



The Public Service has an important stewardship role to support the Crown, through the government of the day, to foster a strong relationship with Māori. In its 2011 *Ko Aotearoa Tēnei* report, the Waitangi Tribunal considered partnership as an essential element of the Te Tiriti o Waitangi, suggesting it be built into all our national institutions.

To ensure the Public Service reflects the Treaty partnership and provides the step change needed to deliver meaningful results for Māori, we are proposing a new *Aotearoa New Zealand Public Service Act*. The new Act will contain specific references to the Public Service's support of an improved Crown/Māori relationship, and take into account the Treaty of Waitangi and its principles.

We propose that the Act include a prominent stand-alone clause that is clear about the expectations of the Public Service in relation to its Treaty partner, and contains guidance to support the Public Service in building its cultural capability.

## THE CROWN/MĀORI RELATIONSHIP

### What is meant by the Crown/Māori relationship?

The Crown/Māori relationship is one way of talking about the multiple relationships where different parts of government engage with Māori on a broad range of important issues.

The Crown consists of Ministers of the Crown, Public Service departments and five non-Public Service departments (the New Zealand Defence Force, New Zealand Police, Parliamentary Counsel Office, Office of the Clerk of the House of Representatives and Parliamentary Service). There is no intent to change the legal definition of the Crown, although we are proposing to include a range of Crown entities within the definition of an expanded Public Service.

Māori in Crown/Māori relations means ALL Māori – whānau, hapū, iwi, Māori communities and/or Māori national or regional or local interest/sector groups, organisations or collectives including pan-Māori organisations. All Māori have a relationship with the Crown.

### How does the new Act fit with the wider Crown/Māori relationship?

The need for a new approach to the Crown/Māori relationship has been clearly articulated in the recent hui conducted by the Minister for Crown/Māori Relations, and through a number of Waitangi Tribunal and other reports.

Our intent is for the new *Aotearoa New Zealand Public Service Act* to be the catalyst for a significant cultural change in the Public Service, moving the Public Service to a place where it can effectively support the Crown/Māori relationship and deliver better outcomes for Māori.

The proposed Act is one of a suite of responses to build Public Service cultural capability and ensure that government decisions address and support the needs and aspirations of Māori. Responses to other aspects of the Crown/Māori relationship will be led the Ministry of Justice, together with other relevant departments.

The proposed Act will not replace existing responsibilities for departments, including those under the Treaty. The proposed Act is intended to set a higher platform of expectations, on which those existing responsibilities sit. We recognise that some departments already have more specific obligations when executing certain duties.

### **What happens to the Crown/Public Service's relationships with other communities?**

The Public Service needs to provide efficient and effective services to all communities in New Zealand. The proposed Act includes provisions to ensure the Public Service better reflects all those it serves. Other provisions in the Act, such as the tools for more flexible and adaptable organisations, will also enable better service provision for other communities.

The proposed approach in the Act recognises the unique position of Māori as tangata whenua of Aotearoa and the distinctiveness of Māori language and culture for New Zealand. It recognises that, in order to ensure the future prosperity of all of New Zealand and recognise the Treaty of Waitangi, there is a need for Māori to be better served by the Public Service and for a more future-focussed Crown/ Māori relationship.

It is likely that precedents developed to enable the Public Service to better respond to the needs and aspirations of Māori will have benefit for other communities too.

## **TE TIRITI O WAITANGI**

### **Why is the Treaty not mentioned in the proposals?**

The Treaty is the cornerstone document of the Crown/Māori relationship. It is essential that we make the right decision on whether or how to incorporate reference to the Treaty in the new Act.

Given the importance of this issue, no recommendation will be made to the Government on whether to explicitly refer to the Treaty in the Act until we have gone through a wide consultation and engagement process.

### **Does this change the constitutional position of the Treaty?**

No. The Treaty will always be the cornerstone document of the Crown/ Māori relationship.

### **What is the role of the Waitangi Tribunal?**

The Waitangi Tribunal's role will be unchanged. It will continue to be able to investigate cases where the Crown may have breached the Treaty.

The incorporation of specific provisions to support the Crown/Māori relationship reflects a number of comments and findings by the Waitangi Tribunal, particularly through Ko Aotearoa Tēnei.

### **Have you considered the relationship in the post-settlement era?**

Yes. The post-settlement environment is a crucial part of the backdrop for the proposed changes. There is a very high expectation that the Crown/Māori relationship will develop in a constructive and future-focussed way. We recognise that the Public Service will need to work differently to promote New Zealand's future prosperity, Māori prosperity and efficient governance in this new era.

## IMPLEMENTATION

### **What does this mean for public servants in the way they operate?**

The proposed provisions for changes to the Public Service workforce are intended to support more Māori into leadership roles; to grow the cultural competence of all public servants; and support departments to place greater value on an organisational culture that enables Māori staff and Māori culture to thrive. Public servants will be expected to advise on how the government can best understand and respond to the needs and aspirations of Māori.

### **What difference will we see?**

We are proposing that the Commissioner and departmental chief executives will have responsibility for determining what needs to happen to achieve the expectations in the Act. Our primary aim however, is for the reform to support a wider culture change in the Public Service in terms of its work with Māori. We are looking for your feedback on how we could make this successful.

## WORKFORCE

### **How will the reform affect the appointment and promotion of Māori?**

One of the areas we are looking at is what system changes might better support Māori to flourish in the public service. This is important because it will help build cultural competence across the public sector, and because better outcomes flow when public servants reflect the communities they serve. That includes looking at how to encourage more Māori to be considered for leadership and decision-making roles, including as part of a Senior Leadership Service, if that were to be established.

### **Do the proposals conflict with the merit selection principle?**

Merit is a foundation stone of public service appointment processes. The definition of merit has evolved over the past 100 years to reflect changes in workforce and society. For example, the entry of women into the Public Service workforce meant the gendered definitions of 'the best man for the job' in use in the early 20th century became out of date. The merit principle means promoting and hiring based on a person's ability to do the job. Generally, we run a competitive process, interested candidates apply for the role, and a relative assessment is made of candidates' suitability based on skills and attributes necessary to undertake the job. The merit selection principle will continue to apply.

These proposals do not conflict with the merit selection principle. An important aspect of merit is a person's ability to understand the impact of public service and government decision-making on those whom they serve. This means having the ability to engage and communicate with communities affected by decisions, and being able to understand and incorporate those communities' perspectives into the decision-making process. Cultural competence is therefore viewed as a component of merit.

### **Why is there such a strong focus on building workforce capability?**

We expect the focus on building a workforce, which is more capable of engaging with and serving Māori, to have many benefits for the Crown/Māori relationship, including improving outcomes for Māori. Building workforce capability will enable the Public Service to be more accessible to Māori, partner with Māori, and trial different

approaches to service, policy design and delivery to achieve better outcomes. A more capable workforce may also help reduce (or eliminate) unconscious bias and unintended negative impacts of public service decision-making on Māori.

## OTHER

### **Should there be a dedicated Māori public service?**

This is not currently included in the proposals. Our focus is on developing a unified Public Service that supports more Māori into leadership roles and grows the cultural competence of all public servants. It will support departments to place greater value on an organisational culture that enables Māori staff and Māori culture to thrive.

### **Why is there nothing about protecting the language?**

There are a number of existing mechanisms to encourage the use of Te Reo, including:

- Te Taura Whiri (Māori Language Commission)
- Maihi Karauna (Government's national Māori Language Strategy, launched announced April 2018), and
- the Māori Language Act 2016.

The Māori Language Act established Te Mātāwai, an independent statutory entity that provides leadership in promoting the health and well-being of the Māori language for iwi and Māori, and at the community level. It supports, informs, and influences the Crown's initiatives in protecting, promoting, and revitalising the Māori language.

Increasing the Public Service's capability to serve New Zealand and Māori will require the Public Service to use more Te Reo, provide services in Te Reo and engage effectively with those who speak Te Reo. Given the existing statutory mechanisms for protecting the language, we think it is appropriate that our proposals focus on increasing capability and capacity rather than looking to further legislative solutions.

### **Why is there no reference to the Crown/Māori relationship in the purpose statement?**

It is important that the purpose statement applies across all the functions and relationships of the Public Service. Rather than subsuming the Crown/Māori relationship into this overarching statement, the proposed stand-alone clause will provide clear guidance to public servants to support the widespread culture change required.