Summary of Chapter 9: Partnership Mechanisms

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 9 about the Crown's mechanisms for partnering with taangata whaikaha Maaori when designing and reforming the disability system. We also assess whether the Crown has provided sufficient opportunity for taangata whaikaha Maaori to be involved in decision-making in the disability system.

Has the Crown adequately partnered with taangata whaikaha Maaori when designing the disability system?

Claimants argued that the Crown has not provided sufficient opportunity for taangata whaikaha Maaori to influence the health and disability system, including the type of health and disability services delivered to them. They stated that the Crown and taangata whaikaha Maaori need to make decisions together. Claimants explained partnership with taangata whaikaha Maaori is essential to improve health outcomes for taangata whaikaha Maaori. They also said that the lack of partnership arrangements has led to negative outcomes for taangata whaikaha Maaori, for example, a lack of partnership in defining eligibility criteria has negatively affected the services available to taangata whaikaha Maaori.

Claimants want to influence the design of health and disability policies and services to create meaningful practical changes within the disability system and be involved in the monitoring of policies and services. They argued that the current processes for Crown consultation with taangata whaikaha Maaori in the development of disability-related policy is inadequate. Moreover, to be able to effectively participate in partnership arrangements with the Crown, claimants said taangata whaikaha Maaori need to be properly resourced and funded to have meaningful impact in the policy process.

The Crown stated that Whaikaha – Ministry of Disabled People aims to meet its Tiriti/Treaty obligations by working with Maaori to transform the disability system and achieve fair and equitable outcomes for taangata whaikaha Maaori. The Crown gave examples of how Whaikaha was working with taangata whaikaha Maaori to ensure their voice and aspirations were considered. An important part of this, according to the Crown, includes ensuring that the Crown’s high-level policies, strategies and

plans reflect its commitment to te Tiriti/the Treaty in partnership with disabled people, taangata whaikaha Maaori and whaanau.

The Crown provided evidence of the role taangata whaikaha Maaori had in the development of some strategies. For example, the New Zealand Disability Strategy was developed using a co-design approach with disabled people and taangata whaikaha Maaori and the Disabled People's Organisations (DPO) Coalition, supported by the New Zealand Disability Strategy Revision Reference Group. The reference group was made up of 12 members, the majority of whom identified as disabled, with one identifying as taangata whaikaha Maaori. The New Zealand Disability Strategy was developed with public consultation in 2016, including consultation specifically with taangata whaikaha Maaori.

Claimants submitted that while disability-related strategies and plans sometimes give reference to taangata whaikaha Maaori being involved in decision-making and acknowledge te Tiriti/the Treaty, these documents are largely aspirational. Furthermore, claimants submitted that despite these aspirations, these strategies and plans do not go far enough. Instead, they called for a Tiriti/Treaty-grounded partnership with taangata whaikaha Maaori, in the design, implementation and monitoring of the disability sector.

Claimants argued that taangata whaikaha Maaori are also left out of decisions that impact them directly, including decisions regarding system reforms. For example, the Health and Disability System Review announced in May 2018, and more recently, the changes to the Purchasing Rules for Disability Support Services (DSS) in March 2024, which caused significant distress to claimants.

Following public criticism regarding the lack of effective communication about changes to the Purchasing Rules, Whaikaha issued a public apology. The changes were later clarified, and Whaikaha acknowledged the distress and confusion these changes caused disabled peopled and service providers. We note that the changes to the Purchasing Rules were removed in April 2026 to enable taangata whaikaha Maaori more control over their spending.

We are encouraged by the aspirations of Whaikaha to partner with taangata whaikaha Maaori to transform the disability system for improved outcomes. However, we note the lack of evidence of practical examples of genuine partnership shows the

Crown has not made adequate provisions for taangata whaikaha Maaori to formally participate in the design of the disability system. As the Crown sets up partnership arrangements, it is paramount that it builds in mechanisms to ensure these provisions are designed with taangata whaikaha Maaori input and set up to be sustainable. This includes adequate resourcing.

Has the Crown provided sufficient opportunity for taangata whaikaha Maaori to be involved in decision-making?

Claimants noted that adequate representation of taangata whaikaha Maaori across all levels of the health and disability sector is critical to answering the call of 'nothing about us, without us'.

Claimants also noted that there is no legislative requirement for taangata whaikaha Maaori to be represented in the health sector decision-making that affects them, nor Maaori representation at the international monitoring level. They highlighted the lack of taangata whaikaha Maaori representation on the boards of Health New Zealand and the now disestablished Te Aka Whai Ora. Claimants further submitted that the existence of Maaori decision-making groups like Iwi Maaori Partnership Boards (IMPBs) and the Hauora Maaori Advisory Committee do not guarantee representation unless specific taangata whaikaha Maaori representation is provided for, and appropriately resourced.

The Crown provided evidence on a range of taangata whaikaha Maaori representation at the decision-making level of the health and disability system. However, we saw that even when taangata whaikaha Maaori are represented on advisory bodies, this does not necessarily translate into effective participation. Instead, representatives have presented evidence of significant structural and procedural barriers that limit the extent to which their perspectives are incorporated into decision-making processes.

We found that the Crown has not provided sufficient opportunity for taangata whaikaha Maaori to be involved in decision-making in the disability system through representative advisory boards and governance structures. We also reiterate the need to appropriately and adequately support taangata whaikaha Maaori (including, but not only financially), to be able to participate in these bodies.

Tribunal Findings

The Crown has a Tiriti/Treaty-based obligation to consult and partner genuinely with taangata whaikaha Maaori in the design of the system and provision of services. The Crown has a heightened Tiriti/Treaty duty to protect taangata whaikaha Maaori health and wellbeing and reduce adverse health disparities with non-Maaori through the development and implementation of disability policy.

The Crown has historically failed to partner with taangata whaikaha Maaori in the design of the disability system, including the services that are available to them, and the development of disability-related policy, strategies and action plans. From the evidence before us, the Crown has not adequately provided for taangata whaikaha Maaori to be a formal part of the design of the disability system, nor are there adequate provisions for taangaata whaikaha Maaori to be part of decision-making in advisory boards and governance structures in breach of the principle of partnership.

While we are encouraged by the aspirations of Whaikaha to partner with taangata whaikaha Maaori to transform the disability system for improved outcomes, the Crown's duty to partner with Maaori should not depend on the good will of Government officials. Formal partnership mechanisms or entities are required for responsible power-sharing. Maaori should be actively involved in policy decision-making in matters affecting their communities.

Legislative and policy mechanisms must be put in place to specify the presence and priority of taangata whaikaha Maaori interests at all levels of decision-making. Further work is required within Whaikaha to ensure the Crown's Tiriti/Treaty obligations are met. Until these partnership aspirations are formally entrenched in the entire system, and noting the important role of Whaikaha, there remains a risk that the ways in which Whaikaha engage with and represent the needs of taangata whaikaha Maaori, will not be culturally appropriate.