

# **Independent Reporting Mechanism**

Action Plan Review:  
Australia 2023–2025

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Open  
Government  
Partnership



Independent  
Reporting  
Mechanism

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## Section I: Overview of the 2023–2025 Action Plan

*Australia's third action plan includes promising commitments to introduce new legislation on automated decision-making by government, political donation transparency, and whistleblower protection. The action plan renewed Australia's engagement in OGP following a period of inactivity and re-engaged the Open Government Forum. However, a short co-creation timeline meant inadequate public engagement, especially with non-traditional and marginalised communities.*

This report evaluates the design of Australia's third action plan, which has eight commitments across six ministerial portfolios. This action plan renewed Australia's engagement in OGP. In 2020, the previous Liberal-National Coalition government co-created a draft action plan, but it was not submitted.<sup>1</sup> Following the 2022 election, the Labor government co-created this action plan of new commitments, many of which build on election commitments. Most commitments cover existing policy priorities already resourced by the government.

The action plan includes promising commitments on automated decision-making by government (Commitment 1) and transparency of political donations and truth in political advertising (Commitment 7), as well as whistleblower protection (Commitment 6). These seek to address long-standing open government policy areas. They also respond to public concern about government services such as Robodebt and the impact of mis- and dis-information in the 2022 federal election and the 2023 Voice referendum. Each of these commitments intends to progress potentially impactful legislative reforms. Additional milestones, such as codes of conduct and considering changes to processes, are recommended as a safeguard to achieve open government results should Parliamentary authority not be secured.

Commitments on youth advisory groups (Commitment 2), integrity strategy (Commitment 3), beneficial ownership (Commitment 4), procurement and grants (Commitment 5), and mis- and dis-information (Commitment 8) have modest or unclear potential for results. Commitment 3 could strengthen its potential for results by ensuring that the integrity

### AT A GLANCE

**Participating since:** 2015  
**Number of commitments:** 8

**Overview of commitments:**  
Commitments with an open government lens: 8 (100%)  
Commitments with substantial potential for results: 2 (25%)  
Promising commitments: 3

**Policy areas:**  
Carried over from previous action plans:

- Beneficial ownership reform
- Whistleblower protection
- Political donations
- Integrity strategy
- Procurement

Emerging in this action plan:

- Automated decision-making transparency
- Youth
- Truth in political advertising
- Countering mis- and dis-information

**Compliance with OGP minimum requirements for co-creation:**  
No

strategy is binding, ambitious in scope, and implemented and monitored during the action plan period. Commitment 4 could incorporate the government’s wider beneficial ownership program to strengthen the ambition of these reforms. Regarding Commitments 2, 5, and 8, the IRM recommends clarifying their scopes to ensure that they pursue work that goes beyond practices and plans already previously announced or undertaken.

The process for developing the action plan did not meet the minimum requirements of the OGP Participation & Co-Creation Standards that came into effect in 2022. The timeline for the co-creation process was published after the co-creation process had started, and the public’s suggestions for the action plan did not receive a reasoned response. OGP instituted a 24-month grace period to ensure a fair and transparent transition to these updated standards. As this action plan was co-created and submitted before 31 December 2023, it falls within the grace period and accordingly, the procedural consequences that normally attach to non-compliance with the standards do not apply here. Australia was found to be acting contrary to OGP process during its previous two action plan cycles.<sup>2</sup>

The Open Government Point of Contact role transferred from the Department of the Prime Minister and Cabinet to the Attorney-General’s Department (AGD), following the May 2022 Federal election. In April 2023, after public applications, AGD formed a new multistakeholder Open Government Forum (OGF) of equal numbers of civil society and government members and two co-chairs.<sup>3</sup> OGF included engagement at the ministerial level. The process of re-engaging OGF, along with AGD staff responsibilities establishing a National Anti-Corruption Commission (NACC),<sup>4</sup> contributed to delays starting the co-creation process. Co-creation began in April 2023 and ended in December, led by AGD and OGF. To gather public input on the action plan, the AGD Consultation Hub distributed two online surveys (from 21 August to 17 September, and from 9 November to 22 November), but only received 32 responses<sup>5</sup> and 10 responses<sup>6</sup> respectively. Opportunities to participate were publicised in an information webinar and on AGD social networks. Over six weeks, three OGF working groups co-created the commitments, focused on public participation and engagement in government, strengthening government and corporate sector integrity, and enhancing Australia’s democratic processes. The working groups consulted with external stakeholders, many from academia. OGF narrowed the working groups’ twelve final proposals to eight commitments. These commitments had mostly been proposed by government agencies. This decision prioritized commitments that were considered achievable over 2024–25 and constrained the action plan’s open government breadth. OGF members were generally disappointed about this decision.<sup>7</sup>

Initial themes proposed by OGF members—covering public NACC hearings, decisions to go to war, and work to counter violent extremism—did not gain sufficient OGF support to be considered further by the working groups. A number of other unsuccessful themes will potentially be considered for the fourth action plan, including proactive disclosure culture, public sector board appointments, open data, public engagement skills, and protection of rights.<sup>8</sup> Other suggested themes on lobbying, citizens’ budgets, and peoples’ ability to move between the public and private sectors did not progress.

The OGF civil society members applauded the AGD’s and the co-chairs’ leadership and ability to meet a tight timeline but would have preferred an earlier start. They were disappointed that consultation with stakeholders and experts relied on the working groups’ outreach over a short period. They reflected that there was a need for stronger outreach or a media campaign to elicit

wider engagement across Australia in the co-creation process.<sup>9</sup> Groups representing non-traditional and marginalized communities appeared unaware of the AGD’s open government website, Consultation Hub, and social media sites.<sup>10</sup> AGD notes that the public consultation occurred at the same time as the Voice Referendum, and that they were requested by some civil society organizations not to overload them at that time. As the first OGP cycle led by AGD, they reported being eager to correct any problems in consultation practices.<sup>11</sup> In future co-creation processes, the positive steps which ensured equal participation by OGF’s government and civil society members could be augmented to widen public engagement. Bringing in diverse voices and communities and providing a longer timeline for consultation would illustrate the added value of the OGP process. A more even mix of government and civil society commitments could also be achieved.

Overall, the IRM recommends that the OGF focuses on creating more detailed commitment milestones and on ensuring implementation meets the open government expectations of its civil society members and the public at large. For example, the members of each working group could engage actively in the rollout of the commitments their working group developed. This would continue the collaborative work co-creating the commitments. As the electoral midterm has been reached, and the next Federal House of Representatives election must be held on or before 24 May 2025 to coincide with a half-Senate election,<sup>12</sup> oversight of milestones and work to achieve results are necessary. Connecting with related efforts such as the Strengthening Democracy Taskforce,<sup>13</sup> Closing the Gap 2024’s collaborative work,<sup>14</sup> or the new Data and Digital Government Strategy and Implementation Plan work,<sup>15</sup> which builds on previous action plans, could assist with progress.

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<sup>1</sup> The previous government’s co-creation of third action plan,

“Australia’s third Open Government national action plan: Create Phase report”

(10 Jul. 2020) is available via snapshots on Trove (accessed 24 Mar. 2024),

<https://webarchive.nla.gov.au/awa/20201115151807/http://pandora.nla.gov.au/pan/40787/20201115-0000/apo.org.au/node/307405.html>.

<sup>2</sup> Sanjay Pradhan (OGP CEO), letter to Hon. Mark Dreyfus (Aus. Attorney-General), 9 Feb. 2023.

[https://www.opengovpartnership.org/wp-content/uploads/2023/02/Australia\\_Under-Review-Letter\\_20230209.pdf](https://www.opengovpartnership.org/wp-content/uploads/2023/02/Australia_Under-Review-Letter_20230209.pdf).

<sup>3</sup> Mark Dreyfus MP, “Appointment of Open Government Forum members” (Mark Dreyfus, ALP, 5 Apr. 2023),

<https://markdreyfus.com/media/media-releases/appointment-of-open-government-forum-members-mark-dreyfus-kc-mp/>.

<sup>4</sup> Commonwealth of Australia, “The National Anti-Corruption Commission” (accessed 12 Mar. 2024),

<https://www.nacc.gov.au/>.

<sup>5</sup> Australian Government: Attorney-General’s Department, “Open Government Partnership Phase 1: Published Responses” (accessed 12 Mar. 2024),

[https://consultations.ag.gov.au/integrity/open-government-partnership/consultation/published\\_select\\_respondent](https://consultations.ag.gov.au/integrity/open-government-partnership/consultation/published_select_respondent).

<sup>6</sup> Australian Government: Attorney-General’s Department, “Open Government Partnership Phase 2: Feedback updated 15 Dec 2023” (accessed 12 Mar. 2024), <https://consultations.ag.gov.au/integrity/ogp/>.

<sup>7</sup> Kate Auty (OGF Co-chair), interview by IRM researcher, 12 Dec 2023; Kyle Redman (OGF member), interview by IRM researcher, 1 Feb 2024; Anne Twomey (OGF member), interview by IRM researcher, 6 Feb 2024; Anooshe Mushtaq (OGF member), interview by IRM researcher 7 Feb 2024; Charles Sampford (OGF member), interview by IRM researcher, 8 Feb 2024; Clancy Moore (OGF member), interview by IRM researcher, 20 Feb 2024; Liz Tydd (OGF member), interview by IRM researcher, 20 Feb 2024; and Tania Penovic (OGF member), interview by IRM researcher, 23 Feb 2024.

<sup>8</sup> Australian Government: Attorney-General’s Department, *Australia’s Third Open Government Partnership National Action Plan 2024–2025* (Commonwealth of Australia, 2023),

<https://www.ag.gov.au/sites/default/files/2023-12/australias-third-open-government-national-action-plan-2024-2025.pdf>.

<sup>9</sup> Kyle Redman (OGF member), interview by IRM researcher, 1 Feb. 2024; Anooche Mushtaq (OGF member), interview by IRM researcher, 7 Feb. 2024; and Charles Sampford (OGF member), interview by IRM researcher, 8 Feb. 2024.

<sup>10</sup> See Phase 1 and Phase 2 public submissions. Australian Government: Attorney-General's Department "Consultation Hub" (accessed 14 Apr. 2024), <https://consultations.ag.gov.au/>.

<sup>11</sup> Simon Newnham (Government Co-chair) and Liz Brayshaw (Newnham's delegate when he was unable to attend an OGF meeting), interview by IRM researcher, 22 Feb. 2024.

<sup>12</sup> Wikipedia, "Next Australian federal election" (accessed 12 Mar. 2024), [https://en.wikipedia.org/wiki/Next\\_Australian\\_federal\\_election](https://en.wikipedia.org/wiki/Next_Australian_federal_election).

<sup>13</sup> Australian Government Department of Home Affairs, "Strengthening Democracy Taskforce" (last updated 13 Mar. 2024), <https://www.homeaffairs.gov.au/about-us/taskforces/strengthening-democracy-taskforce>.

<sup>14</sup> Commonwealth of Australia, *Commonwealth Closing the Gap 2023 Annual Report and Commonwealth Closing the Gap 2024 Implementation Plan* (2024), <https://www.niaa.gov.au/sites/default/files/publications/ctg-annual-report-and-implementation-plan-hq.pdf>.

<sup>15</sup> Commonwealth of Australia, *Data and Digital Government Strategy* (15 Dec. 2023), <https://www.dataanddigital.gov.au/sites/default/files/2023-12/Data%20and%20Digital%20Government%20Strategy%20v1.0.pdf>.

## Section II: Promising Commitments in Australia 2023–2025 Action Plan

The following review looks at the three commitments that the IRM identified as having the potential to realize the most promising results. Promising commitments address a policy area that is important to stakeholders or the national context. They must be verifiable, have a relevant open government lens, and have modest or substantial potential for results. This review also provides an analysis of challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

**Table 1. Promising commitments**

| Promising Commitments  |
|--|
| <b>Commitment 1. Automated Decision-Making (ADM) Transparency.</b> This commitment seeks to establish governance mechanisms for safe and responsible use of automated decision-making through new legislation protecting the use of personal information in ADM decisions, as well as a legislative framework for ADM. |
| <b>Commitment 6. Whistleblower Protection.</b> This commitment seeks to clarify the public sector whistleblowing framework and further protect whistleblowers.   |
| <b>Commitment 7. Political Donation Transparency and Political Advertising Truth.</b> This commitment seeks to make the source of political donations more public and require truthful political advertising through new legislation.  |

**Commitment 1. Automated Decision-making Transparency.** *Attorney-General’s Department; Office of the Commonwealth Ombudsman.*

For a complete description of the commitment, see commitment 1 in [Australia’s Open Government Partnership National Action Plan 2023-2025](#).

### Context and objectives:

This commitment, proposed by government members, but reflecting a growing public concern acknowledged by OGP civil society members,<sup>1</sup> aims to address wide concerns across Australia about decisions the government makes using automated decision-making (ADM). Aligning with government work already underway, it responds to Recommendation 17.1 in the July 2023 Royal Commission report on the Robodebt scheme.<sup>2</sup> Over a period of six years, the scheme automatically matched data welfare recipients provided to Centrelink with data from the Australian Tax Office and sent out letters erroneously demanding people pay back thousands of dollars to the government. This resulted in very serious social consequences, including cases of suicide.

The commitment’s first three milestones were implemented in 2023, prior to this action plan’s formal implementation period: releasing the Artificial Intelligence (AI) in the Government Taskforce’s updated Interim Guidance on the use of public generative AI tools for agencies in November,<sup>3</sup> releasing the government’s response to the Privacy Act Review report in September,<sup>4</sup> and releasing the government’s response to the Royal Commission’s Robodebt report in November.<sup>5</sup> Both responses plan for legal reforms that the commitment intends to carry out during the implementation period.

**Potential for results: Substantial**

This commitment seeks to re-establish public trust in government’s use of ADM through new legislation protecting the use of personal information in ADM decisions, as well as a legislative framework for ADM. This is a priority for Australians, as evidenced by the volume and range of submissions to the Royal Commission and the issues raised in the Senate’s earlier public inquiries on the Robodebt scheme.<sup>6</sup> According to the Law Council, the community sector, including community legal assistance, and the many Australians who were affected by Robodebt, were responsible for bringing the issues raised by the scheme to the fore.<sup>7</sup> When accepting the recommendations of the Royal Commission, the Government Services Minister emphasized the importance of ensuring Robodebt cannot happen again, recognizing the toll it took on those who took their own lives, and on their families.<sup>8</sup> The legislation to be introduced by this commitment is expected to ensure that individuals can request meaningful information about how automated decisions are made when using personal information.

Initially, the commitment plans to introduce new legislation protecting personal information, including when ADM is used, in 2024. The Attorney-General’s Department (AGD) has clarified that the legislation will be accompanied by guidance to agencies and that the Office of the Information Commissioner (OAIC) will continue to advise the public on this matter.<sup>9</sup> The Privacy Act Review response committed the Government to reforms that will provide stronger privacy protections while encouraging digital innovation.<sup>10</sup> Proposal 19.1 of the government’s response requires regulated entities to ensure that their privacy policies set out the types of personal information that will be used in “substantially automated decisions” which have a legal or otherwise significant effect on an individual, and Proposal 19.3 proposes that individuals have a right to request meaningful, jargon-free, and clear information about how automated decisions are made that have a legal (or similarly significant) effect on an individual’s rights.<sup>11</sup> The media notes that these proposals are modelled on Article 22 of the European Union’s General Data Protection Regulation (GDPR)<sup>12</sup> but would apply to a wider range of automated decision-making than under the GDPR, which applies to solely automated, rather than substantially automated, decisions.<sup>13</sup>

In 2025, the commitment plans to introduce and implement a transparent whole-of-government legislative framework for ADM, focused on ethical and safe automation in government services, along with developing guidance material and advice to agencies. Led by AGD, it will be developed through consultation with government, targeted external stakeholders and through public consultation in 2024-25. The government’s response to the Royal Commission stated that it will consider opportunities to ensure a consistent clear and transparent legal framework for making government decisions involving automation, harnessing technological advances in artificial intelligence and automation, and develop a comprehensive and consistent legal framework to support automated decision-making, consistent with the principles recommended by the Royal Commission.<sup>14</sup>

Civil society members of OGF who provided feedback on this commitment recognized the scale and clarity of its milestones, through the proposed legislation introducing binding change.<sup>15</sup> Although the commitment does not offer assurances on the particular scope of intended legislation, in May 2024, the Attorney General described the scope of the Privacy Act reform which will be introduced in August 2024.<sup>16</sup> The government has agreed that the types of personal information to be used in substantially automated decisions which have a legal or similarly



significant effect on an individual's rights should be clearly outlined in privacy policies.<sup>17</sup> In June, the Administrative Review Tribunal Act 2024 was enacted. This Act replaced the Administrative Appeals Tribunal with the Administrative Review Tribunal and re-established the Administrative Review Council to support ongoing improvements to administrative decision-making across government.<sup>18</sup> As an independent body, the Council has the power to determine matters for inquiry relating to the Council's functions. The May 2024 announcement of the next Australian Information Commissioner continues to provide assurance that government guidance ensuring appropriate promotion and protection of information access and privacy rights will continue to be a top priority.<sup>19</sup>

Should the government continue to progress this level of legislative change relating to governing ADM in government, enhancing transparency and protecting personal information, and improving non-legislative governance capability and guidance, the potential for results from this commitment would be substantial.

### **Opportunities, challenges, and recommendations during implementation**

The government is well placed to progress this commitment's ADM transparency. Under Australia's Drafting Directions, the Transparency and Administrative Law (TAL) Branch of the AGD is empowered to design the commitment's new legislation.<sup>20</sup> The commitment will also benefit from parallel work by the AI in Government Taskforce.<sup>21</sup> In addition, the government established a new Artificial Intelligence Expert Group in February 2024 to provide advice to the Department of Industry, Science and Resources on immediate work on transparency, testing, and accountability, including options for AI guardrails in high-risk settings.<sup>22</sup> The main challenge for this commitment is to formulate legislation that addresses both privacy protection and the open government value of transparency.

Extra non-legislative milestones, which build on the government's parallel ADM work, could assist with developing and implementing a whole-of-government ADM policy framework, regardless of whether the ADM legislative framework is passed in full. To support this commitment's implementation and to fully utilise this action plan's two-year period, the IRM recommends:

- Consult widely while drafting the new pieces of legislation. Include non-traditional platforms to ensure the needs of as broad a constituency as possible are met, and report back to submitters on adoption of their advice.
- For the new legislation protecting personal information, prepare common principles for the law-drafting process that mandate a legislative outcome that meets both privacy protection and transparency considerations. In addition, consider drawing up and introducing a mandatory code of conduct or other binding non-legislative measures in relation to the use of ADM, which would either complement the legislation or establish a satisfactory non-legislative outcome.
- Require the AGD and/or the Commonwealth Ombudsman to provide guidance material and advice to agencies on ADM irrespective of whether the full legislative framework is implemented.
- Consider international ADM guidance for adoption or adaptation, for example, Canada's Directive on Automated Decision-Making,<sup>23</sup> and New Zealand's Automated Decision-Making Standard.<sup>24</sup>

### **Commitment 6. Whistleblower Protection.**

*Attorney-General's Department; Office of the Commonwealth Ombudsman.*

For a complete description of the commitment, see commitment 6 in [Australia's Open Government Partnership National Action Plan 2023-2025](#).

**Context and objectives:**

Both OGF civil society members and the government proposed improving whistleblower protection. This commitment adopts existing government work to reform the Public Interest Disclosure Act 2013 (PID Act), which established the Commonwealth public sector whistleblowing scheme and is administered by the Attorney-General's Department (AGD) and overseen by the Office of the Commonwealth Ombudsman (Ombudsman). The Inspector-General of Intelligence and Security (IGIS) oversees the six intelligence agencies subject to the Act. Other federal frameworks provide whistleblower protections for non-government sectors.<sup>25</sup> An independent statutory review of the PID Act was carried out in 2016 by Philip Moss AM,<sup>26</sup> followed by parliamentary, government, and academic reports from 2017 to 2023.<sup>27</sup> The Moss Review stated that few individuals who had made PIDs reported that they felt supported. Some felt that their disclosure had not been adequately investigated or that their agency had not adequately addressed the conduct reported. Many disclosers reported experiencing reprisal as a result of bringing forward their concerns. The review concluded that, in its two-and-a-half years of operation, the PID Act had brought wrongdoing to light and helped agencies understand wrongdoing and respond appropriately, but only to a limited extent. It made 33 reform recommendations.

By 2023, Australia's whistleblower protection laws were still falling behind, according to research published by Griffith University, the Human Rights Law Centre, and Transparency International Australia.<sup>28</sup> The Human Rights Law Centre reported in August 2023 that it had examined 78 separate cases in which whistleblowers sought protection under federal and state whistleblowing regimes and that none of these cases succeeded.<sup>29</sup> It concluded that Australian whistleblowing laws are not working as intended and set up its own whistleblower legal support service.<sup>30</sup>

The commitment's first milestone, Stage 1 of the government's PID reform program, was completed in 2023, prior to this action plan's formal implementation period. It implemented 21 of the Moss Review's recommendations, including providing the Ombudsman and the IGIS with new powers to oversee the operation of the PID scheme, supporting disclosures of corrupt conduct to the new National Anti-Corruption Commission (NACC), which commenced its activities in July 2023,<sup>31</sup> and a new requirement for the Commonwealth Ombudsman to report on the operation of the PID Act every 6 months.<sup>32</sup> The second milestone, public consultation on Stage 2, took place from 16 November to 22 December 2023 as the action plan was being formally approved.<sup>33</sup>

**Potential for results: Modest**

Stage 2's reforms include consideration of outstanding recommendations from the Moss Review, recent parliamentary reports, external reviews and reports from stakeholders. The November 2023 public consultation document covered issues such as making a disclosure within government, pathways to making disclosures outside government, clarity of the PID Act, oversight and integrity agencies, considering a potential Whistleblower Protection Authority or Commissioner, and protections and remedies under the PID Act.<sup>34</sup> The commitment's milestones include consulting with the public and developing and implementing legislative reforms and non-legislative measures such as training and education.

Some OGF civil society members noted that whistleblower protection is a priority for Australia's open government stakeholders.<sup>35</sup> This reform area was also highlighted as a priority by the 10 respondents to the action plan's online Phase 2 survey; it ranked 2<sup>nd</sup> overall out of eight commitments. Several of the online Phase 1 survey's 32 public respondents also sought a whistleblower protection program, improved whistleblower legislation, and dropping current prosecutions of whistleblowers.<sup>36</sup>

Should the commitment's reforms cover key areas identified by civil society, they could address sizeable gaps in whistleblower protection. Griffith University, the Human Rights Law Centre, and Transparency International Australia's research proposed 12 key areas of reform spanning effective administration and enforcement of the laws, ensuring the laws contain consistent, best practice protections, and making sure thresholds and limitations in the laws are workable. It drew these areas of reform from the recommendations of all public disclosure reviews since 2015. The proposals seek consistency across all federal whistleblowing laws to address the current "complex web of gaps and inconsistencies" and align Australia with international best practices.<sup>37</sup> In addition, some OGF civil society members proposed broadening the PID Act beyond the scope of federal government contractors and to include provision that a percentage of any financial penalty resulting from a public interest disclosure be paid to the whistleblower.<sup>38</sup>

However, while this is a promising area for reform, the commitment has modest potential for results given lack of detail on the legislation to be introduced beyond the issues set out in the November 2023 public consultation document. Transparency International Australia noted that, as to date, the government has not specified the particular options for reform that will be pursued under Stage 2, it is expected to only modestly improve whistleblower protection, compared to Stage 1.<sup>39</sup> Results will depend on the ambition and nature of the final proposals and whether they secure parliamentary approval. The challenge will be to gain cross-party political support for stronger legislative protections for whistleblowers, impartial reporting of whistleblowing, and how protection for any national security situations is addressed.

### **Opportunities, challenges, and recommendations during implementation**

This commitment provides an opportunity to fully address public demand for more comprehensive support of public sector whistleblowers and the establishment of an independent authority,<sup>40</sup> and looks ahead to future work covering the private sector. The 2023 AGD consultation document's questions regarding both legislative reform and non-legislative measures such as training, education, and other support acknowledge the complexity of this policy area and augur well for a successful outcome. They also anticipate future government work on the private sector whistleblowing scheme, as proposed by OGF civil society members.<sup>41</sup> To support this commitment's implementation, stakeholders can make use of whistleblower advice released by the OGP in 2020.<sup>42</sup> The IRM also recommends:

- Provide public, detailed feedback to consultation submitters on how their submissions were used in the final reforms. Address the criteria used for deciding how feedback is incorporated.
- Ensure that any legislation and non-legislative measures are mandatory.
- Fully consider the recommendations of the *Protecting Australia's Whistleblowers: The Federal Roadmap*, covering 12 key areas of reform.<sup>43</sup>

- Create an open data website to offer greater transparency of the value of whistleblowing. Frequently publish non-personal aggregate data on the numbers of disclosures and the time taken to review these disclosures.

### **Commitment 7. Political Donation Transparency and Political Advertising Truth.**

*Department of Finance Electoral and Superannuation Policy/Governance*

For a complete description of the commitment, see commitment 7 in [Australia's Open Government Partnership National Action Plan 2023–2025](#).

#### **Context and objectives:**

Part XX of the Commonwealth Electoral Act 1918 specifies public funding of federal election campaign arrangements and disclosure of the funding source. There is currently no legal requirement for the content of political advertisements to be factually correct. Political advertising is regulated by the Broadcasting Services Act 1992 and the Commonwealth Electoral Act 1918, which cover the access, timing, identification, and authorization of political advertising, but not the content or opinions expressed in each advertisement. The Australian Communications and Media Authority and the Australian Electoral Commission have responsibility for ensuring these laws regarding attribution are followed.<sup>44</sup> Long term civil society concern about the efficacy of this legislation is reflected in the fact that all of Australia's OGP action plans have sought greater transparency of election and party-political funding.<sup>45</sup>

This commitment's stated ambition is to support representative democracy by assisting the public in exercising their franchise to make informed judgements about candidates, political parties, and other actors seeking to influence election outcomes. It aggregates commitment proposals from the OGP's Strengthening Democratic Processes Working Group. It builds on electoral system reform work commenced by the government following the 2022 federal election, and responds to the political funding and governing truth in political advertising recommendations in the June 2023 Interim Report of the Joint Standing Committee on Electoral Matters into the 2022 Federal Election.<sup>46</sup> This report recommended lowering donation disclosure thresholds, expediting reporting of donations, capping political donations and electoral expenditure, establishing campaign accounts, introducing a new system of campaign funding, and governing "truth" in political advertising. The final report, released in November 2023, discussed electoral reform, and made further recommendations on donations to charities, terminology, and media blackout.<sup>47</sup>

The commitment commenced its first three milestones prior to the action plan's official implementation period. In November 2023, the government responded to the interim report<sup>48</sup> and made an initial response to the final report (a full response will be released during the implementation period),<sup>49</sup> expressing its intention to undertake legislative action on money in politics in a consultative manner. The commitment description advises that work to secure multi-partisan parliamentary support for legislative reform has started. With that support, the commitment intends to introduce legislation to the 47<sup>th</sup> Parliament in 2024, during the action plan's implementation period. Full implementation of this commitment before the next election would require passage of the legislation before the next election, which must be held on or before 24 May 2025 to coincide with a half-Senate election.<sup>50</sup>

**Potential for results:** Substantial

Results for this commitment rely on the successful passage of legislation on transparency in political donations and truth in political advertising. The government’s intention to secure electoral reform has been in the public sphere since July 2022.<sup>51</sup> The scope is set out in the commentary and detailed recommendations 1–10 in the June 2023 interim report<sup>52</sup> and 11–13 in the November 2023 final report.<sup>53</sup> The Special Minister of State, during the Senate’s examination of estimates in October 2023, advised that he was working with all of the groups in the parliament to get a suite of electoral reforms before the next election. These reforms include reducing the donation disclosures figure, requiring real-time disclosure, and making progress on truth-in-advertising laws, which involves considering the South Australian government’s model.<sup>54</sup> Some more details were reported by the media on 12 March 2024 and were described as a “radical electoral overhaul”.<sup>55</sup> The actual detail of this legislation will be known when the Parliamentary process commences.

Public concern about truth in political advertising was evident during Australia’s unsuccessful October 2023 referendum to change the Constitution and has continued. This Constitutional reform would have recognized the First Peoples of Australia by establishing a body called the Aboriginal and Torres Strait Islander Voice.<sup>56</sup> The special exit poll by the Australia Institute revealed that nine in ten Australians support truth in political advertising laws, regardless of how they voted in the referendum or their political affiliations.<sup>57</sup> It reported support for the federal parliament to follow the example set by South Australia and the Australian Capital Territory and to enact laws to protect voters from misleading and harmful electoral conduct.

External analysis of annual political returns, released by the Australian Electoral Commission in February 2024,<sup>58</sup> show between 21% and 27% of donations and other receipts to Labor, the Coalition, and the Greens were from unnamed sources.<sup>59</sup> Hidden money amounting to \$1.38 billion was identified over the past two decades.<sup>60</sup> Civil society organizations observe that this is the government’s next big test on integrity and that the donation laws must be fixed before the next election in 2025.<sup>61</sup> OGF’s civil society members affirmed the importance of this commitment’s potential for results on Australia’s open governance. AGD engagement in the commitment influenced their confidence. They noted that this commitment could illustrate Australia’s open government leadership internationally. They also confirmed the public’s desire for substantial change.<sup>62</sup> The commitment was ranked 1st out of eight by the ten members of the public who responded to the action plan’s Phase Two online survey. Several of the online Phase 1 survey’s public respondents also favoured limits to political donations.<sup>63</sup>

In March 2024, the media reported that the government was expected by mid-year to introduce legislation capping electoral spending and donations and authorizing new powers for an independent regulator to enforce truth in political advertising. The media also reported that the Prime Minister had met with crossbenchers, suggesting that the “truth laws and caps” could be legislated this term but not applied until after the next election.<sup>64</sup> It reported that a comment from the Opposition leader that truth in political advertising is “probably welcome” signals that the Opposition Coalition may support new laws to safeguard elections. (Earlier reports in February 2024 had indicated significant work was needed to achieve multi-partisan support for the legislation.<sup>65</sup>) Further support for the government could be gained from Parliament’s Independent MPs. For example, in November 2023, a Federal Independent MP introduced a private member’s bill to parliament to stop lies in political advertising—the Commonwealth Electoral Amendment (Voter Protections in Political Advertising) Bill 2023—aiming to bring greater integrity to the political process.<sup>66</sup> The MP urged all sides of politics to get on board.<sup>67</sup>

Should the government achieve the level of legislative change it is seeking, the potential for results would be substantial, including increased transparency of political donations, more truthful political advertising and, ultimately, increased trust in government.

### **Opportunities, challenges, and recommendations during implementation**

Achieving this result is reliant initially on the government’s response in 2024 to the Final Report of the Joint Standing Committee on Electoral Matters and on gaining subsequent cross-party agreement for legislative change in both the House of Representatives and the Senate. Some OGF members’ concern—about this change being dependent on political decisions—reinforces the need for government to gain multi-partisan support before introducing the legislation. Negotiations to date appear to signal the government is gaining this support.

While this significant reform depends on legislative strength, adding extra non-legislative milestones to this commitment could ensure modest change, even if the legislation is not passed. For example, Australia could strengthen electoral enforcement processes, update political advertising processes, and learn from other OGP countries, such as Croatia’s political funding disclosure website, which has contributed to improved public monitoring and oversight by authorities.<sup>68</sup> To support this reform, the IRM recommends implementers consider non-legislative measures that require greater transparency of existing political donations and more resourcing to counter mis- and dis-information which is affecting political advertising by:

- Strengthening the Electoral Commission’s enforcement division.
- Creating an open-data website that publishes current annual returns of political donations and any future regular real-time releases.
- Reviewing and updating current political advertising oversight processes.
- Applying the powers of the new National Anti-Corruption Commission to facilitate the detection of corrupt behaviour, taking into account Sections 11–13 of the National Anti-Corruption Commission Act 2022.<sup>69</sup>

### **Other commitments**

Commitments that the IRM did not identify as promising are discussed below. This review’s recommendations aim to contribute to the learning and implementation of these commitments. Commitments 2, 3, 4, 5, and 8 as written have unclear or modest potential for results.

There is no clear plan to expand the use of Commitment 2’s Youth Advisory Groups to consider open government issues. The IRM recommends that, during the term of their current engagement, the newly announced 2024 First Nations Education Youth Advisory Group incorporates into its program discussion of how to improve media literacy to counter the impacts of dis- and misinformation, and the 2024 Civic Engagement Youth Advisory Group discusses how to test public participation and engagement options such as citizen assemblies.<sup>70</sup> The government has advised that in the future, to deepen engagement with young people on OGP’s open government challenge areas,<sup>71</sup> Australia’s Office for Youth will ask Australian government agencies to consider the connection with these challenge areas at the time when they nominate to participate in the Youth Advisory Group programme each year, based on their need to engage young people on a current program, policy, or initiative that is being developed.<sup>72</sup> The IRM recommends that work incorporating open government challenge areas into the Youth Advisory Group programme is carried out during this action plan’s implementation period.

Commitment 3's link to the Australian Public Service Review, a commitment in the second action plan, is noted. However, no public consultation on the Integrity Strategy for the Commonwealth Public Sector is planned. It is also unclear how it will be implemented, whether it will be binding, and how it will impact practice. Additional milestones in 2025 to implement and monitor the uptake of the strategy would raise its potential for results.

Commitment 4's actions to consult initially on data standards to underpin beneficial ownership disclosure requirements and then on future beneficial ownership reform legislation are positive standalone initiatives. They are steps in the government's wider commitment to implement a public beneficial ownership register for companies and other legal vehicles as part of its Multinational Tax Integrity Package.<sup>73</sup> The Treasury advises that further funding to advance this policy measure was provided at the Mid-Year Economic and Fiscal Output (MYEFO) 2023/24 and Budget 2024/25 and that the government proposes that the disclosure of beneficial ownership information of trusts in the corporate ownership will be included as part of this reform.<sup>74</sup> This commitment takes a modest step within the government's wider beneficial ownership reforms. The IRM advises that incorporating the wider program in this OGP commitment could benefit the ambition of Australia's beneficial ownership reform.

Several civil society OGF members see Commitment 5 as having the potential to improve transparency and expose corruption in public procurement. However, its milestones do not clearly define what changes are planned and suggest a continuation of existing work. Milestones to require proactive release of procurement data and to assess the impact of Australia's application of the Open Contracting Standard, introduced in an earlier action plan, would raise its potential.

Commitment 8 plans to activate civic participation by culturally and linguistically diverse (CALD) communities by improving their media literacy and reducing vulnerability to mis- and dis-information. A partnership between the government and the Federation of Ethnic Communities' Councils of Australia will work to help communities critically engage with the information publicised through media channels (including false narratives) and also raise government officials' knowledge base of CALD communities' media habits. The IRM recommends clarifying this program's scope, to ensure an ambitious reach compared to previous interventions countering mis- and dis-information.

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<sup>2</sup> Royal Commission into the Robodebt Scheme, "Report" (7 Jul. 2023), <https://robodebt.royalcommission.gov.au/publications/report>.

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<sup>4</sup> Australian Government: Attorney-General's Department, "Government response to Privacy Act Review Report" (last updated 16 Feb. 2024), <https://www.ag.gov.au/rights-and-protections/publications/government-response-privacy-act-review-report>.

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- <sup>9</sup> Commitment 1 Agency Leads, interview by IRM researcher, 12 Mar. 2024.
- <sup>10</sup> Australian Government: Attorney-General’s Department, “Government response to Privacy Act Review Report” (last updated 16 Feb. 2024) <https://www.ag.gov.au/sites/default/files/2023-09/government-response-privacy-act-review-report.PDF>; p11
- <sup>11</sup> Australian Government: Attorney-General’s Department, “Government response to Privacy Act Review Report” (last updated 16 Feb. 2024), p32
- <sup>12</sup> Intersoft Consulting, “General Data Protection Regulation, GDPR” (accessed 13 Mar. 2024), <https://gdpr-info.eu/>.
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<sup>30</sup> Human Rights Law Centre, “Whistleblower Project” (accessed 25 Mar. 2024), <https://www.hrlc.org.au/whistleblower-project>.

<sup>31</sup> Australian Government: Attorney-General's Department, *Public sector whistleblowing reforms Stage 2 – reducing complexity and improving the effectiveness and accessibility of protections for whistleblowers. Consultation paper*, 5.

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<sup>35</sup> Auty, interview; Redman, interview; Twomey, interview; Mushtaq, interview; Sampford, interview; Moore, interview; Tydd, interview; Penovic, interview.

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<sup>38</sup> Auty, interview; Redman, interview; Twomey, interview; Mushtaq, interview; Sampford, interview; Moore, interview; Tydd, interview; Penovic, interview.

<sup>39</sup> Clancy Moore (Transparency International Australia), correspondence with IRM researcher, 27 Mar. 2024.

<sup>40</sup> Sarah Basford Canales and Christopher Knaus, “Albanese government to consider further whistleblower protections amid calls for ‘robust’ dedicated authority” (*The Guardian*, 16 Nov. 2023), <https://www.theguardian.com/australia-news/2023/nov/16/albanese-government-to-consider-further-whistleblower-protections-amid-calls-for-robust-dedicated-authority>.

<sup>41</sup> Australian Government: Attorney-General's Department, *Public sector whistleblowing reforms Stage 2 – reducing complexity and improving the effectiveness and accessibility of protections for whistleblowers. Consultation paper*, 3, 7, [https://consultations.ag.gov.au/integrity/pswr-stage2/user\\_uploads/consultation-paper-public-sector-whistleblowing-reforms-stage-2.pdf](https://consultations.ag.gov.au/integrity/pswr-stage2/user_uploads/consultation-paper-public-sector-whistleblowing-reforms-stage-2.pdf).

<sup>42</sup> Open Government Partnership, “A Guide to Open-Government and the Coronavirus Whistleblower Protection Scientific Integrity” (6 May 2020), <https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus-whistleblower-protection-scientific-integrity/>.

<sup>43</sup> Brown and Pender, *Protecting Australia's Whistleblowers: The Federal Roadmap*.

<sup>44</sup> The Parliamentary Education Office, “What are the laws about political advertising? Are ads at election time true, and what can we do if they’re not?” (Commonwealth of Australia: 12 Mar. 2024), <https://peo.gov.au/understand-our-parliament/your-questions-on-notice/questions/what-are-the-laws-about-political-advertising-are-ads-at-election-time-true-and-what-can-we-do-if-theyre-not#:~:text=The%20Australian%20Communications%20and%20Media,advertisements%20to%20be%20factually%20correct>.

<sup>45</sup> Open Government Partnership, *Independent Reporting Mechanism: Australia Co-Creation Brief 2022* August 2022, [https://www.opengovpartnership.org/wp-content/uploads/2022/08/Australia\\_Co-Creation-Brief\\_2022.pdf](https://www.opengovpartnership.org/wp-content/uploads/2022/08/Australia_Co-Creation-Brief_2022.pdf).

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<sup>67</sup> Ashley Regan, “Zali Steggall’s bill to ‘stop lies in political advertising’” (*AdNews*, 14 Nov. 2023), <https://www.adnews.com.au/news/zali-steggall-s-bill-to-stop-lies-in-political-advertising>.

<sup>68</sup> Open Government Partnership, “Political Finance Transparency in Croatia” (19 Mar. 2021), <https://www.opengovpartnership.org/stories/political-finance-transparency-in-croatia/>.

<sup>69</sup> Australian Government, National Anti-Corruption Commission Act 2022, Federal Register of Legislation (16 Oct. 2023), <https://www.legislation.gov.au/C2022A00088/2023-10-16/text>.

<sup>70</sup> Australian Government: Office for Youth, “Youth Advisory Groups” (accessed 12 Mar. 2024), <https://www.youth.gov.au/youth-advisory-groups>.

<sup>71</sup> Open Government Partnership. Open government challenge areas. <https://www.opengovpartnership.org/the-open-gov-challenge/open-government-challenge-areas/> (accessed 5 June 2024).

<sup>72</sup> Comments from the Australian Government during the pre-publication period, 27 May 2024.

<sup>73</sup> Australian Government: Treasury. Multinational Tax Package. (accessed 4 June 2024) <https://treasury.gov.au/policy-topics/taxation/multinational-tax>.

<sup>74</sup> Comments from the Australian Government During the pre-publication period, 27 May 2024.

## Section III: Methodology and IRM Indicators

This product is a concise, independent, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. The IRM highlights commitments that have the highest potential for results, a high priority for country stakeholders, a priority in the national open government context, or a combination of these factors.

The IRM products provided during a national action plan cycle include:

- **Co-Creation Brief:** A concise brief that highlights lessons from previous IRM reports to support a country's OGP process, action plan design, and overall learning.
- **Action Plan Review:** A technical review of the characteristics of the action plan and the strengths and challenges IRM identifies to inform a stronger implementation process.
- **Midpoint Review:** A review for four-year action plans after a refresh at the midpoint. The review assesses new or significantly amended commitments in the refreshed action plan, compliance with OGP rules, and an informal update on implementation progress.
- **Results Report:** An overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning.

In the Action Plan Review, the IRM reviews commitments using three indicators:

**1. Verifiability:** The IRM determines whether a commitment is verifiable as written in the action plan. The indicator is assessed as:

- **Yes/No:** Are the stated objectives and proposed actions sufficiently clear and include objectively verifiable activities to assess implementation?
- Commitments that are not verifiable are considered not reviewable, and no further assessment is carried out.

**2. Open Government Lens:** The IRM determines if the commitment relates to the open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration and the OGP Articles of Governance. Based on a close reading of the commitment text, the indicator is assessed as:

- **Yes/No:** Does the commitment set out to make a policy area, institution, or decision-making process more transparent, participatory, or accountable to the public?

The following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will the government create or improve opportunities, processes, or mechanisms for the public to inform, influence or co-create policies, laws and/or

decisions? Will the government create, enable, or improve participatory mechanisms for minorities, marginalized or underrepresented groups?

Will the government improve the enabling environment for civil society (which may include NGO laws, funding mechanisms, taxation, reporting requirements, etc.)? Will the government improve legal, policy, institutional or practical conditions related to civic space such as freedom of expression, association and peaceful assembly that would facilitate participation in the public sphere? Will the government take measures which counter mis- and disinformation, especially online, to ensure people have access to reliable and factual information (which may include digital and media literacy campaigns, fact-checking or fostering an independent news media ecosystem)?

- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable legal, policy, or institutional frameworks to foster accountability of public officials?

**3. Potential for Results:** The IRM analyses the expected results and potential that would be verified in the IRM Results Report after implementation. Potential for results is an early indication of the commitment’s possibility to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area. The indicator is assessed as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** A positive but standalone initiative or change to processes, practices, or policies. The commitment does not generate binding or institutionalized changes across government or institutions that govern a policy area. Examples are tools (e.g., websites) or data release, training, or pilot projects.
- **Substantial:** A possible game changer for practices, policies, or institutions that govern a policy area, public sector, or the relationship between citizens and state. The commitment generates binding and institutionalized changes across government.

This review focuses its analysis on promising commitments. Promising commitments are verifiable, have an open government lens, and at least a modest potential for results. Promising commitments may also be a priority for national stakeholders or for the particular context. The IRM may cluster commitments with a common policy objective or that contribute to the same reform or policy issue. The potential for results of clustered commitments is reviewed as a whole.

During the internal review process of this product, the IRM verifies the accuracy of findings and collects further input through peer review, OGP Support Unit feedback as needed, interviews and validation with country stakeholders, an external expert review, and oversight by IRM’s International Experts Panel (IEP).<sup>1</sup>

This review was prepared by the IRM in collaboration with Keitha Booth and was externally expert reviewed by Andy McDevitt. The IRM methodology, quality of IRM products, and review process are overseen by IRM’s IEP. For more information, see the IRM Overview section of the OGP website.<sup>2</sup>

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<sup>1</sup> International Experts Panel, Independent Reporting Mechanism, Open Government Partnership, <https://www.opengovpartnership.org/about/who-we-are/international-experts-panel/>.

<sup>2</sup> Open Government Partnership, “Overview: Independent Reporting Mechanism” (2020), <https://www.opengovpartnership.org/irm-guidance-overview/>.

## Annex 1: Commitment by Commitment Data<sup>1</sup>

|  |
|--|
| <p><b>Commitment #1: Automated Decision-Making Transparency</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Substantial</li> </ul>   |
| <p><b>Commitment #2: Youth Advisory Groups</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Unclear</li> </ul>  |
| <p><b>Commitment #3: Integrity Strategy for the Commonwealth Public Sector</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Modest</li> </ul>                                     |
| <p><b>Commitment #4: Beneficial Ownership Reform</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Unclear</li> </ul>  |
| <p><b>Commitment #5: Procurement and Grants Integrity and Accountability</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Unclear</li> </ul>                                      |
| <p><b>Commitment #6: Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Modest</li> </ul>   |
| <p><b>Commitment #7: Political donations and truth in political advertising</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Substantial</li> </ul>                               |
| <p><b>Commitment #8: Countering mis- and dis-information in culturally and linguistically diverse communities</b></p> <ul style="list-style-type: none"> <li>• Verifiable: Yes</li> <li>• Does it have an open government lens? Yes</li> <li>• Potential for results: Unclear</li> </ul> |

<sup>1</sup> **Editorial note:** Commitment short titles may have been edited for brevity. For the complete text of commitments, please see Australia’s 2023–2025 action plan at <https://www.opengovpartnership.org/documents/australia-action-plan-2023-2025-december/>.

## Annex 2: Action Plan Co-Creation

OGP member countries are encouraged to aim for the full ambition of the OGP Participation and Co-Creation Standards that came into force on 1 January 2022.<sup>1</sup> The IRM assesses all countries that submitted action plans from 2022 onward under the updated standards. Table 2 outlines the extent to which the countries' participation and co-creation practices meet the minimum requirements that apply during development of the action plan.

OGP instituted a 24-month grace period to ensure a fair and transparent transition to the updated standards. Action plans co-created and submitted by 31 December 2023 fall within the grace period. The IRM will assess countries' alignment with the standards and their minimum requirements.<sup>2</sup> However, countries will only be found to be acting contrary to process if they do not meet the minimum requirements for action plans co-created in 2024 and onwards.

Please note that, according to the OGP National Handbook, countries implementing four-year action plans must undertake a refresh process at the two-year mark. Countries are expected to meet minimum requirements 3.1 and 4.1 during the refresh process.<sup>3</sup> IRM assessment of the refresh process will be included in the Results Report.

**Table 2. Compliance with minimum requirements**

| Minimum requirement   | Met during co-creation? | Met during implementation?                  |
|---|-------------------------|---|
| <b>1.1 Space for dialogue:</b> The Open Government Forum was established on 5 April 2023 and held five meetings between April and December 2023. In July 2023, it established three Working Groups which met between August and December 2023. The Terms of Reference for the Forum and Working Groups are published on Australia's OGP website. <sup>4</sup>   | Yes                     | <i>To be assessed in the Results Report</i> |
| <b>2.1 OGP website:</b> Australia's OGP website is on the Integrity Section of the website of the Attorney-General's Department (AGD). The website contains all three of Australia's national action plans, as well as information on the Open Government Forum and public consultations. <sup>5</sup>  | Yes                     | <i>To be assessed in the Results Report</i> |
| <b>2.2 Repository:</b> OGP documents are published on Australia's new OGP website, <sup>6</sup> created in 2023 when the Point of Contact moved to the AGD, and which is updated at least twice a year. It offers information on the co-creation of the third national action plan and will report as required on implementation progress. <sup>7</sup> It has not transferred information about the first and second action plans. Australia's previous OGP website, under the Department of the Prime Minister and Cabinet, had a comprehensive dashboard showing implementation progress of the first and second action plans, and snapshots are available through archive versions on Trove. <sup>8</sup> The Open Government Forum's Terms of Reference <sup>9</sup> and minutes <sup>10</sup> are on the Rights and Protections section of the website of the Australian Attorney-General's Department. | Yes                     | <i>To be assessed in the Results Report</i> |
| <b>3.1 Advanced notice:</b> AGD published an infographic showing the creation timeline and the overview of opportunities for stakeholders to participate on the website on 11 August 2023. <sup>11</sup> This did not provide two-weeks' notice of the start of the co-creation process. The working groups   | No                      | Not applicable                              |



|  |                |   |
|--|----------------|---|
| had already been formed by 31 July, and the first public consultation on the action plan began on 21 August 2023. <sup>12</sup>  |                |   |
| <b>3.2 Outreach:</b> AGD held a webinar on 22 August on how the action plan was to be developed. An invitation to attend was released on Twitter and LinkedIn <sup>13</sup> on the day of the webinar, resulting in low attendance. Four invitations to comment were made on Twitter between 22 August and 20 November. <sup>14</sup>  | Yes            | Not applicable                              |
| <b>3.3 Feedback mechanism:</b> Two online surveys were offered on the Citizen Space section of the website of the Australian Attorney-General’s Department: <sup>15</sup> Phase 1 (21 August to 17 September) received feedback from 32 respondents on Working Group themes agreed by the Forum and the co-creation process; and Phase 2 (9 November to 22 November) received feedback from ten respondents on the eight proposed commitments. The Working Group’s 18 meetings (31 July–12 September) included civil society and government participants in developing commitments and solicited additional input from experts, including five business or civil society organisations <sup>16</sup> and academic colleagues of OGF members. | Yes            | Not applicable                              |
| <b>4.1 Reasoned response:</b> The analysis of Phase 1 responses, published online on 9 November 2023, did not report on how the contributions were considered. <sup>17</sup> A summary of Phase 2 responses was published on 9 December 2023. <sup>18</sup> Phase 1 and Phase 2 respondents’ responses <sup>19</sup> were also published on the Citizen Space website. <sup>20</sup> However, AGD did not provide reasoned response to stakeholders’ suggestions.  | No             | Not applicable                              |
| <b>5.1 Open implementation:</b> The IRM will assess whether meetings were held with civil society stakeholders to present implementation results and enable civil society to provide comments in the Results Report.   | Not applicable | <i>To be assessed in the Results Report</i> |

The development of Australia’s third action plan did not meet the minimum requirements of the OGP Participation & Co-Creation Standards as the Attorney-General’s Department and Open Government Forum did not provide sufficient prior notice about the co-creation timeline or reasoned response to stakeholders’ contributions. The co-creation process took place over a short period in order to publish the action plan before 31 December 2023. In line with feedback from OGF members on the co-creation process, for the next action plan, the IRM recommends:

- Current OGF members include an agenda item in their first 2024 meeting to document lessons learnt from co-creation of the third action plan and their recommendations for co-creating the fourth plan.
- A one-year period is set to plan for and run the co-creation of the fourth action plan.
- The co-creation timeline and the overview of opportunities for stakeholders to participate is published on the OGP website well in advance of (at least two weeks before) the start of the co-creation process.
- The Attorney-General’s Department or Open Government Forum reports back or publishes written feedback to stakeholders on how their contributions were considered during development of the action plan including the criteria used.

<sup>1</sup> Open Government Partnership, “OGP Participation and Co-Creation Standards” (24 Nov. 2021), <https://www.opengovpartnership.org/ogp-participation-co-creation-standards/>.

<sup>2</sup> Open Government Partnership, “IRM Guidelines for the Assessment of Minimum Requirements” (31 May 2022), <https://www.opengovpartnership.org/documents/irm-guidelines-for-the-assessment-of-minimum-requirements/>.

- <sup>3</sup> Open Government Partnership, *OGP National Handbook: Rules and Guidance for Participants* (Mar. 2024) §2.3, <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022/>.
- <sup>4</sup> Australian Government: Attorney-General's Department, "Open Government Forum – Terms of Reference" (22 May 2023), <https://www.ag.gov.au/rights-and-protections/publications/open-government-forum-terms-reference>; Australian Government: Attorney-General's Department, "Open Government Forum – Working Group Terms of Reference" (11 Aug. 2023), "<https://www.ag.gov.au/rights-and-protections/publications/open-government-forum-working-group-terms-reference>."
- <sup>5</sup> Australian Government: Attorney-General's Department, "Australia's Open Government Partnership" (accessed 17 Apr. 2024), <https://www.ag.gov.au/integrity/australias-open-government-partnership>.
- <sup>6</sup> *Id.*
- <sup>7</sup> Australian Government: Attorney-General's Department, "Australia's Third National Action Plan" (accessed 17 Apr. 2024), <https://www.ag.gov.au/integrity/australias-open-government-partnership/australias-third-national-action-plan>.
- <sup>8</sup> Australian Government: Department of the Prime Minister and Cabinet, "Open Government Partnership—Australia" (Trove, 24 Feb. 2017), <https://webarchive.nla.gov.au/awa/20170223202643/http://ogpau.pmc.gov.au/>.
- <sup>9</sup> Australian Government: Attorney-General's Department, "Open Government Forum – Terms of Reference."
- <sup>10</sup> Australian Government: Attorney-General's Department, "Search: 5 results for 'open government forum minutes' (0.0004s)" (accessed 17 Apr. 2024), <https://www.ag.gov.au/search?search=open%20government%20forum%20minutes>.
- <sup>11</sup> Australian Government: Attorney-General's Department, "Australia's Pathway to NAP3" (Aug. 2023), <https://www.ag.gov.au/sites/default/files/2023-08/open-government-partnership-co-creation-process-infographic.PDF>.
- <sup>12</sup> Australian Government: Attorney-General's Department, "Open Government Partnership Phase 1" (9 Nov. 2023), <https://consultations.ag.gov.au/integrity/open-government-partnership/>.
- <sup>13</sup> Australian Government: Attorney-General's Department, "Attorney-General's Department" (LinkedIn, accessed 17 Apr. 2024), <https://www.linkedin.com/company/attorney-generals/>; Australian Government: Attorney-General's Department, "AGD AU @agdgovau" (Twitter, accessed 14 Apr. 2024), <https://twitter.com/agdgovau>;
- <sup>14</sup> Australian Government: Attorney-General's Department, "AGD AU @agdgovau."
- <sup>15</sup> Australian Government: Attorney-General's Department, "Consultation hub" (accessed 14 Apr. 2024), <https://consultations.ag.gov.au/>.
- <sup>16</sup> Simon Newnham (OGF Government Co-Chair), correspondence with IRM researcher, 29 Feb. 2024.
- <sup>17</sup> Australian Government: Attorney-General's Department, "Open Government Partnership – National Action Plan 3 – public consultation analysis – Phase 1 – 2023" (9 Nov. 2023), <https://www.ag.gov.au/integrity/publications/ogp-nap-3-public-consultation-analysis-phase-1-2023>.
- <sup>18</sup> Australian Government: Attorney-General's Department, "Open Government Partnership Phase 2" (15 Dec. 2023), <https://consultations.ag.gov.au/integrity/ogp/>.
- <sup>19</sup> Australian Government: Attorney-General's Department, "Open Government Partnership – National Action Plan 3 – public consultation analysis – Phase 1 – 2023."
- <sup>20</sup> Australian Government: Attorney-General's Department, "Consultation hub."