

Te Tiriti o Waitangi and professional organisations in Aotearoa

A working paper

Prepared for the Independent Review of the Regulation of Lawyers and Legal Services in Aotearoa New Zealand

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Introduction

This short paper reviews the approaches taken by a range of professional organisations in articulating and giving effect to Te Tiriti o Waitangi obligations. Across the 22 professional organisations included in the review there were a set of nine features most likely to be used by organisations in governance and operations to support Māori aspirations and (take steps to) honour Te Tiriti o Waitangi. While these features might provide a starting point for the Review Panel in thinking about how the New Zealand Law Society Te Kāhui Ture o Aotearoa might strengthen its approaches to Te Tiriti o Waitangi, it is noted that it is rare to see an organisation employ all nine features and that within the review it was not possible to assess the quality of some of the models used by the organisations.

What we did

In April 2022, we conducted a rapid desk-based review of 22 professional organisations in Aotearoa to see how they had each given expression to Te Tiriti o Waitangi at governance level.

The aim of this rapid desk-based review was to help the Independent Review Panel identify areas for further investigation or consideration and to seek feedback through the discussion document.

Methods

To select a sample group of 22 professional organisations, we started by identifying five *responsible authorities* under the Health Practitioners Competence Assurance Act 2003. The Medical Council and Nursing Council were selected because of its perception as most relevant/similar to the legal professions, while the other three were selected at random.

Each of the professions covered by a responsible authority also has at least one representative organisation. In the case of the medical profession there are a range of professional groups, based on different medical specialities. A sample of these has been selected as well as the overall association and a union (the Association of Salaried Medical Specialists).

Table 1 outlines the responsible authorities and their matching representative organisation(s).

Table 1: Health sector organisations included in the review

Responsible Authority	Representative organisation(s)
Medical Council of NZ	Council of Medical Colleges The Royal NZ College of General Practitioners The Australasian College of Emergency Medicine NZ Medical Association Association of Salaried Medical Specialists
Physiotherapy Board	Physiotherapy NZ
Occupational Therapy Board	Occupational Therapy Whakaora Ngangahau Aotearoa
Nursing Council of NZ	NZ Nurses Organisation
Te Tatau o Whare Kahu, Midwifery Council	NZ College of Midwives



Five professions outside of the health sector (and eight organisations) were also included in the review, as set out in Table 2. This included two professional groupings with both a regulated authority of some kind and membership organisations.

Table 2: Non-health sector organisations included in the review

Regulated organisations	Representative / other organisation
Teachers Council	Post Primary Teachers Association
Registered Architects Board	Te Kāhui Whaihanga New Zealand Institute of Architects
Institute of Chartered Accountants NZ Board	Chartered Accountants Australia and New Zealand
Plumbers, Gasfitters and Drainlayers Board	
	NZ Planning Institute Te Kokiringa Taumata

In looking at the various professional organisations our aim was to understand their various functions, how the governing board(s) were structured, how Māori were involved in the organisation, and how the organisation expressed any commitments to Te Tiriti o Waitangi.

This information was tabulated, and key themes identified and analysed for inclusion in this paper.

Limitations

As a desk-based review, we were limited in what we could access, and we were only able to review publicly available information on organisation or government websites. This means we are likely to have missed some nuance of an organisation's functions, roles, structures, or policies. As the aim was to complete this analysis rapidly, it was necessary to limit the scope to these 22 organisations.

A second limitation is that while we were able to identify themes, such as the use of Te Tiriti o Waitangi policy statements, the quality of these measures/actions was difficult to determine. We are also cautious of assessing quality based only on publicly available documents. Previous studies have helpfully attempted to do this in the health sector (Came et al., 2021), but we are aware that they have caused substantial discussion and even criticism from those working in the fields.



Commitment to Te Tiriti o Waitangi – key features

Across the 22 professional organisations we identified a set of nine features that were most often used by organisations to show commitment to Te Tiriti o Waitangi in the way the governance, policy or operations of an organisation are carried out. These features were:

- Minimum Māori membership requirements for Boards. This relates to there being a formal requirement (in legislation or in constitutional documents or rules) that at least one Māori member is on the organisation's board.
- Māori or Te Tiriti o Waitangi competency requirements. Usually this is expressed as requiring the Minister or person/group appointing the Board to have regard to the skill mix of members, for example requiring that among its members a board has tikanga, te reo Māori, or Te Tiriti o Waitangi expertise. Note that this is not a requirement for there to be members with Māori whakapapa.
- 50/50 Māori/non-Māori Board membership. Often this is in the form of having two separate caucuses (a Māori caucus and a non-Māori caucus) that come together to form an organisation's governing board.
- Having two co-chairs (one Māori, one non-Māori).
- Māori committees or sub-committees of the Board. Sometimes these are mandated by constitutional rules or legislation to carry out specific functions for the Board and other times the committee acts as an advisory to the Board.
- Formal partnership agreements with Māori, often referred to as Te Tiriti o Waitangi Partnerships. These could be with an external party, such as a Māori collective within the profession, or a sub-committee or collective of Māori members within the organisation. For this latter group, its mere existence did not suggest partnership – it was only counted where the documentation made it clear they were considered partners. Although there could be other types of partnership arrangements (eg with iwi, mana whenua, etc), this kind of partnership was not a feature of the organisations reviewed here.
- Explicit Te Tiriti o Waitangi commitments or statements. These could be found in constitutional documents, strategic plans or organisational policies. Usually this involved both a commitment to Te Tiriti o Waitangi at a high level and a description of the principles of Te Tiriti o Waitangi as understood by the organisation.
- Demonstrated Māori participation in operations. Although not strictly about governance, it was apparent some organisations had specific Māori roles (either on the executive leadership team or in staff/advisor roles) and others had dedicated tikanga advisors (sometimes on staff, sometimes external to the organisation). Some had no specific provision for Māori but had noted the need to build the number of Māori staff within the organisation. As organisation structure information was rarely available, we had to rely on annual reporting and website information for this feature.
- Specific projects focused on Māori or Te Tiriti o Waitangi. Some professional organisations share flagship projects focusing on Māori outcomes on their websites; others talk about specific projects in annual reports. The scale of these projects varies greatly, with some organisations having multi-year action plans (like the Nursing Council's Improving our



responsiveness to Māori – Action Plan 2020-2023) and others effectively restating their existing role through an equity lens (such as the Physiotherapy Board which states it “will utilise all the regulatory tools in its power to reduce the gap of health between Māori and non-Māori”).

Health sector groupings

The health sector has a range of health professions, both regulated (under the Health Practitioners Competence Assurance Act 2003) and unregulated (for example, care and support workers / kaiāwhina, rongoā practitioners and healthcare assistants).

While health professionals work in both public (government-funded) and private health care settings, district health boards (DHBs) are major employers of health professionals (although this is set to change with widespread health sector reform coming into place on 1 July 2022). DHBs were established under the NZ Public Health and Disability Act 2000, which has a Treaty clause set out in s 4:

“In order to recognise and respect the principles of the Treaty of Waitangi, and with a view to improving health outcomes for Māori, Part 3 provides for mechanisms to enable Māori to contribute to decision-making on, and to participate in the delivery of, health and disability services.”

The mechanisms provided in the Act include Māori membership of Boards (s 29(4)), and objectives and functions around improving Māori health (sections 22 and 23 respectively). The clause itself was criticised by the Waitangi Tribunal in its 2019 Hauora report, finding that “the New Zealand Public Health and Disability Act 2000 does not give proper and full effect to the Treaty or its principles and is not Treaty-compliant” (Waitangi Tribunal, 2019, p. 162).

Regulated health professions

The Health Practitioners Competence Assurance Act’s principal purpose is to protect the health and safety of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise (s 3). To do this it sets out a framework where health practitioners must be registered for a scope of practice and where responsible authorities are established to prescribe practice requirements, to register practitioners (and provide practising certificates) and manage disciplinary matters (although this last part is part of a broader system of consumer protection which includes the Health and Disability Commissioner).

Default board membership requirements are set out in s 120 of the Act. These include:

- Ministerial appointment of at least five and up to 14 members for each authority (s 120(1)).
- The majority of the members must be health practitioners (s 120(2)(a)).
- Provision for either two or three layperson members (s 120(2)(b)&(c)).

Under regulations, some professions have the ability to elect a proportion of the members. For example, the Health Practitioners Competence Assurance (Election of Members of Nursing Council of New Zealand) Regulations 2009 provides that the **Nursing Council** will include three elected nurses, and the Health Practitioners Competence Assurance (Election of Members of Medical Council of New



Zealand) Regulations 2009 provide that the **Medical Council** will include four elected members. In the case of the Nursing Council, it is an internal policy that at least one of the elect positions is filled by a Māori nurse.

Although not required in any legislation, three other responsible authorities under the Act also have internal policies around minimum Māori membership of their Boards. Two organisations (**Physiotherapy Board** and the **Occupational Therapy Board**) have indicated publicly that they are seeking Ministerial support for legislative changes to embed these minimum requirements. For the **Midwifery Council**, there is a policy of appointing co-chairs (one Māori, one non-Māori) which means in practice there is at least one Māori member of its Board.

The exact make-up of boards appears to slightly deviate from these legislative guidelines around number of lay members. For example, the Medical Council’s current membership is made up of four medical professionals chosen by the Minister, four medical professionals elected by the profession and five layperson members.

Under the Health Practitioners Competence Assurance Act, one of the functions of authorities is to set standards of practice. This explicitly includes the setting of “cultural competence (including competencies that will enable effective and respectful interaction with Māori)”.¹ This creates some expectations that all responsible authorities would have specific work programme activities focused on, at a minimum, ensuring responsiveness to Māori in some form throughout the profession.

Table 3 sets out how these five organisations compare in responding to Te Tiriti o Waitangi obligations. A larger format version of the table is provided in Appendix A.

Table 3: Comparison of approaches to Te Tiriti o Waitangi by five responsible authorities under the Health Practitioners Competence Assurance Act 2003

	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ⁴	50/50 Māori non-Māori governance arrangements	Governance and policy			Operations		
				Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ⁵	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive or staff/advisors	Specific projects focused on Māori publicised
Medical Council of NZ		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Physiotherapy Board	<i>Recommended to Minister</i>						<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Occupational Therapy Board	<i>Recommended to Minister</i>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Nursing Council of NZ	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Te Tatau o Te Whare Kahu, Midwifery Council	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

⁴ Requirement under internal organisation rules, not through legislation

Health sector membership and other professional organisations

In comparison to their regulated counterparts, health sector member organisations more consistently demonstrated commitments to Te Tiriti o Waitangi across governance and operations, perhaps reflecting the lack of regulatory constraint over Board membership.

¹ s 118(1)(i)



Medical professions

The roles of these membership or other professional organisations vary. The medical profession has a wide range of organisations, reflecting the number of medical specialties. For this reason, it was simply not possible to include all organisations in this analysis. However, we have attempted to include at least one of each “type” of professional organisation:

- The **Council of Medical Colleges**, a collective of medical colleges in NZ, responsible for training, examination and re-certification of medical professionals that sets standards of clinical practice across specialties.
- The **Royal NZ College of General Practitioners**, the professional body and post-graduate educational institute for general practitioners and rural hospital doctors. This is included here as an example of an Aotearoa-based college.
- The **Australasian College of Emergency Medicine**, which is responsible for training emergency physicians and advancing professional standards in emergency medicine in Australia and New Zealand. This is an example of a shared college with Australia.
- The **New Zealand Medical Association**, which is an advocacy group for the medical profession (and was a union up until the 1980s). Its roles now include providing support to members, publishing and maintaining a code of ethics for the profession and publishing the New Zealand Medical Journal.
- The **Association of Salaried Medical Specialists**, which promotes the rights of New Zealanders to high quality health care and acts as a union of health professionals.

Within the medical profession, there has been a renewed focus on “cultural safety”, with the Medical Council partnering with **Te Ohu Rata o Aotearoa** (the Māori Doctors Association) to develop a position statement in 2019. This, coupled with increased focus within the health sector on health equity (in part the result of the Waitangi Tribunal’s Kaupapa Inquiry into Health Services and Outcomes), means that most of the medical professional groups are exploring how to apply Te Tiriti o Waitangi in clinical practice. This is reflected in the use of Te Tiriti o Waitangi statements and the inclusion of specific activities in their various work programmes. However, it has yet to lead to any significant change to Board membership or make up.

While the Association of Salaried Medical Specialists does not appear to have any of the factors we identified in place currently, its 2021 annual report says that it is actively pursuing the development of an “equity Kaupapa” and is looking to establish a Māori advisory committee.

Table 4 compares the approaches taken by all medical professional groups included in this analysis (including the Medical Council). A larger format of this table is available in Appendix A.



Table 4: Comparison of approaches to Te Tiriti o Waitangi by a sample of medical professional groups

	Governance and policy						Operations		
	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ⁴	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ⁵	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive or staff/advisors	Specific projects focused on Māori publicised
Medical Council of NZ		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Council of Medical Colleges						<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
The Royal NZ College of General Practitioners	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
The Australasian College of Emergency Medicine					<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<i>Under consideration</i>	<input checked="" type="checkbox"/>
NZ Medical Association							<input checked="" type="checkbox"/>		
Association of Salaried Medical Professionals					<i>Under development</i>		<i>Under development</i>		

Other health professions

There is a marked difference between the medical profession and other health professions when it comes to giving expression to Te Tiriti o Waitangi. This is unsurprising, given that nursing in particular has a long legacy of Māori scholarship on cultural safety.

Looking specifically at the **NZ Nurses Organisation** (NZNO), which represents 55,000 nurses and health workers, negotiates salaries and conditions for nurses, midwives and hospital aides and provides professional support and leadership for nurses and midwives, its constitution provides for joint Māori – non-Māori leadership. The Board is made up of the joint leaders (the President and the Kaiwhakahaere), the Tumu Whakarae (Māori group) and seven other members.

Within the NZNO there is a Māori rōpū (Te Poari o Te Rūnanga o Aotearoa) made up of 17 regional representatives, the Kaiwhakahaere, Tumu Whakarae and kaumātua. Te Poari o Te Runanga o Aotearoa supports the Board with advice on how to achieve its strategic aims and give effect to Te Tiriti o Waitangi. The NZNO sees this as part of working towards a “true bicultural partnership” and ensuring Māori members have a voice in the formation of policy at every level of the organisation.

The **Occupational Therapy Council** (Whakaora Ngangahau Aotearoa) runs a model similar to NZNO, explicitly referring to it as a two-house governance model,² reflecting a partnership between tangata whenua and tangata Tiriti. The Council itself is made up of eight councillors (four tangata whenua, four tangata Tiriti) as elected at its annual general meeting. The Council also endeavours to ensure all subcommittees have equal tangata whenua and tangata Tiriti membership and joint decision-making across the board. The Council also sets an expectation that both its governance and operations are expected to have a good understanding of Te Tiriti o Waitangi and be prepared to weave in tikanga and foster Māori worldviews in all its operations.

Table 5 provides a comparison of how non-medical health professionals have incorporated their Te Tiriti o Waitangi commitments. For completeness this repeats the responsible authorities outlined in

² The model is based on work of the Community Sector Taskforce (2006). Its premise is tangata whenua and tangata Tiriti should work on issues separately before coming together to resolve issues. Usually in this model both a tangata whenua and tangata Tiriti subgroup operate, and the Board is made up of equal members from each subgroup.



Table 3. The shaded rows relate to the membership organisations. A larger format version of the table is provided in Appendix A.

Table 5: Comparison of approaches to Te Tiriti o Waitangi by a sample of medical professional groups

	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements	50/50 Māori non-Māori governance arrangements	Governance and policy			Formal partnership agreements ⁶	Explicit Te Tiriti o Waitangi commitment /statement in policy	Operations	
				Co-chair (Māori / non-Māori)	Māori (sub) committees	Māori participation in executive or staff/advisors			Specific projects focused on Māori publicised	
Physiotherapy Board	Recommended to Minister							<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Physiotherapy NZ	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Occupational Therapy Board	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Occupational Therapy Whakaora Ngāngahau Aotearoa	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nursing Council of NZ	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NZ Nurse Organisation	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Te Tatau o Te Whare Kahu, Midwifery Council	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NZ College of Midwives	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

Education sector

As part of this rapid assessment we looked at how the **Teaching Council of NZ** and one teacher membership organisation (the Post Primary Teachers Association) incorporated a response to Te Tiriti o Waitangi.

The Teaching Council's functions are set out in s 479 of the Education and Training Act 2020,³ with its responsibilities including registering and certifying teachers, setting standards of practice and behaviour, including managing conduct and competence, and advocacy on behalf of the teaching profession.

Its Governing Council is made up of 13 members, seven elected and six appointed by the Minister (s 475). For the elected members there are no requirements for Māori representation or representation from the Māori education sector. Instead the Council stipulates that it will elect a both a teacher and principal from each of the early childhood, primary education and secondary education and one teacher educator. For the Ministerial appointments, the Minister needs to have regard to the collective skills of the Council including in education, governance, leadership, financial skills and understanding the partnership principles of Te Tiriti o Waitangi.⁴

The Education and Training Act also allows for the Council to establish advisory groups (s 484), and currently these include:

- Teaching Council Inclusive Education Advisory Group (focused on diverse learners)
- Pacific Education Steerage Group
- Māori Medium Advisory Group
- Early Childhood Education Advisory Group.

³ It is noted that the purpose of this Act includes establishing and regulating an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships (s 4).

⁴ Education and Training Act 2020, s 476(4)(b)(i)-(v).



The **Post Primary Teachers Association (PPTA)** is a professional association and union of teachers and principals in secondary education. It is not set under the Education and Training Act. Its structure is set out in its constitution (last updated in 2020), which starts with a commitment to Te Tiriti o Waitangi. This appears to have its roots in the organisations 1987 conference, and as such it draws heavily on the Royal Commission on Social Policy. The constitution specifically states that the PPTA will affirm and advance:

- the duty to consult about education matters
- the duty to work for improvements in education that will make good present deficiencies
- the duty to protect actively, to the fullest possible extent, Māori values
- the duty to work to make PPTA structures and policies responsible to the needs of Māori as well as non-Māori
- the duty to ensure that Māori and non-Māori have equal status in education
- Māori values where those values or where Māori taonga are at risk.

Structurally the organisation is set out from the ground up with a branch and regional organisation structure. Nationally there is an executive made up of 25 members, most of whom are elected through secret ballot. But four seats set aside for Māori members (3) and the Komiti Pasifika (1). A second national level group, Te Huarahi Māori Motuhake, is made up of elected Māori members, with the aim of working with the executive and providing leadership on matters affecting Māori members and the education of Māori students. The executive and Te Huarahi Māori Motuhake come together in Te Roopū Matua, the PPTA’s Treaty partnership roopu.

A comparison of these two organisations, based on the nine factors identified earlier, is set out in Table 6.

Table 6: Comparison of approaches to Te Tiriti o Waitangi by the Teaching Council and PPTA

	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ¹³	50/50 Māori non-Māori governance arrangements	Governance and policy			Operations ¹²		
				Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ¹⁴	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive /staff/advisors	Specific projects focused on Māori publicised
Teaching Council of NZ		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
PPTA Te Wehengarua	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Other professional groups

Within timeframes of this rapid review it was not possible to look comprehensively at other professional groups. A set of six organisations were considered, mostly with little or no recognition of Te Tiriti o Waitangi.

The **Plumbers, Gasfitters and Drainlayers Board** stands out for not acknowledging Te Tiriti o Waitangi at all. The Board is established under the Plumbers, Gasfitters and Drainlayers Act 2006 and is responsible for registering, licensing, and setting competence standards for the three professions. It is also responsible for disciplinary proceedings and complaints. Under the Act the Minister is responsible for appointing the Board and must appoint two plumbers, two gasfitters and two drainlayers as well as four other members (one person registered under the Act, one person the



Minister considers has appropriate tertiary education or vocational experience and two consumers).⁵ The Act itself has no Te Tiriti o Waitangi or Treaty clause, and based on the website profiles of Board members there are no Māori consumers or professionals appointed to the Board at the moment.

Chartered Accountants in Aotearoa have a slightly complicated regulatory body arrangement as the **NZ Institute of Chartered Accountants** merged with its Australian equivalent in 2015 to form **Chartered Accountants Australia NZ** (Chartered Accountants ANZ). The New Zealand Institute of Chartered Accountants Act 1996 was amended at the time to allow for the merger and require the continuation of a Board in New Zealand that governs professional conduct and maintains a code of ethics for New Zealand resident members.

The Chartered Accountants Act makes no provision for Te Tiriti o Waitangi or Māori. Membership of the Board is left to be determined by Chartered Accountants ANZ, as a specified authority.⁶ The Board has rules which set out provisions for appointing members to the Board, but there are no requirements other than all members of the Institute of Chartered Accountants in New Zealand are eligible for appointment.

Chartered Accountants ANZ states that it is responsible for advancing the profession and practice of accountancy and all its aspects. The organisation has more than 131,000 members in Aotearoa and Australia. Its corporate governance structure is overseen by a Council, Board of Directors and executive team. The Council is elected from the membership, and is responsible for appointing and evaluating the board. There is little public information about the organisation's commitment to Te Tiriti o Waitangi, but it does state that in Aotearoa there is a Māori strategy focused on attracting Māori into accounting, member support and competency within Chartered Accountants ANZ. It has also launched an internal cultural competency programme designed to lift awareness, understanding and connection to Te Ao Māori and its role as a Treaty of Waitangi Partner.

The **Registered Architects Board** similarly is established under its own legislation, the Registered Architects Act 2005. Its functions are to register competent architects, review registration, maintain a register and investigate complaints. The responsible Minister appoints Board members, with a maximum of four people nominated by the New Zealand Institute of Architects and up to four other people.⁷ There is no guidance on the skills or backgrounds of these other people except that "each member is appointed to undertake the functions and duties of a member rather than to represent the interests of any person".⁸ There are no specific functions of the Board in relation to Te Tiriti o Waitangi, nor is anything outlined in the Board's manual. However, there are legislated requirements to be a good employer, including recognising the aims and aspirations of Māori, the employment requirements of Māori and the need for involvement of Māori as employees of the Board.⁹

The architects' membership organisation, **Te Kāhui Whaihanga New Zealand Institute of Architects**, has almost no specific reference to Te Tiriti o Waitangi in its publicly available information, and there is no information about governance of the organisation. Its website does refer to a

5 Plumbers, Gasfitters and Drainlayers Act 2006, s 134.

6 New Zealand Institute of Chartered Accountants (Specified Association) Order 2014

7 Registered Architects Act 2005, s 52.

8 Registered Architects Act 2005, s 52(4)

9 Registered Architects Act 2005, s 38(2)(d).



partnership statement between itself and Ngā Aho, the society of Māori design professionals “in the spirit of partnership under the mana of the Treaty of Waitangi”, but no further information is provided.

This review also looked at one profession that did not have specific legislation – the **New Zealand Planning Institute (Te Kokiringa Taumata)**, which is a membership organisation for planning professionals. It sets out ethical standards for its members and is an advocate for planning at all levels of government, according to its website.

Its regulations set out the requirements for Board members, who are elected triennially from the membership. Eight members are elected by regions and a ninth member is effectively a Māori member elected nationally. To be able to apply for this national role a candidate needs to provide pepeha, Biodata or Statement of Commitment to Māori Planning, iwi affiliation or statement of whakapapa validated by the Chair of the relevant marae committee.¹⁰ Later on in the document this role is referred to as “Te Ao Māori representative”.

There is nothing substantive in the constitution about Te Tiriti o Waitangi or Māori, but the regulations require “Māori perspectives” competencies – which include understanding Resource Management Act and Local Government Act requirements for engaging with tangata whenua.

A comparison of these six organisations is set out in Table 7.

Table 7: Comparison of approaches to Te Tiriti o Waitangi by other professional organisations

	Governance and policy						Operations ¹⁹		
	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ²⁰	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ²¹	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive /staff/advisors	Specific projects focused on Māori publicised
Institute of Chartered Accountants NZ Board									
Chartered Accountants ANZ							<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Plumbers, Gasfitters and Drain Layers									
Planning Institute / Te Kokiringa Taumata	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>							
Registered Architects Board								<input checked="" type="checkbox"/>	
Te Kāhui Whaihanga New Zealand Institute of Architects						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

¹⁰ Regulations of the New Zealand Planning Institute Incorporated / Te Kokiringa Taumata (effective 4 December 2020) para 3.11.4.2



Conclusions and next steps

The main theme highlighted in this rapid desk-based review so far is that there is no gold standard in Te Tiriti o Waitangi responsiveness, but some organisations have more sophisticated approaches that consider Māori involvement in decision-making, partnership arrangements, and policy statements matched with a work programme/actions.

As the Review Panel continues to explore what might work best for the regulatory and representative bodies for lawyers, it could be helpful to explore:

- how some of the organisations operationalise Te Tiriti o Waitangi in practice, including how this is seen by Māori groups
- how strong organisational policy statements around Te Tiriti o Waitangi really are in practice
- what additional features might be important to the legal profession specifically.



References

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- Waitangi Tribunal. (2019). *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*. https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_152801817/Hauora%20W.pdf



Appendix A Detailed tables

Table 3: Comparison of approaches to Te Tiriti o Waitangi by five responsible authorities under the Health Practitioners Competence Assurance Act 2003

	Governance and policy					Operations			
	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ¹¹	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ¹²	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive or staff/advisors	Specific projects focused on Māori publicised
Medical Council of NZ		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Physiotherapy Board	<i>Recommended to Minister</i>						<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Occupational Therapy Board	<i>Recommended to Minister</i>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Nursing Council of NZ	<input checked="" type="checkbox"/> *						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Te Tatau o Te Whare Kahu, Midwifery Council	<input checked="" type="checkbox"/> *		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

* Requirement under internal organisation rules, not through legislation

¹¹ Relating specifically to skills of Board members or mix of skills amongst Board members.

¹² This could be either partnership agreements with external groups (eg Te Ohu Rata o Aotearoa) or structural arrangements so that Māori committees were referred to as 'partners' or expressing te Tiriti o Waitangi partnership.



Table 4: Comparison of approaches to Te Tiriti o Waitangi by a sample of medical professional groups

	Governance and policy					Operations			
	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ¹³	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ¹⁴	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive or staff/advisors	Specific projects focused on Māori publicised
Medical Council of NZ		☑				☑	☑		☑
Council of Medical Colleges						☑			☑
The Royal NZ College of General Practitioners	☑				☑		☑		☑
The Australasian College of Emergency Medicine					☑		☑	<i>Under consideration</i>	☑
NZ Medical Association							☑		
Association of Salaried Medical Specialists					<i>Under development</i>		<i>Under development</i>		

¹³ Relating specifically to skills of Board members or mix of skills amongst Board members.

¹⁴ This could be either partnership agreements with external groups (eg Te Ohu Rata o Aotearoa) or structural arrangements so that Māori committees were referred to as 'partners' or expressing te Tiriti o Waitangi partnership.



Table 5: Comparison of approaches to Te Tiriti o Waitangi by a sample of medical professional groups

Governance and policy					Operations				
Minimum Māori membership requirements	Māori or Te Tiriti	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ¹⁶	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive or staff/advisors	Specific projects focused on Māori publicised	

¹⁶ This could be either partnership agreements with external groups (eg Te Ohu Rata o Aotearoa) or structural arrangements so that Māori committees were referred to as 'partners' or expressing te Tiriti o Waitangi partnership.



		competency requirements ¹⁵							
Physiotherapy Board	<i>Recommended to Minister</i>						<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Physiotherapy NZ	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Occupational Therapy Board	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Occupational Therapy Whakaora Ngangahau Aotearoa	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nursing Council of NZ	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NZ Nurse Organisation	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						
Te Tatau o Te Whare Kahu, Midwifery Council	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NZ College of Midwives	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

Table 6: Comparison of approaches to Te Tiriti o Waitangi by the Teaching Council and PPTA

Governance and policy

Operations¹⁷

¹⁵ Relating specifically to skills of Board members or mix of skills amongst Board members.

¹⁷ Where known – level of information available on operations of workforce organisations varied greatly.



	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ¹⁸	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ¹⁹	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive /staff/advisors	Specific projects focused on Māori publicised
Teaching Council of NZ		☑			☑		☑		☑
PPTA Te Wehengarua	☑		☑		☑	☑	☑	☑	☑

Table 7: Comparison of approaches to Te Tiriti o Waitangi by other professional organisations

	Governance and policy						Operations ²⁰		
	Minimum Māori membership requirements	Māori or Te Tiriti competency requirements ²¹	50/50 Māori non-Māori governance arrangements	Co-chair (Māori / non-Māori)	Māori (sub) committees	Formal partnership agreements ²²	Explicit Te Tiriti o Waitangi commitment /statement in policy	Māori participation in executive /staff/advisors	Specific projects focused on Māori publicised
Institute of Chartered Accountants NZ Board									
Chartered Accountants ANZ							☑		☑

¹⁸ Relating specifically to skills of Board members or mix of skills among Board members.

¹⁹ This could be either partnership agreements with external groups (eg Te Ohu Rata o Aotearoa) or structural arrangements so that Māori committees were referred to as 'partners' or expressing te Tiriti o Waitangi partnership.

²⁰ Where known – level of information available on operations of workforce organisations varied greatly.

²¹ Relating specifically to skills of Board members or mix of skills among Board members.

²² This could be either partnership agreements with external groups (eg Te Ohu Rata o Aotearoa) or structural arrangements so that Māori committees were referred to as 'partners' or expressing Te Tiriti o Waitangi partnership.



Plumbers, Gasfitters and Drain Layers									
Planning Institute / Te Kokiringa Taumata	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>							
Registered Architects Board								<input checked="" type="checkbox"/>	
Te Kāhui Whaihanga New Zealand Institute of Architects						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

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