

Submission: Pae Ora (Healthy Futures) Bill

**By the Mental Health Foundation of
New Zealand**



9 December 2021

Dear Pae Ora Legislation Committee

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Tuia te rangi e tū nei
Tuia te papa e takoto nei
Tuia i te here tangata
Tihei mauri ora
He hōnore, he korōria ki te atua ki te runga rawa
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro
Rau rangatira mā, ānei ngā whakaaro me ngā kōrero nā Te Tūāpapa Hauora
Hinengaro

Introduction

Thank you for the opportunity to comment on the Pae Ora (Healthy Futures) Bill (the Bill).

The Mental Health Foundation of New Zealand (MHF) welcomes the health reforms. In our engagement with officials across the Ministry of Health and the Transition Unit it is clear there is a focus on public health, prevention and wellbeing. We are particularly pleased to see the establishment of the Māori Health Authority with powers to fund and commission more kaupapa Māori and te ao Māori-grounded services.

We make several recommendations to strengthen the Bill in this submission. We recommend the inclusion of a mental health, addiction and wellbeing strategy in the Bill. This would ensure the important work which was started by *He Ara Oranga* and advanced in *Kia Manawanui Aotearoa* will continue to progress and not be lost to lack of leadership, ownership or accountability in the new system.

We comment on the health system principles and urge you to ensure service users and people with lived experience are at the centre of developing the new system and services, as they are the ones who use and receive these services.

Our submission also includes recommendations to strengthen the new Public Health Agency and the Māori Health Authority, including ensuring they reflect the modern

understanding of public health, and appropriately respond and uphold Te Tiriti o Waitangi, and empower Māori. The MHF strongly recommends creating a health system that reflects an equal Te Tiriti o Waitangi partnership and equal decision-making power between Māori and the Crown.

The MHF formally supports the submission of Hāpai Te Hauora to the Pae Ora Committee. In particular we support their recommendations to ensure there are parts of the Bill which give Māori absolute authority in order to achieve equitable health outcomes for Māori. The Bill should reflect a shared partnership model, including collective responsibility for lifting Māori wellbeing outcomes and give effect to the domestic and international legal mechanisms (treaties, strategies and instruments) available to support the realisation of Pae Ora.

Mental health and wellbeing should be an explicit focus of the new health system

The Bill, as currently drafted, does not demonstrate the Government's commitment to improving mental health and wellbeing outcomes.

Our primary concern is the lack of any reference to 'mental health', 'addiction' or 'drug-related harm' in the legislation. This would appear to be symptomatic of the absence of any ownership and leadership built into the new health structure for the transformation process that was started with *He Ara Oranga*, and continues through *Kia Manawanui Aotearoa: Long-term pathway to mental wellbeing*.

The MHF have warned that if there is no ownership and leadership for a mental wellbeing approach within the system then the system transformation process will slow down or halt completely. This would likely result in mental wellbeing promotion being deprioritised, as often happens, and would reinforce the risk we have consistently identified: that the new system will continue to reflect the inherent status quo bias towards an illness-oriented medical approach, and to treat service development as the only answer to addressing mental health need in our communities.

Investment is needed in mental health promotion, as well as services and prevention to improve wellbeing.

We at the MHF have consistently argued that early intervention and services, while important and necessary, are only one part of the integrated three-pronged public

health approach outlined in *He Ara Oranga* – prevention, mental wellbeing promotion and early intervention/services. Mental wellbeing promotion refers to empowering communities and individuals to learn the behaviours and skills that will protect and enhance their mental resilience and wellbeing. Further information about the role of mental wellbeing promotion, what it looks like in Aotearoa, and the evidence base, is outlined in our recent report [Rational and Evidence for Investing Proactively in the Mental Health of Communities](#).

Kia Manawanui Aotearoa explicitly requires us to rebalance our efforts across the five focus areas of the mental wellbeing framework, with a stronger focus on addressing determinants of mental wellbeing and promoting mental wellbeing. We want to stress that increasing efforts in prevention and promotion does not mean decreasing our efforts to deliver support and services for those who need them.

Legislate for a mental health, addiction and wellbeing strategy.

We recommend the Bill include a requirement to **develop a mental health, addiction and wellbeing strategy** to be adopted by all the new health entities. Ensuring mental wellbeing priorities have equal legal standing with the other strategies mentioned in the Bill will demonstrate the Government's determination and commitment to improve mental health, addiction, drug-related harm and wellbeing. It will cement in law the mandate for change, as envisioned in *Kia Manawanui Aotearoa*. It will also provide transparent and robust accountability structures to continue to progress long-term and tangible changes across the full spectrum of mental wellbeing, addiction and drug-related harm outcomes. While *Kia Manawanui Aotearoa* provides a long-term pathway, we have raised concerns that without an associated action plan and accountability and implementation structures whose expertise reflect the true wellbeing focus of *Kia Manawanui Aotearoa*, there is a significant risk decision-makers driving change will revert back to the long held deficit model and biomedical response and a focus on service expansion to the exclusion of wellbeing promotion.

Recommendations:

- 1. The Government must provide clarity about what entity "owns" *Kia Manawanui Aotearoa***, including clarity on specific aspects of the pathways for promotion, prevention and early intervention and the overall accountability and implementation mechanisms.

2. **The Government must create a rolling two-year action plan with clear accountabilities**, to ensure *Kia Manawanui Aotearoa* is implemented in a concrete and transparent way. Create this plan by April 2022 so that it can be implemented by the new health structures.
3. **Include in the Bill a legal requirement for a mental health, addiction and wellbeing strategy to be adopted by all the new health entities**. This will ensure mental wellbeing, addiction and drug-related harm priorities continue to progress as they will have equal standing with the other strategies mentioned in the Bill accompanied by robust and long-term accountability and implementation structures. The strategy in the short term should seek to compliment and further implement *Kia Manawanui Aotearoa*.

Refining the guiding principles, policies and purpose of the Bill

The MHF broadly commends the inclusion of health system principles at clause 7 of the Bill and in particular the focus on prevention and wellbeing in clause 7(1)(e).

The principles could better prioritise consumers or service users i.e., those with lived experience of the health systems including of mental health and addiction services, to ensure the systems reflect their needs. For example, clause 7(1)(b) could explicitly read "...Māori, service users, and other population groups...".

We also recommend the health system does more than "engage" with Māori, service users, and other population groups to develop and deliver services, as currently drafted at clause 7(1)(b). We recommend **the development of health services be led by tāngata Māori those that use the services**. It is important that communities who are most impacted by health inequities have an integral role in designing the new systems, programmes and responses and a role in the ongoing governance of these systems.

Currently, the health principles that relate to engaging with Māori do not apply to Pharmac and it is not clear why this differentiation was made. The Bill also currently only specifies for the Māori Health Authority to have systems in place to engage and report to Māori at clause 20, but all the health entities should have these requirements. We therefore recommend that the Bill **explicitly requires Health New Zealand, the Ministry of Health and the Public Health Agency to genuinely engage with Māori** and meet their obligations under Te Tiriti o Waitangi. This will

ensure that these entities do not solely consult with the Māori Health Authority and consider that enough. Where consultation takes place, there should be a requirement for clear actions which reflect and respond to the outcomes of the engagement, just consulting will not be sufficient.

Recommendations:

4. **Explicitly refer to people with lived experience/service users in the Bill**, alongside Māori, as a priority group whose needs should be met by the health system and services.
5. **Ensure the development of health services are lead tāngata Māori, people with lived experience/service users and other population groups.** This leadership role in designing and governing the systems should be confirmed in the legislation and any relevant Terms of Reference.
6. **Explicitly refer to addiction and drug-related harm in the Bill** and at clause 7(1)(e)(iii) include addiction treatment and acknowledge that mental health, addiction and drug-related harm, and physical health problems equitably need to be addressed as part of an integrated system.
7. **Commit to eliminating inequities in our health system in the purpose of the Bill**, rather than just aiming to reduce inequities.
8. **Ensure that all health entities are required to carry out meaningful consultation with Māori, be held accountable for this consultation and meet their obligations under Te Tiriti o Waitangi.**
9. **Include a focus on improving health outcomes for rainbow and takatāpui communities in the Government Policy Statement.**

Public Health and the Public Health Agency

The MHF notes the importance of a Public Health Agency (PHA) and commends the creation of an agency which has the potential to improve population health approaches within the health system.

Public health should be at the centre of this new health system. However, functions of the PHA as set out in the Bill are narrow and do not reflect a modern

understanding of the broad nature of public health. We recommend that the PHA have a **broader focus to better reflect current definitions of public health**, and that this definition is reflected in the Bill. The definition of public health should better reflect Māori understandings of health and take into account Te Tiriti o Waitangi, and the World Health Organization's definition of public health and the [ten essential public health operations](#). Public health should focus on the entire spectrum of health and wellbeing, not just the management and eradication of communicable diseases.

The Bill should better reflect the importance of social determinants on health and clarify how the new health entities, particularly the PHA, will work with departments and organisations outside of the health system. For example, the Bill could require health entities to engage in a [Health in All Policies](#) approach with other government sectors and agencies. Additionally, the PHA's leadership should include people whose primary work experience and expertise is in a range of sectors, rather than just the traditional health sector, to better encourage this cross-sector collaboration. These approaches will better improve the incorporation of public health thinking and knowledge from a range of disciplines.

In line with our above recommendation for a broad approach to public health, the **PHA should have a primary role in health, including mental health, and wellbeing promotion**. *Kia Manawanui Aotearoa* commits to actions to "strengthen national, regional and local leadership and collaboration for mental wellbeing" and "strengthen investment in promoting wellbeing in schools, workplaces and community settings". We need a detailed national plan to coordinate the operationalisation of health and mental wellbeing promotion actions such as these across the sector and communities. We suggest the PHA is well-placed to lead this work and champion health and wellbeing promotion for Aotearoa. The Public Health Advisory Committee should also ensure they have health and wellbeing promotion expertise and capability. Please refer to Recommendation 5 of [Investing Proactively in the Mental Health of Communities](#) for further context on this.

Recommendations:

10. Adopt a broader definition of public health in the Bill.

11. **Direct the new entities, particularly the PHA, to work in cooperation with other departments outside of the health system** to reflect the understanding that social determinants significantly impact our health.
12. **Ensure the leadership of the PHA includes people whose expertise is varied and across a range of sectors.**
13. **Task the PHA with progressing the mental wellbeing prevention and promotion aspects of *Kia Manawanui Aotearoa*** which explicitly requires a stronger focus on addressing the determinants of mental wellbeing and promoting mental wellbeing.
14. **Establish specific mental health/population health and wellbeing promotion expertise and capability** within the PHA and the Public Health Advisory Committee, and make mental wellbeing an explicit priority in the Committee's terms of reference.
15. **Consider how the PHA will work with the Māori Health Authority to achieve Māori public health aspirations and to avoid any gaps in Māori public health leadership.** This partnership should be embedded in Te Tiriti o Waitangi and te ao Māori, and be led by Māori.
16. **Clarify and strengthen the role and functions of the Director of Public Health in the Bill,** such as requiring annual reports on the state of public health. This role should not solely focus on pandemic responses but the full spectrum of public health.

Te Tiriti o Waitangi

The inclusion of Te Tiriti o Waitangi in the Bill is admirable however this should be strengthened by placing Te Tiriti o Waitangi at the foundation of the new health system. In order to achieve this and to create a system which will work for Māori, we recommend the Pae Ora Legislation Committee give stronger weight to submissions received during this consultation process from tāngata Māori and kaupapa Māori organisations.

The Bill currently outlines the Crown's intentions on how to give effect to Te Tiriti o Waitangi at clause 6. This section should make it clear that the Treaty of Waitangi

and Te Tiriti o Waitangi are two different documents, and Te Tiriti o Waitangi should take precedence.

MHF recommends strengthening clause 6 by **directly referencing Te Tiriti o Waitangi articles and outlining how the Bill intends to respond to each of these.**

This could be a way to ensure the Bill is mana-enhancing, responsive to some of the needs of Māori and reflective of te ao Māori. The Bill should therefore make explicit reference to the following:

- ***Tiriti preamble*** – showing that Te Tiriti o Waitangi takes precedence over the Treaty, and that Māori should be equal or lead parties in policy development.
- ***Kāwanatanga*** – ensuring there is equitable Māori participation and/or leadership in setting priorities, resourcing, implementing and evaluating the new health systems.
- ***Rangatiratanga*** – using Māori values to influence and hold authority in the policy process and governance of the new health systems.
- ***Ōritetanga*** - encouraging Māori to exercise their citizenship as Māori throughout the policy and operational processes
- ***Wairuatanga*** – acknowledging the importance of wairua, rongoa and wellness throughout the policy process, and within the new health structures.

Recommendations:

17. **Give more weight to submissions received by tāngata Māori and kaupapa Māori organisations during this consultation process** to ensure the Bill is grounded in Te Tiriti o Waitangi and the new system will work for Māori.
18. **Strengthen the Te Tiriti o Waitangi clause in the Bill by explicitly referencing the articles of Te Tiriti o Waitangi** and make it clear that there is a difference between Te Tiriti o Waitangi and the Treaty of Waitangi.

The Māori Health Authority

It is unclear how **the Māori Health Authority will be resourced appropriately.**
Chapter 10 of the Waitangi Tribunal's Report on Stage One of the Health Services

and Outcomes Kaupapa Inquiry quotes the Sapere Group's report, *Methodology for Estimating the Underfunding of Māori Primary Health Care*, showing that the Crown has been significantly underfunding Māori health for a number of years with Māori primary health organisations and providers being underfunded by between \$394 million and \$531 million since 2003.¹ The MHF would like the Government to share what plans are in place to ensure this funding gap reduces over the next few years.

The Bill directs the Minister of Health to prepare and determine a **Hauora Māori Health Strategy**. We do not consider it appropriate for a non-Māori Minister of Health to approve such a document. We recommend the Bill requires this strategy be created by Māori for Māori to ensure they have mana motuhake.

We do not support the Bill directing the Minister of Health to "approve" the New Zealand Health Plan which will be developed by Health New Zealand and the Māori Health Authority. There should be assurances in place to allow Māori to have the final say on what will be done for Māori and to prevent the possibility of Ministers overriding the views of Māori. We therefore recommend that **a Māori Minister (or group of Ministers) be required to jointly approve these strategies and plans**.

Similarly, the MHF have **concerns surrounding the power of the Minister of Health in relation to the Hauora Māori Advisory Committee**. There needs to be stronger assurances in the legislation which will prevent the Committee from routinely being overridden by the Minister of the day on matters related to Māori, particularly where the Minister of Health does not whakapapa Māori.

Recommendations:

19. **Create and make public a plan to ensure the Māori Health Authority and Māori health providers will be resourced appropriately**, following years of underfunding to Māori healthcare providers.
20. **Require a Māori Minister (or group of Ministers) to jointly approve strategies related to Māori**.

¹ <https://waitangitribunal.govt.nz/assets/Documents/Publications/Hauora-Chapt10W.pdf> accessed 25 November 2021.

21. **Ensure the Hauora Māori Advisory Committee has sufficient autonomy** to ensure they cannot be overridden by the Minister of the day on matters related to Māori.

Summary

Thank you for the opportunity to comment on the Pae Ora (Healthy Futures Bill). We are supportive of these health reforms and believe, with the right focus, they can bring about better, equitable health outcomes for all. We make a number of recommendations to strengthen the Bill and ensure these new entities are centred around tāngata Māori and those with lived experience, and we are advocating strongly to make health promotion and wellbeing promotion a priority for the new health system.

Mauri tū, mauri ora,



Shaun Robinson

Chief Executive

About the Mental Health Foundation

The MHF's vision is for a society where all people flourish. We take a holistic approach to mental health and wellbeing, promoting what we know makes and keeps people mentally well and flourishing, including the reduction of stigma and discrimination (particularly on the basis of mental-health status).

The MHF is committed to ensuring that Te Tiriti o Waitangi and its Articles are honoured, enacted, upheld and incorporated into our work, including through our Māori Development Strategy. We are proud that Sir Mason Durie is a Foundation patron.

The MHF takes a public health approach to our work, which includes working with communities and professionals to support safe and effective suicide prevention activities, create support and social inclusion for people experiencing distress, and develop positive mental health and wellbeing. Our positive mental health programmes include *Farmstrong* (for farmers and growers), *Getting Through Together* (the national wellbeing promotion programme in response to COVID-19, in partnership with Canterbury DHB Public Health Unit) *All Right?* (supporting psychosocial recovery in Canterbury, Kaikōura and Hurunui), *Pink Shirt Day* (challenging bullying by developing positive school, workplace and community environments) and *Open Minds* (encouraging workplaces to start conversations about mental health). Our campaigns reach tens of thousands of New Zealanders each week with information to support their wellbeing and help guide them through distress and recovery.

We value the expertise of tāngata whaiora/people with lived experience of mental distress and incorporate these perspectives into all the work we do.

Established in 1977, the MHF is a charitable trust, and our work is funded through donations, grants and contract income, including from government.