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| <b>Report Title:</b>   | <b>Delivering better public services and strengthening democracy: Use of the Māori language by public sector agencies</b> |                  |                  |
| <b>Report No:</b>      | <b>2023-0302</b>  |                  |                  |
| <b>Date:</b>           | <b>5 December 2023</b>  |                  |                  |
| <b>To:</b>             | <b>Hon Nicola Willis, Minister for the Public Service</b>   |                  |                  |
| <b>Action Sought:</b>  | Discuss advice with officials   | <b>Due Date</b>  | 06 December 2023 |
| <b>Contact Person:</b> | <b>Hannah Cameron, Deputy Commissioner Strategy and Policy</b>  |                  |                  |
| <b>Contact No:</b>     | 9(2)(a) privacy   |                  |                  |
| <b>Encl:</b>           | No  | <b>Priority:</b> | Medium           |
| <b>Security Level:</b> | <b>IN CONFIDENCE</b>  |                  |                  |

## Executive Summary

- As part of the Government's 100 day plan, you have been asked to report back to Cabinet by the end of January on ensuring public services are available to all New Zealanders and are prioritised on the basis of need not race. We understand that it is expected that this report back will cover other specific commitments in the Coalition Agreements, including:
  - how Government will ensure all public service departments have their primary name in English, except for those specifically related to Māori;
  - how Government will require the public service departments and Crown Entities to communicate primarily in English – except those entities specifically related to Māori.
- This briefing provides advice and options on these specific commitments, and an overview of the current settings for the use of te reo Māori (Māori language) in the public sector (including branding and agency naming conventions).
- As requested, this briefing also provides advice relating to payments for language skills that are not required to perform the employee's role.
- Further briefings and discussions with you will inform other elements to be included in the report-back, and we aim to provide you with an early draft of the Cabinet paper before the Christmas break.
- In recent years there has been an increased use of Māori language (including Māori agency names) in everyday use, including ministerial briefings, branding and signage, and other communications. This is partly in response to Māori-English Bilingual Signage Guidance, associated branding changes, and the Crown's Strategy for Māori Language Revitalisation 2019–2023. The majority of agencies almost never use *only* Māori language in their branding or communications.
- There are a number of options available to ensure public service departments have their primary name in English, and that the public sector is communicating primarily in English, which can be progressed through the Cabinet paper. These include:

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- a. ensuring that new and existing public service departments have English for their legal name, apart from those specifically related to Māori;
  - b. setting expectations on usage of department's legal name in written communications and documents;
  - c. reinforcing existing guidance that agencies use their bilingual title in signage and branding (discouraging the use of the Māori agency title without the English);
  - d. adjusting the use of Māori language in ministerial communications.
  - e. issuing an expectation that public service agencies use primarily English in their communications, and encouraging Crown entities to do the same.
- 7. Any Cabinet expectations regarding public service departments could take effect immediately as a result of the Cabinet paper. Ensuring consistent treatment of legal names will require Orders in Council to amend the relevant schedule of the Public Service Act 2020 following Cabinet decisions. Any requirements to extend these expectations to Crown Entities would also require a subsequent process, discussed below.
- 8. As Minister for the Public Service you have different levers over Crown entities than with departments. If Cabinet wishes to issue formal directions extending expectations to Crown entities on the use of Māori language, you could:
  - a. work with portfolio ministers to direct specific Crown entities on the usage of Māori language; or
  - b. issue an all-of-government direction under section 107 of the Crown Entities Act 2004.
- 9. If agencies are required to change their branding, signage and digital content (e.g. websites), this could involve significant rebranding costs. We propose that the Government will also have to set clear expectations on the approach to this spending. For example, this could include asking that new content should incorporate Cabinet's expectations, while any existing digital content and physical signage is instead updated when changes are otherwise being made. This would help to mitigate costs and avoid a surge in government spending as every agency looks to replace existing branding and signage.

## **Recommended Action**

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We recommend that you:

- a. **discuss** this advice with officials
- b. **agree** that the January Cabinet paper will include proposals to:
  - a. ensure that new and existing public service departments have English for their **legal** name, apart from those specifically related to Māori;
  - b. set expectations on usage of department's legal name in written communications and documents;
  - c. reinforce existing guidance that agencies use their bilingual title in signage and branding (discouraging the use of the Māori agency title without the English);
  - d. adjust the use of Māori language in ministerial communications;

- e. issue an expectation that public service agencies use primarily English in their communications, and encouraging Crown entities to do the same.

*Agree/disagree*

- c **indicate** whether you wish to extend expectations regarding usage of Māori agency titles to Crown Entities

*Yes/no*

- d **note** this briefing also includes advice on payments for language skills that are not required to perform the employee's role, which will not be included in the Cabinet paper

*Yes/no*

- e **forward** this advice to the Minister for Māori Development and discuss with them whether the Cabinet paper should include actions to review the following documents with a view to ensuring usage of the Māori language does not create a barrier to accessibility:

- a. the Bilingual Signage Guidance
- b. the Crown's Strategy for the Māori Language Revitalisation (noting this is due for renewal at the end of the year).

*Agree/disagree*

Hon Nicola Willis

**Minister for the Public Service**

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## **Purpose of Report**

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10. This briefing provides you with advice on the current settings for the use of Māori language in the public sector (including branding and agency naming conventions), and options for ensuring English is used as the primary language.
11. As requested, this briefing also provides advice on payments for language skills that are not required to perform the employee's role.

## **Coalition agreement and 100-day action plan**

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12. Cabinet recently considered the paper *COALITION GOVERNMENT 100-DAY PLAN* and agreed Government's 100-day plan.
13. As Minister for the Public Service, you have been asked to report back to Cabinet by the end of January on ensuring public services are available to all New Zealanders and are prioritised on the basis of need not race (e.g. ensuring government contracts are awarded based on value). We understand that it is expected that this to cover those commitments in the Coalition Agreements, primarily:
  - a. how Government will ensure all public service departments have their primary name in English, except for those specifically related to Māori;
  - b. how Government will require the public service departments and Crown Entities to communicate primarily in English – except those entities specifically related to Māori;
  - c. a draft Cabinet Office circular for all central government agencies that it is the Government's expectation that public services should be prioritised on the basis of need not race; and
  - d. how Government will ensure government contracts are awarded based on value, without racial discrimination.
14. This briefing provides you with advice on the first two points on the use of the Māori language. We will work with relevant agencies to provide further advice on the second two points. We expect to provide you with an early draft of the Cabinet paper before the Christmas break.
15. Note we have not yet consulted with the relevant agencies on this briefing, and will instead engage with agencies as we draft these proposals into a draft Cabinet paper, subject to your agreement.

## **Ensuring all public service departments have their primary name in English, except for those specifically related to Māori**

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### ***Existing public sector agency names***

16. The legal names of public service agencies are those listed in Schedule 2 of the Public Service Act 2020, or for Crown entities in the establishing legislation and Schedule 1 of the Crown Entities Act 2004. Most public service agencies<sup>1</sup> use bilingual names (Māori and English) in their branding and communications, e.g. Te Kawa Mataaho Public Service Commission. In most cases the Māori name is not the official (legal) name of the entity.

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<sup>1</sup> Public service agencies include departments, departmental agencies, and interdepartmental executive boards.

17. **Appendix One** includes a list of entities which have both an English and Māori legal name. These are either:
- a. *Agencies that have been established or renamed recently, following Te Ture mō Te Reo Māori 2016 Māori Language Act 2016 (the Māori Language Act 2016) and associated signage and branding guidance.*
  - b. *Agencies whose role relates primarily to Māori* e.g. ‘Ministry of Māori Development—Te Puni Kōkiri’ (Te Puni Kōkiri), ‘Office for Māori Crown Relations—Te Arawhiti’ (Te Arawhiti).
18. Legal names for Government Departments can be changed by order in council, changes to legal names for Crown Entities will require changes to primary legislation.

***Current settings for the use of Māori language in signage and advertising***

19. After being confirmed as an official language in 1987, the Māori Language Act 2016 affirmed the status of the Māori language and:
- a. reinforced the commitment between the Crown and Māori to work together to revitalise the Māori language; and
  - b. specified the Māori language should be used in promotion to the public of government services and in provision of information.
20. The Māori Language Act 2016 is administered by Te Puni Kōkiri as the lead policy advisor on the revitalisation and use of the Māori language.
21. Cabinet agreed in 2014 that Te Puni Kōkiri work with Te Taura Whiri I te Reo Māori – the Māori Language Commission and the Property Management Centre of Expertise to develop guidelines for the use of bilingual (Māori – English) signage across public sector agencies [CAB MIN (14) 17/12 refers].
22. This Māori-English Bilingual Signage Guidance was issued by Te Puni Kōkiri in 2016 and includes physical signs like health and safety signs, or information signs, but can be much wider and include electronic media, such as the headings within websites and email signatures; and information and publicity material, such as business cards, reports and pamphlets.
23. The guidance:
- a. encourages agencies to consider principles of bilingual signage when redesigning their logo or branding, or to find ways to incorporate Māori language into existing branding
  - b. includes a number of principles to guide design decisions where agencies are rebranding, including equality of language – that both languages should be equally easy to read, and treated as similarly as possible while remaining easy to distinguish
  - c. recommends that the Māori language version of bilingual text appear first, to align with an internationally recommended standard that a “first language” (language being revitalised) be displayed more prominently (The rationale is that English is an international language that most people know and understand, meaning it is easier to identify and interpret. The ordering of Māori language first also aligns with a longstanding New Zealand Geographic Board convention that Māori language come first for bilingual place names.)

- d. does not require information and publicity material to be produced bilingually or require agencies to proactively rebrand to align with the guidance.
- 24. In 2021, the Commission issued guidance for use of the expanded New Zealand Government Identity. This included an expectation that new agencies, or existing agencies looking to re-brand, should adopt a logo mark in keeping with the 'NZ Government Identity logo mark'. This logo mark is bilingual. Agencies were also encouraged to consider adopting other elements of the Identity in their branding review or development, helping to move towards a common Public Service visual identity.
  - 25. Almost all agencies use both Māori and English names in their agency branding and logos, in line with the Bilingual Signage Guidance. The exception that we have found is Te Puna Aonui (the Executive Board for the Elimination of Family Violence and Sexual Violence).
  - 26. Other aspects of the guidance are not consistently applied across agencies. For example, agencies are relatively evenly split between the Māori name appearing first/more prominently and the English name appearing first.
  - 27. Through the Guidance, associated branding changes, and wider Māori language revitalisation efforts, there has been an increased use of Māori agency names in everyday use and in written documents (including but not limited to ministerial briefings). It is increasingly common for some organisations to use *only* the Māori name in everyday use or in shorthand references to the agency.

#### ***Possible approaches for change***

- 28. As Minister for the Public Service, there are a number of levers that can be used to shift current practices around the use of Māori language by the public sector. Suitability of these approaches will depend on your preferred:
  - a. **Objective** – whether you wish to achieve greater consistency by reinforcing current guidance regarding signage and branding or to implement a different convention for agency naming, and whether this is focused only on branding or should extend to everyday use, including written communications; and
  - b. **Scope** – which entities you want the changes to cover, noting that public service departments must follow Cabinet direction but other levers may be required to influence Crown Entities.
- 29. In order to meet Cabinet's commitment that public service departments have their primary name in English, Cabinet could take the following approaches, which are discussed further below:
  - a. ensure that new and existing public service departments use English for their legal name, apart from those specifically related to Māori
  - b. set expectations on usage of department's legal name in written communications and documents
  - c. reinforce existing guidance that agencies use their bilingual title in signage and branding (discouraging the use of the Māori agency title without the English), and/or review the existing guidance to adjust the way in which signage and branding operates.

*Ensuring that new and existing public service agencies use English for their legal name, apart from those specifically related to Māori*

30. One step Cabinet could take to ensure public service agencies have their primary name in English is to set the expectation that new and existing public service departments use English for their legal name, apart from those specifically related to Māori.
31. As stated above, almost all public service agencies legal names are already in English. Of the 31 departments, 6 departmental agencies, and five interdepartmental executive boards, all but four have only an English legal name, and the remaining four have both an English and a Māori legal name.
  - a. Two of these (both the Ministry of Māori Development—Te Puni Kōkiri and Office for Māori Crown Relations—Te Arawhiti) have a Māori focus, and would fall within the coalition agreement exception for agencies ‘specifically related to Māori.’
  - b. The remaining two are Oranga Tamariki—Ministry for Children and Aroturuki Tamariki—Independent Children’s Monitor. If Cabinet wishes to change the legal names of these entities to put the English name first, or to remove the Māori legal name, this can be done via an Order in Council to amend Schedule 2 of the Public Service Act 2020.

*Setting expectations on usage of agencies’ legal name in written communications and documents*

32. To ensure public service agencies are using agencies’ legal names as the primary names in communications (including briefings, websites, letters etc), Cabinet could set expectations for how agencies’ names are to be used. This could cover:
  - a. an expectation that any references to a public service agency always include its legal name (and that usage of bilingual names would always be in concert with the legal name),
  - b. how references to departments with multiple legal names should be undertaken (for example, the first reference should always use both legal names).
33. We note that any expectations put on public service departments should also be applied consistently across departmental agencies (e.g. Te Arawhiti - Office for Māori Crown Relations) and interdepartmental executive boards (e.g. Te Puna Aonui – the Executive Board for the Elimination of Family Violence and Sexual Violence), as these agencies form part of the core public service alongside departments.
34. You could also consider whether you wish to apply any expectations to Crown entities – this is discussed further below.

*Reinforcing existing guidance that agencies use their bilingual title in signage and branding*

35. Lastly, branding and signage are often the most visible aspects of an agency’s name. As covered above, the Bilingual Signage Guidance encourages agencies to use both the Māori and English names in branding and signage, and recommends that both languages should be easy to read.
36. Almost all agencies are currently compliant with this aspect of the Guidance, and use both Māori and English names. However, compliance is not mandatory, and there are some cases where the legal English name is not included in branding or logos – for example, Te Puna Aonui – the Executive Board for the Elimination of Family Violence and Sexual Violence.
37. Cabinet could consider issuing an expectation that agencies comply with this principle from the Guidance, and that a department’s Māori name should not be used in branding and signage without the English (legal) name.

38. If Cabinet wishes to go further, it could consider revising this guidance or revoking it to give the expectation that the English (legal) name is given prominence in branding and signage.

### ***Implementation***

39. If you agree with the approaches set out above, we can take immediate steps to:
- a. Work with relevant agencies to include in the January Cabinet paper expectations on usage of Māori names for public service agencies in government branding, signage and communications.
  - b. This paper could also seek agreement to issue drafting instructions for any Orders in Council necessary to change the legal names of agencies; and/or
  - c. The Public Service Commissioner can write to public service chief executives to ensure they are aware of Cabinet's expectations and remind public service chief executives and agencies of the existing Bilingual Signage Guidance through existing channels.
40. Once Cabinet has agreed on new expectations, the Minister for Māori Development may wish to consider whether existing guidance is reviewed, including the Bilingual Signage Guidance, the Crown's Strategy for Māori Language Revitalisation and the Policy Guidelines for the New Zealand Government Identity.
41. We note that if agencies are required to change their branding, signage and digital content (e.g. websites) this could involve significant rebranding costs. These costs could be mitigated if the changes were phased:
- a. Immediate changes: All *new* content created by public service agencies can easily incorporate Cabinet's expectations. For example, this would include ministerial briefings, new website content, and letters.
  - b. Later changes: We propose that existing digital content and physical signage are not immediately replaced, but instead updated when changes are otherwise being made (i.e. during the usual cycle of policy changes, website refreshes, etc). While this approach will take longer to have effect, it will avoid a surge in government spending as every agency looks to replace existing branding and signage.
42. We also recommend that Cabinet also set an expectation that rebranding costs are kept to a minimum.

### ***Extending these expectations to Crown entities***

43. We note that the Coalition Agreements commitments in this area do not extend to Crown Entities, however Crown Entities such as Waka Kotahi – New Zealand Transport Agency have been a significant aspect of the public dialogue about this issue, and some Crown Entities have gone further in terms of using only their Māori name in common usage.
44. As Minister for the Public Service, you have different levers to direct Crown entities than with public service agencies. However, if Cabinet does wish to extend the above expectations to Crown entities, this would need to be done in the following ways.

### ***Legal names of Crown entities***

45. As with Public Service agencies, most Crown entities have an English legal name. There are seven Crown entities that have both an English and a Māori legal name; two of which have a specific Māori focus (see **Appendix One**). Making changes to the legal name of a Crown



entity is not as straightforward as changing the name of a department and would require amendments to the legislation establishing the Crown entity.

46. Given there are few Crown entities with a dual legal name, you could consider focusing on ensuring that future Crown entities have an English name, which could be agreed by Cabinet as an expectation to guide future policy decisions. If you do wish to proceed with changing the legal names of these Crown entities, this will need to be done in consultation with the portfolio ministers for these entities.

#### *Use of Māori names in branding, signage and communications*

47. While the Bilingual Signage guidance currently applies to Crown entities, compliance is voluntary, as with public service agencies. Furthermore, while Cabinet can direct public service agencies to comply with this guidance, and on how to use Māori names in everyday communications, Cabinet cannot direct Crown entities in this same way.
48. As a first step, the Public Service Commissioner could write to Crown entity chief executives to ensure they are aware of the Guidance and that this Guidance applies to them, and strongly encourage them to comply.
49. If you wish, you could also consider:
- a. working with the relevant portfolio ministers to direct specific agencies on the use of Māori names in branding, signage and communications. Note that only Crown agents can be directed in this way<sup>2</sup>. This approach could be used to target any specific agencies where ministers expect them to change their practice.
50. Using a direction under s107 of the Crown Entities Act 2004 to direct *all* agencies to comply with Cabinet's expectations on use of Māori names. This direction would be issued by you, in your capacity as both Minister for the Public Service and Minister of Finance.

### **Ensuring public service departments and Crown Entities communicate primarily in English – except those entities specifically related to Māori**

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#### ***Existing settings for use of Māori language in other communications***

51. In 2018, Cabinet agreed to a vision and approach for the Crown Strategy for Māori Language Revitalisation (the Strategy), and directed agencies to:
- a. develop a Māori language plan, and reflect these in their accountability documents including annual reports and strategic intentions; and
  - b. consider how legislative and system reviews will reflect the Strategy and Government's commitment to revitalising the Māori language in partnership with iwi and Māori [CAB MIN-18-MIN-002 refers].
52. The Strategy was launched in 2019, and is due to be renewed at the end of this year. It applies across the whole public sector, and includes specific priorities for:
- a. more accessible public services in te reo Māori (the Māori language); and
  - b. Māori language resources held by the Crown to be more readily available.
53. The Strategy does not require or recommend that any documents *solely* use Māori.
54. The majority of agencies do not use *only* Māori language in their communications, with most predominantly using English with occasional Māori (and other language) translations.

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<sup>2</sup> See sections 103 – 105 of the Crown Entities Act 2004

Where Māori language is used by agencies without an English translation this is generally limited to individual words or short phrases and is generally only done where the meaning is commonly understood (e.g. words like whānau, and kia ora), but are sometimes used where there is no direct translation for a Māori concept (e.g. rangatiratanga, and Whānau Ora).

### ***Possible approaches for change***

55. There are options here on how to ensure public service departments and Crown entities communicate primarily in English. The suitability of these approaches will depend on your objective, for example, whether the main concern is the use of Māori language in ministerial briefings or in communications more broadly to ensure accessibility.

### ***Usage of Māori language in Ministerial communications***

56. The use of Māori language in ministerial communications could be immediately adjusted as a matter of ministerial preference. If you wish to implement a consistent approach on the use of Māori language across all ministerial communications, this can be achieved either through discussions with individual portfolio ministers or by Cabinet agreement.

### ***Opportunities to direct the use of Māori language across the Public Sector more generally***

57. If the objective is to ensure the accessibility of broader government communications and written documents, Cabinet can issue an expectation that public service agencies use primarily English in their communications. This could include an expectation that when Māori language is used in communications that it is used alongside an English translation unless for accessibility reasons, or the Māori language used is commonly understood by all New Zealanders, and to ensure names of programmes and services (including Whānau Ora) are always translated into English. This will help ensure that usage of the Māori language is not a barrier to New Zealanders accessing public services, including migrants and those for whom English and Māori are not their first or second language.
58. The Public Service Commissioner can support Cabinet's decision by writing to public service chief executives to ensure they are aware of the new expectations. While Cabinet expectations only officially apply to public service departments, compliance can also be strongly encouraged to those outside of the Public Service, including Crown entities.
59. If you do wish to go further to direct the use of Māori language within Crown entities, the same options apply as outlined above for usage of Māori names, including:
  - a. working with portfolio ministers to direct specific Crown agents on the usage of Māori language; or
  - b. an all-of-government direction under section 107 of the Crown Entities Act 2004.
60. As stated above, the Crown Strategy for Māori Language Revitalisation is due for renewal at the end of this year. You may also wish to discuss with the Minister for Māori Development whether it should be reviewed to include the expectation that the use of the Māori language in government communications and written documents does not create a barrier to understanding.

## **Payments for language skills that are not required to perform the employee's role**

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61. A number of workforces within the public sector will have workplace policies or conditions in individual or collective employment agreements that include payments to employees for competency in languages such as Māori. We are aware of at least 16 agencies (52% of Public Service collective agreements) that have specific terms within their employment agreements that compensate employees for Māori language competency. More are likely to have policies that sit outside of their employment agreements, which are not visible to us.
62. Typically, these schemes provide for an allowance paid to employees that have been certified as achieving various levels, as assessed by the Māori Language Commission. We do not have information on the number of individuals within agencies that are in receipt of such payments, although we do not believe that payment of these allowances is common.
63. The value of the payment varies from agency to agency and will depend on the skill level reached. Potential payments are commonly between around \$1000 and \$3500 per annum.
64. Note that roles that specifically require fluency in a language (whether that is Māori, Mandarin, French, or New Zealand Sign Language) will usually have that included within the role description and will be valued as part of the employee's salary for the role. Some allowances may also be paid in the wider public sector to reflect use or competency in languages including for the teaching workforce.
65. Taking steps to encourage Māori language competency is consistent with the previous Government's expectations for employment relations, as expressed in the current Government Workforce Policy Statement. The provision of allowances for Māori language competency where this is not required to perform an employee's role was viewed by agencies and unions as appropriate in this context.
66. You will soon be provided with a draft Government Workforce Policy Statement (Statement) on public sector employment relations, and you could choose to include an expectation that reflects the Government's intention to stop these allowances being paid in the future. While the Statement cannot alter existing employment or other legal rights or obligations, it can act as guidance in bargaining and set expectations about a change in approach.
67. 9(2)(f)(iv) confidentiality of advice
- 68.
69. We could also work with agencies that already have such a condition in place to ensure that their application of the allowances is rigorous, and that the monetary value is accounted for when reporting on remuneration paid in the role. In the longer term, agencies can allow for the change in expectations to be reflected in future bargaining strategies, although this will likely require trade-offs.

## Next Steps

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70. We recommend that you share and discuss this advice with the Minister for Māori Development, who may be interested in any expectations for the use of Māori language in the public sector. In particular you could discuss whether the Cabinet paper should include actions to review the following documents with a view to ensuring usage of the Māori language does not create a barrier to accessibility:
  - a. the Bilingual Signage Guidance
  - b. the Crown's Strategy for the Māori Language Revitalisation (noting this is due for renewal at the end of the year).
71. We recommend that you then discuss this advice with officials, with a view to confirm your preferred approach and determining next steps, including progressing any immediate opportunities.
72. Further briefings and discussions with you will inform other elements to be included in the 100 day Cabinet paper report-back on delivering better public services and strengthening democracy, and we aim to provide you with an early draft of the Cabinet paper before the Christmas break.

## **Appendix One: Public service agencies and Crown entities with a Māori and English legal name**

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(Note: all other public service agencies and Crown entities have their legal name only in English)

### **Public Service Agencies**

- Ministry of Māori Development—Te Puni Kōkiri
- Oranga Tamariki—Ministry for Children
- Ministry of Māori Development—Te Puni Kōkiri
- Office for Māori Crown Relations—Te Arawhiti

### **Crown Entities**

- Kāinga Ora—Homes and Communities
- Taumata Arowai—the Water Services Regulator
- Heritage New Zealand Pouhere Taonga
- Museum of New Zealand Te Papa Tongarewa Board
- New Zealand Infrastructure Commission/Te Waihanga
- Te Reo Whakapuaki Irirangi (Māori Broadcasting Funding Agency)
- Te Taura Whiri I Te Reo Māori (Māori Language Commission)