



Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC), on behalf of Hon Andrew Little, Minister of Health:

Health and Disability System Reform Briefings February – June 2022

The following documents have been included in this release:

Title of paper: Policy Decisions for Pae Ora Bill Departmental Report: Talking Points

Title of paper: Health Reforms: Quality Functions in the Future System

Title of paper: Progress on Health System Functions Transfer

Title of paper: Health Reforms: Policy Critical Path to Day 1

Title of paper: Health Reforms: Key Policy Decisions and Delegation

Title of paper: Implementing the Intervention Framework for the Reformed Health System

Title of paper: Health Research in the Future System

Title of paper: Progress Update on Public Health Transformation Programme

Title of paper: Pae Ora Legislation Committee Report

Title of paper: Supplementary Order Paper for Pae Ora (Healthy Futures) Bill

Title of paper: Update on the Transfer of Functions from Ministry of Health to New Entities

Title of paper: Appendices to the Interim Government Policy Statement

Title of paper: Health Reforms: Role of Localities in the Reformed System

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- Section 9(2)(a), to protect the privacy of individuals;
- Section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials;
- Section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion; and
- Section 9(2)(h), to maintain legal professional privilege.



Aide-Mémoire

POLICY DECISIONS FOR PAE ORA BILL

DEPARTMENTAL REPORT: TALKING POINTS

To	Hon Andrew Little, Minister of Health	Report No	DPMC-2021/22-1329
From	Stephen McKernan, Director, Health Transition Unit	Date	8/02/2022

Purpose

1. This aide-mémoire summarises your paper to the Social Wellbeing Committee that sets out changes to the Pae Ora (Healthy Futures) Bill that would be presented to the Pae Ora Legislation Committee in the departmental report on 14 February 2022. The paper is scheduled for consideration at SWC on 9 February 2022. Talking points to support discussions with your colleagues are attached.

Summary

2. The Pae Ora (Healthy Futures) Bill is currently being considered by the Pae Ora Legislation Committee. Public submissions on the Pae Ora (Healthy Futures) Bill closed on 9 December 2021, with a total of 4,663 submissions received. While substantive submissions were largely supportive of the intent of the reforms, some key themes emerging from submissions indicate changes to the Bill. This paper informs Cabinet of the decisions made in response to submissions and sets out further decisions requiring Cabinet agreement.
3. These decisions relate to:
 - a. the approach to legislating for te Tiriti o Waitangi obligations;
 - b. applicability of the health system principles to the Minister of Health;
 - c. accountability of the Māori Health Authority; and
 - d. iwi-Māori partnership boards.

Te Tiriti o Waitangi provisions

4. Many submissions discussed the approach to te Tiriti in the Bill, although submitters did not raise any substantive issues not already considered. The paper does not recommend a change to this approach, and notes you are preparing a public communications strategy on the hauora Māori settings in the Bill to raise awareness and help address any information gaps or misunderstandings about these settings.

5. Additionally, Cabinet had authorised you, in consultation with the Attorney-General and Hon Kiri Allan, to give consideration to how to give effect to the principle of rangatiratanga in the Bill. The paper notes your view that the Bill strikes a careful balance between kāwanatanga and rangatiratanga and an explicit reference to rangatiratanga would likely not have a material impact on decisions made under the Bill. Cabinet could, however, opt to review this in five years' time as part of a proposed wider statutory review.

Applicability of the health system principles to the Minister of Health

6. The Cabinet Priorities Committee with Power to Act [CPC-21-MIN-0025] had previously agreed that the health system principles should not apply to the Minister of Health, but that this would be reconsidered if submitters expressed a desire to extend them. Submissions noted a perception that the principles not applying to the Minister represented the Crown exempting itself from true partnership. ^{s9(2)(h)}

Accountability of the Māori Health Authority

7. A large number of submissions called for greater independence for the Māori Health Authority or more direct accountability to Māori, noting that the Hauora Māori Advisory Committee is not appointed by Māori. To strengthen the relationship between Māori and the Committee while ensuring this does not undermine the stewardship role of the Māori Health Authority, and that the institutions appropriately reflect accountabilities to Māori and to Parliament, it is recommended that the Hauora Māori Advisory Committee be appointed based on nominations from iwi-Māori partnership boards and other hauora Māori organisations.
8. It is also proposed that the Minister be required to consult with the Committee in the exercise of particular statutory functions specified in the Bill, including appointing the Māori Health Authority board. In light of this change to the appointment process, and considering the Minister's accountability to Parliament, it is no longer necessary for the Minister to obtain the agreement of the Committee on the exercise of specific powers. This would require revising Cabinet's previous decision to require agreement of the Committee when the Minister is seeking to replace the Māori Health Authority board and appoint a Crown observer.
9. Although not included in the paper, we have discussed a further provision to require the Minister, in exercising powers above, to set out where he or she has decided not to follow the advice of the Committee, in whole or in part. This would support transparency around this process and make for a more mature relationship; it would also provide some comfort regarding the voice of the Committee being lost through consultation. A talking point is included below to raise this at SWC.
10. Submitters also noted concern with the process set out to resolve disputes between Health New Zealand and the Māori Health Authority, challenging the appropriateness of the Minister of Health making final decisions unilaterally. To address this, the paper recommends the Minister be required to consult the Minister for Māori Development and/or the Minister for Māori Crown Relations: Te Arawhiti before determining a dispute.

Iwi-Māori partnership boards

11. In September 2021, Cabinet noted your expectation that the Bill would need to provide specific functions for iwi-Māori partnership boards. Submissions and further engagement undertaken by the interim Māori Health Authority have confirmed a strong desire from Māori

for a meaningful role in local planning and design of health services. The list of functions noted to Cabinet in September, including agreeing to priority outcomes within locality plans is included in the departmental report, is recommended to be included in the Bill. This is to be accompanied with associated amendments to the locality provisions to better connect boards to these processes.

- 12. Additionally, the paper suggests a clear and transparent statutory process for recognising iwi-Māori partnership boards be included in the departmental report. This would involve a tikanga-based process led by the Māori Health Authority, on whose advice the Minister would recommend inclusion of boards in a Schedule to the Act. This process would ensure that iwi-Māori partnership boards are able to represent the views of the entire Māori community in their proposed areas, including mātawaka and other entities relevant to health services.

Crown Managers

- 13. The paper proposes the inclusion in the Bill of an additional statutory intervention power, which would enable the Minister of Health to appoint a Crown Manager to act in place of the Health New Zealand Board in relation to specified functions. This power is aimed to support a response to higher-risk, more volatile situations where greater intervention is needed, beyond the level of observation and feedback provided by a Crown Monitor/Observer. It would apply to Health New Zealand only and not to the Māori Health Authority.

Statutory review of the legislation

- 14. Finally, the paper proposes including a requirement for a regular review of the legislation, at least every five years from enactment. This would provide an ongoing opportunity to ensure that the new Act remains fit for purpose, and could allow for changes to issues including the approach to te Tiriti that may need evolution over time.

Recommendation

- 15. It is recommended that you note the contents of this aide-mémoire.

Stephen McKernan

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From Stephen McKernan
Director, Health Transition Unit

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To Hon Andrew Little Minister of Health
Date: / /