



Response to Letter from Civil Society Organisations

Date: 19 April 2021

Security Level: IN CONFIDENCE

Report No: 2021-0095

Contact: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards

Telephone: 9(2)(a) privacy

	Actions Sought	Due Date
Hon Chris Hipkins, Minister of State Services	Sign the attached response	Due Date

Enclosure: Yes – Draft response to letter from Civil Society Organisations

Minister's Office Comments

Comments:	
Date returned to PSC:	

Executive Summary

1. Ten Civil Society organisations wrote to you about the development of the 4th Open Government Partnership National Action Plan (OGP NAP).
2. The letter calls for changes to the current approach due to their concerns about budget and resourcing for Commitments and public engagement, and that engagement should involve greater co-creation where possible. It proposes that the Plan be deferred by a year to enable such engagement.
3. The organisations expressed a desire to meet with you to discuss these issues and their recommendations.

Recommended Action

We recommend that you:

- a. **Sign** the attached response to the letter from Civil Society Organisations

Agree/ disagree.

- b. **Agree** that Te Kawa Mataaho write to OGP International, to formally explore an extension of New Zealand's NAP4 delivery date to 30 June 2022.

Agree/ disagree

- c. **Agree** that Te Kawa Mataaho release this briefing in full once it has been considered by you.

Agree/ disagree.



Hon Chris Hipkins
Minister of State Services

Response to Letter from Civil Society Organisations

Purpose of Report

4. This report briefs you on matters raised in a letter from 10 Civil Society Organisations and provides a draft response to the letter.

Background

5. The letter relates to the development of the 4th OGP National Action Plan (NAP). The letter refers to your interest in the development of an ambitious Plan and points to the need for a step change to achieve that.
6. The letter identifies three reasons for making change to the current approach:
 - the plan is being developed without a budget for the commitments;
 - the process does not involve co-creation, it is a traditional consultation with insufficient time for substantive engagement;
 - the work to co-create the action plan is insufficiently resourced to achieve high quality public participation.
7. The civil society agencies have asked that the plan be delayed from this year into next year in order to provide additional time to undertake collective development of the commitments.

Comment

8. Resourcing for OGP Commitments
9. Responsibility for resourcing Commitments sits with the implementing agencies. In light of financial constraints around continuing the Covid-19 response and recovery, projects in NAP4 may need to be scaled or more agile than otherwise. The possibility of an extended timeline for submitting NAP4 (discussed below) may provide opportunities for agencies to align Commitments with future budget bids.
10. NAP Engagement
11. The comments about the development process have focussed on the first, idea gathering, phase of the process. During this phase we are using on-line tools and public workshops to gather ideas from the public and civil society organisations from which we expect to see Commitments emerge. That phase is now well advanced which gives us good visibility of the themes and volume. There is a clear need, as highlighted by the letter, for us to finalise the next steps and communicate them to stakeholders.
12. Our intention has always been that following the idea gathering phase we move to a process that will involve the representatives of civil society (both organisations and members of the public) working directly with government agencies on developing possible commitments. We have discussed this with our External Advisory Panel, with agencies and with representatives of various civil society organisations. It is an additional step, which we did not undertake in developing the previous plan and is intended to provide more involvement for civil society in the process of moving from a large number of ideas to a small number of Commitments.
13. Some agencies delivering Commitments in the current Plan have built relationships with external stakeholders who have worked with them on the completion of the Commitments. We can see opportunities for the relationships that are built during Commitment development to continue through to the implementation of the Commitments and to positively influence delivery of those Commitments.
14. The idea of Commitments being implemented by coalitions of government and civil society is a really

interesting one. We should explore it if it emerges through this process.

15. NAP4 Timeline
16. The schedule for developing NAPs is set by the OGP. A common concern expressed by governments and civil society organisations is that the requirement for plans to have a two-year life do not fit well with budgetary cycles. Some governments have begun to develop Plans that have a longer lifespan. This enables Commitments to provide for the development and funding of longer-term projects. We have signalled that we will consider this for NAP4.
17. Our current planning is to have NAP4 completed by the middle of this year. The signatories to this letter have requested that we move that date out a year. Deferring development of the Plan would provide more time for public engagement, particularly for development of Commitments to take place with interested members of the public and community groups.
18. We have had an initial conversation with OGP International to explore the option of extending our NAP4 delivery date to mid-2022. OGP have indicated that several member countries are seeking extensions due to the impact of Covid-19 and the desire for further public engagement.
19. If New Zealand wishes to extend our timeline for NAP4 beyond 2021, we need to formally write to OGP in that regard. OGP are likely to be sympathetic to our desire to extend, given that it originates in a request from civil society. However, it would still be a technical breach of the process. The consequence of that would be that if we are judged by OGP not to have met the requirements in the next Plan cycle, OGP will place New Zealand under review. We will work with OGP and provide you with additional advice regarding this as soon as possible.
20. We recommend that you signal to the civil society organisations that you are open to extending the time for completion of the Plan. At the same time, we will progress a programme around active citizenship, citizen voice in decision-making, and transparency and accountability. These are important areas for open government in New Zealand and support the Public Service Act.
21. We also recommend that Te Kawa Mataaho discuss with the civil society organisations how best to get their input into that programme of work.

Next Steps

22. Te Kawa Mataaho will write to OGP International, to formally explore an extension of New Zealand's NAP4 delivery date to 30 June 2022.



Hon. Chris Hipkins
Minister for the Public Service
Parliament Buildings
Wellington 6160

15 March 2021

Tēnā koe Minister,

We are writing to you about the co-creation of New Zealand's fourth national action plan (NAP4) as a member of the Open Government Partnership (OGP). We ask for a meeting with you to discuss delaying the Action Plan, so that it can be developed in collaboration with civil society, aligned with the budget, and stand a chance of being legitimate and meaningful.

We applaud your government's success in passing the Public Service Act 2020, which requires Chief Executives to uphold the principle of fostering '**a culture of open government**'. The development of NAP4, containing commitments to action, provides an excellent opportunity to operationalise this principle and embed it in the Public Service.

However, without a change to the process for developing NAP4, we have serious concerns about the value of engaging with the work to develop the plan, and believe that - counter to its intentions - OGP work in New Zealand will continue to feed cynicism about 'co-creation'.

We are leaders of Civil Society organisations in Aotearoa united by our concern for open government and a healthy participatory democracy. Many of us have participated in the development of the first three national action plans. We have found the outcomes from our participation fell well short of the statements included in the [Open Government Declaration](#) that New Zealand has signed up to.

We support your interest in NAP4 being an ambitious plan for open government, and we believe a step change over previous efforts is vitally important. Sadly, we believe that the current planned process will only deliver more of the same. We see three main reasons for change:

- The current plan is being developed without any budget for the commitments. Achieving ambitious goals requires funded projects, which can only happen if the development of the plan is integrated into the annual budget cycle. Previous commitments have been constrained in ambition and delivery by lack of funding.
- The process does not involve co-creation, being a traditional consultation with insufficient time for substantive engagement. This is counter to the recommendations for better methods of public participation in both the DPMC Policy Project guidance and the Royal Commission of Inquiry report into the Christchurch terrorist attack, as well as the OGP's own standards.
- The work to co-create the action plan is insufficiently resourced to achieve high quality public participation, so it is unlikely to lead to an inspiring or effective plan that government agencies and civil society can commit to with enthusiasm.

Without a change to the process, we have serious concerns about the value of engaging with the consultation.

We are pleased that Te Kawa Mataaho has set up an online platform to gather inputs from the public, but this is not co-creation, simply consultation. The online platform needs to be complemented with deep and effective engagement with the public and civil society organisations. This should lead to co-created commitments that are drafted **with** the government, not **by** the government. We would also like to see NAP4 emulate the practice in UK Action Plans, that specify not only the lead government department but also the partner civil society organisations ([Current UK Action Plan](#)).

Based on our experience, and our deep concerns, we **recommend** that the Government extend the period for co-creation of NAP4, to enable the commitments in the plan to be included in Budget 2022, and defer submitting the plan to the OGP until June 2022. The need for budget-cycle alignment becomes even more imperative if the government decides that NAP4 should be a four-year plan (2022-2026).

We would like to meet with you urgently to discuss these issues and our recommendation, and agree how government and civil society can better work together to operationalise the spirit of both the Public Service Act and the Open Government Partnership.

We look forward to your reply.

Ngā mihi

 Thomas Beagle Chairperson NZ Council for Civil Liberties	 Julie Haggie Chief Executive Officer Transparency International NZ	 Rochelle Stewart-Allen Pou Kaiārahi (General Manager) Huie E! Community Aotearoa
 Cath Wallace Co-chair, ECO Environment and Conservation Organisations of NZ	 Jordan Carter Group Chief Executive Internet NZ	 Lisa Woods Campaigns Director Amnesty International
 Katherine Peet Network Waitangi Otautahi	 Maureen Gillon Chair Trust Democracy, NZ	 Erin Polaczuk National Secretary PSA Public Services Association
 Laura Bond, Executive Director, Child Poverty Action Group		

Office of Hon Chris Hipkins

MP for Remutaka

Minister for COVID-19 Response

Minister of Education

Minister for the Public Service

Leader of the House



Tēnā koutou Civil Society Organisations

Re: Open Government National Action Plan

Thank you for your letter of 15 March 2021 about the process for developing New Zealand's next Open Government Partnership National Action Plan.

It is great to see a group of civil society agencies committed to active involvement in development of the Plan.

The intention has always been that following the idea-gathering phase we move to a process that will involve the representatives of civil society (both organisations and members of the public) working directly with government agencies on possible commitments. It is an additional step, which was not undertaken in developing the previous plan, and is intended to provide more involvement for civil society in the process of moving from many ideas to a small number of Commitments.

The idea-gathering phase is now well advanced, which gives us good visibility of the themes and volume of ideas. There is a clear need, as highlighted by your letter, to now finalise the next steps and invite deeper engagement throughout the process.

In that context, I have asked Te Kawa Mataaho Public Service Commission to explore with the Open Government Partnership body extending the submission date of NAP4 into next year as you suggest.

You have expressed concerns about the resources available to develop and implement a Plan. Resourcing for OGP Commitments currently sits with the implementing agencies and I expect that to continue, particularly given the financial constraints of continuing the Covid-19 response and recovery. I expect progress to continue to be made, but this may mean that projects need to be scaled or more agile than in an unconstrained environment.

While I'm happy to explore an extended timeframe for OGP, I do need to tell you that in the meantime I will be pursuing a programme of reform and development in relation to active citizenship, citizen voice in decision-making, and transparency and accountability. These are all areas where OGP Plan consultations have previously identified some enthusiasm for action by Government.

This programme will be advanced before the next OGP Plan on the revised schedule. Nevertheless, I am keen to obtain your input into this work and I have asked Te Kawa Mataaho to discuss with you how that might occur.

Thank you again for taking the time to write to me directly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'CHIPKINS'.

Chris Hipkins
Minister for the Public Service