19 September 2020

Rt Hon Sir Anand Satyanand
Chancellor
Te Whare Wānanga o Waikato

Tena koe Tā Anand,

Tena koutou ko te Kaunihera i runga i nga āhuatanga o te wā.

On behalf of the Council, you commissioned us to undertake an independent review into public claims about racism at the University of Waikato. The terms of reference are attached.

In the interests of resolving the most urgent matters, and moving swiftly to reconciliation, mana restoration, and an inclusive, more deliberative process to resolve the core issues, we have acted as expeditiously as possible in providing this report and our recommendations.

Findings

We have found:

- That the specific claims against the University, the Vice Chancellor, and management, are incorrect, inaccurate, or reflect differing perspectives or opinions;

- That a process of reconciliation, mana restoration, and reciprocity for those directly involved must occur immediately, as well as the repair of the University's mana on campus, locally, regionally, nationally and internationally;

- That a number of positive initiatives have been taken by the University leadership as part of a Te Ao Māori commitment;

- That the claims made against the University arise out of an accumulation of concerns over many years;

Observations

We have the following observations to make:

- That public institutions in our country are founded in our settlement history, including our universities and education system, which also embody and adhere to western university tradition and culture;

- That these institutions therefore, are structurally, systemically, and casually discriminatory;

- That this discrimination works to the advantage of those for whom these arrangements and practices are their norm or who can and will adapt, while at the same time discriminating against those for whom they are not;

- That references to the Treaty of Waitangi, commitments to a Te Ao Māori view, and the good intent of individuals and groups are insufficient to redress this situation;

- That today, in 2020, in this post-settlement world, it is not acceptable for places of teaching and learning, of research, scholarship and debate, of nation building, to continue this selectively accommodating patronage, of Māori, tāngata whenua, their mana, tikanga and mātauranga;

Assessments

In this context we make the following assessments about the University of Waikato:

- That there is a case for structural, systemic, and casual discrimination at the University

- That the structures and systems must be redesigned to give authentic voice and practice to Te Tiriti o Waitangi The Treaty of Waitangi, its principles of partnership, participation, and protection;

- That the University has the opportunity to lead change, not only for itself, but to serve as a model to the wider tertiary sector; and,

- That this work is urgent and necessary

Recommendations

Accordingly, we recommend that the Council:

1. **Acknowledge** that there is structural, systemic and casual discrimination at the University of Waikato, as a basis for the necessary work to be done;

2. **Agree** that the University's motto "Ko te tangata" must be animated in the everyday life of the University community;

3. **Agree** that Te Tiriti o Waitangi The Treaty of Waitangi provide the future focused framework, including principles and their specific application in all the policies and practices of the University;

4. **Agree** to negotiate a refreshed relationship with Mana Whenua – Kīngitanga, to partner in the way forward, including a refocused and strengthened role for Te Rōpu Manukura;

5. **Agree** that the response and redress will be founded in the equal status of mātauranga Māori and Western knowledge, in scholarship and operations, reflecting and giving substance to the bicultural platform of Te Whare Wānanga o Waikato The University of Waikato;

6. **Agree** to a facilitated process of reconciliation and restoration of the mana of the University, of the leadership of the University and of the Faculty of Māori and Indigenous Studies, and of Māori at the University, as a matter of urgency;

7. **Agree** to an immediate plan of action, with terms of reference, that have the following features:

    a. An urgent timeline
    b. A consulted process
    c. An agreed taskforce to develop the plan
    d. A fully resourced and supported implementation
    e. Agreed communication

8. **Agree** to give tangible expression to the bicultural history of the establishment of the University, to provide a solid and mutually respectful basis, and pathfinder for the way forward.

Conclusion

This review must be the start of a process. The challenges have been laid down. Committed members of the University community, in a compressed timeframe, have brought their lived experience to our attention, and their honesty compels an ongoing process of engagement with urgent and serious action, in pursuit of not just improvement, but transformation.

We conclude our role, by commending these actions to the Council, and to the leadership challenge that we consider Te Whare Wānanga o Waikato University of Waikato capable of.

Heoi ano rā





Hon Hekia Parata

Sir Harawira Gardiner

Independent Review – The Report

Introduction

1. In August and September claims of racism were leveled at the University of Waikato by the leadership of the Faculty of Māori and Indigenous Studies. The University Council, on the advice of the Vice Chancellor and Deputy Vice Chancellor (Māori), commissioned an independent review. This report responds to the urgency of this claim, outlining what has been found, at first sight. Further substantial work is recommended.

2. We acknowledge the concerns expressed at the compressed timeframe, the process followed, and the criticism of the unilateral appointment of us to undertake the review.

Approach

3. Given the damaging nature of the claims, time was of the essence. The review was announced on Friday 4 September and began on Monday 7 September. We began with consideration of the relevant documentation, followed by 3 days of interviews in person and online. Half hour meetings to a half day hui were held, accounting for 80 people, representing numbers of others.

4. Written submissions were invited by 5.00pm on Friday 11 September. Ninety-six submissions were received, including from 12 groups, representing 191 signatories, and accounting for numbers of others. One late group submission was received, and also included.

Confidentiality

5. We appreciate the thoughtfulness, honesty and examples offered by submitters. We also acknowledge the concern expressed for studies and careers, and the courage to share their experience notwithstanding. Written submissions and notes of oral submissions will not be held by the University.

Definition

6. We sought advice on a definition of racism, and a framework for institutional reviews from the Human Rights Commission and were referred to their helpful 2012 discussion paper *A fair go for all? Rite tahi tatou katoa? Addressing Structural Discrimination in Public Service*. We found the definitions on pages 4-5 a useful guide, and acknowledge the Race Relations Commissioner's referral.

Background

7. The background to the claims arising at this particular time, and with a particular catalyst, are summarized for context.

The Pandemic

8. The fractured relationships at the base of these claims have been exposed at an exceptional time. The Covid19 pandemic created an environment of isolation, uncertainty and fear,

where tensions and concerns heightened. It has laid bare the old norm. Discrimination in all its forms is being challenged; not least the global tide against racism, and for the recognition that *Black Lives Matter*.

The Restructuring

9. Restructuring across the University, known as "divisionalisation", resulted in groupings of faculties and schools into 4 divisions. The Faculty of Māori and Indigenous Studies resisted incorporation, asserting the long-held agreement to autonomy. Their protest was upheld and their stand-alone status retained. And, in their view, reaped the punishing consequences of marginalisation and "invisibilisation"; their stand, indeed, alone. They reject the University's characterisation of their concerns as relitigating the restructuring, arguing instead, that they are litigating its consequences.

An Employment Matter

10. Two of the leadership of the Faculty were investigated for flawed execution of a key project. They were found not to have met the standard required. Action appropriate to the respective levels of responsibility was taken by the Vice Chancellor.

The Claims

11. A number of issues have given rise to the overarching claim of structural and systemic racism, and to the claims contained in a Protected Disclosure, the catalyst for which was an employment matter.

The Employment Matter

12. While employment matters relating to individual staff are not formally within the scope of the review, we have been given access to information on all matters that are directly relevant to the events that have sparked the review.

13. An employment matter investigated, and determined, by the Vice Chancellor was the catalyst for a Protected Disclosure and subsequent campaign against the Vice Chancellor and the University, asserting a number of claims, including racism.

<u>What we found</u>

14. We have reviewed the documentation from the perspective of decades of management and executive experience, and the holding of these accountabilities. We saw from the documentation that the Vice Chancellor followed procedure and the law. His approach appeared to us to be professional, restrained, and transparent in all his interactions. We did not see the alleged racism.

The Protected Disclosure

15. The leadership of the Faculty of Māori and Indigenous Studies reacted to the Vice Chancellor's sanctioning of its colleagues by sending a statement under Protected Disclosure to the Secretary for Education. The statement was subsequently sent to the

Chancellor, under cover of a letter making allegations about the Vice Chancellor as to motive and exercise of executive function. Separately, personally vilifying statements were made on a variety of media platforms either directly by Faculty leadership or supporters. The Deputy Vice Chancellor (Māori) was also criticized.

16. The statement made a number of claims as to the Faculty leadership's view of executive decisions. These included the status of the Faculty in its reporting line, representation on committees, breadth of power and influence of those committees, employment, promotion and pay scales of Māori staff, the academic credentials and appropriateness of appointments, the failure of critical plans to remain current, the distribution of equity funding, the relationship with mana whenua, other iwi, the utility of representative bodies, and the profile of Māori achievement, activities and events.

What we found

17. We found the claims in the Protected Disclosure incorrect, inaccurate, or a matter of perception or opinion.

18. The Faculty Dean, a tier 3 position, reports to and through the Deputy Vice Chancellor (Māori), a tier 2 position; the purview of the DVCM extends across academic and non-academic interests, executes Council and Vice Chancellor expectations, maintains significant relationships with mana whenua, and may take special projects or initiatives from time to time; Faculty representation is preserved on key committees including chairing the across university Māori Academic Board; the staff positions referred to have not been extinguished (but employment appointments and promotions were slow); Māori staff are not paid less than equivalent non-Māori staff; the academic credentials and executive experience of the DVCM was determined appropriate for appointment by the Vice Chancellor; a university wide Māori Advancement Plan has not been brought up to date, but is in process.

19. The remaining items are a matter of perspectives, and choices, that engender different opinions.

Structural and systemic racism

20. The issues we have identified that underpin this claim are longstanding and pervasive. While we have considered the claims made in the Protected Disclosure and found them to be wanting in their specific detail, nevertheless they are in our view, representative of institutional flaws and symptomatic of the wider debate that divisionalisation, and the stance taken by the Faculty of Māori and Indigenous Studies opened, and needs to occur.

21. Many of the submitters reported long standing relationships with the University, some multi-generational, others of more recent times; most expressed a deep commitment to the University, along with hurt and anger. This, in our view, arises out of a dissonant identity – on the one hand, the University markets itself and is perceived as having and practicing a deep commitment to Māori; while on the other, its structures, operations, world view and knowledge base arise out of our settlement history, embody or adhere to western university culture and tradition.

The Submissions

22. We found the submissions illuminative and powerful. There were acknowledgements of positive initiatives, pragmatic acceptance that the university has rules that must be abided by to succeed, continuing commitment to and optimism for a better more integrated university life of mātauranga and kaupapa Māori.

23. The overwhelming account, however, was of daily negative interactions, and systemic pressures, processes and events, repeated over many years. The emotional tenor of the submissions, was of individual and collective exhaustion. Yet hopeful…

24. We want to acknowledge and honour all those who contributed. Tena koutou katoa.

Ko te tumanako, me whaia tonu tatou te iti kahurangi.

4 September 2020
Circulated at 11.59am

The following is an announcement from the Chancellor to all staff and students.



Tēnā koutou katoa,

At its meeting on Tuesday 1 September, and on the recommendation of the Vice-Chancellor and the Deputy Vice-Chancellor Māori, the Council of the University of Waikato unanimously agreed to commission an independent review of the recent public claims about racism at the University and a review of the University's progress in meeting its Treaty of Waitangi obligations.

The Council of the University of Waikato has therefore commissioned Sir Harawira Gardiner and Hon Hekia Parata to undertake a review, the terms of reference for which are below. The review will commence on Monday 7 September.

Staff and students with knowledge of the matters set out in the terms of reference are encouraged to contact the University's Legal Advisor to make a time to meet with the Reviewers, by emailing Keely Smith.

Ngā mihi nui,

Rt Hon Sir Anand Satyanand
Chancellor

Terms of Reference

The Council of the University of Waikato have commissioned Sir Harawira

Gardiner and Hon Hekia Parata to undertake a review with the following terms of reference:

1. To review the recent public claims of “structural and systemic racism” at the University of Waikato and the issues that have given rise to these claims, and to provide an assessment of them.
2. To review the University of Waikato’s progress in meeting our Treaty of Waitangi obligations, and in particular the University’s programmes to support Māori students, to attract and retain Māori staff, to integrate mātauranga Māori into its academic programmes and promote Te Ao Māori in the life of the University.
3. To make recommendations for improvements in policy and practice at the University of Waikato in relation to any of the above matters, those recommendations to be consistent with advancing the national and international standing of the University and the resource constraints under which the New Zealand university system currently operates.

Notes

1. The Reviewers will be provided with full and unrestrained access to any information that they feel is required for them to complete a rigorous review of the issues raised. The reviewers may receive written or oral evidence, receive or request documentary evidence in support of submissions and request that individuals or groups meet with them. Members of staff and students are encouraged to speak with the Reviewers either individually or in groups.
2. The Reviewers may find it helpful to provide a report in two parts, with a report on item 1 above provided as soon as practicable and the report on items 2 and 3 above provided at a later time.
3. Employment matters relating to individual staff are not formally within the scope of the review, but the reviewers will be provided with access to information on all matters that are directly relevant to the events that have sparked the review.
4. The reports provided by the Reviewers will be provided to the Council of the University of Waikato. It will be the responsibility of the University Council to prepare any version of the reports that may be made publicly

available, but the Reviewers will be consulted about the public release of any version of the reports.

Timing

- The review will commence on Monday 7 September with a review of documents provided by the University.
- Wednesday 9 September will be set aside to meet with members of management and members of staff suggested by management.
- Friday 11 September will be set aside to meet with those staff and students from the University who wish to make submissions to the Reviewers (either in support of or as an alternative to written submissions).

The Reviewers

Sir Harawira Gardiner



Sir Harawira Gardiner (Ngāti Awa, Whakatōhea, Te Whānau-a-Apanui, Ngāti Pikiao) is a company director and author with extensive governance experience. He was Founding Director of the Waitangi Tribunal (1988-1989), Founding GM of the Iwi Transition Agency (1989-1992), Founding CEO of Te Puni Kōkiri (1992-1995), Chair of Te Papa Tongarewa (2010-2013), and Chair of the Tertiary Education Commission (2009-2012).

His recent roles include membership of the Council of Te Whare Wānanga o Awanuiārangi (2012-2020) and advisor in the Office of the Kīngitanga (2018-2020).

Hon Hekia Parata



Hon Hekia Parata (Ngāti Porou, Ngāi Tahu) was a Member of Parliament 2008-2017, and Minister of Education from 2011-2017. In her previous public service career she held senior roles developing and leading Treaty of Waitangi public policy and representing New Zealand in indigenous rights forums. She participated in the establishment of the NZ Universities Academic Audit Unit.

Hekia is a graduate and Distinguished Alumni of the University of Waikato, a former President of the Waikato Students' Union, and former member of te kapa haka o Te Whare Wānanga o Waikato.