

TERMS OF REFERENCE FOR KĀPUAIA - THE MINISTERIAL ADVISORY GROUP ON THE GOVERNMENT RESPONSE TO THE ROYAL COMMISSION OF INQUIRY INTO THE TERRORIST ATTACK ON CHRISTCHURCH MOSQUES

Introduction

The Government has agreed in-principle with the recommendations of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain (the Royal Commission), and has identified a 'diverse, safe and inclusive New Zealand' as the vision for the response to the Royal Commission's report.

This Terms of Reference (ToR) applies to Kāpuia - the Ministerial Advisory Group on the Government Response to The Royal Commission of Inquiry into the terrorist attack on Christchurch mosques (Kāpuia) established in response to recommendation 44 of Ko tō tātou kāinga tēnei, the Report of the Royal Commission. The Royal Commission report recommended the Government establish an Implementation Oversight Advisory Group that:

- a) includes representatives of communities, civil society, local government, the private sector, affected whānau, survivors and witnesses, and the Royal Commission Muslim Community Reference Group;
- b) provides advice to the responsible ministers on the design of the Government's implementation plan and its roll-out; and
- c) publishes its advice to enhance transparency.

The Lead Coordination Minister for the Government's response to the Royal Commission report (the Lead Coordination Minister) is responsible for approval of this ToR and Cabinet was consulted.

The ToR will be reviewed by the Lead Coordination Minister in 2023 (following consultation with Kāpuia) to ensure it remains fit for purpose. This does not prevent any review prior to 2023 if the Lead Coordination Minister considers this necessary or following a request to review by Kāpuia.

Scope of Kāpuia

Kāpuia is a Ministerial Advisory Group. It provides independent advice to Ministers on the Government's Royal Commission report response. It does this by providing advice directly to the Lead Coordination Minister, and other Ministers with agreement from the Lead Coordination Minister. It can also provide feedback to agencies on any draft proposals, which agencies may seek feedback on or that Kāpuia might request to be briefed on.

A full Royal Commission response implementation work programme and its priorities, and any review of the work programme, will not be agreed until Ministers can review advice from Kāpuia.

Role of Kāpuia

Kāpuia will develop and provide advice to the Lead Coordination Minister independently of Government and agencies. It will provide advice, which may include advice on particular strengths, opportunities, weaknesses and gaps, on the:

- work programme and its priorities;
- the design of the Government's implementation plan and its roll-out;
- the planned initiatives; and
- ongoing progress of the roll out of the implementation plan and the initiatives to be delivered by it.

As Kāpuia is an Advisory Group it is not responsible for the development of policy or implementation options and has no formal decision-making powers or accountabilities. It does not have powers to direct agencies but can expect its advice to be given appropriate consideration. Ministers remain responsible for directing their agencies as appropriate. The Government remains accountable for its response to the Royal Commission's report.

Kāpuia can also provide feedback to agencies on any draft proposals that agencies may seek its feedback on. This is to support the development of credible, responsive and fit for purpose policy proposals by agencies.

Where Kāpuia provides advice to Ministers or feedback to agencies, it is preferred that advice is unanimous, but an alternative (minority) viewpoint may also be provided.

Publishing of advice

Kāpuia's advice to the Lead Coordination Minister, and any other Minister with agreement from the Lead Coordination Minister, will be published online to enhance transparency, as recommended by the Royal Commission. Kāpuia's advice will not be published until after it has been considered by the Lead Coordination Minister and/or the other Minister it was provided to. The Government's response to Kāpuia will be published with Kāpuia's advice.

Group Chair(s)

The Lead Coordination Minister will select a Group Chair. That selection will be considered by the Cabinet Appointments and Honours (APH) Committee. The Chair will be selected in accordance with the following attributes:

- mana – a person of high trust and standing;
- experience advocating to Government;
- a commitment to a diverse, inclusive and safe New Zealand;
- willingness and ability to speak to the media;
- not aligned to a political party or lobbying organisation;
- not a current public servant;
- not directly connected to the national security establishment;
- alert to the challenges in considering the work programme arising from the Royal Commission report; and
- experience in governance and leading groups in support of collectively agreed outcomes.

The option will exist for Kāpuia to select a co-Chair from among Kāpuia members once it is formed and a role description proposed by Kāpuia and agreed by the Lead Coordination Minister. Any co-Chair selected will also be subject to the APH Cabinet Committee confirmation process, notwithstanding their prior appointment as a member of Kāpuia. In the event of varied

positions on Group related matters between co-Chairs, the issues in question shall be referred to the Lead Coordination Minister.

Group members

Kāpuia will comprise no more than 30- 35 members with demonstrated strengths in one or more areas including:

- experience advocating for their community;
- well-connected into their community organisations, through either formal or informal mechanisms;
- diversity of lived experiences, which have informed their thinking;
- a commitment to a diverse, inclusive and safe New Zealand; and
- a desire to work collaboratively to achieve collectively agreed outcomes.

Group membership will also have a distribution of ages, ethnicities, genders, faith and religious backgrounds, geographies, educational achievements and experiences.

For initial appointments to Kāpuia, public nominations were sought for individuals able to reflect views from iwi Māori, communities, civil society, local government, the private sector, affected whānau, survivors and witnesses, academia and the Royal Commission Muslim Community Reference Group (as identified in the Royal Commission report). Additional members were appointed after calling for nominations able to reflect views from Pacifica, rural, Rainbow, and disability communities. Individuals were able to nominate themselves or be nominated by other people or organisations.

Group members are appointed as individuals and formally considered by Cabinet before being confirmed in their roles. Alternates are not permitted to attend Group meetings in place of a member.

The Lead Coordination Minister may appoint further members to Kāpuia, either due to vacancies arising or to ensure diversity of membership. Any new appointments will be discussed with the Chair(s) and consulted with Cabinet prior to being confirmed.

Publication of Group member names

In the interests of transparency, Group members' names, including those of the Chair(s), will be made public. Other information about them will not be published. The exception to this approach is for the Chair(s) who also will have a biography published.

Secretariat Support

The Chair(s) and Kāpuia will be supported by a Secretariat accountable to the Lead Coordination Minister. The Secretariat will not provide a research function for Kāpuia but will support communications with the wider public service on matters of relevance. It will ensure Group members have the resources and information they need to be effective in their role, and will build relationships with Government agencies to support Kāpuia's advisory and oversight roles.

The Secretariat will respect Kāpuia members' commitment by ensuring effective and efficient planning, preparation, and implementation of Group processes.

In coordination with the Chair(s), and the Lead Coordination Minister, the Secretariat will develop necessary business processes and protocols to support Kāpuia and its activities. This includes processes and protocols to support the publishing of Kāpuia's advice to the Lead Coordination Minister.

The Secretariat will also develop necessary business processes and protocols to ensure Kāpuia and the Secretariat comply with all relevant privacy, security and legislative requirements. This includes but is not limited to the requirements of the Official Information Act 1982, the Privacy Act 2020 and the Public Records Act 2005.

Official Information Act requests

As Kāpuia is a Ministerial Advisory Group, all information held or produced by Kāpuia, including that held or produced by government agencies for Kāpuia, is subject to the Official Information Act 1982. The Secretariat is responsible for responding in a lawful manner to any Official Information Act requests Kāpuia may receive. In doing so it will coordinate with the Lead Coordination Minister and the Chair(s).

Training and mentoring support to Group members

The Chair(s) shall proactively consider any training and mentoring needs Group members may benefit from to allow them to effectively perform their roles. Where any such needs are identified, the Chair(s) shall liaise with the Secretariat so that options for training and mentoring can be identified and considered. Any options identified that have costs associated with them must be subject to budget approval by the Secretariat before any commitment to deliver them is entered into.

Code of Conduct

Group members will comply with the Code of Conduct attached to this ToR. This is to ensure Kāpuia operates in an open and respectful manner and in accordance with the law. Members' appointment letters will contain a declaration for them to sign and provide to the Secretariat confirming their understanding of the Code of Conduct and willingness to comply with it.

Breach of Code of Conduct

Any breach of the Code of Conduct will be reported to the Chair(s). The Chair(s) will determine an appropriate response. However, only the Lead Coordination Minister can decide if suspension or removal of a Group member for a Code of Conduct breach is necessary. If the Chair(s) believe a breach requires the Lead Coordination Minister to consider suspension or removal of the member in question, they shall report this to the Lead Coordination Minister.

Media protocols

Only Kāpuia Chair(s) shall make public and media statements on behalf of Kāpuia. All media requests received shall be referred to the Chair(s) for their consideration of a response.

This requirement does not prevent members expressing personal views in public or the media at any time, if these are not presented as the views of Kāpuia. All members should advise the Chair and the Secretariat when they are making media statements on matters that pertain to Kāpuia's work programme and the Government's general response to the Royal Commission report. Further information on media protocols is provided in the Code of Conduct attached to this ToR.

Time Commitments and Meetings

Group members may spend up to approximately 16 hours per month on Group activities. The Chair(s) commitments per month may vary dependent on Kāpuia's work programme.

Most meetings will be held virtually with opportunity for one to two in-person meetings over a year.

The Chair(s), supported by the Secretariat, is responsible for setting meeting dates and agendas and the effective and efficient conduct of meetings.

Members may request the Chair(s) to consider holding additional or other urgent meetings, with the Chair(s) having final decision making on any such request.

The Lead Coordination Minister and any other relevant Minister will, where feasible, attend part of any meeting to receive comment and feedback directly or may directly speak to any initiative.

Meeting quorum

The quorum required for meetings will be half the number of the members, including the Chair(s), if the number of members is even and a majority, including the Chair(s), if the number of members is odd.

Attendance of Government officials at meetings

Government officials may provide information to Kāpuia at its meetings, or via the Secretariat, only at the invitation of the Chair(s). This may include information on draft proposals agencies may seek Kāpuia's feedback on. These officials may contribute to meeting discussions at the invitation of the Chair(s) but will not take part in any decision-making and provision of advice to the Lead Coordination Minister from Kāpuia. This will allow officials to provide expert information to Kāpuia and the Secretariat as may be requested by the Chair(s) to support Kāpuia in its role, while maintaining officials' primary function of serving their Minister and agency.

Invited experts and observers

The Chair(s) of Kāpuia may invite additional *ad hoc* attendees to meetings. These invitees could be any person(s) whose qualifications or experience would be of assistance to Kāpuia in its role when considering a particular matter. Every person invited in this way will be entitled to take part in the discussions of the meeting in relation to that matter but will not take part in decision-making or provision of advice to the Lead Coordination Minister.

Observers may include political party representatives with representation from Government and Opposition parties, as well as representatives from the Human Rights Commission.

Invited experts and observers are not eligible for sitting fees but, with the prior approval of the Secretariat, may have travel and other expenses reimbursed.

Language

Meetings and materials and Group outputs, including all written advice and minutes, will be in English.

Term

The Chair(s) and members will be appointed for a maximum of three years and may be eligible for one term of re-appointment. There is no guarantee of re-appointment. Chair(s) will continue in office despite the expiry of their term until they are re-appointed, their successor is appointed, or they are informed they are not to be re-appointed.

Payment and costs

In line with the Cabinet Fees Framework, payment for the Chair(s) have been set at NZ\$885 per day. Payment for Group members have been set at NZ\$500 per day. Hourly pro-rata rates based on a standard eight-hour day will be calculated to apply when hours worked differ from a standard day.

Consistent with clauses 69 and 70 of the Fees Framework, members who are on Kāpuia as individuals but are employed by Government agencies, Crown Entities or Local Government, and continue to receive their ordinary pay, are not entitled to fees payment. Members are eligible for remuneration in line with the Fees Framework if all duties are undertaken outside of their primary job.

Actual and reasonable travel, accommodation and other expenses involved in all members attending face to face meetings will be paid for by the Secretariat, which will make the necessary bookings and arrangements. Where members incur legitimate expenses directly out of pocket for attending face to face meetings, they shall submit a claim for reimbursement to the Secretariat. All claims must be supported by appropriate documentation. Members seeking guidance on what legitimate expenses are shall ask the Secretariat for advice.

For clarity, members are not employees of the Department of the Prime Minister and Cabinet.

Disestablishment of the Advisory Group

Kāpuia and Secretariat will be disestablished at a future point in time considered appropriate by the Lead Coordination Minister. The Lead Coordination Minister will consult with the Chair, and other stakeholders as they may consider appropriate, before making any decision to disestablish Kāpuia.

After disestablishment the Department of the Prime Minister and Cabinet will assume responsibility for the ongoing administration of records and material produced by and provided to Kāpuia and the Secretariat. This will include responding to any subsequent Official Information Act 1982 requests relevant to Kāpuia.

Code of Conduct for Advisory Group members

Purpose

The Code of Conduct sets out expectations for the general conduct of Advisory Group members.

General expectations

It is expected all Group members, including the Chair(s), will:

- work in an inclusive manner where diverse voices of all Group members are listened to and heard equally in an environment of trust and respect, within which all members can safely share their views;
- raise the diverse views of the broader community(s) they may belong to, even when they may not represent their own views;
- take collective responsibility for the actions and decisions of Kāpuia;
- act in accordance with process and protocols agreed or mandated by the Lead Coordination Minister and the Chair(s);
- attend all scheduled meetings and undertake any required pre-meeting reading to ensure they can engage fully at each meeting;
- work transparently and consistent with all privacy, security and legal requirements, including but not limited to the requirements of the Official Information Act 1982 and the Privacy Act 2020;
- maintain and safeguard the confidentiality of information submitted to them or obtained in carrying out their role;
- disclose any real, potential or perceived conflicts of interest as they arise and agree to the appropriate management of these conflicts, in the manner determined by the Chair(s); and
- only claim for legitimate expenses they may incur.

Responses to media queries

Where a journalist or media outlet seeks the views of an individual member, or another group the member may belong to, the member will make clear that any views presented by them represent their personal views or those of the other group they may represent, and not those of the Advisory Group.

Personal views

Members are free to express a personal view in public or in the media at any time. When doing so they must observe the following:

- comments must make clear that they represent a personal view and must not state or imply that they represent the views of Kāpuia;
- where a member may make a statement that is contrary to the agreed position of Kāpuia, the member must not state or imply that their statements represent a majority view; and
- comments to the media must observe the other general expectations of conduct, e.g., maintaining and safeguarding the confidentiality of information presented to them as a Group member and the privacy of individual persons.