



Assessment of Multi-Stakeholder Forum/Platform approaches

As part of the Open Government Partnership
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ALLEN + CLARKE



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EXECUTIVE SUMMARY

The Public Service Commission (PSC) engaged *Allen + Clarke* to carry out a comparative assessment of how different countries in the Open Government Partnership (OGP) structure their Multi-Stakeholder Forums and Platforms (MSF/P), identify common features and consider what works well for an effective MSF/P.

OGP rules require member countries to create an MSF/P as a space for ongoing dialogue between government and civil society. While there is variation in how MSF/Ps are structured and what they are tasked with, MSF/Ps should play an important role in developing National Action Plans (NAPs).

NAPs are a key OGP deliverable and contain commitments designed to increase transparency, accountability, and civic participation in government. OGP guidelines require the MSF/P or government to co-design NAP commitments with civil society and other non-government stakeholders.

As part of this work, we completed a document review to understand New Zealand's history with OGP, the current state of their MSF/P, and its most recent NAP. We undertook interviews with OGP representatives from Australia, Norway and Canada, and a survey of OGP member nations about their MSF/Ps. We considered common features of international MSF/Ps and New Zealand's approach.

In addition to looking at international comparisons, we spoke to representatives of civil society in Aotearoa New Zealand about their experience of developing National Action Plan 4 (NAP4) and where they saw opportunities for improvement.

New Zealand's MSF/P, called the Expert Advisory Panel (EAP), was in place until mid-2023. The EAP consisted of seven people in total: six people with a background of working in civil society and the Public Service Commissioner or his delegate, who also chaired the EAP. New Zealand's approach to its MSF/P met the OGP Minimum Requirements, as set out in the OGP National Handbook – Rules and Guidance for Participants (the Handbook).¹

While there is no one single approach for an effective MSF/P, New Zealand's approach is consistent with many other OGP countries. Key similarities included:

- a centralised MSF/P
- mixed representation of government and civil society members (although New Zealand only has one government official representative as per the Terms of Reference)
- frequency of meetings
- MSF/P plays an advisory role with limited decision-making authority.

One key area where New Zealand does differ to other countries who took part in the survey is the payment of MSF/P members. New Zealand is the only country to pay MSF/P members for their attendance and time. New Zealand also differs to most other countries in that the non-

¹ See p.35 of the OGP Handbook for the eight Minimum Participation Requirements.
<https://www.opengovpartnership.org/wp-content/uploads/2022/03/OGP-National-Handbook-2022.pdf>



government representatives on the MSF/P take part as individuals, rather than as representatives of organisations.

There were a range of challenges common to most MSF/Ps, some of which were also observed in New Zealand:

- a lack of adequate resourcing including budget for the MSF/P, NAP development processes, and for government agencies supporting/implementing the NAP
- identifying, recruiting, and retaining a broad and diverse range of MSF/P representatives, with the expertise needed for success
- having a clear mandate for the MSF/P, especially in relation to building a shared understanding of what co-creation means
- ensuring there is a strong cross-government commitment and 'buy in' to engaging with the MSF/P and open government work more broadly.

New Zealand has an opportunity to consider alternative MSF/P models and stakeholder engagement before the development of its next NAP in light of these challenges.

1.0 PURPOSE AND APPROACH

1.1 Purpose of report

PSC engaged *Allen + Clarke* to carry out a comparative assessment of how different countries in the OGP structure MSF/P, to identify and assess the common strengths and challenges and consider what could work well in a New Zealand context.

The PSC was prompted to consider options for the MSF/P model after key stakeholders noted challenges faced in the development of NAP4.

Civil society organisations (CSOs) involved in developing NAP4 expressed frustration around participation and co-creation. They considered:

- their views were not given sufficient weight in shaping the final NAP
- the co-creation process was not genuine and did not meet OGP requirements (the most recent report of the OGP's Independent Reporting Mechanism (IRM) stated New Zealand did meet the OGP Participation and Co-creation requirements, but noted divergent views between government and CSOs on the extent to which the principles of co-creation were realised)²
- there was a lack of funding for civil society participation in developing NAPs.

Some civil society representatives involved in NAP4 have said that they are likely to withdraw from any future engagement with the OGP if the process does not change.

Government agencies that lead NAP commitments also experienced challenges around prioritisation:

- it is difficult to take on new commitments within existing budgets, as OGP commitments are not funded
- potential new commitments do not necessarily align with existing work programmes or Ministerial priorities.

PSC, as the coordinating agency, also noted limitations in process effectiveness:

- the limited range of civil society and community involvement, particularly at the later stages of the process
- the scope and extent of government agencies' involvement in OGP (due to the resourcing constraints noted above, and a lack of agency representation on the MSF/P).

The term of New Zealand's current MSF/P (the EAP) ended in mid-2023. There is an opportunity to consider alternative MSF/P models before the development of NAP5.³

1.2 Methodology

Allen + Clarke's assessment involved a multi-faceted approach:

1. A document review to understand New Zealand's history with OGP, including the current state of the MSF/P, and development of NAP4.

² https://www.opengovpartnership.org/wp-content/uploads/2023/07/New-Zealand_Action-Plan-Review_2022-2024.pdf p4

³ The EAP's term ended in December 2022, with an extension to July 2023



2. A range of stakeholder engagement to better understand the New Zealand MSF/P process, learn other countries' approaches to MSF/P and understand the OGP initiative more generally. This included:
 - a survey of MSF/P representatives from international members of the OGP
 - interviews with OGP representatives from Australia, Norway, and Canada
 - a workshop with a range of New Zealand civil society representatives who were directly engaged in the NAP4 process.

This report summarises common features, strengths, and weaknesses of MSF/P approaches.

2.0 INTRODUCTION

2.1 Background – what is an MSF/P?

The OGP is an international initiative based on the principle that an open government is more transparent, inclusive, participatory and accountable to citizens, and that *“improving the relationship between people and their government has long-term benefits for everyone”*.⁴ Participating countries must meet a set of basic eligibility criteria and agree to an Open Government Declaration.⁵ OGP is underpinned by a principle of partnership between government and other stakeholders, including CSOs, citizens, local government, parliament, academics and the private sector.

Governments must develop a NAP where commitments relating to transparency, accountability and public participation are set for a two or four-year period. Subsequent NAPs must also report on progress in achieving a more open government.

The MSF/P is a space for ongoing dialogue and collaboration between government and civil society. OGP guidance suggests the MSF/P should lead open government processes within a country.⁶ MSF/Ps often have a role in the design and implementation of NAPs. MSF/Ps do not need to be new structures and can be developed within existing frameworks and forums so long as they are consistent with OGP’s minimum standards (see section 2.2).

In past years, the OGP’s IRM adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.⁷

Figure 1: IRM Guidance on levels of public influence

Level of public influence	
Empower	The government handed decision-making power to members of the public
Collaborate	There was iterative dialogue AND the public helped set the agenda
Involve	The government gave feedback on how public input was considered
Consult	The public could give input
Inform	The government provided the public with information on the action plan
No consultation	No public involvement

Source: OGP International, 2020.

It was expected that most countries should achieve “collaborate” over time, although they did not have to start at this level of participation. OGP’s updated Handbook no longer references

⁴ <https://www.opengovpartnership.org/ogp-participation-co-creation-standards/>

⁵ By agreeing to the Declaration participating countries commit to: increasing the availability of information about governmental activities, supporting civic participation, implementing the highest standards of professional integrity throughout their administrations, and increasing access to new technologies for openness and accountability.

⁶ <https://www.opengovpartnership.org/wp-content/uploads/2022/03/OGP-National-Handbook-2022.pdf> section 1.1

⁷ <https://www.opengovpartnership.org/wp-content/uploads/2020/02/IRM-Guidance-Involve.pdf>



this scale, but there remains a strong emphasis on co-creation between government and civil society.

2.2 Expectations for MSF/Ps

The OGP Handbook provides guidance on how to navigate the OGP process and sets out minimum standards for all aspects of the process. Although the Handbook sets out specific expectations, it is not overly prescriptive and participating countries are given the flexibility to meet expectations within their unique constitutional and societal contexts.

At minimum, the MSF/P is expected to:

- provide a space for ongoing dialogue with participation from both government and civil society members, and other non-governmental representatives as appropriate
- meet regularly (at least every 6 months)
- publish a co-creation timeline and overview of the opportunities for stakeholders to participate in the action plan development process
- conduct outreach activities with stakeholders to raise awareness of OGP and opportunities to get involved in the development of action plans
- gather inputs from a range of stakeholders
- document and report back or publish written feedback to stakeholders on how their contributions were considered during the development of the action plan
- hold at least two meetings each year with civil society to present on the implementation of the action plan and collect comments.

In terms of make-up and mandate of MSF/Ps, key recommendations include:

- the established MSF/P is inclusive and structured in a way that no constituency, government, or civil society is over or under-represented
- there are clear, published rules on selection processes for membership, decision-making, and external accountability mechanisms for the platform
- the MSF/P proactively communicates and reports back on its activities, decisions, and results to wider government and civil society stakeholders
- the MSF/P has the necessary mandate to advance the OGP process
- civil society members of the MSF/P are selected through a fair and transparent process which is led by civil society members themselves.

The minimum standards can be read in full on the OGP website.⁸

2.3 New Zealand's MSF/P

New Zealand joined the OGP in 2013. The PSC manages the OGP workstream with oversight by the Minister for the Public Service.

Since joining OGP, New Zealand has produced four NAPs. The first was published in 2014. The most recent was published in December 2022, for implementation until December 2024.⁹

⁸ <https://www.opengovpartnership.org/ogp-participation-co-creation-standards/>

⁹ <https://ogp.org.nz/assets/New-Zealand-Plan/Fourth-National-Action-Plan/NZs-Fourth-National-Action-Plan-2023-2024-.pdf>



Until June 2023, New Zealand's MSF/P took the form of an EAP, aside from during the first NAP, where New Zealand had a stakeholder advisory group rather than an EAP.

The EAP comprised six members who represented civil society and the Public Service Commissioner or his delegate. The EAP was also chaired by the Public Service Commissioner or his delegate. EAP members were appointed by the PSC for a period of three years, with some members extended beyond this. Members were remunerated for their time in accordance with the Cabinet Fees Framework and reimbursed for any expenses. The EAP met on a quarterly basis or more frequently as required. The EAP's term ended on 30 June 2023.

According to its Terms of Reference the EAP's core function was to assist with the development, implementation, and evaluation of the commitments in New Zealand's NAPs.¹⁰ The EAP model met the OGP Participation and Co-creation Standards.

In addition to working with the EAP, the PSC engaged with representatives of civil society to understand the values, priorities, and concerns of wider civil society. The PSC hosted public meetings and workshops early in the NAP development process to gather suggestions and ideas for further consideration and refinement. There was an online platform for the public to submit ideas for NAP4.

The general themes of public submissions were collected and reviewed by the EAP. The EAP and PSC then worked with other CSOs and relevant government agencies to prioritise and refine the range of ideas and draft potential commitments.

While the Terms of Reference for the EAP sets out that PSC officials will fulfil a secretariat function, in practice PSC officials have fulfilled a dual role, acting as secretariat and taking part in discussions at EAP meetings.

¹⁰ <https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf>

3.0 INTERNATIONAL EXPERIENCES

Allen + Clarke conducted online interviews with OGP representatives from Canada, Norway, and Australia. Allen + Clarke also developed a survey to learn more about other countries' experience of MSF/Ps. The survey was sent to 21 countries which PSC and OGP considered to represent a range of MSF/P and OGP engagement approaches. 17 responses were received. Combined information from surveys and interviews are summarised here with comparisons to New Zealand noted where relevant.

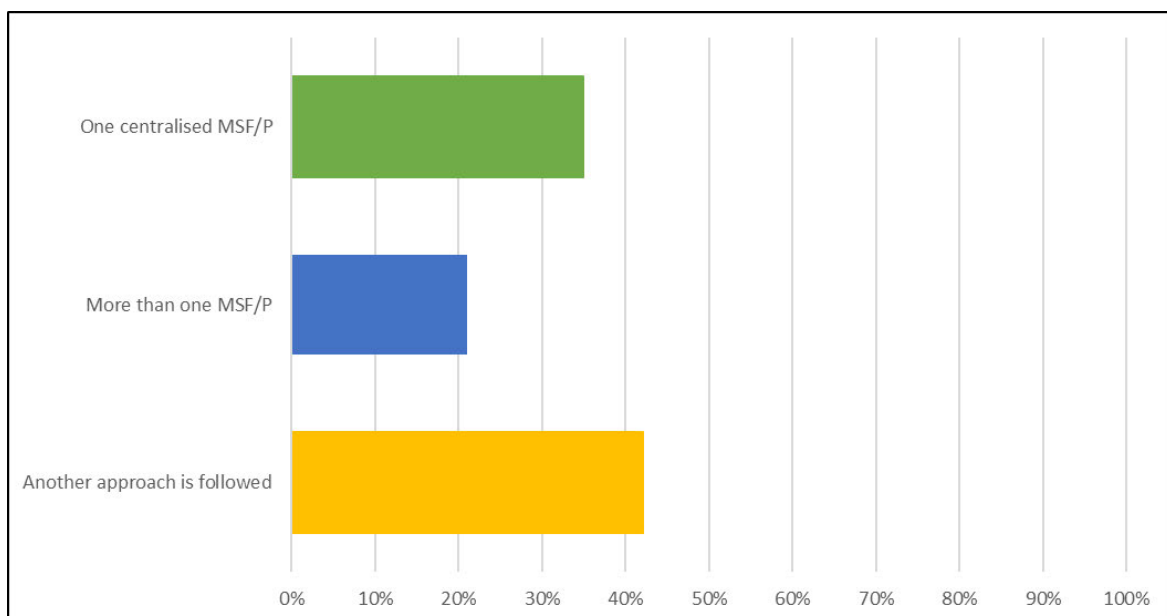
A full copy of the survey is attached to this report in [Appendix A](#). A list of countries the survey was sent to and the countries that responded is attached as [Appendix B](#).

3.1 Constitution of MSF/Ps

Around one-third of countries have one centralised MSF/P, which is also the approach taken by New Zealand. Countries that did not have one centralised MSF/P followed a variety of approaches, for example:

- an MSF/P split into subgroups based on priorities and expertise
- a central MSF/P supported by “Thematic Stakeholder Groups” which provided information and specific guidance
- a national MSF/P coordinated and selected by government, which worked in collaboration with another body organised by civil society.

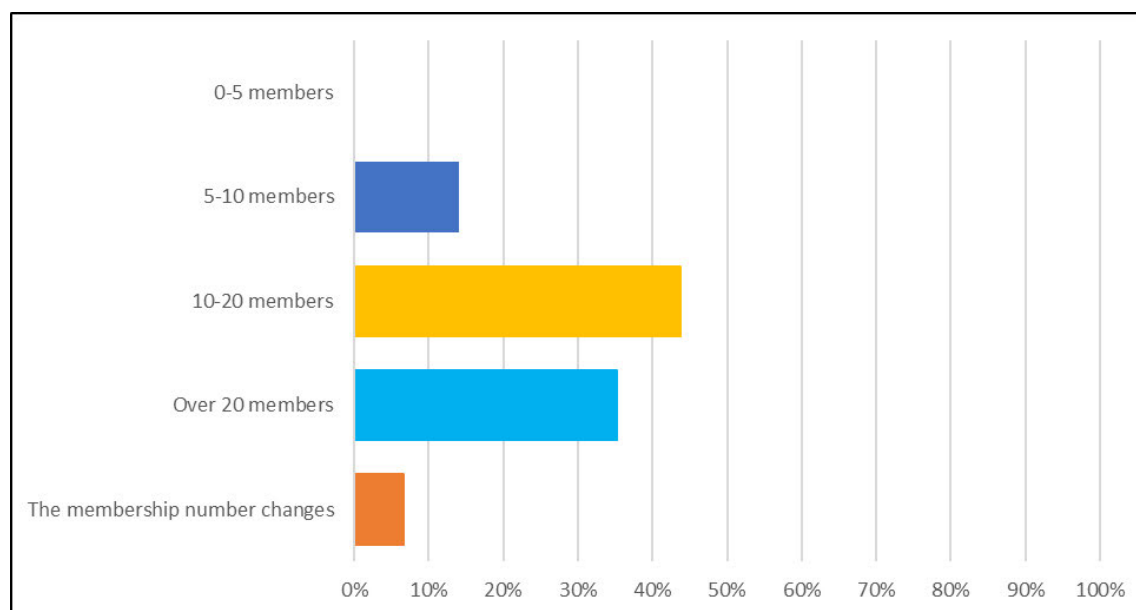
Figure 2: Constitution of MSF/P



3.1.1 Number of members

Most MSF/Ps have more than 10 members. In one country, the number of members changes regularly based on required skills, networks, and expertise. Excluding the PSC secretariat, New Zealand’s EAP had 7 members, so was slightly smaller than the international average.

Figure 3: Number of members



3.1.2 Representation

All countries considered had MSF/Ps with representation from civil society and government. Government and non-government participants are generally represented equally in MSF/Ps. Slovakia was the only country to include more government members than non-government in their MSF/P.

One third of respondents advised their MSF/Ps included members from the executive branch of government, while two thirds of respondents advised their MSF/P included representatives from other branches of government. Netherlands, Finland, Slovakia, and Ecuador included academics in their MSF/P, and Ecuador also included members from the private sector. Government and non-government participants are generally represented equally in MSF/Ps. Countries could tick as many options as applied to them, which is why the totals in Figure 4 add to more than 100%.

Canada’s MSF/P is “top loaded” with civil society representatives to enable civil society concerns to come through their MSF/P the loudest. They also enable civil society representatives and organisations to connect with agency leads.

New Zealand’s EAP had representation from both civil society and government officials but was more heavily weighted to civil society members, with only one official government representative (the Public Service Commissioner or their delegate, who also chaired the MSF/P). There was no formal representation from wider government agencies, other branches of government (i.e. local government or the judiciary), academia or business on the EAP.

New Zealand was one of a small number of countries included in this research in which the civil society representatives on the MSF/P participated as individuals rather than representing a civil society organisation.

Figure 4: Representation on MSF/P

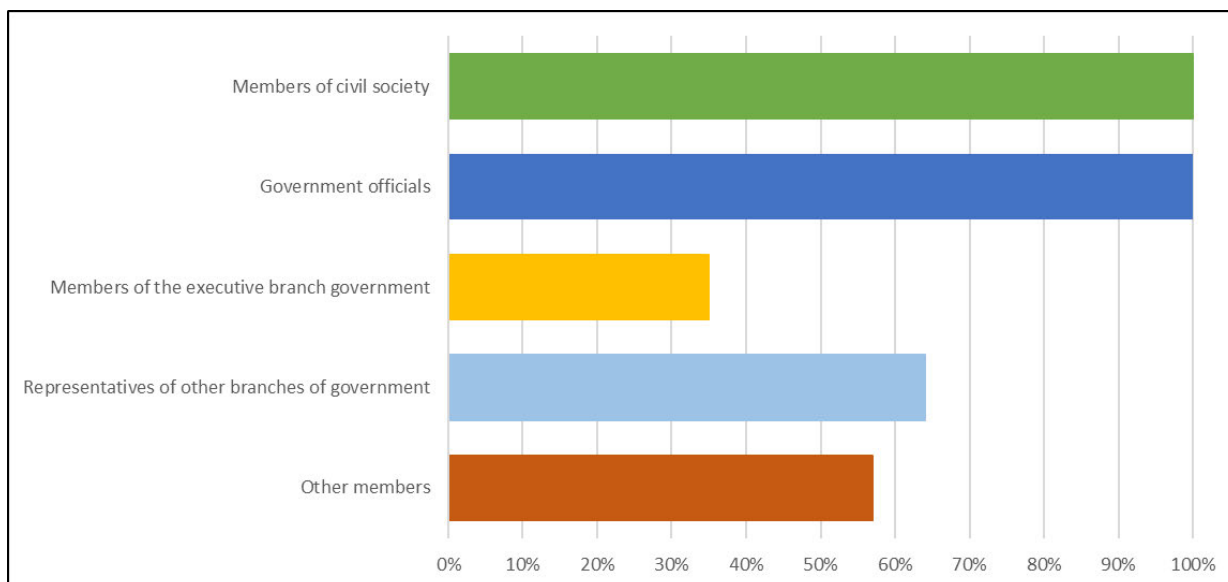
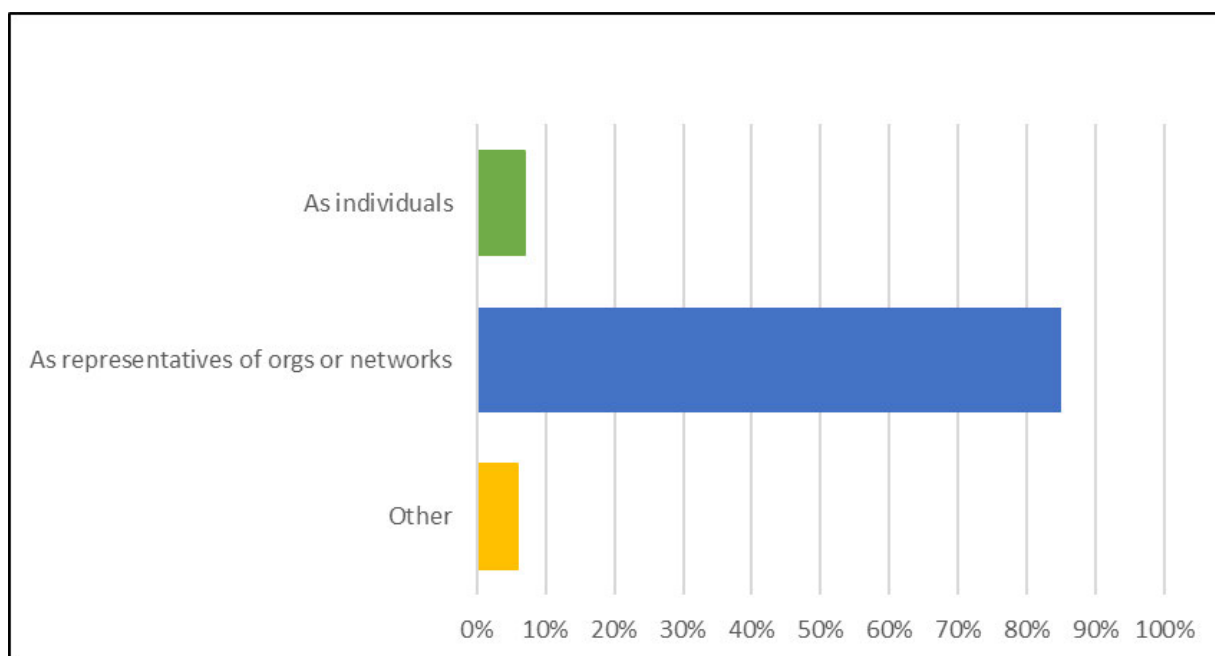


Figure 5: Nature of CSO representation



Generally, people who choose to participate in MSF/Ps are enthusiastic and eager to work towards the common goal of increasing openness and transparency in their country. As well as including a range of civil society representatives, representation from various levels and/or branches of government can support work towards open government commitments.

3.1.3 Selection and tenure

The countries surveyed followed a range of approaches for selecting civil society members for the MSF/P. A common approach is some form of open application process followed by selection by government, a steering committee, or the existing MSF/P. This may be based on interviews or specific selection criteria. Several countries took additional steps to try and



ensure diversity in their MSF/P (for example, by inviting a diverse range of people and groups to apply, and by including diversity requirements among the selection criteria).

New Zealand followed the approach of appointing civil society members to the MSF/P to ensure a mix of skills and experience, similar to the approach taken by Australia.

Achieving genuine diversity across MSF/Ps is still a work in progress for most countries, including New Zealand. Only four countries considered that they had a highly diverse MSF/P. Creating truly representative MSF/Ps and including the views of indigenous populations was noted as a particular challenge in Canada and New Zealand. In Australia, the government and civil society have noted that further engagement with indigenous populations will be a priority when developing future NAPs. Steps being taken to increase diversity by some countries include developing principles on inclusivity and adapting the application process/requirements to address diversity.

Around half of the MSF/Ps had time limits on members' terms. Four countries have time limits of one or two years for MSF/P members, four more countries have time limits of two to five years for members, and the remaining ten have no limit. Members of New Zealand's EAP were appointed for a term of 3 years (with some members serving more than one term).

3.1.4 Retention and maintaining engagement

Problems retaining members of MSF/Ps has a negative impact on consistency of approach and tone in NAP commitments. Officials, Ministers, and agency representatives change more frequently throughout NAP development and implementation than CSO representatives. While this reflects constitutional and administrative arrangements in many countries, consideration needs to be given to consistency of leadership and decision-making.

Another common difficulty across countries, including New Zealand, is maintaining consistent engagement with CSOs and civil society representatives. Governments have extensive interaction with some civil society groups or representatives across a range of issues, which can result in "engagement fatigue". Civil society representatives may also be frustrated by government "red tape", slow progress in developing or implementing commitments, or the lack of mandate given to agency representatives to formally commit to actions on behalf of their agency before final approval of the NAP.

3.2 Mandate, oversight, and functions of MSF/Ps

Most MSF/Ps act as an advisory body with limited decision-making authority, which is the New Zealand approach. The United Kingdom described its MSF/P as an advisory body that aims to facilitate a healthy and effective co-creation process, but the MSF/P itself cannot direct government. The Philippines was the only country that said their MSF/Ps had the authority to direct government or make binding decisions.

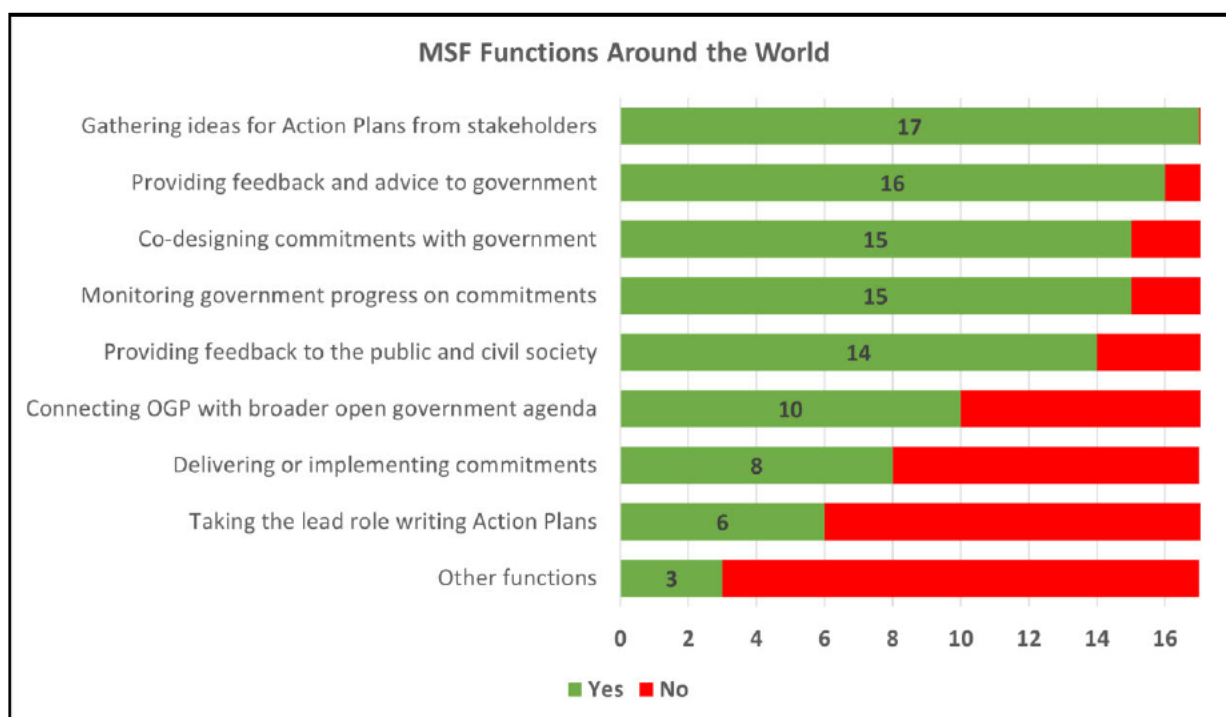
MSF/Ps report to a range of different groups or authorities for guidance and accountability, which include:

- directly to a government agency or department, as is the case in New Zealand
- to MSF/P and OGP steering committees

- directly to the government executive.

The core functions of MSF/Ps are relatively consistent across countries, and include gathering ideas for action plans, providing advice to government, co-designing NAP commitments, monitoring progress on commitments, and providing feedback to the public and civil society. A small number of countries empower their MSF/P to undertake broader functions to achieve the overall purpose of the OGP, for example delivering or implementing commitments and taking a lead role in drafting action plans.

Figure 6: MSF/P Functions



New Zealand’s EAP was involved in ideas gathering, providing feedback to government and co-designing commitments. Other key functions, such as drafting NAPs and implementing commitments were completed by government agencies.

The Nordic+ arrangement encourages member countries and their MSF/Ps to collaborate and engage across borders to share experiences and good practice. Current members of Nordic+ include Denmark, Finland, Norway, Sweden, Germany, Estonia, Latvia, Lithuania, Netherlands, and Scotland.

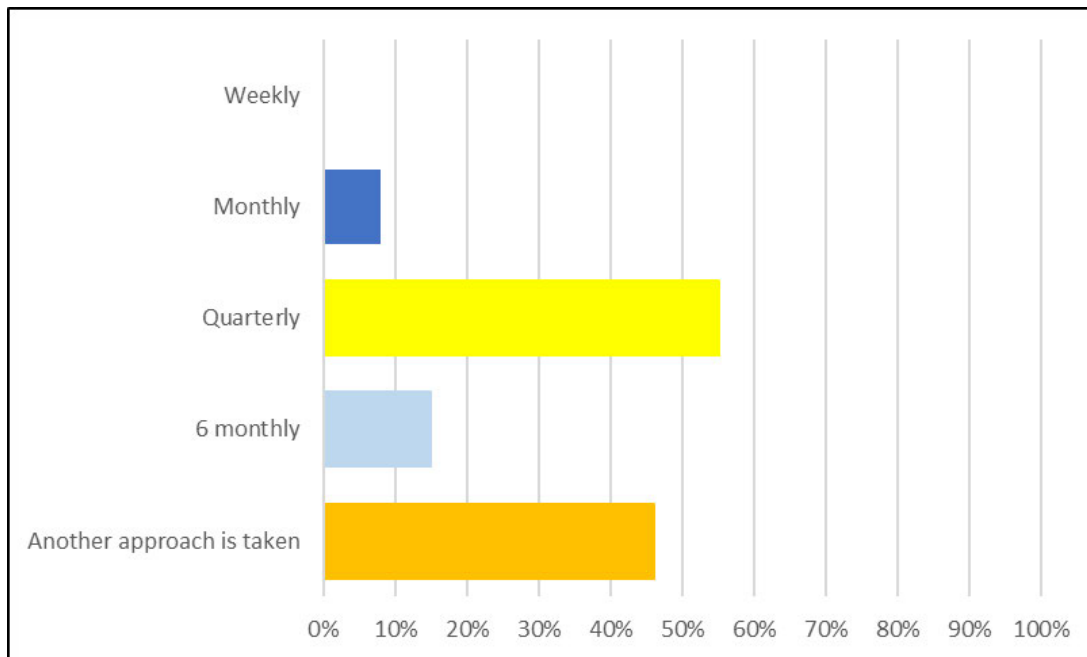
3.2.1 Frequency of meetings

More than half of the MSF/Ps meet quarterly, in line with OGP minimum expectations. In addition to regular, scheduled meetings (monthly, quarterly, etc) several countries’ MSF/Ps hold special sessions on a “as needed basis”, e.g., during the busiest period of NAP development.

While many OGP members successfully utilise one central MSF/P, several countries identified that they had good results from working with “smaller, thematic-orientated” working groups. The benefits of this may be specific to the circumstances of each country.

New Zealand’s EAP generally met approximately every six weeks to two months, although this varied depending on where work was at in the NAP development cycle.¹¹

Figure 7: Frequency of meetings



3.2.2 Leadership and decision making

The two most common approaches taken to chairing the MSF/P were:

- the MSF/P is co-chaired by a government representative (e.g. the relevant Minister or a senior official) and a civil society representative (e.g. Australia and the United Kingdom).
- the chair is tied to the responsibilities of a government representative whose portfolio most closely aligns to work relating to transparency and openness (e.g. Estonia and New Zealand).

Canada plans to implement an MSF/P code of conduct alongside its Terms of Reference to help manage disputes and differences of opinion within the MSF/P and ensure differences of opinion can be balanced and represented in the MSF/P’s approach.

Half of MSF/Ps have an established decision-making process, while the rest take an *ad hoc* approach. Where there was an established process, it was usually based on achieving unanimity across the MSF/P. New Zealand’s EAP did not follow a set decision-making process.

¹¹ A list of all EAP meetings can be found here: <https://ogp.org.nz/open-government-partnership/expert-advisory-panel/>



3.2.3 Remuneration

None of the countries that responded pay MSF/P members for their involvement. Only five countries reimburse costs associated with MSF/P meetings such as travel and accommodation.

This differs from New Zealand, where EAP members were paid under the Cabinet Fees Framework. Other members of civil society or the public who participated in ideas gathering or refining commitments were not paid.

3.3 NAP development and implementation

Most countries start NAP development with an initial call for ideas from both government and civil society representatives, followed by a co-creation process that refines and prioritises the ideas. Approaches to this included:

- discussion and refinement of ideas with MSF/P representatives only
- significant consultation on ideas outside MSF/P
- making the draft NAP open for public consultation (which contributes to the approval process).

Most countries review their existing or previous action plan to identify potential roll-over commitments.

Operationalising co-creation was not explained in detail by survey respondents and this may be an area where NZ and/or OGP could undertake further work to understand good practice.

Norway's approach seeks to strike the balance between ambitious and achievable commitments considering existing political and budgetary arrangements. They look for common issues shared between Cabinet and civil society, often starting with government priorities. While this is not the OGP preferred way to develop a NAP, Norway believe it is more realistic in creating a plan that will be agreed and delivered by government representatives.

3.3.1 Funding

There is variation in how different countries' MSF/P processes and activities are funded, from the development of NAPs to the implementation of commitments.

For most, development and implementation of commitments occurs under existing government budgets allocated to the agency responsible for the commitment, as is the case in New Zealand. Five countries identified that there was potentially additional government funding set aside to develop action plans and implement commitments, however in some instances this was only available in relation to certain topics (e.g. data openness) or it required an application and case-by-case approval.

Tensions around resourcing for civil society involvement is a common issue for MSF/P processes. This potentially limits the level and breadth of representation on MSF/Ps, and engagement of civil society in the NAP development process. CSOs (even those that receive government funding) often have limited resources and have to prioritise where they focus their time and energy. In New Zealand, many CSOs are already working with government agencies

on other issues and may choose to focus their resources on this, rather than on developing NAPs and implementing commitments.

3.3.2 “Buy in” for development and implementation

Accountability for NAP implementation varies from country to country. For many countries, implementation is led by the government agencies which own NAP commitments, which is the approach New Zealand follows. A few countries adopt a shared approach where implementation responsibilities are split between civil society and government.

A key challenge in implementing OGP to its fullest potential is the extent to which government and agencies have “buy in” to the process. For example, developing and implementing commitments can be most challenging when:

- OGP is treated as an “add-on” rather than prioritised or meaningfully incorporated into agency work programmes
- OGP is perceived as creating additional administrative requirements when there is already a strong culture of open government and/or other open government initiatives underway
- there is little or no additional budget allocated to agencies to deliver OGP commitments, especially when the MSF/P seeks to influence and co-create more ambitious commitments beyond existing work programmes.

Associated with “buy in” is the lack of authority and decision-making power for CSOs. Even if a 50/50 split of representatives in the MSF/P between civil society and government representatives occurs, the group can be far from balanced due to the predominantly advisory nature of MSF/Ps. While Ministerial involvement and oversight does provide CSOs with the ability to have some influence over decision making, Ministers remain the final decision makers. As covered below, government processes and constitutional requirements do not always easily align with OGP aspirations for true co-creation.

3.3.3 OGP framework alignment

Several countries noted challenges in aligning OGP expectations for MSF/Ps and NAPs with their governmental and constitutional arrangements. This means CSOs may have high expectations for co-designing commitments that cannot be met in existing governmental frameworks.

For example, OGP aspirations around co-design and co-creation of action plans do not reflect that in many countries with a Westminster system of government, Ministers (individually or collectively) are required to approve NAPs. In practice, this means MSF/Ps are co-designing commitments for Ministerial consideration. Government therefore ultimately retains control over what commitments are included, and agency representatives may be limited in the commitments they can agree to prior to this approval, unless Government Ministers make an explicit commitment to adopt the proposals that are co-created during NAP development. This would be challenging to agree to in advance, without knowing the cost, policy direction or legislative implications of potential commitments.

4.0 NEW ZEALAND EXPERIENCE

Allen + Clarke undertook a document review to understand New Zealand's history with OGP, including the current state of the MSF/P, and NAP4. *Allen + Clarke* also held a workshop with civil society representatives that were engaged in New Zealand's development of the current and previous NAPs.¹² This workshop was facilitated to understand how these participants view the OGP process, the role and function of the MSF/Ps and their experiences with OGP processes.

The IRM's most recent Action Plan Review found that while New Zealand's MSF/P met the minimum standards, there should be a focused effort to improve collaboration.¹³ New Zealand's approach is also broadly consistent with international approaches:

- the number of members is on the smaller end of the scale for MSF/Ps but is within the range that most countries adopt
- the make-up of the MSF/P is a combination of government and civil society members, although New Zealand only has one government representative
- the MSF/P is an advisory body and decision-making rests with the Minister in charge of OGP and their Cabinet colleagues. New Zealand's EAP was advisory to the Public Service Commissioner
- wider civil society engagement is undertaken outside the MSF/P as required (e.g. around the development of NAPs)
- PSC seeks to work with the MSF/P to adopt a co-creation process to NAPs and other OGP activities.

Being consistent with international approaches means that the challenges and barriers seen overseas are often mirrored in the New Zealand context.

The workshop with civil society representatives involved in the New Zealand NAP process demonstrated participants' affinity with the objectives of the OGP process but also highlighted challenges in implementing the OGP authentically. This is resulting in increased frustration from CSOs, and some said that if things do not change dramatically they will disengage with the process (as some groups have already done). A full copy of the workshop notes is attached to this report as **Appendix 3**.

4.1 Participation

The most recent IRM transitional results report (covering NAP3 from 2018-2021) notes that on the IAP2 Spectrum of Public Participation (see Figure 1), New Zealand achieves the 'involve' level during the developing phase and the 'consult' level during the implementation phase.¹⁴ As a developed democracy and after a decade as an active OGP member all CSOs

¹² The workshop participants were Lisa Woods (Amnesty International), Julie Haggie (Transparency International), Sacha Green (Citizen's Advice Bureau), Andrew Ecclestone (NZ Council of Civil Liberties), Michelle Kitney (Volunteering New Zealand), and Cath Wallace (The Environment and Conservation Organisation of Aotearoa/New Zealand).

¹³ <https://www.opengovpartnership.org/documents/new-zealand-action-plan-review-2022-2024/>

¹⁴ <https://www.opengovpartnership.org/wp-content/uploads/2022/03/New-Zealand-Transitional-Results-Report-2018-2021.pdf>
<https://www.opengovpartnership.org/wp-content/uploads/2019/03/New-Zealand-End-Term-Report-2016-2018.pdf>



who participated in the workshop consider that New Zealand should be at the ‘collaborate’ level of the spectrum.

While the IRM review confirmed New Zealand’s EAP met minimum standards, it also suggested that more could be done to strengthen civil society voice. Workshop participants agreed more needed to be done, especially noting that:

- CSO members of the EAP were not appointed by CSOs themselves, meaning they did not represent CSOs and had limited ability to consult
- the EAP had a limited advisory role rather than being a co-lead and co-decision maker.

4.2 Remuneration

There were mixed views from workshop participants about remuneration. Some thought payment could support broader participation and representation by CSOs with stretched resources. Others thought it may impact neutrality and prevent free and frank conversations within the group.

Some workshop participants asked why EAP members are paid for their time and other civil society representatives and communities contributing to NAP development are not. PSC noted that the EAP was established under the Cabinet Fees Framework, acknowledging the time commitment required of EAP members. This framework does not apply to other stakeholder engagement in wider OGP processes.

4.3 Representation

PSC and CSOs have noted for some time that the EAP and NAP development process has limited diversity of participation. This was highlighted as an ongoing key concern by almost all workshop participants. There is consensus that work towards engaging a more diverse group of CSO members should be a focus of government, especially with iwi, hapu and whānau, minority groups such as disabled people, LGBTQI+ and Pacific communities, and more regional engagement. They suggested this could be achieved by increasing public communication about the purpose and role of the OGP and the sense of worth individuals may receive from volunteering their time and energy.

One workshop participant noted that the United Kingdom has an open government civil society network. The network chooses who represents them on the UK MSF/P. They considered this to be good practice that New Zealand could draw upon.

To date, government agencies have not been represented on New Zealand’s MSF/P, other than the PSC (through the Public Service Commissioner or their delegate). Including agency representatives as members of the MSF/P may increase the “buy in” from across government to the NAP development process and improve engagement.

PSC noted that they take on a role with the EAP that is over and above co-ordination of the OGP workstream. For example, they were responsible for balancing CSO and agency views when drafting and finalising the wording of commitments and are now responsible for delivering two of the eight commitments in NAP4.

Some agencies involved in NAP development noted that they already work with a range of stakeholder groups, many of whom are experts in the relevant area. OGP processes can create requirements to engage with additional CSOs (who may not be experts on the topic or affected by the issue) which does not always seem logical or efficient.



4.4 Leadership and “buy in”

CSOs perceive a lack of strong leadership across government for OGP, including at Ministerial level. Even where there appears to be strong Ministerial leadership, most workshop participants said that this does not necessarily translate to action at an agency level. This is a common challenge across OGP countries. This leadership challenge is closely related to and influenced by the lack of a dedicated budget for OGP activities and NAP commitments.

The MSF/P is chaired by the Public Services Commissioner or their delegate. Civil society does not have a leadership role, which can create tension and potentially reinforces the feeling that their voices are not heard. An approach which would be more consistent with partnership and collaboration principles would be to have a co-chair arrangement. There are examples from other countries where this has been implemented.

4.5 NAP Development

One key challenge is a perceived disconnect between engagement with CSOs and the public, and the final commitments included in NAPs. The tension is particularly visible where CSOs seek to have new commitments adopted and the government prefers making commitments that align with existing work programmes. While the OGP does not require all commitments to be new, CSOs want more focus placed on starting from community voices and concerns without the hindrance of aligning with existing work programmes. From PSC’s perspective, it is more likely commitments will gain agency and Ministerial support if they align with existing agency priorities and work programmes.

Both the PSC and CSO workshop participants noted that only a limited number of civil society representatives have an ongoing role in the development of commitments. While ideas are garnered at an early stage through wide public engagement, only a small group are involved in the refinement of ideas. This can create a perception that some groups and individuals are prioritised and have a greater voice in the outcomes of the process. Ideally, the OGP process would reflect broad public participation, rather than amplifying the voices of a small number of groups.

Most CSOs noted that Officials, Ministers, and agency representatives change frequently throughout NAP development and implementation. While they acknowledged that this is the nature of government, they considered this created a lack of continuity and a perception that the government was not fully committed to the process. They said that the right people with appropriate authority need to engage on issues being raised through the entire NAP process from generation of ideas to implementation of commitments.

When it comes to implementation, there are challenges due to agency work programmes and budgets being set in advance, so delivering on OGP commitments may not be a priority activity for an agency. Even if they are a priority, as there is no stand-alone budget, they are always subject to changing agency and ministerial priorities.

PSC note that OGP is just one tool for open government. There is other work happening at both an agency and system wide level that supports open government and also requires resourcing (for example, the Cross Agency Engagement Community of Practice, Official Information Act practitioner forums, agency specific engagement with stakeholders and the proactive release of official information and Cabinet papers). A significant amount of other open government work happening outside of NAPs is not acknowledged through OGP and can be invisible to those civil society representatives engaging in the OGP process.

Once a draft NAP, including proposed commitments, has gone to Cabinet for approval, requirements around Cabinet confidentiality and collective decision-making limit what can be



shared with CSOs about why a decision was made. This includes Ministerial consultation which is not always well understood outside government.

4.6 Te Tiriti o Waitangi/The Treaty of Waitangi

Te Tiriti o Waitangi was signed in 1840 between the Crown and Māori and is the constitutional document that establishes and guides the relationship between the government and Māori.¹⁵

CSO workshop participants felt that despite efforts to incorporate Te Tiriti into OGP activities, there is a sense that it is not “front and centre” throughout all OGP activities as it should be. In February 2022, a CSO paper was presented to government on incorporating Te Tiriti into New Zealand’s Fourth National Action Plan (OGP NAP4). This paper recommended some key questions that should be used as measures or indicators of taking a Te Tiriti based approach. CSOs are unsure whether these recommendations have been taken on board and how a Te Tiriti approach is being adopted to the make-up and mandate of the MSF/P and the development of NAPs.

PSC also acknowledged the importance of incorporating Te Tiriti in OGP activities and worked with Te Puni Kōkiri to incorporate the Te Tautuhi o Rongo framework into OGP work. This framework involves considering the implications of initiatives for Māori from both a citizenship and rangatiratanga lens. However, further work is needed to consider how to better reflect Māori priorities for open government in NAPs.

¹⁵ <https://www.justice.govt.nz/about/learn-about-the-justice-system/how-the-justice-system-works/the-basis-for-all-law/treaty-of-waitangi/>

5.0 LOOKING FORWARD; OPTIONS FOR NEW ZEALAND'S MSF/P

Allen + Clarke have identified a number of common strengths and challenges in achieving a successful MSF/P from the range of comparator OGP participant countries.

OGP membership is intended to support and enable transparency, openness, and community engagement within government processes. Considering this, *Allen + Clarke* has noted some possible options for change to New Zealand's MSF/P and NAP process in four key areas:

- broaden MSF/P membership, with attention to diversity of representation
- better resource OGP processes and commitments, including the MSF/P
- clarify the mandate and role of the MSF/P, including how OGP aspirational guidance sits beside existing government and constitutional arrangements (e.g. co-design)
- strengthen government commitment to the MSF/P and implementation of NAP commitments.

In addition to these, in May 2023, the Chief Executive of OGP outlined some key design principles OGP recommended New Zealand consider when reforming its MSF/P. Several of these suggestions align with those noted here (for example, having senior and even levels of representation from government agencies and civil society on the MSF/P, and having civil society members appoint a co-chair for the group). The suggested design principles are set out in Appendix D.

Increasing the level of government participation and sponsorship by senior leaders to create “buy in” would also reaffirm to civil society members of the MSF/P that their work and time is valuable and needed.

We note there is no “one size fits all” approach to structuring an MSF/P and many different approaches can be successful. What might be suited to the context of one jurisdiction may not work well in another. Furthermore, these possible approaches have not been thoroughly tested with stakeholders, assessed for suitability in the New Zealand context and no cost/benefit analysis has been undertaken. With these caveats in mind, some possible approaches are outlined below.

Broaden MSF/P membership, including diversity of representation.

- consider implementing a 50/50 government and civil society membership of the MSF/P with a co-chair appointed from each group. Appointing a government co-chair could increase the level of buy in that government officials demonstrate in MSF/P processes. The government co-chair could be a Minister or senior official.
- encourage broad and diverse civil society participation in workshops and ongoing involvement in developing NAPs, for example:
 - proactively invite underrepresented groups, especially existing networks and stakeholder groups, to participate in workshops and in the work of OGP more broadly
 - make workshops as accessible as possible for participants (e.g. having online options, running workshops at different times of day)
 - fund participation in workshops or provide food and/or koha for workshop participants.
- consider more targeted recruitment and a clear application process for prospective MSF/P members. Targeted engagement with Māori and Pasifika community groups, for example,



could create a more diverse and representative MSF/P. A focus on broadening the geographical scope of the MSF/P members could also increase the representation and diversity within the group.

- explore how to better recognise the importance of Te Tiriti o Waitangi throughout the work that is done by the MSF/P. Priority could be given to commitments of high importance to Māori with the relevant article/s of Te Tiriti being identified in commitment draft wording.

Resourcing of OGP processes and commitments.

- consider how funding for OGP activities and implementation of commitments may be better allocated, to enable government agencies and officials to prioritise MSF/P activities.
- explore whether funding can be reprioritised toward activities that increase participation and engagement from stakeholders in design, implementation, and monitoring.
- consider how the costs of participation for CSOs in OGP processes may be addressed (with consideration given to whether funding CSO participation may be perceived as creating a conflict of interest, and how this could be managed).

Clarify the mandate and role/functions of the MSF/P.

- ensure the mandate of any future MSF/P is set out in a Terms of Reference and that potential members of the MSF/P have a clear understanding of their role and responsibilities. This includes transparency about any limitations on co-creation principles (for example, if Ministers will remain the final sign off point for the plan).
- appoint sub-groups within the MSF/P that focus on specific issues that are relevant to the members' expertise, location, and personal involvement. This would allow for greater interest in the commitments that are being formulated, as well as reducing the amount of bureaucracy that occurs when commitments and priorities are being formalised. Once these sub-committees have developed a draft commitment, they can report back to the MSF/P and, upon approval, they could be responsible for the implementation and monitoring of the commitment. Another option that could work towards achieving the same purpose would be to leverage off existing stakeholder groups across government, establishing an OGP "network of networks".

Strengthen Government commitment to the MSF/P.

- include senior representatives from across the public sector on the MSF/P, to strengthen the representation and visibility of a range of agencies to the OGP process and demonstrate government "buy in".
- New Zealand's OGP team could continue to develop international partnerships with other countries' OGP teams and MSF/Ps. Collaborative international groups such as Nordic+ illustrate the benefit of communication and collaboration outside of individual nations. There is an opportunity to continue to build relationships between New Zealand's OGP team and other OGP teams in other countries. An increased level of international engagement and information sharing would support improved processes.



Appendix A: MSF/P Survey

Survey – lessons learned from international experiences of Multi-Stakeholder Forums and Platforms

We would like to hear from you about your multi-stakeholder forum or platform.

Purpose of this survey

The New Zealand Public Service Commission is the lead agency for Open Government Partnership (OGP) in New Zealand. We would like to hear from you about your Multi-Stakeholder Forum or Platform (MSF/P).

MSF/Ps are an important part of the OGP process. OGP rules require that member countries have an MSF/P in place, as a space for collaboration between government and civil society on Action Plans. The responsibilities of the MSF/P can include strategic planning, public engagement, communication with stakeholders, and oversight of the development of Action Plans. More information about MSF/P can be found in the [OGP National Handbook](#)

By learning about the types of MSF/Ps used globally, we hope to get a better understanding of how to structure New Zealand's next MSF/P. The final product from this work will be a publicly available report on MSF/P models that we will share with other OGP members.

The structure and role of MSF/Ps varies from country to country, and not all OGP members have an MSF/P in place. For the purpose of this survey, we are interested in hearing about any platforms or groups involved in the development of Action Plans that include both government and civil society members.

Who we want responses from

We welcome responses on behalf of the lead government ministry or agency for OGP in your country by **23 May 2023 NZST (UTC +12)**. We ask for only one response per country.

Publication of final report and access to data

The final report produced from this research will be made public on the OGP NZ website. Any specific references to a country's MSF/P model will be checked first with that country for accuracy before the report is finalised.

Individual responses from the survey will also be shared with the OGP Support Unit, so other OGP member countries and the wider OGP community can access and benefit from this data.

Comments or questions

Please feel free to send any questions or additional comments directly by email to ogpnz@publicservice.govt.nz



Survey – lessons learned from international experiences of MSF/Ps.

We estimate this survey will take approximately 20 minutes to complete. You can save your response and return to it at any time.

1. Name of the country where your government ministry or agency is based:

2. Which government ministry or agency do you represent?

3. Contact email:

Make-up of MSF/P

4. Does your country have an MSF/P in place?

Yes

No

Other (please explain):

If your country does not have an MSF/P, please skip to question 24

5. Does your country have:

One centralised MSF/P

More than one MSF/P. This could include an MSF/P comprised of multiple working groups for different topics, or with multiple tiers

Another approach is followed (please describe below):

6. How many members does your MSF/P have? If you have more than one MSF/P in place, what is the average number of members for these groups?

0 -5 members

5-10 members

10-20 members

over 20 members

The membership changes and there is no consistent number

7. Does your MSF/P include (tick all that apply):



- Members of civil society groups or the public
- Government officials (for example staff from a government agency)
- Members of the executive branch government (for example government ministers or other elected decision-makers)
- Representatives of other branches of government (for example the judiciary, or members of parliament, or local government)
- Other members – please explain who else is involved:

8. What proportion of your MSF/P are from government (including staff from government agencies, elected members of government and members of other branches of government):

- Less than half of the members are from government
- About half of the members are from government
- The majority of the members are from government
- The membership changes so there is no consistent number

9. What proportion of your MSF/P are from civil society groups or the public:

- Less than half of the members are from civil society groups or the public
- About half of the members are from civil society groups or the public
- The majority of the members are from civil society groups or the public
- The membership changes so there is no consistent number

10. How diverse is your MSF/P? Does it represent a broad range of people based on factors like age, regional spread, gender, ethnicity and representation of indigenous people?

- Our MSF/P is highly diverse. It includes a wide range of people from different backgrounds and demographics.
- Our MSF/P is somewhat diverse. It includes people from a range of backgrounds and demographics, but some groups are not represented.
- Our MSF/P is not very diverse. Most people involved are from similar demographics.

11. What (if anything) do you do to ensure your MSF/P represents a broad and diverse group?

12. How are members of your MSF/P selected? This includes both for civil society/non-government members and for government members.

13. How is the chair (or chairs) of your MSF/P appointed?

14. Do civil society members of your MSF/P receive payment from government for their involvement in the MSF/P? Please tick all that apply.

- Members are paid for their involvement (for example, at an hourly rate)
- Members are reimbursed for costs like travel and accommodation to attend meetings
- Members **do not** receive any payment or reimbursement of costs
- Another approach is taken (please explain what this is):

15. Are the non-government members of your MSF/P involved as individuals, or on behalf of an organisation?

- As individuals
- As representatives of organisations or networks
- Other (please explain):

MSF/P mandate and governance

16. What are the main functions of your MSF/P? Please tick all that apply.

- Gathering ideas for Action Plans from a range of stakeholders
- Providing feedback and advice to government on the development of Action Plans
- Providing feedback to the public and civil society on commitments and ideas for inclusion in the Action Plans
- Co-designing commitments with government (for example, agreeing what the commitment will involve)



- Taking the lead role writing Action Plans
- Delivering or implementing commitments once they have been agreed
- Monitoring government progress on commitments
- Connecting OGP with the broader open government agenda of your country

Other functions – please explain:

17. What authority does your MSF/P have?

- It is an advisory body
- It can direct government or make binding decisions
- Other – please explain:

18. Are there established decision-making processes for your MSF/P?

- There is no set process for decision-making
- Yes. If so, please explain what these are:

19. Approximately how often does your MSF/P meet?

- Weekly
- Monthly
- Quarterly
- 6 monthly
- Another approach is taken. If so, please explain the approach taken:

20. Who does your MSF/P report to?

- A government agency or department
- Directly to the government executive (for example to a government minister or members of Cabinet)



To a legislative or representative body (for example a parliament, congress or senate)

Somewhere else – please explain:

21. What do you think are the strengths of your MSF/P?

22. What do you think are the challenges of your MSF/P?

23. What are the term limits for members of your MSF/P?

1-2 years

2-5 years

5 years +

There are no limits on how long someone can be a member

Developing Action Plans

24. What process does your country follow to develop Action Plans? Please briefly describe the process of creating your last Action Plan and the MSF/P role in this (if applicable).

25. How is the development of Action Plans and implementation of commitments funded? Please tick all that are applicable.

There is government funding set aside to develop Action Plans and implement commitments

There is funding from civil society or non-governmental groups to develop Action Plans and implement commitments

Creating Action Plans and implementing commitments must be done within existing budgets, there is no additional ringfenced funding



Other (please explain):

26. Who leads the delivery and implementation of commitments?

This work is mostly done by government agencies

This work is mostly done by civil society groups

This work is done in equal partnership between civil society and government

This work is mostly done by the MSF/P

Other (please explain)

Further comments and follow up questions

27. Do you have any further comments you wish to add, or links to relevant documents (for example the MSF/P terms of reference)?

28. Are you happy to be contacted to discuss your responses further and for any follow up questions?

Yes

No

Appendix B: Survey Respondents

Countries that received and responded to the MSF/P survey*

Country	Response Received
Argentina	No
Australia	Yes (interviewed)
Canada	Yes (interviewed)
Colombia	No
Finland	Yes
Republic of Korea	Yes
Italy	Yes
Ireland	No
Netherlands	Yes
Panama	Yes
Philippines	Yes
Spain	Yes
United Kingdom of Great Britain and Northern Ireland	Yes
Uruguay	Yes
Norway	No (but interviewed)
Estonia	Yes
Nigeria	Yes
Ecuador	Yes
South Africa	No
Slovak Republic	Yes
Kenya	Yes

* One unlabelled response was received.

Appendix C: CSO Workshop notes

Discussion on OGP process and role and function of MSF

Date: 1 May 2023

Time: 6.00pm -7.30pm

Venue: By zoom

Attendees: 9(2)(a) privacy (Amnesty International)

9(2)(a) privacy (Transparency International)

9(2)(a) privacy (Citizens' Advice Bureau)

9(2)(a) privacy (NZ Council for Civil Liberties)

9(2)(a) privacy (The Environment and Conservation Organisations of Aotearoa/NZ)

9(2)(a) privacy (Allen + Clarke)

Apologies: 9(2)(a) privacy (Allen + Clarke)

9(2)(a) privacy (Volunteering NZ)

Experiences of OGP process (MSF and Action Plan Development/Implementation)

There was a strong commitment to the principles of the OGP and what it could achieve if implemented properly. However, the barriers that have and continue to prevent the OGP being authentically implemented in New Zealand are resulting in increasing frustration from CSOs and they are at the point that if things do not change dramatically, they will (as some have already done) disengage with the process.

There was a strong feeling underlying the conversation that if New Zealand cannot commit to the OGP fully and implement it properly there is little point in maintaining the process as this is just a cost (in terms of dollars and time) to government and CSOs without any impact being seen. They do not see it as a worthwhile process in its current form.

MSF

- Participants said that there was not an MSF in New Zealand. They considered that the EAP did not meet the requirements of the OGP guidance. Key criteria missing included the fact that the non-public service members of the EAP were not appointed by CSOs, they did not represent CSOs and had limited ability to consult. The EAP advises government rather than it being a co-driven/co-lead process with CSOs. It is counter to the design process of the OGP.
- One noted that the EAP was made up of appointed individuals. While some attended workshops with CSOs from time to time there was never a meeting between CSOs and the EAP. Meetings with CSOs were generally with the PSC.
- Some referred specifically to the IAP2 principles and said that members and government need to be educated on these. From the OGP perspective processes



must be at least at the collaborate level of the spectrum by now – the ‘involve’ level only applies to new OGP members: https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf

- One participant referred to the guidance produced by DPMC on community engagement practices and wondered why this was not being used to fulfil OGP requirements: <https://www.dPMC.govt.nz/sites/default/files/2020-10/policy-project-community-engagement-good-practice-guide.pdf>
- There was no consensus on payment for participation in MSF (and or wider consultations). While it was felt by most that this was required to ensure that there was broader representation and views at the table, there were questions raised about this preventing full and frank conversations being had. It was noted that probably a bigger concern was “gagging clauses” in funding contracts for CSOs that would then prevent them from being able to speak openly in OGP forums.
- There was a question raised about why EAP members were paid and others not – did this reflect a perceived hierarchy of views/experience in the OGP process? Again participants noted this made the process feel unauthentic.

Diversity in Representation

- There remains a significant lack of diversity in representation. All supported more diversity and were committed to doing what they could to achieve this. However, this desire for diversity should not translate into rhetoric criticising those who are involved and give up their time voluntarily. While more could be done, recognition should be given to CSOs who have and do engage and the efforts they make to engage more widely across members and communities. If government wants broader involvement in the NAP development process, it has to have an honest value proposition to those people about why participation is worth their time and resources. Government also needs to work to reach out to these groups, not rely on publishing a notice on a website or a pre-existing mailing list.

Action Plan development

- Participants felt there is a significant disconnect between engagement with CSOs and the development of commitments. The government should have come into the process with a very clear focus developed from various sources: Minister’s ideas, taking on board feedback from previous IRM reports, ideas from agencies’ Long Term Insights Briefings or other horizon-scanning work. And it should be able to transparently communicate the sources that formed its starting position.
- That starting position then needs to be refined in light of the feedback from public workshops, to enable grouping of ideas as a prelude to honing these into commitments. However, there were never the same people available at different stages and/or the right people with appropriate authority to engage on issues being raised.
- Fighting for commitments to be included was like starting all over again with a new, and uninterested, audience.
- In developing commitments, it was felt that there was no consideration of what implementation might look like or how this could be done. Examples were given of agencies engaging with CSOs from ground zero – starting over – even though an extensive process of co-design had occurred already.



- The OGP and IRM's revised guidance on NAP creation places more emphasis on the quality of commitment design, and yet far too little time was devoted to working through the intervention logic of particular commitment ideas.
- It appeared to CSO participants that key agencies had failed to participate in the April-July 2022 workshop stage, and that some who did were engaging 'defensively' so as to ensure their pre-existing programmes of work were not added to or altered by the NAP development work.
- Continuity of staff and level of seniority were seen as significant issues in the process. CSOs noted that over the course of one year the team of officials working on OGP had almost entirely changed, so it seemed like the CSOs and officials were always starting from scratch – there was no common understanding of the OGP or the co-creation process.
- Overwhelmingly it was felt that Ministerial commitments did not transfer to officials' actions and engagement approaches.
- There needs to be more leadership and authority to act.
- Most felt that there was no desire amongst officials to adopt new actions/commitments – rather they tried to fit things into existing work programmes where they became invisible.

Key areas for improvement

A number of specific areas were identified for improvement:

- Te Tiriti – needs to be a fundamental element. Good resource shared: <https://e-tangata.co.nz/comment-and-analysis/carwyn-jones-the-value-of-sharing-the-decision-making/> CSOs want to see Te Tiriti front and centre throughout the process, including in the Ministerial foreword to the NAP, elaborated clearly in each commitment, and honoured in the delivery of the commitments.
- Framing – need better understanding and framing of process across government and civil society at the start of NAP development. Need to be on same page as to what they are trying to achieve and what can be achieved, but more importantly, officials need to have licence to agree in public workshops where there are areas of weakness, not just where there are opportunities to build on past successes. Without this candour, the engagement feels inauthentic and untrustworthy.
- Roles – the Minister is the negotiating party not officials. The Minister needs to be visibly involved throughout the process and while not ruling things out, should give officials authority and a negotiating brief of the ideas they have for potential commitments. Operating too far down the IAP spectrum.
- Need a separate and well resourced team to manage OGP – PSC is currently failing in duty to steward institutional knowledge and manage OGP across government. PSC needs to demonstrate commitment to this process and its own legislation by establishing an open government team.
- Agency commitment – agencies dismiss OGP processes as an annoyance getting in the way of Business as Usual activities. They do this because there's no visible senior leadership, and because they know from four action plans, there's no additional resources for this work.
- Budget – there needs to be a budget for OGP NZ commitments and/or an alignment to budget bidding process to allow for new commitments to be made and implemented. Without a budget there is no real commitment to the process by agencies – shows that it is of little domestic or international significance. The idea of



setting up a contestable fund for commitments that would be new pieces of work was raised, to incentivise agencies to participate willingly in developing commitments.

- Engagement – engagement is not seen to be authentic and there is a lack of understanding about co-creation. Lessons could possibly be learnt from the disability space.
- Political will and leadership – commitment needs to be real and led from the top.
- CSOs from around country could work on particular topics – need to work with existing expert stakeholder networks. This can only be achieved with better understanding and commitment to OGP across all government activities and leadership from Minister and CE level.
- Co-chairing of the MSF by Minister and Civil Society, not by a public servant. Public servants should be providing the secretariat, not running the meetings.
- Community of interest across Secretary or Deputy Secretary level to develop understanding and support across all work programmes. If the Public Service Commissioner is serious about using the Public Service Principles to effect systemic culture change, this is foundational step. Dep Secs need to understand that ‘fostering a culture of open government’ means genuine and positive engagement with the opportunities presented by OGP NAP development, and for them to communicate that clearly to their officials.

International examples

- UK – formal network of CSOs established to work on open government, and they choose who represents them on the UK’s MSF. Seniority of involvement can be seen from the new appointments to the UK CSO network have just been announced: <https://www.opengovernment.org.uk/2023/05/18/institute-for-government-engage-britain-open-data-institute-join-leading-voice-for-open-government/>.
- USA and UK – CSOs don’t get funding like they do in the USA and UK.¹⁶ It is a massively uneven playing field. Many CSOs in NZ do not qualify as charities because of restrictions on advocacy under the Charities Act that is actively policed by DIA. Noted that in her remarks to the recent OGP event in Wellington, OGP Ambassador Helen Clark highlighted the need to review Charities Act.

Other issues

- Not standing up MSF until next year is too late.
- Going into election – need a plan that garners cross party support.

Follow up questions asked by email

A further opportunity to respond to additional follow up questions was provided to workshop attendees. Questions and responses captured below:

- Any comments on the makeup of the MSF - how could it be more diverse and representative

¹⁶ The UK government point of contact advised the UK does not currently pay CSOs to participate in the MSF or NAP process.



Various ways in which this could happen, but the essential pre-requisite is the ability of potential representatives to be sure that they're not wasting their time, and that participation in the MSF will lead to real, measurable improvements.

If that pre-requisite is met, then being honest about the time commitment expected of MSF members is key, and that they or their organisation will be properly re-imbursed for their time.

Second, since open government and the OGP work is meant to be leading to improvements across the public service system, not treated as some siloed programme, then potential participants could be identified in line with the way the government allocates funding in the Budget across departmental lines – i.e. the Justice Sector, disabilities, health sector, environment and conservation sector. All agencies in that sector should be required to identify at least five CSOs they are working with, so the OGP unit in PSC can contact them about potential participation.

Third, government needs to model the diversity it wants to see from civil society representation. It needs to ensure relevant people from TPK, Te Arawhiti, Ministry of Pacific Peoples, Office for Disability Issues, the portfolios of Diversity, Inclusion and Ethnic Communities, Community and Voluntary Sector, Workplace Relations and so on are also on the MSF.

- How could the OGP process link with existing govt agency engagement with civil society (if considered appropriate) – Are there other ways to piggyback off existing structures/processes to further advance network of networks and increase engagement across Aotearoa

This seems like a possibility, but again the starting point has to be genuine government commitment to a worthwhile OGP process, otherwise it is likely to be further destroy trust instead of building it. Any communications about the potential of OGP needs to be carefully crafted to sit alongside the topic of the existing engagement. To really get the benefit, there should be an easy to access and well-signposted online tool for people to enter in examples of where they're encountering obstacles to accessing information, participating at the level they expect, or seeing the accountability they feel is merited. This helps build evidence on a rolling basis, ahead of the formal NAP development period.

- Role and mandate – ideal state for what MSF does and how it should be involved in development, implementation etc of Action Plans

This depends on how much power Ministers are willing to cede to the MSF. This itself is less of an issue if the Minister responsible for OGP co-chairs the MSF meetings with the CSO co-chair. At the top end of the spectrum, Cabinet would empower the MSF to run the process, decide the commitments in the plan, and allocate the resources for new pieces of work from the 'pot' of money previously allocated by Cabinet to new commitments. This will need to be in the \$5-\$10 million range for 5-10 commitments that last for a two year NAP. The lead Minister would still need to be visible, and the secretariat to the MSF would be doing lots of the work delivering NAP development. The MSF would be responsible for ensuring a Te Tiriti honouring approach was taken throughout the process of NAP development and implementation.

The MSF at the high end would also be the body responsible for ensuring commitment lead agencies are properly trained on what it means to lead an OGP commitment,



expectations for them working with civil society on implementation, and for receiving the reports on progress with implementation on a monthly basis.

A less empowered MSF would design the NAP development process and monitor the public service's implementation of that design. They would also ensure that there was genuine engagement in co-drafting of commitments by agencies and CSOs and have the power to exclude potential commitments where they judged that genuine co-creation had not occurred. It would play the same role as above during implementation.

- Thoughts around how to operate (an ideal state) in current constitutional constraints (Ministerial decision making, budget processes etc) – what could be done to reduce these barriers

Ministers already empower Māori service delivery agencies in the area of public health, so the 'constitutional constraints' are not as rigid as might be imagined. One of the benefits of not having a fixed entrenched constitution is that constitutional 'constraints' are merely constitutional conventions and conventions can adapt and develop over time. We already have publication of Cabinet papers. We have had a Foreign Affairs Minister outside Cabinet. The way the budget allocates money can and does change over time – eg wellbeing budgets. Hiding behind 'constitutional constraints' signals a failure of imagination, courage and leadership.

- Anything else you think relevant or important to highlight

While PSC is not responsible for policing how agencies honour Te Tiriti o Waitangi obligations in the normal course of its work, it should not shirk a responsibility for ensuring Te Tiriti is front and centre in the NAP development and implementation process. It owns NAP development so the obligation is on it there. When it comes to commitment co-creation, it needs to have provided guidance to agencies and CSOs on what is needed to honour Te Tiriti in commitment development, not least so these actors understand how the MSF will be assessing this when considering potential commitments.

Appendix D: OGP design principles

In May 2023, the CE of OGP wrote to the Minister for the Public Service outlining some key design principles to keep in mind for New Zealand's next MSF. These were:

- **have senior and even representation from government agencies (including implementing and coordinating agencies) and civil society.** This enlarged group may provide more regular opportunities for civil society representatives and implementing agencies to discuss progress, assist with building cross-Ministry buy in to action plan activity, and assist the Public Service Commission in workload balancing. More diverse representation from government agencies would also strengthen efforts to fulfil statutory obligations to foster a culture of open government.
- **have broad responsibilities for community engagement throughout the action plan cycle.** Civil society representatives, in particular, could play a more significant role in facilitating broader community input into, and awareness of, open government activities. They could also help ensure that action plan activity remains connected to broader agendas in the country and internationally. The current conception of New Zealand's multistakeholder forum members as expert advisers providing confidential advice to government is difficult to square with the typical functions of a multi-stakeholder forum we see across the Partnership.
- **have responsibility for approving and overseeing future co-creation processes, and retaining an important monitoring role during implementation of action plan commitments.** For example, civil society representatives could better ensure that proposed processes and timeframes are validated by the community they seek to involve, could propose innovative community engagement methods, help draw upon civil society knowledge and expertise in the implementation of commitments.
- **use an open and transparent process for appointing civil society representatives.** In some countries where a broader civil society coalition exists, representatives to their multistakeholder forum are agreed between the participating organizations. Civil society members of the fora have often also been empowered to elect their civil society Co-Chair.
- **continue to support civil society participation.** Civil society representatives have repeatedly affirmed the virtues of government recognition and support of their contribution of their expertise and networks to these processes. In particular, the payment of sitting fees has been noted as helpful in enabling their full participation.



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