

In Confidence

Office of the Minister of State Services

Chair, Cabinet Committee on State Sector Reform and Expenditure Control

Action Plan for the Open Government Partnership

Proposal

- 1 This paper proposes that Cabinet agree an Open Government Partnership National Action Plan (NAP) for the two years to 2018.

Executive Summary

- 2 New Zealand is a member of the Open Government Partnership: an international grouping of 70 member governments committed to increasing transparency, accountability and public participation in decision-making. Under the terms of our membership the New Zealand Government is obliged to adopt and implement a National Action Plan. Officials have worked with individuals and groups in the community to formulate a new action plan for adoption. We consider that the commitments contained in the proposed action plan are achievable, set a reasonable ambition, and make a meaningful addition to New Zealand's existing and wide-ranging work in the field of integrity and open government. The proposed action plan is attached to this paper and is recommended for adoption by Cabinet and subsequent publication.

Background

- 3 The Open Government Partnership (OGP) is a multi-national initiative designed to make member governments more open, accountable and inclusive of citizens. It promotes transparency, accountability, and public participation in decision-making. The OGP was formally launched on September 20, 2011, with eight founding governments (Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom and the United States).
- 4 In September 2013, Prime Minister John Key was invited to join New Zealand to the Open Government Partnership (OGP), and accepted in November 2013. By 2016 the OGP has grown to 70 member countries.
- 5 The OGP is overseen by a Steering Committee comprised of international government and civil society representatives who guide ongoing development and direction.
- 6 Countries participating in the OGP have a range of obligations. The most significant responsibilities are:
 - Developing and implementing National Action Plans (NAPs) which contain specific commitments to advance the aims of the OGP. Each NAP is renewed every two years. At the end of each two-year period an assessment of the Plan's implementation is published. Both the NAP and reporting mechanisms have formalised requirements that must be met in order to meet the standards of OGP membership.

- Committing to public engagement and participation in the process of formulating each NAP, and committing to ongoing public engagement in the implementation of each NAP
 - Committing to annual self-assessments and independent reporting on the progress of each NAP. We have recently completed our assessment of our first NAP which has been submitted to OGP and published. In addition OGP International has engaged Steven Price of the New Zealand Centre for Public Law, Victoria University of Wellington, to independently review our implementation of our first NAP. His report will be published in the near future and his term will end this year.
 - Making regular financial contributions to support the OGP's international operations. Our 2016-17 membership fee is \$200,000.
- 7 Failure to meet obligations can lead to public censure from OGP. This raises the risk of public embarrassment in areas where New Zealand is strong by international standards. The plan is due to the international OGP offices by the end of October 2016.

National Action Plans (NAPs)

- 8 Commitments included in NAPs must be specific, time-bound, and measurable. OGP expects that commitments will show an element of ambition, or that the government will stretch beyond its current state of practice, significantly improving the status quo, through its OGP membership.
- 9 It is possible for a commitment to improve on existing, ongoing reforms.
- 10 It is expected by OGP that each NAP contains between five and 15 ambitious commitments. Commitments can be added to the NAP after it is submitted but they must be able to be developed and implemented within two years. Commitments should advance one or more of the principles of the OGP including transparency, accountability, public participation in decision-making, and the use of technology and innovation to support the delivery of these core principles.
- 11 The State Services Commission (SSC) is the lead agency responsible for development of the NAP and annual self-assessment in New Zealand.
- 12 We have recently completed the process of public engagement required for the preparation of a proposed NAP. This has featured:
- Community workshops in Auckland, Christchurch and Wellington which worked on the development of draft themes for the NAP. At the last of these events officials worked with community members to turn actions and proposals into commitments which agencies can deliver
 - Use of two online platforms to gather views and submissions from the public
 - Numerous interactions with community voices through email, one-on-one meetings and through attendance at meetings of community groups.
 - Presentations including to the Open Source Open Society Conference and Inspiring Communities event
 - Commissioning of primary research on New Zealanders' attitudes towards open government.
- 13 We have recently completed a process to generate proposals for our second NAP. This paper proposes seven commitments for inclusion in New Zealand's second NAP.

Comment

- 14 New Zealand is well accustomed to constantly and deliberately improving integrity in government and openness and transparency to citizens. In terms of integrity, openness

and transparency we have a long history of world-leading reforms as well as adoption of progressive models and innovations from overseas.

15 Our approach to public management is one of critical self-review leading to improvement. Examples of this include:

- New Zealand's courts, Police and enforcement agencies are independent, effective and, by international standards, remarkably free of corruption.
- We score highly on all relevant measures and indices of integrity.
- We have effective human rights legislation and supporting institutions.
- The Public Finance Act and Fiscal Responsibility Act ensure a high level of transparency and disclosure of matters relating to the Government's finances.
- The reform process in our State sector is carried out with a high degree of transparency. For example, the Government's capping policy and Better Public Services Results are subject to regular public disclosure.
- Every year sees the publication of a number of reports on individual agencies or aspects of public management.

16 Given the breadth of our efforts in this area it is not realistic for our OGP National Action Plan to encompass all of New Zealand's efforts on integrity and transparency. Our membership in the OGP can, however, make a useful additional contribution. We can use the opportunity of the action plan to complement or complete the major reforms which have occurred. The plan proposed in this paper works on that basis. By framing the NAP in this way we believe we have arrived at something which both makes a contribution to progressing open government in New Zealand, and which appropriately lends our weight and reputation to the OGP internationally.

17 The process we have gone through, which in our view has met all the necessary criteria, has provided a number of possible points of focus for our next NAP. It is noteworthy that the ideas put forward by officials and by members of the public cover much the same areas and similar subjects. The public consultation, combined with officials' consideration, has formed that basis of a set of commitments. These are set out in detail in the attached NAP document and are in the areas of:

- Open Budget
- Improving official information practices
- Improving open data access
- Tracking progress and outcomes of open government data release
- Ongoing engagement for OGP
- Improving access to legislation
- Improving policy practices

9(2)(f)(iv) confidentiality of advice

18 The process has resulted in a package of commitments which, together, provide a robust NAP which is sufficiently substantive to advance the cause of open government. It is an improvement on our previous action plan and reflects the continuous improvement approach we are taking to our OGP membership.

19 Commitments in this NAP related to the OIA are particularly timely given the recommendations in the former Chief Ombudsman's Review of the OIA (Not a Game of Hide and Seek, December 2015). After publication of this report, officials, led by the

State Services Commissioner and the Secretary for Justice, began developing a programme of work to improve practices around the OIA. During public engagement about possible actions for this NAP, SSC received multiple submissions in support of including our response to the former Ombudsman's report within the body of the action plan. We consider that including key actions to improve OIA practices in the NAP is the best way of providing the necessary focus and ensuring progress is made.

- 20 Following Cabinet agreement to the NAP it will be reviewed by the OGP, and this may lead to minor revisions or additions to the document. It is proposed that the Minister of State Services be invited to make what minor changes or additions are necessary without further reference to Cabinet.

Consultation

- 21 Officials from the following agencies have been involved in developing the NAP: DIA, Justice, DPMC, MFAT, Treasury, LINZ, Parliamentary Counsel Office, Statistics New Zealand.

Financial Implications

- 22 The cost of continuing New Zealand's participation in OGP includes a membership fee plus the various amounts of staff time involved in SSC and other agencies. The membership fee for the 2016/17 year is \$200,000.

- 23 9(2)(f)(iv) confidentiality of advice

- 24 9(2)(f)(iv) confidentiality of advice

Human Rights

- 25 Open Government is positive from a human rights perspective.

Legislative Implications

- 26 This paper has no legislative implications.

Regulatory Impact Analysis

- 27 None required.

Gender Implications

- 28 The paper has no specific gender implications.

Disability Perspective

- 29 This paper has no specific implications for people with disabilities.

Publicity

- 30 It is proposed that the Minister of State Services consider what public statement should be made from the Government in conjunction with the publication of New Zealand's National Action Plan by the OGP.

Recommendations

- 31 It is recommended that the Committee:

- 1 **note** that the Open Government Partnership (OGP) is a multi-national initiative designed to make member governments more open, accountable and inclusive of citizens
- 2 **note** that New Zealand joined the OGP in September 2013
- 3 **note** that countries which are members of the OGP have a range of obligations including the production and implementation of a National Action Plan every two years and that the plan is due by the end of October
- 4 **note** that failure to meet OGP commitments and obligations can lead to public criticism of New Zealand in areas where we are strong by international standards
- 5 **note** that the OGP National Action Plan can be a useful supplement to New Zealand's ongoing efforts on transparency and integrity
- 6 **agree** the draft NAP attached to this paper
- 7 **note** the plan involved completing a process of public engagement to propose commitments for our second National Action Plan
- 8 **note** that this process has generated a robust proposed NAP focused on seven commitments
- 9  9(2)(f)(iv) confidentiality of advice
- 10 **note** that work proposed in response to the former Chief Ombudsman's report on OIA practices is included within the NAP
- 11 **note** that the draft NAP will be subject to review by the OGP
- 12 **invite** the Minister of State Services to make minor amendments and additions, consequent upon OGP feedback, without further reference to Cabinet
- 13 **note** that the NAP will be published by OGP once finalised
- 14 **invite** the Minister of State Services to issue public statements in conjunction with the publication of the NAP by the OGP
- 15 **invite** the Minister of State Services to publish this Cabinet paper and the NAP once complete.

Authorised for lodgement

Hon Paula Bennett

Minister of State Services