

Independent Reporting Mechanism (IRM): New Zealand Transitional Results Report 2018–2021

This report was prepared in collaboration with Keitha Booth, independent researcher.

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I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their progress and determine if efforts have impacted people's lives.

The IRM has partnered with Keitha Booth, an independent researcher, to carry out this evaluation. The IRM aims to inform ongoing dialogue around the development and implementation of future commitments. For a full description of the IRM's methodology, please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

This report covers the implementation of New Zealand's 3rd action plan for 2018–2021. In 2021, the IRM is implementing a new approach to its research process and the scope of its reporting on action plans, approved by the IRM Refresh.¹ The IRM adjusted its implementation reports for 2018–2020 action plans to fit the transition process to the new IRM products and enable the IRM to adjust its workflow in light of the COVID-19 pandemic's effects on OGP country processes. New Zealand extended the completion date for its 2018–2020 action plan to June 2021 to accommodate delays caused by the COVID-19 pandemic in 2020.

¹ For more information, see: <https://www.opengovpartnership.org/process/accountability/about-the-irm/irm-refresh/>.

II. Action Plan Implementation

The IRM Transitional Results Report assesses the status of the action plan's commitments and the results from their implementation at the end of the action plan cycle. This report does not re-visit the assessments for "verifiability," "relevance," or "potential impact," which the IRM assesses in IRM Design Reports. For more details on each indicator, please see Annex I in this report.

2.1 General Highlights and Results

New Zealand's third action plan (2018–2021) of twelve commitments focused on public participation to develop policy and services, transparency, and accountability. The plan was initially designed for two years but extended to June 2021 to accommodate COVID-19 delays in 2020. The extra year¹ saw some staff reassigned to pandemic-related work. It gave implementing government institutions time to rethink, revise, and complete commitments, and improve the co-creation and monitoring processes.

Nine of the twelve commitments were fully or substantially completed (75%) and three are still underway. This completion rate is lower than the previous action plan (2016–2018), in which all seven commitments were fully or substantially completed. Completed commitments represent mostly core business work with executive management support, dedicated resources, and funding. All government commitment leads worked actively toward completion of their commitments.

While most milestones were completed at the time of writing this report, only one commitment made a major change to government practice. This result is similar to the previous action plan, where commitments made only marginal or no progress in opening up government practice at the time of their review. Under the current action plan, much of the work completed was foundational, setting the groundwork for future change and more ambition in the forthcoming action plan.

Commitment 1 produced major early results in improving the visibility of online parliamentary hearings. Five other commitments produced marginal early results, including two commitments identified as noteworthy in the Design Report (Commitments 4 and 8). These included: setting the groundwork for better public access to secondary legislation (Commitment 4), community engagement guidance (Commitment 5), progress on the Algorithm Charter (Commitment 8), as well as opening government-awarded contracts' data (Commitment 12). Commitment 7 saw progress in increasing public access to cabinet papers, and more agencies completing Official Information Act (OIA) responses. However, public concerns about the consistency of OIA compliance continue and new legislation includes secrecy clauses that override the OIA.

Implementation of the other commitments faced obstacles. The commendable but slow progress on both the service design assessment (Commitment 6) and an authoritative dataset of government organisations (Commitment 11), which was assessed as having transformative potential impact, is due to the dedication and ability of individual staff. Despite government officials, business, and civil society seeing the authoritative dataset as transformative for digital government service delivery,² this project was hindered by a lack of technical capacity and executive support.³ It typifies the difficulties that many of New Zealand's (NZ) small cross-government projects have experienced.⁴

The government's OGP Expert Advisory Panel (EAP) continues to be New Zealand's multistakeholder forum. However, it has only one government member and seven civil society members, and the body has only an advisory role on the country's OGP process. The IRM Design Report noted its uneven civil society-government structure. The report suggested revising the EAP mandate to clarify its role and adjust practices to meet OGP co-creation and participation standards. It also suggested expanding the reach of civil society membership in the EAP. It now has seven civil society members which is a little more representative of New Zealand society than during co-creation of the plan. The number of government members has not changed. The EAP has made commendable progress in initiating more interaction with and support for government officials as they progressed their commitments.

Civil society stakeholders interviewed for this report note that the main priority since June 2020 has been completing commitments. They are concerned about the regularly late publication of progress reports and EAP minutes on NZ's OGP website over 2018–2021 and seek clarity about what OGP work will take place between the completion of this action plan and the release of the next action plan planned for August 2022. They applaud the collaborative work in 2021 between the EAP, civil society, government officials, and the Minister for the Public Service to co-create a more ambitious 4th action plan.⁵ They look forward to a plan that will bring about the major changes in civic participation, public accountability, and transparency sought by civil society since 2013 when New Zealand joined the OGP.⁶ There is an opportunity to emulate the success of democracies such as Australia that have fully co-created national action plans.

2.2 COVID-19 Pandemic Impact on Implementation

The COVID-19 lockdown between 25 March and 13 May 2020 forced delivery of New Zealand's government services online and directly changed or stopped three commitments. For all commitments, face-to-face engagement with the public ceased, and some staff were reassigned temporarily to COVID-19 recovery work.

The Ministry of Education's urgent work to increase digital connectivity and provide resources for home-based learning stopped Commitment 3's digital-badge work and affected teacher training on the School Leavers' Toolkit. Likewise, the Ministry of Business Innovation and Employment's COVID-19 work forced the shelving of Commitment 12's plans to release a dataset compliant with Open Contracting Data Standard (OCDS). Resourcing issues for Commitments 6, 9, and 11 were compounded as staff were reassigned for COVID-19 recovery work, which delayed progress.

On the other hand, enabling online engagement with Parliament became the top priority for Commitment 1. This followed the deferral of parliamentary business in the House during the lockdown and the creation of a specially established Epidemic Response Committee that deliberated on the government's management of the COVID-19 epidemic. The committee's deliberations were live-streamed⁷ and broadcast on the regular Parliamentary TV channel.⁸ A senior Parliamentary Press Gallery journalist reported "impressive (almost literally) overnight efforts" to make sure select committees could be televised and "seismic" work to televise Parliament's Epidemic Response Committee in 2020 and the various televised Parliamentary oversight committees subsequently in August/September 2021.⁹ As a result, live-streaming is now funded for parliamentary select committees,¹⁰ and work is underway to fully utilise the parliamentary TV channel to retain its audience. The public's increased interest in the government's deliberations could also be due to the Prime Minister's, other Ministers', and the Ministry of Health's daily online and broadcasted press conferences to New Zealand's "team of 5 million" on joint progress in beating the virus. This started in March 2020 and continued almost without exception.¹¹ Future audience research will reveal actual ongoing public interest in parliamentary proceedings.

Extending the action plan's timeline due to the pandemic provided benefits. The Policy Project (Commitment 5) took the opportunity to reflect deeply on its approach to community engagement and consulted widely during and after lockdown. In October 2020, the project delivered a suite of practical community engagement guidance that would not have been possible by 30 June 2020. Commitment 9 benefited from Stats NZ's COVID-19 review of the government's data practice. During 2021, work on Commitments 4, 8, and 10 continued and Commitment 2 was already complete. Overall, according to one CSO representative, work over this extra year was on "tasks to be done rather than as steps of a continuing journey."¹²

¹ NZ Government, [3rd national action plan extension of term 2018–2020] (accessed Dec. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Extension-of-term-of-National-Action-plan-2018-20.pdf>.

² See Michelle Edgerley, "What does it take to create a new open government dataset?" (20 Oct. 2021), <https://www.digital.govt.nz/blog/what-does-it-take-to-create-a-new-open-government-dataset/>.

³ External parties (Andrew Ecclestone, and Jonathan Hunt) who attended commitment workshops, separate interviews by IRM researcher, 22 Oct. and 9 Nov. 2021.

⁴ Gaining ongoing operational funding for small cross-government IT projects was traditionally problematic under the Public Finance Act 1989. Examples are the website portal: https://web.archive.org/web/*/http://www.worksite.govt.nz* and the NZ Government Data and Information Programme., <https://www.data.govt.nz/toolkit/open-data/open-data-nz/>. It is assumed that Part 2 of the Public Service Act 2020 is addressing that matter.

<https://www.legislation.govt.nz/act/public/2020/0040/latest/LMS106159.html> (accessed 31 January 2022)

⁵ Hon. Chris Hipkins, “Te Kawa Mataaho Report: Response to Letter from Civil Society Organisations” (Public Service Commission, 19 Apr. 2021), <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/Proactive-Releases/Report-Response-to-Letter-form-Civil-Society-Organisations.pdf>.

⁶ Transparency International, “Opening Dialogue on Open Government Partnership” (2 Nov. 2021), <https://www.transparency.org.nz/blog/opening-dialogue-on-open-government-partnership>.

⁷ New Zealand Parliament, “Epidemic Response Committee: Covid-19 2020” (accessed Dec. 2021), <https://www.parliament.nz/en/visit-and-learn/history-and-buildings/special-topics/epidemic-response-committee-covid-19-2020/>.

⁸ New Zealand Parliament, <https://ondemand.parliament.nz/> (accessed Jan.2022)

⁹ Phil Smith, Parliamentary Press Gallery journalist for “The House”, Radio New Zealand. Email to IRM researcher (14 Oct. 2021)

¹⁰ Note that live-streaming of some select committees via Facebook was already offered.

¹¹ NZ Government, “Unite against COVID-19” (3 Dec. 2021), <https://covid19.govt.nz/>.

¹² Laurence Millar (Transparency International New Zealand Member with Delegated Authority: Open Government), interview by IRM researcher, 3 Nov. 2021.

2.3 Early results

In 2015, the IRM introduced the ***Did it Open Government?*** variable in order to measure results and outcomes from commitment implementation. This variable looks at how government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. The IRM acknowledges that results may not be visible within the two-year timeframe of the action plan and that at least a substantial level of completion is required to assess early results.

This section highlights early results from noteworthy commitments or commitments that have been assessed by the IRM as having “substantial” or “complete” implementation, and are relevant, verifiable, and transformative.¹ These criteria ensure that the IRM is able to capture results from commitments that were ambitious in design, while also capturing results from commitments that were successfully implemented but that may have lacked clarity in their original design. While this section provides the analysis of the IRM's findings for the commitments that meet the criteria described above, Section 2.4 includes an overview of implementation for all other commitments of the action plan.

Commitment 1: Engagement with Parliament	
Aim of the commitment	This commitment, part of Parliament's Engagement Strategy 2018–2021, aimed to improve public understanding of how Parliament works and to engage more people with its work. ² It sought to expand Parliament TV beyond broadcasting parliamentary proceedings, make Parliament more interactive by holding three public events every year, publish content showing New Zealanders starting petitions and making submissions to parliamentary select committees, and provide a 360° virtual reality tour of Parliament.
Did it open government? Major	<p>All updated milestones were completed and the commitment's digital work is now funded core business. Change in practice as a result of this work has been major. The “Parliament on Demand” site broadcasts proceedings in the House of Parliament and other video content,³ and fourteen select committees are livestreamed via Facebook. The increased public availability and profile seem to be key factors in a significant increase in the number of submissions made to select committees. Before 2018, on average all select committees collectively received 30,000-40,000 submissions per year with variances depending on the bills being considered. The increase to 62,000 in 2018-19 was considered huge at that time. In 2021, following the increased visibility of select committees, there were 106,00 submissions on the Conversion Practices Bill which was twice the usual total for all committees and all bills in a year and nearly three times the previous record, and the Water Services Bill received nearly 1000 submissions.⁴ The Parliamentary Engagement team⁵ regularly engages with youth⁶ and teachers.⁷ It is now implementing the new Parliament Engagement Strategy 2021–2024.⁸</p> <p>Under this commitment, civil society stakeholders reported particular improvements to the petition process and access to select committees, noting that while previously, petitions were perceived as ineffective, some select committees have reportedly improved broadcasting and consideration of these petitions. Additionally, opening select committee to public participation through video redressed the logistical and financial accessibility obstacles to attending in-person hearings in Wellington.⁹</p>

	<p>Research released in 2021 showed improved public understanding of Parliament compared with 2018.¹⁰ More New Zealanders thought that Parliament and democratic processes were accessible (66%, up from 59%) and that they were more connected with Parliament (21%, up from 16%).</p> <p>Engagement with Parliament during the March 2020 COVID-19 lockdown increased, as expected. Audience research after lockdown revealed that New Zealanders were six times more likely to have watched or listened to select committees after lockdown than before, and an estimated 61,000 indicated they are highly likely to watch in the future. Viewership and listenership via the Parliament livestream on Facebook has also doubled since the 2021 lockdown.¹¹ Parliament's social media following is strong: Facebook (21,233 followers), Twitter (28.4K), and Instagram (5,622).</p> <p>Yet, fewer New Zealanders knew they could visit Parliament. Only four in ten reported a very good or good understanding of how Parliament works, and Māori and young New Zealanders were less likely than average to feel this way. One-third of the audience research respondents felt they knew how to engage with Parliament and fewer Māori said they learnt about Parliament at school or later, although more young New Zealanders said that they had. Seventy-eight percent of this representative sample of New Zealanders supported including teaching school children about Parliament and democratic processes in the curriculum.¹²</p> <p>These early results show major change in improving access to parliamentary information that will ultimately lead to improved understanding of Parliament. The 2021–2024 strategy to “work alongside groups that have been under-represented in engagement with Parliament to reduce barriers for them to connect with Parliament” is key to achieving even more change in New Zealanders’ understanding of and regular involvement in Parliament.</p>
Commitment 4: Making New Zealand’s secondary legislation readily accessible	
Aim of the commitment	<p>This commitment aimed to make NZ’s secondary legislation, excluding that created by local authorities and council-controlled organisations, easy to find. “Secondary legislation” comprises most regulations and rules, and many notices, orders, determinations, and warrants; some are published in NZ’s gazette, websites, and newspapers, while others aren’t published at all. This preliminary preparation for future full publication of NZ’s secondary legislation on the NZ Legislation website¹³ was the next stage of OGP “starred” Commitment 6 of the 2016–2018 action plan.</p>
Did it open government? Marginal	<p>While this commitment is substantially complete, change in government practice on improving access to information is only marginal as the enacting legislation only came into force on 28 October 2021. Work remains to hyperlink relevant empowering provisions in primary legislation to full versions of the secondary legislation published on the NZ Legislation website. The Legislation Act 2019¹⁴ and the Secondary Legislation Act 2021 (passed by Parliament during COVID-19)¹⁵ definitively determine, for the first time in New Zealand, law that is categorised as “secondary legislation.” New regulations require that secondary legislation is progressively published online.¹⁶ By the end of 2021, the general public and civil society were largely not aware of this progress.¹⁷</p>

	<p>Every Act on NZ's statute book was assessed, the actual number of bodies empowered to make legislation was clarified, and the law-drafting practice was updated.¹⁸ The Parliamentary Counsel Office (PCO) has started to release new reprints of NZ's empowering primary legislation that include tables telling users where secondary legislation must be published or made available, what is presented to Parliament, and what is disallowed.¹⁹ PCO expects this work to take up to four months and to add about 2,700 publication, presentation, and disallowance tables to the legislation.</p> <p>This commitment's workload for PCO and agencies was greater than expected. Agency lawyers and Parliament's Regulations Review Committee staff consider the programme's success is due to the leadership, project management, expert assistance, resourcing, and pragmatism of the PCO, noting that this meant that the "agencies had to get on board."²⁰</p> <p>The NZ legislation website is becoming the point of access for all of New Zealand's primary and secondary legislation. While change in government practice is marginal at this stage, the potential for transformational change remains. Foundations have been built for future improvements, led by the newly appointed PCO stewardship team.²¹ Stakeholder feedback reveals competing views on retaining the current decentralised approach for storing secondary legislation online or holding it all on the NZ Legislation website.</p>
Commitment 5: Public participation in policy development	
Aim of the commitment	<p>This commitment aimed to enable all public sector departments and agencies to understand clearly what good public engagement means and to apply that knowledge when inviting the public to participate in policy creation.²² It continued work from the 2016–2018 action plan, focusing on civil society's key issue that the government rarely co-designs government policies and services with New Zealanders of different cultures, ages, genders, and localities.²³</p>
Did it open government? Marginal	<p>While this updated commitment²⁴ is complete, its foundational work has only brought about marginal change in government practice of citizen participation. The Policy Methods Toolbox²⁵ now includes extensive community engagement practice advice: the <i>Community Engagement Design Tool</i>, the <i>Guide to Inclusive Community Engagement</i>, the <i>Good Practice Guide for Community Engagement</i>, <i>Principles and Values for Community Engagement</i>, <i>Getting Ready for Community Engagement</i>, and <i>Selecting Methods for Community Engagement</i>.²⁶ The project reduced its scope from both policy and service design to only focus on policy design and its welcome pivot to engage community groups and engagement specialists significantly stretched the original commitment.</p> <p>The commitment team's assessment of NZ's Child and Youth Wellbeing Strategy revealed active engagement,²⁷ including by the Youth Voice Project's The Hive²⁸ where youth submitted critiques on government policy such as the Biodiversity Strategy and climate change, and the Youth Plan.²⁹ Case studies in 2021 revealed community engagement on the Criminal Justice Reform Programme, the Digital Identity Transition Programme, and the Farming Systems Change Project.³⁰ Policy practitioners, community members and organisations, and engagement specialists, who were surveyed by the Policy Project, agreed the government needs to improve how it engages.³¹</p>

	<p>The project is now publicising its community engagement advice beyond its policy practitioners cohort. Advice has been given via the CabGuide³² to the Tier 2 Policy Leaders' Network, at a Policy Forum on community engagement, and at Policy Training Network meetings.³³ The Policy Project's promotion of the Community Engagement Design Tool across government for determining which IAP2 level to adopt is a direct result of its fundamental change toward civic participation as a result of this commitment.³⁴ As of 30 June 2021, the Policy Project had presented to 400 practitioners, emailed government policy practitioners, and promoted resources online and on social media.³⁵ There were around 3,400 page views between January and June 2021.</p> <p>There is early online evidence that agencies are applying the guidance. For example, the Ministry of Social Development's work on improving social cohesion and public engagement,³⁶ and the Royal Commission of Inquiry into the terrorist attack on the Christchurch masjidain encouraged agencies to undertake more IAP2 "involve" and "collaborate" levels of engagement.³⁷ The Policy Project has used the community engagement guidance to support agencies responding to the Royal Commission's recommendations.</p> <p>Overall, this commitment made marginal improvements to government bodies' public participation practice – although it is too early to identify noticeable change. Outside of this commitment, during the implementation period, a network of environmental organisations noted a substantial contraction in opportunities for public participation in the policy areas of environmental law, resource management, and housing and urban development. For some ministries, consultations favoured CSOs that were "familiar faces," and with the COVID-19 pandemic, rushed introduction of bills minimized time for public input.³⁸</p> <p>However, in terms of the commitment's particular project, EAP members recognised willingness to broaden engagement, saying that the Department of Prime Minister and Cabinet (DPMC) has exhibited strong leadership. The project has cross-government leadership at executive levels, an engaged reference group, an active policy community, and works with diverse communities such as Te Arawhiti (the Office of Māori Crown Relations).³⁹ Success will require continued DPMC policy oversight and leadership, and active open government support and advocacy by the Te Kawa Mataaho Public Service Commission (TKM). With this central government leadership and investment in growing capability across government, deeper and more consistent community engagement and collaboration in government policy creation can be achieved.</p>
Commitment 7: Official information	
Aim of the commitment	<p>This commitment sought to improve official information availability via several means: by advising the government on whether to initiate a formal review of official legislation; by proactively releasing more responses to Official Information Act 1982 requests; and by implementing policy to publish cabinet papers proactively. Its ambition was for the public to have both confidence in the government's regulation of information and equitable access to OIA request responses.⁴⁰ The commitment reflected the Minister of Justice's views at the time.⁴¹</p>

<p>Did it open government?</p> <p>Marginal</p>	<p>While this commitment substantially completed planned technical improvements, only marginal change is evident in practice to improve official information availability.</p> <p>For milestone 1, advice to initiate a formal review was provided to the then Minister of Justice in September 2019,⁴² but the current Minister was not able to commit to a review before 2023, due to “resourcing constraints and an oversubscribed work programme”.⁴³ The initial advice was not published until March 2021.⁴⁴ As a commentator summarised, despite the published advice supporting the “merits of a review,” the government did not “proceed to the next step,” which diminished public confidence in the OGP process.⁴⁵</p> <p>Milestone 2’s work is now business as usual. Twice a year, TKM releases online statistics, including as open data, on how many of the 118 crown entities and government departments subject to the OIA and monitored by TKM proactively release OIA request responses.⁴⁶ Its most recent release for January to June 2021 reveals that 65 of 118 agencies published proactive OIA responses compared with 56 in the June to December 2020 period, a 16% increase.⁴⁷ Between July 2018 and June 2021, the number of published OIA responses from these agencies increased 71% from 1,138 to 1,943 and the number of agencies publishing responses increased 55% from 42 to 65.⁴⁸</p> <p>The improved OIA process outputs from 65 government agencies, including from the 10 agencies that between them handle the bulk (67%) of all OIA requests,⁴⁹ are commendable. Nevertheless, these statistics only report on 55% of the total 118 NZ government agencies, and stakeholders refer to regular difficulties with OIA compliance by key ministries. They cite examples of the deadline being extended on the day the response was due, transfers to the right agency only on the day the response was due, and some agencies only replying after receiving a follow-up request.⁵⁰</p> <p>Issues about the release of OIA responses and transparency of OIA compliance, including for non-routine OIA requests,⁵¹ have been raised regularly since OIA statistics were first released in 2016.⁵² An October 2021 media investigation of OIA statistics challenged TKM’s conclusion that 97.8% of requests are released “on time.” The media investigation concluded that 54 (64%) of 84 agencies surveyed counted extensions beyond the limit of 20 business days as “on-time” responses, and that some agencies’ statistics also included quick turnaround media requests which have a different OIA response process. The investigation suggested that to be reported as complying, some agencies were incentivised to extend the time limit.⁵³ In response, TKM notes that it measures the extent to which responses are provided within legislated timeframes; it allows for the extension of response times under certain circumstances; and there is no claim that “on time” means within 20 working days.⁵⁴ These different perspectives indicate a gap between the government’s stated commitment to improve the OIA response process and significant public frustration with timeliness of responses to both routine and non-routine OIA requests.</p> <p>Milestone 3’s work is becoming business as usual. Cabinet Office Circular CO (18)4 requires that since 2019, Cabinet and Cabinet committee papers and minutes are proactively released and published online within 30 business days of final decisions being taken.⁵⁵ TKM’s list of online locations for OIA responses and cabinet papers shows that all 33 central agencies (41%) of</p>
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	<p>government's 81 agencies proactively release cabinet papers online.⁵⁶ Stakeholders reported variation in interpretation of the Cabinet Office circular and the time taken to release items, citing an example of those on the regular lists of Briefing Notes to Ministers, and requests for COVID-19 papers not being released as required in 2021. They praised improved compliance by the intelligence agencies, following the report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain.⁵⁷</p> <p>This commitment has promoted more proactive releases of information ahead of improving the quality of reporting on OIA responses. Stakeholders have called for release of government data more quickly (ideally proactively), improved quality of reporting (for example, OIA statistics that break down the number of days required for responses), and measurement of the quality of responses.⁵⁸ By 2021, most core government agencies already collected or reported much of this additional information, meaning that full reporting of OIA responses could be introduced immediately.⁵⁹</p> <p>There are ongoing efforts to improve availability. The Public Service Commissioner has stated his intention to expand the set of OIA statistics in 2022 and TKM promotes agencies' best practices through the Official Information Forum, a community of practice.⁶⁰ The new expanded set of statistics could continue the improvements proposed by TKM in 2019⁶¹ and 2020,⁶² and would fulfil the Public Service Commissioner's statement in September 2021 that "I'd like to get more information out there before it is asked for."⁶³</p> <p>Urgent next steps are the formal report back to Cabinet on the policy for proactive release of cabinet papers and its effectiveness (due in December 2019) and providing the public with a single location to find government's OIA and proactive releases. TKM's list of online locations for OIA responses and cabinet papers⁶⁴ could become the first step towards a centralised platform for all government agencies.⁶⁵ Neither step is reliant on the uncertain possible OIA review. Civil society stakeholders also want a timeline for carrying out this review, and for it to be carried out independently, not by the Ministry of Justice.</p>
Commitment 8: Review of government use of algorithms	
Aim of the commitment	This commitment aimed to increase transparency and accountability around the government's use of algorithms by ensuring the public is informed about and has confidence in their use. Initially, it would review existing operational algorithms and their use across a range of government agencies, consider the next steps for all-of-government assurance in collaboration with civil society representatives, and then update the commitment to reflect progress made. ⁶⁶
Did it open government? Marginal	While this commitment is complete, change in government practice is marginal at this stage, with a focus on gaining agency buy-in. Over 2018 and 2019, Stats NZ collected algorithm details from agencies, released the initial <i>Algorithmic Assessment Report</i> , ⁶⁷ consulted public service agencies on their response to the report's recommendations, and released a draft Algorithm Charter for a two-month public consultation phase. ⁶⁸ In February 2020, Stats NZ released a summary of the public submissions, ⁶⁹ and in July 2020 the Minister of Statistics released the voluntary Algorithm Charter for Aotearoa New Zealand (the Charter) ⁷⁰ with 21 government agency signatories. ⁷¹ The Charter, published in

	<p>both English and te Reo Māori,⁷² sets standards for safe and ethical use of algorithms by public-sector agencies and guidance for meeting transparency and accountability objectives.</p> <p>By 28 October 2021, the number of signatories committed to applying the principles of the Charter in their work had significantly grown to 27, with more agencies expressing interest in signing up. The first Charter review was due for completion in November 2021 and its report will be published. Its Terms of Reference state that the Charter is a voluntary, self-regulating agreement that is not legally binding and has no enforcement mechanisms or formal process for monitoring signatory agencies' compliance.⁷³ The review's objective is to learn from the first year of the Charter's implementation, including the experiences of agencies, any early indications of positive impacts or unintended consequences, the support needs of signatories, embedding te ao Māori perspectives and reflecting the principles of the Treaty of Waitangi / te Tiriti o Waitangi, and the relationship between the Charter and developments in addressing Māori data sovereignty considerations.</p> <p>Strong concern was expressed in August 2020 that the Charter does not fully address important considerations, such as Māori Data Sovereignty, with comment that the Charter "has the potential to further discriminate against Māori than the current biases of Data, Algorithms and Machine learning already does."⁷⁴ Media commentators also sought consideration of Māori data sovereignty in the Charter, proposed formal oversight, and offered implementation suggestions.⁷⁵</p> <p>The Charter has seen international interest, with Stats NZ and Transparency International NZ invited to join the pilot cohort of the OGP Leaders Network, in recognition of the Charter,⁷⁶ There is online evidence of uptake by the Ministry of Justice,⁷⁷ the Accident Compensation Corporation,⁷⁸ the Ministry of Social Development,⁷⁹ and NZ Police.⁸⁰ Stats NZ reports in the Commitment's end-of-Term report that signatories have been making steady progress in implementing the commitments, although this differs considerably between agencies depending on their data maturity and use of algorithms. It expects the review to provide more information on how much the Charter has improved algorithmic transparency, as well as the successes and challenges agencies have faced in implementing the Charter.⁸¹ At present, change in NZ government practice is at an early stage.</p> <p>Academic and CSO stakeholders report that the changes to the draft charter after consultation reflected government not community feedback. They were pleased that the final "watered down" version had broad buy-in by agencies and had successfully gained a large number of signatories. They seek more depth in the Charter over time as people become used to it.⁸² Civil society stakeholders are pleased that agencies like the NZ Police are now signatories and that the initial work created broad awareness of the Charter in everyday governmental discussions. They also note that the Chief Data Steward has no enforcement power across government, that the Charter is being applied differently across agencies, that none have published a catalogue of the algorithms they are using, and that the Charter's implementation support document provided to the Minister in 2020 has not been published.⁸³ The government's reliance on third-party vendors is seen as a weakness, and training for agencies and vendors would be helpful.⁸⁴</p>
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	Stakeholders have high expectations that the recommendations from the current review will set the scene for active operationalisation and expansion of the Charter. They seek clarity about cross-government leadership, oversight, monitoring, and appropriate data management. They see these as the key requirements for fully achieving this commitment's ambition to ensure that New Zealanders are informed and have confidence in how the government uses algorithms to identify patterns in data.
Commitment 12: Open procurement	
Aim of the commitment	This commitment aimed to publish as open data the government-awarded contracts data currently available on the Government Electronic Tenders Service (GETS). ⁸⁵
Did it open government? Marginal	<p>While this commitment is substantially complete, there is only marginal change in government practice on publishing contract data. The commitment's limited scope has not increased visibility of the government's total procurement expenditure. Procurement award notices published by government agencies on GETS have been released as open data in .csv format since 1 July 2019 and are updated quarterly,⁸⁶ representing positive progress. However, they only cover the 148 of NZ's 2,901 government agencies which must publish their contract notices on GETS. There is also no mandate for contract award notices for the government's secondary procurements to be published.⁸⁷ Transparency International NZ reports that the GETS contract notice releases only represent just 2.5% of the total annual government expenditure.⁸⁸</p> <p>Reports generated from the GETS database provide open data on GETS award notices, GETS tenders by region, GETS supplier data, and GETS product categories. In July 2021, a stand-alone file of GETS historic data (award notices from July 2014 to 30 June 2019) was released,⁸⁹ and the GETS schema and documentation⁹⁰ are also available.</p> <p>The GETS documentation states that the reports cover tenders issued by agencies that are mandated, expected, and encouraged to use the GETS tendering service. Although the Ministry of Business Innovation and Employment (MBIE) has no mandate to enforce the Government Procurement Rules, it reports that it is seeing higher levels of data quality from agencies.⁹¹ However, as there is no requirement for agencies to list the successful tenderer or the price of the contract, the details are inconsistent. MBIE reports that since it moved the GETS system to Azure in July 2021, agencies' compliance has been better.⁹² It expects that its plans for a new user interface and new fields will "make it easier for users" and that its new Solutions Architect's integration of procurement products, including adopting the Open Contracting Data Standard (OCDS), will result in better, more standardised, and compliant data.</p> <p>This commitment is starting to change government practice on disclosing procurement data. The public will not see tangible change until the user interface for agencies is simplified, the proposed integration and necessary adoption of the OCDS is completed, and the Government Procurement Rules give MBIE power to enforce compliance. Even then, the actual GETS contracts will not be available, and certain procurements are exempted. Exemptions include procurements through a panel of suppliers (Government Rules of</p>

	<p>Procurement 57), all-of-government contracts (Rule 58), syndicated contracts (Rule 59), and common capability contracts (Rule 60).⁹³</p> <p>Transparency International New Zealand's analysis of the data from July 2019 to March 2021 revealed that there are two fields in GETS that are key to the transparency of government procurement – the contracted supplier and the value of the contract. In 2020, only 2,043 (78%) of 2,620 notices properly reported supplier information and only 820 (31%) included information on the value of the contract. The annual total of the contract values reported on GETS in 2020 was \$1.016 billion, which is just 2.5% of the total annual government expenditure. The financial details of 97.5% of government expenditure are outside the mandate of the Government Procurement Rules.⁹⁴</p> <p>Without this visibility, and until the Rules are more comprehensive, the public must rely on external monitoring, e.g., by the Office of the Auditor General on the Ministry of Health's procurement of a national immunisation system⁹⁵ and COVID-19 testing services.⁹⁶</p> <p>Given the limited reporting, this early work has only effected marginal change in government practice and in opening procurement data. Major change can be achieved when all government procurement data, including actual contracts, is released as open data.</p>
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¹ Note that the commitment timelines being reviewed are those agreed following the formal extension of the NAP3 term to 30 June 2021. NZ Government, [3rd national action plan extension of term 2018–2020] (accessed Dec. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Extension-of-term-of-National-Action-plan-2018-20.pdf>.

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2.4 Commitment implementation

The table below includes an assessment of the level of completion for each commitment in the action plan.

Commitment	Completion: <i>(no evidence available, not started, limited, substantial, or complete)</i>
1. Engagement with Parliament	Substantial: For details regarding the implementation and early results of this commitment, see Section 2.3.
2. Youth Parliament	Complete: New Zealand's 9 th Youth Parliament was held in 2019. One hundred and twenty Youth Members of Parliament engaged with their local elected MP and communities, delivered community projects, took part in legislative debates, sat on select committees, and asked parliamentary questions of actual Ministers. ¹ Their work in Parliament's debating chamber was recorded on the Youth Parliament YouTube channel ² and their reports to select committees were live-streamed. Twenty Youth Press Gallery members reported on the Youth MPs' activities. ³ According to the Ministry of Youth and Development, these events garnered over 50,000 YouTube views, more than 100,000 social media engagements, a live broadcast on Parliament TV, and engagement with approximately 30,000 people. ⁴ Former Youth MPs have found this process valuable and have applied their experience in their adult lives, for example, as teachers. ⁵ Six former Youth MPs are members of the current Parliament, one is a Minister of the Crown, and others have been elected to local government councils. As in earlier years, the primary value is for each participant and there is no evidence of improved access to information, new mechanisms for civic participation, or influencing policy as a result of this Youth Parliament. EAP members advised the IRM researcher that many Youth MPs are continuing their leadership roles in their own communities by working with local youth and promoting involvement in local and community government.
3. School Leavers' Toolkit	Substantial: A School Leavers' Toolkit (SLT) to prepare young people leaving school after completing compulsory education was developed collaboratively, released, and promoted widely on social media. ⁶ This website for 16–24 year olds provides advice on civics, wellbeing, financial literacy, and workplace capability in English and te reo Māori. ⁷ A parallel SLT teacher website ⁸ includes related activities and the civics guide in English ⁹ and te reo Māori. ¹⁰ Teacher trainings were held across NZ in 2020. The Ministry of Education (MOE) states that, since the September 2019 launch, 78,000 users have accessed the student website with nearly 200,000 page views and a weekly average traffic of 2,000 to 2,500 users. ¹¹

	<p>Evaluation of the SLT pilot will now be completed as part of MOE's evaluation of the SLT, including the forthcoming off-the-shelf packages developed for SLT teachers.¹² Work developing digital badges for students to display the capabilities they have acquired to employers, their communities, and tertiary institutions requires new funding. MOE's statement that the SLT is now funded as business as usual is welcome news for teachers as neither the Minister nor MOE have released updates about the SLT since its launch.¹³ However, SLT is promoted by schools and charities on the internet.¹⁴</p> <p>Despite extensive commitment by MOE officials, students, and teachers to create the SLT, academics are concerned that the civics and citizenship guidance is only optional¹⁵ and is "being left to chance because it is not compulsory."¹⁶ Social studies teachers say it cannot be accessed on the Social Sciences Online¹⁷ pages of NZ Curriculum.¹⁸ They want it included in new Social Science curriculum workshops; compulsory for junior secondary students; optional for senior students; and promoted at least annually by teachers and careers advisers. Removing "School Leaver" from its name would broaden its value and usage at secondary schools and earlier.¹⁹ Social studies educators reported that MOE's collaborative work with specialists and students positively influenced the update of the social science curriculum.²⁰</p> <p>In 2020, Colmar Brunton found that 78% of respondents (up three percentage points from 2019) supported teaching school children about Parliament and democratic processes as part of school curriculum; this suggests this education is still needed.²¹ Nearly half of the voters who failed to enrol in 2020 were aged 18–24 despite an increase in this age-group voting at the 2020 General Election.²² While these results cannot be linked to SLT and civics resources, it does indicate a continued need to raise young people's understanding of and preparedness for their civic responsibilities.</p>
4. Making New Zealand's secondary legislation readily accessible	<p>Substantial:</p> <p>For details regarding the implementation and early results of this commitment, see Section 2.3.</p>
5. Public Participation in policy development	<p>Substantial:</p> <p>For details regarding the implementation and early results of this commitment, see Section 2.3.</p>
6. Service Design	<p>Limited:</p> <p>The assessment model to support agency uptake of the voluntary Digital Service Design Standard (DSDS)²³ and measure its performance was not developed because of DSDS issues. Consultations in 2019 with practitioners and potential users,²⁴ and pilots with government agencies in 2020, showed that "changes to the structure and language of the Standard need to happen because it is too long and onerous" and "the design principles don't have measurable metrics."²⁵ The conclusion that an assessment model could not be created was supported by the COVID-19 Tracer app team in the Ministry of Health (MOH),</p>

	<p>which created a tailored version of the DSDS for its own purposes in 2020. MOH reported that the current DSDS wasn't implementable because it is too high level and overly "wordy."²⁶ Agreement is now being reached on a two-stage approach to implementing the DSDS, including developing a minimum set of mandatory standards that will be monitored and enforced. Stakeholders propose that this work include using New Zealand's "Rules as Code" (i.e., digitising legislation) to improve digital service delivery.²⁷</p>
7. Official information	<p>Substantial:</p> <p>For details regarding the implementation and early results of this commitment, see Section 2.3.</p>
8. Review of government use of algorithms	<p>Substantial:</p> <p>For details regarding the implementation and early results of this commitment, see Section 2.3.</p>
9. Increase the visibility of government's data stewardship practices	<p>Limited:</p> <p>The government decided to defer community engagement until after it addressed significant variability in agencies' data stewardship practices.²⁸ In April 2021, the Chief Government Data Steward (CGDS) concluded that given the scale of changes required, achieving consistent and transparent data stewardship practices across government will require multiple years and that the objective of this commitment will not be met within the third national action plan.²⁹ The CGDS noted that upcoming work will benefit from the data governance and management resources published over this period,³⁰ the NZ Government Data Strategy and Roadmap,³¹ and solid options for future community engagement.³² In November 2021, it published the Data Stewardship Framework, which provides the structure and language for collating data stewardship guidance, resources, and tools.³³</p>
10. Monitoring the effectiveness of public body information management practices	<p>Complete:</p> <p>This work delivered Clause 9.2 of Archive New Zealand's 2016 Regulatory Standard which sought to "implement a targeted, intelligence-led monitoring framework that uses all our monitoring, auditing and reporting tools in an integrated, complementary way and that covers all regulated organisations."³⁴</p> <p>When the action plan was released in December 2018, Milestone 1's external engagement was already completed and Milestone 2's work to develop an annual survey of public sector information management (IM) was underway. Milestone 3 saw annual surveys between 2019–2021 and published results,³⁵ as well as a new information management maturity assessment (IMMA) product³⁶ and a refreshed Archive New Zealand (ANZ) audit programme.³⁷ The completed monitoring framework³⁸ is part of a larger work programme to implement the long-term strategy, Archives 2057.³⁹</p> <p>Public engagement involved consultation in 2018 with information managers, targeted online engagement in 2019–2020 on the survey and audit monitoring mechanisms, information sessions, and two</p>

	<p>external advisory groups reviewing and testing the IMMA. A <i>Guide to the Monitoring Framework</i> was released in July 2019.⁴⁰</p> <p>Public offices and local authorities can self-assess at any stage, such as before an audit.⁴¹ ANZ started applying the framework in 2020 and has scheduled 143 audits between 2021–2022 and 2024–2025. It intends to audit ministers’ offices and state schools, but this expansion of the audit programme would need dedicated additional resources.⁴² As of 30 October 2021, it had proactively published 29 audit reports, each comprising a detailed external assessment and a letter from the Chief Archivist instructing the organisation to create an action plan for the recommended changes in IM practice, against which ANZ could track progress.⁴³ Survey and audit findings are also published in the Chief Archivist’s annual reports on government recordkeeping⁴⁴ and raw data from the 2019–2020 survey was released as open data on the open data platform, data.govt.nz.⁴⁵</p> <p>Following analysis of seven of the published 2021 audit reports,⁴⁶ the IRM researcher concludes that the new monitoring framework covers all areas of information management practice required by NZ’s information and records management standard. The IRM researcher recommends that ANZ adds the IMMA product and tools to its Monitoring Framework website⁴⁷ and updates progress on its OGP commitment webpage.⁴⁸</p> <p>The mandatory self-assessment before an audit and ANZ’s proactive release of the details of external audits are both new. There has been media interest in the annual survey on record-keeping practices.⁴⁹ It is too early to assess whether this monitoring framework is appropriate for the wide variety of public offices, which range from a few to thousands of staff. This work has set the foundation for ANZ to publicly show agencies’ information management practices; it must now show how it will monitor action plans to improve their performance.</p>
<p>II. Authoritative dataset of government organisations as open data for greater transparency</p>	<p>Limited:</p> <p>The government identified owners, contributors, and maintainers of the sources of information to be used in populating the dataset. The government released a “non-exhaustive list of organisations in the Public Sector” on data.govt.nz in 2020⁵⁰ and as an API.⁵¹ Work continues on appropriate open standards, a governance model, a data model of the initial dataset, ongoing ownership of the data model and dataset, and wide promotion of its reuse opportunities by the public sector, business, and communities.</p> <p>An experiment on the Govt.nz website is currently using the non-exhaustive list of state sector organisations “to understand the practicalities of consuming datasets in production systems” and test “whether this could meet user needs and reduce maintenance costs.” The government’s next technical steps include developing a dataset built on data principles, with unique identifiers for each agency to enable future integration of the data, and an ontology to describe the entities contributing data and their relationships.⁵²</p>

	<p>Dedicated government officials, mostly at operational level, oversaw this commitment despite having to cover for COVID-19 staff shortages. TKM, the Treasury, Stats NZ, the Department of Internal Affairs, and Archives NZ are now key members of the government's working group.</p> <p>This commitment was identified in the IRM Design Report as potentially transformative⁵³ and that assessment was confirmed in recent interviews. Most stakeholders agree that it made “incredible progress despite its problems;” they applaud the cooperation between agencies and civil society participants.⁵⁴ Technical stakeholders say progress was hindered by a lack of in-house technical capacity and that officials were working behind closed doors. They recommend immediate collaboration with external technical experts to assist government officials⁵⁵ and refer to the successful Australian Linked Government Data Working Group,⁵⁶ which uses open-data and -source tools such as GitHub.</p> <p>The government also sees this work as transformative for digital government service delivery.⁵⁷ Executive level decisions have now been made to support it, as set out in the government's Self Assessment Report, released 30 November 2021. These decisions endorse the Public Service Act 2020, which requires that leadership fund, resource, and deliver the transformational change offered by this type of cross-government project.⁵⁸ The Department of Internal Affairs has now scoped and identified resourcing required to deliver a two-phased implementation plan beginning in early 2022, involving Build and Release (phase 1) and Maintain and Develop (phase 2). Some of the required resourcing has been committed to Phase 1, with work ongoing to secure the remainder. The department is also working towards identifying a system owner for the dataset.⁵⁹</p>
12. Open procurement	<p>Complete:</p> <p>For details regarding the implementation and early results of this commitment, See section 2.3.</p>

¹ Min. of Youth Dev't, “Youth Parliament 2019” (accessed Dec. 2021), <https://www.myd.govt.nz/young-people/youth-parliament/youth-parliament-2019.html>.

² NZ Youth Parliament, [YouTube channel] (7 Aug. 2019), <https://www.youtube.com/channel/UCYJgOVKO4ElpklSQ77FyBwQ>.

³ Youth Parliament, 2019 Newsletter, no. 1 (May 2019), <http://www.icontact-archive.com/archive?c=1448457&f=5324&s=10130&m=151435&t=6bca3ff10266a8dea48eda0f4e65de958035783bb4bc9c47f3a820b7abf6d860>.

⁴ Ministry of Youth Development, confidential report given to the IRM researcher, 22 Oct. 2021.

⁵ See interview with Minister Ayesha Verrall and MP Tangi Utikere at Phil Smith, “From Youth MPs to actual MPs” (RNZ, 10 Oct. 2021), <https://www.rnz.co.nz/national/programmes/the-house/audio/2018815120/from-youth-mps-to-actual-mps>.

⁶ Ministry of Education, 2019 through to 2021, <https://www.facebook.com/search/videos/?q=school%20leavers%20toolkit%20Ministry%20of%20education%20NZ>.

⁷ Min. of Education, “Practical skills for life” (2021), <https://school-leavers-toolkit.education.govt.nz/>.

⁸ Min. of Education, “School Leavers’ Toolkit for Teachers” (accessed Dec. 2021), <https://sltk-resources.tki.org.nz/>.

⁹ Kate Potter, *Civics and Citizenship Education Teaching and Learning Guide* (Cognition Education for Min. of Education, 2020), <https://sltk-resources.tki.org.nz/assets/Teaching-and-Learning-Guide.pdf>.

¹⁰ Min. of Education, *Activities for acquiring civics knowledge* (Cognition Education for Min. of Education, 2020), <https://sltk-resources.tki.org.nz/assets/Activities-for-acquiring-civics-knowledge.pdf>; Kate Potter, Ngā Akoranga Rarāupōri, Kirirarautanga

He Aratohu Ako (Cognition Education for Min. of Education, 2020), https://sltk-resources.tki.org.nz/assets/CO2731_MOE_Maori-Civics-publication_009_interactive.pdf.

¹¹ Open Government Partnership New Zealand, “National Action Plan 2018-21 End-of-term Self-assessment” (Nov. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/NAP3-Self-Assessment-Final.pdf>.

¹² Min. of Education, online interview by IRM researcher with Tommy McLoughlin, 24 Sep. 2021.

¹³ Beehive.govt.nz, “Search” [for “school leavers’ toolkit”] (NZ Government, accessed Dec. 2021), <https://www.beehive.govt.nz/search?query=school+leavers%27+toolkit>.

¹⁴ Presbyterian Youth Ministry, “School Leaver Resources and Articles on the Web” (13 Sep. 2021), pym.org.nz/2021/09/13/school-leaver-resources-and-articles-on-the-web/; Voice of the Young and Care Experienced—Whakarongo Mai, “HOW TO’S Helpful resources to get you on track” (accessed Dec. 2021), <https://voyce.org.nz/get-support/how-tos/>.

¹⁵ Justin Latif, “Civics education experts ‘dumbstruck’ by lack of consultation on new curriculum” (*The Spinoff*, 27 May 2021), <https://thespinoff.co.nz/society/27-05-2021/civics-education-experts-dumbstruck-by-lack-of-consultation-on-new-curriculum>.

¹⁶ Natalie Akoorie, “Civics and citizenship education being left to chance, expert says” (*stuff*, 26 May 2021), <https://www.stuff.co.nz/national/education/125243469/civics-and-citizenship-education-being-left-to-chance-expert-says>.

¹⁷ Social Sciences Online: <https://ssol.tki.org.nz/>.

¹⁸ Te Kete Ipurangi, “Kia ora” [welcome page of “The New Zealand Curriculum Online”] (Min. of Education, accessed Dec. 2021), <https://nzcurriculum.tki.org.nz/>.

¹⁹ Florence Deakin (Victoria Univ. of Wellington), interview by IRM researcher, 6 Oct. 2021.

²⁰ Maria Perreau (Aotearoa Social Studies Educators’ Network), interview by IRM researcher, 13 Oct. 2021.

²¹ Colmar Brunton, *Survey of the New Zealand Public* (Jan. 2021), 35, <https://www.parliament.nz/media/7833/office-of-the-clerk-survey-of-the-public-2020-website.pdf>.

²² Voter turnout among 18–24 year olds increased 8.8% from 2017 to 2020; it’s increased 15.3% from 2014 to 2020. NZ Parliament, “The 2020 General Election and referendums: results, analysis, and demographics of the 53rd Parliament” (4 Jun. 2021), <https://www.parliament.nz/en/pb/library-research-papers/research-papers/the-2020-general-election-and-referendums-results-analysis-and-demographics-of-the-53rd-parliament/>.

²³ NZ Government, “Digital Service Design Standard” (7 Oct. 2020), <https://www.digital.govt.nz/standards-and-guidance/digital-service-design-standard/>.

²⁴ Dave Moskovitz, “The Digital Service Design Standard - Assessment Framework recommendations” (NZ Government, 28 Jun. 2019), <https://www.digital.govt.nz/blog/the-digital-service-design-standard-assessment-framework-recommendations/>.

²⁵ Dept of Internal Affairs, National Action Plan 2018-2021. Commitment 6 End of Term Report. (2 Dec. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Commitment-6-End-of-term-report.pdf>

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²⁷ Medha Basu, “Four things you should know about Rules as Code” (GovInsider, 3 Mar. 2020), <https://govinsider.asia/inclusive-gov/four-things-you-should-know-about-rules-as-code/>; Mikael af Hällström, “Better Rules and Rules as Code—references (Australia, NZ mainly)” (European Commission, 1 Oct. 2020), <https://joinup.ec.europa.eu/collection/better-legislation-smoother-implementation/discussion/better-rules-and-rules-code-references-australia-nz-mainly>.

²⁸ Deferrals occurred initially in 2019 and then again during the COVID-19 pandemic. Stats NZ, *COVID-19 lessons learnt: recommendations for improving the resilience of New Zealand’s government data system* (Mar. 2021), <https://www.data.govt.nz/assets/Uploads/Covid-19-lessons-learnt-full-report-Mar-2021.pdf>.

²⁹ Open Government Partnership New Zealand, “National Action Plan 2018-2021 Progress report to: 30 April 2021: Commitment 9” (Apr. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Commitment-9-Progress-report-to-30-April-2021.pdf>.

³⁰ NZ Government, “Government Chief Data Steward (GCDS)” (accessed Dec. 2021), <https://www.data.govt.nz/leadership/gcdfs/>.

³¹ NZ Government, “The Government Data Strategy and Roadmap” (17 Sep. 2021), <https://www.data.govt.nz/leadership/strategy-and-roadmap/>.

³² Open Government Partnership New Zealand, “...Progress report to: 30 April 2021: Commitment 9.”

³³ NZ Government, “Data stewardship: managing New Zealand’s data better to change lives” (Nov. 2020), <https://www.data.govt.nz/assets/Data-stewardship-framework-and-toolkit-Nov2020.pdf>.

³⁴ Archives NZ, *Regulatory statement* (Oct. 2019), <https://archives.govt.nz/files/Regulatory%20statement>.

³⁵ Archives NZ, “Report on the State of Government Recordkeeping” (2020), <https://archives.govt.nz/publications/report-on-the-state-of-government-recordkeeping>.

³⁶ Archives NZ, “Information Management Maturity Assessment” (22 Nov. 2021), <https://www.archives.govt.nz/manage-information/how-we-regulate/monitoring-and-audit/information-management-maturity-assessment>.

³⁷ Archives NZ, “Audit of public office recordkeeping” (23 Jul. 2021), <https://archives.govt.nz/manage-information/how-we-regulate/monitoring-and-audit/audit/audit-of-public-office-recordkeeping>.

³⁸ See a description of the framework under the heading “Open Government Partnership” at Archives NZ, “Report on the State of Government Recordkeeping 2019/20” (19 Feb. 2021), <https://www.archives.govt.nz/publications/report-on-the-state-of-government-recordkeeping/report-recordkeeping-2019-20>.

³⁹ Archives NZ, *Archives 2057 Strategy* (accessed Dec. 2021), <https://www.archives.govt.nz/publications/archives-2057-strategy>.

⁴⁰ Archives NZ, *Guide to the Monitoring Framework* (Jul. 2019), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Guide-to-the-Monitoring-Framework.pdf>.

⁴¹ Archives NZ, “Information Management Maturity Assessment” (22 Nov. 2021), <https://www.archives.govt.nz/manage-information/how-we-regulate/monitoring-and-audit/information-management-maturity-assessment>.

⁴² Archives NZ, The Chief Archivist’s Report on the State of Government Recordkeeping 2018/19 (2019), 6, <https://assets.ctfassets.net/etfoy87fj9he/3tgnUyxtaUeM28Alc8vb4X/da312c2aef3377a142a0b2bd8882380e/chief-archivists-report-2018-19.pdf>.

⁴³ Archives NZ, “Audit reports” (5 Oct. 2021), <https://archives.govt.nz/manage-information/how-we-regulate/monitoring-and-audit/audit/audit-reports>; and see KPMG, *Public Records Act 2005 Audit Report for Radio New Zealand* (Jun. 2021), 2, <https://archives.govt.nz/files/Audit%20Report%20and%20CA%20Audit%20Letter%20-%20Radio%20New%20Zealand>.

⁴⁴ Archives NZ, “Report on the State of Government Recordkeeping.”

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<https://catalogue.data.govt.nz/dataset/survey-of-public-sector-information-management-2019-20>.

⁴⁶ The audits were of: Radio NZ, Victoria University of Wellington, Institute of Geological and Nuclear Sciences, National Institute of Water and Atmospheric Research, NZ Qualifications Authority, Ministry of Transport, and Health Research Council.

⁴⁷ Archives NZ, “Monitoring framework” (17 May 2021), <https://www.archives.govt.nz/manage-information/how-we-regulate/monitoring-and-audit/monitoring-framework>.

⁴⁸ Archives NZ, “Open Government Third National Action Plan” (accessed Dec. 2021), <https://archives.govt.nz/about-us/open-government-and-oias/open-government-third-national-action-plan>.

⁴⁹ Nikki Macdonald, “Survey finds worrying holes in management and accessibility of public records” (*stuff*, 28 Jan. 2020), <https://www.stuff.co.nz/national/118797967/survey-finds-worrying-holes-in-management-and-accessibility-of-public-records>.

⁵⁰ NZ Government, “Organisations” (22 Sep. 2021), <https://catalogue.data.govt.nz/dataset/mog-events/resource/bfc80102-20f8-4a37-815a-2c07c667101c>.

⁵¹ See https://catalogue.data.govt.nz/api/3/action/datastore_search?resource_id=bfc80102-20f8-4a37-815a-2c07c667101c.

⁵² Open Government Partnership New Zealand, “National Action Plan 2018-2021 End of Term Report Commitment 11” (accessed Dec. 2021), <https://ogp.org.nz/assets/New-Zealand-Plan/Third-National-Action-Plan/Commitment-11-End-of-term-report.pdf>.

⁵³ Keitha Booth, *Independent Reporting Mechanism (IRM): New Zealand Design Report 2018–2020* (12 Feb. 2020), 45, https://www.opengovpartnership.org/wp-content/uploads/2020/02/New-Zealand_Design_Report_2018-2020.pdf.

⁵⁴ Simon Wright, interview by IRM researcher, 26 Oct. 2021; Andrew Ecclestone, interview by IRM researcher, 22 Oct. 2021.

⁵⁵ External parties, Andrew Ecclestone and Jonathan Hunt, who attended commitment workshops, interview by IRM researcher, 22 Oct. and 9 Nov. 2021.

⁵⁶ Australian Government Linked Data Working Group Showcase: <https://www.linked.data.gov.au/showcase>.

⁵⁷ Michelle Edgerley, “What does it take to create a new open government dataset?” (NZ Government, 20 Oct. 2021), <https://www.digital.govt.nz/blog/what-does-it-take-to-create-a-new-open-government-dataset/>.

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⁵⁹ The IRM received this information from the Public Service Commission during the pre-publication period (23 Dec. 2021).

III. Multistakeholder Process

3.1 Multistakeholder process throughout action plan implementation

In 2017, OGP adopted the *OGP Participation and Co-Creation Standards* intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's *Articles of Governance* also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to the OGP process. New Zealand **did not act** contrary to OGP process.¹

Please see Annex I for an overview of New Zealand's performance implementing the *Participation and Co-Creation Standards* throughout the action plan implementation.

Table 3.2: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) "Spectrum of Participation" to apply it to OGP.² In the spirit of OGP, most countries should aspire to "collaborate."

Level of public influence		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 government gave feedback on how public inputs were considered.	✓	
Consult	The public could give inputs.		✓
Inform	The government provided the public with information on the action plan.		
No Consultation	No consultation		

During action plan implementation, the Expert Advisory Panel (EAP) held its first meeting in February 2019 and met quarterly through July 2021. The meetings were chaired by the Deputy Public Service Commissioner, as delegated by the Public Service Commissioner. Written progress reports on implementation were provided to members ahead of each meeting, and officials joined the EAP's meeting to discuss these reports. These papers were usually published on the NZ OGP website after the next quarterly meeting. In 2021, none were published between April and November. During 2021, less time was devoted to commitment implementation as work developing the next action plan began and there were no discussions about any additional work during the extra year between the end of the third plan and the beginning of the fourth. The level of government-civil society engagement during implementation of the 2018–2021 action plan was mostly at IAP2's "consult" level, compared with an overall "involve" level for the development of the plan. Exceptions were work on increasing public understanding of Parliament, the Youth Parliament, and developing the community engagement advice. Meetings were held remotely in 2020 and 2021 due to the COVID-19 pandemic and members have adapted to this different format.

Early in the implementation period, four new civil society members joined the two existing EAP members with one replaced by a secondment while she was studying overseas. This first public appointment process resulted in a slightly wider representation of New Zealand society, ethnically, geographically, and by age. All seven have been reappointed until September 2022. They have discussed ways of involving a wider population in NZ's OGP work and have expressed confidence that TKM is also seeking more interaction with civil society and more inclusion, particularly with the disability community, youth, and Māori under the Treaty of Waitangi. They successfully encouraged active face-to-face or online discussion with officials about progress, difficulties, and results. A new relationship of trust is evolving. A positive relationship between TKM, commitment leads, the EAP, several civil society groups, and the Minister for the Public Service has also evolved over 2021 and augurs well for achieving a co-created fourth national action plan.

¹ Acting Contrary to Process: Country did not meet (1) “involve” during the development or “inform” during implementation of the action plan, or (2) the government fails to collect, publish, and document a repository on the national OGP website in line with IRM guidance.

² IAP2, “IAP2 Spectrum of Public Participation” (2018),
https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf.

3.2 Overview of New Zealand's performance throughout action plan implementation

Key:

Green= Meets standard

Yellow= In progress (steps have been taken, but standard is not met)

Red= No evidence of action

Multistakeholder Forum	During Development	During Implementation
1a. Forum established: The External Advisory Panel (EAP) was established in 2016 by the then State Services Commission (now Te Kawa Mataaho Public Service Commission). It has an advisory role “to work with government on New Zealand's Open Government Partnership (OGP) processes.” ¹	Green	Green
1b. Regularity: The EAP met quarterly from 2019 to 2021 during the implementation process. Two of its 2021 meetings covered implementation of the third action plan. See the EAP minutes. ²	Green	Green
1c. Mandate public: The terms of reference, setting out the EAP's advisory mandate, membership, roles and accountability, fees, and meetings are publicly available on New Zealand's Open Government Partnership website. ³	Green	Green
2a. Multistakeholder: The EAP is accountable for providing expert advice about OGP national action plan development and delivery to the State Services Commissioner. ⁴ It has one government and seven civil society members, appointed for a period of not more than three years.	Yellow	Yellow
2b. Parity: The Chair of the EAP is the State Services Commissioner or his designated lead; the seven remaining members are from civil society.	Red	Red
2c. Transparent selection: While the selection process is not set out in the terms of reference, the then State Services Commission publicly sought nominations for two new members in 2019, noting that “the EAP should be made up of members that broadly reflect the diversity of the New Zealand population.” It involved the existing EAP members in the selection process and stated that “If the EAP and SSC officials are unable to reach a unanimous decision on a preferred candidate, the State Services Commissioner will make the final appointment decision.” ⁵ Four new members were appointed; their term was extended for one year in November 2021 ⁶ without any public consultation. The membership of a second EAP member, who had not been appointed following a public process, was also extended for one year. Appointment terms are for a maximum period of three years, without a term limit. ⁷	Yellow	Yellow
2d. High-level government representation: The Chair of the EAP is the Public Service Commissioner or his designated lead. The Public Service Commissioner is NZ's most senior public servant. The current designated	Green	Green

Chair is the Deputy Public Service Commissioner, Integrity, Ethics, and Standards.		
<p>3a. Openness: The “Contact” page on the OGPNZ website offers an email address ogpnz@ssc.govt.nz for contact with the State Services Commission (not yet updated to Te Kawa Mataaho Public Service Commission, more than one year after its name change in August 2020). The EAP Terms of Reference state that “Members of the public will be able to provide comment and/or raise queries to the EAP through a dedicated OGP mailbox at ogpnz@ssc.govt.nz. The Secretariat will manage this account and share feedback with the panel”.⁸</p> <p>There was no regular item in EAP minutes during action plan implementation for the Secretariat to report to the EAP on any queries received through this mailbox. According to civil society feedback there has been less outreach to the public during action plan implementation. TKM told the IRM researcher that the OGP mailbox received three emails during implementation.⁹</p> <p>EAP minutes on 25 February 2019, 11 November 2019, 20 February, 16 June 2021 and 29 July 2021, record the EAP alerting officials to seek civil society participation in action plan implementation.</p> <p>Agenda papers and progress reports were usually published on the NZ OGP website after the next quarterly meeting. In 2021, none were published between April and November. Each commitment’s end-of-term report was submitted to the EAP meeting, but not published until after the release of the Self-assessment in November, restricting civil society knowledge of progress to those attending EAP meetings.</p>	Green	Yellow
3b. Remote participation: Remote attendance at meetings was available during NAP3 implementation; since COVID-19, this has become normal practice for EAP meetings.	Green	Green
3c. Minutes: The EAP’s minutes are published, but only three months after EAP meetings, following a lengthy bureaucratic approval process. The minutes of the EAP’s July 2021 meeting which received end-of-term reports on implementing each commitment were not published until 3 November 2021 and are not yet listed on the “Check Progress 2021” webpage. ¹⁰ The very brief EAP minutes report “Topics for Discussion” but do not record the discussion.	Green	Green

Key:

Green= Meets standard

Yellow= In progress (steps have been taken, but standard is not met)

Red= No evidence of action

Action Plan Implementation	
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4a. Process transparency: Commitment leads' quarterly progress reports are published on the OGP NZ website at the same time as the EAP minutes, i.e., three months after completion or later. ¹¹ The end-of term reports for the period to 30 June 2021 were not published until 3 November 2021.	Green
4b. Communication channels: The generic "Contact Us" page on the OGP NZ website provides phone and email details. ¹² The "Check Progress" page does not allow the public to comment on action plan progress updates. ¹³ The Twitter feed has not covered action plan updates.	Green
4c. Engagement with civil society: The government did not hold at least two open meetings with civil society (one per year) to discuss action plan implementation. EAP minutes report that during implementation, civil society members proposed ways of achieving this. ¹⁴	Red
4d. Cooperation with the IRM: In September 2019, the government highlighted the public comment version of the IRM Design Report on its "Check Progress" page. There is no online evidence of any further promotion of this version, beyond the Twitter feed by the IRM researcher. ¹⁵ TKM updates the IRM researcher fortnightly by phone.	Yellow
4e. MSF engagement: The EAP monitored and deliberated on action plan implementation by receiving written reports ahead of its quarterly meetings. Over this period, EAP minutes indicate that their interaction with officials increased significantly.	Green
4f. MSF engagement with self-assessment report: The IRM researcher was told by the Public Service Commission on 29 October 2021 that the government discussed a draft of the end-of-term self-assessment with the EAP. It was released for public comment on 9 November 2021, and the OGP email address publicised. On 30 November, the final version and public comments were released. ¹⁶	Green
4g. Repository: The government documents, collects, and publishes a repository in line with IRM guidance.¹⁷ A domestic OGP website with its own URL is available online, without barriers to access, and is linked to evidence of developing and implementing New Zealand's action plans. In 2021, details about developing the fourth action plan have been prominent while updates on implementing the third action plan irregular. The "Check Progress" page is not up to date. The government's response to the IRM's five key recommendations from the design report published in February 2020 is set out in the text of the self-assessment report, released on 9 November 2021.¹⁸ There is no other online evidence of the government's response.	Green

¹ Open Government New Zealand, "Expert Advisory Panel" (accessed Dec. 2021), <https://ogp.org.nz/open-government-partnership/expert-advisory-panel/>.

² *Id.*

³ Open Government New Zealand, "New Zealand Open Government Partnership Expert Advisory Panel Terms of Reference (September 2018)" (Sep. 2018), <https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf>.

⁴ *Id.*

⁵ Open Government Partnership New Zealand, "Nominations are invited for two new Expert Advisory Panel members" (2019), https://ogp.org.nz/assets/Resources/New-EAP-Members_Nomination-and-Selection_March_April-2019_updated.pdf.

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- ⁶ Open Government Partnership New Zealand, “OGP Update 3 November 2021” (accessed Dec. 2021), <https://ogp.org.nz/latest-news/ogp-update-3-november-2021/>.
- ⁷ The IRM received this information from the Public Service Commission during the pre-publication period (23 Dec. 2021).
- ⁸ Open Government New Zealand, “New Zealand Open Government Partnership Expert Advisory Panel Terms of Reference (September 2018)” (Sep. 2018), <https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf>
- ⁹ TKM, email to IRM researcher, 24 Nov. 2021.
- ¹⁰ Open Government Partnership New Zealand, “Check Progress” (accessed Dec. 2021), <https://ogp.org.nz/check-progress/#Twenty21>.
- ¹¹ Open Government Partnership New Zealand, “Current National Action Plan” (accessed Dec. 2021), <https://ogp.org.nz/new-zealands-plan/third-national-action-plan-2018-2020/>.
- ¹² Open Government Partnership New Zealand, “Contact” (accessed Dec. 2021), <https://ogp.org.nz/contact/>.
- ¹³ Open Government Partnership New Zealand, “Check Progress.”
- ¹⁴ Open Government Partnership New Zealand, “24 July 2019 – Expert Advisory Committee meeting: minutes” (accessed Dec. 2021), <https://ogp.org.nz/open-government-partnership/expert-advisory-panel/24-july-2019-expert-advisory-committee-meeting-minutes/>.
- ¹⁵ Keitha Booth @Keithabooth, “Reminder to comment by EOB on 14 October on @OGP_IRM Design Report on NZ’s 2018-2020 national action plan at [@ogpnz](https://ogp.civiccomment.org/new-zealand-design-report-2018%E2%80%932020-public-comment)” (Twitter, 10 Oct. 2019), <https://twitter.com/Keithabooth/status/1182495103924883456>.
- ¹⁶ Open Government Partnership New Zealand, “National Action Plan 2018 - 21 End-of-term Self-assessment November 2021 FINAL” (accessed Dec. 2021), <https://ogp.org.nz/national-action-plan-2018-21-end-of-term-self-assessment-november-2021-final/>.
- ¹⁷ OGP, “IRM Guidance for Online Repositories” (1 Mar. 2020) <https://www.opengovpartnership.org/documents/irm-guidance-for-online-repositories/>.
- ¹⁸ Open Government Partnership New Zealand, “Current National Action Plan.”

IV. Methodology and Sources

Research for the IRM reports is carried out by national researchers. All IRM reports undergo a process of quality control led by IRM staff to ensure that the highest standards of research and due diligence have been applied.

The International Experts Panel (IEP) of the IRM oversees the quality control of each report. The IEP is composed of experts in transparency, participation, accountability, and social science research methods.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual¹ and in New Zealand's Design Report, released in February 2020.

About the IRM

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.



Keitha Booth is an independent consultant advising and commenting on open government and information-related matters. She has wide experience in e-government matters and led New Zealand's Open Government Information and Data Programme. She is a fellow of InternetNZ, a senior associate of the Institute for Governance and Policy Studies, Victoria University of Wellington, associate of the Open Data Institute (UK), and has also reviewed New Zealand's 2016–2018 OGP national action plan and Australia's 2018–2020 OGP national action plan.

¹ IRM, *IRM Procedures Manual* (OGP, 16 Sep. 2017), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

Annex I. IRM Indicators

The indicators and method used in the IRM research can be found in the IRM Procedures Manual.¹ A summary of key indicators the IRM assesses is below:

- **Verifiability:**
 - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
 - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **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 or policies?
 - Public Accountability: Will the government create or improve public facing opportunities to hold officials answerable for their actions?
- **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.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the IRM implementation report.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the IRM implementation report.

Results-oriented commitments?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment design is one that clearly describes the:

1. **Problem:** Describe the economic, social, political, or environmental problem rather than describing an administrative issue or tool (e.g., "misallocation of welfare funds" is more helpful than "lacking a website").
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan? (E.g., "26% of judicial corruption complaints are not processed currently.")
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation? (E.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")

Starred commitments

Version for Public Comment: Please Do Not Cite

One measure, the “starred commitment” (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating entities. To receive a star, a commitment must meet several criteria:

- The commitment’s design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact. As assessed in the Design Report.
- The commitment’s implementation must be assessed by IRM implementation report as **substantial** or **complete**.

This variable is assessed at the end of the action plan cycle, in the IRM implementation report.

¹ IRM, *IRM Procedures Manual* (OGP, 16 Sep. 2017), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.