

CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

Transparency, democratic participation, and accountability clearly have important roles to play in ensuring integrity. They also play key roles in ensuring social cohesion and the rule of law. As Professor Jeremy Waldron has said, “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”.¹¹¹¹

In Jeremy Pope’s conception, the pillars of the National Integrity System (NIS) form an interlocking system. When properly governed, regulated, and managed, each pillar will both support good performance in other pillars and provide checks and balances across the system that reduce and limit inappropriate behaviour. Supported by sound societal foundations, the result will be an overall system that is more likely to sustain integrity and promote public policies that are considered to be fair, effective, and sustainable.

This analysis of New Zealand’s NIS then is essentially a risk assessment. The focus is mainly on developments over the last 10 years since the first New Zealand NIS assessment report, which provides a useful benchmark for the analysis. In some areas, such as the detailed assessment of the public management system (Pillar 4 report), the analysis spans the period since the major reforms in the 1980s and identifies deep-seated tensions in the system that suggest caution in concluding that recent reforms will “fix” them.

¹¹¹¹ Jeremy Waldron, ‘Parliamentary Recklessness: Why we need to legislate more carefully’. Lecture given at the Maxim Institute, October 2008. New Zealander Jeremy Waldron holds a professorship at the New York University School of Law and is Chichele Professor of Social and Political Theory at All Souls College, Oxford University.

Strengths and weaknesses of New Zealand’s National Integrity System

Figure 15 contains a summary of the main strengths and weaknesses in the individual pillars, drawn from the summaries of the pillar reports in Chapter 5.

Figure 15: Strengths and weaknesses of the National Integrity System pillars

Strengths	Weaknesses
Legislature (pillar 1)	
<p>The work of the legislature is generally transparent, parliamentary debate is covered in full on television, and access by the public to select committee processes is particularly good. The New Zealand legislature has a long history of producing stable governments. Since the introduction of mixed member proportional representation it has been more representative of New Zealand society.</p>	<p>Parliament does not have specialised committees in some key areas (treaties, or human rights) and lacks independent technical capacity for oversight of public expenditure and fiscal policy. At times it resorts to urgency to pass important legislation without the opportunity for a full debate. Its administrative arrangements and officers are not subject to the Official Information Act 1982, nor is there a code of conduct for members of Parliament or transparency of lobbying of members of Parliament.</p>
Political executive – Cabinet (pillar 2)	
<p>Cabinet is uncontestedly the apex of government power, and its processes promote coherent national decision making. The executive operates free from undue external influence, and the <i>Cabinet Manual</i> sets out clearly the behaviour expected of ministers that is reinforced through Cabinet collective responsibility. Cabinet minister accountability is acute in areas of high political profile. Ministerial interactions with the public sector system are governed by laws and processes that promote transparency and accountability for policies and their implementation.</p>	<p>By developed country standards, there is a high concentration of power in the Cabinet, including over key appointments. At times, this creates public mistrust. There is some resistance (also in the public sector) to the spirit and intent of the Official Information Act 1982. Cabinet minister accountability for the effectiveness of policies is relatively weak.</p>

Strengths	Weaknesses
Judiciary (pillar 3)	
<p>The judiciary is an important check on executive decision making. It displays high standards of independence, accountability and integrity. The court system is seen to be free of corruption and unlawful influence</p>	<p>Financial disclosure by members of the judiciary is lacking, there are some weaknesses in public access to court information, regular reporting to the public on the activities of the judiciary is lacking, and more transparency in judicial appointments is needed.</p>
Public sector (pillar 4)	
<p>Institutional arrangements are very effective in supporting ethical behaviour and suppressing corruption. Advanced levels of transparency are apparent in public financial management, including public procurement systems that are generally sound. High accountability exists for the use of resources to deliver outputs. By international standards, there is a high degree of public access to official information in practice. There are some strong integrity institutions for environmental governance.</p>	<p>Serious regulatory failures have occurred in recent years. The public service has a diminishing capacity for professional policy advice, and the convention of free and frank advice is under pressure. The public sector does not provide systematic analysis and information on the impact of policies (including public management policies), and there are gaps in “state of the nation” environmental and social reporting¹¹¹². There is resistance to the obligations imposed by the Official Information Act 1982, and transparency gaps exist in public procurement. There are concerns about the interface between central and local government.</p>

1112 On 8 August 2103 the Minister for the Environment announced that legislation would be introduced that would provide for a ‘comprehensive synthesis [state of the environment] report covering all environmental domains’ to be prepared and ‘released every three years.’ (<http://www.beehive.govt.nz/release/govt-mandate-three-yearly-state-environment-reports>).

Strengths	Weaknesses
Law enforcement and anti-corruption (pillars 5 and 9)	
<p>Overall, New Zealand law enforcement agencies maintain high standards of transparency, integrity, accountability, and independence.</p>	<p>The government has been slow to implement international policies and laws for deterring and combatting bribery and corruption. In several key areas, legislation, resources, and government policy are inadequate for addressing bribery and corruption and little exists in the way of risk monitoring, preventative, or educational activity. Some concerns exist about transparency and accountability in respect of surveillance activity. There is concern about the extent of the over-representation of Māori in the criminal justice system and possible structural discrimination.</p>
Electoral management body (Electoral Commission) (pillar 6)	
<p>General elections have full integrity, reflecting in part the independence and integrity of the Electoral Commission, which has a strong reputation as a trustworthy institution and credibility in administering general elections. The recent merger of three separate electoral agencies and consequent reconfiguration has strengthened electoral management.</p>	<p>The Electoral Commission has little effective ability to respond to concerns about political party finances, and there are concerns over its allocation of state funding of political parties for broadcast election advertising. It has no ability to influence significant trend decline in voter turnout at general elections.</p>
Ombudsman (pillar 7)	
<p>High standards of independence, integrity, and accountability are apparent. The Ombudsman operates as an effective check on the exercise of administrative power and recommendations are almost invariably accepted.</p>	<p>A backlog of cases will take some time to overcome, and recent increased funding may be insufficient. The Ombudsman is not mandated to have a general oversight role with respect to policy advice, review, statistical oversight, promotion of best practice, training, requester guidance, and annual reporting; nor is there a mandated function of educating the public or government agencies about their rights and obligations under the Official Information Act 1982 and other relevant legislation. Some formal integrity and accountability mechanisms are absent.</p>

Strengths	Weaknesses
Supreme audit institution (Auditor-General) (pillar 8)	
<p>The Auditor-General is trusted and influential in maintaining public standards of integrity and accountability. The office plays a significant role in lifting standards of public financial management.</p>	<p>The direct responsiveness of Parliament to findings of the Auditor-General is variable. The office's performance audits pay limited attention to the effectiveness of government spending in achieving intended outcomes.</p>
Media (pillar 10)	
<p>The media is independent, free, and active in informing the public about the activities of the government. It is active and successful in exposing individual cases of corruption and maladministration.</p>	<p>Industry self-regulatory and regulatory bodies need to be more proactive in reviewing and promoting adherence to their integrity frameworks. The capacity for investigative journalism is lacking, and diversity is limited in terms of media industry ownership and content.</p>
Political parties (pillar 11)	
<p>Political parties play a strong role in highlighting and combating impropriety and potentially corrupt practices in public life, which has become a central theme of electoral competition. Political parties are able to operate independently and without unwarranted state intervention.</p>	<p>The most problematic features involve political finance – how politicians raise and spend their funds, including indirect state funding provided opaquely to the parties in Parliament, and how the state attempts to regulate their activities. Legitimacy is a major problem with low levels of membership of and public trust in political parties.</p>
Civil society (pillar 12)	
<p>The environment for community and voluntary organisations is favourable and enabling. High integrity is apparent through public involvement and civil society organisations' flexibility and responsiveness. Generally, there is a high level of information disclosure to keep the public informed. Some significant successes in holding governments to account have occurred.</p>	<p>Some civil society organisations feel their independence is limited in practice by their reliance on government funding for service delivery. New Zealanders are largely under-informed about what transparency and disclosure they should expect from their civil society organisations, and there is variability in information disclosure across civil society organisations, particularly about in whose interest a civil society organisation is operating, and who is funding them. Government consultation over new policies sometimes takes place too late.</p>

Strengths	Weaknesses
Business (pillar 13)	
<p>The suite of company and securities laws and systems is reasonably comprehensive and effective. Business regulation generally aims to promote competition in an open economic environment. There are no inappropriate barriers to establishing a business. The court system is free of corruption and unlawful influence, and there are legal protections for property.</p>	<p>An overly permissive regime for company incorporation has allowed “shell companies” involved in questionable activities to incorporate in New Zealand. The business community is not well informed about the criminalisation of bribery of foreign public officials, and has to date taken a passive approach to managing its exposure to risks from bribery and corruption. The domestic black economy is substantial, with links to organised crime.</p>

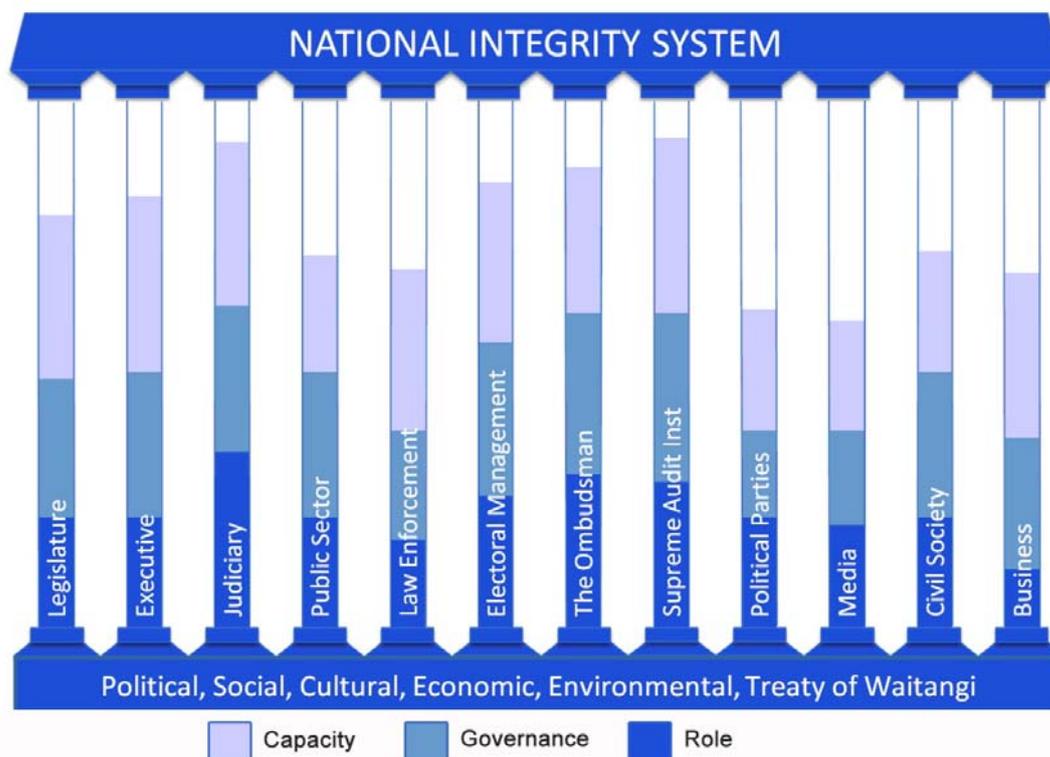
New Zealand’s NIS remains fundamentally strong. By international standards there is very little corruption in New Zealand. It is clear that New Zealand remains legitimately highly rated against a broad range of international indicators of transparency and quality of governance. Successive governments have taken further actions to increase transparency and accountability since the 2003 NIS assessment. The 2010 and 2011 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)¹¹¹³ systems have generally held up well.

A number of areas of concern, weakness, and risk highlighted in 2003, however, remain in the face of ongoing and new challenges to integrity. In some key areas, there has been continued passivity and complacency. This is exemplified by New Zealand’s failure to ratify the UN Convention against Corruption more than 10 years after signing the convention, and its failure to fully comply with the legal requirements of the OECD Anti-Bribery Convention more than 14 years after signing it.

Figure 16 presents the findings from the pillar-by-pillar analysis in Chapter 5 in the form of the “temple diagram”. The diagram incorporates the overall pillar scores; the height of the shaded bar columns represent the full pillar score. The diagram also displays the scores for the sub-components used to assess and score each pillar – capacity, governance, and role within the system. The scores applied to the assessment are derived from the reasoning behind answers to the NIS assessment questions. Note, however, that the scores are indicative only, and the findings and recommendations draw largely on the in-depth qualitative analysis.

¹¹¹³ With the exception of the two building collapses, and the design of stairs in multi-storey buildings, ..modern commercial buildings generally performed in accordance with the key objective of life- safety set by the Building Code.’ Canterbury Earthquakes Royal Commission, *Final Report: Volume 6: Canterbury Television Building (CTV)*, p. 6. <http://canterbury.royalcommission.govt.nz/Final-Report-Volume-One>

Figure 16: Assessment summary, showing pillar scores and components



The diagram shows that the relatively strong pillars are the supreme audit institution (Office of the Auditor-General), the judiciary, the electoral management body (the Electoral Commission), and the Ombudsman. The weakest pillars are political parties and the media. Of these, political parties are of the most concern, as discussed further below. The media score reflects some weaknesses in terms of diversity of ownership and content, lack of capacity for in-depth investigative journalism, and the need for attention to accountability and integrity mechanisms.

Comparing the relative pillar scores in Figure 16 against the synthesis of NIS reports in 25 European states in 2011 (discussed in Chapter 1), the similarities include the relative strength of the supreme audit institution and of electoral management, and the relative weakness of political parties, particularly political party financing.

In addition to the pillar-by-pillar analysis, key strengths arise from interactions between specific pillars.

- The effectiveness of the officers of Parliament and other key watchdog institutions in acting as a check on the executive. More specifically, the effectiveness of the:
 - judiciary as a check on executive action
 - Office of Auditor-General in supporting parliamentary oversight of the public finances – the Auditor-General’s public reputation carries sufficient weight for political office-holders to take the office’s recommendations seriously and, on occasion, to implement its recommendations for changes to the rules relating to spending by elected officials (sections 8.3.2, and 10.2.4)

- 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
- Office of the Parliamentary Commissioner for the Environment in strengthening transparency and accountability for environmental governance.
- When cases of corruption or unethical behaviour by those in power become public, they are usually pursued vigorously. In varying degrees and circumstances, the media, political parties, the Office of Auditor-General, law enforcement agencies, and the judiciary all play a part in that pursuit.

Some significant weaknesses also arise from the interactions between specific pillars.

- Problems exist at the interface between political party financing and public funding. The combination of continuing concerns about the transparency of political party financing and of donations to individual politicians, a long-term decline in party membership, increased party reliance on public funding, and a lack of full transparency of public funding of the parliamentary wings of the parties interacts with the refusal to extend the coverage of the Official Information Act 1982 to include the administration of Parliament.
- Weaknesses in parliamentary oversight of the executive include the use of urgency to pass controversial legislation, and the lack of specialist expertise and committees to hold the executive to account.
- The interface between the political executive and public officials shows 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 or so of the quality of policy advice that public servants provide to ministers, and public concern about perceived non-merit-based appointments.
- Problems at the interface between central and local government include concerns about intervention by central government in the decision-making authority of local government bodies and weaknesses in the design and implementation of regulations.

Sources of strength and weakness are also identified through the assessment of the NIS foundations.

Key strengths in the foundations include:

- support from the foundations of the integrity system for a high-trust society, economy and polity, and a general culture that does not tolerate overt corruption
- overall, democratic institutions are widely supported by New Zealanders, and elections are free and fair
- overall, the political and civil rights of citizens are assured
- significant social, ethnic, religious, and other conflicts rarely occur in New Zealand, and diversity is accepted with differences normally resolved or ameliorated
- the role of the Treaty of Waitangi as a founding document that creates citizenship rights for all, seeks to protect the rights of Māori, and contributes to social cohesion.

Key weaknesses in the foundations include:

- the presence of significant socio-economic inequalities, which has the potential to strain social cohesion and, international experience suggests, creates some risk of increased corruption¹¹¹⁴
- 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 people¹¹¹⁵
- a 2013 survey of trusted professions in New Zealand ranked politicians 46th out of 50 professions¹¹¹⁶
- only 37 per cent of respondents to a recent Serious Fraud Office survey thought the country was “largely free” of serious fraud and corruption¹¹¹⁷
- only 55 per cent of those surveyed by the Human Rights Commission consider the Treaty of Waitangi to be New Zealand’s founding document, and only 25 per cent rate the Crown–Māori relationship as healthy¹¹¹⁸
- the extent of the over-representation of Māori in the criminal justice system with research indicating that suspected or actual offending by Māori has harsher consequences than suspected or actual offending by non-Māori.

Six system-level cross-cutting themes

The analysis of the 12 pillars and the societal foundations of the NIS also identified six broader themes that cut generally across the whole NIS. The report identifies these cross-cutting, system-level themes as characterising integrity in the exercise of authority in New Zealand.

New Zealand has a strong culture of integrity, with most decisions conforming to a high ethical standard, but this culture is coming under increasing pressure. The culture of integrity helps sustain the formal and informal frameworks that support New Zealand’s integrity systems, in the context of a relatively small society where citizens are often close to decision makers, and there is relatively high adherence to the law. The need to take the Treaty of Waitangi into account in many areas of national life also helps to sustain integrity by acting as a restraint on some elite influences and vested interests, and by providing a framework for the recognition of the position of Māori as equal Treaty partners. However, several developments and risks may threaten the strength of this broad culture. These include increasing numbers of fraud

¹¹¹⁴ You Jong-Sung and Sanjeev Khagram (2005). “A comparative study of inequality and corruption”, *American Sociological Review*, 70: 136–157.

¹¹¹⁵ Massey University, “New Zealand Values Survey 2005”.
www.whariki.ac.nz/massey/learning/departments/centres-research/shore/projects/new-zealand-values-survey-2005.cfm

¹¹¹⁶ “New Zealand’s most trusted professions 2013”, *Reader’s Digest*, July 2013.
www.readersdigest.co.nz/most-trusted-professions-2013

¹¹¹⁷ Reg Birchfield, “The Director: Cover story – Boards blase about management”, *New Zealand Management*, September 2012.

¹¹¹⁸ *UMR survey results: The Treaty Relationship in 2011*. Human Rights Commission.

and corruption cases, particularly fraud in the finance sector; trend shifts in the direction of New Zealand's trade, business, and other international interactions to countries where corruption is relatively high; trend falls in voter turnout and political party membership; and the Canterbury earthquake rebuild, where the volume of transactions between stressed people and various government agencies and private businesses has put real pressure on normal operational systems and on standard expectations for responsiveness and behaviour.

The relative structural dominance of the executive branch of government. Some of the checks and balances on the executive that are typical of other countries are not part of New Zealand's institutional landscape:

- constitutional provisions are not entrenched, in the sense of requiring more than a simple majority in Parliament to amend them¹¹¹⁹
- there is no second house of Parliament
- there are some weaknesses in parliamentary oversight of the executive, as evidenced by the use of urgency to pass some contentious legislation, a lack of follow-up to some reports of the Auditor General, and a lack of specialised technical support for Parliament in key areas
- the role of local government *vis-à-vis* central government is not entrenched.

These factors are ameliorated somewhat by the experience of coalition governments under mixed member proportional representation, which have enhanced the role of Parliament, and by the short three-year parliamentary term. The point remains, however, that a real risk exists in New Zealand's Westminster-based system that the executive may become too powerful and that potential abuses of power or breaches of integrity would not be effectively constrained. One illustration of this is that in New Zealand the role of local government in general, or of a specific local authority, can be changed through an Act of Parliament passed by a simple majority. More recently, the passage of legislation removing the right of family carers to appeal administrative decisions in court represents an executive constraint on judicial review. In these circumstances, any gaps in transparency or accountability of the executive branch assume added importance (see recommendations 3–6).

A lack of transparency is a concern in a number of areas. This raises questions about accountability and the potential for undue influence or bias in decision making. As well as the gaps in the coverage of the Official Information Act 1982 and some resistance to compliance with disclosure obligations under the Act, examples include a lack of public registers of trusts and the beneficial owners of companies, some deficiencies in the transparency of public procurement, a lack of transparency about the impacts of government regulation and spending and of environmental indicators, inadequate transparency of the finances of political parties and of lobbying of politicians, and gaps in the transparency of the judiciary. With respect to the lack of a public register of trusts, *Fairfax Business Bureau* deputy-editor Tim Hunter wrote in late 2012 that he could not help wondering why New Zealand "maintains a regime so

¹¹¹⁹ While Section 268 of the Electoral Act requires a 75% majority in Parliament or a plurality in a referendum to amend certain provisions, Section 268 itself can be changed by a simple majority in the House.

obviously advantageous to tax dodgers and criminals. We're not only not part of the solution, we're a big part of the problem".¹¹²⁰

The degree of formality in the frameworks that regulate the pillars in New Zealand's NIS varies considerably from legislation to self-regulatory or co-regulatory codes or even judicially recognised behavioural conventions. This is both a potential strength and a potential weakness. A trade-off exists between the flexibility and adaptability to changing circumstances that this structure can bring to governance, and the potential for such flexibility to be hostage to political expediency rather than to promotion of the public interest.

Constitutional law expert Matthew Palmer has observed, "While I am comfortable ... with an unwritten constitution I am very concerned that we pay attention to what it is. It may be harder to change aspects of an unwritten constitution if they exist only in implicit practices which are not articulated as 'constitutionally' important. More importantly having our constitution located in many different elements is that it is easier for those elements to change, and for some groups of people to consciously change them, without serious public discussion, or even awareness, that a change is contemplated".¹¹²¹

To continue operating well, conventions need to be well known and widely understood. To this end, the recommendations in this report place some weight on civics education and training. Conventions need the reinforcement that comes from good transparency and ongoing evaluation, because without these features the quality of conventions and practices may be at greater risk of erosion. In the face of new challenges, and if we are less able to rely on our broader norms of fairness and integrity, New Zealand may need to formalise in law some of its conventions, practices, and codes. This observation underpins the recommendations in this report to close integrity gaps by introducing new or strengthened codes and rules, enforcing them better, and subjecting behaviour to more scrutiny through improved transparency.

Conflicts of interest are not always well managed. Many of the gaps and deficiencies identified in the pillar reports open the prospect of officials using their power or influence to favour personal, private, or political interests rather than acting in the public interest. The relatively small size of New Zealand's population facilitates mutual monitoring of behaviour but by the same token also creates frequent potential conflicts of interest. Public officials need to know how to deal with such conflicts, whether by recusal or by informing senior officials if the conflict cannot be avoided. The concern arises when someone does not carry out a task, trust, or function in a way that follows the prescribed processes and instead favours personal, private, or political interests. A lack of transparency aggravates the situation, as it can create a suspicion that conflicts of interest are hidden and not being properly managed. The fact that there is inadequate transparency, central monitoring, or reporting of suspected and proven conflict of interest (misconduct) matters or similar favouritism within the public sector is a cause for concern (recommendation 4(2)).

¹¹²⁰ www.stuff.co.nz/business/opinion-analysis/7521775/New-Zealand-foreign-trusts-among-global-tax-havens

¹¹²¹ Matthew Palmer, "NZ constitutional culture", *New Zealand Universities Law Review* vol. 22, p. 565, 2007.

Specific examples of conflicts of interest referred to in the pillar reports include concerns about the management of conflicts of interest in procurement, the potential for political influence in appointments to boards of government entities, and the small pool of listed company board directors with overlapping directorships in the private sector. Conflicts of interest can also exist at the institutional level, and this report raises concerns about the exclusion of the administration of Parliament from the Official Information Act 1982 and the role of the Parliamentary Services Commission in setting the rules for public spending by the parliamentary wings of the parties.

New Zealand would benefit from greater emphasis on prevention of fraud and corruption. Enforcement of anti-corruption and related measures tends to be reactive, and there is little focus on educational or preventive effort by the law enforcement agencies. Attention to prevention is needed in a number of pillars and, indeed, across society as a whole where more civics and financial literacy education should be undertaken. Also, legal provisions that support prevention, such as the implementation of anti-corruption treaties and international agreements, and improvements in transparency (as noted above), should be brought into effect positively and speedily. Overall, a more pro-active approach is required, exemplified by the need for a comprehensive national anti-corruption strategy (recommendation 1).

Recommendations

The core message of this report is that stronger action to promote and protect integrity in New Zealand is overdue. New Zealand's recently announced decision to join the Open Government Partnership provides the opportunity and impetus to launch a concerted national effort to this end.

The following recommendations draw on the findings in each of the pillar reports, the analysis of interactions between pillars, and the support from societal foundations, and on the six cross-cutting themes. An attempt has been made to identify the concerns, interests, institutions, or interventions that are the most likely triggers for change.

Seven primary recommendations are specified in this chapter, supported with more detailed recommendations. The evidence-based research supporting the recommendations is in the relevant pillar report or foundation section of the report. There are cross-references in the text of each recommendation to the relevant numbered indicator questions in Chapter 5. These high-level recommendations have been prioritised to represent seven key areas for change. Recommendations have been addressed to a specific pillar, sector, or institution in an attempt to ensure clarity and to promote accountability for considering, responding to, and implementing the recommendations.

Recommendation 1: Ministry of Justice to lead the development of a comprehensive National Anti-Corruption Strategy, developed in partnership with civil society and the business community, combined with rapid ratification of the UN Convention against Corruption (UNCAC). This is a matter of urgency to protect and address risks to New Zealand's integrity systems (Chapters 3 and 4, and reports on pillars 5 and 9 in Chapter 5).

The government should develop and implement a comprehensive National Anti-Corruption Strategy through broad and deep engagement with civil society, the business community, and the general public, as required by UNCAC (Appendix 3). The strategy should include the government's existing work plan in this area, but should be extended to cover all pillars in the NIS, and should aim to strengthen and protect our relatively high integrity society as a taonga and as a national asset. This should be combined with rapid implementation of the legislative changes required to enable New Zealand to fully comply with and then ratify UNCAC and to fully comply with the OECD Anti-Bribery Convention.

Specific components of the National Anti-Corruption Strategy should include.

- a up-dating and strengthening anti-bribery legislation, substantially increasing penalties for bribery and corruption, and considering the offence of misconduct in public office¹¹²²
- b introducing a public register of trusts and of the beneficial owners of companies (section 13.2.1)
- c where there are gaps, extending requirements for public office holders in all branches of government to register pecuniary interests, declare assets, face restrictions on post-public office employment, and declare acceptance of gifts and hospitality (sections 1.2.5, 2.2.5, 2.2.6, 3.2.5, 7.2.5, 7.2.6)
- d reviewing the regulation of political party and candidate campaign financing, and the enforcement of the regulations
- e reviewing organisational and other options to improve the effectiveness of anti-corruption law enforcement and education
- f promoting more actively the importance and role of ethics
- g identifying priority areas for further research, monitoring, evaluation, and policy development with respect to identifying, measuring, preventing and reducing corruption.

Recommendation 2: Ministry of Justice initiate a a cross-government programme of, wide public consultation to develop an ambitious New Zealand Action Plan for the Open Government Partnership (Chapter 1, Appendix 5). New Zealand's membership of the Open Government Partnership provides a clear opportunity for the Ministry of Justice, as New Zealand's designated lead agency, to initiate a broad multi-stakeholder process to develop a National Action Plan. Many of the recommendations in this report are potential elements in New Zealand's Open Government Partnership National Plan of Action.

Recommendation 3: Transparency and integrity need to be strengthened in a range of priority areas.

- a Parliament

¹¹²² See Chapter 4 for recent developments in this area

- i Extend the coverage of the Official Information Act 1982 to the Parliamentary Counsel Office, officers of Parliament, the Speaker in the role of Responsible Minister for parliamentary agencies under the Public Finance Act 1989, the Office of the Clerk, and the Parliamentary Service (sections 1.2.1 and 4.2.1).
 - ii Strengthen parliamentary oversight of the executive, including through a review by Parliament of its select committee structure and consideration of establishing new cross-cutting specialist committees, for public accounts (sections 1.1.3 and 8.3.3), for treaties, and for human rights (section 1.1.3); providing select committees with more independent analytical support (sections 1.1.2, 1.1.4, 1.3.1, and 4.2.2).
 - iii Enhance the quality of legislation by more pre-legislative public disclosure of draft bills and the adoption by select committees of tests for legislative quality (section 1.2.4).
 - iv Introduce a code of conduct for members of Parliament (section 1.2.6).
 - v Introduce measures that provide an adequate degree of transparency to ensure that public officials, citizens, and businesses can obtain sufficient information on, and scrutinise lobbying of members of Parliament and ministers (section 2.2.6).
- b Political executive
- i Commission an independent review of the respective responsibilities of Cabinet, ministers, and public servants with a view to clarifying the conventions concerning the duty of, and capacity for, free and frank advice between the political executive and the public sector, to mark the centenary of the introduction of the merit-based public service in New Zealand (section 4.1.3).
 - ii Introduce a centralised approach to the systematic proactive release of official information, including Cabinet papers, by all public entities (section 4.2.2).
 - iii Initiate discussions with civil society and the business community on a general government-wide framework for timely consultation on the development of new policy initiatives and encouragement of direct public participation in policy development and implementation (section 12.3.2).
- c Local government
- i Initiate a national conversation on the constitutional place of local government (sections 4.1.2 and 4.1.3).
 - ii Develop a central government/local government protocol on the design and implementation of regulations where regulation-making powers have been delegated to local authorities (section 4.1.3).¹¹²³

Recommendation 4: The integrity of the permanent public sector, and its role in promoting integrity should be strengthened in a range of priority areas.

- a Strengthen transparency and accountability for public procurement (section 4.3.3)

¹¹²³ As recommended by the Productivity Commission.

- i Extend proactive disclosure of project information, both upstream and downstream of tendering, including projects exempted from open tendering and without compromising commerciality.
 - ii Incorporate explicit anti-corruption provisions in procurement procedures and documents.
 - iii Build capacity, especially in smaller entities.
 - iv Improve requirements for record-keeping so that data on different types of procurement can be readily extracted, and also for complaint mechanisms.
 - v Publish principles, objective criteria, and a robust management framework for 'hybrid procurements' (section 4.2.2).
 - vi Conduct periodic reviews of transparency and integrity of spending and procurement in the Canterbury earthquake re-build in view of the scale of the procurements.
- b Strengthen integrity and accountability systems in public sector entity operations
- i Introduce greater transparency in the process for public appointments to boards of Crown entities and other public bodies, and strengthen the capacity of the public sector to nominate suitable candidates (sections 2.3.2 and 4.1.3).
 - ii Strengthen the Protected Disclosures Act for both the public and private sectors (section 4.2.6).
 - iii Introduce central reporting and monitoring of all misconduct and breaches of integrity within public entities, when they involve issues going to honesty and integrity (for example, suspected fraud, corruption, conflicts of interest, favouritism, and abuse of position) (section 4.2.5)
 - iv Institutionalise on-going regular integrity and conduct surveys across the public sector (section 4.2.6)
 - v Introduce central reporting, monitoring and knowledge-sharing between agencies on 'best practice' options and initiatives in fulfilling Treaty of Waitangi obligations (section 4.4.1)
 - vi Increase fiscal transparency and accountability by deepening the reporting of tax expenditures, publishing a Citizens' Budget, and investigating options for an independent body to advise Parliament on key fiscal strategy reports to deepen the public debate about fiscal policy (section 4.2.2).
 - vii Require public entities to publish management letters from the Office of the Auditor-General, and report to Parliament their responses to issues of significance identified in these letters, for consideration in the annual select committee reviews (section 8.2.2).
 - viii Actively promote the importance of ethics, transparency, accountability, and financial literacy among the public in New Zealand through civics education, including in the secondary and tertiary curricula (sections 13.2.1, 13.2.2 and 13.2.6, and 12.2.1).
 - ix Review the evidentiary status of Government Communications Security Bureau evidence provided to domestic law enforcement agencies (section 5.2.2).

- c Strengthen accountability in public policy processes
 - i Develop and implement a new government strategy to promote ‘evidence-based policy making’,¹¹²⁴ including enhanced monitoring and evaluation of the impacts of government policies (section 4.3.3).
 - ii Introduce greater transparency about the anticipated effects of proposed departmental restructuring and institutional reform exercises in the public sector, and, *ex post*, their actual effects (section 4.2.3).
 - iii Enhance reporting on the social, economic, and environmental impacts of government regulation and spending (sections 4.2.2 and 8.3.1).
 - iv Commence regular, technically independent reporting on State of the Nation environmental indicators (section 4.2.2),¹¹²⁵ and reintroduce regular publication of the Social Report (section 4.2.2).

Recommendation 5: Support, reinforce and improve the roles of key independent integrity agencies and bodies.

- a Electoral management
 - i Review public funding of political parties, the allocation of broadcasting time to political parties and the restrictions on parties purchasing their own broadcast election advertising (section 10.1.1).
 - ii Require greater transparency of the finances (including donations) of political parties (sections 10.2.1–10.2.4).
 - iii Strengthen the Electoral Act 1993 to make the lines clearer between legal and illegal activities and investigate the options for strengthening enforcement in response to complaints (sections 10.2.3, 10.2.4, and 5.1.3).
- b Judiciary
 - i The judiciary should publish an annual report on its activities and performance (section 3.2.1).
 - ii Increase public access to information about the operation of the court system (section 3.2.1).
 - iii Enhance the transparency of the judicial appointment process (section 3.2.2).
- c The Ombudsman
 - i Promote enhanced compliance with and understanding of the Official Information Act 1982, better processes for handling Official Information Act requests, and implementation of the Law Commission’s recommendation for an Official Information Act oversight function as well as instituting a similar oversight function for the Ombudsmen Act 1975 (section 7.3.2).

¹¹²⁴ Consistent with the findings and recommendations in the report from the Prime Minister’s Chief Science Advisor in September 2013. See www.sciencemediacentre.co.nz/2013/09/03/sir-peter-gluckman-on-the-role-of-evidence-in-policy-making/

¹¹²⁵ The government announced on 8 August its intention to introduce technically independent state of the environment reporting.

- ii Review in 2014/15 the adequacy of funding for the Office of the Ombudsman (section 7.1.1).

Recommendation 6: The business community, the media, and non-government organisations should take a much more pro-active role in strengthening integrity systems and addressing the risks of corruption as ‘must-have’ features of good governance. Specific actions include the following.

a Business community

- i Raise awareness and understanding of the implications of the criminalisation of bribery of foreign public officials in the Crimes Act 1961 and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Chapter 3 and section 13.3.1).
- ii Ensure adequate training on and awareness of corruption and integrity risks and their management and encourage the reporting of foreign and domestic bribery suspicions to the authorities (section 13.2.6).
- iii Investigate and evaluate the costs and benefits to business from continual vigilance around maintaining and strengthening integrity systems.
- iv Work with the Institute of Directors to encourage the highest standards of governance.

b Media

- i Media industry self-regulatory and regulatory bodies should review and strengthen their integrity frameworks and promote adherence to them (sections 11.3.1 and 11.2.5).
- ii The government should publish regular monitoring reports on the effectiveness and integrity of media industry regulation and self-regulation (sections 11.3.1 and 11.2.5).

c Civil society:

- i Review the appropriateness of contractual and/or statutory restrictions on public advocacy by non-government organisations.
- ii Educate the public on what information they should expect from non-government organisations.
- iii Assess the need for capacity building of Māori organisations to enable them to contribute to local authority decision making in ways currently expected of them.

Recommendation 7: Public sector agencies should conduct further assessments and research to strengthen integrity systems over time. Priority areas are as follows.

- a Research to investigate the actual incidence of corruption in New Zealand, why it is occurring, and how it might best be reduced to supplement existing surveys on how exporters and importers of goods and services are managing bribery and corruption risks.

- b A review of possible causes of and responses to the role of structural discrimination in the over-representation of Māori in the criminal justice system (section 4.1.1).
- c Important sectors and institutions not assessed in this study, notably the state-owned enterprise sector and the Reserve Bank of New Zealand, should be independently bench-marked in the next 12 months against relevant international standards of transparency, public participation, integrity, and accountability.
- d Transparency and awareness relating to the Treaty of Waitangi should be increased by increasing the level of public education on the Treaty.