

Recommended Action

We recommend that you:

- a **note** that the arrangements for a future Rōpū for family violence and sexual violence will need to balance your own role as a Minister with the leadership role that is being sought by the sector
- b **agree** that the core role for a future Rōpū is to provide the Minister for the Prevention of Family Violence and Sexual Violence with independent advice on family violence and sexual violence
Agree
- c **indicate** any other specific areas you would want a future Rōpū to provide leadership on as part of its independent advice role
- d **agree** that you will seek Cabinet agreement to establish a future Rōpū as a Ministerial advisory group, indicating your intention to explore further options to strengthen its role and voice
Agree
- e **agree** that to support a robust selection process, funding will be committed to support a sector-led 'Kaitiaki Rōpū' to identify nominations, but you will also seek nominations outside that process to ensure key groups such as survivors and disabled people can be represented
Agree
- f **agree** that you will seek agreement from the Cabinet Appointment and Honours Committee to confirm appointments to the future Rōpū
Agree
- g **agree** that once the Joint Venture for Family Violence and Sexual Violence has been established as an interdepartmental executive board, you will seek the board's collective advice on appropriate support arrangements to enable the future Rōpū to carry out its role effectively
Agree
- h **agree** to provide feedback to sector representatives on your preferences and decisions regarding a future Rōpū for their meeting on 16 August 2021
Agree
- i **note** that we will prepare a draft Terms of Reference for the future Rōpū in line with your preferred approach and reflect this in the Cabinet paper being developed for this work.

Hon Marama Davidson

Minister for the Prevention of Family Violence and Sexual Violence

Establishing a strengthened Rōpū for family violence and sexual violence

Purpose of Report

- 1 This report gives you advice on how the mana and voice of Māori can be upheld in a future Rōpū for family violence and sexual violence.

You are considering options to strengthen Māori voice and leadership in government's efforts to reduce family violence and sexual violence

- 2 In November 2018 Cabinet agreed to new arrangements to collectively lead government work to reduce family violence and sexual violence in Aotearoa. This included establishing a joint venture of key agencies and an interim Te Rōpū to support government to work in partnership with Māori and the sector. [SWC-18-MIN-0037]
- 3 While these arrangements set the foundations for a constructive relationship between government and Māori, they also faced challenges. An independent review by the Auditor-General found that the joint venture and the interim Te Rōpū held different expectations about their respective roles and responsibilities, and this led to a break-down in the relationship. The Auditor-General has recommended 're-setting' the joint venture's relationship with Māori to support this kaupapa.¹
- 4 You are now considering options to strengthen government's arrangements in this area. This includes formalising the Joint Venture for Family Violence and Sexual Violence as an interdepartmental executive board, and setting up a future Rōpū to strengthen the voice of Māori in this work. Government has already secured \$1.9 million in on-going funding, housed within Vote Justice, to provide support for a future Rōpū. We understand your ambition is for these arrangements to:
 - 4.1 provide for a **strengthened and independent voice for Māori** in the government response to family violence and sexual violence, coming from a place of experience and mātauranga Māori
 - 4.2 **uphold the mana of Māori** and provide opportunities for Māori to take leadership
 - 4.3 provide a platform for the Rōpū to have an **enduring relationship** with government over time.
- 5 Representatives of the family violence and sexual violence sector have recently sent you their proposed Terms of Reference for an enduring Rōpū to support this kaupapa.

There are key considerations that should inform your decisions on these arrangements

- 6 Getting these arrangements right means balancing your role as a Minister with the leadership role that is being sought by sector representatives. Sector representatives have indicated that they see a future Rōpū working alongside the Minister for the Prevention of Family Violence and Sexual Violence to "ensure co-governance of the implementation of the National Strategy to eliminate family violence and sexual violence".
- 7 We recommend considering this in relation to Te Tiriti o Waitangi. Te Tiriti provides the Crown with the right to govern Aotearoa (**kāwanatanga**). As part of its governing role, the Crown has responsibilities that it owes equally to all New Zealanders as citizens, including to Māori (**ōritetanga**). Te Tiriti also recognises

¹ See <https://oag.parliament.nz/2021/joint-venture/docs/joint-venture.pdf>.

the right of Māori to make decisions over resources and tāonga that they wish to retain (**rangatiratanga**).² This right is often understood to be held primarily by iwi and hapū.

- 8 We consider that government holds key ōritetanga responsibilities towards all New Zealanders in relation to family violence and sexual violence.³ In order for government to be able to meet these responsibilities and to maintain accountability for public resources, we consider there are key decisions or matters that will ultimately need to sit with you or Cabinet (for example decisions on national strategy and funding). This means a ‘co-governance’-type arrangement may not be appropriate or possible for this work. However, there are ways for you to share some of your power in practice and retain opportunities for the future Rōpū to take leadership.
- 9 It is also important to be clear about who the future Rōpū is intended to represent. We understand that you do not see the Rōpū as reflecting a Tiriti partnership between the Crown and iwi/hapu, but rather as a mana-to-mana relationship between the Crown and tāngata whenua who have relevant experience or expertise. This has implications for who should be in the Rōpū and what its role should be.

You need to make three key decisions on the arrangements for the future Rōpū

- 10 In strengthening the arrangements for the future Rōpū, you need to make decisions on its key roles and responsibilities; the form and process for establishing the Rōpū; and the process for appointing members.
- 11 The following sections of this paper step you through each of these decisions.

Roles and responsibilities

- 12 We understand you want the primary relationship of the future Rōpū to be with you and to be focused on contributing mātauranga Māori and expertise to improve government’s efforts to reduce family violence and sexual violence.
- 13 In line with this focus, we consider the core role of this group would be to **provide the Minister for the Prevention of Family Violence and Sexual Violence with independent advice**. We understand this aligns with the role that sector representatives have proposed for the Rōpū. Alongside this, you may want to outline specific areas where the Rōpū could take leadership, such as:
- 13.1 providing an independent voice to you on the development and implementation of the Family Violence and Sexual Violence National Strategy and Action Plan
 - 13.2 providing a ‘bridge’ with the wider family violence sector and communities, using the networks that members already bring, to ensure a broader set of voices are heard in government decisions
 - 13.3 providing a view on ‘what works’ for Māori and effective family violence and sexual violence interventions from a mātauranga Māori perspective
 - 13.4 identifying or commissioning research on family violence and sexual violence from a te ao Māori perspective, to provide input at a strategic and policy level.
- 14 Note that the broader you scope the role of the Rōpū, the greater the resourcing and support it may need to deliver that role.

² See <https://dpmc.govt.nz/publications/co-19-5-te-tiriti-o-waitangi-treaty-waitangi-guidance>.

³ For example, these may include responsibilities to enable equitable access to family violence and sexual violence services that are culturally appropriate and responsive, and to support equitable outcomes for all New Zealanders.

Form and establishment

- 15 To deliver the above roles and responsibilities, we consider it would be most appropriate for the Rōpū to be established as a Ministerial advisory group. You have the authority to establish such a group alone as the Minister for the Prevention of Family Violence and Sexual Violence. However, seeking Cabinet's agreement to this would help to signal the mana of the Rōpū and to ensure other Ministers understand its role.
- 16 We understand you are interested in exploring possible statutory options to further strengthen the role of the Rōpū and support it to have an enduring relationship with Government. This could include establishing the Rōpū under a statutory mechanism, or creating statutory requirements relating to its role or establishment. An example of such a statutory mechanism is in **Taumata Arowai—the Water Services Regulator Act 2020**, which provides for the establishment of a Māori Advisory Group to advise Taumata Arowai on Māori interests and knowledge relating to water services. It requires Taumata Arowai to have regard to the advice of the Māori Advisory Group and publicly report on how it has or has not acted on that advice.
- 17 While statutory options could help to strengthen the role and enduring nature of the Rōpū, a legislative vehicle would be needed to develop these. Legislation would need to be agreed to by Parliament and is likely to take significant time (18 to 24 months) to develop and be passed. Given your desire to move quickly to seek agreement to and commence implementation of the National Strategy and action plan, **we recommend that you seek a Cabinet mandate to establish the Rōpū and note your intention to explore other potential options to strengthen its role and form over time, including potential statutory options.** We see this as a pragmatic and balanced approach.
- 18 Even without a statutory basis for establishing the Rōpū, you could strengthen its role in a range of ways. For example, we recommend that you:
- 18.1 make public commitments about how you will work with the Rōpū, eg by publicly notifying its establishment and appointment and/or committing to have full regard to its advice
 - 18.2 commit to take steps to provide greater transparency around your relationship with the Rōpū, eg by making its advice public where possible (subject to Official Information Act 1982 requirements).
- 19 The draft Terms of Reference for the Rōpū proposes that the future Rōpū should be established as a bespoke statutory entity. An example of such an entity is **Te Mātāwai**, which is established under Te Ture mō Te Reo Māori 2016 to lead the revitalisation of te reo Māori on behalf of tāngata whenua. Our initial view is that the statutory entity form is best suited to entities that are intended to have a governing or decision-making role, rather than an advisory role to a Minister. We can provide you with further advice on this if needed.

Appointment process

- 20 The appointment process for a Ministerial advisory group needs to be transparent and robust to support public confidence. Because the Rōpū would be established to support you in your role as Minister, you are ultimately responsible for making appointments to the Rōpū. **We would also recommend seeking agreement to the appointments by the Cabinet Appointment and Honours Committee to ensure that other Ministers can have input.** However, there is room for you to shape the process to provide for greater community ownership and leadership.
- 21 The nomination process for a Ministerial advisory group is generally run by a department on behalf of the Minister. As an alternative approach, sector representatives have proposed setting up a time-limited

'Kaitiaki Rōpū' to nominate members for a future Rōpū. This could help to ensure there is sector and community buy-in to the process. While you must be responsible for confirming appointments, you could publicly commit to being guided by the recommendations of the Kaitiaki Rōpū as much as possible.

22 **We recommend that government support the Kaitiaki Rōpū to run this process.** We anticipate that this could run from September 2021 to February 2022. The JVBU will seek nominations for five members to act as the Kaitiaki Rōpū.⁴ It will then provide secretariat support to the Kaitiaki Rōpū for this period and ensure the five members are compensated in accordance with the Cabinet Fees Framework. You could draw down part of the funding that has already been allocated for the future Rōpū to cover this.

23 While this process could help to build consensus among the sector, it may also exclude those who are not part of the Kaitiaki Rōpū network and may not provide for representation of key groups such as survivors and disabled people. **We therefore recommend that you also seek nominations outside this process.**

Providing adequate support arrangements for the future Rōpū will be a key responsibility of the Joint Venture interdepartmental executive board

24 A future Rōpū will need to be adequately supported by government to carry out its role effectively. Providing this support will be a key responsibility for the Joint Venture for Family Violence and Sexual Violence once it has been established as an interdepartmental executive board.

25 The scope of the support arrangements required for the Rōpū will ultimately depend on how widely you intend to scope its roles and responsibilities. At a minimum, we consider that a secretariat function will be needed to provide administrative support such as seeking information, planning and co-ordinating hui, and drafting advice on behalf of the Rōpū. Additional expertise or skills may be needed if you expect the Rōpū to carry out other specific activities.

26 The usual convention is for a host department to provide a secretariat function for a Ministerial advisory group. For example, the **Oranga Tamariki Ministerial Advisory Board** is supported by a secretariat hosted within Oranga Tamariki. In this case, a secretariat function for the future Rōpū could be hosted by the JVBU or by another agency that plays a key role in the Joint Venture. There are potentially also other options to provide resourcing and support for a Ministerial advisory board. One example is in the arrangements to support **Ināia Tonu Nei**, a Māori advisory group that supports the Justice Sector Leadership Board and is funded through a trust arrangement.

27 Once Cabinet has agreed to establish the Joint Venture as an interdepartmental executive board, **we recommend that you seek the board's collective advice on appropriate support arrangements for the Rōpū.**

Next steps

28 We are seeking your agreement to the above matters ahead of the meeting with sector representatives on 16 August 2021, so that you can provide feedback on their draft Terms of Reference and indicate your preferences on future arrangements.

29 We will reflect your preferred approach in the draft Cabinet paper for the refresh of the Joint Venture's arrangements.

⁴ The JVBU will seek nominations from Te Kupenga Whakaoti Mahi Patunga, the National Collective of Independent Women's Refuges, other non-affiliated Refuges, and Ngā Kaitiaki Mauri of Te Ohaakii a Hine – National Network Ending Sexual Violence Together (TOAH-NNEST).