



Meeting: EAP, CSO and Officials Meeting

Date and time: 6 July (2-4pm) and 13 July 2022 (1:00 -2:30 pm)

Attendees

6 July 2022: Farib Sos, Andrew Ecclestone, Jennifer Warner, Jocelyn Morrison, Cath Wallace, Katherine Peet, Rachel Roberts, Tessa Houghton, Olaf Buhrfeindt, Julie Haggie, Simon Wright, Suzanne Snively, Sean Audain, Georgia Shen; Sasha Green

13 July: Farib Sos, Andrew Ecclestone, Jennifer Warner, Cath Wallace, Tessa Houghton, Olaf Buhrfeindt, Julie Haggie, Simon Wright, Suzanne Snively, Georgia Shen; Sacha Green, Laurence Millar, Jocelyn Morrison

Location: Via Teams

Introduction

TKM updated the attendees about the progress this far, including the discussion on the fledgling commitments with the EAP. The purpose of these meetings was outlined- progress the work on the fledgling commitments and receive any comments on the templates that have been circulated and to identify agency and CSO support.

Update on recent developments

Long term insights briefings (LTIB)

The team shared information about the recently released Te Kirirarautanga: Te Whai Wāhitanga Tūmatanui ki Te Kāwanatanga Anamata | Enabling Active Citizenship: Public Participation in Government into the Future Long Term Insights, noting the potential impacts of planned work on the OGP NAP 4 plan. The LTIB can be accessed [here](#).

System leads and Regional Commissioners

TKM updated the attendees about the new public service systems leads being appointed by Public Service Commissioner under section 56 of the Public Service Act 2020. There is significant positive potential for progressing OGP initiatives as a result of greater system alignment and a system lead to go to and will have power to issue directions and advice on the lead areas which include property, procurement, digital, data and information security across the public service. The mandate of system leads is still being developed. More details about systems lead are in this [cabinet paper](#).

An update was also provided on the Regional Commissioners who were initially appointed as part of the COVID strategy over 2 years ago. In July 2021, Cabinet expanded their mandate from social to also include economic and environmental. At this time, Regional Commissioners also became Regional Public Service Commissioners who report to the Chief executive of the Ministry of Social Development (MSD).

Discussion on potential fledgling commitments from the four workshops (completed over 6 and 13 July)

The 19 fledgling commitments were discussed based on the following criteria:

- o priorities
- o opportunities
- o feasibility issues
- o key stakeholders

These discussions have been summarised below.

1. Address misinformation/disinformation

- There are a number of entities involved in this work or work closely related to misinformation and disinformation. These entities include:
 - o the Disinformation Project, a part of University of Auckland research unit, Te Pūnaha Matatini;
 - o DIA (Digital Safety group)
 - o the new Centre of Research Excellence for Preventing and Countering Violent Extremism, He Whenua Taurikura;
 - o MSD's Social Cohesion work
 - o Veracity Lab, at Victoria University
 - o Netsafe - which has produced a [draft NZ Code for Online Safety & Harm](#);

Disinformation could be a potential subject topic for a citizen's assembly or a deliberative process. Citizen's assembly could be framed in terms of what govt controls/limits on social media are acceptable to New Zealanders. Needs to be dovetailed into OGP. It was mentioned that disinformation isn't just about the use of social media but also about people going down 'rabbit holes' prior to this. A consideration is what should our controls and laws be about social media? This may be another option for a commitment

- Ministry for Pacific Peoples need to be included in the discussion, to leverage off past achievement.

Direction: More work is needed to articulate this commitment. It is important we seek input from the experts who are working in the area of disinformation and misinformation.

2. Deliberative Processes

- Need to look for potential candidates for citizens assembly – within OGP context, it could be mis- disinformation, climate change, or understanding and agreeing on uses of AI/algorithms
- Auckland University is currently working with some agencies in this area.
- Also Porirua climate change is an example – [Deliberative Democracy | Te Reo o Ngā Tāngata / The People Speak](#) – Ngati Toa has the lead at the moment (Helmut Modlik) [Porirua's forthcoming talanoa-wānanga experiment in deliberative community governance - Trust Democracy NZ](#)
- Potential proof of concept and an evaluation approach could work as a commitment in this area

- What does this look like in the NZ context – this work could lend itself to addressing some of the misconceptions around co-governance

Direction: Needs to be pursued more actively and involve targeted work with specific measures as opposed to just watching and monitoring

3. Increase community engagement in policy, service design

- There is no government-wide code of practice for undertaking public consultation. Any work on a code ought to involve the co-creation of a code of practice with communities, rather than it being constructed by the public service and imposed on communities
- The work needs to build in reporting on implementation /compliance of the code or framework
- Needs to include an independent monitoring of compliance, perhaps by TKM
- Is a strong link to TKM Long term Insights Briefing work
- There is a real question about whether there is a need for a system lead role for community engagement in policy/service design
- IAP2 is good but there needs to be a minimum standard for the public service.
- Aspects of this work could be developed alongside MSD, as there are links to the social cohesion work

Direction: To take forward and continue staying engaged with community organisations and CSOs

4. Develop a monitoring framework for AI

- Algorithm Charter is in existence since 2020 but it isn't mandatory and not all agencies have signed up to it. The work on this Charter was led by Stats NZ and promoted by TINZ.
- Stats NZ are the Chief Data Steward and had committed to undertaking the review. Review started in August 2021 and intention was to complete by the end of last year. No update since. TKM to follow up with Stats
- Stronger framework is needed and needs to be more than just monitoring. Need another channel to regulate use of AI
- A commitment on this topic could possibly involve using a deliberative process to surface public understanding and agree a set of community expectations around the use of artificial intelligence

Direction: This commitment needs to be fleshed out more. Perhaps step one is completing the review of the Algorithm Charter by Stats NZ and then building on this work. It is unlikely that we could pursue a commitment without having a government stakeholder.

5. Increase transparency of govt procurement decisions

- There is planned reform of procurement underway focussed on data. There is also new system leadership of government procurement aimed at significantly advancing New Zealand's progress.
- The OGP team has engaged with agency staff and will be engaging with new system lead.

- Open Government Partnership commitment for openness may involve more than the adoption of open govt contracting data standards.
- The commitment outcome would likely include New Zealand adopting the Open Contracting Principles and the Open Contracting Standards.

Direction: Perhaps could have adoption of Open Contracting Principles and Standards as minimum for commitment.

6. Legislate transparent beneficial ownership of companies, trusts

- Three key areas to this work
 - Companies
 - Limited partnerships
 - Trusts
- Currently there is a policy piece underway for transparency around beneficial ownership of companies and limited partnerships. There is a gap in the transparency of trusts and nominee companies.
- An OGP opportunity is ensuring as much information as possible is made available in the public domain about beneficial ownership
- Would be good to complete a risk profile on the lack of transparency of the beneficial ownership of trusts to better understand the issue. Financial Action task Force (FATF) is looking at Global recommendation around the transparency of trusts.
- It is important to ensure that beneficial ownership of trusts are not just seen as an add on. Need to involve MBIE and the Privacy Commissioner as privacy concerns will be to the fore in relation to trusts.
- Issue is a lot of trusts are very small and this will increase compliance costs/effort. Need to be able to distinguish between family trusts and others 'Know your customer' provisions. Challenge is big trusts are hiding behind this logic and exploiting the privacy considerations. It is important not to be heavy-handed regarding privacy. However, if everyone had an identifier this may enable transparency while avoiding privacy concerns
- A challenge is that in the past, the Law Commission did not think trusts should be included and the risks of lack of transparency were not recognised – this "government" view may need to be revisited.
- Another issue is transparency around nominee companies. They also need to be considered.

Direction: Need to strengthen participation dimension of commitment. Make sure information is publicly available but may not be a full OGP commitment.

7 & 10. Public services multi-service channel and enable participation

- Digital exclusion is CABNZ's focus but could be wider than this and include making positive efforts to improve accessibility for people with disabilities etc by offering multiple channels
- CABNZ is the key CSO/NGO for this. Sacha Green from CAB has agreed to work alongside other stakeholders to refine this commitment. There may be other community groups willing to be involved in this work
- Anne Hawker from MSD is another key, interested stakeholder.
- IRD are system lead for Service Delivery Transformation across the public service so there is a need to connect with them

Direction: Take forward and work alongside CAB and other relevant stakeholders.

8 & 9. Establish a central government information repository & Govt Data protocols

- Overlaps with the potential commitment around establishing a central government information repository
- This is around improving governance and privacy practices to do with personal information as the public need to provide their personal information to government in order to receive services

Direction: Consider whether the functionality of data.govt.nz could be expanded or a new platform developed. Would need to be supported by updated data protocols and ontology work being undertaken by DIA/Archives and include consideration of definitions of data vs information.

11. Anti-corruption counter fraud strategy and conflicts of interest initiative focused on leader

- Fraud and corruption are a constant risk to organisations, in particular government agencies and departments
- Incidences have a direct impact on the public's trust and confidence in the government as well as causing loss and waste
- Most effort is placed in the detection and response to fraud and corruption with limited strategy and education on prevention opportunities to reduce the risk of fraud and corruption
- There is an opportunity to work with the SFO to develop a Counter Fraud & Corruption Strategy as well as to create education resources for government agencies, in particular senior management, around conflicts of interest, which are at the heart of fraud and corruption

Direction: Work with SFO and CSO's to develop strategy and education plan

12. Investigate and address voting behaviour

- Is there a problem to be solved here? Need a problem definition to progress further.
- Lot of research exists for non-voting; the issue is about how to solve the behaviour.
- What agencies would need to be involved
- Here has been a lot of research already about this, is more about addressing why people don't vote. This work is part of the role of the Electoral Commission which has been progressing some work in this area. Also, it was noted that voting behaviour in local government elections is a topic being considered in the current review of local government.

Direction: OGP commitment may not be needed

13. Use of complaints information for learning to improve agency performance

- More work is needed to refine this as this could be about the demonstration of learning. For example, here's more on a potentially new systemic approach to complaints - <https://www.lse.ac.uk/PBS/Research/Research-Articles/Improving-healthcare-experiences-with-HCAT>
- There is a decent amount of the service issues/complaints (as surfaced by user research) occur between agencies (rather than within them)
- There's a huge amount of material published by the Ombudsman/Auditor-General? on how agencies should be learning from complaints to improve their performance systemically

- Here's a new report with very specific initiatives that could be picked up for 13 - <https://www.lse.ac.uk/media-and-communications/assets/documents/research/2017/MacnamaraReport2017.pdf>
- Simon and Sean key people to follow up with initially

Direction: More work needed to refine commitment, so objective is clearly defined

14. Publish evidence used in services and policy design

- DPMC is the key agency to be involved in this discussion
- How would we measure the quality of policy advice
- What is published? Evidence being available versus being used are different things. Is important especially when the research is not taken onboard
- Challenges include- Where would this be published, time delays, there are confidentiality challenges which are often in play and impact those involved in working groups, Secrecy clauses are an issue
- Stakeholder burden eg, sharing what was learnt would lessen any stakeholder burden due to multiple contacts about the same information.
- Is this an OGP issue?
- Whistleblower legislation will not help researchers and other experts who work in the public system who are currently gagged from disclosing evidence used by the government, as to do so would be serious misconduct

Direction: Due to complexity of information and time required, could be done in a two-part trial:

- Pilot with an agency
- Develop guidelines, look at broader impact of how guidelines and framework impact participation conditionalities.

15. Procedural review for OIA exemptions

- This commitment is about the use of secrecy clauses in legislation that override the disclosure provisions of the OIA
- Currently, these exemptions are effectively a reproduction of the Official Secrets Act, which was repealed, and are inconsistent with the legislative presumption of releasing information unless there's good reason to withhold it.
- NZCCL raised as part of summer reading for the Minister who was surprised by the volume use of such clauses and did feel there was a need for extra safeguards to rein this in
- **Direction:** Two parts to commitment
 - Mechanism to test proposed clauses in future legislation– whether that involves strengthening the LDAC process or else utilising the Human Rights Act tests; and
 - Mechanism to review these clauses in existing legislation and resolve where required

16 Establish independent fiscal institution

- Discussions with Treasury in relation to past work on this topic indicated that there were no resources and little political appetite to pursue this item as a commitment. However, this may need to be confirmed with a senior Treasury manager.
- CSO's keen for this still to be included in Ministers briefing as a potential commitment.

Direction: At this time unlikely that Treasury would have resources to pursue this work.

17. Establish transparent grants register for all sectors

- Better commitment would be publication of CFIS data
- Need to re-engage with Treasury
- An example of how Grants data is published is available <https://grantnav.threesixtygiving.org/funders>
- The UK register example was led by the private sector
- There was a view that the award of most government grants is published somewhere and the real issue for government grants may be a lack of ready access to this information, which could perhaps be resolved through having a central information repository

18. Increase transparency of govt spending eg Citizen's Budget

- Publication of data about how the government spends its money exists. Treasury restored usability of budget, so don't see this as a commitment.
- Citizen's budget isn't the right terminology as this relates to citizens having a central role in creating the budget

Direction: Don't see a need for a commitment addressing this problem

19. Establishment of a joint civil society and government working group to scrutinise the implications for New Zealand of accession to the UN's Aarhus Convention and provide advice to Ministers.

- NZCCL has shared templates to consider analysis as to whether NZ should accede. This issue has wide potential
- Strong support from other CSO groups for this since some of the Aarhus principles around people are generic enough for them to be adopted (ie, right to info, right to participate, protection of information)
- Linked to Rio Earth Summit which NZ has signed up to

Direction: Need to engage with MFAT, MfE and MoJ to ascertain agency support.

Summary of discussion and next steps

TKM outlined the next steps about the process. The commitments which have been agreed upon will be now worked in small groups of agency reps, CSOs, EAP over the next few weeks. The TKM topic leads will organize this. The attendees also reiterated the need to ensure that Te Tiriti is considered in relation to every commitment.

The meeting ended with attendees being thanked for their participation.

List of potential fledgling commitments

Discussed on 13 July	
Discussed on 6 July	

Potential Commitments	Problem statement	OGP factors	Benefits	Reach	Support		Ambition
					Agency	CSO	
<p>1. Address misinformation/disinformation multi-stakeholder approach and infrastructure that breaks down the mis and disinformation eco-system (not just and online issues), by empowering communities to look after their own.</p> <p>The times when govt needs to come over the top are the minority eg vaccines, elections, but even then communities best understand how to communicate to their people, and are often more likely to be trusted and be able to get behind doors that are closed to govt.</p>							
<p>2. Deliberative process(es) Identify existing use of or opportunities for the use of deliberative democratic processes (such as citizens' assemblies/citizens' juries/mini publics, or participatory budgeting) focused across a range of issues and at a range of scales, with the aim of encouraging, supporting, and learning from these experiments</p>							
<p>3. Increase community engagement in policy, service design Promote the use of the community engagement tool to increase community engagement in govt policy by expanding this practice more widely and establishing a mandated authority for this purpose.</p>							

Possibly provide agencies with more detailed guidance on developing protocols							
<p>4. Develop a monitoring framework for AI</p> <p>Research awareness and use of AI (artificial intelligence) by government and develop a monitoring framework (incl Algorithm Charter review findings) –potential opportunity to use deliberative processes to develop the framework</p>							
<p>5. Increase transparency of govt procurement decisions</p> <p>Increase transparency of all government procurement decisions including for COVID-related and third-party suppliers, remove Mandatory Rules transparency exemptions; embed Open Contracting Data Standard and Open Contracting Principles</p>							
<p>6. Legislate transparent beneficial ownership of companies, trusts</p> <p>Work is already underway on a beneficial ownership register. A commitment could develop recommendations over the first year of the Plan, with year 2 implementation of the recommendations. Putting in place milestones can create impetus for Ministers, officials, and stakeholder, with the shared goal of enhancing NZ’s reputation internationally with a programme of prevention and protection.</p>							
<p>7. Public services multi-service channel</p> <p>Create a multi-channel delivery option for public services that will empower and create greater social cohesion as a result of: Improving services; Increasing accessibility; and providing safe spaces</p>							
<p>8. Establish a central govt information repository</p> <p>Collaboratively design and build an online central information repository for publication of defined</p>							

<p>classes of information using a linked open data approach. Currently, different categories of information are published in a variety of places on government agency websites. The aim is to facilitate accountability and in particular participation, but the uncoordinated approach makes it difficult and time-consuming for the public and officials to locate the information.</p>							
<p>9. Govt data protocols Improve protocols, increase consistency and priorities for the collection, use, and storage of Govt data; review to enable public and govt agencies to make better use of data.govt.nz website information</p>							
<p>10. Enable participation Enable access to information, increase community participation: Improve access to the political process for those excluded (e.g., young, illiterate, homeless, poor, digitally excluded); Create safe physical/digital spaces for people to talk about their issues and needs; Support public problem-solving.</p>							
<p>11. Anti-corruption counter fraud strategy and conflicts of interest initiative focused on leaders Strengthen the resilience of public service agencies to fraud and corruption through the introduction of a Counter Fraud and Corruption Strategy and advanced masterclass for agency executives on conflicts of interest and associated risks.</p>							
<p>12. Investigate and address voting behaviour Investigate and address the reasons why New Zealanders choose not to vote in local and central govt elections</p>							
<p>13. Use of complaints information for learning to improve agency performance</p>							
<p>14. Publish evidence used in services and policy</p>							

design							
15. Procedural review for OIA exemptions Look at the use of provisions in new legislation that exempt certain types of information from release under the OIA							
16. Establish an independent fiscal institution							
17. Establish transparent grants register for all sectors							
18. Increase transparency of govt spending eg Citizen's Budget Improve simple, accessible, and easy to understand budget and what the collective public resources gather through tax revenue are being allocated to for citizens / lay people.							
19. Establishment of a joint civil society and government working group to scrutinise the implications for New Zealand of accession to the UN's Aarhus Convention, and provide advice to Ministers.							