

Open government action plan 2018-20

Feedback to the draft plan

From Jan Rivers in a personal capacity

Thank you for making the opportunity available to comment on the draft Open Government Partnership Action Plan

I apologise for not responding more fully to the draft action plan or in better time. It has been very enjoyable to have been part of the process this year and to observe the impacts of a project which now has dedicated staff and some buy-in within the government to push things along. The extent and ambition of the 12 commitments, as well as the process to achieve them, seem to be much more aligned with the overall intent of the Open Government Partnership's objectives than the previous two iterations. This is laudable. It is a shame that as yet no civil society group has emerged to be the partner non-government agency in developing the plan and I would hope that the OGP staff at SSC and the expert advisory group might give some thought to how such a grouping could be nurtured from the existing interested parties and NGO's with purposes that are aligned such as Hui-E!, ECO and TINZ/

As the draft plan mentions it has been great to see that there are open government initiatives that go beyond what is contained in the plan. Specifically I have been aware of the proposal to release cabinet papers, improve funding for public interest media, the State Sector Act reform and the work on beneficial ownership of foreign trusts. These will all be initiatives that improve NZ for the better despite not being part of the Open Government Partnership Action Plan.

Commitments 1-3 Participation in democracy

Giving a higher profile to New Zealander's understanding of Parliament and including youth engagement in citizenship is a praiseworthy initiative and there are a lot of specific actions. One easy initiative that is missing is something that LGNZ does for the schools sector each election year. A toolkit is made available to schools to follow, monitor and carry out a shadow vote by school classes at election time. I'm a little worried about making Parliament (and public services more generally) accessible via FaceBook and other social media over which the government has little control. The algorithm's delivering content to users are still too much of a black box to be certain that they are not being manipulated either by third parties or in the worst case by government departments themselves using FaceBook membership as a source of data.

Commitment 4 Making New Zealand's Secondary Legislation readily accessible.

The work by the Parliamentary Counsel office is a worthy project for being part of the action plan for a second time. It is a huge and ambitious project with many positive outcomes. I tried to follow a story about an unusual immigration and without the immigration department rules covering this (related to business migration) the legislation alone is next to useless in understanding what can happen and why.

I still do harbour what is regarded by some as a tin-hat perspective believing that despite the many good reasons for improving access to legislation that the project's ultimate driver has been because it is a requirement of the CPTPA (formerly TPPA trade agreement.) The National Interest Analysis for the agreement made clear that access to secondary legislation, as well as transparency and early warning of planned legislation and regulation is part of the work towards reducing behind the

border compliance costs for overseas investors. I am sure that the benefits from this initiative that local people and businesses can make compliance easier and reduce costs and improve understanding. Transparency of regulation as well as legislation and seeing the interrelations between them is ultimately a desirable public good.

Commitment Five Public Participation in Policy Development

The public policy engagement initiative is a good start and the reference to IAP2 as the gold standard is the right approach. The assessment is correct that in the public's mind little consultation goes beyond the inform / consult stage. This I believe is not the case as various consultation currently underway will show such as the schools hui and this OGP Action Plan process has helped to demonstrate. On the other hand I have felt that across government there is a huge disparity between government perspectives and those of the public on issue after issue which is one of the main reasons that there is low trust and low engagement. I await with interest a decision about a specific instance of consultation going beyond inform / consult stage and hope it is able to be an exemplar.

I would have liked to have seen the idea of a professional body of participation specialists mooted in the plans as a cross government initiative supporting the proliferation of shared good practice as part of this action. There are numerous ideas about how this could be done and I would rather see the expertise spread across agencies than having 1 specialist unit carry out consultation on behalf of government.

There are many low cost ways that the government could improve access to upcoming consultation. The relevant part of www.govt.nz has a participation area but agencies and other parts of government are not mandated to use it when carrying out consultation. Another super low cost option would be to mandate the announcement of consultation on websites using a specific tag Say NZGOVconsult - allowing people to search across the .govt webspace for the tag. The lack of this over many years is a big hindrance (an anchor chain really) to an effective public domain as each of the peak organisations of the civil society sector have to spend an inordinate amount of time finding and tracking government initiatives for their members on issues which should be transparent to everyone.

The idea of a meaningful consultation does not have to be terrifying to government. And it is important that the people's voice, rather than the voice of corporations is paramount, in the development of public policy. There are numerous approaches and opportunities to trial citizen's juries, participatory budgeting or AI approaches to developing ideas such as using tools like pol.is which has been trialled by Scoop Media in NZ. On a related issue I have been reading [Pat Webster's PhD](#) about the numerous ways in which government prior to the 1990's gathered information for the public good. The loss of civil society groups who are funded specifically to be the voice of the public could be considered once again. Organisations like the Council for International Development. Historic Places Trust branches, Plunkett, Relationship Services, the Problem Gambling Foundation and others served to identify solutions and advocate for good policy having canvassed members and used to provide a useful low cost source of good policy and a useful sounding board. Webster argues that Plunkett's experience was the source of much policy about childrens' health and wellbeing throughout the 20 Century. The move to a contract only model is a great loss both for government and the voluntary sector.

Finally the wording of para 56 is somewhat government centric

The drive for improved public participation is part of a wider change in public management in which the traditional role of the citizen has already moved from “voter” to “customer”, and is now moving from “customer” to “co-creator”. Under this view, policy and services are designed with, rather than for, people, respecting their knowledge and beliefs, and their active role in their own lives and those of other New Zealanders.

I'd be tempted to present this issue as follows:

Both government officials and civil society participants recognise the historically poor use of the public voice in policy making and service design. Open ended consultation with Citizens as consumers of services and shapers of policy and legislation are a key part of ensuring outcomes that are widely acceptable, stable and enduring.

Commitment 7 Official Information

I am keen on the idea of the review of official information legislation. I am no expert here. But although there have been calls for the review of the OIA I am of the view that the lack of a government centre of expertise in OIA servicing is what is most important. This could take the form of a specialised unit in the State Services Commission, Ombudsman's Office or Department of Internal Affairs which acts as a centre of good practice and provide training across government and local government for the Official Information Act specialists across government and which can act as a carrot to good practice and a stick to poor practice. An annual plan for such a body could help to bring each agency up to speed with good practice. For example one initiative could be by outlining, training and implementing good practice for pro-active release of OIA requests. This could perhaps a few days after release to journalists where this enables a story to be told when a journalist has material that needs to be analysed and digested to tell a story.

Commitment 8 Government use of algorithms

The best thing about the draft plan is being able to see one's ideas reflected and enhanced and made real by the process of being diffracted through others thinking and the policy process which has made an idea into tangible, actionable policy. For me this experience relates most closely to the Commitment 8 Review of Government Use of Algorithms. A good result here could substantially help to rebuild trust in government and the ongoing commitment to take this commitment into the next planning period updated based on progress is a good initiative. Hopefully the next step will be some kind of ongoing appraisal mechanism where a civil society group, associated perhaps with the Privacy Commissioner can be part of the ongoing assessment of new uses of algorithms.

NZ should use technology to make quality decisions when we can be sure that the technology does not red-line people in or out of services based on criteria that may be discriminatory or wrong. On the other hand it would seem at first glance that some of the work around risk and health could be really useful for selecting people at risk of adverse health outcomes

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

This commitment is owned by the Department of Internal Affairs (DIA). It could easily be made more ambitious. Archives NZ, part of DIA already has a full dataset of government agencies as part of the information it has to describe archival material. It also contains metadata on previous agencies and the movement of functions between agencies over time. Not using this data to support the project would create a duplicate dataset and prevent it from ever being able to track agency changes over time.

Thank you

Jan Rivers

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