



Summary of Chapters 1-4

About the Hauwhaikaha report

The Waitangi Tribunal is a permanent commission of inquiry. It makes recommendations on claims brought by Māori 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 the first four chapters of the report, including the introduction, the wider context of disability in Aotearoa New Zealand, the current disability system and relevant Tiriti/Treaty principles.

Chapter 1: Introduction

(1) Background to the disability inquiry

We received claims from taangata whaikaha Maaori on their own behalf; individuals on behalf of whaanau, hapuu and iwi; health and disability service providers; and representative and advocacy organisations. The claims ranged from broad issues concerning the disability system to specific claims where witnesses shared their lived experiences of the disability system. We also heard evidence from the Crown and a range of independent experts, including Tribunal-commissioned researchers. 45 claimant groups and interested parties participated in the inquiry. Claimants and witnesses shared their evidence during eleven hearing weeks, which took place between March 2022 and December 2024.

(2) Language surrounding disability

Claimants used the term taangata whaikaha throughout much of their evidence. Like them, we consider it to be an empowering, mana-enhancing phrase and have adopted it throughout this report – with one change. We have chosen to expand the term to taangata whaikaha Maaori to ensure the reader knows the report is explicitly referring to Maaori disabled people.

In this report, the term taangata whaikaha Maaori covers, but is not limited to:

Kaapoo Maaori – taangata whaikaha Maaori who are blind, deafblind, vision-impaired, or have low vision;

Taangata Turi – taangata whaikaha Maaori who are deaf or hard of hearing;

Taangata whaikaha Maaori with mobility issues;

Tangaata whaikaha Maaori who consider they have a disability but are not recognised as such by the Crown (for example, people living with Aphasia, Apraxia, and Epilepsy);

Taangata whaikaha Maaori with fetal alcohol spectrum disorder (FASD); and

Taangata whaikaha Maaori with a temporary disability.

Chapter 2: The wider context - disability in Aotearoa New Zealand

Chapter 2 describes the historical, social and policy context for the inquiry. It briefly discusses what is known about the status of taangata whaikaha Maaori within te ao Maaori prior to colonisation, before setting out approaches to disability in Aotearoa New Zealand since 1840. This account includes the emergence of Maaori-centered models of disability and their influence on public policy after 1980. Finally, the chapter looks at systemic reforms that occurred in the twenty-first century, including the significant health sector restructure announced by the Government in 2021, while the disability inquiry was in progress.

Chapter 3: The current disability system

Chapter 3 describes the current disability system in place at the close of hearings in December 2024. It outlines the network of laws that govern the disability system in Aotearoa New Zealand. Central to this network is the Pae Ora (Healthy Futures) Act 2022. This chapter also discusses Aotearoa New Zealand's international obligations as set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). It includes a description of the Independent Monitoring Mechanism (IMM), established in accordance with the UNCRPD. Aotearoa New Zealand is party to this international instrument, which includes specific obligations to taangata whaikaha Maaori.

The chapter then describes the key Crown agencies and entities, their roles, functions, and responsibilities in the disability system: the Ministry of Health; Whaikaha: Ministry of Disabled People; Te Whatu Ora: Health New Zealand; the Ministry of Social Development; Accident Compensation Corporation; the Ministry of Education; and Ara Poutama Aotearoa: Department of Corrections. Each agency and entity has responsibility, or shares responsibility, for different aspects of Aotearoa

New Zealand's international obligations and have their own governing legislation, strategies and policies relating to people with disability.

The chapter also explains Disability Support Services (DSS), including eligibility and service options. DSS are the services funded by the Crown to assist disabled people, including taangata whaikaha Maaori. This chapter also discusses the Crown's approach to the delivery of disability services by describing the key disability and health strategies and action plans in operation.

Chapter 4: Tiriti/Treaty principles

This chapter identifies Tiriti/Treaty principles most relevant to this inquiry:

Tino rangatiratanga means Maaori autonomy and self-government to the fullest extent possible.

Partnership describes the relationship between the Crown and Maaori and the duty on both to act reasonably and in good faith. It recognises that Maaori have the right to choose how they organise themselves and how or through what organisations they express their tino rangatiratanga.

Active protection places an obligation on the Crown to protect Maaori interests and includes the Crown's duty to actively protect Maaori tino rangatiratanga. This obligation is not a passive one.

Equity places a duty on the Crown to treat Maaori fairly with other New Zealanders. This does not necessarily mean treating all groups exactly the same, rather it is the Crown's duty to inform itself of inequity, and positively and proactively address it.

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.

Good governance requires the Crown to act within its own laws and create sound policy.