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## **Provide your input to the OGPAP**

### **How could we improve on New Zealand's last National Action Plan?**

First, by ensuring that this National Action Plan (NAP) is co-created working with civil society as a conduit for both engagement and processing feedback as well as developing channels for hearing voices from across the whole population. This means building wide, deep and citizen-friendly consultation. This is, of course, a major challenge given that again New Zealand is behind the deadline set by the Open Government Partnership international office. Even so, given the brief time that is available, it is important that the consultation channels are open and that the way ideas from the feedback are addressed is transparent and shows integrity in that topics and solutions provided by submitters are clearly reflected in the final plan.

A key message to be included in the 2016/18 NAP is that the plan is for the next two years and as well as working to achieve key results (OGP challenges), this is a dynamic process with the partnership envisaging wider engagement with civil society and citizens. In other words, amongst the SMART reporting and monitoring should be a measure of the degree of engagement with citizens, including comparisons across different segments of the population.

Secondly, by ensuring that the feedback is about key changes in the partnership between government and citizens and that the delta of these changes is measured, assessed and compared.

Thirdly, for transparency, by ensuring that all obligations set out on the OGP website are followed – including the publishing of all the submissions made during the consultation process.

The OGP is an important opportunity for the government to show that it wants to engage with its citizens and Transparency International New Zealand (TINZ) supports the OGP principles that regard this as an important function in a democracy. At this same time, recent events (Brexit, the US Presidential campaign, the closeness of the Australian national election) highlight the risks to governments who fail to engage. By engaging with civil society, the government has a vehicle that both engages with segments of the population but which also has built up the respect of its members to analyse and interpret messages from them. The nature of engagement with segments of the population unrepresented through civil society organisations is less developed and it may be that some of these segments are harbouring anger and frustration with government and democracy.

The challenge then is how to best for governments to make sustainable improvements over current practices that will maximise the well-being for all citizens and optimise the achievements of government policy, processes, practice, products and services.

New Zealand's OGP international membership interfaces with the recommendations of TINZ's assessment of the effectiveness of the country's National Integrity System (NIS), published in 2013.

The recommendations proposed in the NIS were included as important improvements in current practice in the first NAP. While there was an internal government initiative to set in place channels and specify government agencies to address each recommendation, only a few of the NIS recommendations have been progressed. The achievements, however, are notable and include ratifying UNCAC, the Ministry of Justice leading the development of a national anti-corruption strategy, increased resourcing the Electoral Commission, Ombudsman and OAG. Even so, there is further work to be done even in these areas. For example, as well as signing up to OGP, TINZ 2013 NIS recommended that there be a cross-government programme for wide public consultation to develop an ambitious New Zealand National Action Plan (NAP).

The NAP needs commitment, transparency, integrity, accountability and bold outcomes that engage citizens and which the country can be proud of. New Zealand is well-placed to take a leadership role in this type of activity, demonstrating to the Asia-Pacific region that democracy works both in terms of the specific and individual needs of citizens and the overall achievement of sustainable long-term prosperity for the country.

### **What does open government mean to you in practice?**

TINZ visualises a focus on Open Government Partnership planning that is based around concrete and measurable (SMART) action points to achieve change that improves accountability, transparency, and citizen engagement. By inviting public consultation through multiple channels, designed to respond to the way that different segments engage, the nature of changes that will be empowering has the advantage of both being more open and also enhancing the effectiveness of the changes to government that are adopted. This means that consultation is a rich process, ranging from a multiple online channels to face-to-face meetings in multiple surroundings. In addition, the public consultation process and individual written comment should be summarised in an accessible format such as a website.

An example in TINZ's own experience relates to its aim of developing channels to communicating with students. It has done so by holding its events at Universities and sending its invitations via databases that include students. The actual audiences who fill all the seats in the lecture theatres have an average age of 60 plus. At a recent event, two of the 10 or so student attendees said that they would fill the seats with students next time using their face book pages. Time will tell – suffice it to say that TINZ was using its own face-book page in a different way and hadn't previously given thought to publicising events through this vehicle.

For input into this second NAP, the State Services Commission has rapidly geared up its processes to involve and collaborate with civil society, New Zealand communities and individual citizens. A confusing part of the process is the tension between gaining meaningful feed-back about the OGP challenges and the shortness of the time frame.

Given this short time frame, it will be important that a section of the National Action Plan is devoted to outlining the strengths and weaknesses of the process to prepare it and how the weaknesses will be mitigated as part of the activities covered by the next NAP. Citizens will be less engaged unless there are truthful and realistic processes described to improve engagement.

Citizens need both to be convinced to support OGP through co-creation activities and more importantly, to retain a trust in government and the legitimacy of its institutions.

As part of the current NAP consultation, a small number of individuals and civil society organisations knowledgeable about OGP have held their own consultations and surveys. The optics of OGP will be greatly enhanced through a transparent process to address the results of these highly engaged people and organisations.

It needs to be made clear in the next NAP that the Open Government Partnership aims to co-create in a manner that recognises that on-line consultation and three public meetings was an exigency given the current time frame, setting out how it will be more communicative in the future. By genuinely describing how it intends to continuously improve processes to gain information through a range of means of hearing the voices of citizens, taking into account different interests and geographical and socioeconomic attributes that shape the way people voice their expectations of government.

An important attribute of Open Government Partnership is that public servants can play their role, along with civil society, communities and local governments. They should be enabled to provide free and frank advice without fear or favour, including evidence-based advice about changes in current government activities that are in the long term best interests of the public. Under the Westminster System, the elected Government has a representational mandate and as such does not have to act on that advice. Even so, given modern communications and media, Governments will be in a much more sustainable position when they have access to and listen to well-informed advice.

Further, government does need to allow for advice to be routinely proactively disclosed with a reducing proportion of advice only being available under the OIA.

**What do you think should be the themes of the second National Action Plan for Open Government should be? e.g. Open data, engagement, open budgets?**

- **Improving engagement with citizens** - Developing channels of communication, segmented for different citizen attributes, using existing (enhanced) public official, civil society, local government, digital processes where feasible and building new processes where there are currently major groups of unheard citizens
- **Improving public integrity** - More effectively managing public resources - reforming official information laws by extending them to Parliamentary bodies and adopting the Law Commission's recommendation to create an official information authority responsible for training, culture, advice, best practice guidance, and identifying necessary reforms. Strengthening the integrity of the permanent public sector in regard to procurement, etc. Supporting and reinforcing the roles of Electoral Commission, Judiciary and Ombudsman. Review of current anti-corruption legislation including a discussion of the Misconduct in Public Office Review including the expansion of the OIA to cover a Parliament Code of Conduct or Guidance for Relationships between Ministers and public servants, to complement the Cabinet Manual.

- **Strengthen governance arrangements of Executive and Parliament** - Support and reinforce the roles of the Electoral Commission, Judiciary and Ombudsman. Create a set of robust and government-wide practices in collaboration with civil society concerning timely public consultation on new bills, regulation and policy; base them on international best practice; make them mandatory where feasible; and include an effective complaint resolution mechanism or Ombudsman.
- **Open Voices** - Develop a public cross-government policy formally permitting public servants, civil society and all those receiving public funding to speak out on significant public issues without facing any form of retaliation. Instead of silencing of civil society, which has in turn led to the need for such consultation process such as the Kia Tuatahi Relationship Accord, find mechanism to co-create with them. TINZ recognises that this is a significant challenge as demonstrated through the government's survey of its own departments which has shown that Kia Tuatahi was adopted by only 20% of its own people as a tool for collaboration. Amongst the levers available are resourcing and respecting the role of public broadcasting to act as conduit, to promote a vibrant civil society of organisations that have a voice in society. Through this, any elected government will find that it can more easily and meaningfully be informed through working with empowered public servants, civil society and a diverse and independent media.
- **Increasing corporate accountability** – engage and encourage business, community, NGOs and the media to take on a more proactive role in building strong integrity systems. Create a cross-sector integrity taskforce to develop and enforce NZ strategy. Develop a specific business anti-corruption/good governance framework to establish best practice in trade and also to ensure New Zealand business is up-to speed with legal requirements of the Crimes Act, the US FCPA, the Dodds Frank Act and the UK Bribery Act.
- **NIS Recommendations progressed** - other priorities for the NAP include safe channels for whistle-blowers, citizens' budget, political party transparency, managing conflicts, improved integration of the Treaty of Waitangi, environmental and social reporting. TINZ notes, however, that although its recommendations are robustly evidence based, its membership, while growing rapidly, has yet to reach a stage where it represents all citizens. As such, it is respectful of consultation outcomes through the NAP that may prioritise other improvements in current government activity.
- **Implement an ambitious National Action Plan**- the one NIS recommendation that TINZ promotes above all others is that the National Action Plan that goes forward from 31 October this year demonstrates strong ambitions for citizen engagement and the achievement of change through this. It needs to specify clear steps of how the next two years will be devoted to strong co-creation where citizens are heard and government listens. Democracy requires an action plan that yields results that makes all New Zealanders proud of their country and of their government.

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Nga mihi

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