



Abuse in Care

Royal Commission of Inquiry

PUBLIC HEARING – MARCH 2020

**CIVIL CLAIMS AND CIVIL LITIGATION REDRESS PROCESSES RELATING
TO ABUSE IN STATE CARE**

BRIEFING PAPER:

**FINDINGS ON TE TIRITI/TREATY OF WAITANGI PRINCIPLES AND MĀORI
CONSULTATION IDENTIFIED IN RECENT INQUIRIES AND REPORTS
RELATING TO REDRESS OF ABUSE IN STATE CARE**

INTRODUCTION

1. The information in this briefing paper is produced by the Inquiry in accordance with clause 20(d) of the Inquiry's terms of reference. It is also intended to assist with clause 6, which states:

The inquiry will give appropriate recognition to Māori interests, acknowledging the disproportionate representation of Māori, particularly in care. The inquiry will be underpinned by Te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and will partner with Māori throughout the inquiry process.

2. At the Inquiry's contextual hearing, Dr Moana Jackson stated:

The fact that such a tikanga based understanding has been dismissed in the colonising history since 1840 does not invalidate it. Rather, it merely indicates the steps this country still needs to take to properly honour Te Tiriti. It also indicates that there is already a Te Tiriti based framework in place that could justly provide both a measure to assess the wrongs of abuse in care and a way to prevent such harm in the future.¹

3. This briefing paper outlines:
 - a. Key Te Tiriti o Waitangi/Treaty of Waitangi (**Treaty**) principles as expressed in Waitangi Tribunal reports;²
 - b. Recent Cabinet guidance on the Treaty and how it should be used to inform Government legislative and policy drafting;

¹ RCOI Transcript of Dr Moana Jackson, 30/10/19, page 17, lines 23-30.

² This paper acknowledges the Waitangi Tribunal's exclusive authority to determine the meaning and effect of the Treaty as embodied in the two texts and to decide issues raised by the differences between them, pursuant to s 5 of the Treaty of Waitangi Act 1975. The two texts are referred collectively herein as "the Treaty agreement."

- c. An example considering how The Waitangi Tribunal expected Treaty principles to be applied within public sector frameworks, set out in the *Hauora Report*;³
- d. An example of consultation methodologies outlined in publicly available materials within the welfare and justice sectors, outlined in *Puao-Te-Ata-Tu*.

TREATY OF WAITANGI

A. Summary of Contemporary Waitangi Tribunal and Case Law Principles

1. The Principle of Partnership

- a. An obligation ‘to act towards each other reasonably and with the utmost good faith’⁴
- b. ‘a relationship where one party is not subordinate to the other but where each must respect the other’s status and authority in all walks of life’⁵
- c. The fundamental exchange of *kāwanatanga*, the right of the Crown to govern and make laws for the country, in exchange for the right of Māori to exercise *tino rangatiratanga* over their land, resources, and people. The Crown’s right of *kāwanatanga* is not unfettered. The guarantee of *tino rangatiratanga* requires the Crown to acknowledge Māori control over their *tikanga*, resources, and people and to allow Māori to manage their own affairs in a way that aligns with their customs and values.⁶

³ Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*, (Wellington: Legislation Direct, 2019).

⁴ *New Zealand Maori Council v Attorney General* [1987] 1 NZLR 641 (CA), p 667.

⁵ Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wellington: GP Publications, 1998), p xxvi.

⁶ Waitangi Tribunal, *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates* (Wellington: Legislation Direct, 2017), p 21.

- d. Due to the power imbalance between the Crown and Māori, while neither rangatiratanga nor the right to govern is absolute, it is the Crown's Treaty responsibility to ensure that Māori are not disadvantaged in that relationship.⁷
- e. Māori retain the right to choose how they organise themselves and how or through what organisations they express their tino rangatiratanga, and the Crown needs to be willing to work through the structures Māori prefer in the circumstances, whether through iwi, hapū, and whānau or any other organisation.⁸
- f. The requirement for the Crown to partner with Māori is especially relevant when Māori are expressly seeking a role in the process of policy-making and this is heightened when inequities in outcomes exist.⁹
- g. It is important to consistently evaluate a practical arrangement or framework originally intended to implement partnership as it can fail to be effective after time, which may constitute a breach.¹⁰
- h. Where consultation with Māori is inadequate, this may constitute a breach of the principle of partnership.¹¹

2. The Principle of Autonomy

- a. As part of the mutual recognition of kawanatanga and tino rangatiratanga, the Crown guaranteed to protect Māori autonomy, which the Turanga Tribunal defined as 'the ability of tribal

⁷ Waitangi Tribunal, *Te Whanau o Waipareira Report*, p xxvi. 16, 30.

⁸ *Te Whanau o Waipareira Report*, p 25; and Waitangi Tribunal, *Matua Rautia: The Report on the Kōhanga Reo Claim* (Wellington: Legislation Direct, 2013), pp 64–65.

⁹ *Tū Mai te Rangi!*, pp 62-63.

¹⁰ See above n 10, *Tū Mai te Rangi!* Where the principle of partnership was met in the Department of Correction's declaration of commitment to engage with Māori groups. However should the vision and commitment not be effected, the Waitangi Tribunal noted this would constitute a breach.

¹¹ Waitangi Tribunal, *Ahu Moana The Aquaculture and Marine Farming Report*, (Wellington: Legislation Direct, 2002) p 65.

communities to govern themselves as they had for centuries, to determine their own internal political, economic, and social rights and objectives, and to act collectively in accordance with those determinants. Inherent in Māori autonomy and tino rangatiratanga is the right to retain their own customary law and institutions and the right to determine their own decision makers and land entitlements.¹²

3. The Principle of Reciprocity

- a. Above all, the partnership is a reciprocal one, involving fundamental exchanges for mutual advantage and benefits. Māori ceded kawanatanga (governance) of the country in return for a guarantee that their tino rangatiratanga (full authority) over their land, people and taonga would be protected. Māori also ceded the right of pre-emption over their lands on the basis that this would be exercised in a protective manner and in their own interests, so that the settlement of the country could proceed in a fair and mutually advantageous manner.¹³

4. The Principle of Active Protection

- a. Arising from partnership discussed above, the Crown retains an obligation to actively protect Māori tino rangatiratanga with the right to decision-making power over their affairs.¹⁴
- b. This is not absolute and unqualified, and the Crown is not required to go beyond what is reasonable in the prevailing circumstances – what is reasonable will change depending on the circumstances at the time.¹⁵

¹² Waitangi Tribunal *Te Tau Ihu o Te Waka a Maui Report on Northern South Island Claims* (Wellington: Legislation Direct, 2008), p 4.

¹³ Ibid.

¹⁴ Waitangi Tribunal, *The Ngātiwai Mandate Inquiry Report* (Wellington: Legislation Direct, 2017), p 27; Waitangi Tribunal, *Te Whanau o Waipareira Report*, p 215; Waitangi Tribunal, *Ngāpuhi Mandate Inquiry Report*, p 24; Waitangi Tribunal, *Turanga Tangata Turanga Whenua: The Report on the Turanganui a Kiwa Claims*, 2 vols (Wellington: Legislation Direct, 2004), vol 2, p 739; and Waitangi Tribunal *Hauora: Report on Stage One* above n 3, p 30.

¹⁵ *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 (PC), p 517.

- c. The Crown is required to keep itself informed of relevant circumstances as they apply to Māori needs, including ensuring equitable access.¹⁶

5. The Principle of Equity

- a. The Waitangi Tribunal has found that this article not only guarantees Māori freedom from discrimination but also obliges the Crown to positively promote equity, and the rights and privileges of British subjects outlined in article 3.¹⁷
- b. Closely linked to the principle of active protection, this principle broadly guarantees freedom from discrimination, whether this is conscious or unconscious – the Crown in order to satisfy its obligations must not only reasonably ensure Māori do not suffer inequity but also actively inform itself of the occurrence of inequity.¹⁸
- c. It must be noted that the principle only requires the Crown to make every reasonable effort to eliminate barriers to services that may contribute to inequity – equity of service may still produce inequality of outcomes for Māori.¹⁹

6. The Principle of Equal Treatment

- a. The principles of partnership, reciprocity, autonomy, and active protection required the Crown to act fairly as between Māori groups

¹⁶ Waitangi Tribunal, *The Napier Hospital and Health Services Report*, p 362

¹⁷ Ibid, pp 48, 62 ; Waitangi Tribunal, *Report on the Crown's Foreshore and Seabed Policy* (Wellington: Legislation Direct, 2004), p 133; Waitangi Tribunal, *The Mohaka ki Ahuriri Report* (Wellington: Legislation Direct, 2004), p 27; Waitangi Tribunal, *The Te Arawa Mandate Report* (Wellington : Legislation Direct, 2004), p 94; Waitangi Tribunal, *The Offender Assessment Policies Report* (Wellington : Legislation Direct, 2005), p 13; Waitangi Tribunal, *He Maunga Rongo*, vol 2, p 428.

¹⁸ Waitangi Tribunal *Hauora: Report on Stage One*, p 34.

¹⁹ Ibid, at p 34.

– it could not unfairly advantage one group over another if their circumstances, rights and interests were broadly the same.²⁰

7. The Principle of Options

- a. Following on from the principles of partnership, active protection, and equity this protects the right of Māori to continue their way of life according to their indigenous traditions and worldview while participating in British society and culture.
- b. This requires that the Crown must adequately protect the availability and viability of kaupapa Māori solutions in the social sector as well as mainstream services in such a way that Māori are not disadvantaged by their choice.²¹

8. The Principle of Redress

- a. Where the Crown has acted in breach of the principles and Māori have suffered prejudice as a result, the Waitangi Tribunal have considered that the Crown has a clear duty to set matters right.²²
- b. The principle of redress was developed in connection with historical claims and in situations where the only recourse for Māori would be an appeal to the Treaty, where restoration of a tribal base, tribal mana and sufficient remedy would be required to resolve the grievance.²³
- c. Resolution will involve compromise on both sides and should not create fresh injustice for others.²⁴

²⁰ Waitangi Tribunal *Te Tau Ihu o Te Waka a Maui Report on Northern South Island Claims* (Wellington: Legislation Direct, 2008), p 4.

²¹ Waitangi Tribunal *Hauora: Report on Stage One*, p 34.

²² Waitangi Tribunal *Foreshore and Seabed* (Wellington: Legislation Direct, 2004) p 134; see also Waitangi Tribunal, *Tarawera Forest Report*, p 29.

²³ Waitangi Tribunal *Foreshore and Seabed* at p 134-5.

²⁴ *Ibid* at p 135.

- d. Where legal rights exist and are expunged or effectively expropriated under the Government's policy or legislation, an offer from the Crown of redress, rather than compensation, is a poor exchange and will not restore the Treaty partnership.²⁵
9. It should further be noted that there have been additional developments in Treaty jurisprudence, including approaches to the recognition of tikanga Maori alongside common law rights, that would be equally relevant to the work of the Inquiry, which have arisen through other areas or in other sectors.²⁶ Due to the specificity of this briefing paper, those topics, and any others, will necessarily be discussed and researched in much greater detail as the Inquiry progresses.

B. Summary of Recent Cabinet-led Advice on the Application of the Treaty

10. In October 2019 the Cabinet Office provided specific guidance ("the Guidance") outlining policy-makers' requirements to consider the Treaty in their work.²⁷ The Guidance provides tables outlining the Articles in their two texts, and lists short-form questions as guidance (outlined below in detail).

²⁵ At p 136.

²⁶ Immediate examples (not exhaustive) include: *Takamore v Clarke* [2012] NZSC 116 where Māori burial customs were seen as being a relevant consideration to be weighed among others in considering how to exercise the rights held by the personal representative of the deceased; the Marine and Coastal Area (Takutai Moana) Act 2011 which established a process for applications seeking acknowledgement of customary rights; *Te Weehi v Regional Fisheries Officer* [1986] 1 NZLR 680 relating to customary fishing rights; and *Huakina Development Trust v Waikato Valley Authority* [1987] 2 NZLR 188 relating to recognition of spiritual and cultural values for decision-making.

²⁷ Cabinet Office, CO (19) 5: *Te Tiriti o Waitangi/Treaty of Waitangi Guidance*, (22 October 2019).

11. Prior to the specific guidance, the document outlines existing government guidance on the Treaty,²⁸ and refers to the Legislation Design and Advisory Committee Guidelines,²⁹ which outlines:³⁰

Legislation should be consistent with the principles of the Treaty of Waitangi.

The Treaty is of vital constitutional importance. The development process of policy and legislation, as well as the final product, should show appropriate respect for the spirit and principles of the Treaty.

12. The Legislation Design and Advisory Committee provides several guideline considerations for application in the development of policy and legislation. Each area has full paragraphs to explain the implications of the particular issue:³¹
- a. Whether the proposal affects or has the potential to affect rights or interests of Māori under the Treaty;
 - b. Whether the proposal impacts Crown Treaty commitments;
 - c. Whether there is a potential effect on rights and interests recognised at common law or in practices governed by tikanga
 - d. Whether Māori should be consulted
 - e. Who from Māoridom should be consulted to ensure the consultation targets the people whose interests are affected;
 - f. Whether the legislation provides safeguards for Māori interests in the event of potential conflicts with Treaty principles;

²⁸ Cabinet Office, *Te Tiriti o Waitangi* at [10]-[13].

²⁹ A Committee established in 2015 (following on from the former Legislation Advisory Committee 1986-2015) with members consisting of senior public service officials and external advisors appointed by the Attorney-General who have expert policy and legislative skills with backgrounds in law, economics, policy and academia. The Committee's guidelines were first produced in 2001, re-written in 2014 and the current edition was published in 2018. It is expected at a minimum that the Guidelines are explicitly addressed where either policy decisions are sought and/or when draft legislation is submitted to Cabinet Legislation Committee.

³⁰ Legislation Design and Advisory Committee, *Legislation Guidelines*, (2018 ed.) at [4.2] p 24.

³¹ *Ibid* at [5.1]-[5.7] pp 28-33.

- g. That clarity is necessary in rare cases where Parliament intends to be inconsistent with Treaty principles.
13. The Guidance also refers to a Te Puni Kokiri two-page information sheet on effective consultation with Māori, which outlines the following points:³²
- a. There has been a recognition of the need to move away from “one-off” consultation;
 - b. Investment in relationships with Māori is the most effective way to engage with Māori;
 - c. While engagement is both a legislative and Treaty obligation, effective engagement assists agencies and councils to achieve quality outcomes for Māori which benefits all;
 - d. A focus on relationships will produce a better understanding of Māori perspectives resulting in councils and agencies being better informed when providing advice and delivering services that accommodate Māori aspirations;
 - e. That a strategy for effective engagement should be designed by all councils and agencies, consisting of the following four phases:
 - clarifying scope and purpose,
 - identifying who to engage,
 - planning the detail and
 - being aware of constraints in collaboration before finalising the strategy; and
 - f. In implementing the engagement strategy, to acknowledge Māori as a Treaty partner, respect the people they speak to and the various cultural differences, and make real efforts to enable direct participation by Māori.
14. Returning to the 2019 Guidance, it provides the following guideline questions for policy-makers:

³² Te Puni Kokiri, *Te Hanga Whanaungatanga mō te Hononga Hāngai ki te Māori Building Relationships for Effective Engagement with Māori*, (October 2006).

*Article One:*³³

- How does the proposal/policy affect all New Zealanders? What is the effect on Māori (if different, how and why?) Will the proposal affect different Māori groups differently? What could the unintended impacts on Māori be and how does the proposal mitigate them?
- How does the proposal demonstrate good government within the context of the Treaty? Have policy-makers followed existing general policy guidance? Are there any legal and/or Treaty settlement obligations for the Crown?
- What are the Treaty/Māori interests in this issue? How have policy-makers ascertained them?
- How does the proposal demonstrate that policy-makers are meeting the good faith obligations of the Crown?
- To what extent have policy-makers anticipated Treaty arguments that might be made? And how does the proposal respond to these arguments?

*Article Two:*³⁴

- Does the proposal allow for the Māori exercise of rangatiratanga while recognising the right of the Crown to govern? Can/should the proposal, or parts of it, be led by Māori? What options/mechanisms are available to enable rangatiratanga?
- Have Māori had a role in design/implementation? If so, who? If not, should they?
- Does the proposal: enhance Māori wellbeing? build Māori capability or capacity?
- Is there any aspect of this issue that Māori consider to be a taonga?- How have policy-makers come to their view of whether the issue is a taonga, and is there consensus? What effect does that have on the proposal?

³³ Cabinet Office, *Te Tiriti o Waitangi* at [23]-[45].
³⁴ *Ibid* at [46]-[65]

*Article Three:*³⁵

- Does the proposal aim to achieve equitable outcomes?
- How does the proposal differ from previous efforts to address the issue?
- How does the proposal demonstrate that policy-makers have looked at the proposal from the perspective of legal values such as natural justice, due process, fairness and equity?
- How does the proposal demonstrate that policy-makers have looked at the issue from the perspective of tikanga values?

C. WAITANGI TRIBUNAL – HAUORA REPORT STAGE ONE

Background

15. In 2015, the Waitangi Tribunal prioritised the hearing of claims of national significance which affect Māori as a whole or a section of Māori in similar ways. This led to the prioritisation of an inquiry into nationally significant health issues where 100 claims had raised a range of grievances.³⁶
16. The *Hauora Report* addresses two Waitangi Tribunal claims regarding the legislative and policy framework of the primary health care system, heard in late 2018 after being highlighted as a priority issue.³⁷ The central allegation was the Crown's primary health care framework has failed to achieve Māori health equity and that the framework is not fit for purpose.

Approach

17. The Tribunal heard from 44 witnesses and received a significant volume of evidence (the agreed bundle was over 16,000 pages). Three weeks and one day were used for the hearing of oral evidence. The hearings took place at Tūrangawaewae Marae in October 2018.³⁸
18. The claims considered were made both on behalf of several individuals and groups (Māori primary health organisations or kaupapa Māori health providers), and on behalf of all Māori.

³⁶ These related to primary health care, delivery of services to the disabled, reducing causes of ill-health caused by smoking and HIV/AIDS, alleged disparity in the quality of health service, the accommodation of mātauranga Māori and rongoā Māori within mainstream provision of health services and disparities in health outcomes for Māori and non-Māori.

³⁷ *Hauora*, at p 1, referring to the overall Health Services and Outcomes Kaupapa Inquiry, WAI 2575.

³⁸ At p 6. This marae held particular significance as it was the first time the Waitangi Tribunal had sat at that marae, and the hearings occurred on the centenary of the Spanish flu pandemic, the health crisis which had prompted Te Pūea Hērangi to nominate Māhinārangi Whare at Tūrangawaewae Marae as the site for a Māori-run hospital (although this vision was never realised).

Findings

19. The Waitangi Tribunal made findings of significant breaches of the Treaty within the Crown's primary health care sector's framework, in that:
 - i. it failed to consistently state a commitment to equitable outcomes for Māori;
 - ii. there was clear under-funding of Māori primary health organisations;
 - iii. there was a lack of qualitative and quantitative reporting on Māori health data;
 - iv. Te Puni Kōkiri failed to carry out its statutory duty in conducting agency reviews. The Crown was therefore not adequately informed about the persistent situation so did not seek necessary information to improve the performance of the sector;
 - v. within the primary health sector, there was a lack of partnership with Māori who are significantly under-represented across a range of medical professions and within the Ministry of Health, and there had been a disestablishment of a unit focussed on Māori health in the Ministry which impacted Māori-specific policy-making.

20. Overall it was concluded that "the primary health care framework does not recognise and properly provide for tino rangatiratanga and mana motuhake of hauora Māori."³⁹

21. The report itself relied heavily on the co-operation of Crown counsel and the Ministry of Health in the provision of statistics and evidence, which was foreshadowed by the Crown's expressed intention to act in a co-operative fashion.

³⁹ Ibid, Executive Summary, p XV

Waitangi Tribunal's statements in relation to application of the Treaty of Waitangi and consultation processes

22. In consideration of whether the primary health care sector's framework was Treaty compliant, the Tribunal noted its surprise to hear evidence that the Ministry of Health interpreted the Treaty principles as the outdated 'three P's' of partnership, protection and participation as conceptualised from the 1988 Royal Commission on Social Policy, when the intervening years had allowed for considerable advancement in contemporary thinking on Treaty principles.⁴⁰
23. The Tribunal outlined its view that the Ministry's published policies and strategies, and practices had, in effect, 'watered down' the effect of the Treaty principles. Until 2014, the Ministry had considered rangatiratanga as an aspirational goal, not a right. The Tribunal found that following the introduction of the correct interpretation of rangatiratanga⁴¹ that key thread was nevertheless not formally implemented at the district health board level.⁴²
24. The Tribunal further stated however, that tino rangatiratanga, the fullest expression of political and social organisation and the foundation of Māori decision-making, is what the Treaty enshrines, not rangatiratanga.⁴³
25. The Tribunal found that the watering down of the principles undermined the Crown's potential strength to audit district health boards for Treaty-compliance, and concluded:⁴⁴

⁴⁰ At p 80, see [3.1]-[3.5] of *Hauora* for an extrapolated discussion of Treaty principles.

⁴¹ Enabling whānau, hapū, iwi and Māori to exercise control over their own health and wellbeing, as well as the direction and shape of their own institutions, communities and development as a people.

⁴² At 81.

⁴³ At 82.

⁴⁴ At 83.

We note that giving effect to the Treaty partnership was a ‘significant concern’ for Māori involved in the consultation period, begun in March of 2000, on the development of the Primary Health Care Strategy. Crown counsel noted the consultation, which included ‘Māori providers and co-funders’, but did not make a submission on its adequacy. Crown witness Dr Frances McGrath recalled some participants saying that the documentation proposing the reforms to primary care did not, in their eyes, reflect ‘a commitment to partnership or to the action required to make it a reality’...neither He Korowai Oranga nor the other strategies and policies relevant to primary health care require the health sector to recognise the tino rangatiratanga rights that are enshrined in article 2. In our view, the Ministry’s articulation and explanation of the Treaty and its application to the health sector is not Treaty-compliant.

26. Several breaches were found at the district health board level, with the governance model failing to reflect the Treaty partnership. Of particular concern was that Māori board members were kept to minority numbers and did not necessarily reflect mana whenua interests or the local Māori population that they served. Appointees being answerable to the Ministry of Health did not reflect partnership, and there was considerable variance across the country of their role and influence upon the operation of the district health boards.
27. Evidence was heard that consultation was regularly the simple provision for Māori involvement without an intention to receive the consulted viewpoint.⁴⁵

⁴⁵ At 89 and 90, regarding Māori primary health organisations and providers difficulties in partnering with district health boards. For a more comprehensive briefing paper on historical claims processes, refer to the Royal Commission’s briefing paper titled “Government Policy Between 2000 and 2017”

D. REPORT ON CONSULTATION WITH MĀORI - PUAO-TE-ATA-TU⁴⁶

28. This section describes the consultation processes adopted by Puaote-Ata-Tu to outline methodologies adopted to meet the Crown's Treaty obligations, particularly the principle of partnership.
29. There are many other processes and reports that could be considered alongside this report, but Puaote-Ata-Tu was selected due to its applicability to the work of this Royal Commission.

Background

30. The Puaote-Ata-Tu report was commissioned by the Department of Social Welfare, of the Ministerial Advisory Committee chaired by John Rangihau. The Committee was tasked with providing a Māori perspective and with a mandate to make recommendations to improve the practice and policy of the Department in relation to Māori.
31. The Terms of Reference were based on the ultimate goal of "*... an approach which would meet the needs of Māori in policy, planning and service delivery in the Department of Social Welfare*".⁴⁷

Approach

32. The Committee's approach involved travelling throughout New Zealand to speak with Department of Social Welfare clients in a marae setting, believing an oral approach as the traditional method for Māori would be one to which they would respond. Records were made in oral form with unedited transcripts and tapes of the proceedings and written submissions were also invited and received.⁴⁸

⁴⁶ The Māori Perspective Advisory Committee, *Puaote-Ata-Tu* (Wellington, September 1988)

⁴⁷ *Ibid*, at p 5.

⁴⁸ "Puaote-Ata-Tu" at p 17, [18].

33. 69 meetings were held across marae, institutions and Department offices.⁴⁹ 39 of these were at marae or community venues, the other 30 at offices or alternative venues. Approximately 2954 people attended the hui, 1424 verbal submissions were recorded and 267 written submissions were received as evidence.⁵⁰
34. “Countless” discussions and consultations were held with staff, community workers, young people and the judiciary.⁵¹
35. The Committee spoke to senior staff from the Department’s head office and district management, senior staff of the State Services Commission (SSC) and the Department of Māori Affairs.
36. Broad findings were communicated to the heads of the Departments of Health, Labour, Housing, Education, Justice, Police and the SSC.⁵²
37. A historical paper is attached as an appendix to the report to provide context and in recognition of the socio-economic status of Māori having been created by events and experiences, as the Māori perspective upon this experience underlies the substance of the report and findings.

Findings

38. The Committee made a number of recommendations:
 - i. A social policy objective be endorsed by the Government which specifically combats racism, particularly towards Māori and Māori lifestyles;⁵³

⁴⁹ Ibid, at [19].

⁵⁰ Ibid, Appendix IV at p 91.

⁵¹ At [20].

⁵² At [23].

⁵³ Ibid at p 9.

- ii. The endorsement of an operational policy to attack and eliminate deprivation;⁵⁴
- iii. Accountability measures be taken in the abolishing of the Social Security Commission and the establishment of a Social Welfare Commission;⁵⁵
- iv. Changes to the Social Welfare Act 1971, Social Security Act 1964 and the Children and Young Persons Act 1974 in order to develop practice with the welfare beneficiary scheme, awareness of Māori whānau, hapu and iwi links when social services work with Māori children, and cultural training for staff;⁵⁶
- v. A review of the Social Security Act by the Social Welfare Commission when established to reduce complexity around eligibility for and rationalisation of benefit rates;⁵⁷
- vi. Committees representative of the community, as well as the Department of Social Welfare and the Minister for Māori Affairs, to be appointed and funded, and responsible for, providing recommendations about the direction of policy governing individual institutions⁵⁸, resource allocation, selection of staff, and the cultural relevance of programmes provided. The Committees would also manage the issue of alternative community care through networking with the extended family and the ability to report on the institutions to the Social Welfare Commission. Funding to allow for children to return to tribal areas for cultural development and continuity of schooling;⁵⁹

⁵⁴ Ibid.

⁵⁵ Ibid at p 9-10.

⁵⁶ Ibid at 10.

⁵⁷ At 11.

⁵⁸ Residential care facilities.

⁵⁹ At 11-12.

- vii. The development of the Maatua Whangai programme;⁶⁰
- viii. The funding of initiatives to target long-term unemployment amongst youth, particularly for Māori;⁶¹
- ix. The inclusion of cultural competency and an awareness of Māori needs and those of the Māori community in job descriptions, inclusion of someone with knowledge of Māoritanga in the interview panel, that the Department train staff in cultural competency with additional training in Māoritanga, that staff can attend training while their work is covered with relief staff, that local Māori groups can provide the training with assistance and the Department accredit Māori for field and reception work.;⁶²
- x. The development of training, urgently;⁶³
- xi. Communication strategies including language translations, a toll free calling service, the hiring of consultants, and updating of the design and function of reception areas, and for Māori to be hired to assist with dealing with Māori people in areas with high volumes of Māori users;⁶⁴
- xii. That the intended Royal Commission on Social Policy take the recommendations into account and immediate action occurs within the State Services Commission;⁶⁵ and
- xiii. Immediate action be taken to address economic, social and cultural problems that are creating serious tensions in major cities and outlying areas – in order to co-ordinate efforts of local and central government, iwi and other cultural structures, including Māori

⁶⁰ At 12.

⁶¹ Ibid.

⁶² At p 12-13.

⁶³ Ibid.

⁶⁴ At 13

⁶⁵ At 14.

businesses and to use the initiatives of Māori and the community at large, and that the Cabinet Committee on Social Equity and their permanent members be responsible for planning and directing the co-ordination of resources.⁶⁶

Outcome of Report's Release in 1986

39. A national hui was held at Lower Hutt in 1986 attended by two representatives of each marae visited by the Committee, kaumatua, heads of social service departments, regional district directors of the Departments of Social Welfare and Māori Affairs.

40. The Ministers for Social Welfare and Māori Affairs attended and made unequivocal commitments to the findings of the Report, and it was hoped by Chairman Rangihau that if the Department of Social Welfare effectively implemented the steps seen as necessary then all New Zealanders would benefit from the changes.⁶⁷

⁶⁶ At 14.

⁶⁷ At Epilogue, p 45.