



# Saying sorry for historical wrongs

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# Introduction

- The focus of paper: how governments say sorry
- The examples used:
  - Treaty of Waitangi settlement process
  - Chinese poll tax payers
  - NZ Samoa relationship
  - Lake Alice
  - Cervical cancer
- Specific questions addressed:
  - Why apologise, when and how?
  - What are the risks and benefits?
  - How does this process intersect with the legal system?

# Facing up to the past: The Treaty settlement process

- The evolution of the settlement process
- The broad shape of the process now
- The components of a settlement
- The importance of the apology
- Does it work?

# Facing up to the past: the Chinese poll tax payers

- The history of discrimination
- The effect on the community
- How the apology process started
- An apology tendered
- A process of reconciliation to follow
- Concerns expressed along the way

# Facing up to the past: The NZ Samoa relationship

- The history of the relationship
- How the apology was given
- Is anything else needed?
- Comments from the time

# Facing up to the past: Comments and lessons

- What reasons do governments give?
- What works?
- What are the risks?

# Settling current claims: Lake Alice

- The history of the Child and Adolescent Unit, 1972-78
- Legal claims in the 1990s
- The 2001 settlement with 95 claimants
- A second round to include others with similar stories
- Commentary around the process
- Where to next?

# Settling current claims: Cervical cancer

- National cervical screening programme set up during 1990s
- By 1999, concern about widespread misreading of smears in Tairāwhiti region
- Ministerial inquiry 2000-2001: systemic failures
- Major programme to re-read 23,000 slides
- Legal claims by some women who had suffered preventable injury
- Strong public pressure; protracted settlement negotiations

# Settling current claims: comments and lessons

- How do governments justify settlements outside a framework of legal liability?
- How do you manage the intersection with the formal legal system?
- Government needs a framework to justify and explain decisions, and to manage the precedent effect
- Clearly defining the group and the process is critical; all stages of the process and the outcome have to be negotiated

# Who says sorry?

- How do you name and shame a faceless and immortal bureaucracy?
- The state, the government, the Crown, the Queen, Parliament, the Prime Minister, an official...
  - what format and what actor strikes the right psychological note?
  - What about the right constitutional note?

# Some tentative conclusions

- Governments have room to take broad and politically symbolic steps when there is little or no risk of legal liability through the courts
- When there is overlap with the justice system, management of the interface is vital
- How you apologise is important: people are sceptical about politicians, so it is even harder for government to “say sorry like you mean it”
- Details matter – sequencing, negotiating and choreographing every step
- The government has to be ready to be politically accountable for its actions – it needs a reasoned framework standing behind it each time