Independent Reporting Mechanism (IRM): New Zealand Progress Report 2016-2018

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Executive Summary: New Zealand

Independent Reporting Mechanism (IRM) Progress Report 2016-2018

New Zealand's second national action plan addressed issues ranging from access to information, budget transparency, and civic participation. While the government took major steps toward improving access to legislation, at the midpoint of implementation of the plan nearly half of the listed commitments saw limited completion in the first year. Going forward, it is important that the NZ government includes meaningful reform in areas such as whistleblower protection, the Official Information Act, and citizen education.

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 (NZ) began participating in OGP in 2014. The Independent Reporting Mechanism (IRM) carries out an annual review of the activities of each country that participates in OGP.

The State Services Commission (SSC) is the lead executive agency responsible for NZ's commitments and is well placed to coordinate lead OGP efforts as a central agency. The action plan has received Cabinet approval, which serves as a binding, executive-led direction for public servants.

OGP Process

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

The SSC commissioned a new six-member Expert Advisory Panel (EAP) to advise the action plan process. The SSC also brought in an external company, the Engage2 team, to gather input on the design of the OGP engagement process from a variety of stakeholders.

At a Glance:

Member since: 2014
Number of commitments: 7

Level of Completion:

Completed: 0 of 7
Substantial: 4 of 7
Limited: 3 of 7
Not started: 0 of 7

Commitment Emphasis:

Access to information: 5 of 7
Civic participation: 5 of 7
Public accountability: 1 of 7
Tech & innovation for transparency & accountability: 3 of 7

Commitments that are

Clearly relevant to an OGP value: 7 of 7
Of transformative potential impact: 1 of 7
Substantially or completely implemented: 4 of 7
All three (✪): 1 of 7

After providing advance notice, Engage2 also collected input on possible commitments through the use of an online engagement platform and the govt.nz website. In addition to this month-long consultation period, events were held in three cities with stakeholders from the local government and the public and private sectors. The collected public submissions were arranged into eight themes, which acted as the basis for draft templates at a co-creation workshop attended by the EAP, government officials, and civil society. Six of the eight themes were incorporated into the action plan.

Despite Engage2's activities, which were well supported by the SSC, civil society participation was low, and knowledge of the engagement was unknown beyond the usual

This report was prepared by Keitha Booth, an independent researcher.

participants. Additionally, stakeholders felt the consultation timeline limited their impact and many were concerned that the final commitments were Wellington-based.

Among its other responsibilities, EAP was also commissioned to enable regular multi-stakeholder consultation on OGP implementation. While the EAP contains a mix of civil society representation, membership is limited and there is no evidence that it is adequately reaching out to civil society for greater co-creation. Increasing the level of public input during implementation is a key recommendation for the next action plan.

The NZ government published a draft self-assessment report on 19 July 2017, which remained open for public comment until 1 August 2017. The draft was advertised on govt.nz and invited feedback on the website, as well as through email and post. The finalised self-assessment report was published online on 2 October 2017.

Commitment Implementation

As part of OGP participation, countries make commitments in a two-year action plan. The New Zealand action plan contains seven commitments. Table 1 summarises each commitment's level of completion and potential impact. Table 2 provides a snapshot of progress for each commitment and recommends next steps. In some cases, similar commitments are grouped and reordered to make reading easier.

Note that the IRM updated the criteria for starred commitments in early 2015 in order to raise the standard for model OGP commitments. Under these criteria, commitments must be highly specific, relevant to OGP values, of transformative potential impact, and substantially completed or complete. New Zealand received one starred commitment (Commitment 6).

Table 1: Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			
✪ COMMITMENT IS MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE
1. Open Budget	●	●	●		●	●	●	
2. Improving official information practices	●	●	●		●	●	●	
3. Improving open data access and practices	●	●			●	●		
4. Tracking progress and outcomes of open government data release	●	●	●		●	●		
5. Ongoing engagement for OGP	●	●			●	●		
✪ 6. Improving access to legislation	●	●	●	●	●	●	●	
7. Improving policy practices	●	●			●	●		

Table 2: Summary of Progress by Commitment

NAME OF COMMITMENT	RESULTS
1. Open Budget • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Substantial	While New Zealand has high scores in Open Budget Survey's (OBS) categories like transparency, its score for citizen participation is much lower. This commitment sought to make the budget more accessible, thus promoting public discussion and participation. At the time of this report, the government has carried out research with 35 stakeholders and published its findings. Additionally, three Budget At-a-Glance documents were published and other budget documents were published on the budget.govt.nz website. Work on the final commitment activity is still at an exploratory stage. While the interviewed stakeholders have not used the Budget At-a-Glance documents, budget users applaud the completed work. Moving forward, the IRM researcher recommends continuing to improve access to budget information and following OBS's recommendation to increase civic participation in the budget process.
2. Improving official information practices • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Substantial	In response to the administrative burden, abuses and delays in official information requests, this commitment aims to make government information more accessible via standardising agency practices regarding responses. Of the listed commitment activities, the government has supplied agencies with Official Information Act (OIA) guidance and made responses to information requests easily accessible, published OIA statistics, and developed policy for the proactive release of information. Stakeholders generally viewed this work as a commendable first step toward developing OIA compliance across government. Moving forward, the IRM researcher recommends four key actions: develop clear policy on releasing Cabinet papers for the new administration, monitor agencies' adoption of these measures, seek public feedback, and address broader OIA issues.
3. Improving open data access and practices • OGP Value Relevance: Clear • Potential Impact: Minor • Completion: Limited	In New Zealand, agencies are required to release high-level public data in accordance with policies like the NZ Data and Information Management Principles. However, these policies lack principles covering governance and citizen engagement as required by the Open Data Charter (ODC). This commitment aims to review New Zealand's open data principles and potentially adopt the ODC, using public feedback. The potential impact of this commitment is minor. While adopting ODC could expand existing policies and improve data, the update also has the potential to confuse agencies and reduce the amount of data and information disclosed (because ODC applies only to data and not all government-held information). The government held workshops and sought additional public feedback through social media, govt.nz, Engage2 platforms, etc. As of 30 June 2017, the Cabinet's formal decision on the adoption of ODC has not been completed. Due to a transfer of responsibility for this commitment, the IRM researcher recommends the government clarify the functional leadership responsibility for developing government information and data policy.
4. Tracking progress and outcomes of open government data release • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Limited	In order to shift the New Zealand government's data release culture to an 'open by default' approach, this commitment aims to develop an open government data action plan and monitor agencies' subsequent progress in opening up data stores. At the time of this report, the government had conducted a four-month consultation period in 2016 on the content of an open government data action plan. After the commitment became the responsibility of Stats NZ, a short period of consultation on the action plan draft was provided with feedback invited on multiple

	channels. However, there is little to no progress concerning the public dashboard. The IRM researcher notes that there is currently one programme of work delivering Commitments 3 and 4 as part of the broader Open Government Data work programme.
5. Ongoing engagement for OGP • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Limited	When developing the current OGP action plan, New Zealand used two online platforms: Govt.nz and the tool used by Engage2. This commitment aims to increase public engagement during the development of the next action plan. At the time of this report, the SSC had begun work with the Department of Internal Affairs, decided how to best report progress on OGP commitments, and begun to develop the approach for the next action plan. Some interviewed stakeholders are sceptical of the government's commitment to co-create in the next action plan. Others found the Open Government Partnership New Zealand (OGPNZ) website difficult to navigate and sought a stronger social infrastructure to allow for open communication and OGP action plan tracking. Moving forwards, the IRM researcher recommends the government successfully create an enduring platform to develop an effective OGP action plan, but do this as a regular OGP operational activity rather than including it as a separate commitment.
✿**6. Improving access to legislation** • OGP Value Relevance: Clear • Potential Impact: Transformative • Completion: Substantial	While legislation.govt.nz provides free online access to parliamentary acts and legislative instruments drafted by the Parliamentary Counsel Office (PCO), there is no single place people can access the entirety of New Zealand's legislation. This commitment aims to improve access by publishing all subordinate instruments on legislation.govt.nz, thereby modernising agency practice, improving public access, and significantly changing the process of publishing official notices. The PCO has researched the provisions of 1831 out of 2095 acts and discussed those findings with 23 of 33 administering agencies. The Legislation Bill was introduced into Parliament on 20 June 2017. One agency testing the proposed drafting template has noted that it is very user-friendly. Moving forward, the IRM researcher recommends this commitment be added to future action plans until it is fully completed, and recommends its scope be expanded to cover local authorities that produce legislation.
7. Improving policy practices • OGP Value Relevance: Clear • Potential Impact: Minor • Completion: Substantial	The Policy Project was established to improve the quality of policy advice across government, and focuses on building a system that supports and enables good government decision-making. As part of this project, this commitment aims to improve consultation practices by creating accessible guidance material for policymakers. Adding new approaches to public engagement is a major step in creating user-led policy. However, the guidance material will not be developed collaboratively and stakeholders have noted the commitment's internal focus. By the time of this report, the online policy toolkit has been designed with government officials' input. Moving forward, the IRM researcher recommends the government test the policy toolkit with stakeholders and collaboratively develop a framework for public participation.

Recommendations

Developing the third national action plan immediately after the September 2017 general election provides a singular opportunity to pursue open government issues identified by external stakeholders. Under the new administration, it is critical that the government actively collaborate with the public in developing the next action plan, broaden participation in the OGP process, and include ambitious commitments on access to information, whistleblower protection, company beneficial ownership for all legal entities, and other priority issues.

Beginning in 2014, all OGP IRM reports include five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments. These recommendations follow the SMART logic; they are Specific, Measurable, Answerable, Relevant, and Timebound. Given these findings, the IRM researcher presents the following key recommendations:

Table 3: Five Key Recommendations

Expand the Expert Advisory Panel to include greater civil society representation
Reform official information laws and refocus the Open Data and Information Programme to publish social, environmental, and budget expenditure data
Develop standards for public consultation on policy initiatives
Include anti-corruption commitments in the next action plan, covering whistleblower protection and a public register of company beneficial ownership
Introduce citizenship education to increase democratic participation

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 VII on eligibility requirements at the end of this report or visit bit.ly/1929F1I.

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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.

Open
Government
Partnership

I. Introduction

The Open Government Partnership (OGP) is an international multi-stakeholder 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.

New Zealand began its formal participation in October 2013 when then Prime Minister John Key declared his country's intention to participate in the initiative.[1] Its first action plan was published on 31 October 2014.[2]

In order to participate in OGP, governments must demonstrate a commitment to open government by meeting a set of (minimum) performance criteria. Objective, third-party indicators are used to determine the extent of country progress on each of the criteria: fiscal transparency, public officials' asset disclosure, citizen engagement, and access to information. See Section VII: Eligibility Requirements for more details.

All OGP-participating governments develop OGP action plans that elaborate concrete commitments with the aim of changing practice beyond the status quo over a two-year period. The commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

New Zealand developed its second national action plan from 15 July 2016 to 26 August 2016, having been granted a three-month extension by OGP. The official implementation period for the action plan was 1 October 2016 through to 30 June 2018. This year one report covers the action plan development process and first year of implementation, from October 2016 to June 2017. Beginning in 2015, the IRM started publishing end-of-term reports on the final status of progress at the end of the action plan's two-year period. Any activities or progress occurring after the first year of implementation after June 2017 will be assessed in the end-of-term report. The Government published its self-assessment on 2 October 2017.[3] The draft self-assessment sought public comment from 19 July to 1 August 2017.

In order to meet OGP requirements, the Independent Reporting Mechanism (IRM) of OGP has partnered with Keitha Booth, who carried out this evaluation of the development and implementation of New Zealand's second action plan. To gather the voices of multiple stakeholders, the IRM researcher met with Wellington and Auckland-based citizens and groups and sought comment via social media. The researcher reviewed the second action plan and the midterm self-assessment as well as the minutes and progress reports available on ogp.org.nz. The report frequently uses content from those documents. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. Methods and sources are dealt with in Section VI of this report (Methodology and Sources).

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II. Context

The implementation of the second national action plan occurs in an environment of high standards of openness and transparency. While current commitments focus on improving access to information, budgeting and civic participation, the scope does not adequately address reforming information laws and measures strengthening whistleblower protections.

2.1 Background

New Zealand participates in the OGP starting from a high baseline of openness. As a representative democracy, it has a tradition of active civic engagement through three-year national and local election cycles, as well as participation by civil society groups and the public in parliamentary and local legislative processes.

The country consistently ranks highly on various indices measuring transparency, anti-corruption, and other good governance ratings. New Zealand ranks first, together with Denmark, as the least corrupt country in Transparency International's 2016 Corruption Perceptions Index.[1] As of 2016, New Zealand ranked nearly at the 100th percentile on indicators such as voice and accountability, government effectiveness, regulatory quality, and rule of law, as shown in the World Bank's Worldwide Governance Indicators.[2] The government provides the public with extensive budget information and publishes all eight key budget documents consistent with international standards.[3]

New Zealand's OGP eligibility criteria (budget transparency, access to information, asset declaration, and citizen engagement) remain unchanged[4] with the country retaining 100% score.

Access to Information

New Zealand's Official Information Act 1982 (OIA) scores 94 out of 150 according to the Global Right to Information (RTI) rating, and is the highest among developed, English-speaking countries.[5] However, government agencies have been criticised for taking longer periods of time to respond to information requests than allowed by the OIA. Agencies' and ministers' compliance with OIA continues to be a public concern.[6,7] The independent authority, the Office of the Ombudsman,[8] publishes biannual data on OIA complaints against ministers and agencies. In 2017, State Services Commissioner (the Chief Executive) publicly chided a department for not releasing information under the provisions of the Act.[9] The previous IRM report recommended reforming the OIA to improve public access to information. Commitment 2 in the current action plan focuses on improving government agency practices around requests for official information, but the action plan falls short of addressing a comprehensive reform of the law.

Public concern about the availability of information from Parliament continues. One case in August 2017 that attracted considerable comment related to a draft report prepared by an independent adviser to the Officers of Parliament Committee about the suitability of the Auditor-General (an Officer of Parliament) to continue to hold the role based on his career history and performance. The background to this review was that, during his previous tenure as Chief Executive of the Ministry of Transport, one of his senior managers had committed a major fraud. The adviser's draft report was provided to the Auditor-General, without it being seen by members of the committee, so he could have the opportunity to respond. The Auditor-General resigned and the committee therefore concluded its consideration of the matter without receiving the report, and it was not made available to the public.

The draft report was prepared in connection with parliamentary proceedings and was not official information held by an organisation under the OIA. However, the level of public commentary about this case nevertheless ignited the issue of the availability of information held by parliamentary agencies.[10] The Law Commission noted in 2012 that "there are legitimate and significant public interests that weigh in favour of a principle of availability of information held by Parliament and its administration just as much as in the case of the Executive"[11] and made detailed recommendations to apply the OIA to certain parliamentary information.[12] It should be noted, though, that the draft report prepared for the Officers of Parliament Committee probably would still not have been official information if the Law Commission's recommendations had been incorporated in the law. The public has not had access to this investigation which included the Chief Executive's actions taken in a government agency covered by the OIA before he became an Officer of Parliament.

While media freedom thrives, New Zealand dropped eight places to 13th in the 2017 World Press Freedom Index, a change explained by delays and the fees journalists must pay when requesting information.[13] The Intelligence and Security Act, which became law on 28 March 2017, creates a new offence of wrongful communication, retention, or copying of classified information. This applies to individuals specifically cleared to have access to classified information or who have been provided with such information in confidence to comply with the obligations to protect the information. The surveillance powers of the intelligence services are extended, their powers to receive complaints or disclosures from employees strengthened, and independent oversight mechanisms strengthened.[14]

Decreasing Trust and Low Voter Turnouts

While traditionally New Zealanders have had a high-level of trust in government, recent studies indicate that public distrust of government has been growing. Survey results published in April 2016 show that government ministers and members of parliament had the largest declines in trust, with about 50% of respondents reporting decreased levels of trust for both groups.[15]

An associated concern is a decline in voter participation in the general and local elections. In the 2014 general election, turnout of the votes cast as a proportion (VAP) of the total voting age population was 72.1%, the second lowest since the Second World War after the 69.6% turnout of the VAP in 2011. In total, almost a million people did not vote in 2014; 250,683 were not enrolled, while 694,120 were enrolled but did not turn out to vote.[16] Lowering the voting age to 16 or 17 years to rejuvenate the voting system was raised by the Children's Commissioner, but any change ahead of the 23 September 2017 general election was rejected by the then Prime Minister, Bill English. Massey University's Design+Democracy Project was formed in response to the Electoral Commission's call in 2013 for academic and research communities to tackle declining voter participation. 'On the Fence', one online tool emerging from this project, helped 'young undecided and first-time voters engage directly with issues' in 2017.[17] As of 20 September 2017, 220,000 voters under the age of 30 still had not enrolled to vote in the election.

Action Station, the citizen-led social media group, celebrated three years of action 'to put people power back at the heart of New Zealand's democracy'. This includes an ongoing transparency campaign,[18] and encouraging youth to vote in general elections.[19]

Whistleblowing Revelations

The IRM's OGP Progress Report 2014-2015 noted stakeholders had serious concern about a growing culture of fear preventing many experts from speaking out in ways that the government might find objectionable. Since then, there have been several public whistleblowing investigations including: the possible unauthorised disclosure of information relating to the proposed reorganisation of the Ministry of Foreign Affairs and Trade, which was subsequently criticised by the Ombudsman;[20] four Ministry of Transport staff who raised early concerns about a senior manager who was subsequently imprisoned for fraud;[21] and

into the Chief Executive of the above Ministry concerning his handling of the allegations against that same senior manager.[22]

The Whistling While They Work 2 research project, which looked at public interest whistleblowing, highlighted weaknesses of the New Zealand Protected Disclosures Act 2000. The study showed wide diversity of results among New Zealand agencies with many scoring well but also many scoring more poorly on categories of incident tracking, support strategy, risk assessment, dedicated support, and remediation. Professor Brown of Griffith University notes that these tend to suggest 'agencies are operating without the support and guidance provided under stronger legislative regimes elsewhere'.[23]

Some consequential work on the Protected Disclosures Act 2000 (PDA), has followed. The State Services Commission (SSC) issued standards for agencies on how to improve their PDA policies and processes using the current law and is developing options to modernise the PDA. Additionally, the Ombudsman plans to seek funding for more staff to carry out its legislated PDA roles.[24]

Transparency of Trusts and Beneficial Ownership
The Panama Papers (2016) revealed that New Zealand foreign trusts were used for channeling illegal funds and tax avoidance. This led to vocal public concern about the absence of a formal registration process for foreign trusts. In the wake of this revelation, the Government tightened disclosure requirements on the New Zealand resident trustee of foreign trusts.[25] Fewer than 3,000 foreign trusts (compared with more than 11,000 in 2016) met the 2017 deadline to provide more information about their structures and activities. However, the Government did not create the searchable public register sought by anti-corruption groups like Transparency International New Zealand. Exploring the establishment of a public central register of company beneficial ownership information was one of New Zealand's eight commitments at the London 2016 Anti-Corruption Summit.[26] Little progress has been made in this direction.[27]

In parallel to the action plan, the Government has been promoting OGP values. The Digital Government work programme is exploring new ways to improve people's experience with government,[28] and follows the *Government ICT Strategy and Action Plan to 2017,* [29] which was Commitment 2 in the first action plan.

It is important to note that Jacinda Ardern became Prime Minister of New Zealand, on 26 October 2017, leading a new Coalition government following the general election on 23 September 2017. Ms Ardern replaced Bill English who had become New Zealand's Prime Minister on 12 December 2016 following the resignation of John Key. During his term, Mr English issued a Joint Statement with Malcolm Turnbull, Australia's Prime Minister, agreeing that 'Australia and New Zealand will collaborate on public data initiatives to better align agendas, share lessons learnt on best practice, and work together on data commitments as part of the Open Government Partnership.'[30] The new administration, which promotes a transparent, open democracy that is free from corruption and abuse of power, signals a singular opportunity to pursue open government issues.[31]

2.2 Scope of Action Plan in Relation to National Context
The action plan touches upon important areas such as access to information, budget transparency, and civic participation. The scope does not extend to tackling all issues that would benefit from more openness and government accountability. These include meaningful reform of the Official Information Act, better whistleblower protection, transparency of beneficial ownership of companies, and strengthening the environment for more active civil society engagement.

Public and government officials agree that the OGP action plan is meant to stretch current government practices and test new ways for government and civil society to work together. The government states it uses participation in OGP to provide another avenue to develop and strengthen the country's democracy.[32] A future OGP action plan could promote

citizenship education and increase youth participation across all ethnicities at local and community levels, with an aim to increase voting levels in the 2019 local government and the 2020 general elections. This work could build on existing initiatives such as the October 2016 Civics, Citizenship and Political Literacy workshop.[33]

New Zealand's size, small population (4.8 million), and low levels of philanthropy (compared with many other nations), constrain the ability of many civil society groups to work to adequately represent the public. These groups generally compete for funding from the same sources. As the provision of government services is increasingly outsourced to civil society groups, concern has grown that the highly sought-after funding contracts may include 'gagging clauses' which reduce recipients' ability to make public comment.[34] A future OGP action plan should consider this concern openly before the 2019 funding round. For example, over this period, the appropriate clauses in the Government's standard procurement and funding contracts could be reviewed and new clauses inserted, where necessary, to address this issue.

Other issues raised during consultation on either the first or the second action plan, and still highlighted as priority issues, are:

- To increase financial transparency, publish actual budget expenditure data and details of all government procurement contracts. While the Government releases detailed Budget estimates, the details of actual Budget expenditure are less well known. With a few exceptions, such as contracts for community social services that the government funds,[35] government does not release details of its public procurement;
- Develop sustainable and regular high-level interaction between government officials and civil society representatives by building on existing models such as the Iwi Chairs Forum, a platform for sharing knowledge and information between the tangata whenua of Aotearoa.[36] This could strengthen civic engagement by co-creating policy development; and
- Link OGP work to government's work programme on the United Nations (UN) Sustainable Development Goal (SDG) 16, to provide access to justice for all.[37] New Zealand's programme is led by the Ministry of Foreign Affairs and Trade. New Zealand government agencies are reviewing the goals and their alignment with existing Government priorities.[38] It is an opportunity to align OGP and SDG work.

Future action plans will need to address these priority issues as well as continuing to stretch New Zealand's open government practices.

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III. Leadership and Multi-Stakeholder Process

In April 2016, the time frame for finalising New Zealand's second action plan was extended and the SSC sought public input on the proposal on its website.[1] After an initial June 2016 workshop to explore possible commitments with civil society,[2] advance notice was given to the public across many consultation channels. Actual consultation took place for one month with stakeholders from civil society and the private sector, and ended with a co-creation workshop of government officials and civil society. The SSC invited the Expert Advisory Panel (EAP) and the Officials Group, and subsequently finalised the plan with no further involvement from the public.

3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in New Zealand. Table 3.1 summarises this structure while the narrative section (below) provides additional detail.

Table 3.1: OGP Leadership

1. Structure	Yes	No
Is there a clearly designated Point of Contact for OGP (individual)?	✔	
	Shared	Single
Is there a single lead agency on OGP efforts?		✔
	Yes	No
Is the head of government leading the OGP initiative?		✘
2. Legal Mandate	Yes	No
Is the government's commitment to OGP established through an official, publicly released mandate?	✔	
Is the government's commitment to OGP established through a legally binding mandate?	✔	
3. Continuity and Instability	Yes	No
Was there a change in the organisation(s) leading or involved with the OGP initiatives during the action plan implementation cycle?	✔[3]	
Was there a change in the executive leader during the duration of the OGP action plan cycle?	✔[4]	

Legislative authority in New Zealand is vested in an elected, unicameral (single-house) Parliament, while executive political power is exercised by the Cabinet, led by the Prime Minister. Prime Minister (PM) Jacinda Ardern announced a new ministerial portfolio of Associate Minister, State Services (Open Government).[5]

The Confidence and Supply Agreement between the New Zealand Labour Party and the Green Party of Aotearoa New Zealand following the election of PM Ardern, includes an agreement to work together on specified goals including Goal 20 to 'strengthen New Zealand's democracy by increasing public participation, openness, and transparency around official information'.[6] This agreement will aid the administration in fulfilling its OGP responsibilities.

The institutional arrangement for OGP in New Zealand in the second action plan is the same as for the first plan. The State Services Commission (SSC) is the lead executive agency

responsible for New Zealand's OGP commitments. The OGP role sits in the Integrity, Ethics and Standards team, formed after the development of the action plan.[7] As a central agency,[8] the SSC is well placed to co-ordinate the government's OGP response. (See Table 3.1 on the leadership and mandate of OGP in New Zealand). The SSC derives general oversight authority from legislative statutes and directives from Ministers and Cabinet. The agreement to join the OGP and the first and second national action plans received Cabinet approval, which in effect serves as a binding, executive-level directive for public servants. The Cabinet Papers were also publicly released on the SSC website.[9]

Overall, total staffing and total monetary support across government for implementing the OGP activities is not collated in one budget. A core team of three SSC staff worked on the development of the action plan. The core team was supported by other teams in the SSC, staff in the agencies with responsibility for commitments, and other potential agencies. There is no dedicated line in the SSC's budget for OGP activities beyond allocation of $200,000 per annum for 2016/17 and 2017/18 for New Zealand's membership of the OGP.[10]

The 2017/18 budget for Stats NZ includes an allocation for a new Open Data Programme of $2,667,000 for 2017/8, $2,367,000 for 2018/19 and $2,166,000 for 2019/20.[11] Its actual work on Commitments 3 and 4 is not itemised within this larger budget. New Zealand's other OGP commitments, including payments to consultants and fees paid to the multi-stakeholder forum members, are funded by agencies, but not itemised in their annual budgets.

Stakeholders want a designated realistic budget that is publicly announced and on going funding to engage appropriately, using modern customer/citizen-centric methods.

3.2 Intragovernmental Participation

This subsection describes which government institutions were involved at various stages in OGP. The next section will describe which nongovernmental organizations were involved in OGP.

Table 3.2 Participation in OGP by Government Institutions

How did institutions participate?	Ministries, Departments, and Agencies	Legislative	Judiciary (including quasi-judicial agencies)	Other (including constitutional independent or autonomous bodies)	Subnational Governments
Consult: These institutions observed or were invited to observe the action plan but may not be responsible for commitments in the action plan.	3[12]	0	0	0	0
Propose: These institutions proposed commitments for inclusion in the action plan.	7[13]	0	0	0	0
Implement: These institutions are responsible for implementing	8[14]	0	0	0	0

commitments in the action plan whether or not they proposed the commitments.					

In New Zealand participation in OGP was limited to government departments. Table 3.2 above details which institutions were involved. It references the number of institutions directly consulted for the OGP action plan, not necessarily the development of the specific activities that were later included in the OGP action plan.

Departmental responsibility for Commitments 3 and 4 changed on 10 March 2017 with Statistics New Zealand and the Department of Internal Affairs assuming full ownership, and Land Information New Zealand ceasing its role. Membership of the Officials Group of agencies leading commitments was expanded in 2017 to include Te Puni Kokiri, which leads Māori public policy and advises on policy affecting Māori wellbeing, and the Auckland Council.[15]

During implementation, the Officials Group and the Expert Advisory Panel (EAP)—a group commissioned by the SSC to advise relevant OGP matters—continued their separate meetings, and also held some joint meetings from 2017. These meeting agendas, brief minutes, and progress reports (following approval at the next meeting) are published on the OGP/NZ website.[16]

3.3 Civil Society Engagement

Countries participating in OGP follow a set of requirements for consultation during development, implementation, and review of their OGP action plan. Table 3.3 summarizes the performance of New Zealand during the 2016-2018 action plan.

Table 3.3: National OGP Process

	Key Steps Followed: 7 of 7					
Before	**1. Timeline Process & Availability**			**2. Advance Notice**		
		Yes	No		Yes	No
	Timeline and process available online prior to consultation	✔		Advance notice of consultation	✔	
	3. Awareness Raising			**4. Multiple Channels**		
		Yes	No	4a. Online consultations:	Yes	No
	Government carried out awareness-raising activities	✔			✔	
				4b. In-person consultations:	Yes	No
					✔	
	5. Documentation & Feedback					
					Yes	No
	Summary of comments provided				✔	

	6. Regular Multi-Stakeholder Forum					
During	6a. Did a forum exist?[17]	Yes	No	6b. Did it meet regularly?	Yes	No
		✔			✔	
After	7. Government Self-Assessment Report					
	7a. Annual self-assessment report published?	Yes	No	7b. Report available in English and administrative language?	Yes	No
		✔			✔	
	7c. Two-week public comment period on report?	Yes	No	7d. Report responds to key IRM recommendations?	Yes	No
		✔				✘

On 30 June 2016, the terms of appointment for the Stakeholder Advisory Group (SAG), which advised the first national plan, ended[18] and the SAG (appointed following a public-invitation process) was replaced by a new invitation-only Expert Advisory Panel (EAP). The new EAP's terms of reference state that the SAG has 'transitioned to an EAP to better reflect SSC and Government accountabilities in relationship to New Zealand's OGP commitments'.[19]

The six-member EAP was commissioned by the SSC to advise the second action plan process, the midterm and final review of the second action plan, and any other relevant OGP matters.[20] The EAP met five times in person in Wellington during the development of the action plan, but only one meeting was attended by all members.

Activities prior to consultation started on 21 April 2016 with the SSC seeking public input on the decision to extend the consultation period.[21] Only four stakeholders responded— they expressed concern about the delay in developing the next action plan and sought more comprehensive engagement so that the action plan would be co-created with civil society.[22]

The first engagement activity occurred when the Engage2 team, the external company brought in by the SSC, approached 17 stakeholders to get their input regarding the design of the engagement process. These stakeholders included academics, environmental and social organisations, the OGP Expert Advisory Panel, private sector, and local government staff. Ten stakeholders responded.[23]

Actual consultation on the action plan did not commence until 21 July 2016 when Engage2 asked for details of interested parties, provided the 'rules of the game' through online engagement platforms, and extended invitations via community newsletters, email, and social media. Engage2 reported that they informed 845 civil society and private sector people about the OGP process and maintained very regular contact with participants throughout the process.[24] The IRM researcher observed this extensive activity over this period.

With regard to the online engagement platforms, Engage2 stated that 110 people used the Twitter hashtag, @ogpnz, hundreds of people visited the website and online engagement platforms, 28 people provided 29 submissions, and 87 actions were suggested on the two platforms.[25] Most stakeholders represented interests in open data, access to information, public participation, and increased transparency and accountability, and the majority were based in Wellington, Auckland, Hamilton, Christchurch, Whangarei, and Nelson.[26] The IRM researcher has no further information about the diversity of views represented during this process. IRM interviews with stakeholders confirmed this range of stakeholder interests. Between 21 July and 26 August 2016, events held in Wellington, Auckland, and Christchurch included six teleconferences and workshops. A total of 26 stakeholders from the local government, private, and NGO sectors participated in these events.

The final stakeholder engagement was the co-creation workshop held on 26 August, attended by 14 members of the public who had suggested commitment actions, 11 officials

from the lead agencies, and three EAP members. They arranged the 87 public submissions suggested on the two platforms into eight themes, drafted in advance of the workshop by Engage2. These were:

- Civil society capacity and participation (16 submissions);
- Involving citizens in public policy and programme development (15 submissions);
- Transparency (13 submissions);
- Official Information Act (13 submissions);
- Open data (13 submissions);
- Fiscal transparency (8 submissions);
- Standards and culture around open data/open information (8 submissions); and
- Ongoing engagement (1 submission).

These very broad themes covered the breadth of the 87 public submissions but did not recognise the work by the HuiE! civil society organisation to prioritise proposals. Over the tight engagement period HuiE! ran a consultation process involving 18 - 20 national civil society organisations and drew up a list of 13 prioritised recommendations.[27] HuiE! advised the IRM researcher that "in effect, having been excluded from the EAP when it was created to replace the SAG we, at the suggestion of the Deputy Commissioner, created a parallel Expert Panel comprising civil society representatives. The very professional set of proposals we developed and carefully prioritised, over a series of meetings, were not acknowledged at the workshop as a coherent input from civil society leaders - the prioritisation was ignored and the proposals were inserted randomly into the papers for the workshop. Further, some of the proposals that had been allocated the highest priority by the civil society consultation process were not discussed at the workshop, and so none of the civil society proposals made it on to the table when SSC worked with the EAP to finalise the set of commitments".[28]

At the workshop, following vigorous debate on the themes, members drafted 14 templates which built on some of the 87 submissions. After the workshop, the SSC finalised the seven commitments with its officials and the EAP. There was no further public participation. Five of the final commitments related to elements of the eight themes drafted by Engage2. Commitment 6 (improving access to legislation) and Commitment 7 (improving policy practices) were not discussed at the workshop.

There are no online minutes of any EAP meeting that approved the final action plan. The minutes of the 20 September 2016 meeting note discussion about potential commitments.[29] There were no further formal meetings before the Minister of State Services released the final action plan on 20 October 2016.

Despite Engage2's intensive activity, well supported by the SSC, actual civil society participation was low, and knowledge of the engagement was unknown beyond the usual participants, notwithstanding HuiE!'s laudable work. Stakeholders who knew about the engagement process generally felt that this action plan, the programme to develop it, and the commitments were a significant improvement on the first plan. They applauded the SSC for committing to improve the process and broaden stakeholder involvement. The IRM researcher also notes that stakeholders interviewed who had not known about the engagement process had no comment on it, nor recommendations to improve the process. Their feedback related to the individual commitments.

However, all stakeholders felt the constrained timeline limited its impact and that the online engagement tools favoured individuals' proposals over the prioritised proposals developed by civil society organisations. The IRM researcher concludes that these were key factors in the final set of commitments not addressing the wider open government issues raised during this and the first action plan development.

There was also concern that all the final commitments were central government and Wellington-based, and many felt disappointed that there was no further communication until the action plan was released in October, nor feedback to individual submitters. A member of the HuiE! civil society organisation, who had been a member of the earlier Stakeholder Advisory Group, met with SSC staff after the workshop to discuss a complaint he had laid about the process.

Overall feedback from the EAP on the engagement process was mixed: some praised the process, saying it engendered 'robust discussion'. Another member also was impressed with the standard of commitments. However, other members also raised weaknesses of the process, such as it being too 'top-down'. One member said, the 'government needs to appreciate co-ownership with the public'. Another noted that 'a key achievement of the SSC was to find a set of commitments, co-created between government agencies and civil society, that Cabinet would approve and support verbally (even if not financially)'.

Table 3.4: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) 'Spectrum of Participation' to apply to OGP.[30] This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for 'collaborative'.

Level of public input		During development of action plan	During implementation of action plan
Empower	The government handed decision-making power to members of the public.		
Collaborate	There was iterative dialogue AND the public helped set the agenda.		
Involve	The public could give feedback on how commitments were considered.	✔	
Consult	The public could give inputs.		✔
Inform	The government provided the public with information on the action plan.		
No Consultation	No consultation		

3.4 Consultation During 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.

The New Zealand government appointed the EAP for the purposes of enabling a regular multi-stakeholder consultation on OGP implementation (in addition to other activities), and there has been a visible improvement from the last OGP process. However, membership is limited and there is no evidence that the EAP is adequately reaching out to civil society groups for greater co-creation and participation.

The EAP has a different mix of civil society representation from the Stakeholder Advisory Group (SAG) that it replaced. The SAG was appointed from those who responded to a public invitation and was comprised of two academics, two civil society leaders, a political commentator, and an ICT practitioner. The group of five men and one woman included two members from outside Wellington and one of indigenous ethnicity. Members of the EAP are appointed by the State Services Commissioner. They are based either in Wellington or

Auckland, New Zealand's largest city. As of June 2017, the EAP consists of four women and two men, including a deputy Commissioner from the SSC (Chair). Members represent the following: Transparency International New Zealand (two members—one in Wellington, one in Auckland), Victoria University of Wellington (Chair in Digital Government), and the private sector (a Wellington public affairs company, and an Auckland open data business). Ethnicities include Māori and Pacific Island representation. Two SAG members were reappointed to the EAP. There was no opportunity for the public to express interest in joining this panel, and it has narrow civil society representation.

The EAP has formal procedures for participation, and its agendas and brief minutes are published online after approval at each meeting. There is no evidence that members of the EAP have undertaken any activities to seek out the views of civil society organisations or the public, nor provide information on the implementation work (beyond the regular advocacy by Transparency International New Zealand members at their meetings and in their newsletters).

As of 30 September 2017, the EAP has met three times with the interagency Officials Group to monitor implementation. One progress report on each commitment for the period March to May 2017 has been posted online.[31] The IRM researcher attended the joint EAP/Officials Group meeting on 24 August 2017 and received the progress reports covering the period June to August 2017, but these have not yet been posted online.

The IRM researcher notes that there has been little government publicity since the action plan was released in October 2016. As of 30 September 2017, there have been four tweets by @ogpnz, one Ministerial press release, and five press releases on the SSC website. The quarterly updates on the commitments for June to August are not yet on the OGPNZ website.

As the second year of implementation gets underway, the IRM researcher recommends stakeholder contribution beyond the EAP so that there is a more representative voice for the public. The SSC is meeting separately with some other civil society groups, as per Commitment 5 activities. Some stakeholders have praised the SSC's willingness to meet regularly with civil society organisations and start discussing the next plan, as well as the government's commitment to better engagement.[32] One EAP member sees the work as an 'opportunity to look at new things in the future'.

3.5 Self-Assessment
The OGP Articles of Governance require that participating countries publish a self-assessment report three months after the end of the first year of implementation. The self-assessment report must be made available for public comments for a two-week period. This section assesses compliance with these requirements and the quality of the report.

The government's draft midterm self-assessment was published online on 19 July 2017 and was open for comment until 1 August 2017.[33] It was advertised on the government consultation platform (govt.nz), with feedback invited on that platform, by email and by post. Three responses were received and published online. They comment on progress achieved to date, look ahead to the process for the development of the third action plan and identify key areas of interest for the next plan. Two responses note concern about an absence of consultation with civil society in the commitment to improve policy practices. Government published the midterm self-assessment report online on 2 October 2017. The final version describes the feedback received.

The midterm self-assessment summarised the consultation process during the action plan development and provided links to the two consultation sites and the online submissions. It reviewed consultation during implementation to date, describing its multi-stakeholder consultation forum and officials group, and linking to their minutes on NZ's OGP website. It provided details of external government-to-government work, but did not refer to the separate meetings with the SSC that other civil society organisations reported to the IRM

researcher. It discussed progress on all commitments and linked to public documents relating to all the commitments. It explained the reasons for rescheduling Commitments 3 and 4. It was realistic about progress on Commitments 1 and 6, which have long milestones, but unrealistically optimistic about future progress on some of Commitment 3's activities (i.e. commitment activities three and four). The assessment included 'Next Steps' and an additional information section for each commitment.

3.6 Response to Previous IRM Recommendations

Table 3.5: Previous IRM Report Key Recommendations

	Recommendation	Addressed?	Integrated into Next Action Plan?
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.	No	No
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.	No	No
3	Commit to regular, standardised, technically independent, 'state of the nation' reporting on social policy and the environment.	No	No
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.	No	No
5	Strengthen the transparency of political party funding from donations and parliamentary revenues.	No	No

The previous IRM researcher's key content recommendations were not adopted in the second action plan. While activities in the 2016-2018 action plan's second commitment begin to address the first recommendation (including suggestions from the 2012 Law Commission's report), they are restricted to improving government agency practices when responding to requests for official information.

The third key recommendation was partially covered by the *2016 Social Report*, published in June 2016, but this report has been discontinued.[34] The Environmental Reporting Act 2015 requires the Ministry for the Environment to publish one domain report every six months and a synthesis report on New Zealand's environment every three years,[35] but neither of these activities has a direct link with the action plan.

The public submissions made during the development of the action plan included 'Standards for Public Participation' across central, regional, and local government; a public-sector voice

that is de-politicised, free and frank, without fear or favour; and political finance openness (or political party openness). These submissions are similar to key recommendations two, four and five and they were included in the 14 templates discussed at the 26 August co-creation workshop. However, they were not retained by the government in the final action plan.

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2 'Seminar Report,' Inspiring Communities, 22 June 2016, inspiringcommunities.org.nz/wp-content/uploads/2016/04/Start-Local-Report-web.pdf.
3 Full responsibility for Commitments 3 and 4 was assumed by Statistics NZ.
4 Peter Hughes replaced Iain Rennie as State Services Commissioner on July 4, 2016.
5 'Ministerial List: 26 October 2017,' 26 October 2017, https://www.dpmc.govt.nz/sites/default/files/2017-10/ministerial-list-26-oct-2017.pdf; 'Hon Clare Curran,' New Zealand Parliament, 8 December 2017, https://www.parliament.nz/en/mps-and-electorates/members-of-parliament/curran-clare/.
6 https://www.greens.org.nz/sites/default/files/NZLP%20%26%20GP%20C%26S%20Agreement%20FINAL.PDF.
7 The 2017-21 plan notes the SSC is undergoing a transformation over the next four years. http://www.ssc.govt.nz/sites/all/files/four-year-plan-2017-2021.pdf.
8 NZ has three central agencies, the Department of the Prime Minister and Cabinet, the Treasury and the State Services Commission which work across the government system to promote high-performing, trusted and accessible government agencies.
9 Judith Collins, Minister of Justice, 'Agreement to Join Open Government Partnership,' 22 August 2013, http://www.ssc.govt.nz/sites/all/files/cab-paper-erd(13)-25-join-ogp.pdf; Paula Bennett, Minister of State Services, 'Action Plan for the Open Government Partnership,' 17 January 2017, http://ssc.govt.nz/sites/all/files/ogp-action-plan-cab-paper-upjul17.pdf; Rachel Clarke, Committee Secretary, 'Minute of Decision: Action Plan for the Open Government Partnership,' Cabinet Committee on State Sector Reform and Expenditure Control,19 October 2016, http://ssc.govt.nz/sites/all/files/ogp-action-plan-cab-min-upjul17.pdf.
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11 The Estimates of Appropriations 2017/18 – Maori, Other populations and Cultural Sector B5 Vol 8, p215: https://2017.budget.govt.nz/budget/pdfs/estimates/v8/est17-v8-stat.pdf.
12 Ministry of Foreign Affairs and Trade, Ministry of Maori Development, Auckland Council
13 State Services Commission, Department of Prime Minister and Cabinet, the Treasury, Land Information NZ, Statistics NZ, Ministry of Justice, and the Department of Internal Affairs.
14 State Services Commission, Department of Prime Minister and Cabinet, the Treasury, Land Information NZ, Statistics NZ, Ministry of Justice, Parliamentary Counsel Office, and the Department of Internal Affairs.
15 *National Action Plan 2016-18 Mid-term self-assessment*, Open Government Partnership New Zealand, 2 October 2017, www.ogp.org.nz/assets/publications/New-Zealand-Mid-term-self-assessment-2016-18.pdf, 4.
16 'What's happening: 2017,' Open Government: New Zealand,' accessed 17 January 2018, www.ogp.org.nz/whats-happening/2017/. The relevant pages at https://www.ssc.govt.nz/eap are not up-to-date.
17 See discussion about this forum at Section 3.4.
18 'Terms of Reference for New Zealand Open Government Partnership Stakeholder Advisory Group,' State Services Commission, April 2015, http://bit.ly/1oJVF4V, 3.
19 'Open Government Partnership Expert Advisory Panel Meeting,' State Services Commission 27 July 2016 and 8 August 2016, http://bit.ly/2ih16ea, 2.
20 'Expert Advisory Panel,' Social Services Commission, 2 March 2017, https://www.ssc.govt.nz/eap.
21 'Change of timeframe for New Zealand's Second National Action Plan,' Social Services Commission, 21 April 2016, www.ssc.govt.nz/change-timeframe-nz-nap.
22 Emails regarding comments on engagement process for second OGP national action plan, 14 May 2016 - 1June 2016, https://www.ssc.govt.nz/sites/all/files/ogp-submissions-2016-1.pdf.
23 *Engagement report - Civil society engagement in the Open Government Partnership*, Engage2, 2016, ssc.govt.nz/sites/all/files/engagement_report_ogpnz_2016.pdf, 17.
24 *Id.*
25 *Id.*
26 *Id.*
27 http://www.huie.org.nz/featured/open-government-partnership-hui-e-proposal/.
28 Dave Henderson, former External Relations Manager, HuiE!, email, 1 February 2018, expanding on HuiE!'s meeting with the IRM researcher on 6 July 2017.
29 'Open Government Partnership Officials Group Meeting Minutes,' 20 September 2016, www.ogp.org.nz/assets/news-and-events/2016/officials-group/officials-group-minutes-20september.pdf.
30 'IAP2's Public Participation Spectrum,' iap2, 2014, c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf.
31 'Our Progress,' Open Government Partnership: New Zealand, www.ogp.org.nz/our-progress/.

32 Meetings in Wellington with HuiE!, CommVoices, 5 July 2017; Volunteering NZ, 22 August 2017; PSA/CTU, 1 September 2017.

33 'Consultations - have your say: Open Government Partnership NZ: National action plan 2016-18 mid-term self-assessment,' New Zealand Government, 20 July 2017, http://bit.ly/2uZA7rR.

34 As advised by the Ministry of Social Development on 28 September 2017.

35 *The Social Report 2016*, Ministry of Social Development, June 2016, socialreport.msd.govt.nz/documents/2016/msd-the-social-report-2016.pdf; 'Reports: New Zealand's environmental reporting series,' Ministry for the Environment, 19 October 2017, www.mfe.govt.nz/more/environmental-reporting/about-reporting-series.

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's unique circumstances and challenges. 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.[1]

What Makes a Good Commitment?

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 analyses the first year of their implementation.

The indicators used by the IRM to evaluate commitments are as follows:

- **Specificity:** This variable assesses the level of specificity and measurability of each commitment. The options are:
  - **High**: Commitment language provides clear, verifiable activities and measurable deliverables for achievement of the commitment's objective.
  - **Medium:** Commitment language describes activity that is objectively verifiable and includes deliverables, but these deliverables are not clearly measurable or relevant to the achievement of the commitment's objective.
  - **Low**: Commitment language describes activity that can be construed as verifiable but requires some interpretation on the part of the reader to identify what the activity sets out to do and determine what the deliverables would be.
  - **None**: Commitment language contains no measurable activity, deliverables, or milestones.
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
  - **Access to Information:** Will the government disclose more information or improve the quality of the information disclosed to the public?
  - **Civic Participation:** Will the government create or improve opportunities or capabilities for the public to inform or influence decisions?
  - **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions?
  - **Technology & Innovation for Transparency and Accountability:** Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?[2]
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.

Starred commitments are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:
- Starred commitments will have 'medium' or 'high' specificity. A commitment must lay out clearly defined activities and steps to make a judgement about its potential impact.
- 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.
- The commitment would have a 'transformative' potential impact if completely implemented.[3]
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of 'substantial' or 'complete' implementation.

Based on these criteria, NZ's action plan contains one starred commitment (Commitment 6).

Finally, the tables in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for NZ and all OGP-participating countries, see the OGP Explorer.[4]

General Overview of the Commitments

Government positioned the action plan and commitments as discrete pieces of work building on NZ's high international transparency and accountability ranking and complementing existing major government work 'to further the principles of open government', covering access to information, open data and technology.[5] Five commitments linked directly to the public's 87 OGP submissions, and two were added by government. There was no further work with civil society on the remaining actions they had proposed. The IRM researcher's interviews with around 34 stakeholders from academia, the private sector, and civil society felt that these commitments and the process were better than in the first action plan, but in general felt that they were top-down, not co-created and not bold enough. They saw them as useful small steps forward, but not as core ongoing work with the public to improve identified open government issues.

Themes

The government states that it is taking an approach of continuous improvement to delivering on its OGP obligations and intends to evolve its practice and improve over successive plan periods.[6] The IRM researcher agrees that NZ's commitments are discrete pieces of work with government aiming to cover two or more of the OGP values.

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2 *IRM Procedures Manual.* Available at: https://www.opengovpartnership.org/documents/irm-procedures-manual.
3 The International Experts Panel changed this criterion in 2015. For more information visit: http://www.opengovpartnership.org/node/5919.
4 OGP Explorer: bit.ly/1KE2Wil.
5 *National Action Plan 2016-18*, Open Government: New Zealand, http://www.ogp.org.nz/national-action-plan-2016-18/, 8.
6 *Id.* at 7.

1. Open Budget

Commitment Text:

We will ensure the Budget process is open and transparent and there is an accountable process for public participation.

Objective: To promote public discussion/debate and participation through accessibility of the budget and include relevant groups outside of government in the formative phase of the Budget, ensuring they are informed about the process and issues.

Status quo: The Budget can be perceived as a closed process between agencies and the Government and information is not regarded as accessible. The Government has begun work to ensure that Budgets become focused on outcomes for citizens rather than funding for agencies.

Ambition: Making the Budget more accessible will promote discussion and debate. It will help ensure that central government spending is open and transparent. It will enhance public participation and confidence in the Budget process.

Milestones:

- *Ask key stakeholder groups how the Budget could be made more accessible*

- *Invite feedback on the previous Budget – this means making it available in forms people can engage with, which could include machine readable data, plain English published material and visual presentations*

- *Provide Budget data in machine readable form – this could include open source formats*

- *Work with agencies that have expertise in presenting Budget data in ways that make it easy to understand.*

Responsible institution: The Treasury

Supporting institution(s): The Treasury

Start date: October 2016

End date: May 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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. Open Budget			✔		✔	✔					✔		Yes			✔	

Context and Objectives

NZ's Budgets, which set out estimates of appropriations for the forthcoming year along with updated economic and fiscal forecasts are available online dating back to 1997 (www.treasury.govt.nz). Departmental allocations within the Estimates documents dating back to 1998 are also available online.[1] Since 2011, the Treasury has been improving its open data formats. It has also expanded its range of tools and information to assist the public to access and use the annual budgets and supporting documents. New Zealand regularly scores

well in the International Budget Partnership's biennial Open Budget Surveys (OBS). In 2015, the most recent survey, it was rated first overall,[2] scoring 88% for transparency.[3]

Its score for citizen participation throughout the budget cycle was 65%.[4] While this result was high compared with the global average of 25%, the OBS proposed that New Zealand introduce 'formal regulations that oblige the executive to engage with the public during each stage of the budget cycle'.[5] The 2015 OBS reviewer also observed that while New Zealand made extensive budget information available, it was not necessarily 'user-friendly.'[6] The reviewer noted that 'even when official Budget documentation makes extensive information available, most people are unlikely to invest time in reading and digesting that documentation. Citizen's budget documentation is critical for making information about government policies, sources of funds and the use of those funds more readily accessible to the general public".[7]

The commitment is relevant for the OGP values of access to information and civic participation. The government is looking to improve the quality of the information disclosed to the public by re-publishing some of it in language that is easier to read. It is seeking to expand civic participation by creating opportunities for stakeholder groups to inform government on how the Budget could be made more accessible and whether the new formats of the Budget have made a difference for them. The commitment does not enhance the use of technology and innovation beyond its present practice.

The specificity of the commitment is medium. Activities planned in this commitment are clear and objectively verifiable and seek to achieve the stated objective by consulting key stakeholder groups, inviting feedback on the previous budget, providing budget data in machine-readable form, and working with experts in budget data presentation. However, they do not identify measurable outcomes, who the key stakeholders are, how the government will invite feedback or what they plan to do with the feedback.

If fully completed, this commitment could have a moderate impact for stakeholders. External groups would become more familiar with the budget process, including its lengthy timeline, and they could provide feedback about accessing documents during the formative phase of the budget process. Agencies would have an opportunity to consider multiple stakeholder contributions. Additional budget documents would be more useful and readable for the public, while consistent machine-readable raw and summary data would be provided for data scientists. This is a significant step forward in terms of budget presentation and expands engagement across a wider cohort. However, as written, these commitment activities do not offer a formal transformative process of including citizen participation in budget development as anticipated in the OBS recommendation. The commitment does not move to introduce the collaborative participatory budget sought by some members of the public.

Completion
At the end of the first year of implementation the commitment is on schedule. According to the commitment timeline,[8] by the end of the first year of implementation, the public would have provided advice on a more accessible budget and government would have published the 2017 Budget in a wider range of formats. Remaining commitment activities are intended to continue through the second year of implementation.

Government carried out open government research with 35 stakeholders and released its findings.[9] Stakeholders included media industry representatives, analysts, financial organisations, academia, international organisations, iwi groups, social and community services groups, and professional network groups. The IRM researcher interviewed one participant who felt that 'the report was very good'. The same participant also noted that the Treasury wanted to improve engagement, which is why they included it in the action plan.[10]

The research identified shortcomings with the transparency of and engagement with the budget process and set out stakeholder and citizen-based recommendations for budget

development and budget communication. The second and third commitment activities were on track, with three 'May 2017 Budget At-a-Glance' documents published, covering an overview of all budget information, government's capital investment and a summary of the 'Family Incomes Package'.[11] These documents were written in plain English and supplemented the traditional budget publications. Budget 2017 documents, interactive charts and features were made available on a separate budget website, www.budget.govt.nz, which was optimised for mobile and tablet devices.[12] Work on the fourth commitment activity to see how other agencies present their budget data and documents is at an exploratory stage. Even though this work is still at an early stage and more work needs to be done, the IRM researcher considers the overall completion of this commitment to be substantial.

Early Results (if any)

Budget 2017 data users interviewed by the IRM researcher applauded the data-related work to date, commenting that the data was useful, usable and used. A media data scientist used this data to present visualisations of the budget[13] and was pleased to get 'xls spreadsheets, which are well formulated, and export them to csv format'. He noted that 'this year's data has retained the 2016 consistency, giving five years in the same format, so they are internally consistent'.[14] Other use included visualisations by researchers at Victoria University of Wellington and the New Zealand Institute of Economic Research.[15]

The Budget 2017 data-users want improvements in the 2018 Budget and have noted the following priorities. First, the government should provide information linking new budget appropriations with those they replace. Second, there should be a clear distinction between raw data and summary data.[16] Additional end-user feedback has shown that some wanted data converted to .csv format, saying that it was a simple task. Internet New Zealand noted the Reserve Bank of New Zealand made changes to some data in August 2017 to make it easier for data users to transform the file into other 'machine friendly' formats such as .csv,[17] implying that the Treasury could do likewise.

The three 'Budget at a Glance' documents had not yet been used by the stakeholders interviewed, probably due to their focus on New Zealand's 23 September 2017 general election and the short period since the 25 May 2017 Budget. Stakeholders supported continued publication of these documents noting they were likely to engage more members of the public.

Next Steps

The commitment activities focused on getting stakeholder feedback and determining how stakeholders would like the Budget process to be more accessible. But as the IRM researcher noted, the key recommendation from OBS was on increasing citizen participation in each stage of the budget process. For this action plan cycle, the IRM researcher recommends that this commitment is completed in the remaining period of the action plan.

For the next action plan, the IRM researcher recommends the following:

- To improve access to budget information: set standards, such as using internationally comparable data classifications; keep raw data consistent over future years; continue to publish readable versions of the budget; trial a process to include citizens in the formation of the budget; and move towards a participatory budget (a line(s) in the budget on which citizens are invited to vote);

- To increase citizen participation in the budget process: the National Council of Women New Zealand recommended wide community consultation and communication about this commitment using channels accessible to the public.

Specific commitments for the next action plan could include:

- consulting publicly on introducing the new independent fiscal policy advisory body proposed during the 2017 election campaign. This body could combine

independent expert review of fiscal strategy and the annual budget proposal, with opportunities for inputs from the wider public and public deliberation;

- wide public consultation and engagement as part of the new government's announced taxation review, which it has indicated will commence in 2018 and be completed by 2020;

- increasing the transparency of public procurement, supporting the results of an independent review of transparency and accountability for procurement in NZ[18] and bringing NZ in line with countries which place all public procurement data on-line in open data format;[19]

- investigating how to progress participatory budgeting at central or local government in NZ, considering international experience where participatory budgeting has been confined almost without exception to local government level, and the US government's commitment 34 in their 2016-2018 Action Plan.

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1 'Archive of Budgets of the Government of New Zealand 1997 to 2017,' The Treasury, 25 May 2017, www.treasury.govt.nz/budget/archive; 'Historical Vote Information,' The Treasury, 25 May 2017, www.treasury.govt.nz/budget/votehistory.
2 'Open Budget Survey Document Availability Tracker,' International Budget Partnership, December 2016, https://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=nz.
3 Eight of eight key budget documents are publicly available online in a timeframe consistent with international standards.
4 'Open Budget Survey 2015: New Zealand,' International Budget Partnership, https://www.internationalbudget.org/wp-content/uploads/OBS2015-CS-New-Zealand-English.pdf.
5 'Open Budget Survey Document Availability Tracker,' International Budget Partnership.
6 Stacey Kirk, 'Government's books top transparency list,' S*tuff*, 29 September 2015, https://www.stuff.co.nz/national/politics/72537680/.
7 http://www.stuff.co.nz/national/politics/72537680/governments-books-top-transparency-list
8 *National Action Plan 2016-18*, Open Government: New Zealand, http://www.ogp.org.nz/national-action-plan-2016-18/.
9 Colmar Brunton, 'Towards an Open Budget,' The Treasury, May 2017, http://www.treasury.govt.nz/publications/informationreleases/ogp/towards-open-budget-may17.pdf.
10 Murray Petrie, Global Initiative for Fiscal Transparency (GIFT), interview with IRM researcher, 6 Sept 2017.
11 'Budget 2017,' The Treasury, 26 July 2017, www.treasury.govt.nz/budget/2017.
12 'Budget 2018: Budget Update: fairness and prosperity,' Ministry of Finance, 14 December 2017, https://budget.govt.nz.
13 Chris Knox, 'Politics: What has changed in 2017 Budget?' *NZ Herald*, insights.nzherald.co.nz/article/new-zealand-budget-2017/.
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19 Open Contracting Partnership (https://www.open-contracting.org/.

2. Improving official information practices

Commitment Text:

We will improve government agency practices around requests for official information under the Official Information Act (OIA).

Objective: To make government information more accessible by adopting a consistent set of agency practices in response to requests for official information.

Status quo: Practice around how agencies handle requests for official information is not uniform, agencies are burdened by increasing administrative load around official information requests, and people find it hard to navigate the systems.

Ambition: We are committed to improving how government responds to requests for official information.

Milestones:
- *Ensure information about the OIA (how to make requests, etc.) and responses to requests are easy to access on agency websites. This could include development of single OIA web pages for agencies*
- *Publish OIA statistics (how many requests, time taken to respond, etc.)*
- *Develop a clear statement of government policy on proactive release of Cabinet papers and related material*
- *Develop a suite of consistent measures about OIA performance*
- *Improve access to official information by publishing responses to requests on government websites and developing principles for more proactive release*
- *Agencies will be supported to deliver through the development of appropriate guidance and training.*

Responsible institution: State Services Commission

Supporting institution(s): Ministry of Justice

Start date: October 2016

End date: June 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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. Improving Official Information Practices			✔		✔		✔				✔		Yes			✔	

Context and Objectives

The New Zealand Official Information Act 1982 (OIA) and the Local Government Official Information Amendment Act 1987 (LGOIMA) each established a regime of openness in central and local government.[1] They changed government practice from withholding to disclosing official information unless there are good reasons not to do so, and citizens have

benefited for thirty years from this ground-breaking change toward openness. Government agencies have standard practices for complying with these Acts. Over this period, the internet and technology have made information much more readily available. New Zealanders now have increased public expectations of openness; they seek proactive release of information without the necessity of anyone asking for it and many state agencies and local authority entities now operate in the marketplace where they deal with, or are in competition with, private organisations.[2]

Proposed changes by the independent New Zealand Law Commission in 2012 to update the legislation and its administration were not adopted by the then Government. These included enhancing guidance about the legislation, simplifying unclear withholding grounds, better protecting commercially sensitive information, encouraging proactive release of public information, improving operational processes, establishing statutory oversight functions, and clarifying the reach of the legislation.[3]

The role of Ministers and their offices in agencies' decisions to release requested information under the OIA is an issue of public comment. *The Press* noted on 17 June 2017 that 'OIA abuses and delays have unfortunately become almost routine.[4] Former Prime Minister John Key admitted in 2014 that the Government likes to wait the full 20 working days if it is in its interests to do so'.[5] Preliminary results from 640 responses to a public administration survey by Massey University and Victoria University of Wellington state that 'it is also clear from our initial analysis that the Official Information Act is influencing behaviour in some departments or agencies and in some Beehive [Ministerial] offices.'[6] The researchers comment that 'to the extent that some actions by 'political advisers' are part of the problem, action could be taken to rein in those of a cavalier disposition and ensure those who occupy these privileged positions are aware of their responsibilities, which include not compromising the capacity of others to discharge theirs'.[7]

Former Prime Minister, Sir Geoffrey Palmer, expressed his view on 24 August 2017 that 'there are blocks against getting information that in a modern democracy is really quite dangerous',[8] and expanded on this in a discussion with the IRM researcher on 1 September 2017, stating that 'the system is broken' and that 'the OIA is a playground for Ministers, that this was not constitutional, and that this had been the case for more than nine years'. He proposed that the OIA should be extended to include Parliamentary Services and the Office of the Clerk, exclude the constituency process, and that an Information Authority should be set up to administer the OIA, endorsing the New Zealand Law Commission's 2012 administrative recommendation. With the exception of Members of Parliament's work on behalf of their constituents, the operations of Parliamentary Services and the Office of the Clerk would be covered by the OIA. This would include Ministerial offices and was also raised by others, endorsing the submissions presented by the public when this action plan was developed which also sought improved OIA processes, performance data, proactive release of official information and strengthened OIA training.

This commitment meets the OGP values of access to information and public accountability. It addresses all requests for information under the OIA, it covers both proactive and reactive releases of information and it aims to strengthen the right to information. It is relevant to public accountability because the government will be publishing information that calls upon specific agencies to justify their actions, including how many requests each receives and the time it takes the agency to respond. The IRM researcher notes that government updated this commitment's ambition in its 2017 mid-term self-assessment document to include 'enhancing public participation in decision-making' but did not include any participatory actions to progress this.

Planned activities under this commitment are clear, objectively verifiable and are directly relevant to the stated objective. The commitment's objective is supported by the development and supply of common OIA and proactive release policy, principles, resources, guidance and training. Clear policy and consistent practices are likely to reduce agencies'

administrative burden around official information requests and make it easier for the public to navigate agencies' individual OIA systems. Each activity contains clear deliverables; however, the commitment does not identify how the government will measure agency uptake of these changes, nor does it include a process to seek feedback from the public. Furthermore, the commitment does not pick up on the wider OIA scope, Ministerial role, or cultural issues that citizens (and the earlier review) had raised. A more transformative change would also include technological opportunities such as providing a single government website where the public can make OIA requests easily and find agencies' responses in one place.

If fully implemented this commitment would have a moderate potential impact. It could be argued that this work is only updating existing OIA training, processes and resources, and, therefore, of minor impact. The IRM researcher, however, sees regular reporting on agencies' OIA response rates, proactive release of Cabinet Papers and related material, and promoting the proactive release of responses to OIA requests as essential. The strong and active executive leadership by the State Services Commissioner and the Ombudsman, as indicated in their public statements and their inclusion of statutory Crown entities to which the OIA applies, suggests they regard this as a major commitment.[9] Not including the Office of the Ombudsman as a Supporting Institution is an omission.

The commitment is limited in scope. Transformative change would be achieved with a Ministerial and executive commitment to amend the legislation to encompass Parliamentary Services and the Office of the Clerk, whilst protecting parliamentary privilege, and the concomitant encouragement of cultural change to open government across the public sector. This would be assisted by the provision of a cross-government OIA request and response website, or other virtual process..

Completion

At the end of the first year, implementation of the commitment is substantially completed and on schedule. The role of the Ombudsman in this work has been clarified. Of the listed activities, three are fully completed: agencies were supplied with information about the OIA and responses to requests made easily accessible on their websites; OIA statistics were published; and policy developed for proactive release of information. In particular:

- The State Services Commission (SSC) and the Office of the Ombudsman announced joint work to improve OIA responsiveness on 20 October 2016.[10] On 29 June 2017, the SSC released guiding information for government agencies to place on their own websites. This guide included tips for those requesting official information. The SSC provided all agencies an .html template to ensure easy access.[11]

- In January 2017, the SSC published OIA statistics from 110 government agencies,[12] and the Ombudsman published OIA complaints received against Ministers and agencies.[13] These statistics, which will be updated every six months, are an accountability league table—the public can see how well each agency is applying the OIA, and which agencies are making information increasingly accessible.

- The Department of Prime Minister and Cabinet (DPMC) updated the Cabinet Manual to include government policy on the proactive release of Cabinet papers[14] and the SSC and DPMC released guidance on proactive release of official information on their websites.[15]
- DPMC released Cabinet Office Notice (15)3 on the proactive release of Cabinet papers on the internal government website, but not publicly. These policy statements are clear but not mandatory, meaning that agencies can choose not to apply them. They state that Cabinet papers and minutes **may** be released proactively with the approval of the relevant portfolio minister. All Cabinet papers are deemed within scope, except for those on Ministerial overseas travel, appointments, and legislation (draft Bills and regulations).

There is progress toward a suite of consistent measures about OIA performance and support, such as development of appropriate guidance and training to agencies. The SSC assured the IRM researcher that it has worked on definitions with agencies and is currently completing the development of an agency self-assessment tool on official information capability. The SSC is piloting this self-assessment tool with agencies and has developed a prototype self-assessment tool. The IRM researcher suggests it would be helpful if these self-assessment tools were piloted with the public.

While this commitment's milestones do not include the Ombudsman's work, the Office's work programme over the period of this review is relevant. Of particular note is the July 2017 *Model protocol on dealing with OIA requests involving ministers*[16] to be read with the updated guidance on *Dealing with OIA requests involving Ministers*.[17] The Ombudsman advises that this guidance was developed as a consequence of the issues identified in his predecessor's report *Not a Game of Hide and Seek.*[18] The Office also instigated an investigation of an agency's processing of an OIA request in response to public concern following media suggestion of improper interference of the Minister's office on the decision to refuse the request.[19] It regularly reviews and updates its OIA guidance, provides advice and training and publishes case notes and full opinions.[20]

Early Results

Government has made significant progress on its ambition to improve agencies' OIA practices. There is ongoing media coverage about the OIA statistics proposals,[21] but the other activities have had little publicity beyond reports to the EAP and media statements on SSC's website.[22] By the end of the 30 June 2017 evaluation period, the IRM researcher had assessed the early impact of the completed commitment activities two, three, and five:

Activity two: The OIA statistics were released by the SSC and the Ombudsman in January 2017 and included information like logged requests completed during the period (including requests subsequently transferred to another agency), the extent to which responses were provided within legislated timeframe, and more. Further information on differences among agencies was also released with the statistics. Released OIA statistics were reported in metropolitan newspapers and interviewed stakeholders had positive responses.

Activity three: An external stakeholder noted that the government unilaterally created the government policy on the proactive release of Cabinet papers (and related material) and it is not binding. Because the policy's language seems weighted toward protection rather than release, the same stakeholder sought specific guidelines to promote the proactive release in agencies.[23] Similarly, another stakeholder proposed a regular process and timetable for Cabinet Paper release..

Activity five: Nine (27%) of the 33 departments surveyed are publishing OIA request responses on their websites. The Treasury and Statistics New Zealand have been doing so since 2015.

In sum, stakeholders generally saw this commitment as a commendable first step forward in developing common OIA compliance practice across government. Some saw it merely as a token gesture and wanted stronger government action committing to the purpose of the OIA. Others felt the proposed policy changes strengthened the OIA and sought actions in the next action plan to implement them. Internet New Zealand noted the age of the OIA legislation, commenting that it was written before the Internet came into existence, and recommended a 'look at its intent, beef up the presumption of disclosure, then let the technology work'.[24]

Next Steps

The IRM researcher recommends that a clear statement of government policy on the proactive release of Cabinet papers (and related material) is confirmed by the new government, as the policy only applies to the pre-23 September 2017 government. The IRM

researcher recommends that the next action plan prioritise three key aspects: it should specify steps for monitoring agencies' adoption of these actions, it should test whether this commitment has met its ambition by seeking public feedback, and it should address the broader outstanding OIA issues raised by stakeholders. The following activities are recommended:

- include in future OIA compliance statistics the numbers of requests withheld, actual time taken to respond (including applying a 20-day response process), and the number transferred to Ministers' offices;
- initiate work to amend the OIA legislation to encompass Parliamentary Services and the Office of the Clerk, whilst retaining parliamentary privilege, in line with the recommendations by the Law Commission report in 2012[25] and others, and building on administrative and legislative developments since then such as the Parliamentary Privilege Act 2014;
- add proactive release to the intent of the OIA and LGOIMA, simplifying unclear withholding grounds, and better protecting commercially sensitive information;
- address the ongoing machinery of government question raised in the Law Commission reports, and by others, which asks whether there is a need for an Information Authority with statutory oversight functions, and considers whether the Office of the Ombudsman and the SSC have taken on those roles, and the impact of this;
- review and provide a cross-government (including local government) OIA request and response website or a virtual process to achieve that; and
- create a cultural change programme which encourages government officials to apply the new guidance and adopt the open government principles in the OIA and LGOIMA.

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4 Philip Matthews, 'Editorial: There is no excuse for delaying official information,' *Stuff*, 17 June 2017, https://www.stuff.co.nz/the-press/opinion/93759469/Editorial-There-is-no-excuse-for-delaying-official-information.

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7 *Id.*

8 1 News at 6, *TVNZ,* 24 August 2017.

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12 http://www.ssc.govt.nz/official-information-statistics. Note that this site only lists the most recent release.

13 http://www.ombudsman.parliament.nz/resources-and-publications/oia-complaints-data. Six-monthly report

14 *Cabinet Manual: 2017*, Cabinet Office, https://www.dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf, paras 8.14-8.19.

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21 'Editorial: Will a new plan to rescue freedom of information really work?,' The Dominion Post, 24 October 2016, https://www.stuff.co.nz/dominion-post/comment/editorials/85627024/editorial-will-a-new-plan-to-rescue-freedom-of-information-really-work.
22 How agencies will respond to information requests,' State Services Commission, 29 June 2017, https://www.ssc.govt.nz/how-agencies-will-respond-information-requests; 'Tips for requesting official information,' State Services Commission, 29 June 2017, https://www.ssc.govt.nz/tips-requesting-official-information.
23 Steven Price, 21 August 2017, interview with IRM researcher.
24 Internet NZ, 6 September 2017, interview with IRM researcher.
25 The Public's Right To Know: Review of the Official Information Legislation, Law Commission, Recommendations, www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R125.pdf, 124-129.

3. Improving open data access and practices

Commitment Text:

We will enhance access to information by reviewing and strengthening the principles under which New Zealand releases open data and information.

Objective: To review and strengthen the principles under which New Zealand releases open data and information.

Status quo: New Zealand has a set of principles guiding the management of government data and information, including proactive release in reusable formats. But the New Zealand principles lack the 2016 level of specificity in the Open Data Charter for data, and include wider information management principles that are still required.

Ambition: New Zealand has fully modernised and world-leading principles for government-held data and information that provide a strong foundation for open access to data and information, building capability for data reuse, improving the openness of government operations and supporting informed participation by citizens in government decisions through the availability of open data.

Milestones:

- *Review potential adoption of the International Open Data Charter, using public feedback*

- *Review New Zealand Data and Information Management Principles*

- *Determine what principles will guide release of, and access to, New Zealand open data and information, using public feedback*

- *Engage with citizens and government on application of the new/amended open data principles*

- *Implement new/amended open data principles.*

Responsible institution: Land Information New Zealand (Lead from 1 October 2016 – 10 March 2017), Statistics New Zealand (Stats NZ) (Lead from 11 March 2017 onwards)

Supporting institution(s): Department of Internal Affairs

Start date: October 2016

End date: June 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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
3. Improving Open Data Access and Practices				✔	✔	✔				✔			Yes		✔		

Context and Objectives

The Declaration on Open and Transparent Government requires agencies to release high-value public data in accordance with policies such as the New Zealand Government Open

Access and Licensing (NZGOAL) framework and the New Zealand Data and Information Management Principles.[1] In other words, data must be released in open machine-readable formats, and licensed for legal re-use in accordance with NZGOAL. High value public data is non-personal and unrestricted data that agencies' stakeholders and users say they wish to re-use for economic, social, cultural or environmental benefit. This means that agencies' open data release programmes must be based on identified user demand, not on the agencies' own open data release priorities.

New Zealand has consistently scored well in international open data surveys but has scored quite low on implementation (58% according to the Open Data Barometer)[2], partly due to low scores on some of the 15 government datasets assessed internationally by the ODB and the Ministerial and administrative changes affecting New Zealand's Open Government Information and Data Programme.

The Open Data Charter (ODC) was launched at the October 2015 OGP Summit in Mexico. The six principles of the International Open Data Charter (ODC),[3] released in 2015, essentially match and update New Zealand's Data and Information Management Principles, and add principles covering governance and citizen engagement and inclusive development and innovation. They also set out practices and procedures for governments to apply when adopting each ODC principle. But the ODC is limited to data, whereas New Zealand's principles relate to all government-held information and data, including personal and restricted information. Consequently, any work to adopt the ODC requires parallel work to consider the more broadly-based New Zealand Data and Information Management Principles, the Declaration on Open and Transparent Government, and also any possible impact on the New Zealand Government Open Access and Licensing framework.

The problem is to find a solution that embraces the more comprehensive ODC principles and practices and also retains the broader scope and intent of New Zealand's principles for managing government-held information. New Zealanders need certainty they can access all the public information resources held by government, not just data.

This commitment looks at adopting the ODC and determining what will be New Zealand's data and information management principles. Its ambition is to strengthen the principles behind open government data and information release. The activities will be led initially by Land Information New Zealand (LINZ) and then by Stats NZ, following the transfer of New Zealand's Open Government Information and Data Programme in March 2017. While each of these departments is a leader in government data management and release, neither has held responsibility for New Zealand's broader cross-government information management policy and there is now uncertainty about the information policy role of the Department of Internal Affairs. It will be necessary for the departments to bring in information policy experts to assist with the broader policy issues in this commitment and to clarify the responsibility.

The commitment is highly specific and meets the OGP values of access to information and civic participation. The government is improving the quality of the data disclosed to the public by reviewing and strengthening New Zealand's information and data principles. The government also is creating opportunities and capabilities for the public to influence or inform decisions on the ODC and on the content and application of the new or amended principles.

If fully implemented, this commitment would have a minor potential impact. Adopting international data policy and/or updating existing data and information management policy is an incremental change in improve open data access and practices. Updating policy to adopt ODC could potentially act as a major step forward, especially because the ODC principles extend existing policies to improve access to information. For example, Principle Three of ODC releases data 'free of charge,' whereas New Zealand's current policy releases 'reasonably priced' data and information.

However, the IRM researcher codes this variable to be minor and not moderate because the policy update could confuse agencies already applying the broader government policy covering all government-held information. Since 2010, the broader principles and procedures New Zealand currently uses to release data and information have been embedded in many government departments and agencies across central and local government, resulting in widespread release of publications, images, reports, etc. as well as data. Because ODC only applies to data, this update could signal a reverse of data and information management policy, if the volume of data and information disclosed is limited.

Completion

In March 2017, the New Zealand Government Information and Data Programme moved from LINZ to Stats NZ. Between October 2016 and March 2017, there was a period of uncertainty and inaction while the location of the programme was discussed, its new home agreed and the programme transferred. To accommodate this delay, this commitment's timeline was officially changed on 30 June 2017, with the final three commitment activities extended to 31 July 2017, 30 August 2017 and June 2018 respectively.[4] Government explained that the delays were due to 'the reallocation of Ministerial portfolios, budget timing and transfer of the Open Government Data Programme from LINZ to Stats New Zealand in March this year.'[5] Official consultation on the timeline change was set for 16 June to 29 June 2017.[6] The actual period was shorter; consultation was announced via Twitter on 20 June, and on the Open New Zealand discussion list on 26 June, and the final decision made on 30 June. The IRM researcher understands there was minimal feedback from the public which is not surprising given the very short timeline.

The first two commitment activities, to review potential adoption of ODC and to review New Zealand Data and Information Management Principles, have been completed. Government consulted the public widely on the ODC and the New Zealand Data and Information Management Principles in August and September 2016, initially as part of the public engagement process to develop the action plan. One workshop in Auckland and two in Wellington sought public feedback on whether to adopt the ODC. There was an invitation from the responsible Minister to participate,[7] an open call for participation using social media (Twitter), consultations on the New Zealand government website, govt.nz, the Open New Zealand discussion list,[8] and through the avenues used by Engage. Subsequent activities included a teleconference with respondents who could not attend the workshop and online engagement via the Open New Zealand discussion list.

What has not yet been completed as of 30 June 2017 are two actions: a formal decision on adoption of the ODC, which will guide release of and access to New Zealand data and information, and engagement between citizens and government on the application of new open data principles. Stakeholders interviewed by the IRM researcher expressed frustration that they received no acknowledgement of their submissions and that there has been no progress to address matters they raised, such as updating the pricing policy in the New Zealand Data and Information Management Principles to match the 'free of charge' statement in the ODC. Stakeholders are also unclear about which agency has responsibility for leading the wider government-held information policy work.

The adoption of the ODC, determination of any updated principles, engagement with citizens and government, and subsequent implementation of new open data principles will be further reported on in the end-of-term report.

Next Steps

The IRM researcher recommends that this commitment's activities are completed in the remaining period of the action plan. It is assumed that the delay in adopting the ODC is due to the programme's transfer to Stats NZ and changes in Ministerial portfolios, and that an announcement is expected soon after 30 June 2017. With respect to the remaining activities, it is recommended that Stats NZ leads a cross-government information management activity

to determine any changes or updates to the NZ Data and Information Management Principles following approval of the ODC. This would include engagement with government's information management community and citizens on any subsequent changes, using the programme's well-established engagement channels. This would establish consistent practice across the public sector. The finalised principles and their relationship to the ODC would then be presented to government's Information Group[9] for approval ahead of being submitted to Cabinet for approval.

The IRM researcher also recommends a concurrent new activity to clarify the lead agency for developing and updating government-held information and data policy. It is unclear which of government's functional leaders holds this broader responsibility. Stats NZ's role as Chief Data Steward is known but appears to exclude government-held information. For example, while Stats NZ is likely to apply updates of the Open Data Charter, what agency will update the NZ Data and Information Management Principles, and other information policies already approved by Cabinet? When this decision is made, the IRM researcher recommends it be announced publicly as well as across government's own media channels. An example activity could be:

- Clarify the functional leadership responsibility for government and information policy development, including appropriate Ministerial and Head of Profession responsibilities. (Start date: January 2018, End date: June 2018).

1 'Declaration on Open and Transparent Government,' New Zealand Government, 8 August 2011, https://www.ict.govt.nz/guidance-and-resources/open-government/declaration-open-and-transparent-government/.
2 Open Data Barometer, accessed 17 January 2018, http://opendatabarometer.org/?_year=2016&indicator=ODB.
3 'Principles,' Open Data Charter, accessed 17 January 2018, https://opendatacharter.net/#.
4 'What's happening: 2017,' Open Government: New Zealand,' accessed 17 January 2018, www.ogp.org.nz/whats-happening/2017/.
5 Mark Mitchell, 'Stats NZ takes lead on open data,' Scoop Independent News, 3 March 2017, www.scoop.co.nz/stories/PA1703/S00048/stats-nz-takes-lead-on-open-data.htm.
6 'Achieving our Open Data Milestones,' Open Government Partnership: New Zealand, accessed 17 January, 2018, https://www.opengovpartnership.nz/achieving-our-open-data-milestones.
7 'Have your say on New Zealand's open data commitments,' 6 September 2016, New Zealand Government, https://www.beehive.govt.nz/release/have-your-say-new-zealand's-open-data-commitments.
8 'The Open Government Ninjas,' Open New Zealand, accessed 17 January 2018, groups.open.org.nz/groups/ninja-talk/.
9 'Governance and Leadership: Information Group,' New Zealand Government, 4 September 2017, https://www.ict.govt.nz/governance-and-leadership/governance-groups/partnership-framework/information-group/.

4. Tracking progress and outcomes of open government data release

Commitment Text:

We will help government agencies improve public access to, and outcomes of, non-personal, government-held data by openly tracking progress on efforts to open up data stores.

Objective: To help drive the government agency culture change required to gain value from open government data.

Status quo: Open data is not currently managed through a set of consistent or cohesive objectives across government. One result of this is that government agencies have a limited understanding of how and why to address barriers to releasing open data.

Ambition: Government agencies will be knowledgeable about what data they should and should not publicly release and why, how to remove obstacles to reuse, and will be consistently applying these filters to their data holdings. This will increase the amount and quality of data released.

Milestones:

- *Develop an open government data action plan, based on feedback gathered from the open data community and government officials*

- *Publish the action plan*

- *Develop a public dashboard for reporting against the action plan goals*

- *Seek public feedback on the proposed public dashboard*

- *Regularly update the public dashboard on government progress toward the goals.*

Responsible institution: Land Information New Zealand (lead from 1 October 2016-10 March 2017), Statistics NZ (lead from 11 March 2017 onwards)

Supporting institution(s): None specified

Start date: October 2016

End date: June 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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. Tracking Progress and Outcomes for Open Government Data Release				✔	✔	✔		✔			✔		Yes		✔		

Context and Objectives

Shifting New Zealand's government agencies' data release culture to an 'open by default' approach remains a sizeable challenge. While New Zealand has excellent examples of innovative re-use of government's open data and scored 99% in the 2016 Open Data Barometer's potential impact ranking, it only scored 58% for its implementation of government policy.[1] Many agencies still need assistance with incorporating open data release into their daily publishing processes. Perceived obstacles include: a concern that public data must be 100% accurate even when agencies use that same data to deliver their own daily business; that there is no additional budget for preparing the data for publication in open formats; that applying open licensing is difficult; and that there is a risk that personal data will inadvertently be released.

This commitment aims to address these concerns through an agreed open government data action plan developed by the public and government officials, and by monitoring agencies' subsequent progress making their data available. This approach replaces the earlier annual progress reports to Cabinet.

This commitment proposes an online monitoring mechanism which would track efforts to open up data stores and the implementation of an open government data action plan co-created with the public and government officials. This could meet reporting requirements at Ministerial, executive and management level and present a comprehensive online picture of New Zealand's open data progress to a local and international audience. The public dashboard would enable continued feedback from the public on whether government is releasing the high value data anticipated by the Declaration on Open and Transparent Government.[2]

The commitment is highly specific and it is relevant to the OGP values of access to information, civic participation, and technology and innovation. The provision of new information, while often an important pre-requisite for public accountability, is not in itself sufficient for meeting the OGP's public accountability value. A public facing, feedback mechanism is required. Government is disclosing more data in machine-readable formats; it is opening up decision-making to any interested member of the public; it is disclosing performance data; and it is promoting new technologies that offer opportunities for information sharing, public participation and collaboration.

If fully implemented, this commitment would have a moderate potential impact. It is a major step forward in improving implementation of the government's open data policy. It is premised on releasing the high value public data held across the wider public service, including Crown entities and local government, and proposes an action plan and a mechanism to report uptake. On the data supply side, open government data release based on user demand would become a regular business-as-usual activity across the public sector, the quality of the data would be improved, and performance would be monitored. Government officials would have assistance to address concerns about releasing open data, and to increase their data management skills. On the demand side, the public would influence data release priorities and have greater opportunities to re-use and add value to the data.

For this commitment to be transformative, however, the work must extend beyond initial stages and include strategies to maintain Ministerial, executive and management support. The IRM researcher suggests further milestones for regular reporting to Ministers, agency executives and the cross-government Information Group, and reviewing agency uptake of the dashboard mechanism. Also, the commitment should report on agencies' adoption of NZGOAL and the New Zealand Data and Information Management Principles, government's other information and data policies. As written, the commitment only covers non-personal data, not the government-held information that is openly licensed and released for re-use.

Completion

For the same reasons as for commitment three (improving open data access and principles), this commitment's timeline was also officially changed at the end of June 2017, with later completion dates set for all its activities. The first two activities, to develop and publish an open government data action plan, were completed on time. Initial consultation on the content of an open government data action plan took place between June and 30 September 2016.[3] Activity on the commitment dropped until the programme moved to Statistics New Zealand in March 2017. There was a short period of public online consultation on the draft action plan between 21 June and 30 June 2017 with feedback invited on New Zealand's OGP website, via email or on Twitter.[4] An informative update on commitments three and four, published on the OpenNZ discussion list on 26 June, advised that the finalised action plan would be published on 7 July 2017, prompting stakeholder praise.[5] The public stakeholders interviewed by the IRM researcher either had little comment on this activity—they had participated in the development of the action plan and were looking ahead to more implementation details—or they were unaware of the progress.

Progress on the remaining three commitment activities concerning the public dashboard will be covered in the end-of-term report.

Early Results (if any)

Stakeholders interviewed who were aware that the three-year action plan had been released, supported its six focus areas:

- adopt a core set of principles for open government data;
- expand and deepen open data practice;
- make sure the open government data published is truly open;
- harmonise open data, privacy and freedom of information efforts;
- consult data users and prioritise what data citizens and data users want; and
- provide funding, training and support to close the data gap.

Stakeholders would like to see a more detailed timeline with deliverable dates for the lead government agencies. Statistics New Zealand has announced the open data action plan will be updated by 31 October 2017.[6] Any updates will be analysed in the End-of-term report.

Next Steps

The IRM researcher recommends that this commitment is completed in the remaining period of the action plan and that government consider merging the remaining work on action plan commitments three and four as the activities relating to adopting the Open Data Charter have been completed. Based on the 26 June 2017 update referred to above, this would recognise this is one programme of work delivering commitments three and four as part of the broader Open Government Data work programme.

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1 Open Data Barometer, accessed 17 January 2018, http://opendatabarometer.org/?_year=2016&indicator=ODB.
2 ' Declaration on Open and Transparent Government,' New Zealand Government, 8 August 2011, https://www.ict.govt.nz/guidance-and-resources/open-government/declaration-open-and-transparent-government/.
3 https://www.data.govt.nz/blog/open-data-charter/; 'Open Data Charter Consultation Comms Strategy,' Open Government Information & Data Programme, accessed 17 January 2018, https://www.data.govt.nz/assets/Uploads/Open-Data-Charter-Consultation-Comms-Strategy.pdf.
4 'Three-year action plan for open government data,' Open Government Partnership: New Zealand, accessed 17 January 2018, https://www.opengovpartnership.nz/three-year-action-plan-for-open-government-data.
5 'Achieving our Open Data Milestones,' Open New Zealand, accessed 17 January 2018, groups.open.org.nz/groups/ninja-talk/messages/topic/4EMLFLF2nfwLEqDkI5eSJ3.
6 http://www.stats.govt.nz/about_us/what-we-do/our-publications/cabinet-papers/adoption-int-open-data-charter.aspx. Paragraph 36

5. Ongoing engagement for OGP

Commitment Text:

We will build a flexible and enduring platform for engagement between the New Zealand government and New Zealand communities around the Open Government Partnership.

Objective: To ensure that government and communities are able to engage on open government topics using a variety of stable methods – including online platforms and face-to-face meetings and other forums – as part of a wider engagement plan.

Status quo: In facilitating the development of New Zealand's National Action Plan for the OGP, the State Services Commission (SSC) has built an online platform to engage with New Zealand communities, using both government tools and software provided by an independent vendor. The SSC wants to build on this to improve engagement over the life of the next action plan. It is also supported in its work by an independent Expert Advisory Panel and a government officials group. The SSC intends to expand the ways people can get involved over the duration of the plan.

Ambition: The SSC is committed to building a stable, fit-for-purpose platform for New Zealanders to engage with their government, using the technology and channels that people expect to use in a modern society. It will work toward ways of managing NZ's participation in OGP that will reflect a spirit of co-creation with communities.

Milestones:

* *Work with the Department of Internal Affairs to improve government's access to, and use of, digital public engagement tools*

* *Work with the Expert Advisory Panel to decide how best to report on progress against OGP milestones*

* *Engage with New Zealanders to develop the approach to the next plan.*

Responsible institution: State Services Commission

Supporting institution(s): Department of Internal Affairs

Start date: October 2016

End date: June 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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
5. Ongoing Engagement for OGP			✔			✔		✔			✔		Yes		✔		

Context and Objectives

The government offers 'a range of guidance materials to help the public sector engage effectively with the public to increase transparency and support participatory government'.[1] Its online engagement guidance, released in September 2015,[2] is the starting point for agencies. Govt.nz provides a consultation listing for central and local government agencies

and the public.[3] The pilot Government Online Engagement Service (GOES) is the survey software tool built on government's common web platform. Other agencies have their own tools, platforms or processes for engagement with the public.

When developing this action plan, the SSC used two platforms: GOES and the tool used by Engage2. While government used these two existing platforms to broaden the scope of engagement, some stakeholders felt that this approach complicated their ability to engage in the development of the action plan, and others were frustrated by the process for entering multiple submissions and wished to present formal off-line submissions that they had prioritised.[4] There was also a question as to why an external contractor's site was used.[5] All stakeholders wanted ongoing engagement for OGP over a long period, using a variety of mechanisms, two-way communication and feedback—all premised on partnership and co-creation values.

This commitment seeks to reflect 'a spirit of co-creation with communities' when developing and implementing future OGP action plans. The stated ambition is the creation of a stable and enduring platform for New Zealanders to engage with government, 'using the technology and channels that people expect to use in a modern society'. It is led by the influential State Services Commission (SSC) with assistance from the Department of Internal Affairs (DIA). It will also need to work with the Department of the Prime Minister and Cabinet (DPMC) to align government's participation advice with Commitment 7's activities.

The commitment meets the OGP values of civic participation, and technology and innovation. Government is improving opportunities and capabilities for the public to influence decisions and to co-create the next action plan. Technological innovation is planned to advance transparency and accountability, by opening up an interactive information suite of tools for engaging with the public and jointly developing the next OGP commitments.

The specificity of the commitment is medium. While the commitment text is fairly clear regarding the online platform to promote engagement between New Zealand government and communities, the reader must interpret how the listed activities are relevant to the overall objective. For example, the objective lists certain methods for engagement (e.g. online platforms, face-to-face meetings) but the listed activities do not ensure that these methods for engagement will occur. Furthermore, measuring the completion of such deliverables is not straightforward.

If fully implemented, this commitment would have moderate potential impact. A key goal for OGP is hearing from the public. As the data would reflect information about the public, it could be a starting point for wider feedback. It is hoped that a better-informed public can more accurately convey its views. While this commitment could significantly and positively enable co-creation with stakeholders when creating OGP action plans, the commitment text does not indicate whether this platform will be used for other policy areas. While participation and engagement in the OGP process is important, this commitment does not transform government and civil society decision making on big policy issues.

Completion
At the end of the first year of implementation, the SSC has begun the work with DIA to improve government's access to, and use of, digital public engagement tools. DIA has reviewed and analysed government's current engagement process. Their draft review, provided to the IRM researcher on 26 September 2017, but not published in the period of this review, concludes that there is a broader demand for tools that cover a variety of engagement methods e.g. co-design and participatory design. These user-centric methods support better decision-making, more successful policy implementation, social engagement and trust in government. The draft review also pointed out that agencies would value a single source for advice and guidance about consultations and engagement.[6]

The next steps proposed by DIA in the draft review are 'a discovery piece to identify and define options to extend the digital engagement service beyond the present online engagement service (GOES) pilot; and phasing out the GOES software tool in order to 'support 2-way citizen conversation and deliberative participation'.[7] Interviews with the public are planned.

The government has completed work with the Expert Advisory Panel (EAP) to decide how to best report progress of OGP milestones. Officials now report to the EAP using a commonly agreed template, and these reports are published on the OGPNZ website following approval at the preceding EAP meeting.[8]

The activity to engage with New Zealanders to develop the approach for the next action plan was started ahead of its formal start date of October 2017. This was done to enable progress ahead of the 23 September 2017 general election. Government's mid-term self-assessment report states that the SSC has been laying the ground work for developing the next plan by 'gathering insights from key stakeholder groups, building a more dynamic stream of information for NZers', and 'working to secure use of a digital platform for co-production, and neutral consultancy services to facilitate co-production' of the next action plan'.[9] It states that commitment lead officials and the Ministry of Business, Innovation and Employment are meeting regularly and assessing international initiatives such as engagement work by the UK foundation, NESTA. They are looking at how to 'draw in voices beyond the easier to reach 'usual suspects'.

Several stakeholder organisations (HuiE!, CommVoices, Public Service Association, Combined Trade Unions, VolunteeringNZ) have advised the IRM researcher that they are meeting regularly with the SSC ahead of the formal start in October 2017.

The work with DIA on digital tools for better engagement with New Zealanders and the engagement with New Zealanders to develop the approach to the next plan will be further reported on in the end-of-term report.

Early Results
Government's draft review of its current engagement process looks ahead to achieving system-wide transformative change through two-way citizen conversation and deliberative participation. The IRM researcher considers planned interviews 'to ensure that government engagement is genuinely people-centred and it is easier to participate' [10] to be a welcome step.

Some stakeholders interviewed by the IRM researcher find the OGPNZ website difficult to navigate, they want OGP work and progress on the commitments actively publicised through other social media outlets, noting there was little evidence of activities beyond Wellington since the action plan was announced in October 2016. Some seek the ability for a wider group of the public to co-create the next action plan.[11] Others seek inclusion of commitment activities outside of Wellington.[12] They endorse the commitment's activities to use a variety of stable methods and an OGP action plan process based on partnership between government and the public. Some seek a stronger social infrastructure to allow for open communication for civil society groups and for tracking OGP action plan progress,[13] a good, simple and clear platform, not just a holding place for discussion, 'using more bespoke technology designed to support deliberation' and report back to all who deliberated on what was done and why ideas were rejected,[14] and an appreciation of 'co-ownership with the public'.[15] Internet New Zealand advocated for only one platform and asked 'Why build it ourselves?'[16] Some stakeholders are sceptical about government's commitment to co-create the next action plan.

Given the delay in publishing the review, the IRM researcher questions whether the intention to have improved digital public engagement tools by the start date of developing the next action plan (January 2018) is achievable. The SSC has subsequently advised that preparation for the public engagement process to develop the next National Action Plan is

underway. It will utilize digital tools and feed insights developed in the course of this milestone into the planning for the engagement. Milestone one's finish date is June 2018. The SSC has also said that this work isn't tied to the next National Action Plan.[17]

One set of progress reports against OGP milestones has been published at the What's Happening section of New Zealand's OGP website using the format agreed with the Expert Advisory Panel.[18]

Many stakeholders interviewed by the IRM researcher discussed how OGP participation can address the seeming tension between representative democracy and participatory (or deliberative) democracy. They noted that New Zealand's representative system of government requires public participation in decision making and politics and gave examples of requirements for consultation in many New Zealand laws (e.g. Local Government Act, Resource Management Act, Conservation Act) and institutions (e.g. select committees, petitions, freedom of the press). They described deliberative democracy as an approach to particularly difficult issues that complements existing institutions between elections, not as a replacement for representative democracy, and they looked forward to using it to develop the next plan. They sought a two-way OGP communications strategy which includes listening to each group's views so that all gain trust and confidence.[19]

Next Steps

The IRM researcher recommends that this commitment be completed in the remaining period of the action plan and that commitment activities one and three are updated to ensure effective development of the next action plan. These recommendations build on the feedback from stakeholder interviews. For commitment activity one, the SSC should bolster work with the Department of Internal Affairs by selecting a suite of tools and procedures to be used for public engagement across central and local government. For commitment activity three, engaging with New Zealanders should be modified to encompass 'co-creating'. Action plan development should include greater participatory involvement. As for the second and completed commitment activity, the IRM researcher recommends that reporting of each milestone against its end-date is added to the template, to assist with OGP progress reporting.

The IRM researcher also notes that activities foreseen by this commitment are essential for a country to participate in OGP. Therefore, it is advisable for the government to successfully develop an enduring platform as an OGP mechanism to create and implement an effective action plan, and to do this as a regular OGP operational activity rather than including it as an action plan commitment. The IRM assesses the consultation mechanism during development and implementation of the action plan in a separate chapter of the IRM report (see 3.3 Civil society engagement).

1 'Engagement and consultation guidance,' New Zealand Government: Department of Internal Affairs, accessed17 January 2018, https://www.dia.govt.nz/Engagement-and-consultation.
2 'Online engagement,' New Zealand Government Web ToolKit, 24 July 2017, https://webtoolkit.govt.nz/guidance/online-engagement/.
3 'Engaging with government,' New Zealand Government, 27 April 2017, https://www.govt.nz/browse/engaging-with-government/.
4 HuiE!, 5 July 2017, interview with IRM researcher.
5 Jan Rivers, 11 July 2017, Laurence Millar, 7 September 2017, interviews with IRM researcher.
6. 'Review: Government Online Engagement Service (GOES) Pilot,' NZ Department of Internal Affairs, September 2017. Unpublished.
7 *Id*.
8 'Our Progress,' Open Government: New Zealand, accessed 17 January 2018, www.ogp.org.nz/our-progress/.
9 *National Action Plan 2016-18 Mid-term self-assessment*, Open Government Partnership: New Zealand, 2 October 2017, www.ogp.org.nz/assets/publications/New-Zealand-Mid-term-self-assessment-2016-18.pdf.
10. 'Review: Government Online Engagement Service (GOES) Pilot,' NZ Department of Internal Affairs.
11 Cath Wallace and Jan Rivers, ECO, 11 July 2017, interview with IRM researcher.
12 Fuimaono Tuiasau 20 July 2017, interview with IRM researcher.

13 Associate Professor Michael Macaulay, Victoria University of Wellington 12 July 2017; John Hall, Fortress Social Services Charitable Trust Board, 7 July 2017, interviews with IRM researcher.

14 Max Rashbrooke, 16 August 2017, interview with IRM researcher.

15 Miriam Lips, Professor of Digital Government, Victoria University of Wellington, 25 August 2017, interview with IRM researcher.

16 Jordan Carter, Jay Daley and Debbie Monahan, Internet NZ, 6 September, 2017, interview with IRM researcher.

17 Comment from SSC during pre-publication review, 22 December 2017.

18 'Our Progress,' Open Government: New Zealand.

19 Max Rashbrooke, 16 August 2017; Sir Geoffrey Palmer, 25 August 2017; Simon Wright, 31 August; Laurence Millar, 7 September 2017, interviews with IRM researcher.

✪ 6. Improving access to legislation

Commitment Text:

To improve access to legislation by ensuring there is a single source for this information online.

Objective: To improve access to legislation by publishing all subordinate instruments (regardless of who drafts them) on the NZ Legislation (NZL) website. The result will be a single, comprehensive, official, public source of all NZ's legislation.

Status quo: There is no single place where people can see all of NZ's legislation. All Acts of Parliament are published in full on the NZL website. Subordinate instruments (often referred to as regulations) are made under the delegated law-making authority of Parliament. Those that are drafted by the Parliamentary Counsel Office (PCO) are called legislative instruments and are also published in full on the NZL website. Those that are drafted by government departments and agencies, and by other non-governmental bodies, are published either in the Gazette or on a variety of different websites, in newspapers or are not readily available to the public. This has a direct impact on the cost of doing business in NZ, people's ability to comply with the law, and people's rights.

Ambition: We are committed to improving access to legislation – access to the law is central to the rule of law, and people expect easy access to legislation.

Milestones:

- *Consultation and engagement with all involved actors, including all government and regulatory agencies and Crown entities that produce legislation or regulation*

- *Consideration for approval by Cabinet.*

Responsible institution: Parliamentary Counsel Office (PCO)

Supporting institution(s): More than 100 agencies who have delegated power to make secondary legislation

Start date: October 2016

End date: June 2018

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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
✪6. Improving Access to Legislation				✔	✔			✔				✔	Yes			✔	

Context and Objectives

Legislation.govt.nz provides free public online access in open machine-readable formats to up-to-date versions of New Zealand Acts, Bills (proposed Acts), and Legislative Instruments drafted by the Parliamentary Counsel Office (PCO). This legislation scored 95% for openness and dataset quality in the Global Open Data Barometer 2016 survey.[1] Under the PCO's continuing programme to improve access to legislation in New Zealand, the Access to Secondary Legislation Project[2] (originally called the Access to Subordinate Instruments Project) seeks to broaden the coverage of New Zealand's legislation website. It is adding

secondary legislation made under the delegated law-making authority of Parliament, which will provide a single, official, public source for all New Zealand legislation.[3] Typical secondary legislation are most regulations and rules, and many notices, orders, determinations, and warrants.[4] Secondary legislation currently available is published in the New Zealand Gazette or in various newspapers and websites.

This commitment picks up the Access to Secondary Legislation Project which commenced in September 2015. Building on the success of the primary legislation website for the legal profession, business and the public, the government wishes to make central government's secondary legislation equally accessible. Many of these are unavailable in open machine-readable formats or not published at all. Government expects the expanded site will lessen the cost of doing business in New Zealand and improve the ability of individuals and businesses to identify their rights and obligations. Parliament will also use the site to oversee and monitor these instruments. The law will be up-to-date, freely accessible, encourage informed public comment and potentially increase participation in central government work which was previously less visible. By improving public accessibility of New Zealand's secondary legislation this commitment is relevant to the OGP value of access to information.

The New Zealand Law Society considers that this commitment is a progressive development in improving access to legislation and advised the IRM researcher that the Law Society has expressed support for initiatives to improve the identification and publication of secondary legislation. They went on to say that improving access to legislation will have 'considerable consequential benefits in improving the quality of legislative instruments and public confidence in the law-making process'. The Law Society had recommended in 2014 that the Regulations Review Committee 'consider proposing the adoption of a register of legislative instruments ... to ensure enforceability, publicity and notification of legislative instruments'.[5]

This commitment could have a transformative potential impact. At present, only all acts of Parliament and the secondary legislation drafted by the PCO are published on the legislation website. This commitment will add those that are drafted by government departments, Crown entities and statutory bodies under the delegated law-making authority of Parliament and by other non-government bodies, and offer a single site for all users of New Zealand's law. This provides an inherent public good. It modernises practice for all agencies that produce secondary legislation or regulation, significantly improves access for businesses and the public, and changes the traditional process for publishing official notices. In line with the formats for primary legislation, the secondary legislation will be presented in open machine-readable formats, which is a transformative change.

Completion
At the end of the first year of implementation, PCO's consultation and engagement activities with all involved actors are on track. It has completed most of its analysis of the empowering provisions in New Zealand's statute book. PCO advised the IRM researcher that it has researched the empowering provisions for 1831 Acts (out of the total collection of 2095), and completed work to reach a preliminary judgment about which of those provisions empowered the making of legislation (as opposed to merely administrative provisions) for 1575 (out of 2095) Acts. It has also discussed its legal research of their empowering provisions with 23 of the 33 administering agencies. Its next step will be reaching agreement with each government department, Crown entity and statutory body that has delegated law-making authority to publish their instruments with legislative effect on the website. The next step towards full publication is to locate and identify all the secondary legislation that is made under these empowering provisions. To achieve this, the PCO will be encouraging agencies that make secondary legislation to produce a list of all the secondary legislation made by them that is in force. This information will be made available through the NZ Legislation website.

This complex and detailed work illustrates the vast scope of this project — it is changing the production and publication of secondary legislation. The IRM researcher notes that this

activity will continue throughout the project, and that there is at this stage no end date for the project. It is important to note that for the purposes of coding, the IRM researcher assessed level of completion against the end date of the action plan, June 2018.

The commitment activity to submit this work for consideration for approval by Cabinet activity has been completed. In December 2016, Cabinet gave its approval for the Access to Secondary Legislation Project to proceed, and for a bill to be drafted to implement the project. The Legislation Bill was introduced into Parliament on 20 June 2017. It cannot proceed until after Parliament reconvenes after the 23 September 2017 general election and a new legislative programme is drawn up.

Early Results

Government added this commitment to the action plan after the August 2016 co-creation workshop with the support of the EAP, but without any other public engagement. Internet NZ praised the addition of relevant projects to the action plan.[6] The Environment and Conservation Organisation of Aotearoa New Zealand (ECO) felt that the commitment description needed more detail, for example, stating its relationship to the Access to Secondary Legislation Project and the earlier Regulations Review Committee. ECO also sought new milestones to further enable legislation and all other stages.[7]

There is broad support for the commitment. Sir Geoffrey Palmer, former Prime Minister, Attorney General, and Minister of Justice, advised the IRM researcher on 1 September 2017 that 'Commitment 6 is excellent work. Access to the law is fundamental'. Fuimaono Tuiasau, an Expert Advisory Committee member, stated that 'the legislation commitment makes it easier for the average punter to understand—for example, making building a fence is made simpler'.[8]

At this early stage, only the impact on contributing agencies can be assessed. PCO, when speaking with the IRM researcher, has praised the willing, forthcoming, and supportive response from all agencies. PCO went on to say, 'They have actively engaged with the analysis we have produced, and shown a strong desire to ensure that a mutually agreed view is formed on the instruments that are considered to be secondary legislation'.[9] The IRM researcher interviewed three agencies that are pilot agencies or are working on putting the regulatory frameworks in place. They essentially endorsed this statement, with one agency testing the proposed drafting template commenting that it is 'wonderfully user-friendly'.[10]

Next Steps

The IRM researcher recommends that this commitment is retained in future action plans until it is fully completed. New activities for this commitment will need to be outlined, such as promoting the Legislation Bill and subsequent legislation through Parliament, testing new technologies with the drafters of the instruments, and seeking users' comfort with the new format of the published instruments. The IRM researcher also recommends that the scope of the commitment be extended to cover local authorities that produce legislation or regulation under the delegated law-making authority of Parliament. Linking to or cooperating with the NZLII site[11] would create a single online platform for statute law, case law, law commission reports and other relevant legal resources. The IRM researcher also recommends that the PCO work closely with the Department of Internal Affair's Service Innovation team's work on computational legislation.[12]

1 'Country Detail: New Zealand,' Open Data Barometer, 2016, opendatabarometer.org/4thedition/detail-country/?_year=2016&indicator=ODB&detail=NZL.
2 'Access to Secondary Legislation Project news,' Parliamentary Counsel Office, December 2017, www.pco.govt.nz/access-project-news/#20june2017.
3 A list of drafting agencies may be accessed at http://www.pco.govt.nz/drafting-agencies/. Note that the 78 local authorities are excluded from this project.
4 'About legislation,' Parliamentary Counsel Office, accessed 17 January 2018, www.pco.govt.nz/about-legislation/.
5 NZ Law Society, e-mail to the IRM researcher, 12 September 2017.

6 Jordan Carter, Jay Daley and Debbie Monahan, interview with the IRM researcher, 6 September 2017.
7 Cath Wallace and Jan Rivers, Environment and Conservation Organisation of Aotearoa New Zealand interview with the IRM researcher, 11 July 2017.
8 Fuimaono Tuiasau, telephone interview with IRM researcher, 20 July 2017.
9. 'Quarterly report on Commitment 6, June to August 2017,' Parliamentary Counsel Office, Unpublished, 23 August 2017.
10 Inland Revenue, Treasury and Land Information New Zealand, interviews with IRM researcher on 22 and 25 September 2017.
11 New Zealand Legal Information Institute, http://www.nzlii.org/.
12 https://webtoolkit.govt.nz/blog/2017/11/policy-legislation-and-service-innovation/.

7. Improving policy practices

Commitment Text:

We will improve knowledge of tools and techniques policy makers can use to create more open and user-led policy.

Objective: To ensure that policy advice to government is better informed by insights from those most affected by government policy and programmes, by input from diverse points of view, and by data and evidence.

Status quo: Commitments to consult interest groups have long been part of NZ policy making – for example, it is written into NZ's CabGuide (Guide to Cabinet and Cabinet Committee Processes) and regulation analysis practices. We can improve consultation practices, for example, by exploring digital tools and evolving fit-for-purpose participatory decision-making practices. There is also an array of new approaches, to engage directly with 'customers', or those that will be affected by government decisions, that can add value to the design of policy and subsequently deliver greater public value.

Ambition: We will create accessible, easy-to-digest guidance material on: being an 'intelligent customer/user' of data and evidence; methods for gathering and generating insights from others, particularly those directly affected by policy and public services; using collaborative approaches, so that policy is informed by a broad range of input and expertise and meets user needs; testing and improving policy and services with citizens-as-users.

Milestones:

- *Map evidence and insights ecosystem, existing practice, expertise and guidance sources*
- *Test buy-in and support for all-of-government guidance*
- *Design prototype and refine the format of the guidance for optimal usability*
- *Co-produce contents with, and for, the government policy community*
- *Launch and commence change management and communications campaign.*

Responsible institution: Department of the Prime Minister and Cabinet

Supporting institution(s):   Other policy making departments

Start date: October 2016

End date: June 2017

Commitment Overview	Specificity				OGP Value Relevance				Potential Impact				On Time?	Completion			
	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
7. Improving Policy Practices				✔		✔				✔			Yes			✔	

Context and Objectives

The Chief Executive of the Department of Prime Minister and Cabinet (DPMC) is New Zealand's Head of Policy Profession. This role is responsible for improving the policy system,

i.e., capabilities, systems, and methods. He leads the Policy Project which was established in 2014 to improve the quality of policy advice across government and focuses on building a high performing policy system that supports and enables good government decision making. There are active professional programmes for policy leaders, policy managers and policy practitioners.[1] Three policy frameworks covering policy capability, policy quality and policy skills have been co-designed with government policy communities.[2] Although the policy capability framework has an 'engagement customer-centric' focus,[3] the framework for creating user-led policy is mostly covered outside their frameworks using the policy methods toolbox.

This commitment, a sub-project of the Policy Project, states that it will improve knowledge of the tools and techniques policymakers can use to create more open and user-led policy. The intent is to build on existing consultation commitments set out, for example, in the *CabGuide: Guide to Cabinet and Cabinet Committee Processes,[4]* and regulation analysis practices. These existing commitments relate primarily to the consultation required for Cabinet Papers.[5] This commitment is relevant to civic participation. By creating easily accessible and understandable guidance material, the commitment will address the broader operating space that enables participation in civic space and educate policymakers in creating user-led policy. It is not intended to contain any public-facing element of disclosure of information, or to hold government officials publicly accountable. The commitment's ambition is to create accessible, easy-to-digest guidance material for internal government policymakers on: using data and evidence in policy development; gathering and generating user insights for policy development; and improving the understanding of methods for involving the public in policy development.

The specificity of the commitment is high. Over nine months, the project will research and map existing approaches, design the format of the guidance, and prepare and publish it. All listed deliverables are clear and can be measured.

The IRM researcher considers that achievement of this commitment would have a minor potential impact for stakeholders. Its aim to add new approaches to those set out in the *CabGuide* by, for example, engaging 'directly with "customers" or those that will be affected by government decisions', is a major step toward creating a framework for creating user-led policy. The commitment is also led by the Department of Prime Minister and Cabinet (DPMC), in partnership with deputy chief executives with policy responsibilities from across government. Improved policy practice and DPMC's and senior executive's leadership are both factors which would indicate a greater level of potential impact.

However, the Government added this commitment to the action plan after the August 2016 co-creation workshop with the support of the EAP, but without any other public engagement. While it is necessary for government policy development to have an internal focus, the guidance will not be developed collaboratively nor tested with those with whom it wishes to engage. There is significant risk that it will not gain the public's trust and confidence. While stakeholders were pleased to see a commitment focused on improving policy methods, all questioned its inclusion in the action plan, because of its lack of a public-facing element. Another stakeholder noted its actions as being very removed from its outward-looking ambition statement. Furthermore, the use of the term 'customers' in an open government commitment text is also of concern as it suggests a business rather than citizen relationship even if unintentionally. The IRM researcher has, therefore, concluded that this commitment has only minor potential impact.

Completion
The March – May 2017 progress report to the Expert Advisory Panel (EAP) reported progress has been made on the delivery of an online policy toolkit. It stated that the toolkit is being designed to provide a number of web-based products for policy practitioners; that it has been built with users to ensure it is approachable and easy to use; that a method of ensuring information is kept up-to-date post-launch has been confirmed, with a wiki-style

approach to authorship agreed.[6] The IRM researcher notes that the users assisting with the build of the policy toolkit are all government policy officials, not potential external contributors to policy development.

The end-of-term report will assess the online policy toolbox, its uptake and the impact of this commitment.

The Clerk of the House of Representatives has advised the IRM that "there is significant potential for the implementation of this commitment to result in better law-making". He reports that "during its 2017 review of the Standing Orders of the House of Representatives, the Standing Orders Committee (2017, I.18A at 25) supported my proposal to collaborate with central agencies to identify ways that pre-introductory policy and consultation processes by Government agencies could align more closely with the House's consideration. The purpose of this work would be to inform the development of proposals for rewarding good pre-legislative policy-making, which could provide tangible incentives for Government departments to adopt an inclusive approach to policy development. Currently the short three-year parliamentary term does not necessarily encourage Governments to take the time to consult and collaborate with civil society when developing legislative proposals. Work on this area may well align with the Commitment 7 work-stream deliverables."[7]

Next Steps
The IRM researcher recommends that this commitment be extended to June 2018 and the following new activity added:

- Test the guidance in the policy toolbox with stakeholders by June 2018 using the same process by which commitment five's online engagement guidance is tested.

Engaging with the wider public throughout the country and developing elements of public facing and government official accountability into this Commitment would start to address the concerns of stakeholders who question its eligibility to be part of a National Action Plan. For example, Transparency International New Zealand "urges DPMC to engage with the wider public throughout the country as a means of developing this important initiative into a commitment eligible to be part of a National Action Plan. It urges DPMC to develop elements of public facing and government official accountability into this Commitment".[8]

For the next action plan, the IRM researcher recommends the following:

- Collaboratively develop standards for public participation in developing future policy and develop capacity for the public to provide feedback on proposed policy as it is being designed.

This new work could use the enduring public engagement platform being developed by Commitment 5 and complete the stated objective of this commitment: 'To ensure that policy advice to government is better informed by insights from those most affected by government policy and programmes, by input from diverse points of view, and by data and evidence.'

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1 'The policy community,' Department of the Prime Minister and Cabinet, accessed 17 January 2018, https://www.dpmc.govt.nz/our-programmes/policy-project/policy-community.
2 'Policy improvement frameworks,' Department of the Prime Minister and Cabinet, accessed 17 January 2018, https://www.dpmc.govt.nz/our-programmes/policy-project/policy-improvement-frameworks.
3 'Policy capability,' Department of the Prime Minister and Cabinet, accessed 17 January 2018, https://www.dpmc.govt.nz/our-programmes/policy-project/policy-improvement-frameworks/policy-capability.
4 'CabGuide,' Department of the Prime Minister and Cabinet, accessed 17 January 2018, https://www.dpmc.govt.nz/publications/cabguide.
5 'CabGuide: Cabinet paper consultation with interest groups,' Department of the Prime Minister and Cabinet, accessed 17 January 2018, https://www.dpmc.govt.nz/publications/cabinet-paper-consultation-interest-groups.

6 'Commitment 7: Improving policy practices,' Open Government: New Zealand, May 2017, www.ogp.org.nz/assets/publications/2017-reporting-progress/commitment-7-2017-March-to-May.pdf.
7 Clerk of the House of Representatives. Open Government Partnership - Clerk's comments on Mid-term 20162018 report; submitted to the OGP IRM, 4 February 2018.
8 Transparency International New Zealand. Submission to the OGP on the draft OGP IRM New Zealand Progress Report 2016-18.

V. General Recommendations

Starting the development of the third national action plan immediately after the September 2017 general election provides a singular opportunity to pursue open government issues identified by external stakeholders. Under the new administration, it is critical that the government actively collaborates with the public in the development of the next action plan, broadens participation in the OGP process, and includes ambitious commitments on access to information, whistleblower protection, company beneficial ownership, citizenship education and other priority issues.

This section aims to inform development of the next action plan and guide completion of the current action plan. It is divided into two sections: 1) those priorities identified by civil society and government while contributing to this report and 2) the recommendations of the IRM.

5.1 Stakeholder Priorities

In the current action plan, tangible OIA compliance, routine public participation in government policy making, and more access to public information and data were the most important themes. Stakeholders want commitments one through six carried forward and new public participation activities set for commitment seven.

Stakeholder priorities for future action plans include the following areas:

Increase funding of the OGP programme in NZ
- Create a dedicated allocation for the OGP programme within the SSC budget;
- Increase the budget to provide funds to enable regular and effective communication and interaction with civil society and to develop future co-created action plans;
- Develop mechanisms for incentivising the public and civil society organisations to contribute to developing and implementing OGP action plans. Most are currently unable to redirect limited resources to pursuing new unfunded activities such as work on OGP action plans;

Improve Access to Information Legislation and Practice
- Extend the Official Information Act (OIA) to parliamentary bodies;
- Introduce new online tools to modernise OIA request and response practice for the public and for government agencies;
- Implement the remaining recommendations in the Ombudsman's OIA report *Not a Game of Hide and Seek;*

Improve Public Participation in Budgetary Matters
- Introduce new public engagement practices during the government's development of the annual Budget Policy Statement and the annual Budget before they are submitted to Parliament, by inviting public input on fiscal strategy and fiscal policies, facilitating more external expert and general public deliberation on these issues, summarising and responding to public inputs, and by government responding to submissions made to the Finance and Expenditure Committee on the Budget Policy Statement;
- Expand public participation in annual Budget development by piloting participatory budgeting in central or local government to encourage greater democratic engagement in and understanding of government and of budget creation;
- Publish actual Budget expenditure details. This information is hard to find if not been made available following Select Committee scrutiny of government agencies' expenditures;
- Strengthen transparency and accountability for public procurement by releasing details of government's procurement contracts;

- Review clauses in standard procurement and funding contracts to sanction recipients' ability to make public comment

Other accountability mechanisms:
- Strengthen whistleblowing legislation;
- Introduce citizenship education to increase youth and adults' understanding of democracy and to explain the relationship between the law and themselves;
- Through case studies and training activities, illustrate how open data encourages transparency and openness through business and community involvement in government decision-making; and
- Introduce a commitment to the online publication of all Ministers' diaries.

As for improving the OGP process, the public would like to improve the co-creation process—within and outside of Wellington—by establishing relationships among the government, CSOs, and the general public early in the development of national action plans. Stakeholders expect the government to publish the timetable for participation and co-creation widely and well in advance of the commencement date. They want the process to include dialogue with government about the public's role in finalising the commitments, and they want the government to work with civil society organisations to implement commitments jointly. This has been an established practice in the New Zealand for its last two action plan cycles, but it requires further improvement and a commitment to co-creation.

5.2 IRM Recommendations

NZ's second national action plan focuses mainly on improving government practice in the realm of access to information. The IRM researcher identifies specific content recommendations to build on this current action plan, recommendations to enhance civic engagement in the overall OGP process, and recommendations to address ongoing open government issues which previous plans have avoided.

The IRM researcher supports the government's proposal, expressed by email from the State Services Commission to the IRM on 22 December 2017, that 'the national action plan would be more representative of a partnership approach if civil society also entered into commitments either on its own or in partnership with government'. The recommendations which follow provide a starting point for that discussion with the public, including how to achieve this result successfully from the perspectives of the government, government officials and civil society. This would include aligning new activities with open government objectives as well as completing current commitments.

Expand the Expert Advisory Panel to include greater civil society representation

As stated in Section III of this report, there is not enough evidence that the Expert Advisory Panel (EAP) has adequately fulfilled its role as a forum to enable regular multi-stakeholder consultation on OGP implementation. While the EAP was involved in the development and implementation of the 2016-2018 action plan, there is no evidence that the EAP is seeking out the views of other CSOs or the general public when conducting its activities. This goes against the co-creation spirit of OGP .

Although the EAP should continue its work beyond June 2018, the IRM researcher recommends the EAP's current Terms of Reference be amended to add civil society representatives elected by civil society and to ensure that all EAP members undertake regular OGP engagement with the public. This will provide a broader civil society voice than at present and broadcast government's public engagement commitment. Membership within the EAP should also be regularly rotated and include people who can advise on online access requirements for those with disabilities. The EAP could consider and recommend to Government what incentives could be offered to encourage the broader civil society voice.

This would require an increased budget and resources for implementing NZ's OGP activities, assisting civil society to contribute, and increasing the profile of OGP in NZ.

Reform official information laws and refocus the Open Data and Information Programme to publish social, environmental, and budget expenditure data

Commitments on access to information and open data practices have been a focus of New Zealand national action plans. While New Zealand traditionally has had high Global Right to Information (RTI) ratings, Section II of this report clearly demonstrates how the Official Information Act 1982 (OIA) has been criticized for allowing government agencies to delay information requests, for requiring fees and for excluding some parliamentary information. Due to these criticisms, reforming information laws is a top priority for the new Government. The IRM researcher recommends the following actions when amending the OIA:

- Align OIA eligibility for requests with eligibility of the Local Government Official Information and Meetings Act 1987 (i.e. removing the residence and citizenship requirements to make a request);
- Apply the OIA to certain parliamentary information, excluding Members of Parliament's constituency work;
- Add proactive release to the OIA protection against certain actions (§48);
- Amend the OIA withholding grounds (§6) to make them subject to a public interest override;
- Extend the scope so the OIA applies directly to private organisations providing public services under contract; and
- Provide the Ombudsman with powers to specify what kinds of information government agencies should proactively publish.

The Open Government Information and Data Programme makes public government-held information for people, communities, and businesses to reuse. While this and the first action plan have addressed open data access and practices, the IRM researcher recommends that the next action plan also include commitments on open data and focus on identified user demand. This should include regular open format publishing of government's open and aggregated social (including housing) data, as anticipated in the previous IRM researcher's recommendation three and go some way towards addressing the previous Government's decision to stop publishing *The Social Report*. Reporting on environmental outcomes should also continue, and reporting on actual budget expenditure and public procurement contracts should be expanded, as suggested during consultation on the first and second action plans. As these datasets are assessed annually in the Open Data Barometer (ODB), this activity may also improve the government's low ODB implementation score (currently only 58%).

Develop standards for public consultation on policy initiatives

The previous IRM researcher recommended that the NZ government 'create a set of robust and government-wide practices in collaboration with civil society concerning timely consultation on new bills, regulation, and policy'.[1] As mentioned in Section III, this recommendation was not addressed, nor was it integrated into the current action plan. The IRM researcher recommends the NZ government co-create, adopt, and implement government policy to set out minimum standards for public consultation on policy initiatives and changes to service delivery. This policy should draw on international standards as articulated by the International Association for Public Participation (IAP2).

The next action plan should set a strategic goal to raise its IAP2 level from the present 'involve' or 'consult' to 'collaborate'. This could be fully realised over the third and fourth action plans.

The 2018-2020 action plan could include milestones to:

- trial new approaches to public engagement in policy making, linking the current commitments 1, 5, and 7. This would move beyond the internal focus of commitment 7; look to developing the next OGP Action Plan (commitment 5); and progress realising the vision for commitment 1 (open participatory budgeting). It could bring together the currently somewhat unconnected OGP activities involving the three central agencies (Department of Prime Minister and Cabinet, the State Services Commission, and the Treasury) and the Department of Internal Affairs;

- review NZ and international experience in direct public engagement in public policy design and implementation (including the innovative use of new ICT tools to facilitate two-way interactions and deliberation).

Include anti-corruption commitments in the next action plan

Reform whistleblowing laws to increase awareness and protections for whistleblowers

Despite previous IRM recommendations, commitments on whistleblower protection have been largely absent. As noted in Section II of this report, there is public concern regarding insufficient protections for whistleblowers. While some consequential work on the Protected Disclosures Act (2000) has followed the recent whistleblower investigations in 2016, it is essential that the NZ government complete its review. Specifically, the NZ government could reform the current whistleblowing law to address the current barriers people face when raising public interest concerns and make the law itself easier to access and understand.

Take measures to establish a public central register of company beneficial ownership

It has been a year and half since New Zealand attended the Anti-Corruption Summit in London. Compared to other countries in attendance, New Zealand is falling behind in its commitments.[2] A particular shortcoming is the Government's progress on developing a central public register of beneficial ownership. As mentioned in Section II, an important issue facing New Zealand is the exploitation of foreign companies and trusts by corrupt officials, tax evaders, etc. Including this issue in the next action plan will bolster New Zealand's anti-corruption efforts, which do not currently include a strategy for making a company beneficial ownership register public. A wider, public database of beneficial owners of companies and trusts will save costs and prevent corruption.

Introduce citizenship education to increase democratic participation

As described in Section II, there is recent evidence that public distrust of government is growing and that voter participation in elections is declining. At the 2016 local and 2017 general elections, citizen-led groups initiated online and social media activities to encourage young and first-time voters to engage directly with issues. Government also hosted a Civics, Citizenship and Political Literacy workshop on 10 October 2016 in the Legislative Council Chamber at Parliament to listen to different perspectives and discuss next steps towards a civically engaged New Zealand.[3] Ongoing work with the Civics, Citizenship and Political Literacy Working Group has involved the Ministry of Education and the Electoral Commission.[4] This work anticipates changed government practice, in particular, through developing citizenship education, supporting teaching and learning and working actively to mitigate public distrust in government. This kind of government initiative could lead to greater citizen participation and to increased democratic practice. It could build on the Aotearoa Youth Declaration developed in 2017 by UN Youth New Zealand.[5]

The IRM researcher recommends government expands its work with these groups. The very first step would be for central government to commit to working with youth, ethnic groups, and local government to develop this commitment and its milestones.

This work could build on existing initiatives such as the October 2016 Civics, Citizenship and Political Literacy workshop, and could focus on a sub-national project in South Auckland, with specific goals for government and the community to improve voter participation in the 2019 local government elections.

Commitments could be developed for the 2018-2020 and 2020-2022 action plans. As well as the suggested sub-national project in South Auckland, early measurable commitments could include:

- producing and publishing a Citizens' Guide to the Budget (led by Treasury). This would be a good early practical example of 'citizenship education', by aiming to attract the interest of secondary school teachers of social studies, economics, accounting and related subjects to use it to teach this core component of citizenship in the classroom;

- reviewing the citizenship education currently in the school curriculum and developing new and expanded content. The outcome of this could in turn be a further commitment in the 2020-2022 Action Plan to implement (some of) the review's findings.

Table 5.1: Five Key Recommendations

1	Expand the Expert Advisory Panel to include greater civil society representation
2	Reform official information laws and refocus the Open Data and Information Programme to publish social, environmental, and budget expenditure data
3	Develop standards for public consultation on policy initiatives
4	Include anti-corruption commitments in the next action plan, covering whistleblower protection and a public register of company beneficial ownership
5	Introduce citizenship education to increase democratic participation

1 *New Zealand End-of-Term Report 2014-2016*, Open Government Partnership, 2017, https://www.opengovpartnership.org/documents/new-zealand-end-of-term-report-2014-2016.

2 Suzanne Snively, 'Public register of beneficial owners saves time and money,' Transparency International, 5 October 2017, https://www.transparency.org.nz/public-register-of-beneficial-owners-saves-time-and-money/.

3 Sally Hett, 'Civics, Citizenship and Political Literacy workshop report back,' McGuinness Institute, 25 November 2016, www.mcguinnessinstitute.org/civicsnzproject/civics-citizenship-and-political-literacy-workshop-report-back/.

4 'Civics, Citizenship & Political Literacy Working Group: About,' New Zealand Political Studies Association, accessed 17 January 2018, https://nzpsa.co.nz/civics-citizenship-and-political-literacy.

5 https://unyouth.org.nz/event/aotearoa-youth-declaration/detail/?q=the_youth_declaration_2017.

VI. Methodology and Sources

The IRM progress report is written by researchers based in each OGP-participating country. All IRM reports undergo a process of quality control 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 organizations.

Each IRM 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.) Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each report.

Each report undergoes a four-step review and quality-control process:

1. Staff review: IRM staff reviews the report for grammar, readability, content, and adherence to IRM methodology.

2. International Experts Panel (IEP) review: IEP reviews the content of the report for rigorous evidence to support findings, evaluates the extent to which the action plan applies OGP values, and provides technical recommendations for improving the implementation of commitments and realization of OGP values through the action plan as a whole. (See below for IEP membership.)

3. Prepublication review: Government and select civil society organizations are invited to provide comments on content of the draft IRM report.

4. Public comment period: The public is invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.[1]

Interviews and Focus Groups

Each IRM researcher is required to hold at least one public information-gathering event. Researchers should make a genuine effort to invite 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 is provided in the self-assessment or is accessible online.

The IRM researcher initially sought interested participants via social media (Twitter, Facebook, and the OpenNZ discussion list) on 9 July 2017, then held 28 face-to-face meetings and interviews, eight telephone or online conversations, and six email conversations between 30 May 2017 and 29 September 2017. She spoke with 18 civil society representatives or groups, five academics, seven private sector representatives, 10 government agencies and attended one meetings with the Ombudsman, an independent authority. She received formal submissions from the NZ Law Society and the National Council of Women. She held regular email conversations with the SSC, the agency with lead

responsibility for the action plan. She directly contacted 16 commentators on New Zealand's budget with respect to Commitment 1.

The following criteria were applied when selecting national level stakeholders:

- They had made submissions during the development of previous action plans;
- They presented regularly to Parliamentary select committees;
- They were regularly meeting with government to participate in future OGP work; and
- They were key stakeholders for specific commitments.

She also presented to the Aorangi Club, Auckland (approximate attendance of 120) on 18 July, and attended a presentation by the Ombudsman, Judge Peter Boshier, on 25 July at which she asked OGP-related questions.

Each meeting was documented in a spreadsheet or separate report and then used for the progress report, with many quotations from stakeholders.

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 an 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

- César Cruz-Rubio
- Hazel Feigenblatt
- Mary Francoli
- Brendan Halloran
- Hille Hinsberg
- Anuradha Joshi
- Jeff Lovitt
- Fredline M'Cormack-Hale
- Showers Mawowa
- Ernesto Velasco

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

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1 IRM Procedures Manual, V.3: https://www.opengovpartnership.org/documents/irm-procedures-manual.

VII. Eligibility Requirements Annex

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.[1] When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

In September 2012, OGP officially encouraged governments to adopt ambitious commitments that relate to eligibility.

Table 7.1: Eligibility Annex for New Zealand

Criteria	2011	Current	Change	Explanation
Budget Transparency[2]	4	4	No change	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to Information[3]	4	4	No change	4 = Access to information (ATI) Law 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration[4]	4	4	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (10.00) [5]	4 (10.00) [6]	No change	*EIU Citizen Engagement Index* raw score: 1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total / Possible (Percent)	16/16 (100%)	16/16 (100%)	No change	75% of possible points to be eligible

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1 For more information, see http://www.opengovpartnership.org/how-it-works/eligibility-criteria.

2 For more information, see Table 1 in http://internationalbudget.org/what-we-do/open-budget-survey/. For up-to-date assessments, see http://www.obstracker.org/.

3 The two databases used are 'Constitutional Provisions' at http://www.right2info.org/constitutional-protections and 'Laws and draft laws' at http://www.right2info.org/access-to-information-laws.

4 Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, 'Disclosure by Politicians,' Tuck School of Business Working Paper 2009-60, 2009, http://bit.ly/19nDEfK; ''*Government at a Glance 2009*, Organization for Economic Cooperation and Development, 2009, http://bit.ly/13vGtqS, 132; Ricard Messick, 'Income and Asset Disclosure by World Bank Client Countries' World Bank, 2009, http://bit.ly/1clokyf. For more recent information, see http://publicofficialsfinancialdisclosure.worldbank.org. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and de facto public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at http://bit.ly/1EjLJ4Y.

5 '*Democracy Index 2010: Democracy in Retreat*,' The Economist Intelligence Unit, 2010, http://bit.ly/eLC1rE.

6 '*Democracy Index 2014: Democracy and its Discontents*,' The Economist Intelligence Unit, 2014, http://bit.ly/18kEzCt.