



Australian Government

Office of the Australian Information Commissioner

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Dear Mr *Richard* Glenn

Open Government Partnership

Thank you for your letter dated 17 August 2012. I am pleased to outline the steps the Office of the Australian Information Commissioner (OAIC) could take to assist the Australian Government to decide whether to join the Open Government Partnership (OGP).

Your letter included an Attachment that outlined a possible timetable for Australia to make a decision on OGP membership. Some of those dates have now passed. But more importantly a meeting of the OGP Steering Group was held in London on 4 December, which changed other dates for OGP meetings in 2013. The minutes of the Steering Group meeting have recently been published on the OGP website, and contain other useful information about OGP plans. I will discuss those recent developments in this response.

Your letter also asked me to advise on the resource commitments the OAIC could make available to support OGP membership. The OAIC's budgetary situation has also become clearer in December 2012, and I am now better placed to advise on this issue.

Timetable for joining the OGP

The next date on which countries can formally join the OGP is at a meeting which is scheduled to be held in London on 31 October – 1 November 2013. This will be the 2nd Annual High Level Conference of the OGP, which has been postponed from March 2013.

On joining the OGP Australia would be required to endorse the OGP declaration and deliver a country action plan (discussed below). A number of steps would also have to be taken by Australia in the preceding months, including announcing Australia's intent to join the OGP, public consultation on Australia's proposed OGP commitments, development of a draft Australian OGP country action plan, and peer consultation with other OGP participants on the draft country plan.

Three OGP Steering Committee meetings are scheduled to be held in 2013: in April 2013 in London, July 2013 and on 30 October prior to the Annual Conference. It would seem advisable that Australia's intention to join should be notified to the OGP Support Unit prior to the April meeting, so that development of a country action plan could be well advanced prior to the July meeting.

There are also four OGP sub-committees: Peer and Learning Support, Criteria and Standards, Governance and Leadership, and Finance and Audit. It is not clear whether Australia would need to consult with any of these sub-committees, nor has a timetable of meetings been announced. However it is likely, at a minimum, that consultation with the Criteria and Standards sub-committee and with the OGP Support Unit would be required.

Steps towards Australia joining the OGP

An Annexure to this letter discusses the seven steps that Australia must take to join the OGP. There are two matters that I will highlight.

Letter of intent to join the OGP: Step 2 requires that a country signal its intent to participate in the OGP by sending a letter to the OGP Steering Committee. The letter can be signed by any government agency, but should be approved by the head of state.

A quick survey of some letters of intent published on the OGP website indicates that nearly all are signed by Ministers (commonly the minister responsible for foreign affairs, and in some instances by the minister responsible for open government and administrative affairs, or by the head of state or deputy head of state). The letters are a page in length and briefly summarise the country's commitment to transparency and good governance.

The OAIC would be prepared to assist in drafting a letter of intent. It is likely that this process would involve some additional discussion on the form that a country action plan might take, and the responsible Australian Government agencies for OGP liaison. The OAIC would also be prepared to participate in those discussions.

Development of a country action plan: Steps 3-5 require that a country develop a country action plan, including by public consultation within the country and peer consultation with other OGP participants. The plan must be finalised by the date of joining the OGP at the annual conference (scheduled for late October 2013).

The OGP has published an Action Plan Template. It requests that a Plan be approximately eight pages in length and address three topics:

- *Introduction*, explaining why open government and OGP membership are important to the country
- *Open Government Efforts to Date*, describing briefly the key open government developments in the country
- *OGP Commitments*, identifying the specific commitments a country will undertake over a two year period to meet one or more the OGP grand challenges (discussed below).

Most of the country plans published on the OGP website are of the suggested length and content, but do not necessarily use the suggested headings. Some of the plans (for example, for Canada and the US) are high quality publications that are designed to be aspirational as well as practical, while others are more prosaic.

I believe that public consultation within Australia on a draft country action plan would not pose great difficulty. The OAIC itself frequently undertakes public consultation on FOI, privacy and information management issues. A country is required also to identify a 'multi-

stakeholder forum' that can be regularly consulted. The Information Advisory Committee appointed under the *Australian Information Commissioner Act 2010* (Cth) (AIC Act) meets this description and is abreast of OGP developments. Another option is to use www.govspace.gov.au, which is an online public communication platform for government consultations and blogs that is managed by the Australian Government Information Management Office.

The development of a country action plan could also draw from other activity that is underway in government. Many submissions to the Hawke review of the *Freedom of Information Act 1982* (Cth) (FOI Act) and AIC Act have raised the issue of OGP membership, and it is possible that the issue will be taken up by the review. The OAIC's submission to the Hawke Review recommended that the Australian Government build on the 2009-10 Gov 2.0 and FOI reforms by adopting a national plan that restates the Government's commitment to open government, identifies the key agencies with responsibility in this area, and selects key projects to be undertaken across government (see the Executive Summary, and paras [28-29]). If this recommendation is taken up by the Hawke review and by government, it would dovetail with the OGP requirement for development of a country action plan.

Australian OGP commitments

The heart of a country action plan is a new open government commitment that is to be addressed in the first year of OGP membership, yet may take longer to achieve. Performance in achieving this commitment will be monitored through an independent assessment process administered by the OGP Support Unit.¹

The country commitment may build on an existing commitment, complete an ongoing reform or be a fresh initiative. It must, however, address one of the five OGP 'grand challenges': improving public services; increasing public integrity; more effectively managing public resources; creating safer communities; and increasing corporate accountability. A commitment must also reflect four open government principles: transparency; citizen participation; accountability; and technology and innovation.

The country commitments are to be formulated during the consultation process, and so it is premature to offer a settled view on Australian commitments. However, it will be advantageous, going into the consultation process, to have some concrete commitments in mind.

In an earlier brief to government, following an OGP planning meeting that I attended in Washington DC in July 2011, I suggested that a suitable Australian commitment would be ongoing development of data.gov.au. This is an important and viable project but, reflecting on OGP and Australian information policy developments since 2011, I now suggest that Australia could go further.

¹ The OGP has recently announced the membership of an International Expert Panel (former UN High Commissioner for Refugees, Ms Mary Robinson; Sudanese-born entrepreneur, Dr Mo Ibrahim; and Mozambican politician and wife of Nelson Mandela, Graça Machel) and the appointment of five technical experts (South African researcher Debbie Budlender, US Professor Jonathan Fox, Indian research fellow Yamini Aiyar, UK research fellow Rosemary McGee and Brazilian Professor Fernando Abrucio).

Many of the individual country action plans published on the OGP website contain multiple commitments. A common theme is the development of an open data policy in the country, and the various individual challenges which that involves. Australia earlier addressed a similar challenge in implementing the recommendations of the Gov 2.0 Report. However, open data policy is a large and expanding topic on which there is much that can still be done and on which Australia can draw ideas from other countries.

This issue will be taken up partially in a forthcoming OAIC report arising from a survey we undertook in 2012 of over 170 Australian Government agencies on the challenges they face in publishing public sector information. An interim OAIC report from this survey² identified impediments to more open public sector information (PSI), that include moving to open licensing, complying with web accessibility guidelines, applying metadata to documents, adopting charging policies that balance openness and commercialisation, and creating an internal governance structure that is aligned to a proactive release culture. The final report will identify priorities for open government information policy reform, including improved communication and collaboration between agencies on open government issues, development of whole-of-government guidance, raising awareness of existing policies and standards, and investment in data sharing infrastructure.

Some of those issues may be suitable topics for Australian country commitments. They engage the attention of many government agencies that have consulted the OAIC (for example, we have recently discussed the issue of open licensing with the Bureau of Meteorology and the Australian Curriculum, Assessment and Reporting Authority concerning the MySchool website).

A federal open data initiative would also align with forward-looking developments at State government level. They include the *NSW Government ICT Strategy 2012*, released in May 2012, which embodies a commitment to open government in the context of a broader plan for reform of government service delivery, online engagement, data release, information sharing and ICT skills and innovation;³ the Victorian Government release in August 2012 of the *DataVic Access Policy*;⁴ a Queensland Government announcement in October 2012 to initiate an 'open data revolution';⁵ and a proposal submitted to the South Australian Government in December 2012 by Thinker in Residence, Mr John McTernan, for an open data policy.⁶

There are other possible projects that could suitably be adopted as Australian Government OGP commitments. One would be the consideration and implementation of recommendations for FOI reform made by the Hawke review in its report expected in April 2013. Another, recently discussed by the Information Advisory Committee, is to implement procedures to ensure that government papers that are published online only are permanently

² OAIC, *Open public sector information: government in transition: Interim observations from the PSI survey 2012*, August 2012, available at www.oaic.gov.au/publications/reports/open_psi_government_transition.html.

³ <http://www.services.nsw.gov.au/ict/>

⁴ *DataVic Access Policy*, <http://www.data.vic.gov.au/cms/policy/285>

⁵ Announcement by the Premier, The Hon Campbell Newman, 'Queensland Government's "open data" revolution begins', <http://statements.qld.gov.au/Statement/2012/10/9/queensland-governments-open-data-revolution-begins>;

⁶ John McTernan, *Are you being served? Towards more responsive public services*, <http://www.thinkers.sa.gov.au/>

archived and accessible. A paper presented to the Committee based on a study of web publications by two Australian Government agencies indicated that roughly 25% of those publications could no longer be found – ‘digital dust’ is one description.

Resourcing of Australian OGP participation

There is no application or annual membership fee for country participation in the OGP. Information available on the OGP website indicates that the budget has been provided by charitable foundations, three foreign governments (the US, UK and Norway have each confirmed a commitment of \$200,000), Google and free technical assistance from other organisations. The nine countries that constitute the OGP Steering Committee are each expected to contribute between \$50,000 - \$200,000 annually, depending on the size of the economy. At its December 2012 meeting the Steering Committee resolved to consider requesting contributions from participating countries not on the Committee.

Australia will incur direct costs of two kinds if it decides to join the OGP. One is the cost of attending international OGP meetings. Australia would be expected to send a high level delegation (perhaps a Minister and a senior official) to the Annual Conference; and it may be asked to attend a Steering or sub-committee meeting at which its membership was being considered. There are also occasional regional gatherings. For example, Indonesia and the Philippines are both original Steering Committee members and may be interested in including Australia in Asian region meetings.

There will secondly be staffing and administrative costs for Australian Government agencies that are required to shoulder a substantial responsibility for managing Australia’s OGP membership. The OAIC has signalled its willingness to be a lead Australian agency, but it is currently beyond our capacity to undertake the substantial work that would be required to develop a country action plan, including consultation within Australia and with other OGP members.

You will be aware from other meetings, of the concern that I have expressed about the adequacy of the OAIC’s budget to support our statutory functions. The OAIC Executive has recently undertaken a thorough budgetary, staffing and workload analysis. The upshot is that we have offered voluntary redundancy to seven staff; we have decided not to renew the contracts of six other staff whom we might otherwise have engaged; we expect that staffing levels for this financial year will be reduced to between 70 – 75, including some positions that are funded under MOU arrangements with other agencies; and the staff reduction is disproportionately high at the EL level.

We have also implemented workload reduction measures. There will be fewer meetings this year of the Information Advisory Committee, Privacy Advisory Committee and Information Contact Officers Network. Some projects will be postponed, such as the desktop review of agency compliance with Information Publication Scheme requirements. We also face a growing workload in handling FOI and Privacy complaints, Information Commissioner reviews, and implementing Privacy Act reforms.

In the Annexure to this letter I estimate that if the OAIC was designated as a lead agency for OGP membership we would require an additional two staff, at EL1 and APS6 level. Additional

workload pressures would be borne by the OAIC. For example, I expect that OGP membership would place an extra responsibility upon myself and some other senior officers. Development of a country action plan would require substantial senior level collaboration among a number of Australian government agencies, and discussion with the OGP Support Unit and committees.

OAIC support for Australian OGP membership

May I take this opportunity to express the OAIC's support for Australia to join the OGP. We believe that Australia is well placed to make a valuable contribution to a global open government movement. At a regional level Australia's ties could be strengthened with countries that are active OGP participants.

Participation would also complement the substantial work undertaken in recent years in Australia to develop government information policy, promote innovation through open data and embrace the digital economy. Joining the OGP would enable Australia to showcase the reforms that it has undertaken, reflect on the adequacy of those reforms, and leverage off initiatives other participating countries have commenced.

In light of Australia's strong commitment to open government and digital innovation, OGP participation is not likely to pose a practical or policy difficulty. The OAIC is prepared, subject to appropriate resourcing, to play an active and leading role in furthering OGP membership. This would complement our existing functions in relation to freedom of information, privacy and information policy. We currently take a collaborative approach in championing the open government agenda, and have a strong working relationship with other key information management agencies, including the Department of Prime Minister and Cabinet, the Australian Government Information Management Office, Attorney-General's Department, National Archives of Australia and the Australian Bureau of Statistics. You will be aware that we have earlier published directly relevant material, including the *Principles on Open Public Sector Information*,⁷ a report on the development of the Principles,⁸ and *Issues Paper 2: Understanding the value of public sector information in Australia*.⁹

I have only outlined briefly in this letter the resourcing demands the OAIC would face if it took on a lead role. I am happy to explore with AGD different resourcing options, and if required to prepare a New Policy Proposal bid for the next round, and to consider secondment opportunities from other Australian Government agencies. Without appropriate resourcing Australia's participation in the OGP would necessarily be minimal.

I would also be happy to make contact with the OGP Support Unit regarding this matter, and to provide you with further information as it becomes available. I look forward to further

⁷ OAIC, *Principles on Open Public Sector Information*, May 2011, available at www.oaic.gov.au/publications/agency_resources/principles_on_psi_short.html

⁸ OAIC, *Principles on open public sector information: Report on review and development of principles*, May 2011, available at www.oaic.gov.au/publications/reports/Principles_open_public_sector_info_report_may2011.html

⁹ OAIC, *Issues Paper 2: Understanding the value of public sector information in Australia*, November 2011, available at www.oaic.gov.au/publications/papers/issues_paper2_understanding_value_public_sector_information_in_australia.html

discussion about Australia joining the OGP, and the role the OAIC could take in furthering this important agenda.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John McMillan', written in a cursive style.

Prof John McMillan
Australian Information Commissioner

10 January 2013



Annexure 1 – Open Government Partnership: steps and resourcing

Step	Action required by terms of the OGP	Steps which the OAIC could undertake	Resourcing implications for the OAIC
STEP 1	Meet the <u>minimum eligibility criteria</u> , and agree to the OGP's <u>five common expectations</u> .	Australia already meets the minimum eligibility criteria. The OAIC could take a lead role in consulting on and developing Australia's country action plan in accordance with the OGP's five common expectations.	The OAIC's information and communications policy team currently comprises five staff members (1xEL2, 1xEL1 and 3x APS6); an additional 1xEL1 and 1xAPS6 FTE would be necessary to carry out this work and maintain existing responsibilities.
STEP 2	Signal the government's intent to participate in OGP by sending a letter to the <u>OGP Steering Committee</u> for posting on the <u>OGP Portal</u> .	The OAIC could assist in preparing the letter of intent, including undertaking appropriate consultation within the Australian Government.	Current resources are likely to be sufficient.
STEP 3	Undertake the <u>broad public consultation</u> to inform the government's OGP commitments, and identify a multi-stakeholder forum for regular public consultation on OGP implementation.	The OAIC has experience in consultation on open government issues and could lead this public consultation.	As noted in Step 1, the OAIC considers that an additional 1xEL1 and 1xAPS6 FTE would be necessary to carry out this work and maintain existing responsibilities. There may be resourcing implications associated with hosting consultation meetings and potential interstate and foreign travel expenses. The Information Advisory Committee managed by the OAIC could be identified as the multi-stakeholder forum.

STEP 4	Develop an <u>OGP country plan</u> with <u>concrete commitments</u> on open government that address at least one <u>grand challenge</u> , drawing on the expertise provided by the OGP <u>networking mechanism</u> as needed.	The OAIC could take the lead on developing the country plan; assistance from PM&C, Finance (AGIMO), AGD and NAA is likely to be required. The PSI survey and the priorities which emerge from it will function as a basis for continuing work in this space.	Given the PSI work that the OAIC has already undertaken, we consider that the additional two staff (as noted in Steps 1 and 3) would be sufficient to carry out this work and maintain existing responsibilities.
STEP 5	Participate in <u>peer consultation</u> on the OGP country plan with participants and the Steering Committee.	The OAIC is already in regular contact with counterparts in other countries and contributes to international forums and discussions. The OAIC could attend the formal peer consultation meeting.	Appropriate resourcing would be required for Australia to be represented, including international travel and hosting facilities.
STEP 6	Publicly endorse the <u>OGP Declaration of Principles</u> and deposit the final <u>country plan</u> on the OGP portal.	This complements the other work described in this annexure	Current resources are likely to be sufficient.
STEP 7	Publish a <u>self-assessment report</u> on progress after 12 months of OGP implementation, and cooperate with the <u>independent reporting mechanism</u> in generating its own report.	The OAIC could take the lead on assessment and reporting; assistance from PM&C, Finance (AGIMO), AGD and NAA is likely to be required.	We consider that the additional two staff (as noted above) would be sufficient to carry out this work and maintain existing responsibilities.