Summary of Chapter 5: Approaches to Disability

About the Hauwhaikaha report

The Waitangi Tribunal is a permanent commission of inquiry. It makes recommendations on claims brought by Maaori relating to legislation, policies, actions or omissions of the government (Crown) that are alleged to breach the promises made in te Tiriti o Waitangi/the Treaty of Waitangi.

The Health Services and Outcomes Inquiry (Wai 2575) (health inquiry) concerns claims relating to health services and outcomes that are important to Aotearoa New Zealand. In December 2017, the health inquiry was organised into three stages. This inquiry is the first part of the second stage and concerns claims relating to the State disability system.

The Hauwhaikaha report summarises what we heard during the disability inquiry and outlines our findings and recommendations.

Summaries of each chapter of the Hauwhaikaha report

People who want to read the full report, can find it here: www.waitangitribunal.govt.nz/en/publications/tribunal-reports/by-wai-number/wai2575hauwhaikaha or www.bit.ly/Hauwhaikaha

We have also produced summaries of each chapter of the report, for those who do not want to read the whole report.

This document is a summary of chapter 5 about approaches to disability. Chapter 5 examines the different approaches to disability and how they influence the way the disability system operates.

Three approaches to disability in Aotearoa New Zealand

1) The medical approach to disability

A medical approach to disability became widely used in western society during the late nineteenth and early twentieth century. The medical approach has historically viewed disability as a health problem to be treated through medical intervention. This approach can involve diagnosis and sometimes, institutionalisation. The medical approach is linked with a high degree of State involvement in disabled peoples' lives. Doctors and medical professionals have historically played a central role in this approach, as gatekeepers to information and resources.

2) The social approach to disability

The social approach to disability is linked with a movement away from the medical approach and institutionalisation. In the late twentieth century, the social approach had a large influence on official responses to disability in Aotearoa New Zealand, eventually leading to a national disability strategy promoting this approach in 2001. The 2001 New Zealand Disability Strategy viewed disability as the result of social and environmental oppression. Such oppression happens when one group of people design a society without consideration for members with impairments, which then creates barriers for the impaired group to participate.

3) Maaori approaches to disability

During the 1980s, Maaori health experts advocated for system change by offering alternative approaches to disability. Although these approaches appeared 'new', they in fact came from cultural practice within te ao Maaori. In 1982, Maaori health expert and leader Sir Mason Durie presented an influential model that is still relevant today: Te Whare Tapa Whaa. This model uses the whare (meeting house) and its parts to represent the interconnected components of wellbeing (physical, whaanau, spiritual

and mental). A fifth realm of wellbeing related to whenua was added to the model during the 1990s. While not all the same, these approaches shared a focus on holistic wellbeing and were grounded in a te ao Maaori worldview that made them different from the medical and social approaches.

How has the medical approach to disability shaped eligibility for disability services?

The medical approach has historically influenced disability services in Aotearoa New Zealand. Throughout this inquiry, the Crown submitted that it was actively moving away from the medical approach by transforming the disability system. However, the claimants submitted that the current disability system is still heavily influenced by the medical approach. For example, the medical approach remains central to the current eligibility processes to access Disability Support Services (DSS). Claimants said being eligible to access disability supports depends heavily on impairment-based assessments and formal diagnoses made by health professionals. This is clear in the requirements for access to disability supports, such as income support, housing assistance, transport and car modifications, carer support and equipment.

Overall, the medical approach has produced an eligibility system that is focused on diagnosis and therefore limits access. The Crown said it intended to transform eligibility to DSS, however, we saw little evidence of this in practice during the inquiry.

How has the medical approach to disability influenced the use of seclusion and restraint?

The use of seclusion and restraint in health and disability services is linked to the medical approach. Restraint is when a service provider limits a person’s normal freedom of movement. Seclusion is where a person is placed alone in a room or area, at any time and for any duration, from which they cannot freely exit. Evidence shows that Maaori are, overall, more likely to be subjected to seclusion than non-Maaori.

The Crown said it is reducing seclusion and restraint through the Zero Seclusion: Safety and Dignity for All initiative launched by the Health Quality and Safety Commission in 2019. Changes in the Crown's policy and in the use of seclusion and

restraint show genuine progress in shifting away from the medical approach. We acknowledge these initiatives, which reflect a growing recognition of the harms caused by institutional practices historically influenced by the medical approach.

Is the social approach to disability adequate for taangata whaikaha Maaori?

The Crown provided evidence of steps it has taken to adopt a social approach within the disability system. For example, changes in government supports, particularly the process of deinstitutionalisation and moving care into community-based supports. The claimants argued that while the Crown has formally adopted the social approach to disability, little has been put into practice within the disability system. Claimants also argued that western approaches to disability, such as the social model, do not address the issues and barriers experienced by taangata whaikaha Maaori who, in their view, require a Maaori model of disability.

While the social approach to disability shifts focus from the individual to societal and environmental barriers, the Crown's application of the social model remains grounded in western frameworks. We found that without explicit application of Maaori models of disability and genuine power-sharing in policy and system design, transformation will continue to fall short of meeting the needs and aspirations of taangata whaikaha Maaori.

Does the disability system adequately engage with Maaori approaches to disability?

Within a Maaori worldview, disability is not perceived as an individual condition, but as an issue of social, spiritual and environmental significance for the community. Claimants argued that Maaori approaches to disability must be embedded in the system to reflect collective and culturally grounded approaches to wellbeing. For example, the whaanau hauaa model is a Maaori model and perspective of disability, which includes spiritual, holistic and environmental factors. The model is grounded in the lived experiences of individual members and that of their whaanau. It recognises disability as one aspect of a person's life rather than something that defines them.

The Crown acknowledged that Maaori hold unique perspectives on disability and that its understanding and implementation of these views are limited. The Crown

acknowledged its approach to disability has been based on western models of disability, which claimants said contributed to persistent disparities and the failure to achieve health equity. We found that Maaori approaches to disability, such as whaanau hauaa, have not been largely applied in Crown policy or service delivery.

Tribunal Findings

To develop an effective and Tiriti/Treaty-compliant disability system, the Crown must recognise the intersectional identities and needs of taangata whaikaha Maaori. The social approach to disability is a significant improvement over the traditional medical approach. However, the social model does not fully capture Maaori worldviews. This limits the Crown's ability to address the specific experiences and needs of taangata whaikaha Maaori.

The absence of Maaori approaches to disability in the current disability system reflects a wider failure to recognise taangata whaikaha Maaori as Tiriti/Treaty partners. The 'one-size-fits-all' approach does not meet the specific needs of taangata whaikaha Maaori, it also makes it harder for taangata whaikaha Maaori to get the support they need. This leads to invisibility within policy, service barriers and culturally unsafe service environments.

The principle of partnership requires the Crown to genuinely consult and partner with Maaori in the design and provision of social services, including healthcare. The Crown's obligation to consult and partner with Maaori in policy development and implementation is especially relevant where Maaori specifically seek it, and where there are disparities in health outcomes. There has been a clear demand, evidenced by the claimants, that they have expressly sought the application of te ao Maaori approaches to disability. To have a Tiriti/Treaty-compliant disability system, the Crown must meaningfully partner with taangata whaikaha Maaori to adopt approaches to disability that are culturally appropriate.

Te Tiriti/the Treaty's guarantee of tino rangatiratanga requires Maaori self-determination and mana motuhake (autonomy) in the design, delivery and monitoring of healthcare. In this sense, Maaori are guaranteed tino rangatiratanga rights in respect of hauora Maaori (Maaori health), which encompasses Maaori organisations and their models of care, and Maaori people who need access to their services. Additionally, the Crown must facilitate, and make available to Maaori,

health services designed to close inequitable gaps in health outcomes, regardless of the cause of those inequities.

The Crown has a clear duty to ensure that the disability system, including its approaches to disability, is Tiriti/Treaty-compliant and takes account of the needs of taangata whaikaha Maaori and their Tiriti/Treaty expectations. Accordingly, we found that the current disability system does not recognise and adequately provide for tino rangatiratanga and mana motuhake of hauora Maaori (Maaori health). Moreover, the Crown does not meaningfully incorporate Maaori disability models within the disability system in breach of the principles of partnership and tino rangatiratanga.