# Independent Reporting Mechanism (IRM) Progress Report: New Zealand 2014-2015

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# **Executive Summary: New Zealand**

Independent Reporting Mechanism (IRM) Progress Report 2014-2015

At midterm, New Zealand has made some progress in achieving its commitments. In general, however, the goals could have been more clearly focused and ambitious with regard to key challenges in open government. Government will find its action plan more coherent and easier to implement if it is not as multi-faceted and relates directly to OGP values.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry, to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. New Zealand began participating in OGP in September 2013. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country. This report covers the first year of implementation of New Zealand's action plan, from 1 July 2014 to 31 June 2015.

The State Services Commission (SSC) is the lead agency for OGP. The Department of Internal Affairs and Land Information New Zealand were also responsible for commitments.

#### **OGP Process**

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

The consultation leading up to the New Zealand action plan was, by the government's own admission, limited. The timeframe was tight, no consultation timeline was published in advance, and the government had already decided upon the key elements of the plan. Nevertheless, select stakeholders were invited to, and did, provide their views. The views were largely critical but did result in few changes to the final action plan.

During the action plan implementation, the government established a "Stakeholder Advisory Group" made up of two academics, two civil society leaders, a political commentator, and an ICT practitioner. Various other agencies and levels of government were also open to participation. There was some limited criticism of the group's capacity and appointment process,

although stakeholders interviewed for this report were generally supportive and the group remained accessible.

Member since: 2013 Number of commitments: ...... 4 Completed: 0 of 4 Substantial: I of 4 3 of 4 Limited: Not started: 0 of 4 Timing: On schedule: 2 of 4 Behind schedule: 2 of 4 Commitment Emphasis: Access to information: 2 of 4 Civic participation: 2 of 4 Public accountability: 2 of 4 Tech & innovation for transparency & accountability: 2 of 4 Commitments that Are: Clearly relevant to an OGP value: 4 of 4 Of transformative potential impact: 0 of 4 Substantially or completely implemented: I of 4 All three (⊕): 0

At a Glance:

The government published a draft midterm self-assessment report in October 2015. This report draws on that draft. The public could comment on the self-assessment in three ways: through an online feedback tool, from the members of a Stakeholder Advisory Group, and by releasing the text of its draft for public comment. The final mid-term self-assessment

report was published in early February 2016. It is, however, substantially similar to the draft. Findings from this report will be included in the End of Term Report.

#### **Commitment Implementation**

As part of OGP participation, countries make commitments in a two-year action plan. The New Zealand action plan contains four commitments. The following tables summarize for each commitment the level of completion, potential impact, where completion falls within a reasonable schedule for implementation and the key next steps for the commitment in future OGP action plans.

The IRM method includes starred commitments. These commitments are measurable, clearly relevant to OGP values as written, of transformative potential impact, and substantially or completely implemented. The New Zealand action plan contains no starred commitments. Note that the IRM updated the star criteria in early 2015 in order to raise the bar for model OGP commitments. The old criteria included commitments that have moderate potential impact. Under the old criteria, New Zealand would not have received starred commitments. See (bit.ly/In6xNHB) for more information.

Table I: Assessment of Progress by Commitment

	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
I Better public services									On
I.I. Progress reporting									Schedule
1.2. Easy digital interaction with government									
1.3 Incorporate Blueprint into Action Plan									
2 ICT Strategy and Action Plan									On
2.1 Refresh ICT Action Plan									Schedule
2.2 Implement Open-by-Default action									
3 Responding to Transparency									Behind
International report									Schedule
4 Review Progress of Kia Tutahi accord									Behind
4.1. Review progress of Accord					Un	clear	•		Schedule
4.2. Gather data about local challenges									
4.3. Evaluate international best practices									

Table 2: Summary of Progress by Commitment

#### NAME OF **SUMMARY OF RESULTS** COMMITMENT I Better public services The government's Better Public Services programme and regular progress reporting requirements aim to achieve significant and OGP value relevance: measurable social policy outcomes, and to hold the government publicly Clear accountable for its performance in attaining them. Appendix A of the Potential impact: Minor action plan refers to the aim of having an average of 70 per cent of New Completion: Limited Zealanders' most common transactions with government completed in a digital environment by 2017. During the reporting period, the government met all reporting requirements and some progress was made with 45.3% of service transactions now conducted online (up more than 5% from the start of the action plan). Public views on the ambition and relevance of this commitment to open government were mixed. For the next action plan, New Zealand may consider adding accessible and effective complaint mechanisms to the digital service environments. This commitment covers the very broad government ICT Strategy and 2 ICT Strategy and Action Plan. Of particular interest is Action 13 on the re-use of **Action Plan** • OGP value relevance: information assets. The ICT Action Plan was updated in 2014 and both www.govt.nz and www.data.govt.nz have been created and progressively Clear expanded. Notably, users may request data sets for expansion. Further, Potential impact: Minor an online engagement tool was made available, although it is not part of Completion: Substantial the revised Action Plan. For the next plan, if there is a focus on ICT, it will better serve open government to focus on opening and utilizing democratically valuable government data or formally utilizing its published online engagement guidance. 3 Responding to In its National Integrity System Assessment, TI identified seven major reform areas for the government, including specific recommendations on **Transparency** International (TI) Report parliamentary transparency, campaign finance rules, and public procurement transparency. The government met its commitment to OGP value relevance: meet regularly with TI New Zealand. While there will likely be further progress on meetings, there has not been any substantive progress as of Potential impact: Minor yet. For the next action plan, New Zealand may wish to commit to a Completion: Limited variety of ambitious legal reforms around laws on disclosure and party finance to implement the recommendations of the report. 4 Review progress of Kia Kia Tutahi is an accord promising productive engagement between **Tutahi Accord** government and community groups. The government conducted surveys • OGP value relevance: of community groups and government agencies to inform its review of the Accord. There is no evidence it had commenced research on Clear international best practice. Stakeholders recommended that means of Potential impact: Minor ensuring accountability and better conflict resolution would make the Completion: Limited the accord stronger. The IRM researcher concurs.

#### **RECOMMENDATIONS**

For the next action plan, the government says it plans to commence consultation processes sooner, and develop ways and additional channels to enhance these public consultation processes, including increasing public awareness and engagement through other government agency websites, social media tools, and the Stakeholder Advisory Group's networks. It is looking to develop a new action plan with more direct programme coherence, and consider and respond to the feedback it has received on the first action plan.

The IRM researcher recommends that the government follow its own online engagement strategy as set out in the web toolkit it developed recently.<sup>2</sup> The action plan should be characterized by genuine co-creation. This may sometimes require additional resourcing in order to raise awareness of the action plan, reach out to a range of stakeholders, provide background information on the issues, and foster genuine engagements, including adequately resourcing the Stakeholder Advisory Group.

The resulting commitments should be specific as to outcomes sought and milestones and more ambitious than merely reviewing particular policies. Ideally commitments should move beyond existing initiatives, or at least identify distinct elements of ongoing initiatives that can be expedited or expanded in ways that truly serve transparency, accountability and participation.

#### **TOP FIVE RECOMMENDATIONS**

- I. Reform official information laws by extending them to Parliamentary bodies and adopting the Law Commission's recommendation to create an official information authority responsible for training, culture, advice, best practice guidance, and identifying necessary reforms.
- 2. Create a set of robust and government-wide practices in collaboration with civil society concerning timely public consultation on new bills, regulation and policy; base them on international best practice; make them mandatory where feasible; and include an effective complaint resolution mechanism or Ombudsman.
- 3. Commit to regular, standardized, technically independent "state of the nation" reporting on social policy and the environment.
- 4. Develop an express and public cross-government policy formally permitting public servants and those receiving public funding to speak out on significant public issues without facing any form of retaliation.
- 5. Strengthen the transparency of political party funding from donations and Parliamentary revenues.

**Eligibility Requirements:** To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, see Section IX on eligibility requirements at the end of this report or visit: http://www.opengovpartnership.org/how-it-works/eligibility-criteria.

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.



# I. National participation in OGP

#### **History of OGP participation**

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP provides an international forum for dialogue and sharing among governments, civil society organizations, and the private sector, all of which contribute to a common pursuit of open government.

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of minimum performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. As stated in Section IX of this report (Eligibility Requirements), indicators produced by organisations other than OGP are used to determine the extent of country progress on each of the dimensions. See Section IX: Eligibility Requirements for more details.

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Action plans should set out governments' OGP commitments, which move government practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

New Zealand began its formal participation in October 2013, when Prime Minister John Key declared his country's intention to participate in the initiative. New Zealand developed its National Action plan from October 2013 to October 2014. The New Zealand Action plan was published on 31 October 2014 but was dated July 2014. The period of implementation for the action plan submitted was officially 2014-2016. The government published its draft self-assessment on 30 September 2015.

In order to meet OGP requirements, the Independent Reporting Mechanism (IRM) of OGP has partnered with Steven Price and the New Zealand Centre for Public Law at Victoria University of Wellington. Mr Price carried out this evaluation of the development and implementation of New Zealand's first action plan. It is the aim of the IRM to inform ongoing dialogue around development and implementation of future commitments in each OGP participating country. Methods and sources are dealt with in a methodological annex in this report.

At the time of writing (October-December 2015) the government was seeking feedback on its draft self-assessment report. The government published the final self-assessment report in early February 2016. The OGP Articles of Governance require participating countries to publish a mid-term self-assessment report three months after the end of the first year of implementation<sup>2</sup>. In order to meet the reporting deadline set in the IRM Charter of seven months after the end of the first year of implementation, the IRM is unable to incorporate the findings from the government's final self-assessment report in this mid-term IRM report<sup>3</sup>. The findings will be included in the IRM End of Term Report.

#### **Basic institutional context**

The State Services Commission (SSC), which provides leadership and oversight of the state sector, is the lead executive agency responsible for implementing New Zealand's OGP action plan. It has overall responsibility for the Better Public Services programme (commitment I) and,

is in charge of the government's response to Transparency International's National Integrity System assessment report (commitment 3).

The Department of Internal Affairs (DIA) and Land Information New Zealand (LINZ) were responsible for implementation of two out of four commitments. The DIA is a diverse government agency with a broad range of responsibilities and functions that spans ICT investment, information management, working with communities, and delivering a range of services to support and foster New Zealand's national and cultural identity. The DIA's chief executive is also the Chief Government Information Officer, with responsibility for leading the government's digital transformation. The DIA has overall responsibility for the government's ICT strategy (commitment 2) and its Kia Tūtahi Relationship Accord (commitment 4). LINZ is a government department with general functions related to geographical information. It is responsible for implementing the open-by-default aspect of the government's ICT strategy (commitment 2). They are also responsible for Result 10 under commitment 1.

During the period of assessment, there was one SSC staff member dedicated to government-wide OGP coordination and policy response, though that person had very limited involvement in implementation of the actual commitments. Another staff member was appointed to assist in 2014, but that appointment was not renewed for 2015. In addition, there are dedicated staff in the SSC, the DIA, and LINZ working on the initiatives that make up the action plan, and many others across the public sector tasked with implementing aspects of those initiatives in relation to their particular government agencies.

There was limited high-level support for OGP activities. The Prime Minister announced New Zealand's intention to join OGP in September 2013, and his office is informed of OGP-related developments, but they have not played any active role in the OGP process. The lead agency, the SSC, is central within the administrative framework, and well-placed to coordinate the government's OGP response. While the SSC derives its general oversight authority from legislative statutes and directives from Ministry, Cabinet, and State Sector Agencies, there is no formal, legal mandate for implementation of OGP activities. However, the final national action plan and some of the initiatives included have received Executive Cabinet approval, which in effect serves as a binding, executive-level directive for public servants.

Overall, monetary support for implementing the OGP activities was unclear. No extra funding was allocated for OGP activities. There was an initial annual cost estimate of \$128,000 (or \$108,000 for years where there is no international conference) for the SSC as lead agency to provide OGP policy advice, administration and travel costs, this was to be absorbed within the existing SSC budget.<sup>4</sup> In the 2015 budget, however, only \$67,000 of the SSC budget was identified with OGP for 2014-2015.<sup>5</sup>

More significantly, all of the initiatives that make up the New Zealand action plan are expected to be funded using existing agency budgetary funds. Budget documents do not separately report on the spending on these initiatives. Annual reports provide some information about spending but these do not correlate precisely to the commitments. The SSC and LINZ do not separately list expenditures related to the initiatives underlying the commitments.<sup>6</sup> In summary, New Zealand's OGP activities are mainstreamed within standard budgets.

#### **Methodological note**

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP participating government. In New Zealand, the IRM partnered with Steven Price and the Centre for Public Law at Victoria University. Steven Price reviewed the government's draft self-assessment report, gathered the views of civil society, and interviewed appropriate government officials and other stakeholders, and made various

information requests to the government (see Section VIII). OGP staff and a panel of experts reviewed the report.

This report covers the first year of implementation of New Zealand's action plan, from 1 July 2014 to 31 June 2015. Beginning in 2015, the IRM published end of term reports to account for the final status of progress at the end of the action plan's two-year period.

To gather the voices of multiple stakeholders, Mr Price organised a stakeholder forum in Wellington on 14 September 2015. He also reviewed a large range of documents prepared by the government relating to the four initiatives. Numerous references are made to these documents throughout this report. He posted information about the initiatives on his blog and the Centre for Public Law's website and invited public comment.<sup>8</sup>

Summaries of this forum and more detailed explanations are given in the Annex.

<sup>&</sup>lt;sup>1</sup> http://www.opengovpartnership.org/sites/default/files/Screen%20Shot%202013-11-19%20at%203.11.38%20PM.png

http://www.opengovpartnership.org/node/1329

<sup>&</sup>lt;sup>3</sup> http://www.opengovpartnership.org/node/1329

<sup>&</sup>lt;sup>6</sup> http://www.ssc.govt.nz/sites/all/files/ssc-ar-15-web.pdf

<sup>&</sup>lt;sup>7</sup> http://www.ssc.govt.nz/sites/all/files/draft-nz-opg-mid-term-report-sep2015.pdf

<sup>&</sup>lt;sup>8</sup> http://www.victoria.ac.nz/law/centres/nzcpl/projects/open-government-partnership; http://www.medialawjournal.co.nz/?p=642

# II. Process: Action plan development

The consultation leading up to the New Zealand Action plan was, by the government's own admission, limited. The timeframe was tight, no consultation timeline was published in advance, and the government had already decided upon the key elements of the plan. Nevertheless, select stakeholders were invited to, and did, provide their views. The views were largely critical but did result in few changes to the final action plan.

Countries participating in OGP follow a set process for consultation during development of their OGP action plan. According to the OGP Articles of Governance, countries must:

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views and; make a summary of the public consultation and all individual written comment submissions available online
- Undertake OGP awareness raising activities to enhance public participation in the consultation
- Consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is dealt with in the section "III: Consultation during implementation":

• Countries are to identify a forum to enable regular multistakeholder consultation on OGP implementation—this can be an existing entity or a new one.

This is dealt with in the next section, but evidence for consultation both before and during implementation is included here and in Table I for ease of reference.

**Table I: Action plan Consultation Process** 

Phase of Action plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement?
During Development	Were timeline and process available prior to consultation?	No
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Was there advance notice of the consultation?	No
	How many days of advance notice were provided?	N/A
	Was this notice adequate?	No
	Did the government carry out awareness-raising activities?	Yes
	Were consultations held online?	Yes
	Provide any links to online	http://www.ssc.govt.nz/open-

	consultations.	government-partnership; https://web.archive.org/web/2014 1007092139/http://www.ssc.govt. nz/open-government-partnership
	Were in-person consultations held?	Yes
	Was a summary of comments provided?	Yes <sup>1</sup>
	Provide any links to summary of comments.	http://www.ssc.govt.nz/sites/all/files/nz-ogp-action-plan-jul2014.pdf (Appendix C)
	Were consultations open or invitation-only?	Invitation-only
	Place the consultations on the IAP2 spectrum. <sup>2</sup>	Consult
During Implementation	Was there a regular forum for consultation during implementation?	No <sup>3</sup>
	Were consultations open or invitation-only?	N/A
	Place the consultations on the IAP2 spectrum.	N/A

#### Advance notice and awareness-raising

Advance notice varied for specific consultation activities and awareness-raising was limited in scope to a select group of stakeholders. The government constructed an invitation list based on existing networks and resources from government agencies, but did not issue an open call for public participation. There was no full consultation schedule or timeline made available in advance. An online resource was published on the State Services Commission (SSC) website with a brief outline of the consultation process on the development of the OGP action plan<sup>4</sup>. However, the resource was published on 7 May 2014, after all the consultation activities listed by the government on action plan development were completed. Therefore, the IRM researcher found that this online resource did not constitute advance notice.

Two groups - Transparency International NZ (TINZ) and the Association of Non-Governmental Organisations of Aotearoa (ANGOA) were directly approached for input on how to engage civil society organizations in action plan development<sup>5</sup> and to provide feedback on the proposed action plan.<sup>6</sup> These meetings were held on 13 February, 10 March, and 17 April 2014. A meeting was also held with a Wellington City Council advisor to discuss ways of engaging the public.<sup>7</sup> Little evidence was presented that this feedback was incorporated in the design of the consultation process.

In materials disclosed to the IRM researcher through an Official Information Act request, the government says it invited 32 civil society organisations<sup>8</sup> and 40 members of an Online Community Engagement email list to participate in the OGP action plan development process.<sup>9</sup> However, it is not clear from the documentation on who was contacted, when, and under what terms since the materials disclosed did not include any email records. Government officials interviewed said that at least some were contacted by phone, but the IRM researcher was unable to independently verify this.

A roundtable meeting scheduled for 14 April 2014, was advertised in advance through a notice posted to the State Services Commission's (SSC) website<sup>10</sup> and an invitation emailed to select groups approximately twelve days in advance.<sup>11</sup> Messages were posted to the "Open Government Ninjas" mailing list<sup>12</sup> and Victoria University, and Transparency International and the Association of Non-Governmental Organisations of Aotearoa advised their networks of the meeting. The invited stakeholders were given the opportunity to provide feedback on the action plan via email.

In April 2014, an online feedback forum (on the Loomio platform) was made available, via email from a DIA staff member, to about 60 selected stakeholders<sup>13</sup> though others could join if they asked. There was neither advance notice nor a public awareness-raising campaign for the online feedback forum. Stakeholders participating in the forum were given one month to engage. The questions asked are described in the 'depth and breadth of consultation' section (below). The government also received some email responses. Business NZ and Porirua City Council sent substantive (but brief) email submissions. Others sent administrative queries. About a dozen people participated through the Loomio forum, but there were only perhaps half a dozen substantive suggestions.<sup>14</sup>

Overall, the IRM researcher was not able to find evidence that the broader public was invited to provide feedback on the action plan, even if they came across the information on the SSC's website.<sup>15</sup> Nor was very much substantive information provided to assist those who wished to participate, though much information about the initiatives that became the commitments was available online.

At the time of writing of the report, the webpages concerning consultation were no longer available online, but a summary of stakeholder responses remains.

#### **Depth and breadth of consultation**

Stakeholders were mostly very unhappy with the consultation process. Some were pleased to have been consulted and agreed that the proposed initiatives provided a good starting point for the action plan. But most felt disappointed that the government had already decided the basic shape of the plan. Fower was not shared with stakeholders on decision-making about what to include in the action plan. They did not feel they had been given a real opportunity to have input on the action plan content.

The government claims there were "four public consultation meetings with civil society in Wellington". As one stakeholder pointed out, this claim is not true. Members of the public could attend only one of the meetings, held on 14 April 2014. The others were small meetings held with a select group of invited stakeholders. Nor is there any evidence details of these four consultations was listed on the government's website on or before April 2014.

While there was some diversity in the participants invited to consult on the action plan, there was little effort made to consult outside the 'usual suspects'. The government accepts that the consultation process was "limited" because "the tight timeframe restricted the opportunity to run a wide reaching process". It said there was very limited time to run a more thorough consultation process and the process was also hampered by a looming election in September 2014. The government did reach out to many major stakeholders, and in particular, TINZ and ANGOA, two key groups with special interest and expertise in transparency issues. Additionally, some indigenous groups were included in the process. It has also provided an online channel for stakeholder input, has published the feedback it received, and has made some minor adjustments to the action plan in response to feedback, namely the addition of Kua Tutahi as commitment 4.

However, the groups that were contacted are mostly based in Wellington, and include few Maori groups. Few academics and watchdog or lobby groups were contacted and the IRM researcher was unable to find evidence that the mainstream media was contacted at all. Nearly a hundred individuals and organisations made submissions to the Law Commission's recent report on the Official Information Act<sup>19</sup>; few of these were contacted. Political parties and PR agencies and lawyers were not contacted, although they are frequent users of the Official Information Act, which is at the heart of New Zealand's transparency regime and was mentioned by many other stakeholders as a good candidate for OGP commitments relating to its reform. The Kia Tūtahi Relationship Accord has been signed by more than 80 groups; yet the vast majority of them were not contacted during the consultation about the development of the action plan either.

The foundation for consultation was the government's proposal to use three pre-existing initiatives as the basis of the action plan, with anticipated future development within those initiatives. However, it was not made clear during the consultation process about how the initiatives would address OGP values. These three pre-existing initiatives are:

- 1. The Better Public Services programme 2011, specifically the aspect that aims to enable New Zealanders to complete their transactions with government easily in a digital environment;
- 2. The Government ICT Strategy and Action plan 2013, particularly the aim to make government data open by default;
- 3. The government's response to Transparency International's National Integrity System Assessment Report 2013;

The consultation documents explicitly stated "our [OGP Action] Plan will be based" on these initiatives.<sup>20</sup> The consultation questions were focused mainly on how to operationalize these initiatives, for example:

- Should they be the "starting point for the Action Plan"?
- Can they achieve the four OGP principles?
- What are the "current issues with achieving these initiatives, in terms of technology and innovation in delivering public services, citizen participation, transparency, accountability".

In addition, at the end responders were asked, "what other ways might the Government work toward achieving these goals?"

Two consultation meetings were held with the Association of Non-Governmental Organisations of Aotearoa (13 February 2014)<sup>21</sup> and Transparency International NZ (10 March 2014). The groups were told that Cabinet had already decided that the Better Public Services programme would be the basis for the action plan, and that final decisions on the action plan would need to go before Cabinet in late March/early April 2014.<sup>22</sup> The stakeholders told the government (among other things) that the consultation would need to be based on principles of "real engagement in the form of partnership", properly resourced, adaptive, well-designed, use workshops and community participation events, and not act as a "tick box" for decisions already taken. Perhaps because of the tight timeframe, little of this advice was implemented. In a memo dated 10 March 2014, SSC noted TINZ's call for "new bold commitments and not simply existing initiatives" for the action plan. This was not heeded either.

A stakeholder meeting was held on 14 April 2014 in the capital, Wellington.<sup>23</sup> An attendance sheet was circulated, but only eight people signed, though the government indicated that about 35 people attended. The recording of the meeting and reports from attendees suggest an attendance of about 35, though about six of the attendees were government officials. Others included representatives from the NZ Council of Trade Unions, the NZ Taxpayers Union, the

Blind Foundation, and the British High Commission. The discussion was very robust. Although participants criticised the government for the lateness and limited scope of the consultation, they put forward a variety of suggestions for new commitments. Despite the fact that the meeting was not widely publicised, the meeting was so well attended that it had to be closed because more people could attend than there was space for in the room.

A more limited stakeholder meeting was held on 17 April 2014.<sup>24</sup> The questions for consultation were the same as those set out above. Five officials, six invited stakeholders, and representatives from Transparency International, the Association of Non-Governmental Organisations of Aotearoa, Victoria University of Wellington, the Public Service Association, the New Zealand Council of Social Services and the Social Service Providers Association attended this meeting. During the consultation, there were lots of suggestions about how the process of consultation, and the action plan itself, could be improved,<sup>25</sup> but stakeholders were disappointed that almost none of these were taken up. The government says the Kia Tūtahi Accord review and creation of a Stakeholder Advisory Group were added as a result of stakeholder feedback.

Regarding the consultation process, stakeholders said the consultation was under-funded, shallow and rushed. Some felt the consultation came too late, and were confused about whether there was any difference between the OGP action plan and the previous initiatives. Some pointed out that even understanding the initiatives at the heart of the plan required a good deal of knowledge, and yet they were expected to comment immediately. Many said they felt the government was merely ticking a "consultation" box. Many stakeholders contacted by the IRM researcher said they did not know it was happening at all.

Regarding the action plan content, stakeholders suggested, among other things, that they would prefer:

- new, bold commitments with clear milestones
- that there should be a stakeholder-led steering group and a framework for meaningfully engaging with civil society, particularly during policy development
- that data security and privacy should be a focus
- and that the Official Information Act should be reformed, with a focus on the Law Commission's recent recommendations

As a result of the stakeholder feedback, the government says the action plan was amended to include the establishment of a stakeholder-led steering group and to embrace the 2011 Kia Tūtahi Relationship Accord, a broad principle-based agreement about how the government and communities can work together. However, Kia Tūtahi was under consideration for inclusion in the action plan before the consultation commenced,<sup>27</sup> and the government was required to identify or establish a regular stakeholder forum under OGP rules.

Stakeholder feedback is summarised in the action plan at Appendix C.

<sup>&</sup>lt;sup>1</sup> A summary of the consultation was made available afterwards, and the feedback was summarised in the action plan. All individual submissions were made available to the IRM researcher after an Official Information Act request.

<sup>&</sup>lt;sup>2</sup> "IAP2 Spectrum of Political Participation", International Association for Public Participation, http://bit.ly/1kMmlYC

<sup>&</sup>lt;sup>3</sup> However, a Stakeholders Advisory Group was appointed in July 2015, and has met regularly after that.

<sup>&</sup>lt;sup>4</sup> https://web.archive.org/web/20141007092139/http://www.ssc.govt.nz/open-government-partnership

<sup>&</sup>lt;sup>5</sup> Emails 10, 12, 13 February 2014 from SSC to ANGOA.

 $<sup>^{\</sup>rm 6}$  Emails 3, 9, 10 April from SSC to ANGOA.

<sup>&</sup>lt;sup>7</sup> Memo, *Meeting with Simon Wright*, 21 March 2017 [sic]

<sup>&</sup>lt;sup>8</sup> The organisations were Transparency International NZ, Association of Non-Governmental Organisations of Aotearoa, Economic Strategy Group Ltd, Victoria University of Wellington, Wellington City Council, Philanthropy New Zealand, Volunteering New Zealand, Chambers of Commerce, Business New Zealand, Institute of Directors, Maori Business Network, New Zealand Retailers Association, Child Poverty Action Group, Institute for Study of Competition and

Research, open.org.nz, New Zealand Marketing Association, Empowerment NZ, Hitashi Research Forums, Blind Foundation, Citizens Advice Bureau, Hospitality Association, NZ Maori Internet Society, Senior Net, NZ Federation of Family Budgeting Services, NZTech, NZRise, Iwi Chairs Forum, Porirua City Council, Taxpayer Union of NZ, Victoria University Students Association, NZ Council of Trade Unions, Maori Women's Welfare League, Pasifika Caucus and Rural Women of NZ: Official Information Act request, 8 May 2014.

- <sup>9</sup> Online forum invitee list, email from Department of Internal Affairs, 4 April 2014.
- http://www.ssc.govt.nz/open-government-partnership
- <sup>11</sup> Message for meetings, discussions and Lommio [sic] SSC, undated; Institute for Governance and Policy Studies, Invitation to Open Government Partnership Roundtable, 2 April 2014.
- 12 http://groups.open.org.nz/groups/ninja-talk
- <sup>13</sup> Invitation to stakeholders, 4 April 2014, email from Department of Internal Affairs.
- <sup>14</sup> Emails, both 14 April 2014; print-out of Loomio posts.
- <sup>15</sup> The closest is a notice on the SSC website posted in July 2014 that talked of consultation ending on May 1, but did provide an email address for those who "would like to be involved or would like more information": Message for meetings, discussions and Lommio [sic] SSC, undated.
- <sup>16</sup> See Cabinet paper ERD(13)25, Agreement to Join Open Government Partnership, 22 August 2013, in which it is proposed that the action plan focus on the Better Public Services Initiatives to "avoiding duplication of effort and minimising reporting impacts" and notes that "linking the OGP action plan to the BPS programme creates a risk of criticism that meaningful public participation has not been carried out in the development of the Action Plan." (Paras 4, 14, 29). See also the draft self-assessment p4, the New Zealand action plan, Appendix C
- <sup>17</sup> Draft self-assessment, p4.
- <sup>18</sup> Cabinet Committee Paper *Action Plan for the Open Government Partnership*, undated, para 26. One official at the public stakeholders' forum expressed a personal view that the consultation timeframe had been "ridiculously tight" and the processed not properly scoped or resourced for meaningful and compliant results.
- and the processed not properly scoped or resourced for meaningful and compliant results.

  19 The Public's Right to Know, Review of the Official Information Legislation, NZ Law Commission Report 125, June 2012, p401.
- <sup>20</sup> Message for meetings, discussion and Lommio [sic] SSC, undated
- <sup>21</sup> The purpose of this meeting was to work out how to develop a consultation plan for the action plan: email, 13 February 2014, RE: Developing an Action Plan for the Open Government Partnership with communities
- <sup>22</sup> Notes, Meeting with ANGOA, 13 February 2014.
- <sup>23</sup> This was organised and hosted by Victoria University of Wellington.
- <sup>24</sup> This was organised and hosted by ANGOA.
- <sup>25</sup> These are summarized in the New Zealand action plan, Appendix C.
- <sup>26</sup> See, for example, Meeting with ANGOA minutes, dated 16 April 2014 [though meeting was on 17 April, so the date is incorrect].
- <sup>27</sup> Email, 13 February 2014, RE: Developing an Action Plan for the Open Government Partnership with communities.

# III. Process: Action plan implementation

As part of their participation in OGP, governments commit to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one. This section summarizes that information.

#### Regular multi-stakeholder consultation

In the action plan, the government proposed to set up a stakeholder steering group to oversee the ongoing development and implementation of the action plan. The government created and appointed (from those who responded to a public invitation to express interest in joining) a Stakeholder Advisory Group (SAG) in July 2015. Civil society was not involved in the appointment decisions. There was no other regular multi-stakeholder consultation on OGP implementation during the first year of the action plan, though there were elements of regular public consultation in some of the initiatives that make up the action plan commitments. The SAG's role is to assist with the development, implementation, and evaluation of the action plan, including the development of the next one. It comprises six people appointed by the government: two academics, two civil society leaders, a political commenter, and an ICT practitioner.<sup>2</sup> Two members are from outside the capital city, one is indigenous, and it is composed of five men and one woman, so there is a degree of diversity. The State Services Commission (SSC) has invited participation from local government, central government, the SSC itself, the Privacy Commissioner, Controller and Auditor General, and Chief Ombudsman to serve as observers. The IRM researcher accepted an invitation to address the SAG about his role. He has also spoken individually to five of the members of the SAG.

Under the terms of reference, the agenda, minutes and all papers are to be published on the SSC website. The agenda and papers for presentation are to be published five working days in advance of each meeting "to enable public participation." There are to be up to seven meetings a year. Some of the documents have been published on the SSC's website but none have been published in advance of any meetings.

The first two meetings of the SAG were on 29 July and I September 2015. At the July meeting, members expressed concern about the tight timeframe for meeting OGP deadlines and providing effective comment and input on the mid-term self-assessment report.<sup>6</sup> At the second meeting on I September 2015, members were briefed on the initiatives that made up the four action plan commitments and an hour was scheduled for them to discuss the self-assessment report.<sup>7</sup> The members provided comments on the draft and prepared a joint statement. The comments and the statement were not made publicly available at the time of writing this report. Some comments from SAG members are summarised in SAG meeting minutes released in December 2015, but the SAG as a whole said they were unable to provide collective detailed comments in the final mid-term self-assessment report published in early February 2016 because of the limited timeframe These matters will be included in the End of Term IRM report.

Stakeholders generally supported the creation of this group. However, some stakeholders and SAG members expressed concern at the late appointment of the SAG and the group's lack of resources. Members are paid meeting fees, but the overall budget for the first year was only \$17,000, which includes any costs associated with communicating with the members' networks. The budget is controlled by the SSC. Some SAG members were also concerned that they had not been given enough time to deliberate together.

Apart from the creation of SAG, there is no evidence of any consultation or refinement of the action plan in the period of assessment. The government says it is working on an implementation plan,8 as mentioned in the action plan,9 but has provided no evidence of any

concrete progress. There appears to be no substantiation of the promise to make the action plan a "living document", periodically updated through ongoing consultation and revision.

<sup>&</sup>lt;sup>1</sup> Terms of Reference for New Zealand Open Government Partnership Stakeholder Advisory Group April 2015: https://www.ssc.govt.nz/sites/all/files/nz-opg-sag-tor-apr-2015\_0.pdf

<sup>&</sup>lt;sup>2</sup> Their profiles are set out in the government's draft self-assessment: https://www.ssc.govt.nz/sites/all/files/draft-nz-opg-mid-term-report-sep2015.pdf

<sup>&</sup>lt;sup>3</sup> Terms of Reference, p4

 $<sup>^4\ \</sup>text{https://www.ssc.govt.nz/open-government-partnership-stakeholder-advisory-group}$ 

<sup>&</sup>lt;sup>5</sup> In response to an Official Information Act request for these papers, the government indicated that it had changed its mind about supplying papers in advance, though the terms of reference remain unchanged: http://norightturn.blogspot.co.nz/2015/09/open-government-ssc-changes-its-mind-on.html

<sup>&</sup>lt;sup>6</sup> Above n29, p2.

Agenda, OGP Stakeholder Advisory Group, 1 September 2015 meeting.

<sup>&</sup>lt;sup>8</sup> Response to IRM reviewer questions, 11 December 2015

<sup>&</sup>lt;sup>9</sup> P5, footnote 3.

# IV. Analysis of Action Plan contents

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs. Action plans then set out governments' OGP commitments, which stretch practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

Commitments should be appropriate to each country's unique circumstances and policy interests. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core open government values:

#### Access to information

Commitments around access to information:

Pertain to government-held information, as opposed to only information on government activities. As an example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;

Are not restricted to data but pertain to all information. For example, releasing individual construction contracts and releasing data on a large set of construction contracts;

- May include information disclosures in open data and the systems that underpin the public disclosure of data;
- May cover both proactive and/or reactive releases of information;
- May cover both making data more available and/or improving the technological readability of information;
- May pertain to mechanisms to strengthen the right to information (such as ombudsman's offices or information tribunals);
- Must provide open access to information (it should not be privileged or internal only to government);
- Should promote transparency of government decision making and carrying out of basic functions:
- May seek to lower cost of obtaining information;
- Should strive to meet the 5 Star for Open Data design (http://5stardata.info/).

#### Civic participation

Commitments around civic participation may pertain to formal public participation or to broader civic participation. They should generally seek to "consult," "involve," "collaborate," or "empower," as explained by the International Association for Public Participation's Public Participation Spectrum (http://bit.ly/1kMmlYC).

Commitments addressing public participation:

- Must open up decision making to all interested members of the public; such forums are
  usually "top-down" in that they are created by government (or actors empowered by
  government) to inform decision making throughout the policy cycle;
- Can include elements of access to information to ensure meaningful input of interested members of the public into decisions;

• Often include the right to have your voice heard, but do not necessarily include the right to be a formal part of a decision making process.

Alternately, commitments may address the broader operating environment that enables participation in civic space. Examples include but are not limited to:

- Reforms increasing freedoms of assembly, expression, petition, press, or association;
- Reforms on association including trade union laws or NGO laws;
- Reforms improving the transparency and process of formal democratic processes such as citizen proposals, elections, or petitions.
- The following commitments are examples of commitments that would **not** be marked as clearly relevant to the broader term, civic participation:
- Commitments that assume participation will increase due to publication of information without specifying the mechanism for such participation (although this commitment would be marked as "access to information");
- Commitments on decentralization that do not specify the mechanisms for enhanced public participation;
- Commitments that define participation as inter-agency cooperation without a mechanism for public participation.
- Commitments that may be marked of "unclear relevance" also include those mechanisms where participation is limited to government-selected organizations.

#### **Public accountability**

Commitments improving accountability can include:

Rules, regulations, and mechanisms that call upon government actors to justify their
actions, act upon criticisms or requirements made of them, and accept responsibility for
failure to perform with respect to laws or commitments.

Consistent with the core goal of "Open Government," to be counted as "clearly relevant," such commitments must include a public-facing element, meaning that they are not purely internal systems of accountability. While such commitments may be laudable and may meet an OGP grand challenge, they do not, as articulated, meet the test of "clear relevance" due to their lack of openness. Where such internal-facing mechanisms are a key part of government strategy, it is recommended that governments include a public facing element such as:

- Disclosure of non-sensitive metadata on institutional activities (following maximum disclosure principles);
- Citizen audits of performance;
- Citizen-initiated appeals processes in cases of non-performance or abuse.

Strong commitments around accountability ascribe rights, duties, or consequences for actions of officials or institutions. Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress. Examples of strong commitments include:

- Improving or establishing appeals processes for denial of access to information;
- Improving access to justice by making justice mechanisms cheaper, faster, or easier to use;
- Improving public scrutiny of justice mechanisms;
- Creating public tracking systems for public complaints processes (such as case tracking software for police or anti-corruption hotlines).

A commitment that claims to improve accountability, but assumes that merely providing information or data without explaining what mechanism or intervention will translate that

information into consequences or change, would **not** qualify as an accountability commitment. See <a href="http://bit.ly/loWPXdl">http://bit.ly/loWPXdl</a> for further information.

#### Technology and innovation for openness and accountability

OGP aims to enhance the use of technology and innovation to enable public involvement in government. Specifically, commitments that use technology and innovation should enhance openness and accountability by:

- Promoting new technologies that offer opportunities for information sharing, public participation, and collaboration.
- Making more information public in ways that enable people to both understand what their governments do and to influence decisions.
- Working to reduce costs of using these technologies.
- Additionally, commitments that will be marked as technology and innovation:
- May commit to a process of engaging civil society and the business community to identify effective practices and innovative approaches for leveraging new technologies to empower people and promote transparency in government;
- May commit to supporting the ability of governments and citizens to use technology for openness and accountability;
- May support the use of technology by government employees and citizens alike. Not all eGovernment reforms improve openness of government. When an eGovernment commitment is made, it needs to articulate how it enhances at least one of the following: access to information, public participation, or public accountability.

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible. This report details each of the commitments the country included in its action plan, and analyzes them for their first year of implementation.

All of the indicators and method used in the IRM research can be found in the IRM Procedures Manual, available at (<a href="http://www.opengovpartnership.org/about/about-irm">http://www.opengovpartnership.org/about/about-irm</a>). One measure deserves further explanation, due to its particular interest for readers and usefulness for encouraging a race to the top between OGP-participating countries: the "starred commitment". Starred commitments are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:

- I. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have "medium" or "high" specificity.
- 2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of Access to Information, Civic Participation, or Public Accountability.
- 3. The commitment would have a "transformative" potential impact if completely implemented.
- 4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of "substantial" or "complete" implementation.

Based on these criteria, New Zealand's action plan contained no starred commitments.

Note that the IRM updated the star criteria in early 2015 in order to raise the bar for model OGP commitments. Under the old criteria, a commitment received a star if it was measurable, clearly relevant to OGP values as written, had moderate or transformative impact, and was substantially or completely implemented.

Based on these old criteria, New Zealand's action plan would have received no starred commitments.

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for Greece, see the OGP Explorer at <a href="https://www.opengovpartnership.org/explorer">www.opengovpartnership.org/explorer</a>.

#### **General overview of the commitments**

The New Zealand action plan sets out four commitments in the form of a chart<sup>1</sup> and then provides more detail in later pages. All four commitments relate to broad initiatives that were already underway. However the plan describes itself as a "living document that we will develop and enhance over time in collaboration with stakeholders" and "will be inviting civil society, businesses, citizens and others to take part in the ongoing development and implementation of our Action Plan."<sup>3</sup>

The four initiatives that embody New Zealand's commitments are:

- The Better Public Services Results programme (BPS), an initiative that sets ambitious and measurable targets for significant public policy goals, such as reducing assaults on children by 5% by 2017, and promises to report every six months on progress. One such target, Result 10, aims for New Zealanders to be able to complete their transactions with government easily in a digital environment. The action plan commitment is to continue to report on progress toward the BPS targets and to "focus on Result 10".
- The Government ICT (information and communications technology) Strategy and Action Plan to 2017, a cross-government roadmap for transforming government services in a digital environment, and in particular, Action 13, which aims to make information assets "open by default". The action plan commitment apparently embodies this ICT Strategy and Action Plan, with a "focus on Action 13" which it commits to implement by June 2016. It also commits to "refresh" the ICT Action Plan by the end of 2014.
- The National Integrity System Assessment report (NIS) prepared by Transparency International NZ in 2013. This examines twelve societal "pillars" that provide the foundation for national integrity, such as the legislature, executive, judiciary, public sector, law enforcement and electoral management, and makes recommendations for their improvement. The action plan commits the government to consulting and reporting to ministers about the NIS in February 2015.
- The Kia Tūtahi (Standing Together) Relationship Accord, a set of principles and expectations agreed between the government and community groups to work together to achieve social, economic and environmental outcomes. The commitment is to "review progress of the Accord in 2015", by holding discussions and gathering evidence to try to improve government engagement practices.

<sup>3</sup> p13.

<sup>&</sup>lt;sup>1</sup> Action plan, p6.

<sup>&</sup>lt;sup>2</sup> p3.

#### I. Better Public Services

#### **Commitment Text:**

Report on progress towards Better Public Services Results - Ongoing six-monthly reports though existing reporting process.

Focus on Result 10 of the Better Public Services Results: New Zealanders can complete their transactions with government easily in a digital environment.

Editorial note: The above language was taken from the chart on page 5 of the Action Plan

Our Action Plan will focus closely on Result 10.

BPS Result 10 is about making it easy for New Zealanders to interact with government through the innovative use of technology.

New Zealand government agencies need to re-think the way they deliver public services, particularly given New Zealanders want to be able to access government services digitally.

Customers expect service delivery that is increasingly digital, responsive and personalised.

Result 10 aims to:

- put citizens at the centre of digital service delivery by involving them in the design process and learning how to deliver to their needs
- work in new ways across government to deliver integrated services that reflect citizen needs and not government structure
- ensure digital interactions are easy to access, use and understand by supporting access and use, and by testing and monitoring citizen uptake to inform iterative improvement, and
- build citizen trust and confidence when interacting with government by providing clear, seamless, smart and secure digital services that meet their expectations, help them understand the decisions that are made about them, and provide easy access to information that government holds about them.

The Government is developing a Blueprint to make it easier for New Zealanders to complete online transactions. The Action Plan will be updated, with specific actions, once the Blueprint is completed.

Editorial note: This language was taken from page 7 of the Action Plan

Lead institution: State Services Commission; Department of Internal Affairs

Supporting institutions: A variety of government agencies are involved in the various Better Public Services programmes. All government agencies interacting with the public are responsible for implementing the aspect of the commitment relating to "Result 10", i.e. easy digital interaction with government.

Start date: 1 July 2014...... End date: 30 June 2016

	Spe	ecific	city		OG	P val	ue re	levance	Pot	ential	impa	act	Completion				
Commitment Overview	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete	
I. Overall			1		1		1	/		1				1			
1.1. Progress reporting				/	1		1	1	1							/	
1.2. Easy digital interaction with government		1					1	/		1				/			
I.3 Incorporate Blueprint into Action Plan		1			/		,	✓			/		/				

### What happened?

This commitment relates to a pre-existing initiative – the Better Public Services programme (BPS) that started in 2012. The government's BPS programme and regular progress reporting requirements aim to achieve significant and measurable social policy outcomes, and to hold the government publicly accountable for its performance in attaining them.

The Better Public Services programme seeks to reduce long-term welfare dependency, support vulnerable children, boost skills and employment, reduce crime and improve government interactions. The government publicly set ambitious targets for specific statistical improvement in these areas and promised to provide progress reports against those targets every six months.<sup>1</sup>

Result 10 of the BPS programme is about making digital transactions with government easy for the citizenry. The specific aim of Result 10 is to have an average of 70 per cent of New Zealanders' most common transactions with government completed in a digital environment by 2017. This target is mentioned in Appendix A of the NZ OGP action plan, but is not included in the language of the commitment.

The action plan is ambiguous as to whether the entire BPS programme is part of the commitment, or whether the government has only committed to reporting on results for Result 10. The chart on page 5 of the action plan indicates 'Report on progress towards Better Public Services Results' as commitment 1 with a milestone of 'ongoing six monthly reporting'. 'Focus on Result 10' is indicated in the following row with a milestone of 'ongoing six monthly reporting' as well. The government appears to have taken the view that the entire BPS programme falls within the commitment,<sup>2</sup> though this seems at odds with the wording of the commitment on page 5 of the action plan, which focuses specifically on Result 10.

The commitment language describes the aims of the Result 10 programme but does not include specific activities to be completed during the action plan implementation cycle. The commitment does reference a secondary source, a "Blueprint" being developed by the government to "make

it easier for New Zealanders to complete online transactions"<sup>3</sup> and indicates that, "the action plan will be updated, with specific actions, once the Blueprint is completed".<sup>4</sup> The Result 10 Blueprint was released in June 2014, two months before the publication of the final action plan.<sup>5</sup>

The Result 10 Blueprint is a cross-government vision statement, which focuses on ensuring public services are designed to operate digitally, and in a way that will attract customers. The language on activities to be undertaken in the Blueprint is often vague ("customers can elect to complete related transactions at the same time"; "on-line forms are smart and user-friendly"). But some parts are more specific ("customers can consent to the re-use of information government holds about them", "human support is available for digital transactions"). None of this is included in the language of the commitment, but it provides context to the initiative that the government is putting forward as Commitment I.

The action plan has not been updated with specific actions based on the Blueprint.

The IRM researcher has evaluated implementation of this commitment based on two activities: I. The publication of the six-monthly progress reports for all BPS programmes (milestone I.1) and 2. The broad commitment in Result 10 to making it easy for New Zealanders to complete their transactions with government in a digital environment (milestone I.2).

#### Milestone 1.1

The IRM researcher found that the government has met its 6 monthly reporting requirement by publishing three progress reports on all ten BPS targets in July 2014, February 2015, and July 2015 respectively.<sup>6</sup> These updates are available online on the BPS website<sup>7</sup>, tracked with graphs, explained with accompanying notes, and often illustrated with videos and case studies. However, most of the case studies cited by the government<sup>8</sup> did not fall within the (time) scope of this report (July 2014 – June 2015), and two related only to technology and innovation without any connection to other open government values.<sup>9</sup>

The government says this commitment directly addresses relevant grand challenges, most particularly Improving Public Services. Moreover, it says, the reports themselves provide an element of transparency, accountability and public participation. There is some evidence to support the view that the BPS programme furthered accountability. Successive progress reports since 2012 show, in many cases, significant progress toward the underlying social goals. In the past year, three of the targets (relating to welfare dependency, crime, and workforce skills) have been made more ambitious (though with a slightly longer deadline) during the first year of the action plan. <sup>10</sup> The latest 6-monthly reports now assess progress against these more ambitious targets.

Since commitment language is limited to evaluating the completion of six-monthly progress reporting, the IRM researcher, therefore, found that this milestone had achieved completion.

#### Milestone 1.2

With regards to Result 10, progress is mixed.<sup>11</sup> The government did not update the OGP action plan with specific actions sourced from Blueprint 10, as stated in the commitment text. The government published progress reports on Result 10 in July 2014, February 2015, and July 2015. To assess progress toward the goal of 'making it easy for New Zealanders to complete their transactions with government in a digital environment' the government decided to measure a basket of services.<sup>12</sup> These include paying taxes, paying police fines, renewing passports, and applying for a visa. However, the government has not undertaken to report on progress in relation to Result 10 or the Blueprint generally, which has a much more diverse and far-reaching set of goals.

The goal of "making transactions easy in a digital environment" is extremely difficult to assess without clear, actionable, and time-bound milestones. The fact that this goal is non-specific somewhat subjective, applies to all government agencies, and is supplemented by dozens of directives of varying specificity in the Blueprint, exacerbates the difficulty in evaluating progress.

Nevertheless, it is clear that there has been progress toward improving the digital environment in which the government and citizens interact. The July 2015 progress report assessing the basket of services found an average of 45.3% of transactions conducted online, very slightly lower than the figure for the February 2015 report (45.8%), but significantly up from the July 2014 figure of 39.3%. <sup>13</sup>

Officials now accept that this measuring approach is somewhat flawed, and are working to address it. In December 2014, the government completed research on the needs (and "pain points") of people transacting with government, and learned that they preferred to have services integrated around key life events such as births and getting a job. 14 The Result 10 BPS framework is being adjusted, in response to feedback from the public, toward a more customercentric model based on clusters of services and pivotal life events. 15

#### Milestone 1.3

As indicated above, the government did not update this commitment with specific actions derived from Blueprint 10. Therefore, the IRM researcher found this commitment to be "not started".

#### Overall

The ongoing reporting requirements, although completed, were not the challenging part of this commitment. There has been some progress toward improving the digital environment for public services. However, due to the fact that that the action plan was not updated with specific actions from the Blueprint and that the government's own measure of success (the basket of services) showed that progress in the period under review was limited, the IRM researcher found this commitment to have achieved minor overall completion.

The IRM researcher did not evaluate for completion the government's claim that it has made substantial progress on the goals of the BPS programme overall, as it fell outside the scope of the commitment language. However, the evidence presented in the latest 6-monthly reports shows that only three of the ten targets have shown clear improvement during the first year of the action plan, and some have shown declines. The interest of the source of th

#### Did it matter?

While it is clear that the BPS programme and Result 10 contain elements relevant to OGP values, it is not clear that the inclusion of the BPS in the action plan stretches existing government practice, nor whether it has made any significant difference to open government in New Zealand.

In relation to the reporting requirement, stakeholders applauded the government's readiness to publicly assess its progress, though some felt there was an element of politicking in the exercise, and one pointed out that many of the BPS statistics have previously been publicly released.

But many stakeholders pointed out that reporting requirements – and the BPS programme as a whole – pre-dated the OGP action plan. A director of TINZ described it as "low-hanging fruit – in fact it has already fallen off the tree." Stakeholders found it hard to see that BPS represented any improvement against current practice. Some pointed out that the inclusion of BPS was already decided on before they were consulted over the action plan. Cabinet papers substantiate this criticism.<sup>18</sup> The reporting requirement has not been expedited or expanded as a result of the inclusion of the programme in the OGP action plan.

The same is true of Result 10, which stakeholders criticised as unambitious. Most stakeholders felt that Result 10 was about e-government and not open government. They said that making it easy to access services digitally may be a laudable public policy goal, but it did not significantly advance the core principles of transparency, accountability and participation. The department in charge of digital transformation says that transparency and citizen participation were "not issues it was specifically set up to address."<sup>19</sup>

As a result, the IRM researcher found this commitment to be partly relevant to OGP values but that, as written, had no potential impact on the policy area.

As for the BPS programme as a whole, most stakeholders felt there was value in it and in the innovative and cooperative solutions it entails. Some stakeholders noted that there had been genuine progress toward achieving many of the BPS goals.

The government claims that the mechanics of the BPS programme are steeped in OGP values of transparency, accountability and participation. There is some evidence to support the view that the BPS programme furthered these values. The progress reports led to some public discussion about the BPS programme and the underlying policies. The government issued press releases and speeches emphasising the improvements.<sup>20</sup> Some commentators have praised the programme.<sup>21</sup> Others used the data to inform their criticisms.<sup>22</sup> Furthermore, some of the projects under the BPS rubric involve cooperation with community groups, and so the government argues that there has been a degree of public participation.

Nevertheless, many stakeholders also felt the whole BPS programme was only peripherally related to transparency and accountability. Many did not accept that it was related to public participation at all. For most stakeholders, the fact that the six-monthly reports are integral to the BPS programme did not make BPS fundamentally about open government. The government itself identified this as a likely criticism before the action plan was released, saying in a Cabinet Paper, that stakeholders may think it "would not adequately take account of the OGP principles and objectives." <sup>23</sup>

Some examples provided in the draft self-assessment report are about the use of technology and innovation, but do not connect these to transparency, accountability or participation as required in the OGP Articles of Governance. The government argues that the OGP Articles in force at the time the action plan was developed did not expressly require technology to be utilised in a manner that furthered other OGP values. However, this was clearly signalled in the IRM reports and Procedures Manual dating back to January 2014, and was specifically mentioned in a communication with the New Zealand government on 29 January 2014.

#### **Moving forward**

The IRM researcher recommends that the BPS programme not be included in the next action plan. He agrees with most stakeholders that it is not closely enough aligned to the core values of transparency, accountability and participation. Any benefits in terms of those values are not specific or measurable.

It may be possible to carve out some aspects of the Result 10 Blueprint for inclusion in the next action plan. For example, if the government commits to ensuring there are accessible and effective complaints mechanisms built into digital service environments, this specific reform may improve public services and serve the interests of accountability.

<sup>&</sup>lt;sup>1</sup> http://www.ssc.govt.nz/better-public-services

<sup>&</sup>lt;sup>2</sup> See draft Self-Assessment.

<sup>&</sup>lt;sup>3</sup> Action plan, p7

<sup>&</sup>lt;sup>5</sup> https://www.ict.govt.nz/assets/Programmes-and-iniatives/Digital-Transformation/Result-10-Blueprint-FINAL.pdf

<sup>&</sup>lt;sup>6</sup> http://www.ssc.govt.nz/bps-snapshot (the reports constitute updates of these pages).

http://www.ssc.govt.nz/better-public-services

<sup>&</sup>lt;sup>8</sup> Draft Self-Assessment, p7-8, 11; http://www.ssc.govt.nz/bps-interaction-with-govt

<sup>&</sup>lt;sup>9</sup> http://www.ssc.govt.nz/better-public-services

<sup>10</sup> https://www.ssc.govt.nz/sites/all/files/cabpaper-bps-refresh-2014.pdf

<sup>11</sup> https://www.dia.govt.nz/Better-Public-Services-Measuring-Result-10.

<sup>&</sup>lt;sup>12</sup> http://www.ssc.govt.nz/bps-interaction-with-govt#result10

<sup>&</sup>lt;sup>13</sup> https://www.dia.govt.nz/Better-Public-Services-Measuring-Result-10

<sup>&</sup>lt;sup>14</sup> https://www.ict.govt.nz/assets/Programmes-and-iniatives/Digital-Transformation/Result-10-Customer-Research-2014.pdf

<sup>15</sup> http://www.ssc.govt.nz/sites/all/files/cabpaper-bps-results-2014-end-year-progress-report.pdf

<sup>&</sup>lt;sup>16</sup> Draft self-assessment, p6.

<sup>&</sup>lt;sup>17</sup> http://www.ssc.govt.nz/bps-snapshot

<sup>&</sup>lt;sup>18</sup> Cabinet paper ERD(13)25, Agreement to Join Open Government Partnership, 22 August 2013.

<sup>&</sup>lt;sup>19</sup> Response to IRM reviewer questions, 11 December 2015, p 8.

<sup>&</sup>lt;sup>20</sup> http://www.ssc.govt.nz/bps-media-releases

<sup>&</sup>lt;sup>21</sup> For example, http://www.nzherald.co.nz/business/news/article.cfm?c\_id=3&objectid=11453299

For example, http://www.nzherald.co.nz/nz/news/article.cfm?c\_id=1&objectid=11493669

<sup>&</sup>lt;sup>23</sup> https://www.ssc.govt.nz/sites/all/files/cab-paper-sec(14)-42-action-plan-ogp.pdf, para 32.

## 2. ICT Strategy and Action Plan

#### **Commitment Text:**

Government ICT Strategy and Action Plan to 2017 - ICT Action plan to be refreshed by the end of 2014 Focus on Action 13 of the Government ICT Strategy: Open by default — to be implemented by June 2016

The Action Plan section will be updated by the end of 2014 and the strategy section is due for a refresh in 2015.

Editorial Note: This language was taken from the chart on page 5 of the national action plan

A strategy will be developed to identify actions that promote awareness of available data, resources, tools, and websites to help citizens identify, access, and engage with government data and information. The strategy will be implemented by June 2015.

The secretariat will also collaborate with other government initiatives that are engaging with civil society and business groups to align government activities and reduce duplication for all participants. This includes aligning how the secretariat measures the achievement of the expected Programme benefits alongside our selected OGP grand challenges and principles.

Editorial note: This language was taken from page 9 of the national action plan

Lead institution: Department of Internal Affairs; Land Information New Zealand

Supporting institutions: All government agencies that deal with data.

Start date: 1 July 2014 ..... End date: 30 June 2016

	Spe	ecifi	city		OG	P val	ue re	levance	Pot	ential	limpa	act	Completion			
Commitment Overview	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
2. Overall			<b>\</b>		<b>&gt;</b>			•		1					/	
2.1. Refresh ICT Action Plan			1				Uncle	ear		1						✓
2.2. Implement Open-by- default action		1			>			<b>✓</b>		1				/		

#### What happened?

The government developed an ICT Strategy and Action Plan from 2013 to 2017. It contains 107 actions. It is a very broad policy document, applying across the range of government entities, and seeking to transform the way the government uses information and technology. The government describes it as a "business-led, ICT-enabled approach to transforming and integrating services across government". In part this is about making data open for re-use, and

in part it is about using technology to improve service delivery. There is some overlap between the initial ICT strategy and action plan and the BPS Result 10 Blueprint. The government points out that the enterprise is an evolving one. The ICT Action Plan "outlines a clear direction of travel", but the 107 actions range greatly in their degree of specificity. The commitment language commits to refreshing the ICT Action Plan by the end of 2014.

One element of the ICT Action Plan is Action 13, the active re-use of information assets for commercial and social use and co-production of services. This includes increasing the number of sources of government information and better utilising existing data hubs. The commitment language commits to implementing this by June 2016.

The narrative in the OGP action plan also commits to implementing an awareness-raising strategy by June 2015. This is to "identify actions that promote awareness of available data, resources, tools, and websites to help citizens identify, access, and engage with government data and information."

This commitment has two interconnected milestones. Milestone 2.1 is updating the ICT Action Plan. Milestone 2.2 is implementing Action 13: making government information "open by default". Part of this second milestone is the implementation of the awareness-raising strategy.

Note: Following the completion of Milestone I in December 2014, the activities of Action I3 were adjusted and renamed as "Action Area 4". For the sake of clarity, the IRM researcher refers to all activities that took place before the December 2014 update as "Action I3" and post December 2014 activities as "Action I3/Action Area 4".

#### Milestone 2.1

Milestone 2.1 was completed in December 2014. The commitment is to update the ICT Action Plan, which the government's chief information officer is required to do annually independently of the OGP.<sup>2</sup> The government's draft self-assessment report notes that the commitment to update the ICT Action Plan in 2014 was adhered to, and says that by the time of the update about half of the original action points were achieved.<sup>3</sup> The update was designed to ensure that the ICT Action Plan remains relevant. It introduced some changes, in part based on research on users' experience. The government says it is "more effective" than the 2013 plan.<sup>4</sup> The changes consolidated and refined the actions, increased the focus on inter-agency collaboration, and clarified its relationship with the BPS programme.

The IRM researcher found this milestone was completed. However, questions remain as to whether this update achieved open government objectives.

#### Milestone 2.2

The second milestone focuses on Action 13 of the ICT Action Plan, making data "open by default", the active re-use of information assets for commercial and social re-use and co-production of services. This includes issuing an awareness-raising strategy by June 2015.

The new ICT Action Plan recasts Action 13 as Action Area 4: "Accelerate the release of public information and data for re-use". Officials say this is not intended to change the meaning and thrust of Action 13. Specifically, Action Area 4 sets out to:

- Drive the proactive release of high value public data, and promote open data across all New Zealand in machine-readable formats, licenced for re-use, and conforming to open standards; and
- Leverage the all-of-government shared capability for public data exchanges and release of open data for re-use.

The plan stated that both of these actions are "underway" but provides no further detail.

The new ICT action plan also states that other Action Areas are highly relevant to OGP, including:

- Action Area 1: Improve online information quality and accessibility
- Action Area 5: Accelerate secure information exchange
- Action Area 6: Enhance data and information policy, legislation, and governance

As some stakeholders pointed out, it is very difficult to assess progress against such non-specific goals. It is even more difficult to assess progress that has occurred in the reporting period of I July 2014 to 30 June 2015, when the features of government ICT varied from agency to agency and were frequently evolving.

A step that significantly promotes transparency in OGP terms was the launch of <a href="www.govt.nz">www.govt.nz</a> which occurred in July 2014, shortly after the commencement date of the OGP action plan. This is a portal that makes it easy for users to locate and use government information across the breadth of government. A consultation function with searchable listings of current policies out for public consultation was added in July 2015.6

Another significant government website is <a href="www.data.govt.nz">www.data.govt.nz</a>, which has progressively catalogued an increasing number of government datasets and updated existing ones, facilitating their public availability for re-use. Users may also request datasets to be added using a feedback mechanism. Members of the government Open Information and Data Programme are working with government agencies to release data, and making public appearances to promote awareness and use of the data. However, this portal is also not explicitly mentioned in the commitment language.

The commitment text promises a "strategy" (to be implemented by June 2015) to "identify actions that will promote awareness of available data, resources, tools, and websites to help citizens identify, access and engage with government data and information." The government says the Open Government Information and Data Programme commenced a civil engagement strategy on I July 2015 to "raise the awareness and knowledge of open government data, and drive the uptake and reuse of government data across wider forums. In November, in response to a request from the IRM researcher, the government released an undated document entitled "Civil Engagement Strategy 2015/2016". This involves using mainstream and social media, emails, videos, articles blogs and an open government data forum to explain what the government is doing, publicise case studies, and describe how data is being productively reused. However, a government official confirmed that this document was not completed until November 2015. Accordingly, it is not clear that any formal strategy was implemented on time, though elements of awareness raising were taking place beginning in 1 July 2015.

In September 2015, the government launched a toolkit for online government engagement which it had been working on during the assessment period (and before). This is directed at government, but is designed to facilitate community engagement utilising best practice strategies.<sup>8</sup> While this was part of the initial ICT Strategy and Action Plan, it was not included in the revised ICT plan. Due to toolkit's omission from the new ICT plan, it was effectively removed from the OGP action plan, so its status with respect to the OGP action plan is ambiguous. There is no mention of the government "aligning" how it "measures the achievement of the expected programme benefits alongside our selected OGP grand challenges and principles" to the implementation of the 'open-by-default' action.

It is clear that there has been progress under the auspices of this commitment toward transparency, and to a lesser extent accountability and participation, in connection with innovative technology. What is not clear is how much progress there has been. There does not seem to be any clear benchmarking or reporting on progress under the ICT Action plan generally or Action 13 (or Action Area 4) in particular. 9 It is impossible to say that Action 13 is

even on course to be fully "implemented" by June 2016, particularly as it has now been recast in even more vague terms in Action Area 4. Accordingly, the IRM researcher finds completion of this milestone to be limited.

#### Did it matter?

Reviewing the ICT Action Plan (milestone 2.1) cannot be said to display great ambition. It is more in the nature of a refocus. Additionally, the government's Chief Information Officer is required to update the ICT Action Plan annually. This calls into question whether this commitment stretched existing government practice.

The development of an awareness-raising strategy under milestone 2.2, while welcome to some stakeholders, did not strike them as ambitious either, even if it was completed on time. Some stakeholders noted that the focus on awareness of open data was not the central concern: the major issues are what data is gathered, what is kept, what is released, and whether it is accurate, sensibly coded, machine-readable, complete, consistent, and readily able to be compared with other data for different time periods and regions.

But the ICT Action Plan's Action 13/Action Area 4, are much more ambitious: they aim to transform the government landscape.. More than 3,000 datasets have been released in searchable form, including many that were added over the assessment year. Stakeholders universally welcomed this. There are examples of the use of this government data for democratic purposes, both by government<sup>10</sup> and the media,<sup>11</sup> in ways that have improved transparency, accountability and/or participation, and promoted public integrity.

Nevertheless, many stakeholders argued that this commitment is strictly about open data, rather than opening government practices on the release of government-held data. Some said the datasets released are generally of less democratic value than existing information that has been compiled, standardized, or which consist of descriptions of policy options or reasons for decisions. Particular skills are required to utilize data – sometimes even to understand it – and make it democratically useful. Several others said that open data initiatives were not well-resourced. Others also argued that the data needed to be made meaningful for citizens, by highlighting and explaining the most significant figures and trends, or at least publishing it in forms that make it accessible and understandable to non-experts.

Many also said that this commitment was not primarily motivated by democratic concerns, but by economic ones. One stakeholder commented that the proposals for open data in the action plan did not seem grounded in the rationale of increased accountability. Officials acknowledged that the main drivers of this policy are economic and governmental: that is, the expectation was that data would be "unlocked" so that it could be productively exploited by businesses and citizens and shared within government to provide integrated services<sup>12</sup>. The government argues that it is unfair to characterise the primary motivation as economic, and say it is about open and transparent government. The documentation contains discussion of the benefit of "generat[ing] wider participation in the development of government policy." Thus there is evidence that the democratic use of data is at least one of the purposes of the open data commitment.

However, stakeholders expressed a range of other criticisms. Some pointed out that much of the ICT Strategy was about internal sharing of data between government agencies, and mechanisms to ensure security and privacy. Those activities are not directly relevant to OGP values, as they have no public-facing component. Some others criticized the lack of specificity in the commitment.

Official information requesters said that official responses to their information requests were almost invariably provided in PDF form even when the requested information contained datasets and the requester explicitly requested the information be provided in excel spreadsheets

format. PDFs are not machine-readable, cannot be searched, and are difficult to re-use without time-consuming and costly data entry, even though the original data could have been readily provided in usable form.

Finally, some said that the timelines and content relating to these ICT initiatives were unchanged as a result of their inclusion in the OGP action plan and doubted that there has been any "stretching" beyond existing practice.

The government itself accepts that stakeholders felt there was too heavy an emphasis on business priorities, and the initiative was insufficiently bold. Officials involved in open data expressed concern that they had no control over which datasets were made available, and no control over their content. Those datasets that have been released are not necessarily the most useful for the purposes of accountability and participation. Various stakeholders commented that the open data programme lacked leadership with a firm mandate and government directive; the existing programme is patchy and sometimes selective, relies on voluntary cooperation, and is therefore dependent on the progressiveness of particular organisations. One stakeholder argued that government officials were often enthusiastic about releasing data, but found it difficult in practice when faced with competition for resources, lack of expertise, and fear of the repercussions of error.

#### **Moving forward**

The next steps listed by government in its draft self-assessment report were often very vague and included statements such as:

- "further work is required to ensure all agencies apply an 'open-by-default' policy"
- "Work to broaden the [programme] is underway"
- "The programme continues to learn from what works and look for ways to accelerate and amplify results"
- Engagement with citizens, civil society and businesses is also being strengthened through a work programme which is directed at what users see as high value public data and working with agencies to encourage the release of that data in open formats"<sup>15</sup>

The IRM researcher recommends the development of much more specific and measurable commitments.

The draft self-assessment report also mentions a new strategy to engage civil society stakeholders about open government, and prioritise the health, education and environment sectors. <sup>16</sup> This seems a promising starting point, particularly if combined with a commitment to identify (in consultation with stakeholders in these sectors) and expedite the release of datasets that are of significant use to citizens in a format in which they can be readily utilized.

The next steps listed in the draft self-assessment also refers to a newly created ICT Partnership framework, a group of government executives aiming to create a "single coherent ICT ecosystem supporting radically transformed public services." Various aims are set out but they are not specific or measurable, and it is not clear how they relate to OGP values.

The IRM researcher concluded that a broad commitment relating to the ICT Strategy and Action plan should not be included in the next action plan. Its content is not sufficiently specific and measurable, and its goals are not clearly enough relevant to OGP values. Instead, more specific projects involving the opening up and/or utilization of democratically valuable government data and information should be formulated. These may fall within the broad scope of the ICT Strategy and Action Plan or they may not.

Stakeholders emphasized that the quality and usability of the data is of most importance.

Many stakeholders commented that it would be helpful if there were an authoritative agency with powers to actively facilitate the release of information and data.

The government could also consider committing to implementing its own online engagement strategy rather than simply making it available as a resource in its online engagement toolkit.<sup>17</sup>

http://www.nzherald.co.nz/nz/news/article.cfm?c\_id=1&objectid=11355872

<sup>&</sup>lt;sup>1</sup> Draft self-assessment, p12.

<sup>&</sup>lt;sup>2</sup> https://www.ict.govt.nz/assets/Strategy-and-Action-Plan/ICT-Action-Plan-2014-NEW.pdf, p5.

<sup>&</sup>lt;sup>3</sup> Page 13.

<sup>&</sup>lt;sup>4</sup> http<u>s://www.ict.govt.nz/assets/Strategy-and-Action-Plan/ICT-Action-Plan-2014-NEW.pdf</u>, p5.

<sup>&</sup>lt;sup>5</sup> n13

<sup>&</sup>lt;sup>6</sup> Two people commented to the IRM researcher that the consultation function should be improved to include information about public submissions being sought on government bills.

<sup>&</sup>lt;sup>7</sup> Draft self-assessment, p40.

<sup>&</sup>lt;sup>8</sup> https://webtoolkit.govt.nz/guidance/online-engagement/

There is an "ICT update" newsletter, last published in December 2014, but this contains little information on progress toward OGP commitments: https://www.ict.govt.nz/news-and-updates/government-ict-update-newsletter/

For example, a government website developed this year that maps funding provided to social contractors: <a href="http://www.contractmapping.govt.nz/">http://www.contractmapping.govt.nz/</a>; and the Auditor-General's office's annual report used SSC data about a public survey concerning the quality of public services: <a href="http://www.oag.govt.nz/2014/annual-report/part1.htm">http://www.oag.govt.nz/2014/annual-report/part1.htm</a>

<sup>&</sup>lt;sup>11</sup> For example the NZ Herald used open data to produce an interactive display comparing schools with different socio-economic status with student performance:

<sup>&</sup>lt;sup>12</sup> see NZ OGP action plan, p7; ICT Strategy and Action Plan to 2017, p6.

<sup>&</sup>lt;sup>13</sup> https://www.ict.govt.nz/assets/Uploads/Government-ICT-Strategy-and-Action-Plan-to-2017.pdf, p16.

Draft Self-Assessment, p15.

<sup>&</sup>lt;sup>15</sup> Pages 14-15.

<sup>&</sup>lt;sup>16</sup> p40.

https://webtoolkit.govt.nz/guidance/online-engagement/

# 3. Responding to Transparency International Report Commitment Text:

National Integrity System assessment report - Consult and report back to Ministers in February 2015

Editorial note: This language was taken from the chart on page 5 of the national action plan

The third element of our Action plan is the work we are embarking on with Transparency International New Zealand (TINZ), the civil society organisation that works to identify and address corruption. In 2013, TINZ produced a National Integrity System Assessment which culminated in a detailed report that made a series of recommendations across 12 "pillars" of New Zealand's integrity system. These pillars are the legislature, the executive, the judiciary, public sector, law enforcement, electoral management, ombudsman, audit institutions, political parties, media, civil society and business.

The work with TINZ over the next two years will involve engaging in ongoing dialogue on TINZ's National Integrity System Assessment, and working with TINZ and other stakeholders to examine and respond to the recommendations.

Editorial note: This language was taken from page 10 of the national action plan

Lead institution: State Services Commission

Supporting institutions: Transparency International NZ (TINZ)

Start date: 1 July 2014...... End date: 30 June 2016

	Specificity				OGP value relevance					ential	impa	act	Completion			
Commitment Overview	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
				/		1	1			1				1		

#### What happened?

Transparency International NZ's New Zealand National Integrity System Assessment<sup>1</sup> (NIS) has identified a broad range of reforms relating to the integrity of (mostly) public entities. These comprise seven overarching recommendations:

- Develop a comprehensive national anticorruption strategy in partnership with civil society and the business community, combined with rapid ratification of the UN Convention against Corruption.
- 2. Initiate a cross-government programme of wide public consultation to develop an ambitious New Zealand Action Plan for the international Open Government Partnership.
- 3. Strengthen the transparency, integrity and accountability systems, of Parliament, the political executive (cabinet) and local government.
- 4. Strengthen the role of the permanent public sector with respect to public procurement, integrity and accountability systems, and public policy processes.

- 5. Support, reinforce and improve the roles of the Electoral Commission, the judiciary, and the Ombudsman in maintaining integrity systems.
- 6. The business community, the media, and non-government organisations to take on a much more proactive role in strengthening integrity systems, addressing the risks of corruption.
- 7. Conduct further assessments and research in priority areas to better understand how to further strengthen integrity systems.

It also contains a series of sub-recommendations such as:

- subjecting Parliament to the Official Information Act,
- reforming campaign finance rules,
- strengthening transparency in public procurement.

The government committed to engage with TINZ and report back to Ministers. It sought to consult with TINZ, to ascertain all the relevant facts and policy considerations on integrity matters that the State service has a role in or can influence, and to identify whether action is required to be taken in relation to the recommendations.<sup>2</sup> This is a low-level commitment on the part of the government but has the potential to promote some very significant reforms in a manner that involves genuine co-creation with civil society.<sup>3</sup>

The NIS recommendations are numerous and some are very broad. Existing government practice (as of I July 2014) in relation to the matters raised in the NIS report varied but in general, the NIS recommendations remained unimplemented.

In the narrative background section of the draft self-assessment report, the government stated that by the end of the assessment period (30 June 2015), several of the seven major recommendations have been largely achieved or have seen significant progress. In particular, it noted the second recommendation - "the government should develop, after wide public consultation, an ambitious cross-government National Plan of Action for the international Open Government Partnership" – had been completed.<sup>4</sup> It also pointed out that it had introduced to Parliament a bill that will facilitate the ratification of the UN Convention Against Corruption,<sup>5</sup> (recommendation I) and has approved work on an anti-corruption strategy (recommendation I). The Ombudman's office is reviewing the Official Information Act (relevant to sub-recommendation 5ci) and a research project has been approved covering New Zealand's whistle-blowing law (relevant to sub-recommendation 4bii). However, most of the government's responses to the NIS set out in the draft self-assessment do not go very far in meeting the recommendations. Those activities in response to the NIS recommendations are not included in the text of the commitment and mostly describe work that was already independently underway.

Part two of the government's draft self-assessment examines the precise commitment made in the action plan, to consult on the NIS recommendations and report back to Ministers. The government reports that this work is substantially complete. The achievements claimed in relation to this activity are very modest: identifying relative priorities and facilitating greater understanding (see further discussion below).

The IRM researcher finds that the government has adhered to its commitment to meet regularly with TINZ to discuss the NIS. It has prepared a spreadsheet setting out the recommendations and its responses to them. The commitment requires the government to "consult and report back to Ministers in February 2015".

In mid January 2016, the government provided the IRM researcher with a copy of the February 2015 report to the Minister, and a further report to the Minister dated March 2015. These

reports were very brief. They contained no detail about consultations with TINZ or other stakeholders. They outlined the TINZ recommendations and described progress against four of them, though this was unrelated to the OGP action plan. The reports foreshadowed a further report in July 2015 on "a proposed government response", detailing the "recommendations, progress, priority, gaps and any policy issues for your consideration". That report has now been deferred to early 2016. It is therefore clear that a finalised response to the NIS report was not completed during the period of assessment.

In addition, the government has not provided evidence of working with any other stakeholders to examine and respond to the TINZ recommendations, as it proposed in the commitment. The only case study provided in the draft self-assessment refers to the very engagement with TINZ that was promised in the commitment. There is no evidence of engagement with other stakeholders. Bearing this in mind, and the fact that existing reports to the Minister did little more than summarise TINZ's recommendations and relevant but pre-existing government work, the IRM researcher finds only limited completion of this commitment in the assessment period. However, the fact that the second report containing recommendations is underway indicates that more progress is likely for this commitment. Further reporting on progress will be detailed in the end of term report

#### Did it matter?

Based on the narrow scope of the language of this commitment (consult with TINZ and reporting to the Minister), the IRM researcher finds this commitment to be an incremental but positive step forward in the policy area. The engagement process may have helped identify particular recommendations from the NIS that could be prioritised. The government says the exercise has been valuable in "identifying relative priorities" and facilitating "greater collective knowledge and understanding of New Zealand's integrity systems". Officials had suggested at a public meeting in December 2014 that some NIS recommendations could be added to the current OGP action plan, but that has not yet occurred.

In the absence of any evidence about what was in the report to the Minister or any intention to take any actions resulting from the TINZ engagement, it is difficult to maintain that this commitment has had any practical effect. In addition, the government was already working on a response to the NIS assessment even before the action plan was drawn up, which calls into question whether this commitment stretched existed government practice.<sup>8</sup>

In interviews with the IRM researcher, TINZ leaders said they were initially very encouraged by the open and responsive approach taken by officials at the State Services Commission. The meetings seemed very productive. TINZ prioritised concrete steps that could be taken relatively readily, and felt the government was responsive. One non-government stakeholder, present at the meetings, described TINZ as "incredibly privileged" to obtain this level of access and engagement.

However, TINZ has been very disappointed at the lack of any substantive progress arising out of the meetings. They felt that the government lacked the political will to take any concrete action on the recommendations. It is not clear what relevant facts and policies the government has established from the review nor what, if any, further policy action it proposes to take.

Although they fall outside the very narrow scope of the action plan commitment, implementing the NIS recommendations could have a potentially transformative impact on the policy area. There has clearly been some progress towards implementing some NIS recommendations during the first year of the action plan. In addition to the progress outlined above, the government has, for example, noted that it expanded its Rules of Sourcing for public procurement, and released anti-corruption training initiatives.

TINZ has mixed feelings about this progress. It was pleased that the government has introduced legislation to pave the way to ratification of the UN Convention against Corruption, and has agreed to develop a national anti-corruption strategy. It agreed that these steps would significantly promote the grand challenge of public integrity.

TINZ was also pleased that the government had joined the OGP, but it was not satisfied that there was "wide public consultation" nor did it find the national action plan to be "ambitious."

TINZ also felt that all these measures <sup>10</sup> <sup>11</sup>predated the action plan, and noted that the development of the anti-corruption strategy is on hold until 2017. Thus, it is not clear that any of the steps noted by the government have had anything to do with the TINZ report or the deliverables promised in the OGP action plan.

Viewed against the breadth and specificity of the NIS recommendations, the examples of progress given by the government are extremely limited. The government's claim that several of the seven major NIS recommendations have been largely achieved or have seen significant progress is not accepted by TINZ and does not seem borne out by the evidence. The government claims that its work updating the public procurement rules and completing anticorruption training respond to the recommendations about strengthening public sector integrity. However, the actual NIS recommendations were much more numerous and specific. The same is true of the recommendations relating to improving the roles of key watchdog agencies. The Ombudsmen's review of the Official Information Act only partially addresses one of eight sub-recommendations. Similarly, the Australian-funded research grant awarded in July 2015 to examine whistleblowing in New Zealand and Australia is the only example the government cites to establish that recommendation 7 (calling for public agency research to strengthen integrity systems) "is being addressed." The NIS calls for the whistleblower law itself to be strengthened, along with eighteen other relevant sub-recommendations.

The government has, with some justification, pointed out that some of the recommendations are extremely broad, such as the call to actively promote the importance of ethics, transparency, accountability and financial literacy to the NZ public through civics education, and identified various problems with operationalizing these recommendations.<sup>15</sup> Though both TINZ and the government draft self-assessment report evaluate overall progress on implementing the NIS report recommendations, the IRM researcher is careful to note that the government did not actually commit to implement any of the NIS recommendations within the framework of the OGP action plan. However, the IRM researcher concludes that this analysis of the NIS recommendations underscores the very limited impact of this commitment on the policy area.

#### **Moving forward**

The government says it has reported to the Minister on progress and will report again with detailed recommendations. The IRM researcher recommends the first report be publicly disclosed and the second be released in draft for public comment before it is finalised. This would at least serve the core principles of transparency, accountability and public participation.

As part of the engagement exercise, TINZ has identified a number of steps arising out of the NIS that it believes should be taken as a matter of priority. <sup>16</sup> These include:

- Extend the coverage of the Official Information Act 1982 to the Parliamentary Counsel
  Office, officers of Parliament, the Speaker in the role of Responsible Minister for
  parliamentary agencies under the Public Finance Act 1989, the Office of the Clerk, and
  the Parliamentary Service
- Strengthen the Protected Disclosures Act for both the public and private sectors

- Review public funding of political parties, the allocation of broadcasting time to political
  parties and the restrictions on parties purchasing their own broadcast election
  advertising
- Require greater transparency of the finances (including donations) of political parties
- Strengthen the Electoral Act 1993 to make the lines clearer between legal and illegal
  activities and investigate the options for strengthening enforcement in response to
  complaints
- Promote enhanced compliance with and understanding of the Official Information Act 1982, better processes for handling Official Information Act requests, and implementation of the Law Commission's recommendation for an Official Information Act oversight function as well as instituting a similar oversight function for the Ombudsmen Act 1975
- Initiate discussions with civil society and the business community on a general government-wide framework for timely consultation on the development of new policy initiatives and encouragement of direct public participation in policy development and implementation.

The IRM researcher believes that including concrete, measureable activities to support implementation of some of these measures could usefully be considered for inclusion in the government's next action plan.

<sup>&</sup>lt;sup>1</sup> Integrity Plus 2013 New Zealand National Integrity System Assessment, Transparency International NZ, December 2013: http://www.transparency.org.nz/National-Integrity-System-Assessment

<sup>&</sup>lt;sup>2</sup> Draft self-assessment, p41.

<sup>&</sup>lt;sup>3</sup> Note that Cabinet initially intended the commitment to include responding "with a view to adopting those [NIS recommendations] that are agreed upon", but this was not included in the action plan when it was finalised. See Cabinet SEC(14) 42, July 7, 2014, para 23.

<sup>&</sup>lt;sup>4</sup> NZ action plan, Appendix B. See also draft self-assessment, pp18-20.

<sup>&</sup>lt;sup>5</sup> Organised Crime and Anti-corruption Legislation Bill, Bill no 219/2; this has now been enacted in the form of 15 smaller Bills (5 November 2015); the Convention was ratified on 1 December 2015.

https://www.unodc.org/unodc/en/treaties/CAC/signatories.html

<sup>&</sup>lt;sup>6</sup> Draft self-assessment, p41.

<sup>&</sup>lt;sup>7</sup> Note of event organised by IGPS of 17 November 2014.

<sup>&</sup>lt;sup>8</sup> Memorandum, 10 March 2014, Meeting with TINZ re OGP Action Plan

<sup>&</sup>lt;sup>9</sup> The legislation has now been passed and the Convention ratified.

<sup>&</sup>lt;sup>10</sup> Introduced to Parliament on 25 June 2014.

<sup>&</sup>lt;sup>11</sup> The government is awaiting the development by the International Standards Organisation of an anti-corruption system standard. *2013 TI NIS Report – GOPAC allocated items – August 2015.* The government has accepted that "more can be done" in relation to this recommendation: draft self-assessment, p19.

<sup>&</sup>lt;sup>12</sup> Draft Self-Assessment, p19.

<sup>&</sup>lt;sup>13</sup> See NIS, pp341-343.

<sup>&</sup>lt;sup>14</sup> This is part of recommendation 4, not recommendation 7, as the draft Self-Assessment suggests.

<sup>&</sup>lt;sup>15</sup> 2013 Transparency International – Open Government Partnership – GOPAC allocated items – August 2015.

<sup>&</sup>lt;sup>16</sup> NIS 2103 Recommendations (& relates to OGP Action Plan key initiative 3: respond to TINZ NIS)

## 4. Review progress of Kia Tūtahi accord

### **Commitment Text:**

The Kia Tutahi (Standing Together) Relationship Accord

Review progress of the Accord in 2015

Editorial note: This language was taken from the chart on page 5 of the national action plan.

During our consultation with stakeholders, civil society organisations suggested that further work is needed on best practice guidance for or standards for civil society engagement in decision-making. This stakeholder feedback will be considered both in the context of assessing progress with the Kia Tutahi Relationship Accord in 2015 and our Action Plan.

In late 2014, the Department of Internal Affairs will begin scoping discussion with stakeholders and review overseas approaches to improve government engagement practices. In early 2015, the Department of Internal Affairs will gather evidence about the current challenges that community groups face in engaging with government. We will develop a collaborative process to seek solutions to those challenges.

Editorial note: This language was taken from page 10 of the national action plan.

Lead institution: Department of Internal Affairs

Supporting institutions: Ministry of Health, Ministry of Pacific Island Affairs, Ministry of Social

Development, Sport New Zealand, Te Puni Kokiri

Start date: I July 2014..... End date: 31 December 2015

Specificity			OGP value relevance				Potential impact				Completion					
Commitment Overview	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
4. Overall			<b>&gt;</b>			>				>				/		
4.1. Review progress of Accord		1				1				1				n gov	to te vernm	
4.2. Gather data about local challenges				/		1				1				/		
4.3. Evaluate international best practices		1			Unclear			,				1				

### What happened?

The Kia Tūtahi (Standing Together) Relationship Accord was signed in 2011.<sup>2</sup> A Ministerial steering group appointed in 2010 oversaw the development of the Accord. It is a set of principles agreed between government and community groups and signed by the Prime Minister and community representatives, which pledges things like "we will reach out to those who are not usually included and respond to the diversity in our communities", "we will increase opportunities for people to participate and flourish in their own communities", "we will be honest and open", and a commitment to achieving a position where "communities and government are in genuine and purposeful engagement on matters of mutual interest and importance" and "communities and government jointly resolve matters of longstanding concern, such as, participation in decision-making around policy and service delivery issues, and funding arrangements."

The commitment can be broken down into three milestones: the overarching review (Milestone 4.1), the promise to gather data about local challenges (Milestone 4.2), and the promise to gather information about overseas approaches to community engagement (Milestone 4.3). The Milestones are interrelated: the information-gathering is intended to inform the review.

### Milestone 4.1

The government's draft self-assessment report assesses the commitment to "review progress of the Accord in 2015". The review was already scheduled, and is scheduled to be undertaken every three years. The government says it is conducting that review, and that this involves two surveys – of community organisations and government agencies – designed to gather examples of what sorts of engagement work, and what sorts do not.

The government says it is on track to completing the review in 2015. However, almost all activity falls outside the period of implementation covered in this report (1 July 2014–30 June 2015). In late 2014, the government contracted a charitable trust that represents the community and voluntary sector to survey community organisations about their knowledge of Kia Tūtahi and about practices that work and do not work in relation to government engagement. That survey was distributed on 29 June 2015, and was completed in September 2015. The government has also surveyed government agencies, asking similar questions, and 35 responses have been received.³ The government says it will report to the relevant Minister by the end of the year (2015) on the outcomes of the surveys.

It is not clear whether the review consists of anything other than the conduct and analysis of the surveys. The surveys were not completed during the assessment period. It is not clear what progress has been made on the review itself and the government has provided little evidence of progress. Therefore the IRM reviewer has concluded that the extent to which this commitment was completed is unclear.

### Milestone 4.2

As discussed, during the assessment period, the government contracted with an organisation to conduct a survey of community organisations about their experiences concerning government engagement. Although preparatory steps were taken, the surveys were not completed during the first year of the action plan. The IRM researcher finds limited progress on this Milestone.

### Milestone 4.3

The government's draft self-assessment does not mention the government's promise in the commitment language to gather information about international best practice regarding community engagement. There is no evidence that the government has taken any steps to gather material about overseas approaches to community engagement during the first year of

the action plan. Thus the IRM researcher finds this aspect of the commitment has not been started during the assessment period.

It is notable that during 2015, the government completed a guide to online engagement, based on international best practice, that contains principles, check-lists and strategies – although this was not done under the Kia Tūtahi rubric and does not form part of this assessment.<sup>4</sup>

### Did it matter?

The government set out to review progress under the Accord and gather information to facilitate its reform. The Kia Tūtahi initiative itself is potentially transformative, but community groups would say that it has not been living up to this potential. There is little evidence that the Accord itself has had any impact in the period under review and little progress was made on this commitment during the first year of implementation. The government's Kia Tūtahi webpage lists examples of the Accord in action, but the most recent activities date back to November 2012.<sup>5</sup> Against that background, the commitment to conduct research about best practices and perform a review is incremental, but if they breathe life into the Accord, they could have a large effect on community participation in government policy.

While the activities largely took place outside the period covered in this report, the government has made some progress on its commitment to review the Kia Tūtahi Accord and gather pertinent research on community engagement.

The survey of the community sector about community engagement practices gathered examples of good and bad community engagement practices. But it found that these may have been almost entirely unrelated to Kia Tūtahi, which 87 per cent of community organisations had not even heard of. 6 Of those who had heard of it, only 19 were able to provide clear examples of its principles in action. 7 The report concluded that, "the current accord is not successfully engaging the NGO sector". 8

Some stakeholders were concerned that this review did not involve any consultation with the public. More fundamentally, many stakeholders commented to the IRM researcher that the Accord itself is so nebulous that it has no practical impact. One called it a "super-soppy saccharine love-fest".

The government has not released the survey of the government sector. It accepts that a high number of those responding were unaware of the Kia Tūtahi Accord, but says respondents reported that they adhered to its general principles. The government has provided no further information about this survey. The government explained that it was trying to not predetermine the outcome of the review.

Nevertheless, the information in the surveys may be useful to improve Kia Tūtahi, or at least its implementation. The community sector survey identifies a range of practices such as good communication, supportive advice, recognition of expertise, clinics, workshops and seminars, and government funding of consultation that could significantly improve effective community participation if utilized more broadly. However, the government has not set out any specific next steps. It has undertaken to work with the Stakeholder Advisory Group to "identify next steps in addressing key challenges and opportunities to improve community-government engagement practices". The government has otherwise provided no information about how it might use the survey findings to reform Kia Tūtahi.

Stakeholders from the survey organization were pleased that the government had taken the step of gathering information from community organisations. They said the data revealed was helpful. But they said that the Kia Tūtahi Accord itself needs to be reformed if it is to be of significant use.

It is questionable whether the review commitment has had any real impact since the review process is already part of existing government practice. The use of the surveys as a vehicle was decided within the assessment period, but the IRM researcher questions whether the review represents any advance on current practice. If the goal of this commitment is strengthening relationships between government agencies and civil society organisations, <sup>10</sup> this commitment can only be seen as a modest and incomplete step forward.

### **Moving forward**

Stakeholders say that reform of Kia Tūtahi is essential. This, they say, is not just a matter of awareness-raising. They argue that it needs:

- · some sort of accountability or audit mechanism;
- a complaints process;
- methods for dealing with disagreement that address the imbalance of power;
- methods for dealing with the inherent tension when funded groups (or groups seeking funding) may also have an advocacy role that may bring them into tension with government.

Stakeholders also say the promises of Kia Tūtahi need to be adequately resourced.

They also argue that it would be helpful if the promises it contains were more specific. The results of the best practices survey of community organisations would be used to supplement the Kia Tūtahi Accord to make it more concrete. These could range from straightforward changes such as a promise to ensure the availability of up-to-date information on the relevant contact personnel and a promise to respond promptly to queries, to more substantial reforms such as commitments to provide funding for consultation. In addition, transparency consultant Murray Petrie suggested inclusion of a range of other "internationally recognized good practices in public consultation and engagement, such as: when seeking public input, public authorities should indicate the potential scope for changes in policy or implementation that are under consideration; should publish the basis on which they have invited individuals and groups to participate in a specific engagement exercise; should ensure well-informed participation by providing sufficient information in a timely and accessible manner prior to consultation; should ensure meaningful participation by consulting early in the process while a range of options is still open; should publish a summary of the public inputs received, and indicate in general how the issues were addressed; should seek to institutionalize on-going engagement where appropriate; and so on."11 The government's own online engagement practice toolkit makes similar recommendations. 12

The IRM researcher believes these suggestions, if implemented, would represent a powerful improvement in public participation and could usefully be included in the next action plan.

Further research into international best practices could likewise be used to improve the Kia Tūtahi Accord. This could also be included in the next action plan, in the form of a research report with a concrete deadline and a government commitment to making changes to the Accord in keeping with international best practices. The government says it is aware of these suggestions, but that its current review was aimed at assessing progress under the first three years of Kia Tutahi rather than "completely overhaul" the accord. In the IRM researcher's view, this very limited conception of the review is not made clear in the language of the commitment, and detracts even further from its ambitiousness.

<sup>&</sup>lt;sup>1</sup> Action Plan, p10.

<sup>&</sup>lt;sup>2</sup> See http://www.dia.govt.nz/KiaTūtahi

<sup>&</sup>lt;sup>3</sup> Draft self-assessment p21.

<sup>&</sup>lt;sup>4</sup> https://webtoolkit.govt.nz/guidance/online-engagement/

<sup>&</sup>lt;sup>5</sup> http://www.dia.govt.nz/KiaTutahi

<sup>&</sup>lt;sup>6</sup> Review of Community-Government Engagement Practices, September 2015, p31. Hui E! Community Aotearoa. The report surveyed 25446 contacts and received 991 responses.

7 p32.

8 p46.

9 Draft Self-Assessment, p21.

10 Draft self-assessment, p43.

<sup>&</sup>lt;sup>11</sup> Murray Petrie, New Zealand and the OGP, 4 September 2015: http://www.opengovpartnership.org/blog/murraypetrie/2015/09/04/new-zealand-and-ogp <sup>12</sup> https://webtoolkit.govt.nz/guidance/online-engagement/

## V. Process: Self-Assessment

At the time of writing, the government had not provided a final self-assessment report but had released a draft in October 2015. This admits to some shortcomings in the consultation process but claims "significant progress" on "extremely ambitious commitments". However, the evidence of advancement of OGP values it cites is vague and largely falls outside the assessment period. The final self-assessment report was released in early February 2016. Findings will be included in the End of Term report.

Self-assessment checklist

Self-assessment checklist	
Was the annual progress report published?	No¹
Was it done according to schedule?	No <sup>2</sup>
Is the report available in the administrative language(s)?	No <sup>3</sup>
Is the report available in English?	No⁴
Did the government provide a two-week public comment period on draft self-assessment reports?	Yes <sup>5</sup>
Were any public comments received?	Yes
Is the report deposited in the OGP portal?	No <sup>6</sup>
Did the self-assessment report include review of consultation efforts during action plan development?	No <sup>7</sup>
Did the self-assessment report include review of consultation efforts during action plan implementation?	No <sup>8</sup>
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	No <sup>9</sup>
Did the report cover all of the commitments?	No <sup>10</sup>
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	No <sup>11</sup>

### **Summary of Additional Information**

### **Process**

The government self-assessment was not published at the time of writing this report (October-December 2015). However, the government published a draft self-assessment on I October 2015. The final self-assessment report was released in early February 2016. Findings from this report will be analysed in the End of Term report.

The government has sought public comment for its draft self-assessment report in three ways: through an online feedback tool, from the members of a Stakeholder Advisory Group, and by releasing the text of its draft for public comment. Stakeholders almost unanimously regarded this process as inadequate.<sup>12</sup> One described it publicly as "the consultation you have when you're really just going through the motions."<sup>13</sup> Some of those responding during the first consultation complained about the lack of a draft to comment on.<sup>14</sup> Others commented on the lack of information about the consultation.<sup>15</sup> Most were not aware that it was occurring at all.

### Online feedback tool

The online feedback tool was made available in August 2015 through the State Services Commission's website and the govt.nz portal. It sought feedback on New Zealand's OGP commitments "to find out if New Zealanders think that the government's meeting the OGP goals" and to help create self-assessment reports. 16 No media release accompanied this consultation. No draft of the self-assessment report was made available at that time. An individual asked for a copy of the draft under the official information laws, but the government declined the request. 17

The feedback tool did not clearly link to the action plan or the OGP website, though the government notes that the links to the action plan and OGP website were built into the main SSC website. The main question was "tell us what you think about the Open Government Partnership and New Zealand's Action Plan". The tool gave limited information about the four commitments and the OGP. It did not ask broader questions about process, or about what other commitments might be preferred. The tool constrained responses to 300 words per commitment, something that attracted some negative comment from stakeholders interviewed, 18 although submitters could use the email address provided to send in a lengthier submission.

Submissions have been published from 20 respondents. <sup>19</sup> Most were very short and did not seem to have much to say due to a general lack of knowledge about the action plan. Most were very critical of the government's general lack of transparency. One said the government was repeating the same mistakes it made in the original consultation process on the action plan: little awareness-raising, few resources, little background explanation but a wealth of complicated background material, a last-minute invitation to comment, and a requirement of very quick responses. It is not clear whether any of the comments received influenced the content of the self-assessment beyond the fact that they were mentioned in it. The draft-self assessment report published in October 2015 includes a summary of the responses to this online tool.<sup>20</sup>

### Stakeholder Advisory Group

The SAG was created more than a year after the date of the action plan. Some stakeholders complained that the SAG members were chosen by government and not civil society. The government maintains that an open expression of interest process was conducted with representatives selected to include members of civil society and community interests.

The first draft of the self-assessment was written without any involvement from the SAG members, though they were given an opportunity to comment on it before it was released.. At the second meeting on I September 2015, the SAG members provided comments on the draft self-assessment report and prepared a joint statement. The comments and the statement were not made publicly available at the time of writing the report but have been included in the final self-assessment report published in February 2016. The government's draft self-assessment states that the statement is appended.<sup>21</sup> However, the SAG statement is not appended. The government explained that it withheld the statement because the group may wish to revise its statement if the self-assessment changes as a result of public feedback. The government has

refused a request from the IRM researcher to provide a copy of the SAG comments, but says Ministerial approval for release of the final self-assessment, including the SAG comments is pending. It has also refused to supply copies of comments received from SAG members on the draft, though it outlined some selected comments, many of which recommended greater clarity about how the various government activities were advancing OGP goals.

In interviews with the IRM researcher, most of the members of the SAG were critical of the process leading to the self-assessment report. One of the SAG members described this process as "extraordinarily rushed," leaving him "no opportunity to consult people I might be representing." Some were also critical of the very small budget that was allocated to them (\$17,000), the fact that they did not even have control over that budget (and were not consulted over it), and the lack of time they were given to deliberate on the issues they were required to consider. One expressed concern that the SAG may be used as some sort of proxy for more comprehensive government consultation.

### Draft self-assessment

On I October 2015, the government published its draft self-assessment on the State Services Commission's website. It sought feedback from the public until 16 October 2015. It listed the consultation on the govt.nz portal. However, it did not release a media statement about the draft or the consultation, and it did not provide any specific contextual information to those interested in providing feedback (though much context is contained in the draft itself and much is contained on the State Services Commission's website). It received four submissions.

In the draft self-assessment the government accepts that its consultation process leading up to the action plan was "limited", and should be improved for the next action plan.<sup>22</sup> It explains the challenges it faced: a tight timeframe, limited public engagement, and high costs of coordinating departments' responses,

It cannot be doubted that the timeframe was tight. The action plan was due about nine months after the government agreed to join. However there was time to conduct much wider and more substantive consultation and co-creation than occurred.

It is true there was limited public engagement. The IRM researcher also found that there is little wider interest in open government issues beyond those who actively follow them. However, that is partly the fault of the government for its very limited awareness-raising activities.

The IRM researcher finds it difficult to understand why the internal costs of communicating with the various government departments should be high.<sup>23</sup> In any event, this is the role of the State Services Commission as the lead agency and there ought to be adequate budget for it.

### Consultation on the original Action Plan

The draft self-assessment does not discuss whether the action plan was truly a co-creation with civil society. Nor does it address the government's promise in the action plan, which was reiterated in meetings with stakeholders,<sup>24</sup> that other initiatives could be added in the course of implementation, in collaboration with stakeholders. No such new initiatives have been added, and further consultation with stakeholders has been largely limited to the establishment of the SAG.

As indicated in sections II and III, stakeholders found the consultation process to be lacking and provided detailed suggestions for improving the process. The draft self-assessment does not acknowledge or address these suggestions nor does it indicate how the process may be improved for the next action plan.

### Content

The draft self-assessment addresses all the matters required to be addressed in the OGP self-assessment guidance note. It is lengthy, and devotes much space to explaining the government's progress under the four initiatives underlying the commitments. The draft self-assessment concludes that New Zealand has shown "significant progress against New Zealand's action plan commitments and reflects New Zealand's ongoing commitment to the values enshrined in the OGP." It describes the commitments as "ongoing, multi-faceted and extremely ambitious".<sup>25</sup>

However, the language is often very vague and often refers to the way the initiatives "reflect" or are "consistent with" OGP values, without explaining how they have advanced them.

Specific analysis of many of the points made by the government about the scope and progress of the commitments is set out in section IV of this report.

The draft self-assessment accepts that there is "an expectation that where existing projects or programmes are included, they will be ambitious in terms of expediting outcomes and stretching existing government activities beyond baseline, in a manner that demonstrates a clear year on year advancement against the OGP's grand challenges." However, the assessment itself provides little evidence of any such stretch or expedition in relation to the commitments. The self-assessment presents many case studies to illustrate progress. But almost all of the case studies concern activities that occurred before or after the self-assessment period of July 2014 to June 2015.

The government presents its involvement in OGP itself, and its appointment of a Stakeholder Advisory Group, as constituting the relevant "stretch". However, to the extent that there is an extra degree of transparency and accountability by including the initiatives in the OGP action plan, it has been undermined by the very limited awareness-raising the government has conducted around the action plan, including the lack of a final, published version of the self-assessment report.

In interviews, the government asserted a lack of clarity and consistency between OGP Support Unit advice on member obligations and the OGP's Independent Review Mechanism advice. There is some substance in the view that the OGP as an organization sent mixed messages to the government. For example, the feedback from the OGP's Open Data Working Group (ODWG) said (commenting on the open data aspects of the action plan) "New Zealand's Action plan is very well thought out, thorough, clear and specific". Yet elsewhere, the OGP Support Unit said "the IRM needs specificity on the activities, products, leading Ministries and timelines to evaluate a plan with ease." It should be noted that while the OGP Support Unit organizes and facilitates the ODWG, the Support Unit states in all communications that ODWG serves as a government-to-government peer exchange and learning opportunities and subsequent ODWG recommendations do not serve as official guidance from the OGP Support Unit. It is not unfair to argue, however, that the IRM Procedures Manual provides for stricter scrutiny than the OGP guidance. Nevertheless, most of the flaws in New Zealand's action plan cannot be laid at the door of these mixed messages. The thrust of the feedback received by the government from OGP Support Unit and OGP guidance resources and materials was that changes were needed.

### Conclusion

Overall, the draft self-assessment is long on purported justification but short on details and provides little evidence of the significant progress and promotion of OGP values claimed by the government. Even the Assistant Auditor-General sent a submission questioning whether the action plan was really "extremely ambitious" noting "the feedback around the limited number of actions and the pre-existing nature of some of them."<sup>27</sup>

<sup>&</sup>lt;sup>1</sup> A draft self-assessment was made public on 1 October 2015 and further submissions were invited until 16 October. The submission date for the final self-assessment was 30 September 2015.

<sup>&</sup>lt;sup>2</sup> See n73 above

<sup>&</sup>lt;sup>3</sup> The draft self-assessment is in the administrative language (English).

<sup>&</sup>lt;sup>4</sup> The draft self-assessment is.

<sup>&</sup>lt;sup>5</sup> See n73 above.

<sup>&</sup>lt;sup>6</sup> The draft self-assessment is.

<sup>&</sup>lt;sup>7</sup> The draft self-assessment does.

<sup>&</sup>lt;sup>8</sup> The draft self-assessment does.

<sup>&</sup>lt;sup>9</sup> The draft self-assessment does.

The draft self-assessment does.

<sup>&</sup>lt;sup>11</sup> The draft self-assessment does, although the action plan contained very little in the way of timelines and milestones.

<sup>&</sup>lt;sup>12</sup> See for example the government's own summary of the responses received through its feedback tool: p23.

<sup>&</sup>lt;sup>13</sup> http://www.stuff.co.nz/business/opinion-analysis/71271152/Government-transparency-consultation-period-aninsult

<sup>&</sup>lt;sup>14</sup> For example, Harbrow, 1.

<sup>&</sup>lt;sup>15</sup> https://www.govt.nz/browse/engaging-with-government/ogp/#feedback: "Transparency appears to be sadly lacking when it comes to actually putting the information out there. Firstly that the address to this webpage and information came from a comment on a news article rather than an official source should be noted."

<sup>&</sup>lt;sup>16</sup> https://www.govt.nz/browse/engaging-with-government/ogp/

<sup>&</sup>lt;sup>17</sup> Malcolm Harbrow, Submission on NZ's Open Government Partnership Mid-term Self-Assessment Report, 1.

<sup>&</sup>lt;sup>18</sup> Malcolm Harbrow, Submission on NZ's Open Government Partnership Mid-term Self-Assessment Report, 1.

<sup>&</sup>lt;sup>19</sup> The self-assessment says 31 submissions were received. It seems to be counting submissions on each commitment, even if they are made by respondents who made submissions on many commitments.

<sup>&</sup>lt;sup>20</sup> P 22.

<sup>&</sup>lt;sup>21</sup> Draft self-assessment, p22.

<sup>&</sup>lt;sup>22</sup> p4

<sup>&</sup>lt;sup>23</sup> The IRM researcher has asked the government what these costs were but has not yet received a response.

<sup>&</sup>lt;sup>24</sup> See for example Meeting with ANGOA minutes, 13 November 2014; Note of event organised by IGPS on 17 November 2014.

<sup>&</sup>lt;sup>25</sup> Draft self-assessment, p24.

<sup>&</sup>lt;sup>26</sup> Draft self-assessment, p3.

<sup>&</sup>lt;sup>27</sup> Email to SSC, 16 October 2015.

## **VI. Country Context**

New Zealand has strong official information laws backed up by an accessible and cost-free complaints process conducted by the Office of the Ombudsman. The Public Records Act requires that every public office and local authority much create and maintain "full and accurate records of its affairs, in accordance with normal, prudent business practice."

Officials and stakeholders alike acknowledge that New Zealand starts its participation in the OGP from a high baseline.

Several developments have been mentioned in the text above that represent advances in open government, though they fall outside the period of assessment, including the re-launch of an improved govt.nz portal; the formation of a Data Futures Partnership; the ongoing release of data on the data.govt.nz portal, and the new Open Government Information and Data Programme's strategy.

Other positive developments include the Treasury's new (trial) practice of publishing Official Information Act (OIA) responses on its website,<sup>2</sup> and, in the private sector, the re-launch of the non-government FYI (for your information) website, assisting people to make official information requests.<sup>3</sup>

In addition, officials almost uniformly insisted that, even if some of the commitments pre-dated the action plan and did not show any particular "stretch" after it, they were nevertheless valuable and far-reaching initiatives that aligned with OGP values.

On the other hand, many stakeholders believe that New Zealand's commitment to open government is regressing. They cite developments such as:

- A recent court case that found that the Minister of Trade had not correctly applied the Official Information Act in responding to a request for significant information about the Trans Pacific Partnership negotiations;<sup>4</sup>
- The Office of the Ombudsmen conducted a review of the operation of the Official Information Act because of concern that its processes were being circumvented;<sup>5</sup>
- Many stakeholders identified a serious concern about a growing culture of fear that
  prevents many experts officials and people dependent on government funding from
  speaking out in ways that the government might find uncongenial;
- In November 2014, the New Zealand Association of Scientists conducted a survey among its members and Crown Research Institute scientists that revealed that almost 40% of respondents said they had been prevented from making a public comment on a controversial issue by management policy or by fear of losing funding; <sup>6</sup>
- An inquiry held by the Inspector-General of Security and Intelligence that found that the NZ Security Intelligence Service had disclosed incomplete, inaccurate and misleading information in response to Official Information Act requests, failed to correct the record when this was used to criticize a former government Minister, and improperly denied media information requests, instead providing the information to a blogger;<sup>7</sup>
- An academic recently published an opinion piece criticizing the police for (among other things) refusing to supply official information to academics unless they agreed to allow the police to vet and potentially veto publication of the research.<sup>8</sup>

### **Stakeholder priorities**

Stakeholders were generally dismissive of the current action plan. However, most were not familiar with the details of the initiatives that made up the commitments. Those who were familiar with the commitments most commonly believed the open data programme was valuable,

and the engagement with TINZ had the potential to be useful if taken seriously. Stakeholder priorities for the next action plan begin with process. They seek proper consultation: consultation that is better designed and resourced, provides more time, information and outreach to stakeholders (using a variety of methods in order to engage a variety of stakeholders), actively seeks people out in their communities and facilitates communication, and is more open-minded about responding to their concerns and suggestions.

In general, stakeholders strongly sought more ambition and more specificity in the next action plan.

As for substance, the strongest areas for reform among stakeholders were:

- Reform official information laws and practices (in particular: extend the coverage of the Official Information Act to Parliament, and implement the Law Commission's recommendation to establish an oversight body, but also tighten regulation around delays - including delays in Ombudsmen investigations and standardized delays for consideration by Ministers and communications staff - evasions, and Ministerial influence, and implement the Law Commission's other recommendations<sup>9</sup>);
- Institute some form of protection for public servants and those receiving public funding that allows them to criticize government if they feel it is necessary, based on a review of constraints on public servants and those receiving public funding providing free and frank views, both internally and publicly;
- Better official reporting on social and environmental indicators, and a plain English "citizens' budget";
- Robust and systemic practices concerning public consultation in the development of laws, regulations and policies;
- Strengthen whistleblower legislation;
- Strengthen transparency of political party funding (through Parliamentary allocations and from private donations and broadcasting allocations).
- Introduce measures that provide an adequate degree of transparency to ensure that public officials, citizens, and businesses can obtain sufficient information on, and scrutinise lobbying of members of Parliament and ministers;
- Commit to release government information and data in machine-readable format where possible, both in response to official information requests and proactive releases.

In addition, stakeholders also provided a number of thoughtful, concrete proposals for inclusion in the next OGP process in New Zealand. They are discussed in more detail in Section VII.

### Scope of action plan in relation to national context

In light of these priorities, it would be helpful if the action plan were to include projects that were more directly connected with the principles of transparency, accountability and public participation. This would include reform of freedom of information laws, protections for civil servants, and more systematic and technically independent social, and environmental and financial reporting against a range of key indices. The commitment relating to the Kia Tūtahi Accord does address the concern with public engagement, but it would need to be made more specific and ambitious to better align with OGP values.

These findings reflect the problems with the current action plan that were consistently raised by stakeholders and even some officials. The current action plan is based on pre-existing initiatives that were not developed with OGP values in mind. There is nothing wrong with governments trying to integrate OGP commitments into existing programmes, but when they do, particular care must be taken to ensure that the commitments stretch government practice and manifestly

advance transparency, accountability and citizen participation in governmental affairs. That was not the case for this action plan.

http://www.ombudsman.parliament.nz/ckeditor\_assets/attachments/399/oia\_report\_not\_a\_game\_of\_hide\_and\_se ek.pdf?1449533820

 $<sup>^1\,</sup>http://www.legislation.govt.nz/act/public/2005/0040/latest/DLM345727.html$ 

<sup>&</sup>lt;sup>2</sup> http://www.treasury.govt.nz/publications/oiaresponses

<sup>3</sup> http://www.nzherald.co.nz/politics/news/article.cfm?c\_id=280&objectid=11432526

<sup>&</sup>lt;sup>4</sup> http://img.scoop.co.nz/media/pdfs/1510/KelseyvTheMinisterofTrade.pdf

<sup>&</sup>lt;sup>5</sup>http://www.ombudsman.parliament.nz/system/paperclip/document\_files/document\_files/991/original/oia\_review\_ project\_summary.pdf?1432880957. This has now been released:

<sup>&</sup>lt;sup>6</sup> http://www.scientists.org.nz/blog/2014/survey-on-the-proposed-code-of-public-engagement

http://www.igis.govt.nz/assets/Inquiries/FINAL-REPORT-INTO-THE-RELEASE-OF-INFORMATION-BY-NZSIS-IN-JULY-AND-AUGUST-2.pdf 8 http://www.nzherald.co.nz/nz/news/article.cfm?c\_id=1&objectid=11550680

<sup>&</sup>lt;sup>9</sup> http://r125.publications.lawcom.govt.nz/

<sup>10</sup> http://www.nzherald.co.nz/nz/news/article.cfm?c\_id=1&objectid=11550680

## VII. General recommendations

This section recommends general next steps for OGP in general, rather than for specific commitments.

### **Crosscutting recommendations**

The IRM researcher welcomes the government's undertaking to learn lessons from the experience of developing the first action plan. The government says it plans to commence consultation processes sooner, and develop ways and additional channels to enhance these public consultation processes, including increasing public awareness and engagement through other government agency websites, social media tools, and the Stakeholder Advisory Group's networks. It is looking to develop a new action plan with more direct programme coherence, and consider and respond to the feedback it has received on the first action plan.

The IRM researcher recommends that the government follow its own online engagement strategy as set out in the web toolkit it developed recently.<sup>2</sup> It is also recommended that, at this late stage of the action plan cycle, the government focus its efforts on the next action plan notwithstanding the promise to revise the existing one.

The action plan should be characterized by genuine co-creation. This may sometimes require additional resourcing in order to raise awareness of the action plan, reach out to a range of stakeholders, provide background information on the issues, and foster genuine engagements. The IRM researcher also recommends that the Stakeholder Advisory Group be adequately resourced to perform its broad range of functions, and should be given control over its own budget. In addition, the government should comply with the SAG's terms of reference relating to the disclosure of its working papers. When members of SAG are replaced, civil society should be given an active role in determining new members.

This process should be followed both for the development of the action plan and the government's self-assessment.

The resulting commitments should be specific as to outcomes sought and milestones. They should be more ambitious than merely reviewing particular policies, and ideally should move beyond existing initiatives, or at least identify distinct elements of ongoing initiatives that can be expedited or expanded in ways that truly serve transparency, accountability and participation. The IRM researcher suggests that the government will find its action plan more coherent and easier to implement and report upon if it is not as multi-faceted as the current one and relates more directly to OGP values.

### Substance

Stakeholders provided a large range of suggestions for projects to include in the action plan. Other recommendations have been made by the Law Commission and the Chief Ombudsman in her recent review of the OGP process in New Zealand.

Some other thoughtful proposals included:

### Leadership

- Establish an ombudsman for government consultations
- Establish a data ombudsman to ensure the quality of data collected and facilitate public release
- Establish a Minister for Open Government
- Require SSC to write open government commitments into agency chief executive performance targets

- Establish a public rating for government agencies about how well they are contributing to open government
- Establish a select committee to review all agencies for open government performance

### Official Information

- Introduce a centralised approach to the systematic proactive release of official information, including Cabinet papers, by all public entities
- Identify frequently occurring OIA requests and make them proactively available
- Require release in advance of the legislative programme and draft bills
- Review and standardize government agencies' Official Information Act policies based on Model Policy<sup>3</sup>
- Create an induction programme on free and frank advice for public servants
- Require agencies to log official information requests and publish the responses
- Require organisations to pay the Ombudsmen's investigation costs if an OIA complaint against them is upheld and/or create other sanctions for non-compliance with the OIA, including criminal sanctions in cases of deliberate malfeasance
- Require the Ombudsman to make public statements when the OIA is not complied with to name and shame the agency concerned
- Strengthen the Privacy Commissioner's powers to order agencies to release personal data to the people it is about
- Implement and give effect to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice<sup>4</sup>

### Data management

- Make all reasonable attempts to align and standardize data collected within and among agencies so that it is sensibly coded and comparable across regions, years and internationally. Use experts in data to ensure from early stages that the data collected is useful.
- Ring-fence funding for government agencies for use facilitating open government
- Involve data experts at early stages of data collection to ensure that the data collected is sound and useful
- Prepare a national inventory of all government data collected, collated and released, to be used as a basis for a searchable digest containing information about what is collected and how it may accessed.
- Ensure public consultation about which datasets are no longer kept
- Expand the "consultation" section on the govt.nz website to include Parliamentary bills, petitions and regulations; and increase datasets on data.gov to include more data from local government, Crown entities, Crown Research Institutes and State Owned Enterprises
- Establish a publicly available compliance audit for online availability of government data and information
- Increase the proportion of core government agencies who have established and resourced a specific function dedicated to discovering and publishing data of potential use outside government
- Mandate open access to publicly funded research
- Mandate that open standard software formats be used exclusively to store and exchange files and data<sup>5</sup>
- Create a compendium of data by topics and agencies including submissions on all consultations

### Other

- Conduct regular integrity surveys of public servants
- Compile and create repository of information about community participation initiatives
- Sign up to the International Standards for Lobbying Regulation,<sup>6</sup> the Declaration on Parliamentary Openness<sup>7</sup>, and the Declaration on Political Finance Openness<sup>8</sup>
- Require public entities to publish management letters from the Office of the Auditor-General, and report to Parliament their responses to issues of significance identified in these letters, for consideration in the annual select committee reviews
- Improve access to justice by making legal aid more widely available and increasing the provision of information about the legal system
- Review practice of access to court files
- Create a twitter hashtag for government consultations
- Develop model policy for schools' Boards of Trustees to encourage teachers to collaborate on the creation of teaching resources notwithstanding copyright issue that might arise
- Improve civics education about what government does and how to interact with government
- Increase funding of public broadcasting

The government notes that several of the recommendations made in relation to Internal Affairs functions are being progressed. In particular, they point to the Data Management section, which is being driven and supported by the Information Group of the Partnership Framework.

### **TOP FIVE 'SMART' RECOMMENDATIONS**

- 1. Reform official information laws by extending them to Parliamentary bodies and adopting the Law Commission's recommendation to create an official information authority responsible for training, culture, advice, best practice guidance, and identifying necessary reforms.
- 2. Create a set of robust and government-wide practices in collaboration with civil society concerning timely public consultation on new bills, regulation and policy; base them on international best practice; make them mandatory where feasible; and include an effective complaint resolution mechanism or Ombudsman.
- 3. Commit to regular, standardized, technically independent "state of the nation" reporting on social policy and the environment.
- 4. Develop an express and public cross-government policy formally permitting public servants and those receiving public funding to speak out on significant public issues without facing any form of retaliation.
- 5. Strengthen the transparency of political party funding from donations and Parliamentary revenues.

<sup>&</sup>lt;sup>1</sup> Draft self-assessment, pp 4, 23.

<sup>&</sup>lt;sup>2</sup> https://webtoolkit.govt.nz/guidance/online-engagement/engagement-strategy-template/

<sup>&</sup>lt;sup>3</sup> As suggested by the Ombudsman:

 $http://www.ombudsman.parliament.nz/ckeditor\_assets/attachments/399/oia\_report\_not\_a\_game\_of\_hide\_and\_seek.pdf?1449533820$ 

<sup>4</sup> http://www.unece.org/env/pp/welcome.html

<sup>&</sup>lt;sup>5</sup> See http://openstandards.nz/

Version for public comment: Please do not cite

http://lobbyingtransparency.net/
http://www.openingparliament.org/declaration
http://moneypoliticstransparency.org/declaration

## VIII. Methodology and Sources

As a complement to the government self-assessment, an independent IRM assessment report is written by well-respected governance researchers, preferably from each OGP participating country.

These experts use a common OGP independent report questionnaire and guidelines, <sup>1</sup> based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organisations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section.) In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

### Interviews and focus groups

Each national researcher will carry out at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the "usual suspects" list of invitees already participating in existing processes. Supplementary means may be needed to gather the inputs of stakeholders in a more meaningful way (e.g. online surveys, written responses, follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment or accessible online.

In this case, the IRM researcher:

- held a public meeting seeking views on the action plan,
- contacted a range of stakeholders for comment,
- conducted interviews with those willing to speak on or off the record, including a range of government officials,
- assembled the available literature including media, academic and online commentary about the plan,
- read extensive online material about the government's initiatives,
- examined submissions made to the government,
- · addressed a meeting of the SAG, and interviewed most of its members individually,
- published information about the action plan and his role in assessing it, inviting feedback
  on the website of the New Zealand Centre for Public Law based at the law school at
  Victoria University of Wellington, on his media law blog, and on the national online
  news service, Scoop; and
- made requests for information from the government.

The public meeting was held in Wellington at the Victoria University school of law on 14 September 2015, at noon, for 90 minutes. The format was a discussion moderated by the IRM researcher. It was attended by 18 people.<sup>2</sup> The meeting was advertised though online news service Scoop, the Centre for Public Law's mailing list, the IRM researcher's blog, the open government ninjas discussion group, and invitations sent to all the people on the government's online engagement list, NZ Law Society, Local Government NZ, FYI administrator Tony Randle, Open Source Society, and others identified as having an interest by the IRM researcher.

Notes from the meeting are available on request from the IRM researcher.

Stakeholders spoken to or interviewed:

- Murray Petrie, public policy consultant
- Fuimaono Tuiasau;, TINZ, SAG
- Dr Michael Macaulay, Victoria University
- Dr Miriam Lips, Victoria University, SAG
- Peter Glensor, Hui E!
- Dave Henderson, Hui E!, SAG
- Sir Geoffrey Palmer;
- Dr Bryce Edwards, University of Otago,
- Suzanne Snively, TINZ
- Janine McGruddy, TINZ
- Jan Rivers, Public Good
- Amelia Loye, IT consultant
- Oliver Lineham, FYI website
- Caleb Tutty, FYI website
- Nicky Hager, investigative journalist
- Sonja Cooper, Cooper Law;
- Alastair Thompson, Scoop website
- David Fisher, NZ Herald
- Keith Ng, data journalist
- Shaun McGirr, data consultant
- Matt McGregor, Creative Commons
- Lillian Grace, Figure.NZ
- Dave Lane, NZ Open Source Society
- David Farrer, pollster and political blogger
- Clare Curran, Labour Party spokesperson for Open Government
- Joanna Norris, Media Freedom Committee
- government officials and former government officials including a former chief executive of a leading government department who spoke off the record;

Officials spoken to or interviewed:

Brian Hesketh, DIA

Andew Royle, SSC

Manjula Shivanandan, SSC

Keitha Booth DIA

Paul Stone, DIA

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Tim Blackmore, SSC

Andrew Eccleston, SSC, Office of Ombudsman

Ross Boyd, SSC

Howard Duffy, DIA

Mike Smith, DIA

Leilani Buchan, DIA

Logan Fenwick, DIA

A large range of other stakeholders, including all New Zealand political parties represented in Parliament, were contacted for comment but did not respond.

### **About the Independent Reporting Mechanism**

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel is:

- Anuradha Joshi
- Debbie Budlender
- Ernesto Velasco-Sánchez
- Gerardo Munck
- Hazel Feigenblatt
- Hille Hinsberg
- Jonathan Fox
- Liliane Corrêa de Oliveira Klaus
- Rosemary McGee
- Yamini Aiyar

A small staff based in Washington, DC shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org

<sup>&</sup>lt;sup>1</sup> Full research guidance can be found in the IRM Procedures Manual, available at: http://www.opengovpartnership.org/about/about-irm

<sup>&</sup>lt;sup>2</sup> Former Prime Minister Sir Geoffrey Palmer; barrister and author of *Access to Information* Graham Taylor, academic and environmental activist Cath Wallace; Public Good founder Jan Rivers, Open Government Data Programme Leader Paul Stone; VUW public law lecturer Dean Knight, SSC Principal Policy Advisor Tim Blackmore; Transparency International representatives Janine McGruddy, Suzanne Snively and Lynn McKenzie, blogger Malcolm Harbrow, SSC/Ombudsmen official Andrew Eccleston, Assistant Privacy Commissioner Joy Liddicoat: Team Leader, Investigations & Dispute Resolution of the Office of the Privacy Commissioner Riki Jamieson-Smyth; Ministry for Women Nominations Assistant Kay Jones; Co-founder of TechLiberty and Chair of the Council for Civil Liberties Thomas Beagle; DIA Senior Policy Analyst Leilani Buchan; SAG member and media commentator Colin James.

# IX. Eligibility Requirements Annex: New Zealand

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below. When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

**Eligibility Requirements:** To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, visit: <a href="http://www.opengovpartnership.org/how-it-works/eligibility-criteria">http://www.opengovpartnership.org/how-it-works/eligibility-criteria</a>.

	2012	Current	Change	Explanation				
Budget Transparency	4	4	No change	<ul> <li>4 = Executive's Budget Proposal and Audit Report published</li> <li>2 = One of two published</li> <li>0 = Neither published</li> </ul>				
Access to Information	4	4	No change	4 = Access to information (ATI) law in force 3 = Constitutional ATI provision I = Draft ATI law 0 = No ATI law				
Asset Declaration	4	4	No change	<ul> <li>4 = Asset disclosure law, data public</li> <li>2 = Asset disclosure law, no public data</li> <li>0 = No law</li> </ul>				
Civic Engagement (EIU Citizen Engagement Score, raw score)	4 (10.00)	4 (10.00)	No change	<ul><li>1 &gt; 0</li><li>2 &gt; 2.5</li><li>3 &gt; 5</li><li>4 &gt; 7.5</li></ul>				
Total / Possible (Percentage)	16 / 16 (100%)			75% of possible points to be eligible				

<sup>&</sup>lt;sup>1</sup> For more information, see http://www.opengovpartnership.org/how-it-works/eligibility-criteria

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