



# Open Government Partnership Independent Reporting Mechanism

## Results Report: New Zealand 2022-2024 Comments Received

### Comments Received from Andrew Ecclestone, New Zealand Council for Civil Liberties (11 July 2025)

Thank you for your email of 27 June 2025, linking to the draft IRM's Results Report for New Zealand's 2022-2024 OGP action plan (NAP4). The Council reviewed the earlier draft of the report and thanks the IRM for its response to many of the issues we raised.

NAP4 is the poorest performing New Zealand Action Plan since it joined the OGP more than a decade ago, with fewer than half of the commitments completed, and none with significant results. Officials have failed to ensure membership is delivering value for the government and the public, and we have publicly criticised this poor performance, stating:

“More than a decade after John Key took the decision for New Zealand to join the OGP, nothing has been built by the commission. There are no shared agendas for progress, no public awareness of OGP and its potential, no budgets to incentivise agencies and civil society to work together and create change that benefits the public and government, and the lead government agency takes no responsibility for this failure at all.”<sup>1</sup>

One further comment we would make relates to an issue that is outside of the content of the report, but which responds to the New Zealand government's self-assessment report on NAP4.<sup>2</sup> This report includes six pages of text about activities the government is undertaking outside of the commitments in the NAP, but which they claim improve open government. Officials are uncomfortable that these are not given any credit by the OGP and IRM processes.

We can also see efforts to showcase non-NAP government activities officials consider relevant to open government in the Public Service Commission's September 2024 OGP newsletter: <https://us13.campaign-archive.com/?u=55d0ed7b83ab79603e84a5511&id=849f61b024>.

But if the government wants the OGP processes and mechanisms to 'give it credit' for these activities, it must also accept the quid pro quo, which is that the OGP will also take on board the government's other activities which are counter to open government. Previous governments failed to make progress on reviewing, let alone strengthening the Official Information Act, and mis-used parliamentary urgency to shut people out of debate on Covid-19 policy responses. The current government's activities include a bill on Countering Foreign Interference that will chill public dissent regarding government policy,<sup>3</sup> a collusion between the Police and the supposedly Independent Police Conduct Authority to propose restrictions on

public protests,<sup>4</sup> a failure to be open when developing laws on how our legislature is structured and funded,<sup>5</sup> or how long the term of government should last.<sup>6</sup> It has also passed a law which deliberately excludes the public from participation in decision making on proposals that have major environmental impacts – the so-called ‘Fast Track’ law.<sup>7</sup> It is resisting civil society efforts to protect the integrity of public policymaking by regulating lobbying, and political donations are poorly regulated with belated publication of donations above a high threshold.

In short, if the New Zealand government wants the OGP to take a broader approach to crediting ‘good’ things, it must accept that an OGP mechanism that does this must also report on public and civil society concerns regarding harmful actions by the government that restrict or chill civil society speech, association and participation, as well as retreating on public accountability.

The Council makes the comments set out below for the IRM to consider. We have set them out using the draft report’s section titles and page numbers.

### Executive Summary

Location (Page/para)	Comment
3/2	<p>The paragraph and Executive Summary conclude with a reference to the fact that PSC officials spent from December 2023 to December 2024 lobbying their minister to take a paper to Cabinet proposing that New Zealand withdraw from the OGP. After being rebuffed by their minister in the first half of 2024, the papers show that PSC officials then canvassed support from the Chief Executives of other government departments for their proposal to withdraw. Although PSC’s minister agreed to Ministerial consultation on a draft Cabinet paper proposing this step in the period October-December 2024, the result of the consultation was that ministers did not agree to a paper being taken to Cabinet.</p> <p>At no time were the public or partner CSOs informed that officials were seeking a decision to withdraw from the OGP. Hardly the actions of a trusted ‘partner’ in open government. The fact they actively sought to keep this proposal secret can be seen from the PSC’s refusal of a request for official information in early 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/OIA-2024-0037-Information-request-regarding-Open-Government-Partnership-initiative.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/OIA-2024-0037-Information-request-regarding-Open-Government-Partnership-initiative.pdf</a></p> <p>The Council welcomes the draft report citing the Public Service Commission’s response to an Official Information Act request for information about this. It is valuable context for readers to understand not only why no work was done to establish a Multi- Stakeholder Forum, as required by the OGP’s rules, but also why we did not see the PSC encouraging departments to complete the commitments in the Action Plan.</p> <p><b>References:</b></p>

	<p>1. Official Information Act request to PSC from NZCCL:  <a href="https://fyi.org.nz/request/28987-advice-on-open-government-partnership#incoming-115033">https://fyi.org.nz/request/28987-advice-on-open-government-partnership#incoming-115033</a></p> <p>2. Papers ‘proactively released’ (but actually following our request):</p> <ul style="list-style-type: none"> <li>• 20 December 2023:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-New-Zealands-future-approach-to-the-Open-Government-Partnership.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-New-Zealands-future-approach-to-the-Open-Government-Partnership.pdf</a></li> <li>• 15 February 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Further-advice-on-New-Zealands-future-approach-to-the-Open-Government-Partnership.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Further-advice-on-New-Zealands-future-approach-to-the-Open-Government-Partnership.pdf</a></li> <li>• 19 March 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Progressing-the-option-to-withdraw-from-the-Open-Government-Partnership.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Progressing-the-option-to-withdraw-from-the-Open-Government-Partnership.pdf</a></li> <li>• 8 April 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Approval-to-consult-on-draft-Cabinet-paper-proposing-New-Zealand-withdraw-from-the-Open-Government-Partnership.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Approval-to-consult-on-draft-Cabinet-paper-proposing-New-Zealand-withdraw-from-the-Open-Government-Partnership.pdf</a></li> <li>• 1 August 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Draft-Cabinet-paper-for-consultation-New-Zealands-withdrawal-from-the-Open-Government-Partnership.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Draft-Cabinet-paper-for-consultation-New-Zealands-withdrawal-from-the-Open-Government-Partnership.pdf</a></li> <li>• 15 October 2024:  <a href="https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Draft-Cabinet-paper-for-consultation-New-Zealands-withdrawal-from-the-Open-Government-Partnership-v2.pdf">https://www.publicservice.govt.nz/assets/DirectoryFile/Report-Draft-Cabinet-paper-for-consultation-New-Zealands-withdrawal-from-the-Open-Government-Partnership-v2.pdf</a></li> </ul>
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**Section III. Participation and Co-creation**

<b>Location (Page/para)</b>	<b>Comment</b>
9/2	We welcome the IRM’s acknowledgment that the PSC should be ‘guided’ by its statutory duty to foster a culture of open government. Sadly, since we raised this issue in a meeting with the former Public Service Commissioner, Peter Hughes, in a June 2021 meeting about OGP issues, we have seen little evidence that this legal responsibility has led to better practices or tangible results for OGP work.
9/3	The statement ‘ <i>Efforts were made to establish a more enduring multi-stakeholder forum (MSF) for New Zealand.</i> ’ is not supported by the information on the PSC’s ‘Review’ of OGP membership referenced in footnote 4. It is entirely unclear what ‘efforts’ PSC made to establish an MSF besides commissioning the Allen + Clarke review. We have seen no briefings to PSC’s minister indicating that following receipt of the report the PSC was seeking to establish a new MSF, probably because they were so busy trying to persuade ministers to leave the OGP entirely, so such efforts would have been contradictory to their policy intent.

	<p>It is important to note that PSC’s commitment to openness and partnering with civil society is so weak that officials did not use the contact information the Commission holds, nor their OGP mailing list, to tell the CSOs who engaged with Allen + Clarke that the report referred to in footnote 5 had now been published. Instead, its 18 December 2024 newsletter merely linked to officials’ final report on progress with the commitments:  <a href="https://mailchi.mp/ssc.govt.nz/ogp-website-updates-6740297?e=91aea55b75">https://mailchi.mp/ssc.govt.nz/ogp-website-updates-6740297?e=91aea55b75</a>  (The archive of the newsletters is here: <a href="https://us13.campaign-archive.com/home/?u=55d0ed7b83ab79603e84a5511&amp;id=7066a8974b">https://us13.campaign-archive.com/home/?u=55d0ed7b83ab79603e84a5511&amp;id=7066a8974b</a>)</p>
9/7	<p>The final paragraph on page 9 glosses over poor behaviour by government agencies during creation of the NAP. Some commitments proposed by civil society were blocked by officials from a government <i>department that had not participated in the meetings to discuss and develop commitments</i>. They simply emailed PSC officials to object to the commitment. Specifically, the officials from the Ministry for the Environment were invited by PSC to participate in the meetings for commitment development, but refused to do so. They then emailed their objections to a commitment promoted by civil society that a joint government/civil society working group develop the National Interest Assessment on whether New Zealand should accede to the UN’s Aarhus Convention. Their assertions and grounds for doing so were never tested in discussion with CSOs, so the advice to ministers was flawed.</p>
10/2	<p>The Council welcomes the IRM’s acknowledgement that New Zealand’s government did not meet the minimum requirements of 1.1 and 5.1 of the OGP <i>Participation and Co-creation Standards</i> during the plan’s implementation. While the PSC-organised progress review events were useful, they still represented a 50% cut on the quarterly reporting on progress that departments provided on commitments during NAP3. The loss in granularity and frequency of reporting made participation during implementation harder.</p>

**Annex I. Commitment Data**

Location (Page/para)	Comment										
16/1	<p>The Council notes that in the last line of the narrative about <b>Commitment 4</b>, the IRM recognises that New Zealand’s score in the Transparency International Corruption Perceptions Index score has been declining or static for 9 of the last 10 years.</p> <p><a href="https://www.transparency.org.nz/blog/new-zealand-slides-again-in-corruption-perceptions-index-2">https://www.transparency.org.nz/blog/new-zealand-slides-again-in-corruption-perceptions-index-2</a></p> <table> <thead> <tr> <th>Year</th> <th>Score</th> </tr> </thead> <tbody> <tr> <td>2015</td> <td>91</td> </tr> <tr> <td>2016</td> <td>90</td> </tr> <tr> <td>2017</td> <td>89</td> </tr> <tr> <td>2018</td> <td>87</td> </tr> </tbody> </table>	Year	Score	2015	91	2016	90	2017	89	2018	87
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	<p>2019 87 2020 88 2021 88 2022 87 2023 85 2024 83</p> <p>In 2014, the year that New Zealand joined the OGP, its CPI score was 91. It is now 8 points lower, or nearly 9%.</p> <p><a href="https://www.transparency.org/en/cpi/2024/index/nzl">https://www.transparency.org/en/cpi/2024/index/nzl</a></p> <p>The Council believes this decline would not have happened, or could have been reversed, if successive governments had taken OGP membership more seriously and used it as a vehicle to strengthen the integrity and openness of the country’s governance laws and systems.</p>
17/2	<p>Regarding <b>Commitment 7</b>, the IRM considers the commitment ‘complete’, and the Ministry of Justice may do too, but the Council does not.</p> <p><i>The Commitment was to ‘To strengthen the guidance and procedures agencies must follow in relation to the scrutiny of new legislative clauses that propose to override the disclosure requirements of the Official Information Act 1982 in relation to certain information.’</i></p> <p>To begin with, it is inherent in the commitment that there were pre-existing guidance and procedures that agencies must follow in relation to proposing new legislation that would override the Official Information Act. However, no such guidance or procedures were ever provided or published. This means that it is hard to claim that ‘strengthening’ of the guidance has taken place, unless the bar is set so low as to include the non-existence of any guidance and procedures — and the government did not claim this was the case.</p> <p>We do not regard a single letter from the Ministry of Justice to other departments ‘encouraging’ them to talk to the Ministry before proposing more clauses that override our freedom of information law as ‘strengthening’ either procedures or guidance. It is simply a repetition of what seems to have been the status quo before the commitment began, and which was not functioning. This is why we successfully pushed for the commitment’s inclusion in the NAP. Therefore the commitment has not been completed.</p> <p>The draft IRM report states that <i>‘Following this review, the Ministry reported that it amended its processes and guidance...’</i>. However, as noted above, no prior guidance or process documents were disclosed, so we are sceptical regarding the veracity of this ‘report’ from the Ministry.</p> <p>Further, it is not clear how the letter from the Ministry counts as an amendment of the Ministry’s own processes and guidance, as it consists of things it</p>

	<p><i>'encourages'</i> other departments to do. It contains no information about when in the process of developing legislation other departments should consult the Ministry, nor anything about the criteria the Ministry will use to evaluate other departments' arguments that an exemption is needed or justified.</p> <p>The narrative in the report on this commitment also states that the letter to other agencies <i>'included'</i> writing to members of the Tier 2 Policy Leaders Network. Linguistically, this implies there were other actions taken. The Ministry has not informed the NZCCL or the public about them, nor published them on its website, nor referred to them in the final report to the public on progress with the commitment. The last bullet-point on slide 20 of the final progress report states the MOJ “developed and circulated guidance on OIA exemptions to raise the profile of this policy issue and published this guidance publicly.” The only published guidance is the letter from Deputy Secretary Caroline Greaney to other departments, cited in footnote 27. The progress report is available at:</p> <p><a href="https://ndhadeliver.natlib.govt.nz/webarchive/20250318091511/https://ogp.org.nz/latest-news/december-2024-ogp-progress-report">https://ndhadeliver.natlib.govt.nz/webarchive/20250318091511/https://ogp.org.nz/latest-news/december-2024-ogp-progress-report</a></p> <p>The Council notes that since the final 'progress report', the government has stated in its June 2025 Self-Assessment of NAP4 that:</p> <p><i>As part of its ongoing, regulatory stewardship role, the Ministry of Justice will:</i></p> <ul style="list-style-type: none"> <li>• <i>continue to improve understanding and guidance to public sector agencies about exemptions to the OIA and their scrutiny;</i></li> <li>• <i>continue to work with other agencies and stakeholders to improve the process and guidance in relation to exemptions (for example, disclosure statements) over the longer-term.</i></li> </ul> <p>The Council would be interested in whether the Ministry has provided the IRM with any evidence of activities by the Ministry under these two bullet points.</p> <p>Finally, the Council notes that although the Ministry of Justice met with government agencies during work on the commitment, at no point did it meet with us, or other civil society groups, or others outside government, to discuss the issues and how the commitment might be most effectively delivered. We do not believe the Ministry's Chief Executive has met his statutory duty to foster a culture of open government, when the PSC's definition of 'open government' recognises that this involves public participation,<sup>8</sup> and the OIA's own 'purposes' section states that it is to enable effective public participation in policy making.</p>
17/3 to 18/1	<p><b>Commitment 8.</b> It is important to note that while the narrative states that <i>'Altogether, this commitment marked positive steps in building a framework for responsible algorithm use'</i> this commitment is another example of the New Zealand government's habit of using positive words in the title of a</p>

commitment, but undertaking activities that have little effect in achieving that title.

Commitment 8 is entitled *'Improve transparency and accountability of algorithm use across government'*. The Council believes that it is reasonable to assume that in an OGP context improving transparency and accountability should be about enabling the public to see and understand what is going on about algorithm use across government, either directly or via civil society proxies such as the NZCCL.

Instead the second half of the *'Objective'* of the commitment, and the *'Ambition'* for it are entirely inward-focussed, on government agencies. Unsurprisingly, the same is the case for the milestones.

The Council offered to take part in the planning and implementation of Commitment 8, but Stats NZ did not take up this offer. We have seen no indication that Stats NZ involved any CSOs in the planning, implementation or assessment of Commitment 8.

Given the inward-facing nature of the commitment, it is not surprising that the narrative on Commitment 8 makes repeated references to internal processes, which have not resulted in public transparency or accountability.

The Algorithm Charter Community of Practice meets in secret with no public or CSO participants, in spite of the Council repeatedly asking Stats NZ for the CoP to be opened up to non-government participants. Stats NZ's response has always been that the CoP is not sufficiently mature to handle outside participation, and that officials would not speak candidly if non-government participants were present. How then is transparency and accountability being delivered to the public?

We recommend adding, after the sentences on the meetings of the CoP the following text: *'The Algorithm Charter Community of Practice is a closed group of government officials whose agenda, papers and minutes are not published, and does not include any public participation.'*

A further example of the way in which this commitment does not deliver public transparency and accountability of algorithm use by government is that no agencies have published any of their assessments developed using the Algorithm Impact Assessment Toolkit.

A search of the web for 'algorithm impact assessment' limited to sites ending with '.govt.nz' results in no published assessments, just references to the Toolkit. Similarly, a search of the catalogue of datasets published on data.govt.nz reveals no dataset of these algorithm impact assessments.

The Council acknowledges that the IRM has amended the draft report to state that *"Stats NZ advised that it was not aware of any agencies having published*

<i>completed Algorithm Impact Assessments as of June 2025, which was recommended when algorithms were identified as higher risk.”</i>
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<sup>1</sup> *Govt's transparency work 'timid and unambitious'*, Newsroom, 9 June 2025.

<https://newsroom.co.nz/2025/06/09/govts-transparency-work-timid-and-unambitious/>

<sup>2</sup> *New Zealand's Fourth Open Government Partnership Plan Self-Assessment Report 2025*, Public Service Commission, 5 June 2025.

<https://www.publicservice.govt.nz/assets/OGP/212e5f4b14/NAP4-Self-Assessment-Report.pdf>

<sup>3</sup> *Submission: Crimes (Countering Foreign Interference) Amendment Bill*, NZCCL 25/1/2025.

<https://nzcccl.org.nz/submission-crimes-countering-foreign-interference-amendment-bill/>

<sup>4</sup> *We reject IPCA call for government to issue protest permits*, NZCCL 20/2/2025.

<https://nzcccl.org.nz/we-reject-ipca-call-for-government-to-issue-protest-permits/>

<sup>5</sup> *Submission: Parliament Bill*, NZCCL, 8/11/2024. <https://nzcccl.org.nz/submission-parliament-bill/>

<sup>6</sup> *Submission: Term of Parliament (Enabling 4-year Term) Legislation Amendment Bill*, NZCCL, 16/4/2025.

<https://nzcccl.org.nz/submission-term-of-parliament-enabling-4-year-term-legislation-amendment-bill/>

<sup>7</sup> *Submission: Fast-track Approvals Bill*, NZCCL, 19/4/2024. <https://nzcccl.org.nz/submission-fast-track-approvals-bill/>

<sup>8</sup> *'Defining open government'*, Public Service Commission, 2025.

<https://www.publicservice.govt.nz/system/open-government-partnership>