

2018 Draft Open Government Action Plan

Comments by Kay Jones of Wellington

General Comment

This draft Action Plan is generally sensible and would make positive gains for a more Open Government. The Commitments reflect discussions at consultation meetings I attended. In some areas, the Commitments do not go far enough and lack specific actions to implement them. My comments below add to the Plan and include references to obvious gaps, such as a lack of accessibility in the consultation documents and some of the references, and limited options for input. People can't contribute to initiatives they don't know about or that are not made available in languages or formats they can access.

Lack of Community Resourcing and Accessibility

Page 3 Introduction:

"We are committed as a Government to developing a just and inclusive society"

Why then are the documents and options for commenting not in an electronically accessible format? Blind and low vision people may have difficulties with the format and options for response. People without access to digital technology or in communities without close links to government policy are likely to be unaware of the OGP NZ consultation opportunity.

How can the approach be inclusive or open if people don't know about it and don't have an opportunity to engage?

Future Engagement

The Expert Advisers say on P5

"It's critically important that input to Open Government reflects New Zealand's unique relationship with tangata whenua as well as its diverse population. For this reason, input to the next National Action Plan must include as many voices from our communities as possible. We heard through this process that engagement with all New Zealanders is an area which needs to improve and we will challenge and support the Government to push harder."

Tautoko this. Not only should the Open Government process be open to hearing voices, but there needs to be resourcing to enable the discussion to be taken out to the communities and relationships built to enable proper listening. This will not be an overnight exercise. Open channels of engagement with communities need to be built and maintained, not just ask for input every three or more years.

Refer also to P8

11 As we developed this Plan New Zealanders told us that government policies, services, and engagement practices need to reflect the diversity that exists in our country. They also told us they need to have access to, and be able to provide, information in ways that work for them in order to make their best contribution.

Census

Page 7, *A percentage of New Zealanders do not vote or enrol to vote, or participate in the national census.*

The switch in 2018 to an Online Census with limited access to paper Census forms saw a decrease in participation in the Census. Part of this would have been due to the Digital Divide of inability or unwillingness to access the internet. People without secure housing or access to a computer had limited ability to participate. For some people, completion of the online Census could be done only by giving incorrect information, e.g. in respect of self identified gender.

In my view, there needs to be more assistance provided to enable people to participate in the Census and more open box options where the answer to a question is more complicated. Support from Community Hubs (see below) or mobile assistants is one way to help with the Census process. Co-designing forms with sensitive or marginalised populations including disabled people and LGBTIQ+ (or “Rainbow”) people would also help. Gender is more than M or F options.

Community Hubs

Establish joint agency Community Hubs with free Wifi and computer terminals together with government staff to act as navigators and assistants for Government services. Computers could have limited internet access set to government agency sites and be used for interactions with agencies. Staff could help with assistance where required especially for older or disabled users. Such Hubs could be established in all cities and townships and more remote communities. Where communities lacked other private sector services such as banking, the Hub could negotiate limited services on third party representation basis.

It is important for building relationships and knowledge that staff be employed on a long term basis, at least initially. With isolated communities in rural and regional settings, as well as insular communities in some cities, the ability to understand and relate to local issues will be paramount. A Community Hub in Otaki should include speakers of Te Reo Māori. A Community Hub in parts of Auckland should include Chinese language speakers.

The relationship between Māori and government

Government in Aotearoa New Zealand would be strengthened by expansion of Crown-Māori Relations and also by the establishment of expertise within Government agencies to monitor and advise on centering Te Ao Māori within agency practice. Partnership as created by Te Tiriti o Waitangi should be made real through agency practice. For example, principles for the use of data from iwi, hapu, and Māori individuals should be developed with people striving to realise Māori Data Sovereignty. There may be areas of disagreement but the discussions are areas of commonality should be made clear and those agreements shared with communities and online for public information.

Diversity And Cultural Communities

P8 *“At a national level, our diversity provides an opportunity to grow into a more productive, creative, and dynamic society and improve our ability to understand and connect with the world around us. At an individual level, recognising and valuing New Zealand’s diversity will support people to feel included, respected and able to make their unique contribution to our multi-cultural society.”*

At a government agency level, more needs to be done to accept and include diversity. EEO (Equal Employment Opportunities) policies are a start but welcoming diversity needs more than agreement not to discriminate against individuals. That welcome should include visible role modelling, sharing of success stories, information about inclusiveness and about accessibility of physical and digital spaces. Each public building should have an accessible toilet and information about its location available to visitors and staff. Where this does not yet exist, plans for improvements should be encouraged with advice from the Office of Disability Issues, and other population agencies (Ministry for Women, TPK, Ministry of Pacific Peoples, and Office of Ethnic Communities) and from relevant local advisors. Rainbow inclusiveness can be shown by participation in and certification with the Rainbow Tick.

Official Information

P8

12 ... *there are ongoing concerns about compliance with the current legislation, and with the legislation itself.*

Some agencies delay responses to requests unreasonably and are reluctant to provide information, even where no good grounds for refusal exist. Information, except personal information, should be Open By Default. Sensitive personal information should be protected, and other personal information anonymised and aggregated and released either as shared information in the IDI, or as Open Data. It is important that data patterns and information can be released openly for evidence based decision making and to enhance transparency and scrutiny of government actions. In some cases commercial gains may result but this may be a good thing for the economy provided no one party gains an unfair advantage. Publicly funded research should be released openly.

Innovation and Service Design

P9

The service design and delivery teams at the Service Innovation Lab work with New Zealanders to ensure government services meet citizens’ needs. The Lab supported the implementation of SmartStart – a new approach where government services are delivered based on key events in people’s lives, rather than how government agencies are set up.

The DIA Service Innovation Lab is doing groundbreaking work leading to more open services for New Zealanders. Their break through work coding computational legislation into open source code has the potential to be a good example for other work. The example of the Rates Rebate API prototype with input from Tauranga City Counsel and Parliamentary Counsel Office could be followed by other useful applications of technology to law. Fingers crossed the Holidays Act will be translated soon.

There should be dedicated ongoing funding to ensure that the Service Innovation Lab can continue to plan and carry out its work and to retain sufficient staff expertise to enable projects to be completed. Staff from other agencies should be encouraged to co-partner with the Lab on a seconded or project basis and to take insights back to parent agencies on completion of the work. To date there has been much interest in the work of the Lab but insufficient Government support for the initiative to let it be the example to other agencies it could be.

Anti-Corruption Measures

*P9 Enhancing anti-corruption measures through:
o a review of the Protected Disclosures Act – New Zealand’s whistle-blower protection legislation, which applies to both the public and private sectors.*

This would be a start and policies should be implemented throughout the state sector, possibly in association with State Sector Reforms, to provide a confidential channel for inquiries into inappropriate actions within agencies, and support for whistleblowers if they need to be identified.

WellBeing Indicators

P9
New frameworks for measuring, monitoring, and publicly reporting on the wellbeing of New Zealanders, such as :
o A Living Standards Dashboard being developed by the Treasury to support the Living Standards Framework, with measures of wellbeing and sustainable development;
And
*o Indicators Aotearoa New Zealand from Stats NZ; And
o A Wellbeing Budget in 2019*

These are all important, but they need to be framed in clear language so that the public understand the terms. Drafts using such terms as “*Human Capital*” are not open and preclude ready discussion by members of the public or public servants in areas less familiar with the terms. Even if reports need to be reframed for submission to the OECD, information should be accessible and easily understood. Examples of why Wellbeing matters should also be included in public documentation. An environment field officer may not think of WellBeing measures when reporting on the State of Rivers but that environmental measure may have an impact on WellBeing.

There are quantifiable economic harms from negative actions against WellBeing that are subject of reports by NGOs such as the Child Poverty Action Group and agencies such as the Ministry for Women and MSD. What is the cost of domestic violence? Of child abuse? There are research findings on the gains from supporting Wellbeing too, such as the threefold gain back to the economy from spending on the public health sector (refer to *The Body Economic: Why Austerity Kills* by David Stuckler and Sanjay Basu <https://treasury.govt.nz/news-and-events/our-events/body-economic-why-austerity-kills>)
These harms and benefits should be included in discussion documents and releases.

Commitment 1: Engagement with Parliament

Increased use of digital channels is valued by communities where they are aware of its use and can access it. During recent presentations to Select Committees and MPs members of New Zealand's disability community appreciated the opportunity to present and to be seen or heard via livestreaming. The use of NZ Sign Language interpreters was also welcomed. Members of this community ask that all Parliamentary livestreams include NZ Sign Language. This may necessitate use of a second camera and contracting with more NZSL workers but the engagement is worth it.

Text guides for Parliament should be provided in a range of languages including Easy Read and accessible versions. People First NZ have expertise in this area if advice is needed. Disabled NZer Robert Martin represented New Zealand at the UN Committee on the Rights of Disabled Persons in 2018 with his NZ liaison helping the UN get the messaging right. The NZ government could benefit from this example too.

<https://www.peoplefirst.org.nz/news-and-resources/easy-read-resources/>

School Toolkit

In addition to the skills noted on P15, *Every young person can access the civic and financial literacy, and workplace skills, they need to succeed, before they leave schooling.*

Every young person should also have knowledge of their own body and sexual identity and have the knowledge and confidence to keep themselves safe and healthy. ERO findings indicate that there is inconsistent and inadequate education on sexuality and gender identity. This can have negative and longterm consequences for some students. Support for students and professional development and resources for teachers are both needed.

<https://nzfvc.org.nz/news/ero-report-school-based-sexuality-education-finds-ongoing-inadequacies-and-inconsistency>

Public Participation to Develop Policy and Services

Adopting a design thinking approach with involvement of users early to design the approach and work with communities is both better for engagement and can save pain and money from inadequate consultations that go wrong. There are many such examples in the public transport sphere. Community participants in these processes would lay some of the blame for this difficulty at NZTA's reluctance to listen or change its desired solutions, but this may be only part of the problem.

NZ Government has centres of expertise in Service Design Principles and practice but the knowledge is siloed and insufficient resources and will applied to spread them more widely.

<https://www.digital.govt.nz/standards-and-guidance/design-and-ux/service-design/service-design-principles/>

P20 Commitment 5: (Increasing) *Public Participation in Policy Development*

This is a laudable goal which requires both the ability to participate and also the motivation. Where lead advocates share stories and communicate effectively, public participation increases. While only a small example, the participation by thousands of New Zealanders in submitting on and speaking to the Marriage Definition Bill that provided marriage equality for all couples, including same sex couples, showed how people could be involved. Similarly packed school halls on Climate Change statements before the Copenhagen meeting, shows the result of effective public motivation. This would be helped by more resources being made available.

Funding for open consultation exercises could be provided on application by nonprofit groups such as Action Station.

(Note: the resource referred to in this footnote P20 is in an inaccessible format with intrusive colour effects and column layout - <https://www.lgnsw.org.au/files/imce-uploads/346/IAP2-Public-Participation-Spectrum-LGNSWAmalgamation-Toolkit.pdf>)

Service Design Pages 20 - 22.

Absolutely Yes to inclusion of this work in Commitment 6. NZ Government has centres of expertise in Service Design Principles and practice but the knowledge is siloed and insufficient resources and will applied to spread them more widely.

<https://www.digital.govt.nz/standards-and-guidance/design-and-ux/service-design/service-design-principles/>

Algorithms and Government Policy

Commitment 8: Review of Government use of Algorithms

Objective: 74 Increase the transparency and accountability of how government uses algorithms

Yes to Algorithm Review, and to working with Open Source community on ensuring that algorithms are clear and transparent. If proposed algorithms can't be shared publicly and understood by at least three people outside government agency, should they be used? Overseas experience suggests no, not if Government wants to build trust in its digital processes. Expert advisory panels may help.

<https://algorithmwatch.org/en/eu-high-level-expert-group-on-artificial-intelligence/> and

<https://euagenda.eu/upload/publications/untitled-147316-ea.pdf>

How Policymakers Can Foster Algorithmic Accountability - By Joshua New and Daniel Castro | May 21, 2018

Re P 27

Consider next steps for all-of-government assurance related to the use of algorithms in collaboration with Civil Society representatives

My recommendation would that such collaboration should include private sector associations and companies too, including InternetNZ, NZRise, ITP NZ, and NZFOSS (NZ Free and Open Source Software society).

Data Use and Data Stewardship

P27 Commitment 9: Increase the visibility of government's data stewardship practices

Increase visibility and active discussions, especially with guardians of Māori Data Sovereignty <https://www.temanararaunga.maori.nz/>

Increase education and awareness of data and information for all New Zealanders. What is personal information, and what are their rights? What is Open data? What is Shared data and who can see it?

I know the answers but how many New Zealanders in the wider community know? This information should be added to formal education programmes and be made readily available in entertaining formats.

An additional area where action is needed, is to strengthen the Privacy Bill currently before Parliament with closer alignment with the EU's GDPR General Data Protection Regulation. While New Zealand currently has adequacy status with respect to our privacy and personal laws as far as the European Commissioner is concerned, this is reviewed on an annual basis and it could be revoked if New Zealand practice slips too far behind that in the EU.

P29 Commitment 10: Monitoring the effectiveness of public body information management practices

Yes!

Open Data

P30 Commitment 11: Authoritative dataset of government organisations as open data for greater transparency

More open sharing about open data sets, Yes. More data sets that are actually open data in format are released and curated. Currently, many data set links are curated but not the data sets themselves. Some data sets are neither truly open nor usable, they're not checked or accurate.

There should also be more resource information on where to start, what can be done, and examples. I have visited <https://data.govt.nz/> but only searched for particular sets rather than making greater use of the resource. Few people are trained in using data sets and manipulating formats. Without Data 101 resources and guides to using the site and the datasets, the site presents a wasted opportunity for the general public. Data isn't difficult but some knowledge and skill is required to get use out of it.

Kay Jones

Independent Contractor and member of InternetNZ, NZRise, ITPNZ, and GOVIS

JKayJonesNZ@gmail.com