

From: Andrew Ecclestone <andrew@ecclestone.net>
Sent: Monday, 12 November 2018 4:34 PM
To: Open Government Partnership New Zealand [SSC] <ogpnz@ssc.govt.nz>
Cc: Keitha Booth <keithabooth@gmail.com>
Subject: Comments on draft End of term self-assessment report on NAP 2, 2016-18

Dear State Services Commission folk,

I have some comments on the draft end of term self-assessment report on New Zealand's second Open Government Partnership National Action Plan (2016-18) hereafter described as NAP2. One initial point is that the links in the PDF version of the draft report were not functioning, so it was not possible to see what they pointed to. This should be fixed for the final report.

Outcomes and outputs

Throughout the draft report, delivery of outputs (described as 'milestones') is claimed as effectively delivering the outcome described in the text of the commitments.

If commitments are stated in terms of outcomes, but no indicators are identified for assessment in achieving the outcomes, then claiming successful delivery of the commitment is problematic, bordering on dishonest. Output measures (milestones) that do not enable assessment of whether the outcome has been achieved are used in many of the commitments in NAP2, and the government needs to ensure that NAP3 (2018-2020) avoids the same problems.

For example, commitment 1 - Open Budget is described in the following way: "We will ensure the Budget process is open and transparent and there is an accountable process for public participation." But all the milestones relate to making budget information available after the event; none relate to the issue of public participation in the budget process, which is where the Global Initiative on Fiscal Transparency and Open Budget Index say that New Zealand needs to make progress.

The fuzziness of evidence of activity versus evidence of achieving the desired outcome may make it easier for government to claim success in delivering its OGP commitments, but it actually leads to disillusion and distrust in the OGP process on the part of the public and civil society. This is clearly not the desired goal of the OGP, nor I hope, the government.

Commitment 2 - Improving OIA Practices

I have previously written online about delivery of this commitment, which can be read here:

<https://proactivelyopen.org/2018/09/04/openness-and-official-information-act-timeliness/>

As noted in that piece, the milestones reported upon by the Government do not actually provide evidence of achieving the commitment. The commitment was focussed on achieving the following outcome: 'We will improve government agency practices around requests for official information under

the OIA', and the milestones are output activities, not indicators or evidence that enables assessment of whether the desired outcome of improved OIA practices has been achieved.

In terms of Milestone 1 - having easily accessible information about how to make OIA requests on agency webpages, if SSC has done an assessment of how many agencies do this, it should add this to the ogp.org.nz and ssc.govt.nz websites. Otherwise, you are claiming achievement of this milestone when actually what has happened is consultation and development of guidance.

In relation to Milestone 3 - release of Cabinet papers - I note that Cabinet Office Notice 15(3) has never been published, which makes it problematic for the government to rely on as an example of supporting material. (*Inter alia*, the Government should not have any unpublished Cabinet Office Notices, and DPMC should move to publish these on its website.) Furthermore, Notice (15)3 now appears to have been superseded by Cabinet Office Circular (18)4 <https://dpmc.govt.nz/publications/co-18-4-proactive-release-cabinet-material-updated-requirements>. I suggest that the draft report is amended to link to this published guidance instead of the old unpublished guidance.

Milestone 4 - a suite of consistent measures about OIA performance. While SSC has developed guidance on data to collect and report, again there is no evidence provided on adoption of this guidance. This report doesn't even help us know whether SSC has followed its own advice.

Milestone 6 - supporting agencies. Referring to the OIA Forum, SSC states that a 'reference group' drawn from the sector has taken over coordination of the forum. This is not reflected on the SSC web page about the Forum <http://www.ssc.govt.nz/oia-forum> which also appears to imply that there was no meeting of the Forum between November 2017 and August 2018.

Commitment 3 - Improving open access and principles

This commitment aimed to 'enhance access to data and information'. While I welcome the adoption of the International Open Data Charter, I am concerned that the report resulting from Milestone 2 'Review New Zealand Data and Information Management Principles' is not linked to from this report. Without evidence of completion of this milestone, the government is simply asking us to take it on faith, which is not good enough.

I note that the all-of-government portal for finding and requesting data sets, data.govt.nz, has been overhauled. Unfortunately, this has made a key element of the site worse, not better, and not addressed one of the shortcomings that has been pointed out to DIA before. This the functionality relating to the ability to request that a dataset be published. Previously the 'Request a dataset' link appeared at the head of the page listing available datasets: now it has been relegated to the foot of that page: <https://catalogue.data.govt.nz/dataset> Furthermore, the page for filing a request for a dataset makes no mention of the fact that such a request is an OIA request and that (i) requesters can expect agencies to provide a response that is compliant with the OIA, and (ii) that they can complain to the Ombudsman if they are unhappy with the response: https://www.data.govt.nz/request-data/?_ga=2.193035757.1719430582.1541990329-1368809268.1541990329

Commitment 4 - Tracking progress and outcomes of open government data release

At the end of Milestone 3 there is a reference to publication of survey results in a 'prototype dashboard' on 28 September 2017. No link is provided to this. If it is not publicly available, the report should provide an explanation. Again, without the link (or explanation) this is an assertion that a milestone has been reached without providing the necessary evidence.

Kind regards,

Andrew Ecclestone