



Report Title:	Further advice on New Zealand's future approach to the Open Government Partnership		
Report No:	2024-0040		
Date:	15 February 2024		
To:	Hon Nicola Willis, Minister for the Public Service		
Action Sought:	Note	Due Date	29 February 2024
Contact Person:	Hugo Vitalis, Deputy Commissioner Integrity, Ethics and Standards		
Contact No:	9(2)(a) privacy		
Encl:	No	Priority:	Medium
Security Level:	SENSITIVE		

Purpose

1. This paper provides further advice to support your consideration of either withdrawing from the Open Government Partnership (OGP) or remaining in OGP while achieving cost savings.

Recommended action

2. We recommend that you:
 - a) **note** Te Kawa Mataaho Public Service Commission (the Commission) continues to recommend that New Zealand withdraw from OGP, and Ministry of Foreign Affairs and Trade (MFAT) advice suggests this can be done in a manner that is mindful of international relationships,
Agree/disagree
 - b) **note** the Commission intends to submit a Budget template based on withdrawal and a saving of \$200,000,
Agree/disagree
 - c) **note** that should you choose to withdraw, we will work with your Office, MFAT and the Department for Prime Minister and Cabinet (DPMC) to ensure withdrawal is appropriately sequenced,
Agree/disagree
 - d) **note** that remaining in OGP is possible but there would continue to be reputational risks. While some savings could be made in the short term, it is likely the level of investment will need to be revisited soon after agreeing the next National Action Plan, and
Agree/disagree
 - e) **agree** the Commission release this briefing once final decisions on OGP membership have been made.
Agree/disagree

Hon Nicola Willis
Minister for the Public Service

Background

3. In December 2023, we provided advice on New Zealand's membership of OGP and options for managing OGP into the future (BR2023-0321 refers). We recommended withdrawal due to:
 - a) limited evidence of OGP's effectiveness (internationally or in New Zealand),
 - b) the high transaction costs of OGP for Ministers, the Commission and across Government,
 - c) ongoing dissatisfaction of civil society organisations (CSOs) with the current approach, and
 - d) the uncertainty whether any further investment or Ministerial time in OGP (advocated for by CSOs) would improve its effectiveness or resolve these issues.
4. On 23 January 2024, we met with you to discuss the advice. You asked us to seek input from MFAT on the implications of withdrawing from OGP, and also to consider how we could remain a member while achieving cost savings.

Option to withdraw from OGP

5. As noted in December, New Zealand performs strongly in a wide range of international transparency, public trust and effective public governance measures. Much of New Zealand's success in fostering open government has stemmed from work initiated prior to or outside joining OGP. We noted withdrawal could give rise to perceptions of a reduced commitment to open government. We also indicated a need to seek further advice to ensure withdrawal could be managed in a way that was mindful of New Zealand's international reputation and relationships.
6. MFAT has advised that while there may be bilateral risks associated with withdrawal, in their view these can be appropriately managed. MFAT has made some suggestions for timing of a possible exit, 6(a) prejudice security or defence [REDACTED] The suggested timing aligns well with the Budget process, and we can coordinate this with your Office.
7. Some domestic risks also remain. Alongside stakeholder advocacy for greater investment in OGP (discussed below, under *Option to remain in OGP*), CSOs surveyed six political parties just prior to the general election, asking them to confirm their support for New Zealand's membership of OGP. All parties, including Coalition Government partners, responded yes to three questions, on continuing membership, showing leadership and appropriately resourcing OGP.¹
8. Much has changed since New Zealand joined. At that time, OGP's expectations were aligned to the Open Government Declaration (endorsed by all members) and focused on building effective partnerships between governments and citizens. New Zealand's first National Action Plan (NAP) included *Better Public Services* initiatives as Commitments, aligning to OGP grand challenges around government effectiveness, openness and transparency.
9. Since then, OGP has prioritised a model of co-creation that promotes direct dialogue between civil society 'umbrella' organisations and senior government decision-makers and does not recognise the many other ways citizen voices are brought into government decision-making in New Zealand. Concerns have been formally raised with the OGP Support Unit on multiple occasions about shifts in strategic focus, the definition of co-creation, and the 'one-size-fits-all' approach.
10. New Zealand has now developed four NAPs. We have used this experience and engagement with a wide range of stakeholders to assess whether OGP delivers value for money in driving open government in a New Zealand context. As you are aware, our view is that it does not.


¹ The survey contained three questions: their support for New Zealand to remain a member of the Partnership, that their cabinet would support strong ministerial leadership during the co-creation of Open Government Action Plan commitments, and that their government would support the effective delivery of commitments, ensuring that they are appropriately resourced. The National Party noted that it "remains committed to New Zealand's participation in the Open Government Partnership, a membership we proudly entered back in 2014". See Transparency International NZ: <https://www.transparency.org.nz/blog/parliamentary-parties-express-support-for-the-ogp>.

On 18 October 2023, a *Business Desk* news alert email reported OGP was the type of programme officials would propose ending as a cost cutting measure and CSOs had sought reassurance this would not occur.

Option to remain in OGP while achieving cost savings

11. Our December briefing outlined options for a future approach to OGP, including continuing with the status quo. We noted that the status quo was not sustainable longer term and carried reputational risks. Furthermore, the current level of resourcing for OGP has come into considerable criticism from stakeholders (BR2023-0321 refers).
12. Costs include \$200,000 per year for OGP membership, and the costs of planning and delivering NAPs, which are absorbed within baselines by agencies. While many costs are hidden, we estimate these costs to be \$1 million–\$1.5 million per annum for the fourth National Action Plan (NAP4). This estimate considers the steps agencies had taken prior to December 2023 to reprioritise resources to meet government priorities, but not any additional savings as part of their fiscal sustainability proposals.
13. As noted in our December briefing, it has been difficult for the Commission to secure NAP4 participation from other agencies due to a lack of dedicated resourcing of Commitments and lack of alignment between NAP4 Commitments and other Ministerial priorities. New Zealand was criticised by CSOs and OGP’s Independent Reporting Mechanism (IRM) for Commitments adopted from existing government work programmes. Further constraints on agency resourcing are likely to make it harder to secure their involvement.

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



17. We also need to consider the approach for the multi-stakeholder forum (MSF).³ New Zealand’s previous MSF, the Expert Advisory Panel, was discontinued when the terms of reference ended in

² OGP contributions: <https://www.opengovpartnership.org/about/transparency-financial-information/government-contributions/>

³ OGP requires members to have “a space for ongoing dialogue with participation from both government and civil society members, and other non-governmental representatives as appropriate that meets regularly (at least every six months)”. This can, but does not need to, take the form of a multi-stakeholder forum (MSF).

June 2023 (BR2023-0321 refers). We would need to discuss with you how that could be re-established if you choose to remain in OGP.

18. Of the seventeen countries we surveyed in our review of OGP (BR2023-0321 refers), none paid their multi-stakeholder forum members for their time. We would propose adopting that approach for any future MSF, providing a modest saving of \$35,000 per annum.

Comment

19. As noted in our previous briefing, the OGP Support Unit, IRM and CSOs are likely to have a negative view of any perceived weakening of the mechanisms for engagement, participation and co-creation. Balancing OGP expectations for co-creation – shared prioritisation and decision-making between Ministers and CSOs for Commitments – with our model of Cabinet decision-making and prioritisation continues to pose a fundamental tension for New Zealand’s membership of OGP.
20. Reducing the number and scope of Commitments could reduce the overall resource burden, as would signalling government priorities for Commitments. In our view, this would need to be adopted with a clear understanding that close alignment with government priorities and work programmes has been a source of ongoing criticism from the OGP Support Unit, IRM and CSOs since New Zealand’s first NAP.
21. If carefully managed, these changes could technically comply with the ‘letter’ of OGP’s minimum participation requirements but would very likely be perceived by stakeholders as not aligning with the intent or ‘spirit’ of the Partnership.
22. We anticipate that OGP requirements will continue to evolve. It is also likely that the level of investment (e.g. due to increases in membership fees, evolution of OGP requirements) will need to be revisited soon after NAP5 has been agreed by the Government at the end of 2025.
23. Exiting OGP remains our recommended option and MFAT advice suggests this can be done in a manner that is mindful of international relationships.

Next steps

24. We are available to discuss with you the recommended option of withdrawing, as well as the feasibility of changes in approach to remain a member of OGP.
25. If you choose to withdraw, we can provide you with a draft Cabinet Paper for your consideration.