

# **The TINZ National Integrity System Assessment 2013 and the Open Government Partnership:**

**From findings to recommendations and on to  
implementation**

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# THE TINZ NATIONAL INTEGRITY SYSTEM ASSESSMENT 2013: FROM FINDINGS TO RECOMMENDATIONS, AND ON TO IMPLEMENTATION

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The 2013 *National Integrity System Assessment* conducted by Transparency International New Zealand (TINZ) has been attracting increased attention recently with the inclusion by the government of a commitment in NZ's first Open Government Partnership (OGP) National Action Plan to consider and respond to the recommendations in the NIS assessment. This paper is intended to increase understanding of the TINZ National Integrity System Assessment recommendations and the process by which they were produced, and to discuss their implementation in the context of the OGP. The paper is part of a series of IGPS papers on the National Integrity System Assessment and on the Open Government Partnership.<sup>2</sup>

This article begins by discussing the key findings from a system-level analysis of the pillars of the National Integrity System; briefly discusses how the NZ findings compare to NIS assessments in other countries; provides an overview of the recommendations and the process by which they were generated; and discusses implementation of the report's recommendations, in particular through NZ's membership of the Open Government Partnership (OGP). The recommendations in the NIS assessment are reproduced in full in Annex 1.

## **A systems approach to assessing the quality of governance in NZ**

A National Integrity System (NIS) assessment takes stock of the integrity with which entrusted authority is exercised in a country. The framework was pioneered by New Zealander Jeremy Pope, the first managing director of Transparency International in Berlin, and has been applied by TI national chapters in many countries. A good working definition of an NIS is 'the institutions, laws, procedures, practices and attitudes that encourage and support integrity in the exercise of power'. At the heart of the assessment are assessments of 12 'pillars' – branches of government, sectors, or agencies - that constitute New Zealand's national integrity system (for an overview see Brown 2013).

A key feature of the NIS methodology is that the pillar-by-pillar analysis is supplemented by attempts to assess how the pillars interact. We were interested both in the positive and negative interactions, dependencies, and in the combined effectiveness of different pillars, subsystems, and the overall NIS.

The assessment found that key strengths arise from interactions between specific pillars and in particular in the effectiveness of:

- The judiciary as a check on executive action.
- The Office of Auditor-General in supporting parliamentary oversight of the public finances.
- The Ombudsman as a restraint on the exercise of administrative power and in enforcing citizens' rights of access to information.
- The Office of the Parliamentary Commissioner for the Environment in strengthening transparency and accountability for environmental governance.

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<sup>2</sup> Other papers include an overview of the pillar-by-pillar findings of the NIS (Brown, 2014); an article on the Open Government Partnership (Macaulay 2014); and forthcoming IGPS papers by Alex Matheson on the analysis and findings on the public sector pillar; by Helen Sutch on the cross-cutting features and weaknesses in NZ's National Integrity System; and by Suzanne Snively on the methodology, project governance and management, and consultation process for the 2013 NIS assessment.

When cases of corruption or unethical behaviour by those in power become public, they are usually pursued vigorously. In varying degrees and circumstances, the media, political parties, the Office of Auditor-General, law enforcement agencies, and the judiciary all play a part in that pursuit.

However, some significant weaknesses also arise from the interactions between specific pillars – as summarised in Box 1.

### **Box 1: Key Weaknesses in the Integrity of Governance in NZ**

**Serious problems exist at the interface between political party financing and the public purse.**

The combination of continuing concerns about the transparency of political party financing and of donations to individual politicians, a long-term decline in the number of New Zealanders belonging to political parties (reducing their legitimacy and increasing their reliance on private donations and public funding), and a lack of full transparency of public funding of the parliamentary wings of the parties, interacts with the refusal to extend the coverage of the Official Information Act 1982 to include the administration of Parliament.

**There are weaknesses in parliamentary oversight of the executive.** These include the use of urgency to pass controversial legislation, and the lack of specialist expertise and committees to hold the executive to account.

**There are serious concerns over the interface between the political executive and public officials.** There is evidence of an erosion of the convention that public servants provide the government of the day with free and frank advice, an apparent weakening over the last decade or so of the quality of policy advice that public servants provide to ministers, and public concern about perceived non-merit-based public appointments.

**There are problems at the interface between central and local government.** These include concerns about intervention by central government in the decision-making authority of local government bodies, and systemic weaknesses in the design and implementation of regulations.

In addition, the analysis of the 12 pillars and the societal foundations of the NIS also identified six broader themes that cut generally across the whole NIS, and which characterise integrity in the exercise of authority in New Zealand:<sup>3</sup>

- 1) New Zealand has a strong culture of integrity, with most decisions conforming to a high ethical standard, but this culture is coming under increasing pressure.
- 2) The relative structural dominance of the executive branch of government.
- 3) A lack of transparency is a concern in a number of areas.
- 4) The degree of formality in the frameworks that regulate the pillars in New Zealand's NIS varies considerably – although this is not necessarily a weakness.
- 5) Conflicts of interest are not always well managed.
- 6) New Zealand would benefit from greater emphasis on prevention of fraud and corruption.

### **How does the pattern of results in the NZ NIS compare to other country studies?**

As noted in the Introduction to the TINZ NIS assessment, the NIS methodology does not allow for valid comparisons of pillar scores across countries. It is valid, however, to compare the *patterns* in the scores across countries, in terms of the *relative strengths and weaknesses* of different pillars and foundations. Perhaps the most relevant analysis of the pattern of cross-country results of NIS assessments is the study of 25 European states in 2011.<sup>4</sup> The main strengths across these 25 countries were well-developed formal legal frameworks regulating corruption; strong supreme audit Institutions; and

<sup>3</sup> These cross-cutting themes are described in more detail in a forthcoming IGPS paper by Helen Sutch. They were a key determinant of the approach taken to formulating the recommendations in the NIS.

<sup>4</sup> See Transparency International 2012.

electoral processes that are generally robust. Key weaknesses were inadequate regulation of political party financing; lobbying is veiled in secrecy; legislatures are not living up to ethical standards; there is limited access to official information in practice; public procurement remains an area of high corruption risk; and protection for whistle blowers is severely lacking.

Comparing this pattern of results against the relative pillar scores in the NZ NIS, the similarities include the relative strength of the supreme audit institution and of electoral management, and the relative weakness of political parties, particularly political party financing, and to a lesser extent, some weakness in the transparency of public procurement and in whistle blower protection.

### **From Findings to Recommendations**

The scope of the NIS was limited in three key respects that shaped the recommendations. First, policy settings are generally outside the scope—aside from policies on governance and transparency. The NIS is concerned with the transparency, integrity, and accountability for decisions taken by those with entrusted authority, not the content or quality of the decisions. Second, detailed original analysis of alternative approaches to reform was, in general, outside the scope of the assessment. Therefore, in some areas it was feasible only to recommend general directions or principles for reform, rather than to conduct a detailed analysis of the costs and benefits of alternatives or to specify precise recommended approaches or ‘answers’. Finally, fundamental constitutional issues were considered only to the extent that they were relevant; the NIS assessment is not a constitutional review.

In summary, the following process was followed to develop the report’s recommendations:

- The individual pillar researchers and the research team drew from the findings in each pillar, and identified the key strengths and weaknesses of the NIS.
- The first TINZ NIS report, in 2003, was revisited (Transparency International New Zealand 2003). Key recommendations from the 2003 assessment where action has not been taken include extending the coverage of the Official Information Act to the administration of Parliament, reviewing public funding of political parties and the allocation of election broadcasting time to political parties, and regulating post-ministerial and post-public service employment.
- A wide range of existing reports and analysis were reviewed.
- The research team identified cross-cutting themes.
- The international context was considered – and in particular the prospect that NZ might join the Open Government Partnership.

An attempt was then made to identify the concerns, interests, institutions, or interventions that are the most likely triggers for change, and to make the recommendations action-focused and implementable.

**The core message of the report is that stronger action to promote and protect integrity in New Zealand is overdue.**

The report made seven primary recommendations, prioritised to represent seven key areas for change. The seven primary recommendations are supported by 60 more detailed recommendations. The full set of recommendations is reproduced in Annex 1.

**Recommendation 1:** Ministry of Justice to lead the development of a comprehensive National Anti-Corruption Strategy, developed in partnership with civil society and the business community, combined with rapid ratification of the UN Convention against Corruption (UNCAC).

**Recommendation 2:** The government should develop, after wide public consultation, an ambitious cross-government New Zealand Action Plan for the international Open Government Partnership.

**Recommendation 3:** Transparency and integrity need to be strengthened in a range of priority areas:

- a Parliament
- b Political executive
- c Local government

**Recommendation 4:** The integrity of the permanent public sector, and its role in promoting integrity should be strengthened in a range of priority areas.

- a Strengthen transparency and accountability for public procurement.
- b Strengthen integrity and accountability systems in public sector entity operations
- c Strengthen accountability in public policy processes

**Recommendation 5:** Support, reinforce and improve the roles of key independent integrity agencies and bodies.

- a Electoral management
- b Judiciary
- c The Ombudsmen

**Recommendation 6:** The business community, the media, and non-government organisations should take a much more pro-active role in strengthening integrity systems and addressing the risks of corruption as 'must-have' features of good governance.

**Recommendation 7:** Public sector agencies should conduct further assessments and research to strengthen integrity systems over time.

## Implementation of the Recommendations: The Open Government Partnership

In September 2013 the Prime Minister announced New Zealand's intention to join the *Open Government Partnership* (OGP).<sup>5</sup> The OGP was launched in September 2011 by the USA and Brazil, and aims to 'secure concrete commitments from government to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen government.'<sup>6</sup> It is a multi-stakeholder initiative involving governments, NGOs and business.

From the founding eight countries it has grown rapidly to 65 member countries. Each OGP member is required to prepare a National Action Plan containing new initiatives formulated with the active involvement of civil society. Member governments also commit to regular formal independent monitoring by domestic civil society of progress in implementing the Action Plan.<sup>7</sup>

After a slow start, responsibility for leading OGP across the NZ government was assigned to the State Services Commission. The Commission initiated some public consultation on a draft National Action Plan containing three commitments, with the launch of an on-line discussion forum (which was closed and removed from the web site in May 2014), and the co-hosting on April 14, with the IGPS, of a roundtable discussion on the possible content of New Zealand's Action Plan.

On 31 October NZ formally became a member of the Open Government Partnership (OGP), with the publication of New Zealand's first OGP Action Plan. In addition to releasing NZ's Plan (which contains an Appendix detailing NZ stakeholder feedback and criticism of the draft Plan), the government also released the Cabinet Paper together with comments on the draft Action Plan from the OGP Support Unit.

While this represents good practice in terms of the openness of some aspects of the process, *unfortunately the Action Plan itself contains only four commitments.*

On this NZ compares unfavourably with other OGP members. The average number of commitments in the first 41 Action Plans was 22, with a median of 19 commitments.<sup>8</sup> While what constitutes a commitment varies quite widely across Action Plans, there is no doubt that, in terms of the number of commitments, NZ's Action Plan is, at the moment and until and if additional commitments are added to it from the NIS recommendations, seriously lacking in ambition.

Furthermore, two of the commitments are pre-existing, on-going initiatives: Result 10 of the Better Public Service (BPS) Results programme (the public can easily complete their transactions with government in a digital environment), and the ICT Strategy and Action Plan to 2017. As noted by the OGP Support Unit, without more specificity on the activities, products, and timelines of these on-going commitments it will be hard to evaluate whether any progress has been made.<sup>9</sup>

The third commitment is more interesting and **potentially** ambitious - to consider and respond to the recommendations in TINZ's 2013 National Integrity System (NIS) Assessment report. The government has indicated it will work with TINZ and other stakeholders over the next two years as the Action Plan develops over time.

It is not at all clear, however, whether the government may add additional commitments to this first two year Action Plan during the first part of 2015, whether new commitments may not be introduced until the second Action Plan commences in late 2016, or indeed if any of the NIS recommendations will be adopted at any stage as government policy.

There is a precedent for an OGP member country adding additional commitments to its first Action Plan during the course of the plan, rather than waiting to include them in the second plan. Mexico, one of the

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<sup>5</sup> See <http://www.beehive.govt.nz/release/new-zealand-reaffirms-commitment-open-government> and <http://www.ssc.govt.nz/open-government-partnership>

<sup>6</sup> See <http://www.opengovpartnership.org/about>

<sup>7</sup> There were 43 independent progress reports posted on the OGP web site as at mid-November 2014, at <http://www.opengovpartnership.org/news/read-new-progress-reports-ogp-implementation>

<sup>8</sup> See <http://fiscaltransparency.net/wp-content/uploads/2014/05/OGP-GIFT-FOWG-Dublin-Petrie-Background.pdf>, pp. 13-15.

<sup>9</sup> See <https://www.ssc.govt.nz/sites/all/files/ogp-reviewer-feedback.pdf>

founding eight member countries of the OGP, submitted the first version of its first action plan in September 2011, but it lacked significant participation from civil society and included only a few civil society recommendations. A second 'expanded' action plan was therefore made in closer collaboration with civil society and released in early 2012. This plan featured a wider set of commitments, each with a unique co-governance structure between civil society and government.<sup>10</sup> The Mexican experience closely resembles NZ's.

There are also a number of recommendations in the NIS that officials should be in a position to fairly quickly put to ministers for addition to the first Action Plan in the first part of 2015. These include:

1. The introduction of a comprehensive National Anti-Corruption Strategy. After ten years of inaction by successive administrations, inexplicably NZ has still not ratified the UN Convention Against Corruption (UNCAC) that it signed in 2003, and which requires such a strategy to be put in place. The necessary legislation to enable ratification of UNCAC is currently being considered by a Select Committee, but there is no need to await passage of the legislation before adding this commitment to NZ's Action Plan. The OGP is a soft law international instrument (in sharp contrast to an international treaty), and a number of countries have included commitments by the executive branch in their Action Plans that require the passage of legislation. It is understood in the OGP context that implementing such a commitment is subject to legislative approval. In the NZ context the government enjoys an effective majority in Parliament. Introduction of a commitment now to a comprehensive national anti-corruption strategy would be an indication that the government is indeed serious about finally ratifying UNCAC, as it has frequently asserted.
2. Introduction of the systematic pro-active release of official information.
3. The promotion of enhanced compliance with and understanding of the Official Information Act.
4. A commitment to the regular publication of technically independent 'State of the Nation' environmental and social reporting.
5. A commitment to regular integrity and conduct surveys of public servants.
6. A commitment to strengthen 'whistle-blower' legislation.

A further area where action should be taken in the short term is a commitment to increase the availability of public information on the performance of public procurement. The NIS assessment included an in-depth analysis of transparency and accountability for procurement in NZ against international standards (section 4.3.3), and found surprising gaps in the availability of information on how the procurement system is performing.<sup>11</sup> NZ governments spend around \$30 billion year - about 90% of output expenses and about 37% of total appropriations - on procuring works, goods and services from the private sector. Improvements in transparency and accountability could translate into significant gains in the effectiveness and efficiency of public expenditure and in improved quality of the associated public services. In addition, procurement is always an area of high corruption risk globally. The scale and unconventional nature of procurement in the reconstruction of Christchurch after the earthquakes, and NZ's changing geography of trade and purchasing patterns and increasing off-shore procurement are added reasons to close the transparency gaps and pro-actively address risks.

On a longer time frame, there are some recommendations in the NIS that cover long-standing issues but which will take some time to work through. Examples include extending coverage of the Official Information Act to the administration of Parliament; implementing the Law Commission's recommendation for an Official Information Act oversight function; putting in place public registers of trusts and of the beneficial ownership of companies; and opening up to greater public scrutiny organizational restructuring exercises within the public sector.

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<sup>10</sup> See the Independent Monitoring Report on the first Mexican National Action Plan, p.1, Executive Summary, at <http://www.opengovpartnership.org/sites/default/files/Mexico%20for%20Public%20Comment.pdf>

<sup>11</sup> See Paterson and Chin, 2013.



Beyond these areas, some of the most serious weaknesses in NZ's governance relate to the transparency of political party funding, the allocation of broadcasting time to political parties, and weaknesses in enforcing the Electoral Act. These are difficult areas, and will require leadership across all political parties.

The aim should be to include commitments in these areas in the second Action Plan. This will however require careful design of arrangements for dialogue and deliberation on these recommendations starting in 2015. The Action Plans of a few OGP countries have included commitments relating to increasing the transparency of political party funding.

The fourth commitment - to review the Kia Tūtahi Relationship Accord between the Communities of Aotearoa NZ and the Government of NZ - was added to the Action Plan, perhaps in response to public consultation on the initial draft, in which civil society representatives argued for a new government-wide framework for timely consultation, engagement, and direct public participation in policy development and implementation. Countries such as the UK and USA have included commitments in their Action Plans to strengthen public engagement and participation practices by government.

However, the commitment to review the Kia Tūtahi Relationship Accord is a more limited commitment than that sought by civil society and recommended in the NIS report (see recommendation 3 b iii and section 12.3.2 of the NIS report on which the recommendation draws). The Accord is primarily a statement of principles and of mutual obligations in working together. It says relatively little about the ways in which government should engage the public when it is developing new policies, implementing policies, or reviewing policies.

For example, the Accord does not state that, when seeking public input, public authorities should indicate the potential scope for changes in policy or implementation that are under consideration; should publish the basis on which they have invited individuals and groups to participate in a specific participation exercise; should ensure well-informed participation by providing sufficient information in a timely and accessible manner prior to consultation; should ensure meaningful participation by consulting early in the process while a range of options is still open; should publish a summary of the public inputs received, and indicate in general how the issues raised were addressed; and so on.

In fact the Accord itself refers to the need for communities and government to 'jointly resolve longstanding matters of concern, such as participation in decision-making around policy and service delivery issues, and funding arrangements.'

Therefore, rather than being confined to changes to the Kia Tūtahi Relationship Accord, the consultation should start with dialogue over perceived problems and weaknesses in current public consultation and deliberation arrangements and practices. These include uneven approaches to public engagement across different departments and public entities, the lack of a clear authorising environment and guidelines for public servants to engage in public consultation, shallow consultation that takes place too late in the policy development cycle, and concerns over contracts for service delivery with NGOs that restrict their ability to publicly express their views on public policy issues.

In terms of the process from here for the OGP in NZ, the government has indicated that a stakeholder-led advisory group will be established to assist the Government with meeting its OGP commitments.

Two points are worth highlighting here. It is important that the government consults widely before appointing the advisory group. Civil society also needs time to discuss and determine how it wishes to organise itself with respect to this process. Consistent with the ground rules of the OGP – which is all about partnership - the advisory group needs to be established on the basis of collaborative engagement *and deliberation* between government and civil society. While the government will be given some leeway for hurried public consultation at the front end of its OGP process earlier in 2014, that stage is over now, and there is little excuse for a continuation of rushed and partial consultation. Open and deliberative engagement is part of the DNA of the OGP. It is fundamental, and weaknesses in consultation cannot be justified at this stage by appeals to the need to get an advisory group in place by a particular arbitrary date.

Secondly, given the extremely broad scope of the recommendations in the NIS, one stakeholder group will be insufficient to enable genuine engagement between the many official entities involved and the various NGOs, academics, independent experts, business groups, journalists and so on with a

legitimate interest and valuable contributions to make. A structure with a high-level steering group, underpinned by a small number of technical working groups is worth considering.

To conclude, the channel of influence that appears to have prompted NZ to belatedly join the OGP was via UK Prime Minister David Cameron. The UK is one of the founding eight countries in the OGP. It has backed up its announced aim, of being seen as the most transparent country in the world, with ambitious and wide-ranging National Action Plans, especially its second Plan. The UK, and other leading countries in the OGP, such as the US, Brazil, and the Philippines, are the countries NZ should take its lead from in terms of the ambition of its Action Plan.

At the other end of the spectrum, there is – most unusually in comparative international exercises – something of a ‘Nordic race to the bottom’ in the OGP. The first Action Plans of both Norway and Sweden were notable for their lack of ambition. In the case of Norway, the independent researcher concluded that the Plan was so vague and full of pre-existing commitments it could not be evaluated against the OGP’s criteria.

At this stage it is quite possible that NZ will end up as a bottom dweller in the OGP in terms of the level of ambition in its first Action Plan. The government needs to take the public consultation process more seriously by resourcing the SSC sufficiently to lead a more in-depth engagement with civil society, including over the make-up of the advisory group. It also needs to significantly increase the level of ambition in its first Action Plan by adding additional commitments to it during the first part of 2015.

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## Web sites:

New Zealand Open Government Partnership web site: <http://www.ssc.govt.nz/open-government-partnership>

Open Government Partnership home page: <http://www.opengovpartnership.org/>

## **Annex 1: The Full Set of Recommendations in the Transparency International New Zealand 2013 National Integrity System Assessment.**

### **Recommendation 1: Ministry of Justice to lead the development of a comprehensive National Anti-Corruption Strategy, developed in partnership with civil society and the business community, combined with rapid ratification of the UN Convention against Corruption (UNCAC).**

This is a matter of urgency to protect and address risks to New Zealand's integrity systems (Chapters 3 and 4, and reports on pillars 5 and 9 in Chapter 5).

The government should develop and implement a comprehensive National Anti-Corruption Strategy through broad and deep engagement with civil society, the business community, and the general public, as required by UNCAC (Appendix 3). The strategy should include the government's existing work plan in this area, but should be extended to cover all pillars in the NIS, and should aim to strengthen and protect our relatively high integrity society as a taonga and as a national asset. This should be combined with rapid implementation of the legislative changes required to enable New Zealand to fully comply with and then ratify UNCAC and to fully comply with the OECD Anti-Bribery Convention.

Specific components of the National Anti-Corruption Strategy should include.

- a up-dating and strengthening anti-bribery legislation, substantially increasing penalties for bribery and corruption, and considering the offence of misconduct in public office<sup>12</sup>
- b introducing a public register of trusts and of the beneficial owners of companies (section 13.2.1)
- c where there are gaps, extending requirements for public office holders in all branches of government to register pecuniary interests, declare assets, face restrictions on post-public office employment, and declare acceptance of gifts and hospitality (sections 1.2.5, 2.2.5, 2.2.6, 3.2.5, 7.2.5, 7.2.6)
- d reviewing the regulation of political party and candidate campaign financing, and the enforcement of the regulations
- e reviewing organisational and other options to improve the effectiveness of anti-corruption law enforcement and education
- f promoting more actively the importance and role of ethics
- g identifying priority areas for further research, monitoring, evaluation, and policy development with respect to identifying, measuring, preventing and reducing corruption.

**Recommendation 2: Ministry of Justice to develop, after wide public consultation, an ambitious cross-government New Zealand Action Plan for the international Open Government Partnership** (Chapter 1, Appendix 5). New Zealand's membership of the Open Government Partnership provides a clear opportunity for the Ministry of Justice, as New Zealand's designated lead agency, to initiate a broad multi-stakeholder process to develop a National Action Plan. Many of the recommendations in this report are potential elements in New Zealand's Open Government Partnership National Plan of Action.

### **Recommendation 3: Transparency and integrity need to be strengthened in a range of priority areas.**

- a Parliament
  - i Extend the coverage of the Official Information Act 1982 to the Parliamentary Counsel Office, officers of Parliament, the Speaker in the role of Responsible Minister for parliamentary agencies under the Public Finance Act 1989, the Office of the Clerk, and the Parliamentary Service (sections 1.2.1 and 4.2.1).
  - ii Strengthen parliamentary oversight of the executive, including through a review by Parliament of its select committee structure and consideration of establishing new cross-cutting specialist committees, for public accounts (sections 1.1.3 and 8.3.3), for treaties, and for human rights (section 1.1.3); providing select committees with more independent analytical support (sections 1.1.2, 1.1.4, 1.3.1, and 4.2.2).

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<sup>12</sup> See Chapter 4 for recent developments in this area

- iii Enhance the quality of legislation by more pre-legislative public disclosure of draft bills and the adoption by select committees of tests for legislative quality (section 1.2.4).
  - iv Introduce a code of conduct for members of Parliament (section 1.2.6).
  - v Introduce measures that provide an adequate degree of transparency to ensure that public officials, citizens, and businesses can obtain sufficient information on, and scrutinise lobbying of members of Parliament and ministers (section 2.2.6).
- b Political executive
- i Commission an independent review of the respective responsibilities of Cabinet, ministers, and public servants with a view to clarifying the conventions concerning the duty of, and capacity for, free and frank advice between the political executive and the public sector, to mark the centenary of the introduction of the merit-based public service in New Zealand (section 4.1.3).
  - ii Introduce a centralised approach to the systematic proactive release of official information, including Cabinet papers, by all public entities (section 4.2.2).
  - iii Initiate discussions with civil society and the business community on a general government-wide framework for timely consultation on the development of new policy initiatives and encouragement of direct public participation in policy development and implementation (section 12.3.2).
- c Local government
- i Initiate a national conversation on the constitutional place of local government (sections 4.1.2 and 4.1.3).
  - ii Develop a central government/local government protocol on the design and implementation of regulations where regulation-making powers have been delegated to local authorities (section 4.1.3).<sup>13</sup>

**Recommendation 4: The integrity of the permanent public sector, and its role in promoting integrity should be strengthened in a range of priority areas.**

- a Strengthen transparency and accountability for public procurement (section 4.3.3)
- i Extend proactive disclosure of project information, both upstream and downstream of tendering, including projects exempted from open tendering and without compromising commerciality.
  - ii Incorporate explicit anti-corruption provisions in procurement procedures and documents.
  - iii Build capacity, especially in smaller entities.
  - iv Improve requirements for record-keeping so that data on different types of procurement can be readily extracted, and also for complaint mechanisms.
  - v Publish principles, objective criteria, and a robust management framework for 'hybrid procurements' (section 4.2.2).
  - vi Conduct periodic reviews of transparency and integrity of spending and procurement in the Canterbury earthquake re-build in view of the scale of the procurements.
- b Strengthen integrity and accountability systems in public sector entity operations
- i Introduce greater transparency in the process for public appointments to boards of Crown entities and other public bodies, and strengthen the capacity of the public sector to nominate suitable candidates (sections 2.3.2 and 4.1.3).

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<sup>13</sup> As recommended by the Productivity Commission.

- ii Strengthen the Protected Disclosures Act for both the public and private sectors (section 4.2.6).
  - iii Introduce central reporting and monitoring of all misconduct and breaches of integrity within public entities, when they involve issues going to honesty and integrity (for example, suspected fraud, corruption, conflicts of interest, favouritism, and abuse of position) (section 4.2.5)
  - iv Institutionalise on-going regular integrity and conduct surveys across the public sector (section 4.2.6)
  - v Introduce central reporting, monitoring and knowledge-sharing between agencies on 'best practice' options and initiatives in fulfilling Treaty of Waitangi obligations (section 4.4.1)
  - vi Increase fiscal transparency and accountability by deepening the reporting of tax expenditures, publishing a Citizens' Budget, and investigating options for an independent body to advise Parliament on key fiscal strategy reports to deepen the public debate about fiscal policy (section 4.2.2).
  - vii Require public entities to publish management letters from the Office of the Auditor-General, and report to Parliament their responses to issues of significance identified in these letters, for consideration in the annual select committee reviews (section 8.2.2).
  - viii Actively promote the importance of ethics, transparency, accountability, and financial literacy among the public in New Zealand through civics education, including in the secondary and tertiary curricula (sections 13.2.1, 13.2.2 and 13.2.6, and 12.2.1).
  - ix Review the evidentiary status of Government Communications Security Bureau evidence provided to domestic law enforcement agencies (section 5.2.2).
- c Strengthen accountability in public policy processes
- i Develop and implement a new government strategy to promote 'evidence-based policy making',<sup>14</sup> including enhanced monitoring and evaluation of the impacts of government policies (section 4.3.3).
  - ii Introduce greater transparency about the anticipated effects of proposed departmental restructuring and institutional reform exercises in the public sector, and, *ex post*, their actual effects (section 4.2.3).
  - iii Enhance reporting on the social, economic, and environmental impacts of government regulation and spending (sections 4.2.2 and 8.3.1).
  - iv Commence regular, technically independent reporting on State of the Nation environmental indicators (section 4.2.2),<sup>15</sup> and reintroduce regular publication of the Social Report (section 4.2.2).

**Recommendation 5: Support, reinforce and improve the roles of key independent integrity agencies and bodies.**

- a Electoral management
  - i Review public funding of political parties, the allocation of broadcasting time to political parties and the restrictions on parties purchasing their own broadcast election advertising (section 10.1.1).

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<sup>14</sup> Consistent with the findings and recommendations in the report from the Prime Minister's Chief Science Advisor in September 2013. See [www.sciencemediacentre.co.nz/2013/09/03/sir-peter-gluckman-on-the-role-of-evidence-in-policy-making/](http://www.sciencemediacentre.co.nz/2013/09/03/sir-peter-gluckman-on-the-role-of-evidence-in-policy-making/)

<sup>15</sup> The government announced on 8 August its intention to introduce technically independent state of the environment reporting.

- ii Require greater transparency of the finances (including donations) of political parties (sections 10.2.1–10.2.4).
  - iii Strengthen the Electoral Act 1993 to make the lines clearer between legal and illegal activities and investigate the options for strengthening enforcement in response to complaints (sections 10.2.3, 10.2.4, and 5.1.3).
- b Judiciary
- i The judiciary should publish an annual report on its activities and performance (section 3.2.1).
  - ii Increase public access to information about the operation of the court system (section 3.2.1).
  - iii Enhance the transparency of the judicial appointment process (section 3.2.2).
- c The Ombudsman
- i Promote enhanced compliance with and understanding of the Official Information Act 1982, better processes for handling Official Information Act requests, and implementation of the Law Commission's recommendation for an Official Information Act oversight function as well as instituting a similar oversight function for the Ombudsmen Act 1975 (section 7.3.2).
  - ii Review in 2014/15 the adequacy of funding for the Office of the Ombudsman (section 7.1.1).

**Recommendation 6:** The business community, the media, and non-government organisations should take a much more pro-active role in strengthening integrity systems and addressing the risks of corruption as 'must-have' features of good governance. Specific actions include the following.

- a Business community
- i Raise awareness and understanding of the implications of the criminalisation of bribery of foreign public officials in the Crimes Act 1961 and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Chapter 3 and section 13.3.1).
  - ii Ensure adequate training on and awareness of corruption and integrity risks and their management and encourage the reporting of foreign and domestic bribery suspicions to the authorities (section 13.2.6).
  - iii Investigate and evaluate the costs and benefits to business from continual vigilance around maintaining and strengthening integrity systems.
  - iv Work with the Institute of Directors to encourage the highest standards of governance.
- b Media
- i Media industry self-regulatory and regulatory bodies should review and strengthen their integrity frameworks and promote adherence to them (sections 11.3.1 and 11.2.5).
  - ii The government should publish regular monitoring reports on the effectiveness and integrity of media industry regulation and self-regulation (sections 11.3.1 and 11.2.5).
- c Civil society:
- i Review the appropriateness of contractual and/or statutory restrictions on public advocacy by non-government organisations.
  - ii Educate the public on what information they should expect from non-government organisations.
  - iii Assess the need for capacity building of Māori organisations to enable them to contribute to local authority decision making in ways currently expected of them.

**Recommendation 7: Public sector agencies should conduct further assessments and research to strengthen integrity systems** over time. Priority areas are as follows.

- a Research to investigate the actual incidence of corruption in New Zealand, why it is occurring, and how it might best be reduced to supplement existing surveys on how exporters and importers of goods and services are managing bribery and corruption risks.
- b A review of possible causes of and responses to the role of structural discrimination in the over-representation of Māori in the criminal justice system (section 4.1.1).
- c Important sectors and institutions not assessed in this study, notably the state-owned enterprise sector and the Reserve Bank of New Zealand, should be independently bench-marked in the next 12 months against relevant international standards of transparency, public participation, integrity, and accountability.
- d Transparency and awareness relating to the Treaty of Waitangi should be increased by increasing the level of public education on the Treaty.