

Executive Summary

Integrity Plus 2013



New Zealand

National Integrity System

Assessment



SCHOOL OF GOVERNMENT
Te Kura Kāwanatanga

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This assessment of New Zealand's National Integrity System is dedicated to New Zealander Jeremy Pope who pioneered the approach. It also marks the centenary of the coming into effect of the Public Service Act 1912

Transparency matters ...

“Transparency” is a term so frequently used and used in such diverse contexts that it is worth re-stating why it matters so much. Citizens have a right to information – a principle well established in such codes as the International Covenant on Civil and Political Rights and New Zealand's Official Information Act 1982. Transparency is also a precondition for effective public debate, strengthens accountability, and promotes fairer and more effective and efficient governance. As Professor Jeremy Waldron, an internationally regarded New Zealand legal academic, has observed, “there is such a degree of substantive disagreement among us about the merits of particular proposals ... that any claim that law makes on our respect and our compliance is going to have to be rooted in the fairness and openness of the democratic process by which it was made”.

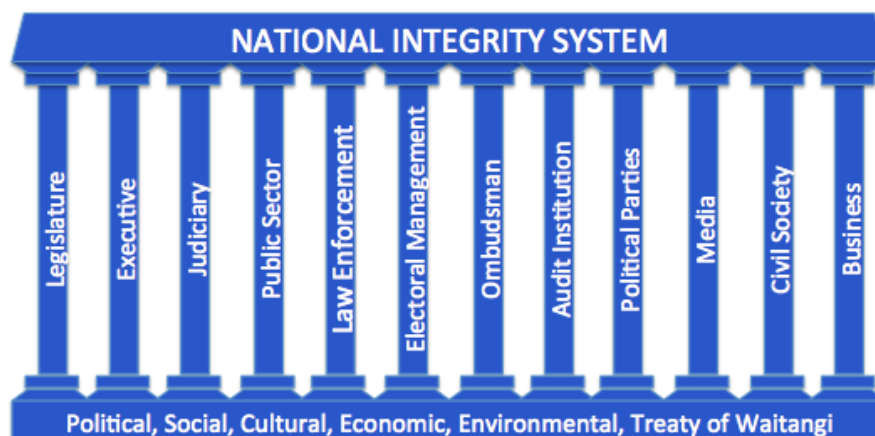
The National Integrity System

This National Integrity System (NIS) assessment report takes stock of the integrity with which entrusted authority is exercised in New Zealand. The framework on which the report is based was developed by the Transparency International Secretariat and applied by TI national chapters in many countries. A good working definition of an NIS is “the institutions, laws, procedures, practices and attitudes that encourage and support integrity in the exercise of power”. Beyond restraining the abuse of power, integrity systems should also be designed to ensure power is exercised in a manner that is true to the values, purposes, and duties for which that power is entrusted to or held by institutions and individual office-holders, whether in the public sector, the private sector, or civil society organisations.

At the heart of this assessment are reports on 12 ‘pillars’ – branches of government, sectors, or agencies that constitute New Zealand's national integrity system. An NIS assessment is an evaluation of the principal governance systems in a country to assess whether they function well and in balance with each other and thus help to guard against the abuse of power. It extends also to the societal foundations that support the pillars. The New Zealand NIS is illustrated in the standard “temple diagram”. This assessment framework incorporates the Treaty of Waitangi (New Zealand's founding document), environmental governance, and local government. Each of the individual pillars of the NIS has been assessed and scored against a set of indicators that measure each pillar's capacity, governance, and role within the system.

The assessment identifies systemic interactions, interdependencies, and common themes and concerns. The wide scope of an NIS assessment facilitates such identification, which is difficult, if not impossible, to achieve in standard sector- or institution-specific analyses of transparency and accountability. It considers the individual pillars and their interactions (positive and negative) as well as the effectiveness of the overall NIS.

Figure 1: New Zealand's National Integrity System



Overall conclusions of the report

New Zealand's national integrity system remains fundamentally strong, and New Zealand is rated highly against a broad range of cross-country transparency and good governance indicators. Since the first NIS assessment of New Zealand in 2003, a welcome strengthening of transparency and accountability has occurred in some areas. The assessment found that the strongest pillars in the NIS are the Office of the Auditor General, the judiciary, the Electoral Commission, and the Ombudsman. The Canterbury earthquakes represented a severe test of governance systems in terms of compliance with building standards and integrity in reconstruction, and (with two tragic exceptions, the collapses of the CTV and Pyne Gould Corporation buildings), systems have generally held up well.

However, New Zealand's national integrity system faces increasing challenges. In key areas, passivity and complacency continue. New Zealand has not ratified the UN Convention against Corruption more than 10 years after signing it, and is not fully compliant with the legal requirements of the OECD Anti-Bribery Convention more than 14 years after signing it. Areas of concern, weakness, and risk do exist; for example, the relative dominance of the political executive, shortfalls in transparency in many pillars, and inadequate efforts to build proactive strategies to enhance and protect integrity in New Zealand. The pillar that raises issues of most concern is the political parties pillar. The core message of this report, therefore, is that it is beyond time to take the protection and promotion of integrity in New Zealand more seriously.

Strengths from the interactions between pillars

The four key strengths from the interactions between pillars are:

- **the effectiveness of the judiciary as a check on executive action**
- **the effectiveness of the Office of the Auditor-General in supporting parliamentary oversight of the public finances**

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- **the effectiveness of the Ombudsman as a restraint on the exercise of administrative power** and in enforcing citizens' rights of access to information under the Official Information Act 1982
- when cases of corruption or unethical behaviour by those in power are exposed, **the media, political parties, the Auditor-General, law enforcement agencies, and the judiciary usually pursue these cases vigorously.**

Weaknesses from the interactions between pillars

Four main weaknesses are apparent in the interactions between pillars.

- **Interface between political party finances and public funding:** A combination of continuing concerns includes the transparency of political party financing and of donations to individual politicians, a long-term decline in party membership and increased party reliance on public funding, and a lack of full transparency of public funding of the parliamentary wings of the parties. These concerns interact also with the refusal to extend the coverage of the Official Information Act 1982 to the administration of Parliament.
- **Parliamentary oversight of the executive:** Concerns include the use of urgency to pass controversial legislation and the lack of specialist expertise and committees to hold the executive to account.
- **Interface between the political executive and public officials:** Concerns include evidence of an erosion of the convention that public servants provide the government of the day with free and frank advice, an apparent weakening over the last decade of the quality of policy advice that public servants provide, and perceived non-merit-based appointments to public boards.
- **Interface between central government and local government:** Concerns include intervention by central government in the decision-making authority of local government and weaknesses in the design and implementation of regulations.

Foundation assessment discloses both strengths and weaknesses

Sources of strength and weakness are also found in the foundations of the NIS.

Key strengths include:

- support for a high-trust society, economy, and polity, and a general culture that does not tolerate overt corruption
- overall, wide support for democratic institutions, and elections that are free and fair
- overall, assurance of the political and civil rights of citizens
- the Treaty of Waitangi as a source of legitimacy, citizenship for all, and respect for Maori authority and full participation. In this context, social, ethnic, religious and other conflicts are rare.

Key weaknesses include:

- a degree of economic inequality that strains social cohesion and, international experience suggests, may create some risk of increased corruption
- only 37 per cent of respondents to a recent Serious Fraud Office survey thought the country was "largely free" of serious fraud and corruption
- 44 per cent of respondents in the New Zealand Survey of Values 2005 thought the country was run by a few big interests looking after themselves rather than for the benefit of all people

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- only 55 per cent of those surveyed by the Human Rights Commission considered the Treaty of Waitangi to be New Zealand's founding document, and only 25 per cent rated the Crown–Māori relationship as healthy.

Together the last three factors suggest recognition by the public of the need for a more proactive approach to promoting and protecting integrity in New Zealand.

Six broad themes across the NIS

Analysis of the 12 pillars and societal foundations of the New Zealand NIS identified six broad cross-cutting themes (that is, themes that cut generally across the whole of the NIS). These themes helped to frame the recommendations.

- A strong culture of integrity with most decisions conforming to a high ethical standard, but this culture is coming under increasing pressure.
- The relative structural dominance of the political executive branch of government.
- A lack of transparency in a number of areas.
- The degree of formality in the frameworks that regulate the pillars in New Zealand's national integrity system varies considerably. Informal conventions provide flexibility, but also create a risk of expediency and a need to ensure they are not being eroded.
- Conflicts of interest are not always well managed.
- New Zealand would benefit from greater emphasis on the prevention of fraud, bribery and corruption.

Recommendations

The recommendations are set out in full in Chapter 6 and cover seven areas. They are based on the analysis and findings in the pillar reports and the identification of pillar interactions and system-level cross-cutting themes. Each recommendation addresses an area of concern identified in this assessment and is directed to a particular institution or sector to implement.

- 1 Ministry of Justice to lead the development of a comprehensive national anti-corruption strategy in partnership with civil society and the business community, combined with rapid ratification of the UN Convention against Corruption (UNCAC), as a matter of urgency.
- 2 Ministry of Justice to initiate a cross-government programme of wide public consultation to develop an ambitious New Zealand Action Plan for the international Open Government Partnership.
- 3 Strengthen the transparency, integrity and accountability systems, of Parliament, the political executive (cabinet) and local government.
- 4 Strengthen the role of the permanent public sector with respect to public procurement, integrity and accountability systems, and public policy processes.
- 5 Support, reinforce and improve the roles of the Electoral Commission, the judiciary, and the Ombudsman in maintaining integrity systems.
- 6 The business community, the media, and non-government organisations to take on a much more proactive role in strengthening integrity systems, addressing the risks of corruption as “must-have” features of good governance.
- 7 Public sector agencies to conduct further assessments and research in priority areas to better understand how to further strengthen integrity systems.