

Report: The Treaty References Review and relevant clauses in the Education and Training Act 2020

To:	Hon Erica Stanford, Minister of Education		
To:	Hon Penny Simmonds, Minister for Tertiary Education and Skills		
To:	Hon Shane Reti, Minister for Universities		
Date:	17/09/2025	Deadline:	19/09/2025
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From:	9(2)(a) [REDACTED]	METIS No:	1352221

Why are we sending this to you?

You have received a letter and draft Cabinet paper from Hon Goldsmith, Minister for Justice, outlining the findings of his Advisory Group for the review of references to the principles of Te Tiriti o Waitangi¹ in legislation (the Treaty References Review).

This paper sets out what that review asks of you but also how the Education and Training Act 2020 should contemplate Te Tiriti o Waitangi, in the context of delivering on coalition commitments relating to reviewing Te Tiriti references.

What action do we need, by when?

- We ask for your direction on the issues covered in this briefing. Minister Goldsmith's consultation closes on 18 September. We can draft replies for you to send to him.

Key facts, issues and questions

- 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
- The paper also recommends specific changes to the Education and Training Act in relation to governance objectives for school boards and tertiary councils, 9(2)(f)(iv) [REDACTED]
[REDACTED].

¹ In this paper we refer to "Te Tiriti" (as this wording is used in section 4(d) of the Education and Training Act 2020) except where referring to the Treaty References Review or in direct quotation.

- 9(2)(f)(iv) [REDACTED]
- In making decisions, Ministers need to consider the relevance of Te Tiriti as a whole, not just its application within schools or tertiary institutions.
- The Crown is expected to develop Tiriti provisions in consultation, and, where possible, in partnership with Māori.
- Changing Te Tiriti references within the Education and Training Act is a significant and controversial task that we consider will lead to widespread public debate and potentially conflict within the education system that would distract from the Government's education reform programme
- We met with Minister Stanford's Māori Advisory Group to take their advice on Te Tiriti clauses generally. 9(2)(g)(i) [REDACTED]

Background

1. 9(2)(f)(iv) [REDACTED]
 - 1.1. 9(2)(f)(iv) [REDACTED]
 - 1.2. 9(2)(f)(iv) [REDACTED]
2. 9(2)(f)(iv) [REDACTED]
 - 2.1. 9(2)(f)(iv) [REDACTED]
 - 2.2. [REDACTED] 9(2)(f)(iv) [REDACTED]
3. 9(2)(f)(iv) [REDACTED]
4. 9(2)(f)(iv) [REDACTED]
 - 4.1. 9(2)(f)(iv) [REDACTED]
 - 4.2. 9(2)(f)(iv) [REDACTED]

² 9(2)(f)(iv) [REDACTED]

4.3. 9(2)(f)(iv)

4.4. 9(2)(f)(iv)

We think engagement on these matters in an education context is premature

5. 9(2)(f)(iv)

6. 9(2)(f)(iv)

7. 9(2)(f)(iv)

8. 9(2)(f)(iv)

9. 9(2)(f)(iv)

9.1. 9(2)(g)(i)

9.2. 9(2)(g)(i)

9.3. 9(2)(g)(i)

10. We also do not recommend changes to the following provisions in the Education and Training Act, in respect of Te Tiriti, without further engagement and design with Māori:

10.1. Section 127 (d) **Objectives of boards in governing schools:** The Advisory Group recommends clarifying school board obligations and considering whether the requirement to 'give effect' to te Tiriti is an appropriate obligation given their status as Crown Entities at least partially elected at a local community level.

10.2. Section 281(1)(b) **Duties of councils:** This is about whether the current statement that an institution's council should 'acknowledge' the principles of te Tiriti is unreasonably vague.

10.3. 9(2)(f)(iv)

10.4. 9(2)(f)(iv)

11. 9(2)(f)(iv)

This is because the Ministry considers the Education and Training Act should provide for the Crown's commitments to Te Tiriti

The relevance of Te Tiriti to education

12. There are multiple ways in which the articles and principles of Te Tiriti are relevant to education. These are grounded in the evolving understanding of Te Tiriti in terms of case law, rights and obligations. Policy on this has evolved in response to evidence and understanding of the experience of Māori in education; and the positions of successive governments; but also, in response to the findings of the Tribunal and the Courts.
13. A more substantive discussion of this is contained in Annex 1, however, in summary, there are three ways in which the Crown's obligations under Te Tiriti play out:

13.1. **Obligations to support Māori educational success** (which have been variously thought of over time as equity or equality of outcome, achievement or opportunity).³ This is the Crown's obligation under Article Three, and it is about whether the system supports Māori students to achieve to their fullest potential. It is relevant to all Māori learners but is particularly important in the mainstream education systems (e.g., kindergartens, education and care centres, mainstream schools, universities and polytechnics), where Māori participate alongside Pākehā. There is an established body of evidence that shows that educational outcomes for Māori students are worse than for other learners in all the major metrics we measure.^{4,5}

13.2. **Obligations to support Kaupapa Māori or bespoke educational models.** This reflects Article Two, and Māori rangatiratanga over the education of Tamariki Māori. Kaupapa Māori refers to the movements that Māori have set up, i.e., Kōhanga Reo, Kura Māori, Wānanga, that operate alongside the models the Crown has created. Over time, the Crown has taken an increasing role in funding these movement and codifying their position in law.

13.3. **Obligations that extend beyond education.** Education is also relevant to the wider application of Te Tiriti in society and the economy. This is the case because education is one of the main ways in which the Crown supports te reo and mātauranga Māori, as well as building a broader society that understands the role of the Te Tiriti.

³ These words are understood very differently by different audiences and there is no single definition. Broadly, equality is defined as "sameness" whereas equity is defined as "fairness".

⁴ See Ngaā Haeata o Aotearoa or other sources published at www.educationcounts.govt.nz

⁵ There is a significant exception to this rule. Where comparable data is available, Māori learners in Kaupapa Māori and Māori Medium Education consistently experience better outcomes than their peers. See [BN-1321550-Māori-education-overview.pdf](#).

14. In summary, we do not recommend changes to Te Tiriti provisions in the Act without further engagement and design with Māori. This is because of the clear guidance to Ministers and public service departments on the constitutional position of Te Tiriti.

Key policy questions

15. Should you wish to continue with amendments to provisions in the Act, policy analysis will need to engage with the various ways in which Te Tiriti is relevant to education. Because amendments to section 127 have been previously canvassed in the Select Committee process, we have done some thinking on the relevance of Te Tiriti to schools.
16. We have not yet done any policy work on section 281 and the relevance of Te Tiriti to Universities in particular. The timeline proposed in the Cabinet paper will not allow for a meaningful consideration of a replacement for section 281. If you want to go ahead with changes to section 281 then we will need your direction on how we are to proceed.
17. In terms of mainstream schools, there are four key policy questions where Cabinet needs to form a position before amending the Act:
 - 17.1. How to codify the Crown's obligation to run a school system that supports educational fairness, whether to include provisions specific to Māori, and how to frame this in terms of individual schools.
 - 17.2. The role of tikanga and te reo Māori in supporting this obligation.
 - 17.3. How to provide for whānau Māori to exercise choice between schooling systems.
 - 17.4. What the Crown's obligations are in respect of te reo and mātauranga Māori in the English medium schooling system.
18. Evidence supports the importance of reflecting a student's language and culture in teaching to achieve good learning outcomes, albeit that these factors are not enough by themselves. We have recently reviewed the evidence on this, and can provide a synthesis on request.
19. We recommend retaining an emphasis on inclusivity in schools, including providing an environment that recognises and values a Māori student's culture, and, where possible, uses te reo Māori. While this principle of inclusivity can be applied to any group of students, the rationale for having legislative codification of this for Māori is based on the Crown's obligations towards Māori under Te Tiriti.
20. Whether to change the existing legislation, as with questions of fairness, turns on the constitutional position of Te Tiriti. Under current constitutional settings, we recommend retaining reference to the role of Tikanga and te reo in supporting the educational success of ākonga Māori.
21. Broader commentary on this and the other three policy questions is contained in Annexes 1 and 2.

Engagement with Māori, and timeline for change

22. The Cabinet Manual and Cabinet Circular CO (19) 5 – Te Tiriti o Waitangi / Treaty of Waitangi Guidance sets expectations and provides guidance for policy makers (Ministers).
The Cabinet Manual states the Treaty of Waitangi is regarded as a founding document of government in New Zealand and that it may indicate limits in our polity on majority decision-making. The law may sometimes accord a special recognition to Māori rights and interests such as those covered by Article 2 of the Treaty. [CO (19) 5, para 5 refers].

Put simply, by Article Two the Crown promises that Māori will have the right to make decisions over resources and taonga which they wish to retain. [CO (19) 5, para 46 refers].

23. There are multiple taonga in the education system, that have been recognised as such by the Waitangi Tribunal, and by the Crown.
24. Māori processes of teaching and learning known as wānanga are a taonga that are linked with te reo Māori and mātauranga Māori⁶ Te reo Māori is a taonga of iwi and Māori.⁷ Tamariki Māori and the whānau unit are taonga requiring protection.⁸ The Crown's closing submission in WAI 1718 concluded that the Crown owes active protection duties to taonga including te reo Māori and mātauranga Māori.⁹
25. To ensure you satisfy the expectations of the Cabinet Manual and Cabinet Office Circular, officials recommend engagement with Māori in the development of proposals to amend the Act in respect of Te Tiriti commitments.

Advice from the Māori Advisory Group

26. We met with Minister Stanford's Māori Advisory Group. As they had not seen the Treaty References Review report, or a draft of this report, we asked them for any general comments on Tiriti references in legislation including within the Education context.
27. The key points that we took from our engagement with the group are as follows:
 - 27.1. High-level Tiriti clauses in legislation have significant direction-setting effect, and are important as a signal to Māori of the Crown's intentions.
 - 27.2. Educational success for ākonga Māori is dependent on institutions and teaching staff who understand and have the capability to deliver on their responsibilities under Te Tiriti.
 - 27.3. It is important that the Crown follows a Tiriti-compliant engagement and policy development process. This means working in good faith with Māori on the development of Tiriti references, including Māori in the education system. The group was concerned that the process followed so far is not Tiriti-compliant.
28. You may wish to meet with the group in order to seek their advice before proceeding.

⁶ Paragraph 14, Deed of Settlement in relation to the Wānanga Capital Establishment Report (WAI 718 between the Crown and Te Wānanga o Raukawa, dated October 2008.

⁷ Section 4 of the Māori Language Act 2016.

⁸ Wai 2915, Closing Submissions on behalf of the Crown, 3.3.34, para 55.

⁹ Wai 1718, Closing Submission for the Crown, paragraph 111).

Recommended Actions

The Ministry of Education recommends you:

- a. **direct** officials as to how you want to respond to the recommendations of the Treaty References Review led by the Minister of Justice

Agree / Disagree

Agree / Disagree

Agree / Disagree

- b. **note** that we can provide you with draft replies to Minister Goldsmith once you have considered this paper, in time to meet his consultation deadline of 18 September

- c. **indicate** if you would like to meet with the Māori Advisory Group to discuss this report (Minister Stanford only)

Yes / No

- d. **agree** that this paper is not proactively released due to the highly sensitive nature of the subject matter and the need to protect Ministers and officials from improper pressure or harassment.

Agree / Disagree

Agree / Disagree

Agree / Disagree

9(2)(a)



16/09/2025

Hon Erica Stanford

Minister of Education

__/__/__

Hon Penny Simmonds

Minister for Tertiary Education
and Skills

__/__/__

Hon Shane Reti

Minister for Universities

__/__/__

Annexes

The following are annexed to this paper:

Annex 1: Relevance of Te Tiriti to education

Annex 2: Information to assist your thinking should you wish to make more fundamental changes to government policy underpinning the Act

Annex 3: Draft Ministry of Education response to the Ministry of Justice

Annex 3 withheld under section 9(2)(f)(iv) of the Act.

Annex 1: Relevance of Te Tiriti to education generally

There are multiple ways in which the articles and principles of the Te Tiriti are relevant to education. These are grounded in the evolving understanding of Te Tiriti in terms of law, rights and obligations. Policy on this has evolved in response to evidence and understanding of the experience of Māori in education; and the positions of successive governments; but also, in response to the findings of the Tribunal and the courts.

To summarise, there are three ways in which the Crown's obligations under Te Tiriti play out:

Obligations to support Māori educational success in general terms (i.e., equity of outcome, achievement or opportunity)

This is the Crown's obligation under Article Three, and it is about whether the system supports Māori students to achieve to their fullest potential. It is relevant to all ākonga Māori including those in the mainstream education systems (e.g., kindergartens, education and care centres, mainstream schools, universities and polytechnics), where Māori participate alongside Pākehā.

In practice, the main questions at play here relate to the role of language and culture in education, and the extent to which support should be provided to ākonga Māori (Māori students) that is specific to their needs and what supports or detracts from Māori educational success (see Annex 3).

Support for Kaupapa Māori or bespoke educational models

This reflects Article Two, and rangatiratanga over the education of Tamariki Māori. It is particularly relevant to the Kaupapa Māori education movements that Māori have set up, and that operate alongside the models the Crown has created, i.e., Kōhanga Reo, Kura Māori, Wānanga. Over time, the Crown has taken an increasing role in funding these movement and codifying their position in law.

The Crown's role here deals with both its Article Two obligations and its Article Three obligations. Article Two is relevant because the Tribunal has found, and the Crown has agreed¹⁰, that te reo Māori and mātauranga Māori are Taonga, and therefore require protection. Crown support for Kaupapa Māori educational movements is one element of that protection.

Article Three is relevant because whānau and ākonga Māori have a right to choice (the Te Tiriti principle of options). In practice this has evolved as a choice between full te reo immersion, partial te reo immersion and mainstream educational settings, although these different education approaches also involve differing degrees of access to mātauranga Māori.

It is important to note that Pākehā also have these choices, although, in practice, they are rarely exercised.

Obligations that extend beyond education

Education is also relevant to the wider application of Te Tiriti in society and the economy. This is the case because it is one of the main ways in which the Crown supports te reo and mātauranga Māori, as well as building a broader society that understands the role of Te Tiriti.

¹⁰ The Crown's agreement is enshrined in statutes as well as in Treaty settlements and statements of policy.

In terms of te reo Māori, the Crown has published Maihi Karauna, a Strategy for Māori Language Revitalisation. While this extends beyond education, nevertheless childhood is the main period of life during which fluency in language can be acquired, and by definition the only period of life during which a “first language” can be learned. The Kaupapa Māori education movements are the Crown’s main way of supporting the revitalisation of te reo Māori.

The relevance of this goes beyond just the provisions in the Act that support Kōhanga and Kura. It is also relevant to the provisions in s32 and s127 that concern the role of te reo Māori in the school system as a whole. The 2020 amendments to the Act (which created an expectation of integration of te reo Māori across all schools) were driven in part by a policy objective of supporting language revitalisation. This objective is also supported by the Māori Language Act 2016 which, amongst other provisions, commits the Crown to partnership with Māori to protect and promote te reo.

Mātauranga Māori is more complex. Legal provisions for Crown support of mātauranga Māori in education were only introduced relatively recently. However, if mātauranga Māori is understood as a knowledge system, where the creation of knowledge, its preservation in institutions, and its transmission to students through teaching and learning are what are required to support it, then clearly the education system has a role.

The Crown appears to have assumed that transmission of mātauranga Māori takes place within Kaupapa Māori settings in the same way that it assumes that transmission of western knowledge takes place within universities and schools. In both cases, this is a contested space, and how strongly this assumption holds is a matter of both evidence and belief.

Regardless, the critical point is that the education system, in being a main place that te reo and mātauranga Māori can be supported, has a role that serves objectives in society and the economy as a whole that go beyond just the educational success of students.

There is also a subset of this question that concerns education about Te Tiriti. In general questions of educational content are managed through instruments such as curriculum statements, although there are specific provisions about education on contested issues such as relationships, sexuality and religion.

The only legislative reference to Te Tiriti as educational content is in section 5 (introduced in 2017) which refers to “instil[ing]... an appreciation of the importance of Te Tiriti o Waitangi and te reo Māori”. This section is currently being repealed through the Education and Training Amendment Bill (2).

In future education in relation to Te Tiriti as learning content is probably better managed through curriculum regulation, as with the history curriculum.

Annex 2: Information to assist your thinking should you wish to make more fundamental changes to Government policy underpinning the Act

This Annex should be read in conjunction with Annex 1, relating to the broader application of Te Tiriti in education.

Application in schools

The remainder of this analysis concerns only the English medium schooling system. It excludes early childhood and tertiary education. This is because these are being worked on through other policy processes, i.e., the ECE and tertiary reforms, which involve parallel amendments to the Education and Training Act in some cases covering Te Tiriti provisions.

We also exclude Kaupapa Māori education from this analysis, because we are actively engaged in ongoing partnership work with Kōhanga, Kura and Wānanga, each of which is responding to contemporary Waitangi Tribunal claims. However, it is critical that in amending any general provisions for schooling, the Crown takes care not to cut across that work.

This leaves us with four key questions in respect of English medium schools, which are policy questions where Cabinet needs to form a position before amending the Act:

- How to codify the Crown's obligation to run a school system that supports educational fairness, whether to include provisions specific to Māori, how to frame this in terms of individual schools.
- The role of tikanga and te reo Māori in supporting this obligation.
- How to provide for whanau Māori to exercise choice between schooling systems.
- What the Crown's obligations are in respect of te reo and mātauranga Māori in the mainstream schooling system.

Previous Ministry advice

The following section summarises the Ministry's advice in the lead up to the 2020 Education and Training Act. We then go on to discuss policy questions in the context of our experience of the 2020 provisions.

S127(1)(d)

the school gives effect to Te Tiriti o Waitangi, including by—

(i) working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and

(ii) taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and

(iii) achieving equitable outcomes for Māori students.

The 2020 changes to school boards' obligations were grounded in the Tomorrow's Schools' Taskforce recommendations and particularly its concern about the inequitable achievement and place of Māori students in English medium schools. It noted:

Our recommendations were based on the premise that governance, management, and administration of the schooling system must be founded on Te Tiriti o Waitangi and the rights of the child, to enable every learner/ākonga to belong, have holistic wellbeing, and

succeed whoever they are and wherever they are in the system. This cannot be allowed to remain a pious platitude. Learners/ākonga have been at the centre of our thinking throughout. The schooling system needs to be reoriented so that they and their whānau are at the heart of future decision making at every level of the system.

Both the Taskforce and the Ministry were mindful of the Waitangi Tribunal statement that “The Treaty is about equity and partnership. The obligations arising from kāwanatanga, partnership, reciprocity, and active protection required the Crown to act fairly to both settlers and Māori” and “where Māori have been disadvantaged, the principle of equity — in conjunction with the principles of active protection and redress — requires that active measures be taken to restore the balance.”

Section 127 (1)(d)(i) (plans, policies and local curricula to reflect mātauranga, tikanga, and te ao Māori) was to ensure boards work iwi and hapū in partnership when developing these documents to actively protect Māori educational interests. It was recognised that this may cause difficulties for both boards and iwi/hapū because both groups would be at varying stages in the development of their policies and systems. The inclusion of the words ‘work to ensure’ was to recognise the varying stages of their policy development and to remove an absolute duty.

S127 (1)(d)(ii) extended and strengthened a previous Education Act duty on boards to “take reasonable steps to make instruction available in tikanga and te reo Māori for full-time students whose parents ask for it” (1989 Act, Schedule 6, clause 16). The strengthening of this provision was to support the then government’s commitment to s3 of the Māori Language Act and the Maihi Karauna.

Subclause (iii) (to achieve equitable outcomes for Māori students) was to reflect that this obligation sits directly with the Crown, as set out in section 4 of the Act, and Article 3 of te Tiriti. This provision recognised that the education system has not supported equitable outcomes for Māori learners and sought to address this by placing an explicit obligation on school boards to address this.

Section 6 (Statement of Expectations) was developed while the Public Service Bill was being prepared. We were aware that this was to include a number of expectations of the public service leadership. Section 6 was intended to build on that concept and to:

- signal that the Ministry and other education agencies have Tiriti obligations and
- reinforce that the education system has an objective of ensuring equitable outcomes for Māori and other students
- align education agencies’ approach to Te Tiriti with each other and with the rest of the public sector
- provide a clear statement to Māori, and the rest of New Zealand about how education agencies will give effect to their Tiriti responsibilities

Policy questions: analysis and comment

Question 1: fairness

In general, education policymakers tend to frame questions of fairness as being about a system that enables each individual to achieve their fullest potential, where it is the responsibility of the system to help overcome other barriers, in particular socio-economic ones, that may stand in the way of educational achievement.

The drafting of the new s127 in the current Education and Training Amendment Bill (2) is consistent with this approach, in that it includes the phrases:

“Every student at the school is able to attain their highest possible standard in educational achievement”

“the school is inclusive of, and caters for, students with differing needs”

“achieving equitable outcomes for Māori students”

The language introduced into s5 in the 2017 amendments to the Act echoes this in that it says, *“help each child and young person attain their educational potential”*.

It would be possible to frame questions of fairness as applying to everyone equally, i.e., with no mention of any specific population group. We do not recommend this approach because Te Tiriti has sufficient constitutional meaning that not to include a statement of fairness relating to Māori in a system as fundamental as education appears out of step with this. Should you wish for further advice on this we would need to refer this to the Ministry of Justice and Crown Law.

Question 2: the role of tikanga Māori, te reo Māori, and inclusion of te ao Māori, in supporting the Crown’s obligations to ākonga Māori

The references to te reo Māori, tikanga Māori and te ao Māori seek, in addition to other objectives, to emphasise the importance of language and culture specifically to Māori student success.

The Ministry’s long-standing position has been that an educational environment that recognises and respects a student’s language and culture, is a critical part of student engagement and quality teaching. We have reviewed the evidence on this issue and can provide you with a further synthesis of the research and evidence, updated in light of recent evidence that supports the work done in the early 2000s.

However, the evidence can be summarised as concluding that:

- Within school factors contribute more to disparities in New Zealand than they do in other OECD countries. Teacher expectations are one factor in this. Many Māori learners report that they experience low teacher expectations of their performance. Research also finds that some teachers hold unconscious bias towards Māori and Pacific students, which leads to fewer opportunities to excel. This combines with other factors (e.g., socio-economic factors) to result in reduced learning gains for these students.
- There is a body of evidence that shows that culturally responsive pedagogy can improve outcomes for Māori students (both meta-analyses of other studies and a large range of case studies focused on particular acceleration in, for example, literacy, or maths).
- Learning in an environment where a culturally responsive pedagogy is the norm significantly improves outcomes for Māori. This pedagogy is based on meaningful connections between teacher and students, an understanding of the wider cultural context, and teaching that sustains that context in order to see students’ progress against the curriculum. This is done by integrating students’ personal knowledge alongside their academic knowledge, essentially contextualising, or making relevant, curriculum content.
- Alongside this, being able to speak te reo Māori confers benefits in terms of ethnic identity and wellbeing, as well as cognitive benefits, such as enhanced problem-solving, improved memory and enhanced executive function, and deeper linguistic awareness.

It is clear, however, that teaching for diversity is not sufficient for educational success. The evidence points to multiple separate factors that support improved student outcomes, with no single set of deterministic factors.

The Government is pursuing major reforms in the schooling system. These emphasise the importance of features that have long been missing, including: a clearer, more knowledge-rich curriculum; regulation of the teaching profession that better balances their obligation to achieve student outcomes with their professional independence; and the accountability of schools for their performance in delivering student outcomes.

These reforms are critical to delivering educational success for ākonga Māori in mainstream education. Given the persistently poor outcomes for ākonga Māori over an extended period, it is clear that a focus on language and culture has not been enough by itself.

However, we recommend retaining an emphasis on inclusivity in schools including providing an environment that recognises and values a student's culture, and where possible uses their language.

Whether to recognise this explicitly for Māori, as with questions of fairness, turns on the constitutional position of Te Tiriti. Under current constitutional settings, we recommend retaining reference to the role of tikanga and te reo in supporting the educational success of ākonga Māori.

We note that elements of this were positioned as optional prior to the 2020 changes to the Act. I.e. te reo and tikanga Māori were legislated as matters of parental choice. If you reverted to this position, this would go some way to supporting the policy objective of Māori learner success, but would not support the Crown's wider obligations towards te reo and mātauranga Māori.

Question 3: how to provide for choice for whānau Māori

The Education Act refers only once to choice. S32 sets out that the purpose of Part 3 of the Act is to provide "*choice about the types of education [students] receive*". It is not specific to any population group. However, school choice is implicit in the overall framework of the Act, which allows the parent or guardian to make an enrolment decision on behalf of their child.

To some extent, the school system provides for whānau Māori to exercise a choice between Kaupapa Māori, Māori medium and English medium education. This is consistent with the Tiriti principle of options. However, this choice is not available to whānau on a consistent basis nationally.

The issues in this space are more practical than legal. They relate to the Crown's funding of Kura Māori, in particular property funding, and workforce capacity. The government is already, through its property investment work programme, acting to address some of these barriers.

We consider that the Act, in providing for Kura Māori, provides enough legal basis for choice. Any further consideration of the Crown's obligations towards Kura Māori should be addressed through work on resolving the claims made in WAI1718.

Question 4: the Crown's obligations in respect of te reo and mātauranga Māori

This question is not just about the educational success of students, but about the school system's contribution to a broader set of objectives and Crown legal obligations. Here we are specifically dealing with the findings of the Tribunal that the Crown has obligations to protect te reo and mātauranga Māori as Taonga. Many of the 2020 amendments were designed to update the Act to reflect these findings.

As with other provisions, under current constitutional settings it is clear that the education system has a role to play in supporting these broader obligations.

In practice the Crown discharges these obligations by supporting Kaupapa Māori educational movements, by supporting te reo immersion where this is chosen by whānau and providing a basic level of access to te reo in mainstream schools.

We consider that the obligations in this space could be made clearer including by distinguishing between the Crown's obligations at a system level, and those of an individual school.