold the principle of fostering ‘a culture of open government’. The development of NAP4, containing commitments to action, provides an excellent opportunity to operationalise this principle and embed it in the Public Service. However, without a change to the process for developing NAP4, we have serious concerns about the value of engaging with the work to develop the plan, and believe that - counter to its intentions - OGP work in New Zealand will continue to feed cynicism about ‘co-creation’.

It gives us no pleasure to report that the experience over the last three years has reinforced our concern about the process used by government officials. While we gave many hours of our time to provide ideas and comments, information was provided back by officials only after multiple requests and extended delays, as illustrated by the activities to create the draft plan that is the subject of this consultation:

- In July 2022, “fledgling commitments” were finalised.
- They were to be worked on individually by a representative of the lead agency and the relevant CSO for each commitment. This did not happen.
- Two months later, TKM distributed fully drafted commitments with an 8 day deadline to provide feedback. We provided our feedback by the deadline, which involved considerable analysis and comments.
- We received no feedback or further information on the commitments, other than a copy of an A3 summary that was provided to the Minister
- Two months later, after a series of requests, we received a copy of the draft commitments that had been sent for ministerial consultation
- During the five-month period while the commitments were developed, CSOs had no opportunities for meaningful engagement.

We have been encouraged by our interactions with the Minister for the Public Service, and have appreciated the opportunity to meet with him, and his response to our letters. It is clear that the minister supported many of the proposals from CSOs and he wrote in one letter that “we need to include a couple of bold initiatives” in NAP4. It appears that this ministerial leadership has not been translated into the commitments in the action plan.

On page 5 of the draft, it is stated that the Expert Advisory Panel (EAP) “*recommended greater priority be given to the OGP and the authentic co-production of ambitious, potentially transformative commitments*”. The commitments in the plan have not been co-created/co-produced, they are not ambitious and they are not transformative.

The commitments in the draft NAP4

We set out below our comments on the individual commitments, and the implementation of NAP4.

Page	Topic	TINZ comment
11	Commitment 1 Adopt a community engagement tool	<p>This is a prime example of how much the original ambition was watered down. An ambitious idea was proposed for a central seed fund that could be used (eg by local and central government, iwi and CSO), wanting to trial and review innovative community engagement methods such as citizens assemblies, with oversight by a multi-stakeholder forum. This would have enervated and resourced a collective commitment to community engagement.</p> <p>The commitment should include:</p> <ul style="list-style-type: none"> • publishing the report from the review of the use of the policy community engagement tool • mandatory expectations that government entities will adopt the tool • information on how the public will be involved in delivery of the commitment. • provisions on co-designing enforceable minimum standards for public consultations (information gathering, co-design, publication) • specification that the community of practice will be open to private sector public engagement consultants, CSOs, academics and interested members of the public
15	Commitment 2 Research deliberative processes for community engagement	<p>The commitment should include</p> <ul style="list-style-type: none"> • a requirement to establish a multi-stakeholder oversight group with a description of how group will work with the organisers of the deliberative processes to adapt to the NZ context • publication of the evaluation of the deliberative processes pilot
16	Commitment 3 Establish an integrated, multi-channel approach to public services and support	<ul style="list-style-type: none"> • We are pleased to see this commitment has secured a sponsor agency, and that it includes provision for a cross-agency / civil society / NGO / iwi working group. • Reference to the Plain Language Act 2022 is relevant in relation to written printed and online material
20	Commitment 4 Design and implement a National Counter Fraud and Corruption Strategy	<p>We are pleased to see this commitment to anti-corruption, though it mostly reflects work already in progress. The commitment should include</p> <ul style="list-style-type: none"> • a milestone to create a CSO, Māori and government working group to oversee the development of the strategy. • explicit reference to how the strategy will be co-designed • a milestone for co-design of ‘Phase 2’ work to extend the strategy to the private sector, by the end of 2024

21 22	Commitment 5 Increase transparency of beneficial ownership of companies and limited partnerships	The commitment should <ul style="list-style-type: none"> • be explicit that the register will be public and sufficient detail provided to enable public identification of beneficial owners • include the requirement for a risk assessment of the use of trusts and how to improve the transparency of their use and ownership • include milestones for public consultation on the development of the legislation in addition to the standard select committee process
23 24	Commitment 6: Improve government procurement transparency	Less than 3% of government expenditure is currently published under the government mandatory rules for procurement. The description of this current state as "Room for improvement" is not accurate. The commitment should include <ul style="list-style-type: none"> • a milestone to involve CSOs in the co-design of the GETS application • a milestone for a policy to adopt the Open Contracting Principles, which covers the full spectrum of procurement documentation • an explicit statement that all procurement data gathered will be published as open data, rather than simply providing access to 'dashboards'
26	Commitment 7: Strengthen Scrutiny of Exemption Clauses in legislation	This commitment should include <ul style="list-style-type: none"> • a milestone to review the 85 clauses in legislation that override the presumption of availability of official information to identify which should be removed, and publish the results of the review
28	Commitment 8 Improve transparency and accountability of algorithm use across government	The commitment should include <ul style="list-style-type: none"> • specification that the community of practice will be open to private sector algorithm experts, CSOs, academics and interested members of the public • a milestone to require government agencies to adopt the Charter in their management of data • a milestone to require government agencies to report on their use of algorithms in their Annual Report, and be subject to regular audit.
29	Implementation plan	The implementation plan should explicitly describe the value of co-creation and the role of civil society
29	The Multi-stakeholder Forum (MSF)	The current EAP requires people to apply and be selected by government to be a member. This arrangement should be explicitly ruled out for the future, and there should be a commitment for CSOs, Māori and other groups to choose representatives to serve on the newly-established MSF The MSF should be co-lead by government and CSOs

Submission ends

Our contact for this submission is:

Laurence Millar, Member with Delegated Authority on OGP.

9(2)(a) privacy [REDACTED]

Hon Chris Hipkins
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12 December 2022

Dear Mr Hipkins,

Draft of New Zealand's Fourth Open Government Partnership National Action Plan

1. We are writing to provide our comments on the draft of New Zealand's fourth National Action Plan (NAP) as a member of the Open Government Partnership (OGP).
2. We address the draft commitments first, before encouraging the government to add the commitment on co-creation of a National Interest Analysis of the Aarhus Convention to the NAP next year in line with the OGP's rules on 'challenge commitments'. We then comment on other aspects of the draft action plan.

Draft Commitments

3. While Trust Democracy particularly welcomes the inclusion of commitment three in this Action Plan, overall this draft NAP continues the series of disappointing and unambitious OGP action plans, produced by successive New Zealand governments, that have been mostly filled with programmes of work that were either already taking place, or planned to take place. Civil society organisation (CSO) suggestions for strengthening commitments have mostly been ignored, which leads not only to questions about why civil society should lend credence to this work by participating in action plan development, but why New Zealand is a member of the OGP in the first place. The action plans have consistently failed to demonstrate what value is added by New Zealand being a member of the OGP. The return on investment by civil society of time and effort must improve, or they are likely to decide – as several already have – that the opportunity cost for their other work is too high.
4. Throughout the NAP, there are milestones with start dates of January 2023. These are completely unrealistic, since it is widely accepted that substantive work does not begin in the public service until the beginning of February when everyone has returned from their summer holidays. The proposed end dates should recognise this and accordingly be put back a month, so that the full time period estimated for each milestone is actually available for the work.

5. Trust Democracy also notes that the NAP does not use the OGP's template for commitments, in spite of using them earlier in the process, and in spite of civil society providing completed templates for each commitment. This is disappointing and unfortunate and contrary to OGP process, as the templates require greater explanation of the 'theory of change' or 'intervention logic' for each commitment. This includes problem definition – which is different from the statement in the NAP of 'status quo', analysis of the causes of the problem, and the desired outcomes, as well as how each commitment will promote transparency, foster accountability and improve citizen participation in defining, implementing and monitoring solutions. The quality of the commitments in the draft NAP has suffered from the government not using the OGP's template.
6. Throughout the NAP, government has rejected CSO recommendations that the work on each commitment be guided by a joint working group of agencies, civil society and iwi (with inclusion where relevant of media and private sector representatives). The claim that agencies are not resourced for this is both completely unsatisfactory and indicates profound ignorance of what the OGP is about and an inability to address this, even after nine years of membership. The OGP itself states in relation to implementation of NAPs:

Once the action plan has been submitted, the real work starts: Implementation. There are a few options during this phase. Business as usual: government implements, civil society criticizes. Or the version where both sides build a partnership, working together, setting up on-going coordination mechanisms, drawing on each-others expertise. A hybrid, with some organizations on the inside and a few others on the outside undertaking monitoring efforts is the third option.¹

7. The OGP's *National Handbook*, which sets out the rules and guidelines for OGP members says:

Evidence from IRM reports and OGP's Decade Report show that continued stakeholder dialogue and participation during the implementation process is strongly correlated with high levels of completion and stronger results.²

8. Trust Democracy is deeply disappointed that the government has, yet again, opted for 'business as usual' with government implementing and civil society criticising. For an agency that continually boasts about levels of public trust in the public service, Te Kawa Mataaho's way of trying to strengthen levels of trust is unusual. There is no indication of willingness to co-create the national action plan with civil society.

Commitment 1

9. We agree with making use of the Policy Community Engagement Tool (PCET) compulsory across the public service. This is implied both by the use of the word 'requiring' in the 'Ambition' section, and in the undertaking to 'Develop a model standard' in the second

¹ *Action Plan Cycle*, Open Government Partnership. <https://www.opengovpartnership.org/process/action-plan-cycle/>

² *OGP National Handbook: Rules + Guidance for Participants*, Open Government Partnership. Page 27. <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022/>

milestone. We are deeply concerned that nothing in the draft commitment indicates that Te Kawa Mataaho will itself model good practice by involving civil society and interested members of the public in the delivery of this commitment. In our view, not to involve people outside government in the development of outputs promised in this commitment would demonstrate the Commission's failure to comply with its statutory duty to 'foster a culture of open government'. We met with the Public Service Commissioner in June 2021 to reiterate that work on the OGP commitments had to model fulfilment of the duty to foster a culture of open government and the Commissioner agreed with this proposition.

10. The draft NAP needs to make clear what is meant by 'model standard' in the context of the PCET. Trust Democracy believes the NAP should be explicit that the PCET will be a standard issued under section 17 of the Public Service Act 2020. Standards under section 17 are about public service conduct, and can include matters relating to the public service principles (set out in section 12 of the Act). Public engagement activities are clearly a matter of public servants' conduct, and linked to the public service principle of 'fostering a culture of open government' set out in section 12(1)(d) of the Act.
11. Milestone 1 for this commitment states that the PCET will be reviewed. The review should include input from people outside the public service who were involved in the public engagement exercises where it was used, and the results of the review should be published. Wording of the commitment should be amended to reflect this.
12. The draft commitment states that the PCET will be required for community engagement on 'significant initiatives'. What 'significant' means is undefined, and we are concerned by this. The vast majority of government policies and decisions are significant for at least a significant number of people and communities. One of the reasons why the commitment outputs must be developed with civil society and public input is to allow people outside the public service to have input into the definition of 'significant' in the model standard.
13. Trust Democracy supports the establishment of a community of practice (CoP), and believes that the commitment should explicitly state that membership of the CoP is open to people working outside the public service, in civil society, academia, and the private sector. Government is short on expertise in this topic – as demonstrated by Te Kawa Mataaho hiring external facilitators for development of this and the previous two NAPs – so its CoP can only be strengthened by including the external experts.
14. However, establishment of a CoP is not sufficient to achieve the desired outcomes of "*lift[ing] the quality of community engagement*". Significant additional measures will be required to improve the government (and communities') practices around public engagement. The commitment should be clear that while delivery of the following may be outside the scope of the commitment, what is within scope is design of the awareness raising, training, principles for revision of departmental strategies, policies and practices. We also recommend including work to implement, monitor, review, adapt and strengthen the CoP. This will create a much stronger and relevant commitment. It appears that the

government has not considered the community engagement recommendations in the IRM Transitional Report on NAP3.³

15. Trust Democracy strongly supports calls made by civil society groups during development of the NAP for the commitment to be extended to include co-creation of mandatory minimum standards for government consultation exercises. We were deeply disappointed by Te Kawa Mataaho's claim to ministers that "*it is too early*" to do this. On the contrary, we think it is long overdue to take this basic step towards improving the public service's performance on the low end of the IAP2 Spectrum of Public Participation. It would be a key initiative towards actually strengthening agencies' practices and effectively making life better for people wanting to engage with government. As we wrote to the Public Service Minister on 7 October 2022, other countries have had such minimum standards for 20 years. We also appended examples of what such a standard for public consultation could include. If the government and Te Kawa Mataaho are unwilling to countenance inclusion of this work in this NAP, it raises the important question of why we or other civil society groups should donate any further time and effort to this work. There is little point in a commitment on 'significant' public engagement when government is unwilling to pick the low-hanging fruit of basic standards for public consultation exercises.

Commitment 2

16. Trust Democracy strongly disagrees with the statement in the 'Status Quo' section that, "*The final audience for this work is agencies to support capability development and share lessons learnt*". The OGP membership is not just about the public service but all New Zealanders, including communities, organisations and local government. Given the recommendation in the draft report of the government's own Review into the Future of Local Government for much more local government use of deliberative engagement, and the existence of many other communities interested in deliberative and participatory processes in NZ contexts, including IAP2, surely the 'audience' is much wider? As noted above regarding Commitment 1, this has implications for the creation of a community of practice, and further demonstrates why this must be much broader in membership than government agencies.
17. It is highly likely that at least some, or even all, of the deliberative processes identified for inclusion in this commitment will not be organised by government agencies. It would be unethical and extractive to 'mine' these processes for public service learning only. The commitment should make clear what the public service is prepared to contribute to any public sector/civil society/community alliance. Trust Democracy suggests that Te Kawa Mataaho should, at a minimum, commit to organising and paying for independent process evaluation.
18. The commitment should be strengthened by responding to the civil society request that a multi-stakeholder oversight group be convened to guide the delivery of this commitment. This will be key for milestones 2, 3 and 5.
19. Milestone 3 states that it will "*evaluate the deliberative processes pilot*" (which should be plural, not singular, since the commitment refers to 'at least two examples') to identify the

³ New Zealand Transitional Results Report 2018-2021, Open Government Partnership, 2022, page 9.
<https://www.opengovpartnership.org/wp-content/uploads/2022/03/New-Zealand-Transitional-Results-Report-2018-2021.pdf>

lessons learnt. The commitment must specify that the evaluation will be published, so that the lessons learnt are shared with all.

20. Milestone 5 states that it will “*Identify future projects to use deliberative processes*”. The milestone should be strengthened to state that the projects identified will be published. It also should make clear that Aotearoa’s next NAP will have a commitment based on this work, where the government will either fund deliberative processes, or create a fund open to all organisations (government, local government, community) to support the use of deliberative processes.
21. Trust Democracy believes this commitment is ripe for strengthening during the lifespan of the NAP too, as permitted by the OGP. This could be done by adding a milestone to convene, with interested partner ministries, at least two representative deliberative processes (RDP) on useful but complex issues, and to use the results of these processes to identify what further work needs to be done to adapt such processes to New Zealand circumstances.

Commitment 3

22. Trust Democracy strongly supports this commitment. Coherent, well-funded and well-led action in this area is much needed and has been uncompleted work since the Channel Strategy programme was never completed by the eGovernment Unit at the then State Services Commission.
23. For the vision to be achieved, an ‘open’ approach to implementation will be essential: civil society must co-design this work with government. This would be consistent with the existing government Digital Service Design Standard principles such as Principle 1, “*Identify your users and understand their ongoing needs*” and Principle 7, “*Work in the open*”.⁴ We are pleased that the commitment includes establishment of a cross-agency, civil society, and iwi working group. For this working group to succeed, act ethically, and not be extractive, civil society and iwi members of the group must be remunerated for their time, both at meetings and for work done in support of the commitment outside those meetings.
24. Successful implementation will require a dedicated budget and we expect the government to approve a 2023 budget bid by DIA to deliver this commitment, given its late inclusion in the draft NAP. Almost all commitments in previous NAPs have been expected to be successful without additional funding and this cannot be permitted to re-occur here.
25. Trust Democracy suggests that delivery of the commitment is more likely to be successful if work across the interdependent elements is enabled by an approach described by the McKinsey 7S framework: strategy, structure, systems, shared values, skills, staff and style.⁵
26. The commitment could be further strengthened by making an explicit connection to the work the government will have to do to implement the Plain Language Act 2022.

⁴ Digital Service Design Standard, <https://www.digital.govt.nz/standards-and-guidance/digital-service-design-standard/>

⁵ See: https://en.wikipedia.org/wiki/McKinsey_7S_Framework

Commitment 4

27. Trust Democracy supports the intent of this commitment. We applaud the formalisation of the Serious Fraud Office's work programme in the NAP. Given the value OGP places on participation and partnership, the NAP needs to indicate how civil society will be involved in its implementation. This programme should not be included if civil society does not have an active role in delivering it.
28. The commitment therefore needs to be strengthened by adding a milestone to create a joint agency, civil society and iwi working group to oversee work on the commitment. This needs to include an explicit reference to the strategy being co-designed with civil society and iwi.
29. The 'Ambition' section of the commitment refers to 'Phase One' of the strategy, and then says "*Future development of the strategy may include business and the private sector*". However, a milestone relating to a 'Phase Two', or the future development of the strategy, is needed. Based on our experience of previous NAPs, this omission is an invitation for the future development work to disappear, without any meaningful accountability. The commitment must be strengthened by adding a milestone to specify co-design of 'Phase Two' of the work to extend the strategy to the private sector, to be completed by the end of 2024.
30. The commitment could be further strengthened by adding a milestone that the strategy's development will be informed by conducting and publishing a post-implementation review of the Protected Disclosures (Protection of Whistleblowers) Act 2022.

Commitment 5

31. Trust Democracy supports the intent of this commitment. However, given the value that the OGP places on participation and partnership, the commitment needs to indicate how civil society will be involved in implementing it. This should not be an OGP commitment if civil society does not have an active role in delivering it. MBIE's failure to engage with civil society throughout the detailed commitment design stage of this NAP's development (between mid-July and September 2022) indicates an unwillingness to work in partnership with civil society that is contrary to the OGP's ethos and suggests that its prior involvement in NAP development workshops sought to fend off proposals it did not want to undertake. The government should not try to claim OGP credit for work that is not being designed or delivered in ways that not only exclude civil society, but which would have been undertaken regardless of OGP membership. To do so debases the currency of the OGP in Aotearoa.
32. This is already demonstrated by the fact the milestones in the NAP show that work on this commitment (milestone 1, drafting instructions for the legislation) commenced in September 2022, three months before this NAP will become 'live'.
33. Without a new preliminary milestone to establish a joint agency, civil society and iwi working group to oversee work on the commitment, non-public service input to the legislation will be limited to the eventual ability to make a submission to a select committee on the legislation.
34. The milestone timeline needs correction. Milestones 2 and 3 are shown as starting in January 2023, when milestone 2 (drafting the legislation) must occur before milestone 3 (introduce the legislation) can commence. Similarly, since Parliament does not sit in January,

milestone 3 cannot begin then. Milestones 2 and 3 need to be amended so that the end date of milestone 2 is prior to the start of milestone 3, and milestone 2 must begin in at least February 2023, after completion of milestone 1.

35. The commitment is clear that the public will only have access to a limited subset of the beneficial ownership data held by government and available to government agencies. In light of the recent European Court of Justice decision on public access to registers of beneficial ownership in EU member states, this seems prudent.⁶ However, the commitment needs to be strengthened by addressing this issue. First, by adding an explicit statement that experience to date shows that government agencies alone do not have the capacity to use all the data available to them in order to achieve the desired anti-corruption and fraud reduction outcomes. Second, by saying that the commitment therefore will explore – with civil society and media input – what minimum data needs to be published as open data to enable these key actors to play their part in investigating issues relating to corruption, fraud and tax evasion. A new milestone to complete this work in time to inform the drafting of the legislation is needed.
36. The commitment would be strengthened by a milestone and deliverable for work to assess the risk posed to corporate governance by the use of trusts, and how to improve the transparency of their ownership and use. To demonstrate some synergy across commitments, government could deliver this piece of work by using a deliberative mini-public to explore the issues (including hearing from expert witnesses) and make recommendations to government for future strengthening of the beneficial ownership legislation.

Commitment 6

37. As with Commitment 5, Trust Democracy supports the intent of this commitment, but the same comments with regard to civil society participation and partnership apply here. (See paragraph 31 above.)
38. The commitment must be strengthened by adding a preliminary milestone to establish a joint agency, civil society and iwi working group to oversee work on the commitment.
39. Milestone one – design changes to the GETS application – must be strengthened to state that the design work will be undertaken with the input of civil society, iwi, media and representative groups from the private sector. See the comments in paragraph 23 above about the Digital Service Design Standard.
40. Milestone two's end date after the end of the NAP lifespan shows that this is a pre-existing work programme that has not been adapted in any way through inclusion in this NAP. The end date for milestone two should therefore be amended to end in December 2024.
41. Milestone two also needs strengthening, to specify that the data gathered by the new 'integrated data system' will be published as open data. We are deeply concerned that the

⁶ EU Court of Justice decision to "invalidate" transparency in beneficial ownership is a blow to the right to know, European Federation of Journalists, 25 November 2022. <https://europeanjournalists.org/blog/2022/11/25/eu-court-of-justice-decision-to-invalidate-transparency-in-beneficial-ownership-is-a-blow-to-the-right-to-know/>

'Ambition' section of the commitment says only that the public will have access to procurement information "via a suite of dashboards". Since the commitment says that the data will be collected "in alignment with the Open Contracting Data Standard" the data should be published using this standard. The government will not achieve its desired outcomes in the area of public procurement if it limits the public only to dashboards, which generally visualise data, but not offer it as open data.

42. Milestone three needs to be strengthened by including an undertaking to publish the report on the piloting of the data platform and system.
43. The commitment also needs strengthening by adding a milestone for the joint agency, civil society, iwi, media and private sector representatives to explore adoption of the Open Contracting Global Principles, so that the Government Procurement Rules (and any related legislation) can be amended to require the proactive publication of contract related information such as contracts themselves, reports on performance against the contract specifications, etc.⁷ We would prefer the government committed itself in this NAP to adopt the Principles, but if it is unwilling to do this, the very least it could do to demonstrate this commitment being consistent with the OGP ethos is to include a milestone on exploring adoption of the Principles in conjunction with the non-government actors identified above.

Commitment 7

44. Trust Democracy supports the intent of this commitment. Although it has been included in response to civil society advocacy, it contains no reference to involving civil society in its delivery. Given the value OGP places on participation and partnership, the NAP needs to indicate how civil society will be involved in implementing this commitment. This should not be an OGP commitment if civil society does not have an active role in delivering this commitment.
45. We are also disappointed that the government has not adopted two other key aspects of the civil society recommendation.
46. First, the commitment in the NAP is now weaker than the version that went to Cabinet. That draft included the following statement:

New legislation is scrutinised for compliance with the New Zealand Bill of Rights Act 1990. However, the Bill of Rights scrutiny does not recognise the Official Information Act 1982 as implementing section 14 of the Bill of Rights Act 1990 and Article 19 of the International Covenant on Civil and Political Rights.

47. This statement has been removed from the NAP published for consultation, even though it was entirely factually accurate.
48. Trust Democracy wants this commitment strengthened by adding a milestone that the Ministry of Justice will convene a public event, perhaps in conjunction with the Law Commission and a university law school, and with panellists including those nominated by civil society groups, to discuss the amendment of Bill of Rights scrutiny of legislation to

⁷ The Open Contracting Global Principles, <https://www.open-contracting.org/what-is-open-contracting/global-principles/>

include assessment of section 14 compliance when new legislation will override the Official Information Act 1982 or its local government counterpart. We would prefer the commitment to be strengthened to require the government to assess new legislation that overrides the OIA against section 14 of the Bill of Rights Act, but if it is not prepared to go this far, facilitating this event should be the minimum.

49. Second, the commitment should be strengthened by including the other proposal made by civil society, that the government conduct a review of the existing secrecy clauses on the statute books and publish a report detailing which should be repealed and which amended. Failure to include this as a deliverable in the commitment signals that the government is not serious about reducing the official secrecy created over the years (with 20+ such provisions since October 2017 alone), and that by limiting the commitment to revised guidance for prospective legislation, it fully intends that further such secrecy clauses will be enacted in future.

50. This is contrary to the clear intent of the OIA, section 5 of which states:

The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.

51. Every time the government relies upon the exception to the principle of availability due to the clause “*where that question arises under this Act*” by enacting secrecy provisions in other legislation, it is actively choosing to weaken the OIA and signalling that it does not trust Parliament’s decision to empower the Ombudsman to make decisions on whether the disclosure of information would be harmful to the public interest.

Commitment 8

52. Trust Democracy supports the intent of this commitment. However, given the value OGP places on participation and partnership, the NAP needs to indicate how civil society will be involved in implementing this commitment. This should not be an OGP commitment if civil society does not have an active role in delivering it.

53. The commitment must be strengthened by adding a preliminary milestone to establish a joint agency, civil society and iwi working group to oversee work on the commitment.

54. The commitment also needs to be strengthened by amending milestone one to specify that the community of practice (or network) will be open to civil society, academics, private sector experts and interested members of the public. If it is not, we question how the Government Statistician would be complying with his statutory duty to foster a culture of open government.

55. The commitment should also be strengthened to mandate adoption of the Charter by all public sector agencies. It is unacceptable that even the low threshold of adopting a weak Charter is optional in 2022, when the government says it is concerned about the use of algorithms and wants to assure the public about their use within government departments and agencies.

56. Finally, the commitment should be strengthened to require government agencies to report on their use of algorithms in their Annual Reports, and be subject to regular external audit.

Challenge commitments

57. Section 3.4 of the OGP's *National Handbook* sets out details of what the OGP calls 'Challenge Commitments'.⁸ Essentially, countries can add up to two further commitments to their Action Plans after their formal adoption.
58. The *Handbook* states that it introduced the idea of Challenge Commitments in 2021 "to enhance flexibility and allow countries that are implementing an action plan to respond to emerging national priorities by using the OGP platform and its participation and co-creation mechanisms".
59. Completion of Aotearoa's fourth NAP has been hampered by the failure of nearly all the relevant government agencies to work with civil society to draft commitments in the period mid-July to early September 2022. This has resulted in the exclusion of commitments that were strongly supported by the participating CSOs, and a weak NAP that once again is full of pre-existing work plans
60. Trust Democracy believes that the government should take advantage of the opportunity presented by the OGP's rules on Challenge Commitments, and add one or two further commitments to the NAP in 2023.
61. Our first choice would be the commitment for civil society and government to co-create the National Interest Analysis of the implications of Aotearoa acceding to the UN's Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, known as the Aarhus Convention.
62. The ability of the public to participate in issues relating to the environment is continually emerging, and we highly doubt the OGP itself would reject Aotearoa proposing to add a commitment on this topic, given the OGP's own research has identified accession to the Aarhus Convention as a key way in which member countries can bolster open government approaches to addressing environmental challenges.⁹ Latin American OGP members are already including commitments in their Action Plans to implement aspects of the parallel Escazu Agreement.
63. A second challenge commitment could cover the use of deliberative mini-publics to support the work of select committees when they hold an inquiry into topics of their choice. The timing for such a commitment is propitious, given that the next year will also see the revision of Parliament's Standing Orders.

⁸ *OGP National Handbook: Rules + Guidance for Participants*, Open Government Partnership, 2022. Page 27. <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022/>

⁹ *Open Government Approaches to Environmental Justice*, Open Government Partnership, 2022. Pages 47-62. <https://www.opengovpartnership.org/documents/justice-policy-series-part-iii-accountability-for-democratic-renewal/>

Other aspects of the National Action Plan

64. In this section of our response to the draft NAP, we comment on the Plan's introduction, the observations from the Expert Advisory Panel, the section entitled 'Our story' and the section on 'Undertaking the Plan'.
65. Trust Democracy is disappointed that, unlike previous NAPs, there is no foreword from the Minister in this plan nor statement by the Public Service Commissioner. Visibility of ministerial and public service leadership matters.

Introduction to the Plan

66. The very first sentence of the Plan's *Introduction* highlights what appears to be a fundamental misunderstanding about the meaning and value of OGP. The Public Service Commission believes open government is about the Public Service, not the government, not local government, not civil society, not communities, not the public.
67. Similarly, the second paragraph is tone deaf to the history of the OIA in the context of OGP and previous New Zealand NAPs. In spite of a new government being elected in 2017, and the minister responsible for the work to create our Third NAP stating that it would be the most open and transparent government ever, no commitment was included in the NAP to strengthen the Official Information Act. Instead there was a weak commitment to consult on whether a review of the Act was needed. This was done poorly by the Ministry of Justice, which only made the submissions it received public following an OIA request. The poor quality review was then followed by obfuscation about its advice, the new Minister reneging on the promise by his predecessor to re-write the OIA if Labour was re-elected in 2020, and continuing shortcomings in compliance with the Act despite 'education and reporting initiatives'.¹⁰ The government's refusal to accept that a policy for the proactive disclosure of Cabinet papers is not a substitute for legislated obligations to publish information, nor the strengthening of rights to information that are designed to enable democratic public participation in the design of policies and services. The government's commitment to openness and transparency must be questioned when the commitment in the plan relating to secrecy clauses does not include work to repeal or amend any of these clauses.
68. Instead of trying to claim credit for the 40-year-old OIA and its operation in the *Introduction* to this plan, Trust Democracy recommends that the *Introduction* be centred around the Public Service Act 2020 and its values and principles. The Act is not mentioned until the third paragraph, and even then the text does not mention its values and principles. The Act's requirement for long-term insights briefings is welcome, but the processes for creating them and for stimulating public discussion are inadequate. We note that Te Kawa Mataaho officials themselves declined to run a session with civil society participants in the OGP NAP development process on its own long-term insights briefing (ironically on the subject of public participation). Surely the OGP should be a major part of the Government's programme to give effect to the Public Service Act, and NAP4 should be framed in this way. The failure to do this belies the assurances Trust Democracy and other CSOs received from the Public

¹⁰ See the Ombudsman's 12 reports on departmental compliance and practice in relation to the OIA, and the overall report 'Ready or Not', published in September 2022.
<https://www.ombudsman.parliament.nz/news/ombudsmans-oia-probe-uncovers-significant-gaps>

Service Commissioner at their meeting with him in June 2021 that these connections would be made tangible.

69. Trust Democracy also recommends that the *Introduction* includes more context for New Zealand's membership of the OGP. The reasons for NZ joining the OGP in 2013 are missing and this lack of strategic context suggests inadequate government knowledge of both the OGP and the Independent Reporting Mechanism's processes.
70. Trust Democracy recognises that it can be appropriate and desirable for commitments in a new NAP to build on work undertaken under previous NAPs, particularly for long-term ambitious commitments, but the only place where this is made explicit in the *Introduction* is for the engagement toolkit commitment in paragraph 4. The *Introduction* should make the lineage of the other commitments clear – these are not the first commitments on the OIA, or the Algorithm Charter, or on publishing procurement data.
71. Similarly, the *Introduction* should refer to commitments under previous NAPs. Trust Democracy is interested to know what is going to happen to commitments that were not completed (e.g. the creation and maintenance of an authoritative dataset of agencies that was commitment 11 in NAP3), and to know if there have been open government gains from previous commitments. This should explicitly draw upon the comments and recommendations made in the reports of Aotearoa's IRM reviewer, as they are an important part of the context for the new NAP and Aotearoa's progress towards more long-term open government.

Expert Advisory Panel's observations

72. Trust Democracy is clear that the Public Service Commission's Expert Advisory Panel (EAP) does not meet the OGP's requirements for a genuine Multi-Stakeholder Forum, and we comment further on this issue below.
73. We welcome the Commission's inclusion of the Panel's observations on the NAP creation process in the NAP itself. We believe that the *Introduction* could have picked up on some of the EAP's themes, and included the OGP as a mechanism for addressing some of the democratic and government deficits that have become obvious since COVID-19 arrived in 2020, such as the 2022 protest at Parliament, the extensive increase in inequality resulting from the government's economic response to the pandemic, and a severely-challenged health system.
74. Trust Democracy notes that the EAP "*recommended greater priority be given to the OGP and the authentic co-production of ambitious, potentially transformative commitments*". It is disappointingly clear that, aside from Commitment 3 on multi-channel public services, the commitments in this NAP have not been co-created or co-produced, they are not ambitious and they are unlikely to result in the transformative change that OGP membership aspires to. Although officials in Te Kawa Mataaho worked hard, the staff turnover during the NAP development period – combined with the apparently continuing failures of the department to steward institutional knowledge regarding the OGP – has meant that their work was not productive. It is apparent that after three previous NAPs, the Commission still does not understand the kaupapa and ethos of the OGP, the roles of its Minister and itself in the co-creation process, nor how to ensure other government departments understand and meet

their responsibilities in the co-creation process. Until Te Kawa Mataaho invests in Aotearoa's OGP membership and ensures officials are trained adequately, we fear that this failure will continue, leading CSOs to abandon work on future OGP National Action Plans.

75. We want to be crystal clear so it cannot be spun in any self-assessment or claims to the media or Parliament, that the trust of the civil society organisations involved in the NAP co-creation process has been breached again by the Commission and Commissioner during this NAP creation process and that significant work is needed on its part to rebuild that trust.

Our Story

76. This section begins with a statement that is deeply puzzling:

The Fourth National Action Plan was developed by the Multi-stakeholder Forum (MSF), consisting of the EAP and officials from the Commission's open government partnership team.

77. Since this section discusses the involvement of the public and CSOs, we are confused as to whether Te Kawa Mataaho means that the public and CSOs were part of a 'Multi-stakeholder Forum' conforming to the OGP's requirements, or if it is (perhaps unintentionally) being honest about who actually developed the plan.

78. If the former, this is a serious error as neither the EAP nor the arrangements for public and civil society participation in the NAP development process are a multi-stakeholder forum, as documented in the OGP's Independent Reporting Mechanism's reports. If the latter, we think this gives the EAP too much credit, since it is clear that the commitments in the NAP have been determined, with the exception of commitment 3, largely by government departments.

79. Other use of the term 'Multi-stakeholder Forum' or 'MSF' also indicates that the Commission seems to think that the membership of the EAP is comprised of people *representing* various sectors of society, when in fact the EAP's terms of references are clear that people are appointed to it by the Public Service Commissioner for their personal skills and knowledge alone.¹¹ The appointment criteria make no reference whatsoever to the person needing to be empowered to represent an organisation or sector. They are not representatives of any organisation or sector of society. The terms of reference go on to say that,

The EAP will be accountable for providing expert advice about OGP National Action Plan development and delivery to the State Services Commissioner.

80. People appointed in an individual capacity by the Commissioner and who are accountable to the Commissioner can never be described as representatives of anyone else. The Expert Advisory Panel is no more than a panel of people who know about open government, not a Multi-Stakeholder Forum. If the people appointed were stakeholders of a multiple number of sectors, they would be put forward for membership by those sectors, and be accountable to the people who put them forward, not the Commissioner.

¹¹ New Zealand Open Government Partnership Expert Advisory Panel Terms of Reference, September 2018. <https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf>

81. This section continues with another inaccurate statement:

Following significant public workshops and engagement with civil society representatives in 2020 and 2021, in October 2021 the Minister for the Public Service identified four key themes for the Plan.

82. The Minister did not ‘identify’ those themes for the Plan. They were identified by Commission officials following discussion with the EAP and CSOs, and proposed to the Minister in the *joint* report to him of 22 October 2021.¹² All the Minister did is confirm that he found those suggested themes acceptable.

83. Page 8 of the draft NAP, and the timeline on page 9, describes development of the plan with an assertion that the workshops held in April-May 2022 and the two meetings in July 2022 were “public”. This has the potential to be quite misleading for both the OGP and New Zealanders.

84. If the use of the word ‘public’ is only meant to imply there were no restrictions on what attendees could say after the meetings about what took place, this would be accurate, but it is misleading in the context in which these statements are made in the ‘Our Story’ section on development of the NAP.

85. If the word ‘public’ is instead meant to imply that the public were able to participate in these meetings, we point to the fact that no statement made by the Commission made in advance of the workshops and meetings indicated they were open to the public.

86. In its *OGP Update for March 2022*, the Commission stated:

*Developing the next National Action Plan Workshops with our Expert Advisory Panel (EAP), civil society groups (CSOs) and government agencies on the fourth National Action Plan will now start in April.*¹³

87. There is no indication that members of the public could attend the meeting, nor that the meeting would be livestreamed to people who could listen to the discussion but not participate. Similarly limited participation references were made in the 27 April, 17 May, and 23 June updates published by the Commission.¹⁴

88. A document dated 4 May 2022, distributed by the Commission to CSO participants in the April-May workshops on 26 May 2022, and entitled *Fact sheet: Open Government Partnership New Zealand*, states in regard to the NAP development process:

NAP4 April-May 2022 workshops with our Expert Advisory Panel, civil society groups, and government agencies are underway.

¹² Note recommendation (a) on page 2, which states “Note the advice in this joint report has been developed with the OGP expert advisory panel (EAP), a range of civil society organisations (CSOs) and government agencies”.

¹³ *OGP Update for March 2022*, Public Service Commission, 30 March 2022 <https://ogp.org.nz/latest-news/ogp-update-for-march-2022/>

¹⁴ See links to these updates from this page: <https://ogp.org.nz/latest-news/>

89. Similarly, the agenda for both the 6 July and 13 July 2022 meetings, distributed by the Commission on 5 and 12 July, state that the meetings are between:

Meeting: EAP, CSO and Officials

90. Trust Democracy strongly urges the government to amend the NAP to correct the statement that the meetings were 'public'. The only public workshops during the NAP development process occurred in 2020 and early 2021, when ideas for commitments were collected at events organised by the Commission.

Te Tiriti o Waitangi

91. We are pleased to see there is a subsection headed 'Te Tiriti o Waitangi' at the foot of page 8. It is important to note that recognition that Te Tiriti o Waitangi had to be addressed in Aotearoa's OGP work came only because of civil society insistence that this issue must be addressed. We are concerned that nine years after Aotearoa New Zealand joined the OGP, the Commission does not have structures, mechanisms or relationships in place for significant Māori involvement in the development of National Action Plans.
92. We were also concerned by the Commission's approach that honouring Te Tiriti obligations in the design and implementation of commitments would only be the responsibility of the departments or agencies that would lead the individual commitments, with no role for the Commission to ensure this happened. This may align with a strict reading of section 15 of the Public Service Act, but the section 14 obligation on the Commissioner and public service chief executives states they have "responsibility for developing and maintaining the capability of the public service to engage with Māori and to understand Māori perspectives". As the person to whom chief executives are accountable, the Commissioner must play a more active leadership role in ensuring commitment lead agencies will honour Te Tiriti obligations in the design and implementation of NAP commitments.
93. We are pleased that each commitment contains a section on Te Tiriti, but note that they include anodyne statements of aspiration and possible outcomes and they do not address key questions such as:
- How can honourable kāwanatanga be applied through the planning and implementation of the NAP4 and OGP commitments (Article 1).
 - How can tino rangatiratanga be enhanced through the commitment (Article 2)
 - How can equality and equity be enhanced particularly for Māori through the commitment (Article 3).
94. This means that commitment lead agencies, immediately after adoption of NAP4, will need to begin the work to develop answers to these questions, in conjunction with Māori, as part of preparing their detailed commitment implementation plans.

Undertaking the Plan

95. This section of the NAP, on pages 29-30 contains three subsections: Implementation, The Multi-stakeholder Forum, and The Independent Reporting Mechanism. We address them in turn.

Implementation

96. The draft NAP states that:

Following the publication of the Fourth National Action Plan, the key stakeholders involved in the work under each commitment will continue to work on the implementation process. While the commitments may have milestones and specific outputs, the details of the specific activities required of stakeholders to realise the milestones will typically have more detailed plans.

97. It is very difficult to see how ‘the key stakeholders’ will be involved in the work, or the development of the detailed plans, given that – aside from commitment 3 – no mention is made in the commitments to the involvement of civil society or other stakeholders in the delivery of the commitment. This includes Te Kawa Mataaho itself, in spite of public participation being the subject of its own Long Term Insights Briefing and its two NAP commitments being on the subject of public participation or ‘community engagement’. As we noted in our introductory comments, the OGP itself is very clear that,

There are a few options during this phase. Business as usual: government implements, civil society criticizes. Or the version where both sides build a partnership, working together, setting up on-going coordination mechanisms, drawing on each-others expertise. A hybrid, with some organizations on the inside and a few others on the outside undertaking monitoring efforts is the third option.

98. And that,

Evidence from IRM reports and OGP’s Decade Report show that continued stakeholder dialogue and participation during the implementation process is strongly correlated with high levels of completion and stronger results.

99. Unless the commitments in the NAP are revised to specifically require civil society and other stakeholder participation in the delivery of commitments, our experience from previous NAPs is that this will not occur. Aotearoa’s delivery of its Open Government Action Plan will then fall as short of the OGP guidance on delivery as it has on co-creation.

The Multi-stakeholder Forum

100. The statement on page 29 of the draft NAP which describes what an OGP Multi-stakeholder Forum may be, includes the sentence “*The Multi-Stakeholder Forum (MSF) is an established space for ongoing dialogue and collaboration between government and civil society representatives and leads the open government processes within a country.*” As a statement of the model it is unremarkable.

101. However, the statement on page 30 that “*During the first half of 2023, New Zealand’s current MSF will be leading work on the design and establishment of a new Multi-stakeholder Forum*” is problematic.

102. As should be apparent from previous comments in this submission, the assertion that New Zealand currently has a OGP-compliant MSF is simply untrue. The members of the EAP are not “*civil society representatives*” and they do not “*lead the open government processes*”

within Aotearoa. The people appointed by the Commissioner as individual experts in matters relating to open government are not representatives of civil society as a whole or even any organisation they may lead or be involved with. The EAP is only an advisory group to the Commissioner – not even the Minister – and has no decision-making rights. It cannot “lead the open government processes” in this country.

103. Trust Democracy is confident that if it and the other CSOs involved in the current OGP work are not members of the purported current MSF, none exists.
104. Since honesty is the first step in building trust between potential partners, the government should be honest and state in the NAP that Aotearoa has not had a genuine Multi-stakeholder Forum but intends to develop one in the first half of 2023. Such a statement of intent could be made tangible and explicit if it was turned into an additional NAP commitment. Such honesty on this topic would clearly demonstrate good faith, which will be essential for the design and establishment of a new and compliant Multi-stakeholder Forum.
105. Issues that must be addressed in the creation of a MSF include the following:
 - Identification of the stakeholders
 - How a person may claim to be a representative of any stakeholder or sector of society that has a stake in the OGP work
 - Evaluation of those claims – different sectors may have varying approaches to deciding who may legitimately claim to represent them
 - Obligations on representatives with regard to seeking input from those they represent, and reporting back to them
 - The functions, powers and decision-making rights of the Forum
 - Who chairs the Forum
 - Financial and resource support for the work of the Forum and paying members for their time
106. Development of this and previous NAPs has shown that while ultimate decision-making on the contents of a NAP rests in the hands of Cabinet, officials and ministers have been unclear on the role of the Minister for the Public Service in this process. This has led to failures of leadership, through a lack of participation in the co-creation work, a lack of visibility to other agencies that has led them to believe the OGP work can easily be ignored without consequences, and a lack of providing ideas or a negotiating brief to the officials undertaking the NAP development work on a day-to-day basis.
107. Trust Democracy firmly believes that the MSF must be co-chaired by the Minister for the Public Service and a civil society representative. This would finally give meaningful effect to the word ‘Partnership’ in the title of the OGP. Officials from Te Kawa Mataaho and other government agencies should participate in the MSF as equals with civil society representatives.

108. If the MSF is to have sector representatives (e.g. Māori, civil society and possibly private sector), they must be selected and appointed to the MSF only by the people and organisations they represent. Public servants or the Minister cannot veto who can serve on the MSF.
109. If the government wants the MSF to fulfil the role of ‘leading’ the open government processes in Aotearoa, and to take on the responsibilities described in the boxes on page 30 of the draft NAP, the Forum will be executive, not advisory. Te Kawa Mataaho must provide the secretariat, in the same way that the Ministry for the Environment provided the secretariat to, and supported the work of, the Bioethics Council.
110. In light of the consistently poor experiences of civil society groups over the last nine years of Aotearoa’s membership of the OGP, and for civil society to consider it worth their while to participate in the work again in future, Trust Democracy believes government ministers must show courage and leadership to create a truly empowered MSF. Not only would this move a key international commitment made by governments up the IAP2 Spectrum from the current sub-par ‘consult’ level towards the proper level of ‘empower, but it would enable Te Kawa Mataaho to model expectations for the rest of the Public Service on giving effect to their duty to ‘foster a culture of open government’. From a Te Tiriti o Waitangi perspective, the Crown would also finally be honouring its obligations in the OGP work.

The Independent Reporting Mechanism

111. This section is underdone and should appear towards the start of the NAP, not as the last word. The reason for this is that the NAP should begin by saying how it will be addressing the insights and recommendations from not just the IRM report on the just-completed NAP, but on outstanding issues and recommendations from all previous IRM reports. Accountability documents are pointless unless those they are meant to hold to account show publicly how they will be acting on the lessons learned and recommendations from such documents. For example, this NAP completely fails to address the lack of completion for commitment 11 in NAP3, and how this could be addressed in NAP4.
112. With regard to this commitment, the IRM’s *Transitional Results Report*, released in March 2022, stated that:

*The Department of Internal Affairs has now scoped and identified resourcing required to deliver a two-phased implementation plan beginning in early 2022, involving Build and Release (phase 1) and Maintain and Develop (phase 2). Some of the required resourcing has been committed to Phase 1, with work ongoing to secure the remainder. The department is also working towards identifying a system owner for the dataset.*¹⁵
113. In spite of this, the Department did not provide any communication to any of the non-government participants in the work on this commitment between 2018 and 2021, and certainly not the ‘two-phased implementation plan’ reported in 2022.

¹⁵ New Zealand Transitional Results Report 2018-2021, Open Government Partnership, 2022, page 23. <https://www.opengovpartnership.org/wp-content/uploads/2022/03/New-Zealand-Transitional-Results-Report-2018-2021.pdf>

114. This IRM section contains an inaccurate statement that *“A key output of the IRM is the ‘Transitional Results Report’, delivered at the end of the implementation of a National Action Plan.”* First, the Transitional Results Report, as its name signals, was an interim report format as the OGP’s Independent Reporting Mechanism transitioned from an earlier assessment methodology to its current one. Second, the section omits to mention the IRM reviewer will first be producing an *Action Plan Review* that assesses the quality of commitment design and compliance of the process for creating the NAP with the OGP’s Co-creation and Participation Standards. It also fails to mention that after producing the *Results Report* following implementation of the NAP, the IRM researcher will be producing a *Co-Creation Brief* ahead of the co-creation of NAP5 to provide *“an overview of the opportunities and challenges for open government in a country context and presents recommendations drawing on lessons and examples from comparative international experience and previous IRM reports.”* Trust Democracy recommends that since Te Kawa Mataaho appears to have lost the institutional knowledge regarding the IRM work and not be up to date, it should familiarise itself with the timeline and work products of the IRM.¹⁶
115. This section should not only provide a link to where the IRM reports can be found on the OGP’s website, but to how Dr Eppel can be contacted by those interested in commenting on Aotearoa’s OGP activities.

Closing Comments

116. After actively participating in what we understood to be a ‘co-creation’ process to develop the NAP, Trust Democracy is not happy that we had to write a 19-page submission to document the many issues in the draft NAP. Many of the issues our submission highlights could, and should, have been worked through before the draft NAP was published for consultation.
117. Trust Democracy hopes that future co-creation processes will be properly planned and resourced so that the work is complete well before deadlines for submitting the NAP to the OGP. It will also be important for the co-creation process to be considered more ‘acceptable’, ‘good’ and satisfying for participants than the process for NAP4.¹⁷

¹⁶ These can be found here: <https://www.opengovpartnership.org/irm-products-and-process/>

¹⁷ According to Rowe, Frewer and Marsh in their 2004 paper ‘Evaluation of a Deliberative Conference’, acceptance criteria include representativeness, independence, early involvement, influence and transparency; good process criteria include resource accessibility, task definition, structured decision making and cost-effectiveness.

Zoe Yeandle

From: 9(2)(a) privacy [REDACTED]
Sent: Friday, 2 December 2022 11:24 am
To: Open Government Partnership New Zealand
Subject: Commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

I am writing in support of Commitment 3 as part of protecting and enhancing multi-channel avenues of communication with public services .
It is vital online is not the only channel . Online only would prevent or inhibit access for many in Aotearoa.

9(2)(a) privacy [REDACTED]

Sent from my iPhone

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Friday, 2 December 2022 11:10 am
To: Open Government Partnership New Zealand
Subject: Commitment 3 of OGP

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Hello!

I would like to express my support of Commitment 3 of the OGP.

Not all of us are comfortable doing everything online, for various reasons. And not all of us are comfortable doing everything over the phone either.

Many of us are older, have impaired eyesight or hearing loss, are disabled, dyslexic, uncertain, or may not have English as our first language. Many people can't afford the cost of waiting on their phone for long periods for someone to answer a centralised government department number. All of these quite common problems mean there is a sizeable portion of the population who need to be able to sort out issues with public service providers face to face, but who are being denied the opportunity.

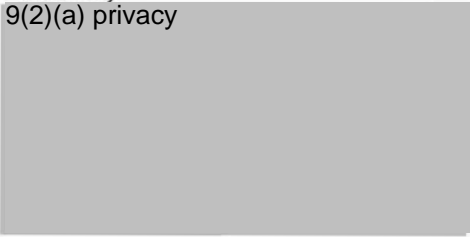
This is extremely important.

Yes, online services are useful, as are automated telephone services - but only to those able to use them. And not everyone - for whatever reason - has the ability.

Public services should be available to all the public.

Thank you for reading this email; I hope I have made my point quite clear, and thank you for giving me the opportunity to comment.

Yours,
9(2)(a) privacy



Sent from my iPhone

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Friday, 2 December 2022 1:26 pm
To: Open Government Partnership New Zealand
Subject: Commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Please action commitment 3 all New Zealanders Have the right to be informed about govt decisions and actions not everyone is able to access or use online and internet and coming are in this manner Ensuring there are adequate resources to action commitment 3 is vitally important or nothing will change

9(2)(a) privacy

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Sunday, 4 December 2022 12:20 pm
To: Open Government Partnership New Zealand
Subject: Draft National Action Plan

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Tēnā koutou

I believe it is critical to include Commitment 3 - Establish an integrated, multi-channel approach to public services and support, in the National Action Plan. I volunteer at Citizens Advice Bureau and see endless clients who are unable to access government services on-line. The reasons and ages vary hugely but we support them all by printing forms and/or assisting with out on-line documents. Sometimes it can be quite simple but other times the client can have very complex situations that really need face to face support. Resources need to be allocated at a government level to continue supporting our most vulnerable members of society, especially as access gets harder and harder for these individuals. We need a more inclusive approach to public services across Aotearoa.

Nāku, nā
9(2)(a) privacy

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Saturday, 3 December 2022 5:42 pm
To: Open Government Partnership New Zealand
Subject: Feedback on National Action Plan under the Open Government Partnership

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora,

As a volunteer interviewer for some nine years with Citizens Advice Bureau I fully support Commitment 3:

the provision of integrated, multiple channels for public service delivery – channels to include options which meet the diverse needs of all the people of Aotearoa and ensure access for all to public services and support. This will address the barriers people face when government services are delivered online, with limited alternative options for non-digital participation.”

This is of special intent to me as I have seen how people who do not have digital resources or skills or whose first language is not English struggle with accessing and using resources and communication tools available only by digital means. I also see how much resource CAB needs to put in to plug this gap, often without equivalent resourcing from the agencies who use only digital means of communication.

Ngā mihi,

9(2)(a) privacy

Zoe Yeandle

From: Dean Rosson
Sent: Friday, 13 January 2023 11:54 am
To: Cathy Adank
Subject: FW: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

Final email on this issue below.

Thanks
Dean

From: Dean Rosson
Sent: Monday, 19 December 2022 1:00 pm
To: 9(2)(a) privacy
Cc: Colin Holden 9(2)(a) privacy; Michelle Edgerley 9(2)(a) privacy; Hugo Vitalis 9(2)(a) privacy; Tula Garry 9(2)(a) privacy; Tessa Houghton 9(2)(a) privacy; Christine Lloyd 9(2)(a) privacy
Subject: RE: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

Kia ora 9(2)(a)

Thank you for your time earlier today.

As discussed, the wording of the OGP commitment heading was discussed at length here as we worked to finalise the plan last week.

In the end we went with 'Establish an inclusive, multi-channel approach to the delivery of government information and services.' No other changes were made to the commitment outline provided by DIA.

Our reasoning behind this was:

- We did not consider the difference in language to be that significant
- We considered Civil Society would see use of the term develop as watering down the commitment
- Establish was the wording used in the commitment heading approved by Cabinet

We would again like to thank DIA for their work in defining this commitment.

Merry Christmas.

Dean

From: Tessa Houghton 9(2)(a) privacy
Sent: Monday, 12 December 2022 12:13 pm
To: Dean Rosson 9(2)(a) privacy; Tula Garry 9(2)(a) privacy
Cc: Jennifer Warner 9(2)(a) privacy; Colin Holden 9(2)(a) privacy; Michelle Edgerley 9(2)(a) privacy; Hugo Vitalis 9(2)(a) privacy; Tula Garry

9(2)(a) privacy

Subject: RE: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora koutou,

Thanks for working with us on this.

We'd be more comfortable with "Develop" as opposed to "Establish":

- The GCDO doesn't have the mandate to compel agencies to use the approach we develop (we can only ask them to). We feel that 'establish' suggests otherwise.
- We won't be starting from scratch, but will be building on work the GCDO has already done. We will also need to continue to develop the approach over time in response to technological and societal changes. 'Establish' feels a bit 'one and done' and suggests that there is currently no work in existence.

Ngā mihi,

9(2)

From: Dean Rosson 9(2)(a) privacy

Sent: Monday, 12 December 2022 11:39 AM

To: Tessa Houghton 9(2)(a) privacy >; Tula Garry 9(2)(a) privacy

Cc: Jennifer Warner 9(2)(a) privacy >; Colin Holden 9(2)(a) privacy Michelle Edgerley

9(2)(a) privacy Hugo Vitalis 9(2)(a) privacy Tula Garry

9(2)(a) privacy

Subject: RE: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

Kia ora Koutou

I have just spoken with Hugo. Our only concern in the use of 'Promote' vs 'Establish' in the Commitment description.

Given we are only talking about an approach we would like to use the following:

Establish an inclusive, multi-channel approach to the delivery of government information and services.

We see using 'Promote' will be viewed as watering down the commitment which will result in further negative feedback to our Minister. Also we note the Cab Minute uses the term 'Establish' in the agreed commitment description.

If you could please confirm this change is acceptable.

Ngā mihi

Dean

From: Tessa Houghton 9(2)(a) privacy

Sent: Monday, 12 December 2022 11:11 am

To: Dean Rosson 9(2)(a) privacy Tula Garry 9(2)(a) privacy

Cc: Jennifer Warner 9(2)(a) privacy Colin Holden 9(2)(a) privacy Michelle Edgerley

9(2)(a) privacy

Subject: RE: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora Dean and Tula,

Thanks for the quick meeting Dean! Please find the updated proposed wording for the commitment attached.

Ngā mihi,
Tessa

From: Tula Garry 9(2)(a) privacy

Sent: Monday, 12 December 2022 9:12 AM

To: Jennifer Warner 9(2)(a) privacy Colin Holden 9(2)(a) privacy Tessa Houghton
9(2)(a) privacy Michelle Edgerley 9(2)(a) privacy Dean Rosson
9(2)(a) privacy

Subject: RE: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

Importance: High

You don't often get email from 9(2)(a) privacy [Learn why this is important](#)

Kia ora Jennifer, Colin, Tessa and Michelle

Firstly thank you so much for getting the revised commitment back to us so quickly. We really appreciate it. Dean and I have looked at it and are happy with the revised text with one suggestion. Could you please consider providing a bit more detail around the milestones including something around reporting back. In addition to this is there also an opportunity for govt agencies to share info (lessons learnt) with each other given that they will hopefully be all trying to do similar work in improving the accessibility and inclusiveness of services.

I am unable to attend 11am meeting but Dean will be there.

Ngā mihi

Tula Garry

Kaitohutohu Mātāmua | Principal Advisor, Integrity, Ethics and Standards

Te pono, te matatika me to tautikanga | Integrity, Ethics and Standards

9(2)(a) privacy



Te Kawa Mataaho
Public Service Commission

Te Kawa Mataaho Public Service Commission

www.publicservice.govt.nz | www.govt.nz



From: Jennifer Warner 9(2)(a) privacy
Sent: Friday, 9 December 2022 1:55 pm
To: Colin Holden 9(2)(a) privacy; Tessa Houghton 9(2)(a) privacy; Michelle Edgerley 9(2)(a) privacy; Dean Rosson 9(2)(a) privacy; Tula Garry 9(2)(a) privacy
Subject: Follow up DPS-TKM meeting to refine OGP 4, commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora Dean

Thanks for meeting with us on Wednesday. When Cabinet agreed to adopt the NAP 4 Action Plan, it also *directed officials from Te Kawa Mataaho Public Service Commission and the Department of Internal Affairs to scope the work programme for Commitment 3 in the context of resource constraints and appropriate levers for the Government Chief Digital Officer, and report back to the Minister for the Digital Economy and Communications if mandate changes are required.*

As we noted on Wednesday, the way the draft Commitment is framed could raise expectations that Government is embarking on a large scale machinery of government reform aimed at shifting CE accountability for service delivery to the GCDO or some other service delivery entity. The framing also raises scope issues for the GCDO - as a system lead we have no authority to direct agencies on how they manage their service delivery operations. Our role is to develop and manage all-of-government frameworks, standards and tools to guide agencies, but individual agencies retain decision rights over how they apply these.

We have adjusted the text in the draft Commitment to better reflect the role of the GCDO and agencies, and to ensure the scope of the Commitment is something that DIA could realistically deliver. We have a meeting scheduled on Monday at 11am to discuss further if required. We are comfortable that, if this text is adopted, no further work at Ministerial level will be required to address the mandate issues noted in the Cab minute.

Ngā mihi

Colin, Tessa, Michelle and Jennifer

Jennifer Warner (she/her)* | Strategic Advisor
System Strategy & Initiatives | Digital Public Service
Te Tari Taiwhenua | Department of Internal Affairs
45 Pipitea Street, Wellington | PO Box 805
Mobile: 9(2)(a) privacy
www.dia.govt.nz



Mon	Tues	Wed	Thurs	Fri
WFH	WFH	WFH	WFH	WFH

Zoe Yeandle

From: Yvonne Curtis 9(2)(a) privacy
Sent: Friday, 2 December 2022 1:20 pm
To: Open Government Partnership New Zealand
Subject: Inclusion of Commitment 3 in National Action Plan

Importance: High

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Hello,
This is my personal opinion.
The commitment 3 has my full personal support.

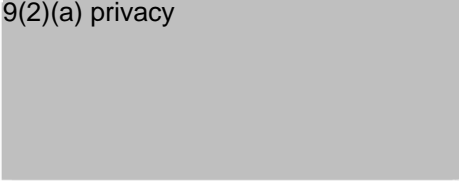
As a result of our strong and persistent advocacy, '**Commitment 3 – Establish an integrated, multi-channel approach to public services and support**' has been included in the consultation draft of New Zealand's [National Action Plan under the Open Government Partnership](#).

Commitment 3 focuses on:

"the provision of integrated, multiple channels for public service delivery – channels to include options which meet the diverse needs of all the people of Aotearoa and ensure access for all to public services and support. This will address the barriers people face when government services are delivered online, with limited alternative options for non-digital participation."

Thank you
Yvonne

"I feel like there is a perfect balance between the big vision and the detail and that takes us close to the true magic and aliveness of life. A small happening that contains all the heart of the vision - like a dew drop suspended on a leaf reflecting all the surroundings."
(Elizabeth Connor 2020)

9(2)(a) privacy


PEACE (abbr) – People Enjoying Acts of Compassion and Empathy

Zoe Yeandle

From: 9(2)(a) privacy [REDACTED]
Sent: Saturday, 3 December 2022 12:19 pm
To: Open Government Partnership New Zealand
Subject: Leave no-one behind - Digital exclusion

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora,

I noticed and experienced increased frustration and stress amongst older citizens who are not IT literate and struggle to get things done in a requested timeframe. I am also wondering about people with disabilities who do need a person to talk to, to be able to sort out required tasks and obligations! Families who struggle financially might not have the means to do things digitally.

PLEASE provide In-Person-Services to INCLUDE dis-advantaged citizens and uphold Te Tiriti o Waitangi!

THANK YOU

Kind regards,

9(2)(a) [REDACTED]

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Wednesday, 14 December 2022 10:48 am
To: Open Government Partnership New Zealand
Subject: NAP4

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia Ora

I have been reading with interest the 4th Open Government Partnership National Action Plan (NAP4), **particularly around the 3rd commitment to address digital exclusion.**

As a volunteer at CAB, I often meet people who struggle to access or fill in government forms and although the library offers computer/internet access, they do not have the staff capacity to support those who need help. I notice that the new initiatives will not be in place until Dec 2024. Meanwhile, we will have to help many people. Can I suggest that CAB and libraries are given extra funding during the interim period to help with this load?

Nga mihi nui

9(2)(a) privacy

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Monday, 12 December 2022 10:09 am
To: Open Government Partnership New Zealand
Subject: National Action Plan feedback - Commitment 3

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Hi

It is my understanding that this large document is to help and enable people who are at risk, have issues, digitally disadvantaged, older generations, have issues with eyesight, have hearing issues, have mental health issues to provide feedback on how things should change. Like being easier to contact businesses, access their information, make complaints with out going online filling in a form and waiting for some one to call them back and if they get a call back do not explain correctly and hope the people they call back don't think the are being scammed. Maybe even have someone at the end of the phone willing to listen. To their complaint they have. Complaining to the police about what has happened to you or even making a complaint about the service or lack there off. Every angle to complain or find information or get information seems to be made extremely difficult. Cause if you complain with ease then you're not counted in their complaints and they don't have to sort it out.

But to provide feedback someone needs to be able to access the document and feedback form or able to understand which means the people I've mentioned above are unlikely to be able do this and need to be prioritised

Thanks

9(2)(a) privacy

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Friday, 2 December 2022 9:35 pm
To: Open Government Partnership New Zealand
Subject: Submission

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

SUBMISSION ON NATIONAL ACTION PLAN.

I strongly support Commitment 3 being included in the National Action Plan . There are a significant number of people who for various reasons are unable to digitally access government services. There are others who live in places where there's no internet. I've personally experienced the frustration of unreliable internet that chops in and out and even when working, can be extremely slow. The government and telcos advise that in some cases, people will never get the internet for cost/benefit reasons. It's a basic human right for all people to be able to access government services without undue difficulty. The inclusion of commitment 3 in the National Action Plan will ensure all New Zealanders can access Government services without undue difficulty. I ask that this be implemented and that adequate resources be provided so that user-friendly, alternative means of public service delivery can be provided.

9(2)(a) privacy

9(2)(a) privacy

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Zoe Yeandle

From: 9(2)(a) privacy
Sent: Wednesday, 30 November 2022 9:53 pm
To: Open Government Partnership New Zealand
Cc: Elizabeth Eppel
Subject: Suggested amendment to Page 30 of NZ's draft 4th OGP National action plan

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora, OGP NZ Point of Contact

Thank you for the opportunity to comment on NZ's draft 4th OGP National Action Plan.

We note that the paragraph describing the IRM and its NZ researchers does not cover the full IRM process. We offer the following suggested alternative paragraph. Our suggested changes are highlighted in **bold**:

The Independent Reporting Mechanism (IRM) is **OGP's accountability arm. Over each action plan cycle, the IRM provides three independent, evidence-based, and objective reports** to hold OGP members to account to support their open government efforts. **The Co-Creation Brief informs the co-creation planning process based on collective and country-specific IRM findings. The Action Plan Review reports on the new action plan's characteristics, strengths and challenges and the Results Report assesses the level of completion of action plan commitments and checks compliance with OGP standards and criteria.** Elizabeth Eppel, **appointed in 2022 as the new IRM for New Zealand, will prepare the Action Plan Review.** Elizabeth succeeds Keitha Booth, who was New Zealand's second IRM from 2017 to 2022.

Please come back to us if you need further information or wish to discuss our suggested changes,

Best wishes

Keitha Booth and Elizabeth Eppel

9(2)(a) privacy

Zoe Yeandle

From: 9(2)(a) privacy
Sent: Friday, 2 December 2022 11:41 am
To: Open Government Partnership New Zealand
Subject: support for commitment 3 in national action plan

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

I totally support Commitment 3 in the National Action Plan. Being up to date with technology should not be a requirement for participation in a democracy. And although it may be 'efficient' to use technology, one of the downsides is that discussion of pros and cons is not encouraged. We all need to find our own Truth, and have the courage to voice it as well as the openness to listen to other's Truths. There are many other basic actions and information that need to be made available through means other than digital technology.

9(2)(a) privacy

Zoe Yeandle

From: CAB Dunedin <dunedin@cab.org.nz>
Sent: Friday, 2 December 2022 2:20 pm
To: Open Government Partnership New Zealand
Subject: Support of the draft National Action plan

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Kia ora

This email is to let you know we support the inclusion of Commitment 3 in the draft National Action plan.

We would ask that adequate resources are allocated to be able to successfully carry out the work please. Thanks!

Ngā mihi nui,

Anna Leslie
Manager | Kaiwhakahaere



Te Pou Whakawhirinaki o Ōtepoti
Citizens Advice Bureau Dunedin

Rodgers House, 155 Princes Street, Dunedin
PO Box 5263, Dunedin 9054
Phone 03 4716166 0800 367 222
Email: dunedin@cab.org.nz
Website: www.cab.org.nz



Disclaimer: If this email wasn't intended for you please do not use, disclose or copy this information. If you received this email in error please notify the sender. Thank you.



Zoe Yeandle

From: Tula Garry
Sent: Thursday, 8 December 2022 2:30 pm
To: Open Government Partnership New Zealand
Subject: feedback on Commitment 3 via Delib

Have your Say on NZ's Open Government Partnership National Action Plan

Inclusiveness in public services

Status: Published and open
[Challenge Dashboard](#)

I like that the OGP national action plan aims to avoid digital exclusiveness and to aim to always have person-to-person options available for the public.


The two pitfalls that I can see need to be avoided are firstly that it becomes a box-ticking exercise and secondly that these options are offered in such a way that they frustrate the user instead of enabling them. Choosing the non-digital option at present often leads to long wait-times and a feeling that by insisting on dealing with a real person you are somehow being a nuisance or some kind of ante-diluvian. However, there are also organisations both public and private that implement inclusive services in smart and helpful ways. While it may be seen as an expensive option in the short term, it's surely cheaper and better in the long run to take consumers with you, to let them know that they are dealing with real people, not unfeeling bureaucracies.

To ensure that the fine sentiments are put into practice the funding and strategies need to be guaranteed and a system set up to verify that public services are offering non-digital alternatives in good faith.

Why the contribution is important

Please refer to middle paragraph above.

(I tried to copy the paragraph to paste it here but the digital option failed me!)

by  on December 02, 2022 at 11:42AM

[Edit idea](#) | [View idea in public site](#)

Votes so far      0.0 (0 votes)

From: Tula Garry
Sent: Thursday, 8 December 2022 2:48 pm
To: Open Government Partnership New Zealand
Subject: Feedback on OGP Commitment 1 via delib

Have your Say on NZ's Open Government Partnership National Action Plan Community Engagement

Status: Published and open
[Challenge Dashboard](#)

I really like the focus on community/consumer engagement in the draft. The health system has engaged with consumers through multiple channels and would be a great place to research for the wider Public Service. For developing a consumer engagement tool, the Health Quality and Safety Commission have recently created the Code of expectations for health entities' engagement with consumers and whānau, which itself was created with consumer input. Types of engagement have included co-design projects, where consumers and project staff work together to produce appropriate services, and this model has been widely adopted in health, with the HQSC creating modules to assist health entities in carrying this out. HQSC and various Te Whatu Ora districts also have consumer councils, advisory groups, networks, and special interest groups that provide various levels of consumer and community insight, and their Terms of Reference would be a good place to look into, as well as their consumer managers and quality improvement teams.

Why the contribution is important

It is important because engaging consumers with not only what the Public Service is doing but also allowing them to synthesise what is important to focus on for them, what direction a project or service should take and general public business should create better buy-in and outcomes.

by 9(2)(a) privacy on November 28, 2022 at 11:59AM

[Edit idea](#) | [View idea in public site](#)

Votes so far  0.0 (0 votes)



Title: Update on National Action Plan 4 (NAP 4) Commitments

Date: 23 September 2022 **Security Level:** IN CONFIDENCE

Minister: Hon Chris Hipkins, Minister for the Public Service

Report No: 2022/0216

Purpose To update you on the development of NAP 4 commitments and the approach to commitment selection, prior to providing a draft Cabinet paper to you for consultation with your colleagues.

Date of meeting 27 September 2022

Background New Zealand's Fourth National Action Plan (NAP 4) under the Open Government Partnership (OGP) agreement is in the final stages of development. NAP4 must be finalised by the end of this year to fulfil OGP requirements. Failure to do so will lead to New Zealand being placed under review.

The draft NAP4 has been developed by members of the public, civil society, government agencies, and the Expert Advisory Panel (EAP) from some 1500 ideas gathered at public workshops and meetings. Through this process, twelve fledgling commitments were defined. We have had strong engagement and support throughout the processes.

On 14 September we received further feedback from Civil Society Organisations (CSO) on the fledgling commitments. Overall, their feedback indicates a desire to go further and faster on all commitments. They also seek to establish separate join-working groups (including civil society) to oversee the co-design of solutions under each commitment.

Of the 12 draft commitments developed, in our view:

- Five commitments have general agreement, and have sufficient support from all parties to proceed
- One commitment is not supported by all parties and we propose it does not proceed
- Two commitments: *Access to support services* and *Greater transparency of the use of algorithms and artificial intelligence* are still being discussed with potential lead agencies
- One commitment in relation to *Greater scrutiny of secrecy* clauses has partial agreement; however, civil society members are seeking significantly more progress.
- Civil society participants also have written to the Commission proposing to re-include three commitments that are not supported by agencies.

Comment

Two commitments still under discussion

There is strong CSO support for the two commitments that we are still discussing with agencies. These are:

- *Access to support services* (aligned with CABNZ's digital exclusion petition)
- *Greater transparency on the use of algorithms and artificial intelligence*



Civil society organisations are very concerned that these are areas of increasing challenges which impact citizen wellbeing, trust and confidence and require intervention. However, we are yet to secure lead agency support regarding these commitments, due to agency prioritisation constraints.

We are continuing to work with relevant agencies to identify commitments that could be feasible and will report back to you in due course.

Partial agreement – re Greater scrutiny over secrecy clauses

We have partial agreement in relation to ‘greater scrutiny over the inclusion of secrecy clauses in legislation’. After further discussion, the Ministry of Justice (MoJ) has now agreed to commit to actions that strengthen the vetting processes and transparency in relation to future secrecy proposals (but not retrospectively).

CSOs are seeking agreement to extend this commitment to:

- A review of all existing secrecy clauses; and
- the enactment of legislation amending or repealing existing clauses, by Dec 2024.

In our view such timeframes are not feasible for the enactment of legislation, nor would they enable the desired co-design. Furthermore, MoJ does not support this proposal as it is not part of their agreed work programme, nor do they have resourcing currently allocated.

Three additional commitments proposed - not supported by agencies

National interest analysis of the Aarhus Convention

This proposal had the least support in the initial workshop ranking these commitments by priority. The Ministry for the Environment have indicated domestic programmes and legislation already achieve much of the intent of the Aarhus Convention. Further, the Aarhus Convention is not well suited to our context, for example, the Treaty of Waitangi / Te Tiriti.

Public crown financial spending data in open data formats

Treasury does not support this proposal. In their view the relative benefits would be significantly outweighed by the costs. It would be resource intensive, have high upfront and ongoing costs with a small number of users. Treasury do not have budget for this work, consider the timeframes unrealistic and note it is not an agreed work programme priority.

Create an independent fiscal institution

Treasury feedback is that any such proposal should be dealt with at a Ministerial level and not through OGP.

Next steps

CSOs have requested a meeting with you to discuss commitments. If your diary permits, we recommend that you meet to hear CSOs views on the NAP 4 and additional commitments they are seeking.

This would allow you to hear the views of CSOs, alongside our advice, prior to determining which commitments to include in the draft NAP4. This would then go for Ministerial consultation as part of the draft Cabinet paper consultation process.

This meeting could occur virtually and, ideally, in the next two weeks, given the timeframes for final delivery of the plan.



Subject to your availability to meet in the next two weeks, we propose to work to submission of the Cabinet paper to the following timelines:

- 14 Oct – Draft Cabinet paper and draft NAP 4 for your consideration
- 20 Oct – Ministerial consultation
- 17 Nov – GOV

We recommend that you

1. **Note** that Civil Society Organisations have asked to meet with you to discuss the NAP 4 and their proposals for additional commitments,
2. **Agree**, diary permitting, to meet with Civil Society Organisations, to hear their views about prior to finalising the draft NAP 4 for consultation with your colleagues

Our advice

YES / NO

Author Dean Rosson, Manager, Integrity, Ethics and Standards

Manager Hugo Vitalis, Deputy Commissioner, Integrity, Ethics and Standards

Consolidated Civil Society Organisations suggested feedback and TKM/Agency response

Name of commitment	Current commitment	CSO suggested proposals	TKM/Agency reponse
General agreement on commitment			
Improve the level and quality of community engagement	Improve the quality of planning and advice to decision makers on the best methods of engagement by adopting the Policy Community Engagement Tool (PCET) for significant engagements undertaken by all public service agencies and reporting on its use to Te Kawa Mataaho.	Agree with the direction but propose to go further with: <ol style="list-style-type: none"> 1. Co-create the tool 2. Co-design of the guidance/standards on use of tool 3. Independently funded report by relevant civil society on agency use of tool 4. Joint working group to oversee commitment (by March 2023) 5. Involved in DPMC review/enhancement of tool (by April 2023) 6. Co-design of mandatory standards and publication (by Oct 2023) 	<ol style="list-style-type: none"> 1. Tool already exists and is based on IAP2. Being piloted as part of RCOI 2. There is a current commitment to review the policy tool by DPMC based on RCOI engagement. We agree with the need to review and enhance the tool. However, this should be done with the relevant external groups involved in the pilot 3. TKM does not have funding to support an independent review. We consider there are other ways to ensure transparent and proportionate reporting. This will be considered as part of the work under the commitment. 4. This is raised across all commitments. We consider tailored arrangements are needed proportionate to the commitment involved. Joint working groups for all commitment would not be feasible without additional resourcing and add a high administrative burden. This view applies to all commitments and is therefore not repeated under each. 5. Refer to item 2 6. Agree with co-design approach to future standards, but we think it is too early as the Commission's LTIB shows we need to start taking steps through initial requirements. Future development of any further standard could be co-designed
Innovative public participation in policy design and decision making	Identify and support at least two innovative deliberative engagement processes being used. Review and share lessons learned.	Strong alignment with CSO views, have asked for: <ol style="list-style-type: none"> 1. At least two deliberative processes 2. A joint working group to oversee the work 	<ol style="list-style-type: none"> 1. Agree 2. This is not something that can be determined by TKM. Appropriate tailored arrangements would need the agreement of any organisation piloting an innovative process – this applies to TKM involvement and CSO
Creation of a counter-fraud and corruption strategy	Development of a national counter fraud and corruption strategy along with initiatives to increase government and public resilience.	<ol style="list-style-type: none"> 1. Wanted to ensure any strategy honours Te Tiriti 2. Joint working group with SFO, civil society and Māori be established to co-design future work 3. Prefer strategy included non-government organisations 	<ol style="list-style-type: none"> 1-2 Responsibility of the lead agency (SFO) to ensure any strategy appropriately considers Te Tiriti implications and consider the appropriate co-design approach in the context 3. SFO acknowledge the initial focus will be on government agencies, however, this does not preclude future expansion to non-government organisations.
Greater transparency of government procurement	Development of digital data platform to capture procurement information in alignment with open contracting data standards.	<ol style="list-style-type: none"> 1. Establish a joint working group to oversee and co-design work 2. Cabinet to agree to: <ol style="list-style-type: none"> a. remove exemptions to mandatory publication of contract award notices and b. to adopt the open contracting principles and open contracting data standards 3. Work with CSOs to design and implement an education programme and roll this out to all government agencies 4. Design and implement system changes to support increased transparency 5. Facilitate public participation in accessing publication of procurement data. 	<ol style="list-style-type: none"> 1. Lead agency (MBIE) has agreed to make changes to the GETS process and develop a digital data platform to capture procurement information in alignment with open contracting data standard. Joint working group/co-design to be discussed with MBIE 2. Current commitment does not include a cabinet paper to remove exemptions and adopt open contracting principles and open contracting data standards 3. Not in MBIE's commitment 4. Potentially covered by MBIE agreed commitment 5. Discuss with MBIE
Greater transparency of the beneficial	Enhance transparency of beneficial ownership of companies and limited	<ol style="list-style-type: none"> 1. Commitment incorporates adoption of the Open Ownership Principles and data standards 	<ol style="list-style-type: none"> 1. Ask MBIE to consider developing a digital data platform to capture beneficial ownership data information in alignment with open contracting data standards.

ownership of companies	partnerships by introducing legislation that requires beneficial owners' identifying information to be accessible on a transparent public register	<ol style="list-style-type: none"> 2. Establish a working group with civil society and iwi groups 3. Establish feedback channels to enable the public to raise concerns with regulators about the veracity of the beneficial ownership information published 	2. &3Discuss with MBIE
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Partial agreement on commitment

Greater scrutiny over the inclusion of secrecy clauses in legislation	Greater scrutiny over inclusion of secrecy clauses in legislation Strengthened forward, looking process led by MoJ, with a view of ensuring quality and appropriateness of any such clauses in future legislation	<ol style="list-style-type: none"> 1. The proposed commitment is too narrow and should include a process for amendment or repeal of existing secrecy clauses 2. Complete review of all existing clauses, and introduction of new co-designed guidance by Feb 2024 3. Legislation repealing or amending of existing secrecy clauses enacted by 2024 4. Regular reporting and publication on the creation and removal or amendment of secrecy clauses 	<p>1, 2 and 3. Lead agency advice is that this is not currently on current work programme which is aligned to their Minister's priorities. They are not currently resourced to undertake such work.</p> <p>4. Rather than public reports, MoJ would support improved transparency over the process MOJ undertakes when reviewing such clauses in legislation undertaken.</p>
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Still working with agencies to support commitment

Access to support services	Establish a community of knowledge and practice led by practitioners in partnership with agencies to focus on developing accessible (inclusive and equitable) multi service channels that meet the needs of the people. The commitment was co-designed with CAB as the CSO partner.	<ol style="list-style-type: none"> 1. The current digital-first or digital-only trajectory of the public service is creating an imbalance where perceived efficiencies and cost savings within the public sector are being prioritised over the choice and needs of many New Zealanders. 2. This proposal is an opportunity for a purposeful change in approach which will more closely align service delivery with public service values and a spirit of service to the community. 3. Look at where there is existing good practice, learn and adapt from 'the bright spots'. No requirement to start a new process per se. 4. Also consider the potential for a pilot and implementing some quick wins. 	<ul style="list-style-type: none"> • PSC is still working to identify a lead for this commitment. • Potential lead is IR as they are the system lead for transformation. • A potential commitment could include <ul style="list-style-type: none"> ○ Lead to work with CABNZ and civil society to understand the issues ○ Co-design high level guidance for transformation projects to ensure customer lens and customer access to support is available to all
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Greater transparency on the use of algorithms and artificial intelligence	Improve the transparency of the use of algorithms and artificial intelligence by government	<ol style="list-style-type: none"> 1. Establish a community of practice (CoP) on algorithm use across the public sector 2. Use that CoP to support implementing the findings from the review of the charter as published in December 2021 3. Require government agencies to adopt the charter in their management of data 4. Require government agencies to publish an annual report on their use of algorithms, which is subject to regular audit 	<p>Agency Feedback (NZ Stats)</p> <ul style="list-style-type: none"> • Stats not currently in a position to make a commitment in the OGP • Stats are committed to progressing the findings from the algorithm charter review and are doing this as part of a wider look at data ethics • Stats are considering what role the Government Chief Data Steward could play and tie together their work in relation to the Algorithm Charter, the Data Ethics Advisory Group with some of our other existing tools.
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No agency support for commitment

National Interest Analysis of the Aarhus Convention	Establishment of a joint civil society and government working group to scrutinise the implications for New Zealand of accession to the UN's Aarhus Convention; co-production of a National Interest Analysis of the Convention and provision of advice to Ministers on accession.	<ol style="list-style-type: none"> 1. Setting up joint working group 2. National interest analysis and advice to Ministers 3. Publication of the analysis and advice to interested parties 4. Evaluation of lessons learned of co-produced analyses of international instruments NZ is signing up to. 	<ul style="list-style-type: none"> • In NAP 4 participatory workshops to develop and rank commitments, this proposal was ranked as a least preferred option by a joint group consisting of agencies, EAP and civil society organisations • Agency feedback (MfE). They support the outcomes the Aarhus Convention aspires towards. They note there are current domestic work programmes underway which support better access to environmental data. • NZ have similar obligations to the Convention including: <ul style="list-style-type: none"> ○ Principle 10, Rio Earth Summit Declaration in 1992 ○ Sections 11 and 12 of the Public Service Act 2020 ○ Goal 16.7 of UN's Sustainable Development Goals ○ Participation in the OGP <p>These commitments hold NZ government to account for failures to comply with the principles of access to information, public awareness, and access to Justice</p> <ul style="list-style-type: none"> • Not considered a priority
Publish Crown financial spending data in open data formats	Publication of Crown financial spending data as open data, training people on use of the data, and governance to sustain the delivery of these.	<ol style="list-style-type: none"> 1. Establish project team and production of commitment project plan (published) 2. Agree on initial choices for publication methods, file formats, APIs, static datasets, and frequency of updates 3. Co—design governance structure 4. Training needs analysis 5. Co-design workshop for training programme 6. Deliver first round of training 7. Annual reports on the use of CFISnet data published 	<p>Agency feedback (Treasury)</p> <ul style="list-style-type: none"> • The commitment is not resourced and unlikely to be a (ministerial) priority for Treasury. They acknowledge: <ul style="list-style-type: none"> ○ Treasury publishes the Crown financial expenditure data in formats that are not open data formats and machine readable. • Treasury experience to date with data published in open format, is it will be resource intensive with high upfront costs (likely \$millions) and will require ongoing funding to maintain. • The main users would be academics, analytical institutions and think tanks. <ul style="list-style-type: none"> ○ This commitment is unlikely to achieve greater civic society access to information. • The timeframes proposed are not realistic and it is unlikely that, even with resourcing, the release in open data format would be before Budget 2025.
Create an independent fiscal institution	Complete the detailed policy work required to create an independent fiscal institution	<p>To improve New Zealand's fiscal policy framework through establishing an Independent Fiscal Institution. This commitment would build on publication of fiscal data in linked open data format (proposed commitment 11, above) as well as building on Commitment 1 (Open Budget) in NAP2 when Treasury disclosed a very small set of Crown expenditure data in an open format</p> <ul style="list-style-type: none"> • Would provide for independent evaluation and commentary on New Zealand's fiscal policy performance. • Will improve parliamentary scrutiny of public finances and fiscal policy provide for independent costings of political party policies to better inform public debate. <p>However, work is needed to finalise the proposals.</p>	<p>Agency feedback (Treasury)</p> <ul style="list-style-type: none"> • This is most appropriately dealt with and raised at Ministerial level, not as a commitment. • The IFI currently is a very low ministerial priority

Agreement from all parties not to proceed

Media content harm reduction	Create a two-pronged, system-wide, government response to address and prevent media content harm which in turn increases public trust and confidence in our media and public institutions responsible for regulation.	<ol style="list-style-type: none"> 1. CSO feedback indicates this does not meet OGP requirements and is work already underway 	<ol style="list-style-type: none"> 1. We agree and propose to not progress the commitment. MBIE unable to support commitment
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Title: Meeting with Civil Society Organisations about the OGP National Action Plan (NAP4) Commitments

Date: 3 October 2022 **Security Level:** IN CONFIDENCE

Minister: Hon Chris Hipkins, Minister for the Public Service

Report No: 2022/0219

Purpose

To provide supporting information for your meeting with Civil Society Organisation (CSO) representatives involved in the development of the current Open Government Partnership (OGP) National Action Plan.

Date of meeting

5 October 2022

Background

CSO's play an important role in the development and co-design of commitments for New Zealand's Fourth National Action Plan (NAP 4). CSOs can provide a different lens, challenge agencies' assumptions and promote OGP commitments that align with OGP principles.

NAP4 is in the final stages of development and must be finalised by year end to fulfil OGP requirements.

The draft NAP4 has been developed by members of the public, CSO, agencies, and the Expert Advisory Panel (EAP) from some 1500 ideas.

In 2021 the ideas were synthesised into four themes you identified as having priority.

Much of 2022 has been spent with OGP participants, including CSOs, in developing potential commitments for NAP4. Four public workshops were held in April and May 2022, followed by 3 further public meetings between June and September 2022. Each workshop was led by an independent facilitator and ran for approx. 2.5 hrs. Large and small mixed groups discussed ideas under each of the themes. Potential commitments were developed in and after the workshops. Commitment templates were provided to all attendees for additional feedback.

The additional meetings were held to update CSOs on progress and provided a further opportunity for input.

At the meeting on 5 September CSO members asked to provide further feedback on the commitment templates that had been developed to draft stage. This feedback comprised further comments and additional commitments.

We have since provided this information to agencies for comment and given them an opportunity to update their commitments where possible. No substantial changes were made.

A table summarising CSO feedback and Agency response for each commitment is attached.

Overall, CSO feedback indicates a desire to do more on all commitments. Some seek to establish joint-working groups (including CSO) to oversee the co-design of solutions under each commitment.



Issues raised by CSO's during the meeting is likely to include:

No OGP budget and resources for development of the plan and delivery of commitments

This was raised by CSO's in a letter to you in March 2021. Your response was "Resourcing for OGP Commitments currently sits with implementing agencies and I expect that to continue, particularly given the financial constraints of continuing the Covid-19 response and recovery".

Agencies not supporting commitments due to their work programmes and priorities

CSO's consider this can be resolved by reprioritisation of agency baselines or commitments can be considered as new initiatives as part of 2023 budget bid.

The inclusion of all proposed commitments in the draft plan for consultation with your colleagues will provide an opportunity for any reprioritisation or future budget bids.

Agency response that commitments are inconsistent with existing policy

CSO's view is policy needs to be adapted if the partnership between agencies and CSO's is to be effective.

Lack of opportunity for co-creation, design, and delivery

The engagement process is outlined in the earlier background section. While there is always room for improvement, there have been a number of meetings, workshops, and opportunities to engage, co-design and provide feedback.

Coordination of all parties involved by the Commission, including collation of feedback and sharing information in a timely manner has at times been challenging.

CSO engagement has been very helpful lever when working with agencies to support commitments. This includes:

- Secrecy clauses in proposed legislation
- Beneficial ownership register
- Increased procurement transparency

The Commission's view is CSO involvement does not end once the plan is completed. Lead agencies will continue to work with CSO's in delivering commitments where appropriate.

Comment

Of the 12 draft commitments developed, in our view:

- Six have general agreement, and sufficient support to proceed. This includes *Greater scrutiny of secrecy* clauses which civil society members would like to include a review of existing clauses, in addition to greater scrutiny of proposed clauses.
- Two commitments: *Access to support services* and *Greater transparency of the use of algorithms and AI* are well-supported and sponsorship is still being discussed with potential lead agencies
- Three commitments are not supported by agencies.
- One is not supported by all parties

Draft Commitments



Two commitments still under discussion

There is strong CSO and Commission support for the two commitments that we are still working with agencies to get support for. These are:

- *Access to support services* (aligned with CABNZ's digital exclusion petition)
- *Greater transparency on the use of algorithms and artificial intelligence*

CSOs are very concerned that these are areas of increasing challenges which impact citizen wellbeing, trust and confidence and require intervention. However, we are yet to secure agency support for these commitments, due to prioritisation constraints.

Partial agreement – re Greater scrutiny over secrecy clauses

We have partial agreement in relation to '*greater scrutiny over the inclusion of secrecy clauses in legislation*'. After further discussion, the Ministry of Justice (MoJ) has now agreed to commit to actions that strengthen the vetting processes and transparency in relation to future secrecy proposals (but not retrospectively).

CSOs are seeking agreement to extend this commitment to:

- A review of all existing secrecy clauses; and
- the enactment of legislation amending or repealing existing clauses, by Dec 2024.

In our view such timeframes are not feasible for the enactment of legislation, nor would they enable the desired co-design. Furthermore, MoJ does not support this proposal as it is not part of their agreed work programme, nor do they have resourcing currently allocated.

Three additional commitments proposed - not supported by agencies

National interest analysis of the Aarhus Convention

This proposal had the least support in the initial workshop ranking these commitments by priority. The Ministry for the Environment have indicated domestic programmes and legislation already achieve much of the intent of the Aarhus Convention. Further, the Aarhus Convention is not well suited to our context, for example, the Treaty of Waitangi / Te Tiriti.

Public crown financial spending data in open data formats

Treasury does not support this proposal. In their view the relative benefits would be significantly outweighed by the costs. It would be resource intensive, have high upfront and ongoing costs with a small number of users. Treasury do not have budget for this work, consider the timeframes unrealistic and note it is not an agreed work programme priority.

Create an independent fiscal institution

Treasury feedback is that any such proposal should be dealt with at a Ministerial level and not through OGP.

Our advice

We recommend that you

1. **Acknowledge** the important role CSO's play in development NAP4, in particular their role to support co-design and challenge agencies to do more.
2. **Note** the issues likely to be raised by CSO's in the meeting covered under the "Comment" section on page two.



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3. **Note** the feedback from CSO's and agencies on the twelve draft commitments in the attached table.

Author Dean Rosson, Manager, Integrity, Ethics and Standards

Manager Hugo Vitalis, Deputy Commissioner, Integrity, Ethics and Standards

Consolidated Civil Society Organisations suggested feedback and TKM/Agency response

Name of commitment	Current commitment	CSO suggested proposals	TKM/Agency response
General agreement on commitment			
Improve the level and quality of community engagement	Improve the quality of planning and advice to decision makers on the best methods of engagement by adopting the Policy Community Engagement Tool (PCET) for significant engagements undertaken by all public service agencies and reporting on its use to Te Kawa Mataaho.	Agree with the direction but propose to go further with: <ol style="list-style-type: none"> 1. Co-create the tool 2. Co-design of the guidance/standards on use of tool 3. Independently funded report by relevant civil society on agency use of tool 4. Joint working group to oversee commitment (by March 2023) 5. Involved in DPMC review/enhancement of tool (by April 2023) 6. Co-design of mandatory standards and publication (by Oct 2023) 	<ol style="list-style-type: none"> 1. Tool already exists and is based on IAP2. Being piloted as part of RCOI 2. There is a current commitment to review the policy tool by DPMC based on RCOI engagement. We agree with the need to review and enhance the tool. However, this should be done with the relevant external groups involved in the pilot 3. TKM does not have funding to support an independent review. We consider there are other ways to ensure transparent and proportionate reporting. This will be considered as part of the work under the commitment. 4. This is raised across all commitments. We consider tailored arrangements are needed proportionate to the commitment involved. Joint working groups for all commitments would not be feasible without additional resourcing and add a high administrative burden. This view applies to all commitments and is therefore not repeated under each. 5. Refer to item 2 6. Agree with co-design approach to future standards, but we think it is too early as the Commission’s LTIB shows we need to start taking steps through initial requirements. Future development of any further standard could be co-designed
Innovative public participation in policy design and decision making	Identify and support at least two innovative deliberative engagement processes being used. Review and share lessons learned.	Strong alignment with CSO views, have asked for: <ol style="list-style-type: none"> 1. At least two deliberative processes 2. A joint working group to oversee the work 	<ol style="list-style-type: none"> 1. Agree 2. This is not something that can be determined by TKM. Appropriate tailored arrangements would need the agreement of any organisation piloting an innovative process – this applies to TKM involvement and CSO
Creation of a counter-fraud and corruption strategy	Development of a national counter fraud and corruption strategy along with initiatives to increase government and public resilience.	<ol style="list-style-type: none"> 1. Wanted to ensure any strategy honours Te Tiriti 2. Joint working group with SFO, civil society and Māori be established to co-design future work 3. Prefer strategy included non-government organisations 	<ol style="list-style-type: none"> 1. Responsibility of the lead agency (SFO) to ensure any strategy appropriately considers Te Tiriti implications and consider the appropriate co-design approach in the context 2. Refer to item 1 3. SFO acknowledge the initial focus will be on government agencies, however, this does not preclude future expansion to non-government organisations.
Greater transparency of government procurement	Development of digital data platform to capture procurement information in alignment with open contracting data standards.	<ol style="list-style-type: none"> 1. Establish a joint working group to oversee and co-design work 2. Cabinet to agree to: <ol style="list-style-type: none"> a. remove exemptions to mandatory publication of contract award notices and b. to adopt the open contracting principles and open contracting data standards 3. Work with CSOs to design and implement an education programme and roll this out to all government agencies 4. Design and implement system changes to support increased transparency 5. Facilitate public participation in accessing publication of procurement data. 	<ol style="list-style-type: none"> 1. Lead agency (MBIE) has agreed to make changes to the GETS process and develop a digital data platform to capture procurement information in alignment with open contracting data standard. Joint working group/co-design to be discussed with MBIE 2. Current commitment does not include a cabinet paper to remove exemptions and adopt open contracting principles and open contracting data standards 3. Not in MBIE’s commitment 4. Potentially covered by MBIE agreed commitment 5. Discuss with MBIE
Greater transparency of the beneficial	Enhance transparency of beneficial ownership of companies and limited	<ol style="list-style-type: none"> 1. Commitment incorporates adoption of the Open Ownership Principles and data standards 	<ol style="list-style-type: none"> 1. Ask MBIE to consider developing a digital data platform to capture beneficial ownership data information in alignment with open contracting data standards.

ownership of companies	partnerships by introducing legislation that requires beneficial owners' identifying information to be accessible on a transparent public register	<ol style="list-style-type: none"> 2. Establish a working group with civil society and iwi groups 3. Establish feedback channels to enable the public to raise concerns with regulators about the veracity of the beneficial ownership information published 	2. & 3. Discuss with MBIE
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Partial agreement on commitment

Greater scrutiny over the inclusion of secrecy clauses in legislation	Greater scrutiny over inclusion of secrecy clauses in legislation Strengthened forward-looking process led by MoJ, with a view of ensuring quality and appropriateness of any such clauses in future legislation	<ol style="list-style-type: none"> 1. The proposed commitment is too narrow and should include a process for amendment or repeal of existing secrecy clauses 2. Complete review of all existing clauses, and introduction of new co-designed guidance by Feb 2024 3. Legislation repealing or amending of existing secrecy clauses enacted by 2024 4. Regular reporting and publication on the creation and removal or amendment of secrecy clauses 	<p>1, 2 and 3. Lead agency advice is that this is not currently on current work programme which is aligned to their Minister's priorities. They are not currently resourced to undertake such work.</p> <p>4. Rather than public reports, MoJ would support improved transparency over the process it undertakes when reviewing such clauses in legislation.</p>
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Still working with agencies to support commitment

Access to support services	Establish a community of knowledge and practice led by practitioners in partnership with agencies to focus on developing accessible (inclusive and equitable) multi service channels that meet the needs of the people. The commitment was co-designed with CAB as the CSO partner.	<ol style="list-style-type: none"> 1. The current digital-first or digital-only trajectory of the public service is creating an imbalance where perceived efficiencies and cost savings within the public sector are being prioritised over the choice and needs of many New Zealanders. 2. This proposal is an opportunity for a purposeful change in approach which will more closely align service delivery with public service values and a spirit of service to the community. 3. Look at where there is existing good practice, learn and adapt from 'the bright spots.' No requirement to start a new process per se. 4. Also consider the potential for a pilot and implementing some quick wins. 	<ul style="list-style-type: none"> • PSC is still working to identify a lead for this commitment. • Potential lead is IR as they are the system lead for transformation. • A potential commitment could include <ul style="list-style-type: none"> ○ Lead to work with CABNZ and civil society to understand the issues ○ Co-design high level guidance for transformation projects to ensure customer lens and customer access to support is available to all
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Greater transparency on the use of algorithms and artificial intelligence	Improve the transparency of the use of algorithms and artificial intelligence by government	<ol style="list-style-type: none"> 1. Establish a community of practice (CoP) on algorithm use across the public sector 2. Use that CoP to support implementing the findings from the review of the charter as published in December 2021 3. Require government agencies to adopt the charter in their management of data 4. Require government agencies to publish an annual report on their use of algorithms, which is subject to regular audit 	<p>Agency Feedback (NZ Stats)</p> <ul style="list-style-type: none"> • Stats not currently in a position to make a commitment in the OGP • Stats are committed to progressing the findings from the algorithm charter review and are doing this as part of a wider look at data ethics • Stats are considering what role the Government Chief Data Steward could play and tie together their work in relation to the Algorithm Charter, the Data Ethics Advisory Group with some of our other existing tools.
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No agency support for commitment

National Interest Analysis of the Aarhus Convention	Establishment of a joint civil society and government working group to scrutinise the implications for New Zealand of accession to the UN's Aarhus Convention; co-production of a National Interest Analysis of the Convention and provision of advice to Ministers on accession.	<ol style="list-style-type: none"> 1. Setting up joint working group 2. National interest analysis and advice to Ministers 3. Publication of the analysis and advice to interested parties 4. Evaluation of lessons learned of co-produced analyses of international instruments NZ is signing up to. 	<ul style="list-style-type: none"> • In NAP 4 participatory workshops to develop and rank commitments, this proposal was ranked as a least preferred option by a joint group consisting of agencies, EAP, and civil society organisations • Agency feedback (MfE). They support the outcomes the Aarhus Convention aspires towards. They note there are current domestic work programmes underway which support better access to environmental data. • NZ have similar obligations to the Convention including: <ul style="list-style-type: none"> ○ Principle 10, Rio Earth Summit Declaration in 1992 ○ Sections 11 and 12 of the Public Service Act 2020 ○ Goal 16.7 of UN's Sustainable Development Goals ○ Participation in the OGP <p>These commitments hold NZ government to account for failures to comply with the principles of access to information, public awareness, and access to Justice</p> <ul style="list-style-type: none"> • Not considered a priority
Publish Crown financial spending data in open data formats	Publication of Crown financial spending data as open data, training people on use of the data, and governance to sustain the delivery of these.	<ol style="list-style-type: none"> 1. Establish project team and production of commitment project plan (published) 2. Agree on initial choices for publication methods, file formats, APIs, static datasets, and frequency of updates 3. Co-design governance structure 4. Training needs analysis 5. Co-design workshop for training programme 6. Deliver first round of training 7. Annual reports on the use of CFISnet data published 	<p>Agency feedback (Treasury)</p> <ul style="list-style-type: none"> • The commitment is not resourced and unlikely to be a (ministerial) priority for Treasury. They acknowledge: <ul style="list-style-type: none"> ○ Treasury publishes the Crown financial expenditure data in formats that are not open data formats and machine readable. • Treasury experience to date with data published in open format, is it will be resource intensive with high upfront costs (likely \$millions) and will require ongoing funding to maintain. • The main users would be academics, analytical institutions and think tanks. <ul style="list-style-type: none"> ○ This commitment is unlikely to achieve greater civic society access to information. • The timeframes proposed are not realistic and it is unlikely that, even with resourcing, the release in open data format would be before Budget 2025.
Create an independent fiscal institution	Complete the detailed policy work required to create an independent fiscal institution	<p>To improve New Zealand's fiscal policy framework through establishing an Independent Fiscal Institution. This commitment would build on publication of fiscal data in linked open data format (proposed commitment 11, above) as well as building on Commitment 1 (Open Budget) in NAP2 when Treasury disclosed a very small set of Crown expenditure data in an open format</p> <ul style="list-style-type: none"> • Would provide for independent evaluation and commentary on New Zealand's fiscal policy performance. • Will improve parliamentary scrutiny of public finances and fiscal policy provide for independent costings of political party policies to better inform public debate. <p>However, work is needed to finalise the proposals.</p>	<p>Agency feedback (Treasury)</p> <ul style="list-style-type: none"> • This is most appropriately dealt with and raised at Ministerial level, not as a commitment. • The IFI currently is a very low ministerial priority

Agreement from all parties not to proceed

Media content harm reduction	Create a two-pronged, system-wide, government response to address and prevent media content harm which in turn increases public trust and confidence in our media and public institutions responsible for regulation.	<ol style="list-style-type: none"> 1. CSO feedback indicates this does not meet OGP requirements and is work already underway 	<ol style="list-style-type: none"> 1. We agree and propose to not progress the commitment. MBIE unable to support commitment
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Name	Organisation and Bio
<p>Andrew Ecclestone</p> 	<p>New Zealand Council for Civil Liberties</p> <ul style="list-style-type: none"> ○ NZ Council for Civil Liberties works through education and advocacy to promote a rights-based society and prevent the erosion of civil liberties by government or any other parties. ○ Andrew has worked in the field of freedom of information and open government for 30 years, as a campaigner, a civil servant, an investigator for the Ombudsman's office, and as a consultant. ○ His specialities include freedom of information, open government, policy analysis, advocacy, and stakeholder management.
<p>Julie Haggie Chief executive</p> 	<p>Transparency International NZ</p> <ul style="list-style-type: none"> ○ Transparency International's main goals are centred around stronger integrity systems, authoritative voice in preventing corruption, raising awareness, expanding civic participation, and being true to the Treaty of Waitangi. ○ Julie has 20 years of experience as a Chief Executive Officer and senior manager in regulatory, professional and NGO organisations. Julie is a strong advocate for civil society participation.
<p>Laurence Millar</p> 	<p>Transparency International NZ</p> <ul style="list-style-type: none"> ○ Laurence provides independent advice to governments on the use of technology to transform organisational performance. He has 45 years' experience in the innovative use of technology to support organisational change. ○ His specialities include how emergent technologies affect the relationships between governments and citizens, how everyone can be digitally included, and how government investments in technology can best deliver value.
<p>Sacha Green National Advisor Legal and Strategic</p> 	<p>Citizens Advice Bureau NZ</p> <ul style="list-style-type: none"> ○ The Citizens Advice Bureau help people to know and understand their rights and obligations, and how to use this information to get the best outcomes. They provide people with the confidence and support they need to take action. ○ Sacha is an advocate for justice and plain language law.
<p>Katherine Peet</p> 	<p>Network Waitangi Ōtautahi</p> <ul style="list-style-type: none"> ○ Network Waitangi Ōtautahi supports the development of a Treaty-based, multicultural future through education to enhance understanding of the indigenous status of Tangata Whenua and the role of everyone else as Tangata Tiriti. ○ For 40 years, Katherine has been an advocate for social justice, bringing to bear her educational, analytical and administrative skills to a wide range of agencies in the non-governmental organisation, not-for-profit and voluntary sectors.
<p>Cath Wallace Vice-Chair</p> 	<p>ECO</p> <ul style="list-style-type: none"> ○ ECO is New Zealand's national network working to protect our environment. ○ Cath has combined an academic career in public economics and policy specialising in environmental policy and economics, with extensive environment campaigning on a wide range of issues.



Draft Cabinet paper and Open Government Partnership National Action Plan for consultation

Date: 14 October 2022

Security Level: IN CONFIDENCE

Report No: 2022/0232

Contact: Dean Rosson, Open Government Manager, Integrity, Ethics and Standards

Hugo Vitalis, Deputy Commissioner, Integrity, Ethics and Standards

Telephone: 9(2)(a) privacy

	Actions Sought	Due Date
Hon Chris Hipkins, Minister for the Public Service	note the attached draft Cabinet paper and National Action Plan	18 October 2022
	agree to proceed to ministerial and agency consultation	18 October 2022

Enclosure: Yes – draft Cabinet paper, Draft National Action Plan – appendix A, Potential additional commitments for consideration – appendix B

- 1 This report provides you with an updated draft Cabinet paper for the Open Government Partnership (OGP) Fourth National Action Plan (NAP4). Also included is a draft NAP4 (Appendix A) including six supported commitments.
- 2 A further five ‘potential additional commitments for consideration’ (Appendix B) is also attached. These additional commitments do not have an agreed agency lead.
- 3 The paper and appendices include changes made in response to feedback from a number of sources including:
 - a. your request to include details of all eleven potential commitments for Ministerial consultation
 - b. feedback from Civil Society representatives during your meeting with them on 5 October 2022
 - c. agency and stakeholder feedback during the development of the commitments, including feedback concerning the five commitments that do not have an agency lead.
- 4 Key changes include:

- a. Strengthening links to Te Tiriti
 - b. Introduction of a model standard for community engagement
 - c. Inclusion of all eleven commitments as well as civil society and agency feedback
- 5 We have consulted extensively with lead agencies in developing the Plan and commitments. Due to time constraints, we will be undertaking agency consultation concurrently with Ministerial consultation.
 - 6 Pending any further feedback from you or your Office, the attached draft paper and appendices can be used to support ministerial consultation, with a view to lodging the paper and draft Plan for consideration at the GOV Committee meeting on 17 November 2022.
 - 7 Post consultation, we will provide a summary of consultation feedback to Civil Society representatives, as you agreed in the meeting on 5 October 2022. We will report any additional comments from them to you prior to the GOV Committee meeting on 17 November.
 - 8 To meet OGP requirements the Plan must be finalised, including a two-week period for public consultation prior to year-end. In order to meet this timeframe, you may wish to follow the timeline below.

Tuesday 18 October – Monday 31 October	Ministerial and agency consultation
Tuesday 8 November	Revised paper (final) for lodgement
Thursday 10 November	Lodge paper
Thursday 17 November	GOV Committee
Monday 21 November	Cabinet
Wednesday 23 November – Wednesday 7 December	Public consultation
Friday 9 December – Friday 16 December	Finalise Plan for publication
Monday 19 December	Publish Plan

Recommended Action

We recommend that you:

- a **note** the draft Cabinet paper (and two appendices) ‘*New Zealand’s Fourth Open Government Partnership National Action Plan*’ (attached)
- b **note** the draft Cabinet paper and appendices incorporate changes made in response to feedback from:

- a. Your request to include all proposed commitments for consultation, comprising six supported and five unsupported commitments.
 - b. Feedback from Civil Society representatives; and
 - c. Agency feedback received during the development process.
- c **note that** of the five commitments that do not currently have leads, two had strong support from Civil Society and our EAP, and in our view their inclusion would significantly strengthen the current Plan. They are:
- a. Strengthen the transparency and accountability of government agencies' use of algorithms (potential lead Stats NZ)
 - b. Establish an integrated, multi-channel approach to public services (potential lead Inland Revenue in their transformation system lead role). This commitment aligns with the Citizens Advice Bureau led digital exclusion petition
- d **note** that feedback from agencies concerning those commitments without an agreed agency lead can be summarised as, not a current priority or part of their work programme, insufficient resources, and lack of budget to finance the commitments.
- e **note** that subject to Ministerial feedback follow up discussions with individual Ministers may be needed for any additional commitments.
- f **note** the proposed GOV committee date for this paper is 17 November 2022.
- g **agree** to proceed to ministerial consultation, pending any further feedback that you have on the draft paper.
- Agree/disagree.*
- h **agree** that Te Kawa Mataaho release this briefing in accordance with proactive release requirements and guidance once Cabinet has considered the Cabinet paper.
- Agree/disagree.*

Hon Chris Hipkins
Minister for the Public Service



Title: GOV meeting on the Fourth Open Government Partnership National Action Plan (NAP4)

Date: 14 November 2022 **Security Level:** IN CONFIDENCE

Minister: Hon Grant Robertson, Deputy Prime Minister

Report No: 2022/0273

Purpose To provide you with information on the NAP4 Cabinet paper and plan for approval by the Cabinet Government Administration and Expenditure Review Committee (GOV) on 17.11.2022.

Date of meeting 17 November 2022

Background New Zealand is a member of the international Open Government Partnership (OGP) agreement, which supports governments to promote transparency, empower citizens fight corruption, and harness new technologies to strengthen governance.

The development of the NAP4 involved extensive engagement and collaboration between government agencies, civil society organisations and an Expert Advisory Panel (EAP) over the past three years (with timeframes being extended due to COVID-19).

Key points The NAP4 must be finalised by the end of 2022 to fulfil OGP requirements. Failure to do so will result in the OGP issuing New Zealand a “contrary to process letter”, with two letters resulting in a procedural review.

Following Cabinet approval, the NAP4 must go out for a final two-week public consultation period.

The 17 November GOV meeting is the last Cabinet Committee that could consider the NAP4 while leaving enough time for the final two-week public consultation to occur.

The Minister for the Public Service may make minor changes and finalise the NAP4 following Cabinet approval and public consultation. The finalised NAP4 will be provided to the OGP for publishing.

Talking points to support you at the Cabinet Committee meeting are attached (**Appendix 1**).

Commitments The NAP4 contains seven commitments that have been agreed by agencies, the EAP and civil society organisations. Agency sponsors have also agreed to the key milestones for each commitment. Commitments can be grouped under four key themes:

Public participation

1. Adopt a community engagement tool to lift the quality of planning and levels of community engagement for significant initiatives. Lead agency: Te Kawa Mataaho.
2. Research deliberative processes for community engagement (e.g. citizens juries) to examine how these processes can be adapted to operate effectively in the New Zealand context. Lead agency: Te Kawa Mataaho.



Information to support financial accountability

3. Design and implement a National Counter Fraud and Corruption Strategy that unites and coordinates government agencies' work to counter fraud and corruption risks in the public sector. Lead agency: the Serious Fraud Office.
4. Increase transparency of beneficial ownership of companies and limited partnerships to help people find accurate information about who they are doing business with. Lead agency: Ministry of Business, Innovation and Employment (MBIE).
5. Improve Government procurement transparency to enable increased efficiency and competition, and to support government to make data-driven decisions. Lead agency: MBIE.

Access to and usability of public information

6. Strengthen the scrutiny of Official Information Act (OIA) exemptions in proposed legislation to support public access to government information. Lead agency: the Ministry of Justice (MoJ).

Note: Civil society representatives proposed extending this commitment to include a review of active exemption clauses, however MoJ were unable to accommodate this additional work. This is a potential future commitment.

Government use of data and personal information.

7. Improve the transparency and accountability of algorithm use across government and increase confidence in the use of algorithms by the public sector. Lead agency: Stats NZ.

This commitment did not initially have an agency sponsor, however as a result of consultation, Stats NZ agreed to lead this initiative.

Additional commitment for possible future inclusion

One further commitment was supported by both agencies and civil society organisations but has no agency sponsor: **establish an integrated, multi-channel approach to public services**. This commitment would ensure agencies consider non-digital access options as part of service transformation projects, which aligns with the Citizens Advice Bureau's recent petition to 'Leave no-one behind – Campaign to address digital exclusion'. This could potentially be led by Inland Revenue as the Service Transformation system lead. There is also relevant work underway at the Department of Internal Affairs (e.g. Strategy for a Digital Public Service). Officials will continue to consider whether an agency sponsor can be found for this commitment to enable it to be added to NAP4 in 2023 or adopted in a future National Action Plan.

Commitments that will not progress in NAP4

Three commitments were supported by civil society organisations but not government agencies. These will not be progressed through NAP4:

1. **Publish Crown financial spending data in open data formats**. The Treasury was supportive of this principle but advised there are more cost-effective measures for improving budget transparency. Treasury already publish much of its key data sets as Excel files and noted the main users of open data format are expected to be



academics, think tanks and financial institutions, not the general public. New technology is also improving the ability to read from formats that are not open data. The Treasury estimates the proposal would cost approximately \$1.5 million to establish in addition to ongoing annual costs of approximately \$300,000.

2. **Create an independent fiscal institution (IFI).** The creation of an IFI was considered and not supported by Cabinet in 2018/19 so this will not be progressed through NAP4.
3. **Co-production of a National Interest Analysis of the Aarhus Convention.** The Aarhus Convention is an agreement that gives people the right to access information about the environment and promotes public participation in decision-making. New Zealand is already signatory to a range of instruments that impose similar obligations to the Aarhus Convention.

We recommend that you

1. **Note** the 17 November GOV meeting is the last Cabinet Committee for the year that could consider the NAP4, in order for the plan to be finalised this year.
2. **Note** the draft NAP4 has been subject to significant engagement with both civil society organisations and government agencies, and all seven commitments included in the NAP4 have agency sponsors.
3. **Note** the attached talking points on the NAP4.
4. **Agree** to support the attached Cabinet paper on the NAP4 through GOV.

Our advice

Author

Cathy Adank, Senior Advisor, Integrity, Ethics and Standards

Manager

Dean Rosson, Manager, Integrity, Ethics and Standards

Talking points: the Fourth Open Government Partnership National Action Plan (NAP4) Cabinet paper

Meeting: GOV 17 November 2022

- As you know, New Zealand is a member of the international Open Government Partnership agreement.
- Every two years we develop a National Action Plan to further the Open Government Partnership goals of strengthening democracy and building public trust in government.
- This Cabinet paper seeks agreement to New Zealand's Fourth Open Government Partnership National Action Plan.
- The Plan **must be finalised by the end of 2022 to fulfil Open Government Partnership requirements.**
- Following Cabinet agreement, the Plan must go out for a final two-week public consultation period. The 17 November GOV meeting is the last Cabinet Committee where the Plan can be agreed while leaving enough time for final public consultation.
- The Plan has been developed following significant engagement between government agencies and civil society groups, including several public workshops held over 2021 and 2022.
- All commitments included in the Plan have an agency sponsor who has agreed to progress the commitment.
- Delivery of the agreed commitments is resourced from within agency baselines and does not require additional funding.
- The Minister for the Public Service may make minor changes and finalise the Plan following Cabinet approval and public consultation. The finalised Plan is then provided to the Open Government Partnership for publishing.



Following agency and ministerial consultation a number of changes were made to the NAP4.

Addition of a commitment to strengthen the transparency and accountability of government agencies' use of algorithms

CSOs consider this commitment is critical to government leadership and were concerned it was not included in the draft NAP4 due to not having an agency sponsor. Stats NZ have confirmed they will be the agency sponsor for this commitment, and it is now included in NAP4.

Addition of a commitment to establish an integrated, multi-channel approach to public services

CSOs were also concerned a commitment relating to multi-channel service delivery was not progressing in NAP4. It has now been determined that the Department of Internal Affairs will lead this commitment and it is included in NAP4.

Changes to the NAP4

Amendment to commitment on a community engagement tool to include a minimum standard for public consultation

CSOs were disappointed this commitment did not include the creation of a basic minimum standard for consultation. The Cabinet paper now notes Te Kawa Mataaho will develop a model standard for this, addressing the issue raised by CSOs.

Amendment to commitment on OIA exemption clauses to include a process for agencies to review and assess existing OIA exemptions in legislation

CSOs were concerned the commitment on OIA exemption clauses did not include consideration of OIA exemption clauses in existing legislation. Following feedback from the Minister of Justice's office it is now agreed that the Ministry of Justice, supported by Te Kawa Mataaho, will write to all agencies asking them to review existing exemption clauses against new guidance whenever agencies are considering making any changes to relevant legislation.

We consider these changes go some way to addressing concerns raised by CSOs.

Commitments related to Crown finances

CSOs noted disappointment that two commitments related to Crown finances were not progressing through NAP4:

Other matters raised by CSOs

Publishing Crown financial data in open formats. Treasury was supportive in principle of the commitment to publish data in open formats but noted there are more cost-effective measures for improving budget transparency, and that they already publish many key data sets as Excel files. It is expected the main users of additional resources would be academics, think tanks and financial institutions, not the general public. Treasury estimated the proposal would cost approximately \$1.5 million to establish in addition to ongoing annual costs of approximately \$300,000. For these reasons the proposal has not been progressed through NAP4.

Create an independent fiscal institution (IFI). In 2018-19, Treasury consulted on establishing an IFI and Cabinet agreed on what the functions of an IFI would be. In December 2021, the Finance and Expenditure Committee reported on the matter, indicating moderate support for including the concept of an IFI in any future legislation to strengthen fiscal responsibility. However, there was no urgency for the proposal to be progressed at that time. As this issue was recently considered by Cabinet it has not been included in NAP4.



Co-production of a National Interest Analysis of the Aarhus Convention

CSOs were disappointed the commitment related to the Aarhus Convention has not been included in NAP4. CSOs disagreed with the Ministry for the Environment's view that equivalent obligations are covered by other instruments New Zealand is already party to.

Cabinet could choose to add this commitment to the NAP4. We suggest you may wish to discuss this option with the Minister for the Environment.

As outlined earlier, additional commitments can be added to NAP4 during 2023.

Dissatisfaction with the process of developing NAP4

CSOs noted general dissatisfaction with the process of developing NAP4 and the involvement of CSOs in this process. Te Kawa Mataaho does not agree with CSO's characterisation of the process for developing NAP4. We note that there has been extensive engagement with CSOs throughout the development of the NAP4 and the NAP4 reflects the output of a co-design process that involves many stakeholders. We have been unable to advise CSOs of recent changes stemming from consultation due to the principle of Cabinet confidentiality.

However we do have some thoughts on how to improve the co-design process for future plan development which we would like to discuss with you in the New Year.

We recommend that you:

1. **Note** this is the last Cabinet meeting that can consider the NAP4 if it is to be finalised this year, as required by OGP rules.
2. **Note** that several changes have been made to the NAP4 since it was last provided to CSOs, including the addition of two further commitments.
3. **Note** that co-design of the NAP4 has been undertaken in good faith and reflects extensive engagement and collaboration between CSOs and government agencies.
4. **Note** you may wish to speak to your Ministerial colleagues about the inclusion of further commitments (for example, the Aarhus commitment).
5. **Agree** to support the NAP4 through Cabinet.

Our advice

Author Cathy Adank, Senior Advisor, Integrity, Ethics and Standards

Manager Dean Rosson, Manager, Integrity, Ethics and Standards

From: [Pete Fitzjohn](#)
To: [Ministerial Services](#); [Nicky Dirks](#); [Hugo Vitalis](#); [Christina Connolly](#)
Cc: [Sam Rossiter-Stead](#); [Dean Rosson](#); [Gabrielle Wilson](#)
Subject: RE: RESPONSE NEEDED BY 3PM FW: Query re open government action plan - responses due by 3pm today
Date: Tuesday, 29 November 2022 2:57:46 pm
Attachments: [image001.png](#)

Response as signed off by Hugo

Do you feel the Government has lived up to your desire to deliver a “much more ambitious” open government action plan with the current draft out for consultation?

The fourth NAP builds on commitments from the previous three National Action Plans. The Plan includes a number of system wide ambitious commitments, including adopting a community engagement tool to lift the level of community engagement on significant initiatives, and the development of a multi-channel approach to public services that will address the barriers faced when services are delivered online with limited non digital options.

- How would you respond to criticism from the NZ Council for Civil Liberties (and others) that the plan is full of pre-existing or pre-planned ‘actions’ which would have happened regardless of the OGP process?

We do not agree with this criticism. The government always has to prioritise work. The commitments in the plan directly relate to issues raised by the public during consultation. The Plan provides transparency about the work government will focus on, and a commitment to achieving set milestones.

In addition, during consultation two further commitments were added to the Plan. These relate to establishing a multi-channel approach to public service delivery and improving the transparency and accountability of algorithm use across government.

- Why did the Government reject civil society’s calls for the Govt to look into the possibility of signing up to the UN’s Aarhus Convention (on access to information and rights to participation on environmental issues), and for a formal review of secrecy clauses in legislation to override the Official Information Act?

There are already a number of instruments in New Zealand that impose similar obligations to the Aarhus Convention (e.g. the OIA, Sections 11 and 12 of the Public Service Act 2020, Principle 10 of the Rio Earth Summit Declaration, -Goal 16.7 of UN’s Sustainable Development Goals).

The NAP4 does include a commitment to strengthen the scrutiny of OIA exemptions in legislation going forward. A retrospective review of existing OIA exemptions will not be progressed at this time.

- Are you concerned civil society organisations are losing faith in the government’s work in this area?

We value input of all civil society groups. Co-creation is a process that involves multiple stakeholders, and it is not always possible to have full agreement on all issues.

- What progress has been made on improving the proactive release process and collecting greater data on compliance, as outlined earlier this year?

There have been system improvements in relation to proactive release compliance. This includes the development of reporting requirements for the proactive release of Cabinet papers, with the first report for the period ending 31 Dec 2022 to be provided to the Minister for the Public Service in March 2023.

- To the best of your knowledge, has there been any improvement in the amount of Cabinet papers, ministerial

briefings and other official documents being proactively released by ministers?

The introduction of 6 monthly reporting will create a baseline for future comparison.

From: Ministerial Services <xxxxxxxxxxxx.xxxxxxxx@xxxxxxxxxxxxxx.xx>
Sent: Tuesday, 29 November 2022 1:34 pm
To: Pete Fitzjohn 9(2)(a) privacy
Cc: Sam Rossiter-Stead 9(2)(a) privacy
Subject: RESPONSE NEEDED BY 3PM FW: Query re open government action plan - responses due by 3pm today

FYI – Response needed by 3pm today

From: Christina Connolly 9(2)(a) privacy
Sent: Tuesday, 29 November 2022 1:28 pm
To: Sam Rossiter-Stead 9(2)(a) privacy; Ministerial Services <xxxxxxxxxxxx.xxxxxxxx@xxxxxxxxxxxxxx.xx>; Nicky Dirks 9(2)(a) privacy
Cc: Hugo Vitalis <9(2)(a) privacy>; Dean Rosson 9(2)(a) privacy; Gabrielle Wilson 9(2)(a) privacy
Subject: FW: Query re open government action plan - responses due by 3pm today

This email was sent from someone outside of Te Kawa Mataaho. Please take extra care.

Hi Team,

Please can I have responses to these media questions to the Minister by 3pm today.

Thanks

Christina

From: Sam Sachdeva 9(2)(a) privacy
Sent: Tuesday, 29 November 2022 12:15 PM
To: Richard Trow 9(2)(a) privacy
Subject: Re: Query re open government action plan

No worries, figured that could be the case. Thanks so much, questions below (the ones in italics are less essential if you can't answer them all in time):

- Do you feel the Government has lived up to your desire to deliver a “much more ambitious” open government action plan with the current draft out for consultation?
- How would you respond to criticism from the NZ Council for Civil Liberties (and others) that the plan is full of pre-existing or pre-planned ‘actions’ which would have happened regardless of the OGP process?

- Why did the Government reject civil society's calls for the Govt to look into the possibility of signing up to the UN's Aarhus Convention (on access to information and rights to participation on environmental issues), and for a formal review of secrecy clauses in legislation to override the Official Information Act?
- Are you concerned civil society organisations are losing faith in the government's work in this area?
- *What progress has been made on improving the proactive release process and collecting greater data on compliance, as outlined earlier this year?*
- *To the best of your knowledge, has there been any improvement in the amount of Cabinet papers, ministerial briefings and other official documents being proactively released by ministers?*

cheers,
Sam

--

Sam Sachdeva
National Affairs Editor



9(2)(a) privacy

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From: Richard Trow 9(2)(a) privacy
Date: Tuesday, 29 November 2022 at 11:56 AM
To: Sam Sachdeva 9(2)(a) privacy
Subject: RE: Query re open government action plan

Hi Sam,

Today is a write off for a chat, as he's in back to backs all day in Akl.

If you could send me some questions there's a good chance I could get some sensible comments back to you.

Cheers,

Richard

From: Sam Sachdeva 9(2)(a) privacy
Sent: Tuesday, 29 November 2022 11:43 AM
To: Richard Trow 9(2)(a) privacy
Subject: Query re open government action plan

Kia ora,

Hope you're doing well and not too bogged down without Gia around!

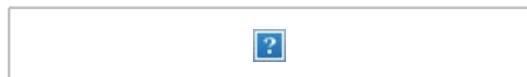
I'm doing a brief story today on the fourth open government action plan, and the criticism from the Council for Civil Liberties about the lack of ambition. Any chance of having a brief chat to the minister, or if need be getting a written response to some questions?

Would need something by the end of play today, let me know if you need any other info from me.

cheers,
Sam

--

Sam Sachdeva
National Affairs Editor



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Title: Approval of the Fourth Open Government Partnership National Action Plan (the Plan)

Date: 13 December 2022 **Security Level:** IN CONFIDENCE

Minister: Hon Chris Hipkins, Minister for the Public Service

Report No: 2022/0329

Purpose To seek your endorsement of the Fourth National Action Plan (the Plan) which then needs to be published before the end of the year.

Background The Plan was approved by Cabinet on 23 November 2022. Eight commitments were agreed. Cabinet also provided authority for you to finalise the plan for publication based on the agreed commitments, and make any minor amendments required to finalise the Plan following the two-week public consultation period.

Feedback was received from a number of organisations, including Transparency International NZ (TINZ), NZ Council for Civil Liberties, Blind Low Vision NZ, Grey Power NZ, Taxpayers Union, OGP International, IAP2 Australasia, the Office of the Ombudsman, Trust Democracy, Eco Inc, Amazon Web Service, Citizens Advice Bureau, and members of the public.

The bulk of the submissions were supportive of the Plan. In general all commitments were supported however civil society was critical of the creation process for the Plan and has a desire to be more involved in co-design and implementation of commitments, and for more ambitious commitments. Civil society also considered many of the commitments are already part of agencies work programmes and would have happened anyway. We do not agree with this statement. Commitment 3, which proposes an inclusive multi-channel approach to the delivery of government information and services was the most supported commitment.

Key points There was continued support for developing a process to review current OIA exemption clauses and for a National Interest Analysis of the Aarhus Convention. Neither of these were agreed by Cabinet.

Feedback was also received on the Plan creation process including the multi-stakeholder forum and need for greater civil society engagement. The Public Service Commission intends to review the multi-stakeholder forum in the new year. This process will involve key stakeholders including civil society.

An amended Plan is attached at Appendix A with changes highlighted in yellow. A summary of all feedback is attached at Appendix B.

Based on the feedback received, a number of minor amendments have been made to the plan.



Incorporated feedback:

- Commitment 1
 - Model standard to be issued by the Public Service Commissioner included in milestones
 - Defining 'significant' included in milestones
- Commitment 2
 - Establish a joint agency civil society working group to implement commitment added
 - Publish results of pilot added
- Commitment 3
 - Commitment updated as a result of discussions with DIA as directed by Cabinet (SWC-22MIN-0228)
 - Updated to reflect DIA as lead agency
- Commitment 4
 - Explore with business, civil society and stakeholders how to extend future iterations of the strategy to the private sector added to milestones
- Commitment 5
 - Clarifying that the register for the beneficial ownership of companies and limited partnerships is public and provides sufficient detail to enable public identification of beneficial owners
- Commitment 7
 - Continue to explore the potential inclusion of reviewing existing exemption clauses in the future added as milestone.
- Independent Reporting
 - Including further information on the Independent Reporting Mechanism

Feedback not incorporated

Key feedback not incorporated into the Plan as these have not been agreed with agencies include:

- a risk assessment of the use of trusts and how to improve the transparency of their use and ownership (Commitment 5)
- involve CSOs in the co-design of the GETS application, adopt the Open Contracting Principles and publish all procurement data as open data (Commitment 6)
- review the existing 85 clauses in legislation for OIA exemption clauses and publish the results of the review (Commitment 7)
- remove all legislative clauses that override disclosure requirements of the OIA (Commitment 7)
- include a specification that the community of practice will be open to private sector algorithm experts, CSOs, academics and interested members of the public
- require government agencies to adopt the Charter in their management of data, report on their use of algorithms in their Annual Report and be subject to regular audit (Commitment 8).

The Open Government Partnership does allow changes to the plan within the first 12 months, so there is opportunity next year to make further changes to the Plan.



We recommend that you

1. **Note** the feedback received as outlined in Appendix B.
2. **Note** that we intend to review the multi-stakeholder forum and seek decisions from you and Cabinet over the structure of any potential new MSF early in 2023.
3. **Note** the change to the wording of Commitment 3, which has been updated following engagement with DIA who is the lead agency.
4. **Agree** to the amended Plan being finalised and published.

Our advice

Author Tula Garry, Principal Advisor, Integrity, Ethics and Standards

Manager Dean Rosson, Manager, Integrity, Ethics and Standards



Appendix A

Te Pātuinga Tuwhera o te Kāwanatanga Open Government Partnership

Te Tuawhā o ngā Mahere Mahi ā-Motu o Aotearoa
2023-2024 New Zealand's Fourth National Action Plan 2023-2024

Matakōrero Foreword

I am very pleased to present New Zealand's Fourth Open Government Partnership National Action Plan.

New Zealand has been a member of the Open Government Partnership for almost a decade now. The Open Government Partnership is based on the idea that an open government is more accessible, responsive, and accountable to its citizens. That improving the relationship between people and their government has long-term benefits for everyone. At a time when many countries are experiencing a decline in public trust, open government values are more relevant than ever.

Living in a country that has consistently performed highly in international rankings for public trust and confidence is no guarantee as to what our future may hold. An abiding theme of open government work is acknowledging that nothing stays the same. It is imperative to continue to embrace the challenge to do better in fostering transparency, accountability, and inclusion to improve how government serves its people and communities.

New Zealand has had its share of social disruption as well as health and environmental challenges in recent times. The country is now into its third year of the COVID-19 pandemic. COVID-19 has been accompanied by some constraint on freedoms, which has attracted diverging views and unprecedented discord. This experience has highlighted how important public trust and confidence in government is, to both social cohesion and the social licence government needs to be able to serve its people well.

As a government, we remain committed to developing a just and inclusive society. This means taking the opportunity to improve Māori-Crown relationships and doing better in recognising the role of Te Tiriti o Waitangi in government policy and services. The Public Service is playing a critical role in supporting government to navigate this change.

The commitments in this National Action Plan reflect the input and views of the public and civil society and the desire for government and non-government to work together to improve the lives of New Zealanders.

In engaging with New Zealanders when developing this National Action Plan, we heard about where the government could do better. There has been a strong call for the Public Service to improve its engagement capability and to provide communities with opportunities to contribute to the development of government policy and services that affect them.

I would like to thank all of those who have been involved in the development of this National Action Plan. Those involved includes the many individuals, communities, civil society organisations, Public Service agency officials and Expert Advisory Panel members who have provided valuable input and perspectives for this Plan over many months and, in some cases, years.

Hon Chris Hipkins

Minister for the Public Service

Te kupu whakataki Introduction

New Zealand is internationally recognised for its high transparency, politically neutral Public Service, and low levels of corruption. Open Government Partnership (OGP) National Action Plans play an important role in maintaining these strengths and in supporting reforms to increase openness, transparency, democratic participation, and government accountability.

New Zealand has been progressing an open government agenda for many years. Open government values are expressed in many ways, including through laws, evolving government policy and institutional practice. The Official Information Act 1982 (OIA), which codifies the presumption of disclosure of government information, set the tone for openness in New Zealand some 40 years ago. Recent OIA education and reporting initiatives have helped the Public Service achieve high levels of OIA compliance. Other recent information transparency initiatives (such as the proactive release of Cabinet papers), continue to make government information more open and accessible.

The Public Service Act 2020 supports openness in government by requiring government departments to develop and publish Long-term Insights Briefings, independently of Ministers and in consultation with the public. These Briefings inform the public about medium and long-term trends, risks, and opportunities affecting New Zealand and its communities.

Openness in government encourages effective community and citizen engagement, an important area of reform in New Zealand being advanced through three commitments in this Plan. A commitment for the Public Service to adopt a common community engagement tool for ‘significant’ community engagements aims to lift the quality and consistency of community engagement by improving upfront critical thinking and planning. This commitment builds on work completed under the Third National Action Plan, that involved the development of tools and guidance to support the Public Service to apply the International Association for Public Participation (IAP2) Public Participation Framework (principles and spectrum). The quality of the tools and guidance developed was subsequently recognised by the IAP2 international body.

A second commitment to improve community engagement aims to explore how innovative, deliberative, democratic processes can be adapted and used to improve citizen engagement in the New Zealand context. There is currently little use of deliberative processes to improve community participation. There is real potential for government agencies, working together with communities, to trial and experiment on a range of topics through deliberative processes.

A third commitment focuses on the provision of an inclusive multi-channel approach to the delivery of government information and services that are accessible to and meet diverse needs of all the people of Aotearoa and ensure access for all to public services and support. This will address the barriers people face when government services are delivered online, with limited alternative options for non-digital participation.

A reputation for high integrity, fiscal transparency, and ease of doing business are important attributes for a small trading nation like New Zealand. However, fraud and corruption risks are increasing worldwide. New Zealand has experienced some of its worst cases of public sector fraud and corruption in the last 10 years. Factors that may have contributed to fraud and corruption risks include increased emergency spending to respond to COVID-19, as well as relatively low levels of transparency in both public sector procurement and the beneficial ownership of companies and limited partnerships.

Three commitments in this Plan aim to support business transparency and, collectively, counter fraud and corruption risks. The commitments comprise the design and implementation of a national Counter Fraud and Corruption Strategy, increasing the transparency of beneficial ownership of companies and partnerships, and lifting the transparency of public sector procurement.

This plan also includes a commitment to strengthen access to public information by examining proposed OIA exemptions in new legislation. This will reduce the unnecessary introduction of non-disclosure provisions.

Finally, the plan includes a commitment to support the government use of data and personal information. This commitment seeks to strengthen the transparency and accountability of algorithm use across government agencies through the creation of a community of practice to share lessons learnt and implementing the principles of the Algorithm Charter for Aotearoa New Zealand.

All aspects of open government (including participation and inclusion) must be considered through the lens of what government means in the New Zealand context. In recent years, the government has articulated policy on the Māori-Crown relationship and the Crown's obligations under Te Tiriti o Waitangi in various instruments. In 2019, Cabinet published agreed guidelines for policymakers to consider Te Tiriti in policy development and implementation. In 2022, Te Arawhiti (the Office for Māori Crown Relations) issued guidance to public servants on how to consider Te Tiriti implications in policy development and implementation. The guidance is supported by a range of tools and training on how to approach engagement with Māori.

More broadly, the Public Service Act 2020 (the Act) sets out the role of the Public Service in supporting the Crown's relationships with Māori under Te Tiriti and in achieving the government's objectives of improving services and outcomes for Māori. In developing this Plan, advice was sought from Te Puni Kōkiri and civil society organisations on how best to apply a Te Tiriti lens to this work.

Te kupu nā te Pae Tohutohu Expert Advisory Panel's Observations

The Expert Advisory Panel (EAP) was appointed by Te Kawa Mataaho | Public Service Commission (the Commission). Its role is to advise the Commission as it works to develop and oversee the implementation of New Zealand's OGP National Action Plans.

COVID-19 has disrupted a lot of OGP activities, including the process of developing New Zealand's Fourth National Action Plan (NAP4). When the process started in early 2020, the focus was on commitments to improve the standard pillars of open government: participation; accountability; and transparency. In 2022, the context is different with democratic values and institutions being openly challenged here, to some extent influenced by social media originating in other countries. Accordingly, the EAP recommended greater priority be given to the OGP and the authentic co-production of ambitious, potentially transformative commitments.

The EAP commends the civil society organisations (CSOs) that wrote to the Minister responsible for the OGP in March 2021 – calling for a genuine, inclusive partnership and pushing for the co-production of an ambitious National Action Plan. These CSOs wrote to the Minister again in December 2021 with briefing materials on a range of issues. We are pleased that some of these issues have resulted in commitments in the plan. Civil society representatives have given hours of their time, energy, and expertise to the open government kaupapa.

The EAP would also like to acknowledge the considerable efforts of officials, as they developed a more collaborative process for developing NAP4. To deliver on its potential, however, the New Zealand OGP requires stronger political and strategic leadership from the government. Importantly, it requires a robust commitment to Te Tiriti o Waitangi and to how its principles will be integral in open government practice. Further, as practice to date has demonstrated, successful commitments are those with sufficient budgets to support innovation and the significant development of co-production capacities. Finally, for open government to succeed in rebuilding trust in democratic government, National Action Plans require significantly broadened and diversified participation by civil society representatives and a willingness to focus on issues that matter most to communities throughout New Zealand.

The EAP is looking forward to working with the Commission through the first quarter of 2023 to establish a new Multi-stakeholder Forum. This will be an important step forward to institutionalise the sort of co-governance and co-production that will be needed to strengthen New Zealand democracy through the OGP.

Te ahunga mai o te Mahere Mahi Tuawhā Developing the Fourth National Action Plan

The Fourth National Action Plan was developed by the Multi-stakeholder Forum (MSF), consisting of the EAP and officials from the Commission’s open government partnership team. The development of the Fourth National Action Plan took place over three years due to time frames being formally extended as a result of COVID-19.

Public consultation and engagement on potential commitments was a core part of the development of the Plan and is discussed below. Following significant public workshops and engagement with civil society representatives in 2020 and 2021, in October 2021 the Minister for the Public Service identified four key themes for the Plan. Public workshops were then held on these themes and following this EAP, civil society organisations and officials met to discuss progress on fledging commitments. In November 2022 Cabinet agreed to the publication of the draft Plan for final public comment.

Outreach and Process Improvements

Effective public engagement is essential to capture the community’s views and ideas for the Plan. Process improvements to facilitate greater participation in developing this Plan involved significantly more outreach to gather ideas. In 2019-21, officials travelled to several locations around the country to conduct public meetings and workshops. This engagement was supplemented by an online, public platform, launched in early 2021. The platform used deliberative questions, developed to generate ideas and suggestions from the public about ‘challenges for a public conversation on how we advance active citizenship, partnership, responsiveness and transparency of government’.

The greater public outreach resulted in approximately 1500 ideas being gathered for the Plan. After being assessed to determine whether ideas were already being actioned by government, the remaining ideas were collated under the following key themes selected by the Minister as Plan priorities:

- i) public participation
- ii) information to support financial accountability
- iii) access to, and usability of, public information
- iv) government use of data and personal information.

Running public workshops when New Zealand was experiencing high numbers of COVID-19 cases meant workshops to develop commitments had to be held online for the first time. The Commission employed an independent facilitator with expertise in online tools to assist. Preparation included: developing detailed assessment criteria for potential commitments; designing a new workshop process; and creating collateral for workshop participants. The EAP worked with officials on adapting the design of the workshop process mid-way, to improve the quality of participation and participants’ experience.

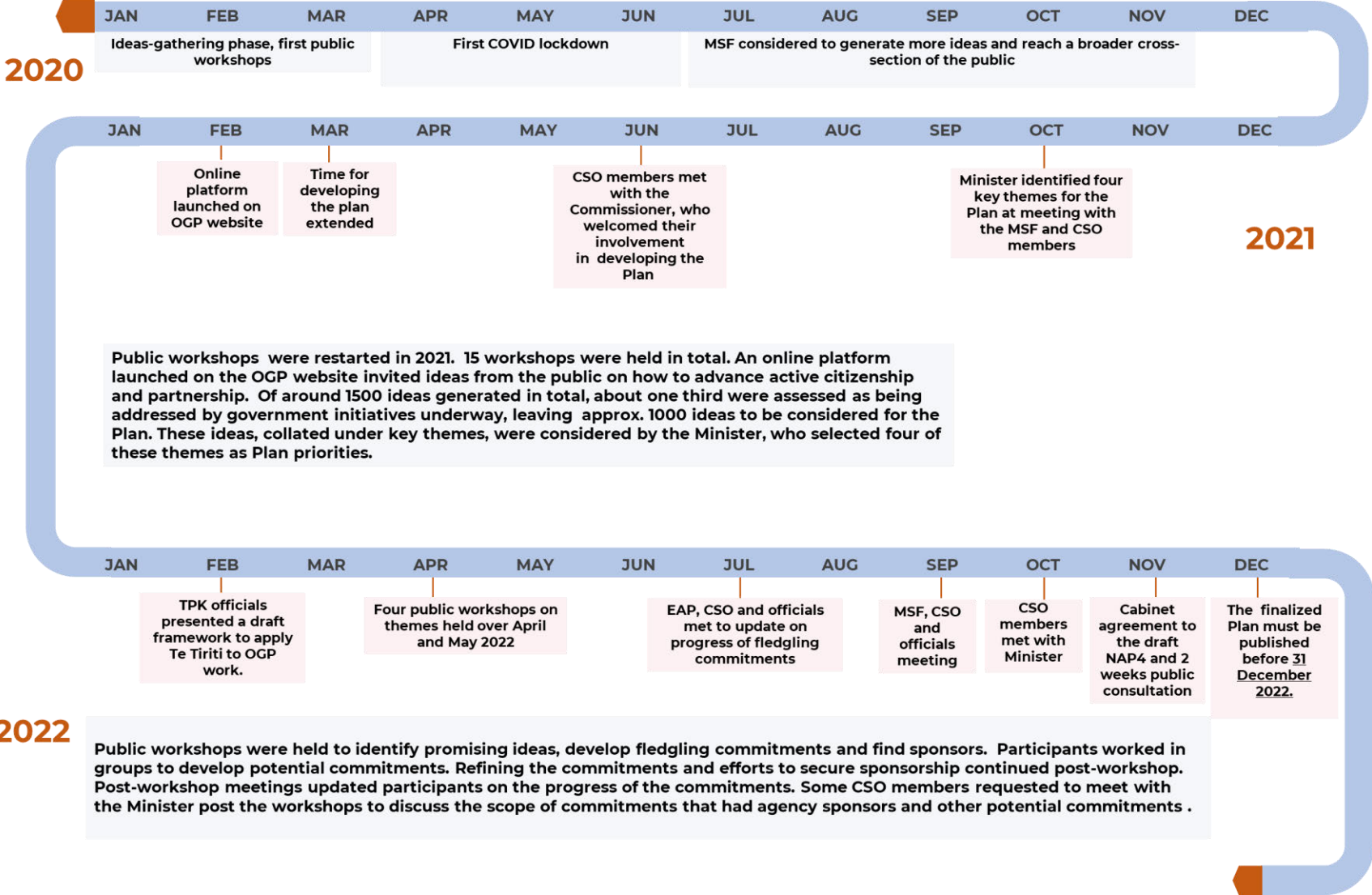
During and outside of the workshops, the MSF, officials, and members of the public and civil society representatives worked collaboratively, over several months, to develop potential fledgling

commitments and identify priorities. Participants worked in large and small groups, during and after four online workshops in April-May 2022. A further two public meetings in July 2022 were held to discuss the draft commitments. Participants continued to provide feedback on potential commitments after these workshops, and officials continued to discuss the commitments with key stakeholders to investigate potential sponsorship for some of the commitments.

Te Tiriti o Waitangi

A significant process matter discussed by officials, the EAP, and members of civil society during the Plan's development was the appropriate recognition of Te Tiriti. In particular, the appropriate way to apply a Te Tiriti lens to OGP work. The discussion led to Te Puni Kōkiri officials presenting to officials, the EAP and civil society representatives on a draft framework developed for applying Te Tiriti for OGP initiatives. The framework was incorporated into the detailed assessment criteria, and templates used by workshop participants in commitment development. Te Tiriti o Waitangi will also be reflected in the delivery of the commitments by the Agency Leads.

Timeline for the **Fourth National Action Plan**



Ngā takohanga The Commitments

Theme: Public participation

Commitment 1: Adopt a community engagement tool

Objective:

Adoption by the Public Service of the Policy Community Engagement Tool (PCET) to lift the quality of community engagement for significant initiatives.

Meaningful citizen engagement is core to open government, and critical to achieving better quality outcomes for all. Effective engagement allows those who are affected by a decision, or interested in an issue, to be involved in policy design, development and decision making. Quality engagement helps create robust policy that reflects the values and aspirations of the community. Policy decisions, resulting from an inclusive and collaborative process, have more credibility. Meaningful engagement with diverse people and communities (including communities empowered to make their own decisions on matters that are deeply important to them), will increase public trust and confidence in government.

Ambition:

The aim is to ensure that community engagement on ‘significant’ initiatives is well-designed, planned and delivered. Requiring Public Service agencies to use a Policy Community Engagement Tool will improve how they design engagements from the outset. The trust relationship between government and citizens is enhanced if all parties to an engagement understand their level of participation in the process at the outset, and what that means. It also includes ensuring the engagement methods and processes used reflect the expectations about the level of participation, and what has been promised. Applying this approach will increase public trust and supports a well-functioning democracy. It will enhance Māori-Crown relationships by providing the mechanism for those affected to work through complex long-term issues in a way that is inclusive of all interests and communities.

Status Quo:

Community engagement in government policymaking has often been at the level of “consult”. In addition, community engagement practice has not been consistent across government. Work to strengthen community engagement was initiated under Commitment 5 of the Third National Action Plan. The Policy Project, a unit based in the Department of the Prime Minister and Cabinet, surveyed policy advisors, community representatives and engagement specialists to better understand their experience of community engagement, and to gain insights to improve participation in policy making. The survey demonstrated a well-understood need to improve government’s approach to community engagement.

As a result, the Policy Project created a toolbox of resources to support agency engagement with communities. The Policy Project has since designed the PCET, which is being piloted by agencies involved in the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain (RCOI). The PCET supports RCOI recommendation 38, which requires all public sector community engagement to be in accordance with New Zealand’s OGP commitment. The PCET will be revised in light of feedback on its use during the pilot, ready for adaption for all-of-government use.

Te Tiriti O Waitangi:

Developing and applying the International Association for Public Participation’s spectrum of public participation to public engagement in the context of Te Tiriti is likely to: lead to more effective engagement with Māori as both citizens and iwi; produce better quality outcomes; and support Māori-Crown partnerships. There is a distinction between involvement of Māori as citizens and engagement with iwi as Treaty partners in public engagement processes. However, both can help to strengthen relationships between Māori and the Crown and improve decision-making. Lessons learnt and experiences can be shared between Māori-Crown partnership approaches and participatory approaches more broadly.

Lead Agency:

Te Kawa Mataaho Public Service Commission

Milestones:

Commitment 1: Adopt a community engagement tool		
OGP Values: Transparency, Accountability, Public Participation		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Review use of the policy community engagement tool in the RCOI pilot phase to gather lessons learnt from agencies and engaged communities and prepare tool for adoption by all Public Service agencies	January 2023	June 2023
Develop a model standard issued by the Public Service Commissioner to support the use of the community engagement tool by the Public Service for significant initiatives. Includes defining ‘significant’ with key stakeholders.	January 2023	June 2023
Design reporting requirements for use of policy community engagement tool by Public Service agencies	April 2023	November 2024
Establish and maintain a community of practice	June 2023	Ongoing

Commitment 2: Research deliberative processes for community engagement

Objective:

To research how deliberative processes can be adapted to work well in the New Zealand context by identifying at least two examples of deliberative democratic processes on meaningful issues through a public sector/civil society/community alliance. Research to capture lessons learnt and share these to build capability. This will involve adapting the examples to the New Zealand context.

Ambition:

To strengthen the range of available options for public participation by identifying pilots and trials where deliberative democratic processes (such as citizens' assemblies, citizens' juries, participatory budgeting) are being used. Capture lessons learnt and share these to develop greater awareness and understanding of these innovative practices.

Status Quo:

Public authorities from all levels of government overseas increasingly use Citizens' Assemblies, Juries, Panels, and other representative deliberative processes to tackle complex policy problems ranging from climate change to infrastructure investment decisions. There is currently little use of deliberative processes in New Zealand. There is an opportunity to improve community participation over a range of topics by government agencies and communities trialling and experimenting with deliberative processes (for example, at a local level) and adapting these to the New Zealand context. Lessons learnt can be captured and used to improve deliberative processes and potentially to make them scalable to a national level.

The two deliberative processes will be identified through engagement with civil society and agencies. Two recent examples identified by civil society are:

- WaterCare NZ's largest water and wastewater company who has recently trialled the use of citizen juries as a decision-making process. This is in partnership with the University of Auckland and Koi Tū, the centre for informed futures
- A Wellington based iwi and their use of citizen assemblies (Talanoa/Wananga) to explore local issues with community groups.

During our workshops some agencies are considering the use of deliberate processes, but these were not confirmed at the time of finalising the plan. The final audience for this work is agencies to support capability development and share lessons learnt.

Te Tiriti O Waitangi:

Deliberative processes must consider Te Tiriti. Innovative processes to tackle complex problems that incorporate Te Tiriti concepts and values can strengthen community participation and create outcomes that have strong credibility and support.

Lead Agency:

Te Kawa Mataaho Public Service Commission

Milestones:

Commitment 2: Research and trial deliberative processes for community engagement		
OGP Values: Transparency, Accountability, Public Participation		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Identify at least two examples of the use of deliberative, democratic processes on meaningful issues	January 2023	December 2023
Establish a joint agency/civil society working group to implement commitment	January 2023	December 2023
Adapt pilot deliberative processes to NZ context	June 2023	June 2024
Evaluate the deliberative processes pilot to identify lessons learnt	June 2023	June 2024
Publish results of pilot	June 2024	October 2024
Build capability within government entities and communities to conduct deliberative processes based on lessons learnt	October 2024	December 2024
Identify future projects to use deliberative processes	October 2024	December 2024

Commitment 3: Establish an inclusive, multi-channel approach to the delivery of government information and services

Objective:

Provision of inclusive information and services by government agencies through multiple channels that are accessible to and meet diverse needs of all the people of Aotearoa.

Ambition:

This commitment will address the barriers people face when government services are delivered online, with limited alternative options for non-digital participation.

The need for multi-channel access to support and services is an issue strongly supported by civil society representatives. This proposal aligns with the Citizen's Advice Bureau New Zealand petition to 'Leave no-one behind – Campaign to address digital exclusion'.

The commitment will be achieved through civil society organisations and government agencies working in partnership, to identify best practice models, co-design, develop, and carry out a pilot or pilots, and to create a plan to implement integrated, cross-government, multi-channel public service delivery.

By giving people a choice of channels for connecting and engaging with government services, a multi-channel service delivery environment will allow people to more easily access their entitlements and fulfil their obligations in respect of government. It will prevent the individual and societal costs experienced when people are unable to easily connect with services and will enhance social inclusion and individual and community wellbeing.

The commitment will be achieved through civil society organisations and government agencies working in partnership with, and leveraging, the Government Chief Digital Officer's (GCDO) System Lead role for digital government transformation. The GCDO develops and manages all-of-government frameworks, standards and tools to guide the development of accessible, inclusive and consistent services. Government agencies then use these to develop and deliver services that meet New Zealanders' needs and can be accessed in ways that best suit them (including in person).

Status Quo:

Over the past decade, there has been a push for digital transformation across the public sector. While this has provided benefits in several areas, many processes and interactions with government agencies are now designed to direct people to a digital pathway. While other channels for accessing services,

such as public counters, in-person appointments, and phone services have been scaled back or removed.

Te Tiriti O Waitangi:

Māori have much higher rates of digital exclusion compared to non-Māori and therefore face greater impacts of the Government’s digital-first or digital-only approach to service delivery and the loss of in-person services, especially of kanohi ki te kanohi services. The current approach serves only to create additional barriers to services and support, deepening the disadvantage Māori already face.

Lead Agency:

Department of Internal Affairs

Milestones:

Commitment 3: Establish an inclusive, multi-channel approach to the delivery of government information and services		
OGP Values: Transparency, Accountability, Public Participation		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
<p>Discovery</p> <p>Establish relationships and a cross-agency / civil society / NGO / iwi working group</p> <ul style="list-style-type: none"> Run discovery process to understand all dimensions of the problem Confirm high-level approach 	Feb 2023	June 2023
<p>Design</p> <ul style="list-style-type: none"> Identify options Choose preferred options Develop preferred options Test and iterate 	July 2023	Jun 2024
<p>Implement</p> <ul style="list-style-type: none"> Report back on lessons learnt Promote deliverables 	July 2024	Dec 2024

Theme: Information to support financial accountability

Commitment 4: Design and implement a National Counter Fraud and Corruption Strategy

Objective:

Implement a national Counter Fraud and Corruption Strategy that unites and coordinates government agencies' work to counter fraud and corruption risks. This will strengthen the system's ability to identify and combat fraud and corruption risks and enhance transparency and accountability.

Ambition:

To design and implement a national Counter Fraud and Corruption Strategy that will support government efforts to address fraud and corruption risks. Phase One of the Strategy will focus on fraud and corruption that targets public funds and resources, helping tax dollars go to needed public services and projects. Implementation of the strategy will improve the ability to safeguard public funds, while increasing the public's trust and confidence in government as a responsible steward of public resources.

The initial focus of this commitment will be on strengthening the capability of the public sector. Future development of the strategy may include business and the private sector.

Status Quo:

Despite its reputation for a high integrity Public Service, New Zealand is not immune to the increasing risks of fraud and corruption being faced in many parts of the world. Contributing factors include the rise of the digital economy, fragmented regulatory frameworks across jurisdictions, and trading with countries ranked as having higher levels of corruption. Government procurement has a relatively low level of transparency and emergency public spending has increased dramatically in response to the COVID-19 pandemic.

New Zealand Police estimate between \$700m and \$1.4bn in government funds is lost to fraud every year. Research commissioned by the Serious Fraud Office estimates that, taking into account loss due to error, between \$5bn and \$10bn is lost due to fraud and error every year. These estimates do not include losses attributable to corruption. At a system level, a lack of information about the true extent of fraud and corruption, overlapping operational mandates, and different priorities of agencies involved can present obstacles to government working in a coordinated and consistent way to address fraud and corruption risks. New Zealand citizens quite rightly expect government agencies to act as responsible stewards when managing public funds.

Te Tiriti O Waitangi:

Implementing a national Counter Fraud and Corruption Strategy to address fraud and corruption risks may deliver positive benefits to Māori as both citizens and iwi, to the extent that Māori are over-represented in socio-economic indicators for need, use of public services and experience of inequality. Acts of fraud and corruption often target government funds and resources, reducing the available funds for quality public services, diverting aid away from those most in need, deepening inequality, and eroding trust in government.

Lead Agency:

The Serious Fraud Office

Commitment 4: Design and implement a National Counter Fraud and Corruption Strategy		
OGP Values: Transparency, Integrity, and Accountability		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Design a National Counter Fraud and Corruption Strategy that has clearly defined objectives and explains how they will be achieved	August 2022	August 2023
Implement Phase One of the Strategy focussing on lifting public sector capability, including an education programme for senior leaders	September 2023	December 2024
Explore with business, civil society and stakeholders how to extend future iterations of the strategy to the private sector.	July 2024	December 2024

Commitment 5: Increase transparency of beneficial ownership of companies and limited partnerships

Objective:

Increase the transparency of the beneficial ownership of New Zealand companies and limited partnerships by introducing legislative policy to make beneficial owners' identifying information available on a **public** register.

Ambition:

To establish a register of beneficial ownership of companies and limited partnerships to help people find accurate, up-to-date information about who they are doing business with. The register will hold biographical, contact, and corporate information about the beneficial owners of New Zealand companies and limited partnerships. Companies and limited partnerships will be required to inform the registrar who their beneficial owners are. Beneficial owners will be required to provide their information to the registrar. Beneficial owners will need to prove their identity when providing this information and will be issued with a unique identifier. Subject to safeguards, enforcement agencies will be able to access all register information while the general public will have access to high-level information (name, date of becoming a beneficial owner, and grounds for qualifying as a beneficial owner).

Status Quo:

Companies and limited partnerships are two of the most common “for profit” entities in New Zealand. These entities are only required to disclose information to the Companies Office about individuals who directly own, and who directly run, the entities. There is no legal obligation to disclose the individuals who ultimately own or control companies and limited partnerships (the “beneficial owners”). The current level of disclosure makes it difficult to determine, for instance, who is benefiting when public funds go to private entities, whether entities are paying the correct amount of tax, or if they may be involved in money-laundering or other forms of corruption.

Te Tiriti O Waitangi:

Increase the transparency of the beneficial ownership of New Zealand companies and limited may benefit Māori as both citizens and iwi, to the extent that the current lack of transparency around beneficial ownership of companies and limited partnerships can have an impact on Māori as citizens and iwi due to systemic inequality and disadvantage.

Lead Agency:

The Ministry of Business, Innovation and Employment

Milestones:

These planned milestones are indicative only as they are contingent on the Parliamentary process and passage of legislation.

Commitment 5: Increase transparency of Companies and Limited Partnerships		
OGP Values: Transparency, Integrity, and Accountability		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Prepare instructions to draft legislation to increase transparency of beneficial ownership of companies and limited partnerships	September 2022	February 2023
Draft new legislation to require beneficial ownership information of companies and limited partnerships to be made available	January 2023	December 2023
Introduce the legislation to the House	January 2023	December 2023
Design policy and guidance documentation to support the introduction of the register	March 2023	December 2023
Develop publicity and information to support the enactment of the new legislation	June 2023	December 2024

Commitment 6: Improve Government Procurement Transparency

Objective:

Improving the transparency of government sourcing activity by making changes to the Government Electronic Tender Service (GETS) and by developing a digital data platform (or leverage existing platforms) to capture procurement information, in alignment with the Open Contracting Data Standard (OCDS).

Aligning with OCDS will enable government to share better information with the marketplace and improve efficiency and competition. It will also enable better monitoring and data-driven decision making to improve performance. Greater transparency also supports feedback and engagement by business and citizens.

Ambition:

To design and develop a digital data platform (or leverage existing platforms) that will capture procurement information from agencies and join up GETS data, All-of-Government panel, and agency procurement data, in alignment with the Open Data Contracting Standard. Fully developing and implementing the digital data platform will take time beyond NAP4 but will significantly increase transparency by making procurement information available to agencies and the public via a suite of dashboards.

Also, to make changes to GETS to improve compliance with government contract award publication requirements. The changes will improve collation of data and increase the transparency of government sourcing processes.

Status Quo:

Each year, the New Zealand Government spends \$51.5 billion on the goods and services to support public services, infrastructure, economic growth, and the wellbeing of New Zealanders. How this money is spent not only determines consumer and national outcomes. It also affects the efficiency, fairness, and inclusivity of the public procurement system for its providers.

Currently, transparency of government procurement is limited. Only a subset of government agencies must advertise contracts over \$100,000 through GETS. While the quality of that information has improved, with contract award notices being published as open data on a quarterly basis since July 2019, there is room for improvement. Procurement data is currently difficult to combine due to the lack of integrated data systems to aggregate procurement data in real time. Collation of procurement data outside of GETS is largely dependent on manual data collections which is time consuming, places considerable administrative burden on both agencies and suppliers, and is subject to compliance issues.

Te Tiriti O Waitangi:

Open contracting makes government procurement fairer and more efficient. Improving transparency of government procurement has benefits to Māori as both citizens and iwi, as it enables data and insights to better inform key policies and initiatives relevant to Māori, such as the progressive procurement policy.

Lead Agency:

The Ministry of Business, Innovation and Employment

Milestones:

Commitment 6: Improve Government Procurement Transparency		
OGP Values: Transparency, Integrity, and Accountability		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Design and make changes to the GETS application for improved information publication compliance	January 2023	March 2024
Lay the foundations for integrated data system capability and future data management, through: <ul style="list-style-type: none">• developing a data governance framework• identifying service design, reference architecture, and Data as a Service model• defining data transparency requirements and developing a structured approach for delivery of new reporting requirements, standards, and formats• developing the blueprint for an integrated data system and prioritised implementation pathway• utilising data.govt to publish data insights and sources.	January 2023	February 2025
Pilot the digital data platform and system within NZGP	June 2024	September 2024

Theme: Access to and usability of public information

Commitment 7: Strengthen scrutiny of Official Information Act exemption clauses in legislation

Objective:

To strengthen the scrutiny of legislative clauses that propose to override the disclosure requirements of the Official Information Act 1982.

Ambition:

To strengthen the guidance and procedures agencies must follow in relation to the scrutiny of new legislative clauses that propose to override the disclosure requirements of the Official Information Act 1982 in relation to certain information.

Status Quo:

Civil society representatives are concerned that current legislative processes regarding proposed clauses to exempt certain information from the release provisions of the Official Information Act 1982 are not adequate. This may result in OIA exemption clauses being introduced when they are not needed.

There are now more than 85 clauses in legislation that override the presumption of availability of official information found in section 5 of the Official Information Act 1982. More than 20 have been added as a result of legislation introduced since 2019.

Civil society representatives consider such confidentiality provisions may be applied too broadly or only permit disclosure in limited circumstances. This can result in OIA requests being refused under the OIA as being 'contrary to the provisions of a specified enactment'.

There are current safeguards in place, which include the legislative process, guidelines and the Legislative Design and Advisory Committee. It is also the Ministry of Justice's (MoJ) role, for example, to provide advice on Bills that interface with the OIA. This commitment will propose recommendations to strengthen guidance and controls around this process. This may include consultation with the Office of the Ombudsman.

Te Tiriti O Waitangi:

There may be greater opportunities for Māori to participate in government, as both citizens and iwi members, if more official information is made available.

Lead Agency:

The Ministry of Justice

Milestones:

Commitment 7: Strengthen Scrutiny of Exemption Clauses in legislation		
OGP Values: Transparency, Accountability, Public participation		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Review current legislative processes and guidance in relation to the scrutiny of legislative clauses that propose to override the presumption of disclosure under the Official Information Act 1982	January 2023	September 2023
Strengthen processes and guidance to better reflect the presumption of disclosure of government information and the application of the public interest test under the OIA	June 2023	December 2023
Rollout and communicate the new processes and guidance that support a strengthened test for scrutiny.	January 2024	December 2024
Continue to explore the potential inclusion of reviewing existing exemption clauses in the future.	January 2024	December 2024

Commitment 8: Improved transparency and accountability of algorithm use across government

Objective:

To strengthen the transparency and accountability of algorithm use across government through improved supports to implement the principles of the Algorithm Charter for Aotearoa New Zealand.

Ambition:

To embed the principles of the Algorithm Charter consistently across government data management practice and use through shared practice, tools and supports, and system stewardship focussed on the ethical and transparent use of algorithms.

Status Quo:

The intention of the Algorithm Charter is to increase public confidence and visibility around the use of algorithms within the public sector. An independent review of the Algorithm Charter's first year of operation found that there is almost universal support for the Algorithm Charter amongst government agencies and subject matter experts, and that the Charter has been influential in changing practice.

As a result of the Charter, agencies have implemented new risk management policies; established ethics committees and review boards; created new roles to oversee emerging technologies; performed stocktakes and reviews of their algorithms; evaluated the potential for risks that would have previously been unforeseen; and been transparent with the public about the types of algorithms that are being used. The review also found that agencies would not have made the move towards publishing their algorithms online, if it had not been for the Charter.

However, the review also identified that most agencies have addressed their Charter commitments largely on their own and without knowledge of how other agencies were going about it. Several agencies expressed concern that perhaps their approach wasn't optimal and that other agencies may have a better approach. Agencies also expressed a need for information on what is considered 'best practice' in respect to different charter commitments and a medium for accessing expert support when needed.

The review recommended the need to deliver additional support to agencies to implement the Charter.

Te Tiriti O Waitangi:

This commitment could help to embed Māori perspectives and reflect the principles of te Tiriti o Waitangi in the way algorithms are designed and used.

Lead Agency:

Stats NZ

Milestones:

Commitment 8: Improved transparency and accountability of algorithm use across government		
OGP Values: Transparency, Accountability		
Verifiable and measurable milestones to fulfil the commitment	Start date	End date
Establish a community of practice or network to share knowledge and best practice, and build capability across signatories of the Charter	January 2023	June 2023
Work with stakeholders to prioritise recommendations from the Charter's One Year Review and design an implementation plan for the high priority recommendations.	January 2023	December 2023
Provide tools, guidance and other supports to signatories to help them meet the transparency and accountability objectives of the Charter	June 2024	December 2024

Te whakatinana i te mahere Undertaking the Plan

Implementation

Following the publication of the Fourth National Action Plan, the key stakeholders involved in the work under each commitment will continue to work on the implementation process. While the commitments may have milestones and specific outputs, the details of the specific activities required of stakeholders to realise the milestones will typically have more detailed plans.

Self-assessment reports are a key OGP accountability mechanism and document the overall progress of the National Action Plan. The self-assessment report is completed at the end of the implementation of the National Action Plan. The draft Self-assessment Reports is open to public comment and published on the country's OGP website, along with the comments and how the comments were addressed.

The Multi-stakeholder Forum

The Multi-stakeholder Forum (MSF) is an established space for ongoing dialogue and collaboration between government and civil society representatives and leads the open government processes within a country. While early MSFs focused on developing action plans, in many jurisdictions they now oversee implementation and engage with stakeholders to advance the OGP process and proactively communicate progress of open government reforms.

Key responsibilities of the MSF may include:

- strategic and tactical planning, including on the best ways to approach the development, implementation, and monitoring of action plans
- engagement on different open government processes (both within and outside government), including the development, implementation, and monitoring of the action plan
- communication activities to inform open government stakeholders and the broader public about open government processes and how they can participate
- oversight of domestic processes related to OGP. Ensuring the development, implementation, and monitoring of action plans and identifying ways to approach these processes in future iterations.

This work will bring opportunities for public participation in the design of the new MSF. During the first half of 2023, New Zealand's current MSF, comprising Commission officials and the EAP, will be leading work on the design and establishment of a new Multi-stakeholder Forum

The Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is OGP's accountability arm. Over each action plan cycle, the IRM provides three independent, evidence-based, and objective reports to hold OGP members to account to support their open government efforts. The Co-Creation Brief informs the co-creation planning process based on collective and country specific IRM findings. The Action Plan Review reports on the new action plan's characteristics, strengths and challenges and the Results Report assesses the level of completion of action plan commitments and checks compliance with OGP standards and criteria. Elizabeth Eppel appointed in 2022 as the new IRM for New Zealand will prepare the Action Plan Review. Elizabeth succeeds Keitha Booth, who was New Zealand's second IRM from 2017 to 2022.

Appendix B: Summary of Key Feedback received on NAP4¹

Name of commitment	Feedback ²	TKM Response
Implementation Plan	<p>1. Transparency International New Zealand (TINZ) suggest the implementation plan should explicitly describe the value of co-creation and the role of civil society.</p> <p>2. Grey Power New Zealand request the implementation of the plan receives adequate, targeted funding and resources, so the Plan does not end up a “wish list”. They note that CSOs have commented that National Action Plans are weak and commitments as seen as things to be “ticked off” rather than tools to transform how government works. Ministerial leadership is needed to change this behaviour.</p> <p>Open Government Partnership International (OGP) made a number of suggestions about the implementation of the plan:</p> <p>3. Proactively identify civil society leads and the roles of civil society and the public in commitment milestones.</p> <p>4. To fully embed considerations related to Te Tiriti o Waitangi in the implementation of each commitment it would help to incorporate these into the content of commitment milestones.</p> <p>5. For further IRM advice on commitments carried forward from the previous cycle, please see the IRM Transitional Results Report and Design Report.</p> <p>6. Amazon Web Services New Zealand Limited (Amazon) look forward to future engagement on the commitments with relevant agencies over 2023-24. Outreach to relevant industries bodies and leaders can leverage the broader knowledge and resources available in New Zealand to support action plan implementation. Amazon recommend agencies proactively seek support from relevant industry forums such as Digital Identity New Zealand, AI Forum, NZ Tech so as to leverage wider perspectives from industry on these important topics.</p>	<p>1. TKM will review and consider this feedback when developing the implementation plan.</p> <p>2. No changes required to NAP4. Commitments are funded and resourced within existing baselines. A number of commitments are transformational.</p> <p>3. The more substantive changes suggested by OGP have not been incorporated. The development of the NAP4 involved considerable engagement and co-design with CSOs and the general public. The Plan was subsequently approved by Cabinet with only minor changes to the Plan permitted. Proposed changes to implementing parties is not possible at this final stage of Plan approval and would require the development process to start again.</p> <p>4. As above.</p> <p>5. As above.</p> <p>6. TKM will review and consider this feedback when developing the implementation plan.</p>
The Multi-stakeholder Forum (MSF)	<p>TINZ advise that:</p> <p>1. The current EAP requires people to apply and be selected by government to be a member. This arrangement should be explicitly ruled out for the future, and there should be a commitment for CSOs, Māori and other groups to choose representatives to serve on the newly established MSF.</p> <p>2. The MSF should be co-led by government and CSOs.</p>	<p>1. TKM will review and consider this feedback when developing the Multi Stakeholder Forum (MSF) and process for the next National Action Plan (NAP5).</p> <p>2. As above.</p>
Independent Reporting Mechanism	<p>Amend the paragraph describing the IRM and its NZ researchers as it does not cover the full IRM process.</p>	<p>Changes incorporated into NAP4.</p>

¹ This feedback list isn't exhaustive and should be read in conjunction with submissions received.

² Note – all feedback comes from individuals unless an organisation is specified.

<p>NAP4 Process</p>	<p>TINZ and NZ Council of Civil Liberties and Trust Democracy advise that:</p> <ol style="list-style-type: none"> 1. <i>Plan does not have bold ambitious transformative initiatives</i> - The plan is primarily a collection of current work already underway. It hasn't improved public transparency and accountability in the three years that the NAP4 has been in development. Nor does the plan uphold the principle "to foster a culture of open government". 2. <i>Process used doesn't align with OGP documented standards, nor IAP2</i>- the guide to public engagement created by the government in NAP3. 3. <i>Lack of effective engagement and meaningful participation</i> – more "Inform" with some aspects of "Consult" under IAP2. A meaningful shift would have been towards "Involve". 4. <i>Commitments in the plan have not been co-created/co-produced.</i> 5. <i>OGP work in NZ will continue to feed cynicism about "co-creation".</i> 6. <i>Lead agencies were not willing to engage or make meaningful commitments.</i> 7. <i>Lack of funding and incentives to engage in OGP disincentivizes CSOs to be involved, with significant opportunity costs</i> 8. <i>Lack of allocated funding for OGP work means agencies see OGP work as additional work</i> 9. <i>The Commission and government do not understand the ethos of the OGP, the Minister's role in OGP or how to leverage authority to ensure other government departments meet responsibilities</i> 10. <i>TKM must invest in its officials and upskill them in co-creation and better resource engagement</i> 11. <i>EAP members are not representative of any CSO organization or sector of society as per TOR</i> 	<p>TKM will review and consider this feedback (1-11) when developing the Multi Stakeholder Forum (MSF) and process for the next National Action Plan (NAP5).</p>
<p>Disability Convention and its relevance to the plan and commitments</p>	<p>The Ombudsman considers that the Plan and the relevant commitments could be further strengthened through explicit reference to New Zealand's obligations under the Disability Convention. This requires public sector agencies to have in place mechanisms that allow disabled people to use services independently, and to provide a variety of reasonable accommodations to disabled people and their supporters. And ensure that disabled people are able to live independently and participate fully in all aspects of life (Articles 2 – reasonable accommodation and 9- accessibility of the Convention refer). He suggests that the relevance of the Convention be recognised through express reference to it within the Plan and its Commitments.</p>	<p>Our expectation is that Agency Leads will take into consideration all relevant legislation, policies and obligations when developing the commitments. This specific feedback will be provided to all Agency Leads.</p>

Commitment 1 – Adopt a community engagement tool

1. A number of submissions in support of this commitment were received. One suggests that the Health Quality and Safety Commission (HQSC) be contracted for research and learning as they have engaged with customers through multiple channel as well as developed a customer engagement tool which itself was created with consumers and whanau.
2. Another from the International Association for Public Participation (IAP) Australasia supports this commitment and shares further tools, resources, thoughts and other items of interest that could be considered useful. They advise that they are working on a draft Māori strategy around best practice Māori engagement in NZ. They plan to commence work with the NZ engagement community and specialised iwi engagement advisors as to how to progress this initiative. They are working within Te Arawhiti’s framework.
3. The submission from Grey Power notes that policy decisions that result from an inclusive and collaborative process achieve more credibility. The community engagement tool will improve how agencies design engagement from the outset.

A submission from TINZ suggested the following changes:

4. Publishing the report from the review of the use of the policy community engagement tool.
5. Mandatory expectations that government entities will adopt the tool.
6. Information on how the public will be involved in delivery of the commitment.
7. Provisions on co-designing enforceable minimum standards for public consultations (information gathering, co-design, publication).
8. Specification that the community of practice will be open to private sector public engagement consultants, CSOs, academics and interested members of the public.
9. The Ombudsman advises that he is pleased to see that the Plan and a number of its commitments recognise the needs for government information to be accessible and useable by all members of New Zealand society, and for engagement and consultation to be meaningful and effective. He commends commitments 1, 2 and 3 as they look likely to strengthen the ability of disabled people, including tāngata whaikaha Māori, to engage with and participate in democracy in NZ.

OGP International also suggested changes:

10. The commitment could define what constitutes a “significant initiative”.
11. To embed agencies use of the community engagement tool, TKM could link implementation of the tool to its assessment of agency Chief Executives meetings their duty under s. 12 of the Public Service Act 2020.
12. Beyond reporting requirements, it would be valuable to incorporate milestones that, with civil society, measure agencies’ uptake of the tool, and evaluate whether this form of public engagement has made implementation of policies smoother.
13. Spain has a related commitment in their 2020 action plan that we may wish to consider for inspiration and learning.
14. Any community engagement tool must not be digital only. A digital only tool would be inaccessible to more than 20% of the population.
15. The International Association for Public Participation (IAP) Australasia supports this commitment and has suggested that this could be an area of shared interest. One of their members recently received an IAP2 Core Values Award for their six-year longitudinal research project on “The Value of Deliberative Democracy”.

16. NZ Civil Council for Civil Liberties and Trust Democracy suggest:

1. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment. The Agency Lead will also leverage the experience from the use of the tool by Royal Commission of Inquiry (RCOI) agencies during the pilot. They will consider the feedback from agencies and impacted community groups.
2. No change to NAP4 required. Provide information to DPMC.
3. No change to NAP4 required.
4. Report will be published. No change to NAP4 required.
5. Development of a standard will ensure mandatory use. No change to NAP4 required.
6. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment.
7. As above.
8. As above.
9. As above.
10. No change to NAP4 required.
11. The development of reporting requirements could cover these matters, we do not consider it needs a separate milestone.
12. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment.
13. As above.
14. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment.
15. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment.
16. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment. Milestone has been amended to make it specific that the model standard is the model standard issued by the Public Service Commissioner to support the use of the community engagement tool by the Public Service for significant initiatives. Includes defining ‘significant’ with key stakeholders.

	<ul style="list-style-type: none"> TKM should apply PCET to OGP work NAP should make explicit that PCET will be a standard under s 17 of the PSA and it should be linked to “fostering a culture of open government” under s 12(1)(d) of the PSA Milestone 1 review of PCET - should include input from people outside the public service Lack of defining “significant commitments” is problematic; ought to be clear to people outside the public service, who should have input into what definition is Community of practice is a good thing but should be open to people outside the public service Community of practice is not sufficient to lift quality of community engagement Request extend commitment to include “co-creation of mandatory minimum standards for govt consultation exercises”. 	
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<p>Commitment 2: Research deliberative processes for community engagement</p>	<p>TINZ suggest two specific changes:</p> <ol style="list-style-type: none"> 1. Include publication of the evaluation of the deliberative processes pilot. 2. Include a requirement to establish a multi-stakeholder oversight group with a description of how group will work with the organisers of the deliberative processes to adapt to the NZ context. 3. One submission provided the example of modernising the Charities Act 2005 to show how complex messaging from government agencies can be, and suggested more care be taken with future messaging (also relates to commitment 3). 4. One submission did not support this proposal and suggested instead that there is already a wealth of information and examples in community circles and the public sector, and we do not need to reinvent the wheel or look to overseas for what is already done here. Examples include the use of citizens assemblies (Talanoa/Wananga). The submitter noted specific individuals with knowledge in this area. 5. Grey Power New Zealand supports strengthening the range of options available for public participation and notes there is currently little use of deliberative processes in New Zealand, so this is an area with opportunity for improvement. This submission supportive processes that promote “true public engagement” instead of requesting comments once policies have been developed. <p>OGP International made two comments:</p> <ol style="list-style-type: none"> 6. Suggested referring to the OECD resource on ways to ways to institutionalise deliberative democracy, including giving citizens a right to demand a deliberative process, requiring deliberation before certain kinds of policy decisions, sequencing deliberative processes throughout the policy cycle, or connecting deliberation to parliamentary committees. 7. OGP can direct New Zealand to resources on deliberative processes (e.g. The OECD’s Deliberative Wave report) and connect us to peers in other countries for support and guidance. 8. The Ombudsman advises that he is pleased to see that the Plan and a number of its commitments recognise the needs for government information to be accessible and useable by all members of New Zealand society, and for engagement and consultation to be meaningful and effective. He commends commitments 1, 2 and 3 as they look likely to strengthen the ability of disabled people, including tāngata whaikaha Māori, to engage with and participate in democracy in NZ. <p>NZ Civil Council for Civil Liberties and Trust Democracy suggest:</p> <ol style="list-style-type: none"> 9. Milestone 3 should be amended to design a fund open to all to support use of deliberative processes 10. Milestone 3 should be published 11. A multistakeholder oversight group should be formed to guide delivery for milestones 2, 3 and 5. 12. Mining” deliberative processes for govt alone would be extractive and unethical. 	<ol style="list-style-type: none"> 1. No change to NAP4 required. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment. 2. Publication of pilot will occur. No change to NAP4 required. 3. Feedback will be considered by Agency Lead (Te Kawa Mataaho Public Service Commission) as part of the detailed planning of this commitment. 4. As above. 5. Provide feedback to agency Lead. 6. As above. We note all commitments will need to be progressed within New Zealand’s existing democratic and constitutional settings. 7. As above. 8. No changes required. 9. Agency Lead to determine 10. Incorporated. 11. Incorporated. 12. No change required.
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<p>Commitment 3: Establish an inclusive multi-channel approach to the delivery of government information and services</p>	<p>23 submissions have been received in support of this commitment.</p> <ol style="list-style-type: none"> 1. DIA advise that the GCDO does not have the mandate to compel agencies to use the approach they develop (they can only ask them to). They feel that use of the word ‘establish’ suggests otherwise. They advise that they won’t be starting from scratch but will be building on work the GCDO has already done. They will also need to continue to develop the approach over time in response to technological and societal changes. ‘Establish’ feels a bit ‘one and done’ and suggests that there is currently no work in existence. Hence their preference for use of the word Develop instead of Establish. 2. DIA have suggested some amendments to some of the terminology and Commitment 3 milestones. <p>TINZ stated that it was pleasing:</p> <ol style="list-style-type: none"> 3. to see that there is a firm commitment for greater accessibility to government services and support (TINZ) 4. to see that an agency sector has been secured and that it includes provision for a cross-agency / civil society / NGO / iwi working group (TINZ) 5. that their continued insistence on the importance of Te Tiriti o Waitangi as central to the commitments has been realised. <ol style="list-style-type: none"> 6. Citizens Advice Bureau (CAB) is delighted to see the inclusion of this commitment. CAB has been advocating for this approach to public service design and delivery for the past 3 years. The submission notes this approach will support all people to get the help they need in ways they need it, including for Māori who have expressed the value of interacting kanohi ki te kanohi. 7. CAB look forward to working with DIA, the Agency Lead, on this commitment. Given DIA has been leading the digital transformation process for government, CAB asks that the Minister provide DIA with clear direction about the requirement to broaden their scope. CAB’s experience has been that DIA struggled to accommodate a multi-channel approach alongside its deliberate emphasis on digital transformation, digital public services, and digital inclusion as a solution to meeting the needs of those who are not online. It is also essential this work is supported through adequate budget allocation, including resourcing civil society partners. 8. The Ombudsman advises that he is pleased to see that the Plan and a number of its Commitments recognise the needs for government information to be accessible and useable by all members of New Zealand society, and for engagement and consultation to be meaningful and effective. He commends commitments 1, 2 and 3 as they look likely to strengthen the ability of disabled people, including tāngata whaikaha Māori, to engage with and participate in democracy in NZ. 9. NZ Civil Council for Civil Liberties and Trust Democracy suggest: <ul style="list-style-type: none"> • CSOs and iwi on working group should be paid for their time and commitment should use an “open” approach • Implementation depends on funding. 	<ol style="list-style-type: none"> 1. Not incorporated. ‘Promote’ could be perceived as watering down the commitment. Also we note the Cab Minute uses the term ‘Establish’ in the agreed commitment description. 2. DIA changes incorporated. 3. No changes required. 4. No changes required. 5. No changes required. 6. Feedback to Agency Lead. 7. The commitment will be achieved through civil society organisations and government agencies working in partnership with, and leveraging, the Government Chief Digital Officer’s (GCDO) System Lead role for digital government transformation. Any decisions around funding and resourcing will be determined by the Agency Lead as the commitment will be funded and resourced within their existing baseline. 8. No changes required. 9. Feedback to Agency Lead to consider.
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<p>Commitment 3: Establish an inclusive multi-channel approach to the delivery of government information and services (continued)</p>	<p>10. Amazon advise that in addition to exploring multi-channel options it is important for the technology industry to evolve digital user interfaces that use human centred design practices to support access for all community members to improve inclusion significantly, as well as investment in skills development. In addition to improving digital channels, we believe there are significant opportunities to use technology to enhance other channels too.</p> <p>Key themes from submissions include:</p> <p>Inclusiveness</p> <ol style="list-style-type: none"> 1. <i>Have a more inclusive approach to public services</i> 2. <i>Aim to always have person to person options available for the public</i> 3. <i>Ensure that those using non digital services are not disadvantaged (e.g. long wait times or feeling that they are being a nuisance)</i> 4. <i>Uphold Te Tiriti o Waitangi</i> 5. <i>Provide in person services to include dis-advantaged citizens</i> 6. <i>Ensure being up to date with technology isn't a requirement for participation in a democracy.</i> <p>Accessibility</p> <ol style="list-style-type: none"> 7. <i>Ensure delivery of public services meet the guidelines set out by the trans-Tasman Round Table on Information Access for People with Print Disabilities- production of accessible formats, including audio, braille, large print, e-text and tactile graphics for people with print disability. (Blind Low Vision).</i> 8. <i>Include resourcing NZ Sign Language in Government videos, providing braille versions of consultation documents and requiring electronic documents and emails be accessible for blind and low vision people.</i> 9. <i>Provide deadlines for the implementation of the Plain Language Act (e.g. the appointment of Plain Language Officers).</i> 10. <i>Refer to the Plain Language Act 2022 which is relevant in relation to written printed and online material (TINZ).</i> <p>Funding and resourcing</p> <ol style="list-style-type: none"> 11. <i>Ensure funding and strategies are guaranteed and a system set to verify that public services are offering non-digital alternatives in good faith.</i> 12. <i>Allocate resources to assist and support non digital access.</i> 13. <i>Resource groups like the Citizen's Advice Bureau, the Disabled Person's Assembly and Māori community groups and marae who provide alternatives to digital channels.</i> 14. <i>Resource libraries and marae that provide a space for digital devices.</i> <p>Learning</p> <ol style="list-style-type: none"> 15. <i>Learn from other organisations both public and private that implement inclusive services in smart and helpful ways.</i> 16. <i>Include the Charities Service (Ngā Ratonga Kaupapa Atawhai) website in scope of the work programme for this commitment.</i> 17. <i>Consider links to resources provided to help identify best practice from other service models (OGP International).</i> 18. <i>Consider dedicated consultation with groups who are likely to experience digital exclusion (OGP International).</i> 	<p>10. No change to NAP 4 required. Provide detailed feedback to Agency Lead.</p> <p>No change to NAP 4 required. Provide detailed feedback to Agency Lead.</p> <p>10. In relation to the implementation of the Plain Language Act 2022, legislation requires agencies report annually on how their agency complies with the Act (including the appointment of Plain Language Officers). First reports will likely be submitted in early 2024.</p>
<p>Commitment 4: Design and implement a National Counter Fraud and Corruption Strategy</p>	<p>TINZ advises that they were pleased to see this commitment to anti-corruption, though it mostly reflects work already in progress. They believe that the commitment should include:</p> <ol style="list-style-type: none"> 1. a milestone to create a CSO, Māori and government working group to oversee the development of the strategy. 2. explicit reference to how the strategy will be co-designed 3. a milestone for co-design of 'Phase 2' work to extend the strategy to the private sector, by the end of 2024 <p>OGP International made four comments:</p> <ol style="list-style-type: none"> 4. Can this commitment offer greater specificity on what is intended to be included in the National Counter Fraud and Corruption Strategy? 	<ol style="list-style-type: none"> 1. Not incorporated. The development of the NAP4 involved considerable engagement and co-design with CSOs and the general public. The plan was subsequently approved by Cabinet with only minor changes to the Plan permitted. Proposed "milestones" that would fundamentally change the commitment have not been included. Work on the NCFCS will be ongoing beyond the term of the Plan and take this feedback into account. 2. As above. 3. As above. 4. As above.

	<p>5. What will civil society’s role be in developing and implementing this strategy?</p> <p>6. It would be valuable to incorporate milestones that, with civil society, measure uptake of the strategy and evaluate its impact and lessons learned.</p> <p>7. As a useful resource, the commitment can incorporate the recommendations of the National Integrity System Assessment conducted by TINZ.</p> <p>The Taxpayers’ Union provided the following feedback:</p> <p>8. The commitment is far too weak and does not go far enough. The Taxpayers’ Union note that the amount of money lost to fraud is staggering.</p> <p>9. The Action Plan does not explain how the fraud and error estimates included in the Plan were derived and welcome the Expert Advisory Panel’s more detailed explanation. The Taxpayers’ Union will follow up on this issue with the respective organisation (SFO) to gain a complete understanding of how the estimates were prepared.</p> <p>10. One submission suggested a way to enhance fraud and corruption monitoring is to enable the public to have greater access to information. For this reason, the Government should ratify the Aarhus Convention on sharing Environmental Information and consider implementing recommendations of the Chief Ombudsman with respect to OIA.</p> <p>11. Amazon believe technology should be leveraged across sectors in assisting fraud detection. Any national strategy that considers fraud analysis should consider how this involves observing, tracking, inspecting, and analysing behaviours across multiple channels (customers, employees, vendors) to identify the right and wrong trends and understand where intervention should be applied.</p> <p>12. NZ Civil Council for Civil Liberties and Trust Democracy suggest:</p> <ul style="list-style-type: none"> • Confusing wording – “Ambition” refers to Phase One, then “future development may include business and the private sector”. Should have a milestone for Phase two • TKM should undertake and publish a post-implementation review of the PD Act 2022 and link it to strategy . 	<p>5. As above.</p> <p>6. See answer to point 1.</p> <p>7. Feedback to be provided to Agency Lead (SFO).</p> <p>8. Feedback to be provided to Agency Lead (SFO).</p> <p>9. Feedback to be provided to Agency Lead (SFO).</p> <p>10. Not incorporated - this suggestion is outside the scope of the commitment.</p> <p>11. No change to NAP 4 required. Provide detailed feedback to Agency Lead.</p> <p>12. Not incorporated. The Plan was approved by Cabinet with only minor changes to the Plan permitted.</p>
<p>Commitment 5: Increase transparency of beneficial ownership of companies and limited partnerships</p>	<p>TINZ suggest that the commitment should:</p> <ol style="list-style-type: none"> 1. be explicit that the register will be public and sufficient detail provided to enable public identification of beneficial owners 2. include the requirement for a risk assessment of the use of trusts and how to improve the transparency of their use and ownership 3. include milestones for public consultation on the development of the legislation in addition to the standard select committee process <p>OGP International made four comments:</p> <ol style="list-style-type: none"> 4. It may be useful to see further details about the content of the proposed legislation (for instance, clarify whether a central register of beneficial ownership information will be created, the format intended for the disclosure of information, whether public availability will be guaranteed, etc.) 5. This commitment could align the intended beneficial ownership database with Open Ownership’s Beneficial Ownership Data Standard. 6. The commitment should include consultation with experts and civil society to ensure that the public has sufficient free access to beneficial ownership information. 7. This commitment could add milestones to encourage utilisation of the beneficial ownership database information. 	<ol style="list-style-type: none"> 1. No change to NAP4 required. The Plan states that the general public will have access to high-level information (name, date of becoming a beneficial owner, and grounds for qualifying as a beneficial owner). 2. Not incorporated as not supported by the potential Agency sponsor (MoJ). The possibility of research on trusts, with a view to creating a trusts register, was investigated with the potential agency sponsor for such work however, was not supported at this time. 3. Feedback will be considered by Agency Lead (MBIE) as part of the detailed planning of this commitment. Open Government Partnership (OGP) Plan commitments are required by OGP to report back to the public every six months on the progress of implementation. 4. The Cabinet paper and Regulatory Impact Assessment for the proposal to establish a register of beneficial owners of companies and limited partnerships are publicly available on the MBIE website, and answer many of the questions posed here. The legislation is yet to be drafted. We note releasing an exposure draft requires agreement from the responsible Minister and Attorney-General. 5. Feedback will be considered by Agency Lead (MBIE) as part of the detailed planning of this commitment. 6. Feedback will be considered by Agency Lead (MBIE) as part of the detailed planning of this commitment. 7. Not incorporated into the NAP4 but feedback will be passed to Agency Lead.

	<p>NZ Civil Council for Civil Liberties and Trust Democracy suggest:</p> <ol style="list-style-type: none"> 8. Commitment should be strengthened to include CSO and other stakeholder oversight of delivery 9. Some specific comments/views about beneficial ownership and European Court of Justice decision 10. Strengthen commitment to require a legislative design change to explore how a mechanism for access to data can happen in ways that enable connections with other data sets 11. Add a milestone and deliverable re trusts. 	<ol style="list-style-type: none"> 8. Not incorporated. The Plan was approved by Cabinet with only minor changes to the Plan permitted. 9. As above. 10. As above. 11. As above.
<p>Commitment 6: Improve Government Procurement Transparency</p>	<p>TINZ advise:</p> <ol style="list-style-type: none"> 1. The description of this current state as “Room for improvement” is not accurate. The commitment should include: 2. a milestone to involve CSOs in the co-design of the GETS application 3. a milestone for a policy to adopt the Open Contracting Principles, which covers the full spectrum of procurement documentation 4. an explicit statement that all procurement data gathered will be published as open data, rather than simply providing access to ‘dashboards’. <p>OGP International make four comments:</p> <ol style="list-style-type: none"> 5. Will this commitment release new government procurement information? 6. This commitment could plan to update the Government Procurement Rules to support release of all awarded government contracts as open data and adoption of OCDS, as well as giving MBIE power to enforce compliance. 7. As GETS contract notice releases represent a small portion of the total annual government expenditure, this commitment will be most impactful if it addresses all government procurement data, including actual contracts. This could span contracts awarded via tendering on the GETS platform, as well as those awarded via panels of pre-approved suppliers and those directly awarded without public tendering. <ol style="list-style-type: none"> 8. One submission notes the need to improve GETS and other Procurement channels but even more so, require agencies to follow them. Recommend working with the tech industry group NZRise on better rules for procurement. <p>The Taxpayers’ Union note:</p> <ol style="list-style-type: none"> 9. They support the commitment to improve government transparency. Increasing the transparency of government procurement process will reduce compliance costs for businesses tendering for government contracts and facilitate great competition. 10. Designing a new procurement system is not without cost and difficulty. The Taxpayer’s Union supports the initial focus on further developing GETS to improve the information it can publicly provide. Care needs to be taken when designing new systems, as costs can rapidly escalate, especially if scope begins to broaden. 	<ol style="list-style-type: none"> 1. No change to NAP4 required. 2. Not incorporated. The development of the NAP4 involved considerable engagement and co-design and takes into account agency resources. The Plan was subsequently approved by Cabinet with only minor changes to the Plan permitted. The proposed “milestones” that would fundamentally change the commitment have not been included. Work on Open Contracting will be ongoing beyond the term of the Plan and take this feedback into account.” 3. As above. 4. As above. 5. Yes, work under this commitment will enable more procurement information to be released. 6. As above. 7. As above. 8. Feedback to be provided to Agency Lead (MBIEJ). 9. As above. 10. Taxpayers Union

	<p>11. NZ Civil Council for Civil Liberties and Trust Democracy suggest:</p> <ul style="list-style-type: none"> • Milestone one should involve CSOs, iwi and public, media etc • Milestone two should specify data will be published as open data; not simply via a suite of dashboard • Milestone three should specify a pilot by both the NZGP team and another agency and publicly report on this • Strengthen to require proactive publication of contracts and related documents, as with OIA, amend Govt Procurement rules • Add a commitment for CSOs, iwi and public, media etc to explore adopting OC principles 	<p>11. Not incorporated. The development of the NAP4 involved considerable engagement and co-design and takes into account agency resources. The Plan was subsequently approved by Cabinet with only minor changes to the Plan permitted.</p>
<p>Commitment 7: Strengthen scrutiny of Official Information Act exemption clauses in legislation</p>	<p>The Ombudsman advises that:</p> <ol style="list-style-type: none"> 1. it is in this context of the Danks Committee that it is helpful to recognise NZ’s achievements, including recent innovations such as the proactive release of Cabinet material. 2. he is particularly heartened to see Commitment 7 within the draft National Action Plan and that he expects to be consulted further to the review process referred to in the commitment which is to take place in 2023. 3. He agrees that there needs to be careful scrutiny of future legislative clauses which seek to oust or modify the application of the OIA and the LGOIMA. His concerns centre on the risk that such secrecy clauses will detrimentally impact the ability of New Zealanders to exercise their constitutional and fundamental human rights to seek and receive information. He says that whilst the Cabinet Manual (section 7.42) requires the Ombudsman to be consulted in their areas of interest, regrettably, however, the Ombudsmen have not always been consulted on policies or draft legislation which affect the application of the OIA and the LGOIMA. Where consultation has occurred, it often has been late in the process, and well after the proposed policy or legislation has already taken shape and provisions relating to information access and/or limits on disclosure have been crafted. He therefore suggests that steps be taken to ensure the Ombudsmen are consulted as early as possible in any policy-shaping or legislation drafting process including secrecy clauses, to ensure that any relevant concerns can be identified and addressed at the earliest possible stage. Taking this step would afford an appropriate significance to rights which are both fundamental and constitutional in nature. 4. He supports a careful review of any and all existing secrecy clauses which impact on the application of the OIA or the LGOIMA, to ensure that the fundamental and constitutional rights of New Zealanders are not being curtailed unnecessarily and that any limitation on these rights is justified and proportionate. This is particularly necessary in circumstances where drafters of current and future legislation appear to be increasingly reliant on legislative precedent not just as a model for secrecy clauses but as a justification for their very existence. <p>TINZ suggest:</p> <ol style="list-style-type: none"> 5. Include a milestone to review the 85 clauses in legislation that override the presumption of availability of official information to identify which should be removed and publish the results of the review. <p>OGP suggest:</p> <ol style="list-style-type: none"> 6. Consider civil society requests to carry out the review independently, not by the Ministry of Justice. 7. The planned review could include proactive publication policy and secrecy clauses. 8. It would be valuable to plan for strong civil society and public engagement in the review process, and in the commitment’s efforts to strengthen access to government information. 9. This commitment could concretize plans to strengthen processes and guidance to better reflect the presumption of disclosure of government information and the application of the public interest test under the OIA. <p>The Taxpayer’s Union suggest:</p>	<ol style="list-style-type: none"> 1. No action required. 2. Feedback to Agency Lead. 3. As above. 4. Not agreed by Cabinet. Additional milestone has been added that we will continue to explore this with MoJ for potential inclusion in the future. 5. Not agreed by Cabinet. Additional milestone added that we will continue to explore this with MoJ for potential inclusion in the future. 6. Not incorporated. The development of the NAP4 involved considerable engagement and co-design with CSOs and the general public. The plan was subsequently approved by Cabinet with only minor changes to the Plan permitted. This suggestion would be a fundamental change to the commitment. 7. As above. 8. Feedback to be provided to Agency Lead (MoJ). 9. Feedback to be provided to Agency Lead (MoJ). 10. As per point 4.

- 10. This commitment is too weak and does not go far enough. There should be no such clauses in any legislation, as the OIA's existing protections (e.g. for privacy, commercial sensitivity, free and frank advice) are sufficient. Clauses that override the disclosure requirements of the OIA are unnecessary and therefore redundant.
 - 11. The Taxpayer's Union is concerned there are now more than 85 OIA exemption clauses in legislation and that 20 of these have been added in the last three years. These clauses make it harder to obtain relevant information where there is a public interest and insufficient justification for withholding information. The commitment needs to be restated to remove all legislative clauses that override disclosure requirements of the OIA.
 - 12. One submission strongly supported this commitment and linked to recent media articles about OIA exemption clauses. The submission recommended Government work with the NZ Council for Civil Liberties or a similar organisation on this
 - 13. Environment and Conservation Organisations of NZ /Aotearoa Inc (ECO) is concerned about the high degree of obstructionism from some government agencies in the implementation of the OIA. Laws that create exemptions from the OIA are deeply corrosive of open government and ECO wish to see these reconsidered and reversed.
 - 14. ECO also ask that a commitment be included for a review and reversal of policies to limit or shut down the right of experts and contributors to government stakeholder panels, advisory groups and peer review teams who have to pledge secrecy in order to engage in discussions.
- NZ Civil Council for Civil Liberties and Trust Democracy suggest:
- 15. No CSO role in delivery
 - 16. Strengthen commitment to state that: the govt will assess new legislation that overrides the OIA against s 14 of the bill of rights; If not, add a milestone in conjunction with law commission and a university and panellists
 - 17. Include a review of existing secrecy clauses

- 11. As per point 4.
- 12. Feedback to be provided to Agency Lead (MoJ).
- 13. This feedback will be provided to the Agency Lead.
- 14. Not incorporated - this is outside the scope of the commitment.
- 15. Not agreed by Cabinet. Additional milestone has been added that we will continue to explore this with MoJ for potential inclusion in the future.
- 16. As above.
- 17. Not agreed by Cabinet. Additional milestone has been added that we will continue to explore this with MoJ for potential inclusion in the future.

Commitment 8: Improved transparency and accountability of algorithm use across government

TINZ suggest:

1. Include a specification that the community of practice will be open to private sector algorithm experts, CSOs, academics and interested members of the public
2. Include a milestone to require government agencies to adopt the Charter in their management of data.
3. Include a milestone to require government agencies to report on their use of algorithms in their Annual Report and be subject to regular audit.

OGP suggest:

4. To improve the Charter's implementation the commitment could offer greater clarity about cross-government leadership, oversight, monitoring, and appropriate data management.
5. Commitment could take measures to ensure the Chief Data Steward has enforcement power across government, that the Charter is being applied consistently across agencies, that agencies publish a catalogue of the algorithms they are using, and that the Charter's implementation support document provided to the Minister in 2020 is published.
6. OGP look forward to creating opportunities to share learnings from this process with peer countries and tackle key implementation questions including as part of New Zealand's engagement in the [Open Algorithms Network](#).
7. One submission supported this commitment and recommended government work with Māori data sovereignty experts on this, to meet their needs too.
8. Amazon are happy to share what AWS and their affiliates are doing in this space. The AWS AI research community has been focusing on rendering AI decisions more transparent by providing explanations of an AI's decision. AWS is committed to developing fair and accurate AI and machine learning services and providing customers with the tools and guidance needed to build AI and machine learning applications responsibly.
9. NZ Civil Council for Civil Liberties and Trust Democracy suggest:
 - Strengthen to establish a joint agency, CSO and Māori working group to oversee commitment work to avoid a breach of s 14 and 15 of the Data and Statistics Act
 - Amend milestone one to specify of COP being created
 - Make adoption of Charter mandatory
 - Add in annual independent reviews of every agency's implementation of the Charter
 - Add in, every agency make their algorithm risk management policies publicly avail
 - Add in, every agency to establish an ethics committee
 - Add in, every agency to report on use in annual report
 - Add in external audits of every agency's algorithms
 - Add in, Stats NZ to conduct pre-implementation consultations for new algorithms

1. Not incorporated. The development of the NAP4 involved considerable engagement and co-design with CSOs and the general public. The plan was subsequently approved by Cabinet with only minor changes to the Plan permitted.
2. Not incorporated - this is outside the scope of the commitment.
3. As above.
4. As above.
5. As above.
6. Feedback to be provided to Agency Lead (Stats NZ).
7. Feedback to be provided to Agency Lead (MoJ).
8. As above.
9. Not incorporated - this is outside the scope of the commitment.