

Submission to:	Public Service Commission
Topic:	Commitment proposals for the Fourth National Action Plan under the Open Government Partnership
Date:	28 July 2021

Introduction

This submission has been prepared by Maureen Gillon, who is the Chair of Trust Democracy. Trust Democracy (TD) was established in 2019 as an incorporated society dedicated to strengthening public discourse, education and research on democracy in Aotearoa New Zealand. It does this by providing spaces for everyday people to engage with one another in deliberative dialogue about the state of our democracy and how it could be improved, and other channels for education and advocacy.

Most of the commitment proposals in this submission come from two workshops (held via Zoom) that were organised by Trust Democracy as part of its Build Back (Better) Democracy project. The first workshop was held on 20 October 2020 as a [side event of Internet New Zealand's Nethui 2020](#). The second workshop was held on 25 November 2020 and was for TD members, supporters and people from other civil society organisations. Anonymised summaries of these two workshops have been included with this submission.

Some of the commitment proposals in this submission are based on the experience of TD committee members, some of whom have been involved with the Open Government Partnership (OGP) since New Zealand became a member and with the development of each National Action Plan (NAP).

Process for the Fourth National Action Plan

Trust Democracy (TD) was one of the ten civil society organisations that signed the joint letter of 15 March 2021 to the Minister responsible for New Zealand's membership of the Open Government Partnership (OGP), the Hon. Chris Hipkins, to express our concerns about the process for developing New Zealand's fourth National Action Plan (NAP4). Specifically we were concerned that:

- The process did not appear to involve co-creation
- The plan is being developed without any budget for the commitments
- The OGP programme is insufficiently resourced to inspire or develop a NAP that government agencies and civil society can commit to with enthusiasm.

While we are pleased to see that the timeframe for preparing the NAP4 has been extended and that the extension is being used to involve civil society in a more collaborative approach to developing commitments, we are remained concerned that the resourcing issues have not been addressed and that interested persons beyond the 10 civil society organisations may not know about the next phase of the NAP4 process and how they might contribute to it. We recommend that the PSC publish an updated engagement plan for NAP4 and communicate it using multiple channels. Regular updates need to be provided on an ongoing basis.

How does the NAP4 process reflect the recommendations of the IRM?

TD is unsure of how the process recommendations of the OGP's Independent Review Mechanism (IRM) regarding NAP3 have, or have not, been taken up in the process to develop the NAP4. TD supports the IRM's recommendations to:

- Strengthen the role and mandate of the EAP as it continues to act as New Zealand's Multi-stakeholder Forum
- Create a joint civil society/government public engagement Community of Practice or Hub.

If acted on, these recommendations would have positively contributed to the process for developing NAP4.

In the interests of openness, transparency and accountability, the PSC needs to specifically and publicly respond to all IRM recommendations.

Openness of the process for NAP4

If TD had not been one of the 10 organisations that wrote to the Minister, we are concerned that we would not know about let alone have been invited to take part in the critical next phases of the NAP4 process. In the context of democracy, 'openness' refers to the equal access and empowerment of people to take part in processes of collective agenda setting, will formation and decision-making. Openness would have been better served if the process had been better publicised from the start, and if the first phase of the process had been more than an exercise in crowdsourcing commitment proposals. More people may have taken part if, in addition to knowing about the process, the process asked, for example, about what the critical problems are and criteria for deciding and prioritising commitments.

Commitment proposals

The commitment proposals listed below reflect the concerns and ideas of the participants in our Build Back (Better) Democracy workshops and of the TD committee. They are not fully worked up, detailed or prioritised as we understand that they will contribute to themes that will be considered in the next phases of the NAP4 process.

Address mis- and dis-information

Short description of commitment	Address the issue of mis- and dis-information, especially as amplified through social media and other digital platforms, and ensure the diversity of media ownership
What would the commitment achieve	Help ensure that people are not manipulated and/or polarised through the strategic dissemination of mis- and dis-information
Reasons for commitment	The negative impact on democracy of not regulating communication adequately is clearly visible in the USA and the UK. NZ should try to address this before it becomes a major issue here

Limit the use of parliamentary urgency

Short description of commitment	Limit the use of parliamentary urgency
What the commitment would achieve	Parliament urgency severely limits the ability for civil society to participate in the law-making process and rides rough-shod over the standard parliamentary process
Reasons for commitment	Recent governments have used urgency far too often. The NZ Parliament has a history of passing poor legislation.

Mandatory standards for government consultations

Short description of commitment	Develop mandatory standards for government consultations (e.g. submissions open for at least 12 weeks)
What the commitment would achieve	Would enable better civil society participation in policy and decision-making processes, which would improve the quality of policy and decision-making, as well as better relationships between the government and civil society
Reasons for commitment	Trust Democracy has taken part in recent consultation processes in which the time for submissions was less than a week. There are lots of recent examples of consultation processes being extended as a result of civil society complaints

Democratic and institutional innovation

Short description of commitment	Democratic and institutional innovation (e.g. Citizens' Assemblies, Participatory Budgeting) to address 'wicked problems'
What the commitment would achieve	We need new institutions as well as the development of new knowledge, capacities and capabilities to address 'wicked problems'. Demonstration that democratic politics can be done in other ways. Potentially improve confidence in democratic politics amongst political elites and the public.
Reasons for commitment	Many people are dissatisfied with submissions-based consultation processes, which do not work for ordinary people and fail to represent them. The NZ political system seems incapable of addressing lots of issues that people care about. Continuing to try to address these problems using similar approaches is eroding trust and confidence in democracy. Internationally, there are hundreds of examples that could be adapted for use in the NZ context.

Strengthen civil society

Short description of commitment	Provide resources to support civil society action aimed at public problem-solving
What the commitment would achieve	Improved capacity across society to address problems. Better connected communities.
Reasons for commitment	New Zealand has a weak civil society compared with other developed countries. Developing the capacity of civil society to actively participate in and facilitate self-government at different scales would strengthen the democratic system and legitimacy of policy choices.

Constitute a People's Upper House

Short description of commitment	Constitute a People's Upper House of Parliament with representatives selected through a national lottery
What the commitment would achieve	An institutional check on abuse of power and poor quality legislation that is not party political and less prone to being influenced by powerful interests. Another way for the people to put issues on the agenda.
Reasons for commitment	Address weaknesses inherent to the system of representative democracy.

Strengthen Select Committee scrutiny of the Government

Short description of commitment	Strengthen Select Committee scrutiny of the Government by ensuring sufficient independent support
What the commitment would achieve	Reduce reliance on departmental officials by providing Select Committees with sufficient skilled staff to analyse submissions on Bills and assist MPs with inquiries.
Reasons for commitment	There must be no doubt about the independence of this accountability mechanism and the current system does not merit public trust in the strength and independence of the legislature vis-a-vis the executive.

Improve access to the political process

Short description of commitment	Improve access to the political process for the many classes of people who are excluded (e.g., young, illiterate, homeless, poor, digitally excluded)
What the commitment would achieve	Ensure NZ's democracy better expresses the democratic values of equality, inclusion and empowerment
Reasons for commitment	While New Zealand guarantees basic civil and human rights, and while many institutions have been developed to express the value of equality (e.g. voting in elections and referenda), many people are concerned about unequal access to the political process. In reality, many classes of people are excluded (e.g. young, illiterate, homeless, poor, digitally excluded) while other classes of people are able to gain access and influence though, for example, donations to political parties. Open government and active citizenship must be practised in ways that overcome discriminatory barriers to participation.

Better ways of policy and decision-making under conditions of complexity

Short description of commitment	Develop and deploy tools suited to policy and decision-making under conditions of complexity. Explore whether an institution along the lines of the former Bioethics Council would assist with this.
What the commitment would achieve	Better policy, improved confidence in the public service and the democratic process if tools help achieve better outcomes. Improved understanding of the values of New Zealanders following deliberative processes so as to get a much richer understanding of socially acceptable policy options.
Reasons for commitment	Lack of knowledge about complex systems in government and civil society

Require sources to be referenced in government advice

Short description of commitment	Require sources to be referenced in government advice, especially so that submitters and the public can see if and how their ideas are being used
What the commitment would achieve	Improved transparency and accountability. Evidence that it is worth making submissions. May encourage more participation. Also aids academics and civil

	society organisations in demonstrating impact to their funders - often government itself - thereby closing a feedback loop.
Reasons for commitment	While sources should be acknowledged, they rarely are. This is especially true in the case of advice based on submissions or ideas from academics and civil society.

Beyond civics education

Short description of commitment	People must be helped to actually participate and make a difference
What the commitment would achieve	A more vibrant democracy with increased and diverse participation and practices
Reasons for commitment	Civics education is all well and good but democracy is learnt by doing

Knowledge about participation and democracy

Short description of commitment	Set up forums for the discussion and dissemination of knowledge about participation and democracy, including from local and international sources
What the commitment would achieve	Democratic renewal, better and more participation, etc
Reasons for commitment	Not enough of this happens in government or civil society

More commitment to OGP

Short description of commitment	More commitment to OGP including continuous engagement, a new website, more experimentation, a proper Multistakeholder Forum as defined in the OGP Standard, independent evaluation to enhance learning, participation in international learning opportunities
What the commitment would achieve	Get more value out of OGP. Drive democratic revitalisation and renewal
Reasons for commitment	Because the current programme is uninspiring and has not generated enough impact to be valued

Better and open access to government information

Short description of commitment	Better and open access to government information including through better recordkeeping from the point of creation
What the commitment would achieve	A necessary precondition for active citizenship and democratic participation is the proper creation and maintenance of information, records and data. Archives NZ needs greater resourcing and institutional stature to help agencies achieve this. Consideration should be given to creating an All-of-Government head of the information management profession, along with support for a community of practice and professional development.
Reasons for commitment	Agencies are not even complying with current requirements and this is undermining government effectiveness and efficiency, let alone the ability of people to participate as active citizens. Government is a knowledge-based industry and work needs to be done to comply with the Public Service Act requirement for stewarding institutional knowledge.

Short description of commitment	Review the compliance mechanisms in the Public Records Act, and the tools and capability needed by Archives NZ to ensure agencies comply with the Act, and provide funding for investigation and enforcement activity by Archives NZ
What the commitment would achieve	Consistently good recordkeeping across the government. It's clear from the Archives NZ reports that some agencies are falling behind. It's also clear that Archives NZ has lacked resourcing for investigating failures to comply with the Public Records Act, let alone enforcing it. A system built around carrots and sticks does not work if agencies know the stick is effectively non-existent in practice.
Reasons for commitment	Good recordkeeping is a necessary condition for active citizenship and democratic participation, and for government accountability. Government itself will benefit from the lifting of practices and compliance.

Create an all-of-government head of profession for public participation

Short description of commitment	Create an all-of-government head of profession for public participation who would be responsible for developing knowledge, capability and capacity, and standards in agencies across the government, as well as supporting a community of practice that supports learning and development amongst people working in this field
What the commitment would achieve	Better public engagement, better policy and decision-making, improved trust and confidence in the public service and the government
Reasons for commitment	Poor public engagement is a very common complaint and has been a consistent theme during the development of every NAP under the OGP. Addressing this is necessary if the Public Service is to 'foster a culture of open government'

A government ‘home’ for democracy

Short description of commitment	Create a ‘home’ in government for information, training, education and research on democracy with responsibilities that include normative and substantive issues as well as methodological and procedural ones
What the commitment would achieve	Public dialogue about our democracy and its health, which would be a starting point for democratic revitalisation and renewal
Reasons for commitment	Our current government institutions seem to frame democracy as ‘voting in elections’ or ‘what happens in Parliament’ and miss the myriad broader issues that would need to be addressed to achieve a deeper and more effective democracy.

Improve government practices to better reflect Te Tiriti

Short description of commitment	Improve government engagement, policy and decision practices to better reflect Te Tiriti
What the commitment would achieve	Would contribute to a uniquely Aotearoa New Zealand practice of government, which could build on work done in, say, the health sector ¹
Reasons for commitment	Democracy in Aotearoa New Zealand must take Te Tiriti seriously. Eight years after joining the OGP, Māori are still not involved in the OGP programme in any substantive way.

¹ See, for example, Berghan, G., Came, H., Coupe, N. M., Doole, C., Fay, J., McCreanor, T., & Simpson, T. (2017). Te Tiriti o Waitangi-based practice in health promotion. STIR: Stop Institutional Racism.