



GUIDANCE FOR CROWN: CROWN EXPECTATIONS FOR CROWN TREATY SETTLEMENT COMMITMENT HOLDERS

March 2024



Introduction

Purpose

The purpose of these expectations is to support a culture of delivering on Treaty settlement commitments across the Crown so that settlements are durable and support true Treaty partnership.

Background

The Crown must hold itself to account for delivering on the promises made to iwi through historical Treaty of Waitangi settlements. It is of constitutional importance for the Crown to honour all its Treaty settlement commitments to iwi that have been negotiated over more than 25 years.

Redress committed through a deed of settlement and a settlement act are respectively contractual and statutory obligations. The Crown must take all necessary steps to fulfil those obligations and avoid a breach of contract or failure to adhere to an Act of Parliament. Beyond the potential legal ramifications of that failing, this is at odds with the renewed relationship the parties have committed to through the settlement.

Te Arawhiti has developed a framework – He Korowai Whakamana – to enhance accountability for Treaty settlement commitments. These expectations for Crown Treaty settlement commitment holders are one of the foundational components of this framework, and provide practical advice and actions for agencies to implement. These expectations are intended for Crown staff responsible for managing and delivering Treaty settlement commitments.

These expectations are not intended to be a minimum standard but are a foundation to support commitment holders and strengthen the Crown's capability to uphold the integrity of Treaty settlements. These expectations seek to support Crown Treaty settlement commitment holders to deliver on redress and settlement commitments going forward.

This document is informed by Te Arawhiti experience working with post-settlement governance entities (PSGEs) and Crown agencies, and conversations had with PSGEs about their experiences. While your agency's experience and practices may vary, these expectations seek to support your agency's existing processes and provide consistency across the Crown. Te Arawhiti is also available to support agencies in delivering on Treaty settlement commitments.

Te Arawhiti will review these expectations and may amend them from time to time.



Expectations

Treaty partnership is at the heart of everything

Why?

Treaty settlements provide a renewed relationship between the Crown and Māori. They are a foundation for an enduring Treaty partnership.

The Crown is committed to developing relationships with Māori that realise the promise of Te Tiriti o Waitangi/Treaty of Waitangi for the benefit of all New Zealanders. Treaty settlements should be understood within the wider Māori Crown relationship and the history of Aotearoa New Zealand.

Section 14 of the Public Service Act 2020 recognises the role of the public service to support the Crown in its relationships with Māori under Te Tiriti o Waitangi/the Treaty of Waitangi. Chief executives are accountable to their Minister for upholding their responsibilities to support the Crown's relationships with Māori.

What?

Treaty partnership should be a primary thought, not an afterthought.

While your agency is responsible for individual commitments to iwi, it is important to be mindful of the holistic intention of the settlement rather than solely focusing on implementation of individual commitments. An example of this is how an individual commercial redress commitment sits within the wider context of supporting iwi economic development.

Deeds of Settlement and settlement legislation set out the commitments your agency is responsible for, but also provide the historical context in which the settlement was negotiated and the stated aspirations of the parties for their relationship into the future. This provides context for your agency's specific commitments which, in turn, will help your agency unlock the potential of both iwi and the Crown to realise these aspirations. You may also want to look at iwi annual reports and strategies, available on the post-settlement governance entity's website.

Treaty partnership is not limited to the redress provided in a Treaty settlement. Work with your Treaty partners to find partnership opportunities beyond specified redress to enhance the Māori Crown relationship and achieve mutual objectives.

Action steps

- Know which settled groups your agency has commitments to and partnerships with. Check to see if the redress has been implemented.
- Understand the partnership aspirations of the settled groups your agency has commitments to and partnerships with. Consider whether these aspirations have changed since settlement.
- Understand how your agency can support these aspirations when delivering Treaty settlement redress.
- Know who the relevant PSGEs are, the PSGE leadership and how to contact the PSGE.
- Engage at the right level e.g. PSGE Chairpersons may prefer to engage at a Ministerial level, with CE's engaging at the same level or appropriate relationship level.
- Understand the relationship value of engaging kanohi ki te kanohi or face to face (where able).

- Understand how your agency's Treaty settlement commitments fit within the wider Māori Crown relationship.
- Understand that PSGEs may need support in navigating the post-settlement environment and the many facets of the Crown; be receptive to this and offer assistance where appropriate.
- Keep informed of current issues or topical subjects within the Māori Crown relationship (e.g. legislative reform); contemplate how these matters may impact your Treaty partnership (e.g. impact on the capacity of iwi to engage).

Understand your agency's Treaty settlement commitments

Why?

It is necessary to understand the settlement commitments your agency is responsible for as this will assist your agency in upholding the integrity of Treaty settlements and supporting Treaty partnership.

What?

You should know what Treaty settlement commitments your agency is responsible for, who the commitments have been made to, and understand how these commitments operate in practice. This is particularly important before embarking on legislative reform or policy work.

For example, if your agency has a relationship agreement with an iwi, consider how this commitment has been given effect in practice. You should be familiar with the contents of the agreement and deliver on it, for example proactively arranging an annual hui.

Action steps

- Know what commitments your agency is responsible for.
- Know who the commitments have been made to.
- Know what types of settlement redress your agency is responsible for.
- Understand the touch points between your agency's settlement commitments and your organisation's priorities.

Utilise effective systems to manage your agency's commitments

Why?

As the volume and spread of settlement commitments the Crown has made increases, so does the chance of breaching a settlement through failure to deliver a commitment.

Settlement commitments must be effectively managed and implemented to support durable Treaty settlements. Where there is little or no visibility of the status of Crown commitments, there is a risk that your commitments will not be upheld. This will undermine the integrity of Treaty settlements and erode trust and confidence.

What?

Your agency must have a system in place to manage its settlement commitments.

It is acknowledged that the nature of commitments varies across agencies, and each agency knows best how to manage their own commitments.

However, it is also important the Crown can look across a settlement as a whole to gauge the status of Treaty settlement commitments. Te Arawhiti has found some settled groups have considered their settlements undermined by an accumulation of issues, mostly small in and of themselves, but taken together severely eroding trust in the Crown to deliver on its commitments.

Te Haeata – the Settlement Portal is a tool for raising the visibility of Treaty settlement commitments. The status of your agency’s commitments must be entered on Te Haeata to help provide the full picture across settlements. The intention is that, from 2024 this data will be available to PSGEs and the Crown. This transparency will enhance accountability and trust between Treaty partners.

Action steps

- Have a system in place for managing your agency’s settlement commitments.
- Know the status of your agency’s settlement commitments.
- Update the status of your agency’s settlement commitments on Te Haeata.
- Capture institutional knowledge for settlement delivery (e.g. evidence of completion).

Manage PSGE relationships

Why?

Agencies were often at the table when settlements were negotiated and signed; this relationship continues and builds when a settlement is reached. Proactive relationship management with PSGEs supports settlement delivery and Treaty partnership.

What?

It is expected your agency appropriately resource and manage relationships with PSGEs and/or settlements. Appointing relationship managers can assist this this. This allows PSGEs to easily engage with commitment holders and reduces confusion about how to contact agencies and finding the appropriate contact person. Relationship managers also assist your agency in knowing who the appropriate contact for a PSGE is.

The ‘changing face of the Crown’ can pose challenges for relationship management. Your agency must ensure that effective handover processes are in place so that institutional knowledge is not lost, and the responsibility to manage relationships is not solely placed on PSGEs.

To be effective in managing relationships, it is important to:

- o be well-versed in your agency’s commitments;
- o have a working understanding of PSGEs and their interests, priorities and settlement;
- o proactively maintain a warm relationship with PSGEs; and
- o understand the other contact points within your agency and, where possible, the Crown.

Those managing PSGE relationships should also be aware of others managing PSGE relationships across the Crown, particularly of those working with the same PSGEs. Effective communication between those managing PSGE relationships reduces siloes between commitment holders and contributes to cohesive engagement with PSGEs.

Action steps

- Have people in place to manage PSGE relationships.
- Ensure that PSGEs know who these contact points are and when these change.
- Have easy access points for PSGEs to ask your agency questions about their settlement commitments.
- Have handover processes in place when staff change roles.
- Know when your agency is meeting with PSGEs.
- Capture institutional knowledge for relationship engagement e.g. records of meetings, records of undertakings.



Useful resources

[Te Haeata – the Settlement Portal](#)

[Guidelines for engagement with Māori](#)

[Māori Crown Relations capability framework](#)

[Building closer partnerships with Māori - principles](#)

[Cabinet Office circular CO \(19\) 5: Te Tiriti o Waitangi / Treaty of Waitangi Guidance](#)

[The Red Book - 'Ka tika ā muri, ka tika ā mua Healing the past, building a future'](#)

Iwi annual reports and strategies

Agency statements of intent