



Strengthening the family justice system - Consultation Document

Submission of PSA Ministry of Justice Rūnanga Delegate Committee

*“Tawhiti rawa i tō tātou haerenga atu te kore haere tonu, maha rawa o tātou mahi te kore mahi tonu.”
We have come too far to not go further, we have done too much to not do more
- Sir James Henare*

Who we are

We represent over 350 Māori workers within Ministry of Justice who are union members of PSA – Te Pūkenga Here Tikanga Mahi. The PSA is New Zealand’s largest union, representing 70,000 workers in central government across Aotearoa New Zealand. We have 7,000 Māori members, working in the Public Service, the wider State services, District Health Boards, Local Government and Community Public Services.

This submission has been prepared by PSA Māori delegates within Ministry of Justice (MOJ). If there is an opportunity, we would like to speak to the panel in support of this submission.

Te Rūnanga o Ngā Toa Āwhina is the Māori arm of PSA. We are proud to share the way in which we have created Ngā Kaupapa as a framework for Māori by Māori that encapsulates the essence of Te Ao Māori within our union. These are the core values that Māori live by in our everyday lives as whānau, hapū and iwi. Rangatiratanga, Manaakitanga, Kotahitanga, and Whanaungatanga are a few of which are expressed by our members in dealing with their public service mahi.

Introduction

The PSA MOJ Rūnanga Delegate Committee broadly supports the considerations of the panel around Te Ao Māori. We particularly support the kaupapa around obligations on the Ministry of Justice and Government to improve family justice outcomes for Māori.

The MOJ Rūnanga notes the statement recently made by the State Services Commission when undertaking their own current legislative review:

“The partnership between the Crown and Māori is the essential element of Te Tiriti o Waitangi (the Treaty of Waitangi). It is the core of our identity as a nation and sets the foundation for enhancing the wellbeing of Māori. By weaving the intention of the Treaty throughout our Public Service, we can enhance the relationship between the Crown and Māori and work together to respond to Māori issues and deliver better results.”¹

There are already obligations under the Treaty for the Ministry of Justice and the Government to improve family justice outcomes for Māori. However, these obligations are not being met.

We thank the panel for the opportunity of public consultation. In preparation for this submission, we consulted our rūnanga delegates and other delegates. Last year, we did a comprehensive survey of our Māori membership in MOJ. We have had numerous hui. These avenues have helped shape our submission.

Should obligations be placed on the Ministry and/ or the Government to improve family justice outcomes for Māori? What would these obligations be?

As noted in our introduction above, the Government is obligated under the Te Tiriti o Waitangi to deliver better public services and improved family justice outcomes for Māori. The government is currently failing Māori. This is abundantly clear as Māori are over-represented in negative social statistics. For example:

- In 2017, Māori made up 50.7 per cent of the prison population.²
- Māori make up 26 per cent of all mental health service users. Under the Mental Health (Compulsory Assessment and Treatment) Act 1992, Māori are 3.6 times more likely than non- Māori to be subject to a community treatment order, and 3.3 times more likely to be subject to an inpatient treatment order.³
- Māori children and youth are twice as likely as Pākehā to be living in poverty.⁴
- Māori have significantly lower life expectancy. In 2013 statistics, life expectancy at birth for Māori males was 73.0 years, compared to 80.3 years for non-Māori males. For Māori females, it was 77.1 years, compared to 83.9 years for non-Māori females.⁵
- Māori home ownership rates are falling; in 2013, only 28.2 per cent of Māori owned a house (compared to 56.8 per cent of Pākehā).⁶

¹ Reform of the State Sector Act 1988 – Directions and Options for Change. Short Discussion document for public feedback. September 2018. P.4

² Census 2017

³ 2017-2021 Ministry of Health and Addiction Workforce Action Plan

⁴ 2016 Child Poverty Monitor

⁵ <https://www.health.govt.nz/our-work/populations/maori-health/tatau-kahukura-maori-health-statistics/nga-mana-hauora-tutohu-health-status-indicators/life-expectancy>

⁶ Census 2013

Improving outcomes for Māori is the collective responsibility of the entire state sector. We need a justice system that delivers for Māori. We believe this requires the Ministry of Justice to formally commit to work to improve their relationship with Māori in order to drive meaningful change.

We note the Ministry of Justice Māori Strategy – Te Haerenga, which has the strategic goal to “deliver improved justice outcomes for Māori.”⁷ Our rūnanga committee is committed to working with the Ministry to facilitate the implementation of Te Haerenga to achieve that goal.

The obligations that the Ministry has for Māori must be formally established and recognised. Then, there can be measures put in place as success indicators. We would like to engage with parties to see what this may look like, and how our members, who work in the Ministry, can help with facilitation of these processes.

How could the Ministry of Justice or the Government partner with hapū, iwi or Māori organisations to deliver services?

There are many ways in which this could be done. There is not much being done in this space, so anything would be an improvement. There is a lack of formal engagement with Māori within the Ministry. While there is periodic engagement done out of National Office in Wellington, the sort of engagement that would improve Family Court outcomes will need to come out of the actual courts, particularly in the regions. This could look like having support agency roles, which automatically refer to Māori support agencies. Or kaumatua roles, where kaumatua are paid for their services to help and advise. Or Māori liaison officers, who would have knowledge and experience in Family Court procedures, tikanga Māori and links to local hapū, iwi and Māori organisations.

While the Ministry has a lot of Māori staff, the specific skill sets that they bring to their mahi are not particularly valued. Our survey of members continually referenced this. Our members feel that the Ministry does not invest in them. This must change if we want to achieve our goal of better justice services to Māori.

We need to engage with Māori at a local level, with opportunities for participation and partnership. That way, we can establish a collaborative approach that strengthens our relationship with our Māori service users and improves our results.

How would you incorporate tikanga Māori into the Family Court?

In answering this question, first of all, we should look at the logistics of Ministry staff working within a tikanga Māori framework. For this, we need to look at the Ministry of Justice workforce:

What is the Family Court workforce composition and capability? And does the leadership and culture of the Ministry of Justice support a culturally competent workforce?

⁷ Te Haerenga strategy document, Ministry of Justice.

We need a workforce that reflects the community it serves and understands their values. The Ministry needs to empower their Māori workers by valuing their cultural competency. The Ministry of Justice leadership needs to be accountable to their Māori service users by investing in their staff and being committed to support Māori in leadership and decision-making roles. We also need the leadership to recognise the importance of recruitment and retention of their Māori workers. From our membership, we believe this is not currently the case.

The PSA broadly supports Maihi Karauna – The Crown’s Strategy for Māori Language Revitalization, 2018-2023. We particularly support its focus of Rāngai Tūmatanui, the public sector, as a priority group. We particularly agree with the following statements:

“One of the important steps that government agencies can take to normalise the use of te reo Māori is to provide more opportunities for people to access government services using te reo Māori. As the number of proficient speakers of te reo Māori increases, we expect to see a rising demand for access to services in te reo Māori. The public service needs to prepare for this.”⁸

“In order for the Crown to recognise the value of the Māori language, and to deliver quality services to Māori communities, it needs to ensure the public sector can ‘speak’ the language itself. By doing so, it will have both a direct and indirect impact on language revitalisation.”⁹

The use of te reo Māori in our courts is inconsistent and requires review. There are official phrases to be used when opening a Court, but some locations choose to not use them. When they are used, sometimes the pronunciation is poor. We encourage the use of te reo Māori in our courts and workplaces, but proper training is required.

We note that while te reo Māori is an official language of Aotearoa New Zealand, there are barriers to using Māori in courts. Current legislation requires 72 hours notice of intention to speak Māori within the courtroom, even for simple mihi, as opposed to evidence. Current legislation also requires any documents submitted to the court in te reo Māori to be accompanied by an English translation. This legislation does not encourage and empower Māori as lawyers or as service users within our courts.

The PSA sees the requirement of significant Crown funding to support incorporation of tikanga Māori into the Family Court. We would like to work jointly with the Ministry to develop a framework that is meaningful to our members. We would also like to engage with the Ministry about a Māori recruitment strategy. We note that even the Government Expectations document refers to *“recognition of employees’ cultural contribution in recruitment and job descriptions and associated pay.”*¹⁰

In terms of the actual tikanga to be used in our courts and working environments, PSA has “Ngā Kaupapa”¹¹, a set of principles that are consistent with the Māori world view to help us define and maintain our focus on the betterment of working lives for Māori across our union. Ngā Kaupapa also asks PSA members to be role models in practice and that in doing so, they educate, inform and protect their colleagues within the realm of the Māori world view.

⁸ Maihi Karauna – The Crown’s Strategy for Māori Language Revitalization, 2018-2023, p.35

⁹ Ibid., p.9

¹⁰ 2018 Government Expectations on Employment Relations in the State Sector.

¹¹ <https://www.psa.org.nz/about-us/te-runanga/nga-kaupapa/>

We can see the value of Ngā Kaupapa being utilised both our Ministry workplaces and our Family Courts, to help facilitate safe spaces for Māori and be responsive to the needs of Māori.

Do you have any other suggestions to improve the Family Justice Service for Māori, including any comment on the examples provided in the consultation document?

Cultural competency of the Family Court bench

The consultation document suggests a consideration around “*dual warranting some Te Kōti Whenua Māori (Māori Land Court) judges for Family Court proceedings involving Māori children. This would help the court to make culturally appropriate decisions and raise the cultural capability of the Family Court Bench.*” While this is an interesting idea, it does question the current rate of cultural competency of the bench. The majority of the Ministry service users are Māori – surely all judges should already be culturally capable and making appropriate decisions for Te Ao Māori.

The judges of the Māori Land Court are obviously very competent in this regard. However, dealing with land, financial dealings and whakapapa are very different to dealing with children and their family situations. By considering that the judges could simply jump from one to the other seems quite disrespectful to the mahi of the judges of both courts.

It would be appropriate to look at cultural competency levels before judicial appointments are made. While training can be provided to the judiciary, a proficient understanding of Te Ao Māori takes a long period of time to develop.

Comparison with the Rangatahi Court

The initiative of Rangatahi court, has been widely regarded as successful and incorporates tikanga and Te Ao maori in its practice and process. A similar practice could be adopted and used more within the family court, in dealing with matters (mediation) before they require Court intervention. This model would recognise the value of tikanga and Te Ao Māori, bring a more holistic view to the way service users experience the Family justice system. It would reduce the number of Maori appearing in Court and would require resolution to be made by the whānau, hapū, collectively. This would also be an avenue to introduce more professional Māori within the justice sector (such as counsellors, Kaumatua, Kuia). Note that remuneration of these Māori professionals should be commensurate with that of Pākehā professionals.

Cultural reports

There could be cultural reports written in the family court to delve into whānau/hapū dynamic and how one's genealogy, socio-economic background and upbringing affects an individual. It would also recognise and acknowledge how this differentiates from the makeup of non- Maori families. This would also delve into the "intergenerational-curse" and how we as Maori(today) have suffered due to the atrocities endured by our Tupuna. Land, identity, culture, language and how we are perceived by our own people and our country, has significantly impacted how we view the world and vice versa.

Conclusion

Again, we, the delegates of the MOJ Rūnanga Committee, thank the panel for the opportunity to make a submission on this kaupapa. If there is a possibility of offering a verbal submission, or if there is room for more collaboration, we would welcome that situation. We can see that our joint engagement on this kaupapa would be mutually beneficial.

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