Summary of Chapter 8: Service Barriers and Availability

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 8 about service barriers and availability of Disability Support Services (DSS). DSS are the services funded by the Crown to assist disabled people, including taangata whaikaha Maaori.

What are the barriers to accessing Disability Support Services (DSS)?

Chapter 8 evaluates five barriers that taangata whaikaha Maaori experience when accessing DSS. They are: 1) navigating the disability system; 2) service availability and accessibility; 3) experiences of racism and discrimination; 4) lack of access to kaupapa Maaori providers; and 5) living in rural areas.

Navigating the disability system

Claimants said that taangata whaikaha Maaori and their whaanau are often unable to navigate the disability system because it is fragmented and split across so many government departments and services. This results in different processes and requirements for supports, which make it difficult for taangata whaikaha Maaori to know what supports are available and how to access them. They said that these inconsistencies can prevent them from accessing services, leading to inequitable health outcomes, as compared with non-Maaori.

The Crown acknowledged that the complexity of the disability system makes accessing services difficult. The Crown said it was addressing these issues through Whaikaha – Ministry of Disabled People's cross-government role to steward the disability system and coordinate priorities across government. Whaikaha's role includes leading key disability-focused strategies and action plans.

We acknowledge the complexity of designing an effective disability system. We also acknowledge that in some circumstances it is necessary and reasonable to distinguish between services for health and for disability. However, throughout this inquiry, we heard evidence that navigating the disability system is often unnecessarily confusing, which negatively affects taangata whaikaha Maaori.

Service availability and accessibility

Claimants argued there was a lack of adequate services for taangata whaikaha Maaori. They also said that even when services are available, they could be inaccessible. Some barriers to access are physical, for example, buildings with features like steps or narrow doorways, which made services in those buildings inaccessible to taangata whaikaha Maaori. Lack of relevant and accessible information as well as costs were also identified by the claimants as barriers to accessing disability supports. The claimants argued that the Crown failed to adequately address any of these barriers.

The Crown acknowledged that taangata whaikaha Maaori face organisational barriers, such as appointments at times that are deemed unsuitable and/or lengthy waiting times for appointments and poor service-related experiences. The disparities between Maaori and non-Maaori in service access and availability are consistent across the board. This was demonstrated by claimant evidence and supported by research reports. Given these disparities, we asked: 'Why is this so?' Evidence shows structural bias within the disability system, that is, built-in patterns within the disability system that consistently produce unequal outcomes for taangata whaikaha Maaori. We acknowledge system change is happening, but it is slow-moving, and known disparities in access continue to exist.

Experiences of racism and discrimination in the disability system

Claimants said Maaori face discrimination throughout the health system and receive lower quality care than non-Maaori, and that taangata whaikaha Maaori suffer even more discrimination and receive even lower quality care. Throughout the inquiry, witnesses shared their experiences of the racism and discrimination when trying to access Government-funded supports.

While the Crown's health and disability policies generally acknowledge the importance of culturally responsive services for Maaori, there is little evidence of what it is practically doing to address and monitor the claimants' concerns. The claimants' experiences of racism and discrimination in the health and disability system are also reflected in Tribunal-commissioned research.

Lack of access to kaupapa Maaori providers

There is an identified need for kaupapa Maaori disability services, that is, Maaori owned and governed health and disability providers. Claimants submitted that there has been research showing the need for Maaori-specific disability services available for some time. The Crown acknowledged the critical importance of having more Kaupapa Maaori disability supports available. Research showed that a significant proportion of taangata whaikaha Maaori would feel more comfortable and achieve better outcomes with services operating within a Maaori cultural framework. The best way to address this would be to fund services to specifically serve Maaori communities. However, the evidence shows that taangata whaikaha Maaori continue to face limited options when seeking disability supports delivered by Maaori providers.

Living in rural areas

Claimants said that rural taangata whaikaha Maaori experience disproportionately poor socio-economic conditions and health outcomes when compared with the rural non-Maaori disabled community. Claimants argued that these disparities are caused by socio-economic factors and the limited availability of essential services in rural areas, including primary and secondary healthcare, emergency services, after-hours care, kaupapa Maaori services, and specialist disability and health services. As a result of this low service availability, rural taangata whaikaha Maaori face greater reliance on transport due to long travel distances, depend heavily on visiting specialists, have fewer options for care, and experience increased delays in accessing necessary services.

The Crown recognised the importance of rural communities having access to disability services. The Crown also acknowledged that communities in rural areas have different needs to those living in urban areas. The Crown submitted that the Rural Health Strategy sets the direction for improving the health and wellbeing of people who live in rural communities, including rural Maaori. The strategy also acknowledged the specific barriers to rural Maaori, noting that these include factors such as distance to services, limited availability of services and the suitability of approaches to meet the needs of rural communities.

The Crown's health and disability policies generally acknowledge the importance of providing culturally responsive services for Maaori in rural areas, however there is little evidence of what it is practically doing to address and monitor the claimants' concerns.

Tribunal Findings

The principle of equity requires the Crown to act with fairness and justice to all citizens. The Crown must inform itself of inequity, and positively and proactively promote equity. The principle of active protection requires the Crown to ensure access to health services, including culturally appropriate services. The Tiriti/Treaty promise of active protection also includes ensuring health services are culturally appropriate. This includes incorporating tikanga Maaori in mainstream health institutions. The principle of options requires the Crown to ensure Maaori can choose Maaori or mainstream options, or to choose a combination of both, by supporting and resourcing both options. Partnership describes the relationship between the Crown and Maaori and the duty on both to act reasonably and in good faith.

Taangata whaikaha Maaori and their whaanau face many service barriers, affecting their access to adequate disability supports and services that meet their needs. These barriers to DSS constitute breaches of the Treaty principles of equity, active protection, options and partnership and are set out below.

The principle of options requires the Crown to actively protect the availability of kaupapa Maaori services as well as mainstream services in the social sector, so that Maaori are not disadvantaged by their choice of either. We found the Crown has breached the principle of options as taangata whaikaha Maaori often do not have a real choice to access care from a kaupapa Maaori provider. The Crown does not adequately support the growth of kaupapa Maaori disability providers to sustainably deliver services and care to taangata whaikaha Maaori. This significantly restricts the ability of taangata whaikaha Maaori to access culturally appropriate care that meets their needs, which is a breach of the principle of active protection.

The disability services provided by the Crown do not adequately meet the needs of taangata whaikaha Maaori, leading to inequitable access and a higher proportion of unmet need among taangata whaikaha Maaori. The Crown has not adequately

addressed the barriers taangata whaikaha Maaori face in trying to access disability support services, in breach of the principles of equity, active protection, options and partnership.

We found a breach of the partnership principle, because the Crown has been aware of service barriers yet has not genuinely attempted to address them through partnership with taangata whaikaha Maaori. Chapter 9 on partnership discusses the overall design of the disability system, however it is worth noting here that access issues and barriers could be addressed more effectively if the Crown partners effectively with taangata whaikaha Maaori.

Access barriers are worsened for Maaori who live in rural areas where scarcity of services often leads to further barriers, such as long travel distances and higher associated costs. A shortfall in the availability of local health and disability providers leads to numerous negative consequences for taangata whaikaha Maaori, which worsen already existing inequities. The Crown has not sufficiently shown how it is addressing the heightened barriers for rural taangata whaikaha Maaori, which we found is a breach of the principles of active protection and equity.