

IN THE WAITANGI TRIBUNAL

**WAI 2575
WAI XXXX**

UNDER

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

The Health Services and Outcomes Kaupapa
Inquiry

AND

IN THE MATTER OF

a claim by Dr Michelle Levy

**STATEMENT OF CLAIM
DATED 29 MARCH 2018**

RECEIVED Waitangi Tribunal
29 Mar 18
Ministry of Justice WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

Background

1. Māori are over represented as consumers of psychological services across a number of sectors, and this claim concerns how Psychology in Aotearoa, as an academic discipline and profession, has been unable to adequately meet this demand by Māori. This is due in part to those who teach Psychology in Aotearoa being reluctant to depart from their monocultural western myopia, despite having been challenged for almost 40 years to do so. This claim then concerns not only the need to deliver culturally compliant Psychology services to Māori, but also the failure of the Crown to ensure that the Psychology community acknowledge or give effect to, any other non-western system of help that may address the Psychology needs of Māori.
2. Māori encounter active resistance to their very presence in the profession of psychology. This resistance includes systemic failures such as the failure to teach non-western systems of health care, such as Māori, and their world view towards improving their health and well-being. This claim seeks to address breaches of the Treaty of Waitangi by the Crown and its agencies, which include the failure to:
 - a) Ensure all Registered Psychologists are culturally competent to work with Māori;
 - b) Actively support, develop and implement strategies to increase the Māori Registered Psychologist workforce; and
 - c) Actively support and contribute to the development of an indigenous Māori psychology profession that is better able to meet the needs and aspirations of Māori consumers of psychological services.
3. This claim also concerns the low numbers of Māori participating in Psychology and how those who teach it actively prevent greater participation by Maori in Psychology teaching institutions.

The Claimant

4. The claimant is Dr Michelle Levy, who is Waikato and Ngāti Mahuta and is a registered psychologist. She is therefore qualified to file this claim and be registered as the claimant (“the claimant”) because she satisfies section 6(1) of the Treaty of Waitangi Act 1975 namely:
 - a) That she is Māori; and
 - b) Has been and continues to be or is likely to be prejudicially affected by the various Acts and Crown policies, practices, acts and omissions adopted by, or on behalf of the Crown or its agents.

The New Zealand Psychologists Board

5. In 2002, the New Zealand Psychologists Board (“NZPB”) commissioned the *Barriers and Incentives to Māori Participation in Psychology Report*¹ (“the Barriers report”). The Barriers report found that a major barrier to increasing Māori participation in psychology was identified as the environment in which Māori students of psychology and Māori psychologists *were required* to participate. Despite developments, environments in which Māori students of psychology and Māori psychologists participated, continued to be dominated by paradigms, frameworks and models perceived to be of little relevance to the realities of Māori. Where Māori focused content in psychology training was perceived to be tokenistic, this served to further marginalize and minimize the relevance of psychology for Māori.
6. Conversely, the major incentive for increasing Māori participation in psychology identified in the Barriers report was the creation of environments in which Māori *wished* to participate. Such environments were characterized by the:
 - a) Presence of other Māori students, Māori psychologists and Māori academic staff;

¹ Levy. M. (2002). *Barriers and Incentives to Māori Participation in Psychology*. Wellington: New Zealand Psychologists Board.

- b) Requirement of competency to work with Māori being viewed as a core component or ‘best practice’ within psychological training paradigms;
 - c) Meaningful participation of Māori academic staff, students and psychologists to influence outcomes, directions, and priorities in a given context; and actively valuing their contributions;
 - d) Absence of the marginalization of Māori participation and contributions into ‘cultural areas’;
 - e) Provision of opportunities to contribute to the development of Māori focused psychologies, including publication; and
 - f) Provision of effective support for Māori staff, students and psychologists.
7. In-depth recommendations were provided for the NZPB to pursue in order to promote and enhance Māori participation in psychology. It was recommended that the NZPB take a leadership role across all key stakeholders (i.e. New Zealand Psychological Society (NZPsS); New Zealand College of Clinical Psychologists (NZCCP); Tertiary Education Institution (TEIs) Psychology Departments/Schools; and core Crown agencies including the Ministries of Health, Corrections, Courts, Justice, Social Development, Education, and Defence). All these key stakeholders have a central interest in addressing barriers to Māori participation in the profession of psychology.
8. Fifteen years later, in 2017, *The Aotearoa New Zealand Psychology Workforce Survey 2016* concluded further work was required to meet the goal of a psychology workforce reflective of the New Zealand population, including that of Māori psychologists, and the 2002 Barriers report was identified as being able to provide guidance in this area. This conclusion was made despite an extensive literature base having been developed over the past two decades regarding Māori participation in psychology, including the completion of several PhDs, and publication of the first ever indigenous psychology text in Aotearoa. Furthermore, the active participation of Māori as graduates of psychology is significantly small compared to other ethnic groups.
9. In 2014, District Health Boards employed a total 569.1 FTE staff, of which 76.5% (411.2 FTE) identified as European, 4.9% (26.5FTE) as Asian, 4.0% (21.7FTE) as

Māori, and 0.6% (3.5FTE) as Pacific.²

10. As at April 2015:

- a) Of the 164 psychologists employed by the Department of Corrections, *12* identified as Māori.
- b) Of the 14 psychologists employed by the Ministry of Social Development (MSD) (employed within Child, Youth and Family (CYF)), *one* identified as Māori.
- c) Of the 25 psychologists employed by the New Zealand Defence Force, *none* identified as Māori. Acknowledgement was made that this was a situation the NZ Defence Force hoped to address.
- d) Of the 205 psychologists employed by the Ministry of Education, *6.8%* identified as Māori.³

11. A discussion paper detailing pathways forward for indigenous psychology in Aotearoa “*Indigenous Psychology in Aotearoa: Reaching Our Highest Peaks*”⁴ has been recently completed, but none of its findings have been implemented.

Relevant areas

12. Three areas are relevant to the duties of the Crown in the context of this claim. These are:

- a) Regulatory;
- b) Training; and
- c) Employer.

² Waitoki, W., & Levy, M. P. (2015). Māori Psychology Workforce & Māori-Focussed Course Content Review (Report) (pp. 1–23). Commission report for Māori and Psychology Research Unit.

³ Waitoki, W., & Levy, M. P. (2015). Māori Psychology Workforce & Māori-Focussed Course Content Review (Report) (pp. 1–23). Commission report for Māori and Psychology Research Unit.

⁴ Levy, M. (2018). *Indigenous Psychology in Aotearoa: Reaching Our Highest Peaks*. National Standing Committee on Bicultural Issues (NZPsS)/New Zealand College of Clinical Psychologists.

Regulatory: New Zealand Psychologists Board (NZPB)

13. The profession of psychology is regulated by the Health Practitioners Competency Assurance Act 2003 (“the Act”). The principal purpose of the Act is to “*protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions*”. Under the Act, authority for the regulation of psychologists is delegated to the NZPB.
14. Section 118(i) of the Act requires that the NZPB, “*set standards of clinical and cultural competence, and ethical conduct to be observed by health practitioners of the profession*”.
15. Of specific relevance to this claim are:
 - a) Core competency standards;
 - b) Programme accreditation;
 - c) Code of Ethics; and
 - d) Professional and Advisory groups.

Core Competencies for the Practice of Psychology in Aotearoa New Zealand.

16. Following the implementation of the Act, the NZPB developed *Core Competencies for the Practice of Psychology in Aotearoa New Zealand*, which identified the minimum core competencies for registration as a psychologist, with a further set of competencies required for the scopes of practice such as Clinical, Counselling, Educational, and Neuropsychologist.
17. The NZPB clearly identifies that each of the competencies stated in Parts 1, 3 and 4, of the standards document, are underpinned by the NZPB Cultural Competencies (Part 2).
18. The following key general statements from the NZPB *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) of relevance to this claim include (but are not limited to) the following:

- a) The Government affirms that Māori as tangata whenua hold a unique place in our country, and that the Treaty of Waitangi/te Tiriti o Waitangi is the nation's founding document. To secure the Treaty's place within the health sector is fundamental to the improvement of Māori health⁵.
- b) While the Treaty is not an integral part of the HPCA Act, section 118(i) provides a mechanism for requiring cultural competence in relation to Māori and diverse cultures. Therefore, a working knowledge of the Treaty is recognized as a fundamental basis of cultural competent practice⁶.
- c) In the health sector, key Treaty principles for involving Māori include partnership, participation and protection. The Board is committed to ensuring these principles are acknowledged and actioned⁷.
- d) The articles of the **Treaty of Waitangi/ te Tiriti o Waitangi** outline the duties and obligations of the Crown and psychologists and training providers, as their agents, to:
 - i. Form partnerships with Māori.
 - ii. Recognise and provide for Māori interests.
 - iii. Be responsive to the needs of Māori.
 - iv. Ensure there are equal opportunities for Māori including recognition and active support of kaupapa initiatives.⁸

The Code of Ethics for Psychologists Working in Aotearoa/New Zealand

19. The Code of Ethics for Psychologists Working in Aotearoa/New Zealand (“the Code”) in its preamble and guiding principles, refers to the dual paradigms and world views for psychologists practicing in Aotearoa /New Zealand to reflect both partners to te Tiriti; the centrality of te Tiriti o Waitangi/the Treaty of Waitangi, and the importance of respecting the “dignity of people and peoples”. The Code of Ethics thus explicitly recognises factors relating to the Treaty relationship between Māori and the Crown and its agents, and between ethnically and culturally distinct peoples in

⁵ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 15.

⁶ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 15.

⁷ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 15.

⁸ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 15.

New Zealand, as central to safe and competent psychological education and practice⁹.

20. Each section of the Core Competencies includes a sub-section entitled *'Diversity, Culture, and Treaty of Waitangi/ Te Tiriti o Waitangi'*, within which are detailed statements regarding the Knowledge and Skills required in the General, Clinical, Counselling, Educational, and Neuropsychologist scopes of practice.
21. The NZPB clearly identifies that each of the Core Competencies are underpinned by Part 2 – *Cultural Competencies for Psychologists Registered Under the HPCA Act 2003*¹⁰. Part 2 provides greater detail regarding the Awareness, Knowledge and Skills required for culturally competent practice as a Registered Psychologist.

Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration of a Psychologist in Aotearoa New Zealand

22. The NZPB Accreditation Committee (“the committee”) “provides efficient review, consideration, and determination of accreditation matters”. The NZPB has delegated to the committee its powers “under section 118(a) of the HPCA Act to accredit (and subsequently monitor) educational institutions and degrees, courses of studies, and/or programmes”¹¹.
23. The NZPB *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015)* (“the accreditation standards”) states the following:
 - a) In accordance with the Board’s Global Ends policy, the training and practice of psychologists in Aotearoa New Zealand must reflect paradigms and worldviews of both partners to te Tiriti o Waitangi /the Treaty of Waitangi. Furthermore, in keeping with their Treaty obligations (which are also reflected in the Code of Ethics), the accreditation Standards and Procedures require consideration of the adequacy of

⁹ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 15.

¹⁰ *Core Competencies for the Practice of Psychology in Aotearoa New Zealand* (February 2018) at 4.

¹¹ New Zealand Psychologists Board website <http://www.psychologistsboard.org.nz/about-the-board2/committees>

training programmes and Supervision-to-Registration schemes for meeting the needs and aspirations of both Treaty partners¹².

- b) Accreditation will have due regard for the Board's Guidelines for Cultural Safety and the Code of Ethics in respect of the content of and practice within programmes and schemes, and in respect of the accreditation process itself.¹³
24. The purpose of accreditation is to ensure that psychology programmes and schemes produce graduates who are competent to practice safely, ethically, and effectively, and who have an appropriate foundation for lifelong learning, continuing competence, and the on-going development of professional knowledge and skills. Specific attributes (including cultural competencies) incorporating knowledge, skills, and professional attitudes are described by the Board for each scope of practice¹⁴.
25. In order to achieve accreditation, programmes and schemes will have a curriculum that imparts the core competencies required for the relevant scope of practice (including cultural competence, which is a requirement within all scopes)¹⁵.

Part 3: Accreditation Standards

26. Part 3 of the accreditation standards set out the principles, institutional processes, settings and resources that the NZPB regards as requirements for effective education, as follows:
- a) The teaching and learning methods include consideration of cultural frames of reference, values, and world views, including those of Māori¹⁶.

¹² *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Forward at 3.*

¹³ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 1 Principles and Purpose of Accreditation at 7.*

¹⁴ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 1 Principles and Purpose of Accreditation at 7.*

¹⁵ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 1 Principles and Purpose of Accreditation at 7.*

¹⁶ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 21.*

- b) The curriculum is based on principles of scientific method and evidence-based practice, fosters the development of analytical and critical thinking, and includes consideration of indigenous psychologies¹⁷.
- c) The curriculum structure, composition, and duration of the programme/scheme will ensure that, at graduation, a psychologist has the required competence to work within a specified scope of practice¹⁸.
- d) The curriculum incorporates those aspects of the basic psychological, social, cultural, statistical, and biological sciences that enable understanding of the knowledge, concepts, and methods used in the application of psychology within that scope of practice¹⁹.
- e) The programme/scheme implements assessment approaches that confirm that, by graduation, students have acquired the competencies required for the relevant scope of practice²⁰.
- f) The programme/scheme has a clearly defined admission policy that is consistently applied and is free of discrimination and bias, other than explicit affirmative action in favour of nominated groups, including Māori²¹.
- g) The programme/scheme shall ensure that the team of staff has an appropriate mix of scientific, practical, and cultural knowledge and skills to deliver the curriculum adequately. Students shall have access to sufficient numbers of psychologists registered within the particular scope of practice involved, and staff-student ratios shall be consistent with both national and international standards and practice for the scope of practice for which the programme/scheme is intended²².

¹⁷ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 22.*

¹⁸ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 22.*

¹⁹ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 22.*

²⁰ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 23.*

²¹ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 23.*

²² *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand (2015), Part 3 at 24.*

- h) Supervisors of practical and internships shall be appropriately qualified. Under normal circumstances this will include registration within the relevant scope of practice, with appropriate experience and supervision training²³.
- i) Where possible, students shall be provided with the opportunity to undertake practica and internships within culturally diverse environments²⁴.
- j) In particular, where possible, students shall have the opportunity to undertake placements within Māori services and/or be supervised by Māori psychologists²⁵.
- k) The programme/scheme provides access to evaluation results to a wide range of stakeholders. It recognises that professional roles are dynamic and evolving, and considers the views of key stakeholders on the relevance and development of the curriculum to produce graduates who are fit for the intended scope of practice²⁶.

Code of Ethics for Psychologists Working in Aotearoa/ New Zealand

- 27. The *Core Competencies* stand alongside the *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002).
- 28. The Code of Ethics for Psychologists Working in Aotearoa/New Zealand (“the Code”) was prepared by the Code of Ethics Review Group, a joint working party of the New Zealand Psychological Society (“NZPsS”), the New Zealand College of Clinical Psychologists (“NZCCP”) and NZPB. It was adopted by members of the NZPsS and NZCCP in 2002, and formally adopted by the NZPB as the Code for Registered Psychologists in 2002.
- 29. A Te Reo Māori edition of the Code of Ethics was published in 2012. The Te Reo Māori version, which expresses a Māori worldview, is not used, taught or acknowledged across the psychology discipline and profession.

²³ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand* (2015), Part 3 at 24.

²⁴ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand* (2015), Part 3 at 24.

²⁵ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand* (2015), Part 3 at 24.

²⁶ *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as a Psychologist in Aotearoa New Zealand* (2015), Part 3 at 25.

30. The Declaration in the Code Preamble states, “In giving effect to the Principles and Values of this Code of Ethics there shall be due regard for New Zealand’s cultural diversity and in particular for the provisions of, and the spirit and intent of, the Treaty of Waitangi”²⁷.
31. The Code contains a ‘purpose’, which says, “Psychologists should consider the Code when making decisions regarding professional and research practice ... The Code applies to all members of the New Zealand Psychological Society, the New Zealand College of Clinical Psychologists and all other Registered Psychologists, in respect of all their professional and research activity. It includes the clinical and counselling practice of psychology, educational psychology practice, research, teaching, supervision of trainees, development and use of assessment instruments, organisational consulting, social intervention, administration, and other workplace activities”²⁸.
32. The Code identifies four ethical principles and they are produced in full below. The four ethical principles are:
 - a) Respect for dignity of persons and peoples;
 - b) Responsible caring;
 - c) Integrity of relationships; and
 - d) Social justice and responsibility to society.

Principle 1: Respect for Dignity of Persons and Peoples

33. In New Zealand, the basis for respect between the indigenous people (tangata whenua – those who are Māori) and others (those who are not Māori) is set out in the Treaty of Waitangi²⁹.
34. Psychologists practising in New Zealand recognise that the Treaty of Waitangi sets

²⁷ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 1.

²⁸ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 1-2.

²⁹ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 4.

out the basis of respect between Māori and non-Māori in this country³⁰.

35. Psychologists, individually and collectively, seek to be informed about the meaning and implications of the Treaty of Waitangi for their work. This includes an understanding of the principles of protection, participation and partnership with Māori. (Te Tiriti o Waitangi is given priority as the text that was offered to and signed by the majority of the Māori signatories)³¹.
36. Both non-Māori and Māori psychologists who work with Māori seek advice and undertake training in the appropriate way to show respect for the dignity and needs of Māori in their practice³².
37. Psychologists seek to be responsive to cultural and social diversity and, as a consequence, obtain training, experience and advice to ensure competent and culturally safe service or research³³.

Principle 2: Responsible Caring

38. In pursuing this goal, psychologists demonstrate an active concern for the welfare of those with whom they work and acknowledge the social and institutional power that structures their role as psychologists. Psychologists have a primary responsibility to protect the welfare of those with whom they work. They recognise that individuals, families, groups, hapū/iwi, or communities, may be in a vulnerable position. In New Zealand, the Treaty of Waitangi provides a framework for responsible caring between the two peoples, tangata whenua (those who are Māori) and those who are not Māori³⁴.
39. Psychologists assess the potential harm and benefits involved in their actions, to predict the likelihood of their occurrence and proceed only if the potential benefits outweigh the potential harms. They endeavour to correct any harmful effects that have occurred because of their activities. This requires an understanding of cultural needs

³⁰ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 5.

³¹ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 6.

³² *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 6.

³³ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 6.

³⁴ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 13.

and acknowledgement that such information is part of all aspects of psychologists' work³⁵.

40. Psychologists who conduct psychological assessments select appropriate procedures and instruments and are able to justify their use and interpretation. This involves, but is not limited to, selection of procedures and instruments with established scientific status, currency and cultural appropriateness and which the psychologist is trained to administer. Any reservations concerning the validity or reliability of an assessment procedure, arising from its administration, norms, or domain-reference, should be made explicit in any report³⁶.
41. Psychologists recognise the limits of their own competence and provide only those services for which they are competent, based on their education, training, supervised experience, or appropriate professional experience³⁷.
42. Psychologists recognise the vulnerability of some individuals, groups, or communities and take appropriate action in relation to this³⁸.
43. Psychologists submit their research proposals for ethical review to an appropriately constituted ethical review committee³⁹.

Principle 3: Integrity in Relationships

44. Psychologists will seek to do right in their relations with others. In New Zealand, the Treaty of Waitangi provides a framework for integrity in relationships between the two peoples, tangata whenua (those who are Māori) and those who are not Māori⁴⁰.

Principle 4: Social Justice and Responsibility to Society

45. Psychology functions as a discipline to promote the well-being of society. In New

³⁵ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 13.

³⁶ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 13.

³⁷ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 16.

³⁸ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 17.

³⁹ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 19.

⁴⁰ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 21.

Zealand, the Treaty of Waitangi is a foundation document of social justice. Psychologists, both as individuals and as a group, have responsibilities to the community and to society in general. The principle of social justice is about acknowledging psychologists' position of power and influence in relation both to individuals and groups within communities where the psychologist is involved, and in the broader context. It is about addressing and challenging unjust societal norms and behaviours that disempower people at all levels of interaction⁴¹.

46. Psychologists are sensitive to the needs, current issues, and problems of society and take account of these needs in their work⁴².
47. Psychologists are open about the limits of their relevant knowledge, and seek appropriate training regarding customs and culture of the group with whom they are working⁴³.
48. Psychologists acquire an adequate knowledge of the culture, social structure, and customs of the community before beginning any major work there and have a professional obligation to obtain guidance from appropriate members of the community⁴⁴.

Professional and Advisory Groups

49. There are two professional bodies to which psychologists are able to belong, namely the New Zealand Psychological Society ("NZPsS"); and New Zealand College of Clinical Psychology ("NZCCP"). These professional bodies are not Crown entities, but they play a critical role in communicating competency and ethical requirements to the psychology profession, and also have self-stated bicultural/Treaty commitments. They are also members of advisory groups charged with overseeing workforce development and other issues of critical relevance to the psychology profession.
50. The NZPsS and NZCCP explicitly refer to the Treaty of Waitangi in their Rules, with

⁴¹ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 25.

⁴² *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 25.

⁴³ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 26.

⁴⁴ *Code of Ethics for Psychologists Working in Aotearoa/New Zealand* (2002) at 27.

Rule 3 of the NZPsS stating, “In giving effect to the objects for which the Society is established the Society shall encourage policies and practices that reflect New Zealand’s cultural diversity and shall, in particular, have due regard to the provisions of, and to the spirit and intent of, the Treaty of Waitangi.”

51. Rule 2.11 of the NZCCP states, “The objects of the College shall be pursued within the context of partnership under the Treaty of Waitangi and embody the principles of equity with regard to ability, age, disability, ethnic origin, gender, location, religion, sexual orientation, socio-economic status or other characteristics which may lead to disadvantage”.
52. The NZPB, NZPsS, and NZCCP also contribute to several advisory groups. The NZPB works closely with Health Workforce New Zealand (“HWNZ”), and advises on its website that it is the professions main conduit to HWNZ. Other advisory forums include the Psychology Workforce Forum, the Psychology Workforce Taskforce (established and chaired by the Ministry of Health), Professional Psychology Advisory Forum, and the International Project on Competence in Psychology Reference Group and Working Group⁴⁵. Through these forums the NZPB along with the NZPsS and NZCCP, have opportunities to exercise accountability to the professions obligations under the Treaty.

Universities and Psychology Training Programmes and Tertiary Education Institutions (“TEIs”)

53. *The Tertiary Education Strategy 2014-2019* (“TES”) provides strategic policy direction for tertiary education, with TES Priority 3 being focused on boosting the achievement of Māori and all TEIs are expected to contribute to Priority 3. The Tertiary Education Commission provides the following guidance on how TEIs can contribute to Priority 3 through their Investment Plans⁴⁶:

⁴⁵ See, *The International Declaration on Core Competencies in Professional Psychology*.

⁴⁶ Tertiary Education Commission. (2016) Guidance to achieve TES Priority 3: Boosting achievement of Māori and Pasifika. Wellington: Tertiary Education Commission.

- a) Provision that support Māori and Pasifika attain the skills and qualifications that lead to sustainable employment outcomes.
- b) Clear strategies in place and actions being implemented to improve the quality of teaching and provision for Māori and Pasifika.
- c) Clear strategies in place and actions being implemented to grow Mātauranga Māori research and development.
- d) Evidence of strong leadership, governance and management committed to delivering equitable outcomes for Māori and Pasifika learners across the organization.
- e) Evidence of a commitment to raising organisation wide accountability for improving Māori and Pasifika education outcomes.
- f) Evidence of a commitment to delivering quality teaching and learning (practices, programmes and content) that are responsive to the needs of Māori and Pasifika learners and their stakeholders.
- g) Evidence of a commitment to recruiting and developing culturally responsive staff.
- h) Evidence of providing culturally relevant learning environments, spaces and support for Māori and Pasifika learners.
- i) Evidence of a commitment to deliver academic and social support via equity initiatives across the organisation for Māori and Pasifika learners.
- j) Evidence that equity initiatives are helping Māori and Pasifika learners to successfully complete their courses, qualifications, programmes.
- k) Demonstrates an organisational wide understanding and application of knowledge to address Māori and Pasifika needs.
- l) Strong actions to grow research and development of mātauranga Māori, e.g. increasing number of theses written in te reo Māori, theses on mātauranga Māori, and or research based degree completions by Māori students.
- m) Māori research staff employed and hold an excellent PBRF ranking.
- n) Evidence of actions to grow the number of students participating and completing te reo Māori programmes, particularly at higher levels, and to support improved cultural competencies within initial teacher education.
- o) The extent to which an organisation is paying particular attention to advancing Māori and Pasifika student participation/achievement/outcomes in subject

areas where it has particular expertise (e.g. areas that may not be widely taught elsewhere).

- p) The extent to which an organisation is paying particular attention to advancing Māori and Pasifika student participation/achievement/outcomes in fields of study linked to career paths in which Maori/Pasifika are particularly under-represented.
- q) The extent to which an organisation's plans for future Maori and Pasifika developments are ambitious, well developed, and endorsed by senior management.

Psychology Training Programmes

- 54. There are two distinct training pathways in New Zealand for individuals to become registered as a Psychologist:
 - a) Intern Psychologists (university based) complete either a Master's or Doctoral degree and a Post Graduate Diploma (or equivalent), or a professional Doctoral degree in a particular field of practice within psychology, and which incorporates the prescribed period (minimum 1500 hours) of structured, supervised, and formally evaluated internship.
 - b) Trainee Psychologists (agency based) complete either a Master's degree, or a Doctoral degree in Psychology followed by a period of practice in a Board-accredited "Supervision to Registration" scheme which incorporates the prescribed period (minimum 1500 hours) of structured, supervised, and formally evaluated traineeship.
- 55. Both pathways are subject to accreditation by the NZPB (as stated in *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to Registration as a Psychologist in Aotearoa New Zealand*).
- 56. TEI postgraduate psychology training which leads to registration as a Psychologist is provided by seven Crown funded tertiary education institutions ("TEIs"). These are:
 - a) Auckland University of Technology.
 - b) University of Auckland.

- c) University of Waikato.
 - d) Massey University.
 - e) Victoria University.
 - f) University of Canterbury.
 - g) University of Otago.
57. Two Crown agencies are also NZPB accredited to provide a supervision-to-registration programme, namely the Department of Corrections, and the Ministry of Defence.
58. All seven TEIs who provide accredited postgraduate psychology training leading to registration as a Psychologist include in their governance statements reference to the Treaty of Waitangi and the obligations contained within it. Some provide additional statements regarding commitment to the advancement of Māori knowledge, the embracing of kaupapa Māori across activities, making unique and significant contributions to the educational success of Māori, and supporting the excellence and leadership across Māori staff.
59. The extent to which such requirements are being met by TEI Psychology Departments/Schools can be ascertained via a range of indicators, including (but not limited to):
- a) Level of specifically Māori-focused courses (undergraduate/graduate);
 - b) Level of Māori-focused content in course/paper (undergraduate/graduate);
 - c) Level of reference to culture in course/paper (undergraduate/graduate);
 - d) Recommendations/regulations for inclusion of Māori focused content in overall degree programme;
 - e) Presence of Department/School Māori student support mechanisms;
 - f) Department/School Māori focused research interests;
 - g) Māori-focused competency in selection criteria for specialised psychology postgraduate programmes;
 - h) Presence of Māori staff within psychology training programmes;
 - i) Level of Māori-focused research outputs in Department/Schools; and
 - j) Level of Māori-focused conference presentations.

Crown Employers of Registered Psychologists

60. Given the diversity of Psychology sub-disciplines, Registered Psychologists can be found across a range of different sectors. Despite this, there are five key Crown sectors which are the primary employers of Registered Psychologists:
- a) Health (Ministry of Health, District Health Boards, Accident Compensation Corporation);
 - b) Justice (Corrections, Courts);
 - c) Social Development (Ministry of Vulnerable Children, Oranga Tamariki);
 - d) Education (Ministry of Education); and
 - e) TEIs (as listed above).
61. All core Crown employers of Registered Psychologists listed above have a stated obligation to achieve equitable outcomes for Māori. The significant underrepresentation of Māori psychologists means clearly identifiable demographic needs within these sectors are not being met.
62. In Sectors a) to d) above, Māori are heavily overrepresented in the client base of those Crown agencies.
63. In Sector e) above, although TEIs do not employ a significant number of Māori Registered Psychologists, they are included in this section as the TEI Māori Psychology workforce has a central role in increasing the Māori Psychology workforce, and developing a Māori indigenous Psychology in Aotearoa. Increasing the number of Māori Registered Psychologists in psychology training programmes is critically important.

Breaches: Regulatory

64. The NZPB has failed to uphold the Crown's duties and obligations (including their agents, namely training providers) as is stated in *Core Competencies for the Practice of Psychology in Aotearoa New Zealand*. In particular the Crown has failed to:

- a) Form partnerships with Māori;
 - b) Recognise and provide for Māori interests;
 - c) Be responsive to the needs of Māori; and
 - d) Ensure there are equal opportunities for Māori including recognition and active support of kaupapa initiatives.
65. The NZPB has failed to actively protect Māori, by failing to:
- a) Actively address the under-representation of Māori in the Psychology workforce;
 - b) Ensure all Registered Psychologists fully meet the *Core Competencies for the Practice of Psychology in Aotearoa New Zealand*;
 - c) Actively ensure all Psychology training programmes and schemes which lead to registration as Psychologist fully meet requirements as stated in *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration as Psychologist in Aotearoa New Zealand*;
 - d) Meet its obligations under the *Code of Ethics for Psychologists Working in Aotearoa/ New Zealand*, particularly in terms of ensuring due regard for the provisions of, and the spirit and intent of, the Treaty of Waitangi in all its activities;
 - e) Actively protect and promote kaupapa Māori and Indigenous knowledge across all areas of Psychology; and
 - f) Actively work with Māori to ensure all its activities meet their stated Treaty responsibilities.
66. The NZPB has failed to take actions to ensure all Registered Psychologists are practicing in full accordance with the Code of Ethics, in respect of all their professional and research activities.
67. The Crown has failed to ensure that the NZPB participation in advisory forums such as the Psychology Workforce Forum, the Psychology Workforce Taskforce (established by the Ministry of Health), and Professional Psychology Advisory Forum actively:

- a) Addresses the critical underrepresentation of Māori in the Registered Psychologist workforce;
- b) Ensures that Psychological services delivered to Māori are culturally competent and consistent with Māori worldviews; and
- c) Ensures other key stakeholders, such as the NZPsS, and NZCCP, are held to account in ensuring Treaty obligations are upheld.

Breaches: Training

68. The Crown has failed to ensure that TEIs and Psychology Departments/Schools responsible for the delivery of training programmes which lead to registration as a Psychologist:

- a) Meet their stated institutional Treaty of Waitangi commitments to Māori Psychology students and staff;
- b) Meet their obligations under Priority 3 of the *Tertiary Education Strategy (TES) 2014-2019*⁴⁷ in regard to Māori Psychology students and staff;
- c) Actively support the recruitment and retention of Māori students into Psychology training programmes, particularly specialized postgraduate programmes;
- d) Ensure their training programmes include adequate Māori focused and cultural competency focused course content which meets all standards set by the *Core Competencies for the Practice of Psychology in Aotearoa New Zealand*; *Code of Ethics for Psychologists Working in Aotearoa / New Zealand*; and *Standards and Procedures for the Accreditation of Programmes and Schemes Leading to the Registration of a Psychologist in Aotearoa New Zealand*; and
- e) Actively support the development of indigenous/kaupapa Māori Psychology content and pathways.

⁴⁷ Ministry of Education. (2014). *Tertiary Education Strategy 2014-2019*. Wellington: Ministry of Education and the Ministry of Business, Innovation and Employment.

Breaches: Crown Employers

69. Crown employers of Registered Psychologists have not upheld their obligations to ensure equitable outcomes for Māori by ensuring Māori receive culturally appropriate and relevant Psychological services. Crown employers of Registered Psychologists have failed to:
- a) Meet the demographic needs of their client base by actively addressing the significant under-representation of Māori in the Registered Psychologist workforce;
 - b) Actively support the recruitment, retention and professional development of the Māori Registered Psychologist workforce;
 - c) Actively support the development and integration of indigenous/kaupapa Māori psychology perspectives and practices within service provision; and
 - d) Ensure the psychology workforce is cultural competent, as per the *Core Competencies for the Practice of Psychology in Aotearoa New Zealand*; and *Code of Ethics for Psychologists Working in Aotearoa/ New Zealand*.

Breaches: Provision of Psychological Services

70. Māori Registered Psychologists are expected to work with Māori clients as well as supervise non-Māori Psychologists who work with Māori clients.
71. Culturally derived professional development and supervision opportunities are absent for Māori Registered Psychologists.
72. Māori perspectives in relation to the provision of Psychological services are not effectively heard due to limited Māori representation in Psychological agencies and employing organizations.

Breaches: Psychology Training

73. Psychology training is dominated by mono-cultural western perspectives which requires Māori students to internalise deficit-focused frameworks, as well as risk

alienation from cultural networks, and a loss of confidence in culturally derived knowledge bases.

74. Indigenous/kaupapa Māori Psychology pedagogy is undervalued.
75. Māori academics, and students are expected to teach and learn Western Psychology at the expense of their own knowledge of Māori Psychology.
76. Indigenous/kaupapa Māori Psychology development is not able to flourish and expand.
77. There are no pathways allowing Māori to train as specialized indigenous/kaupapa Māori Psychologists.

Prejudice

78. Maori suffer the following prejudice as a result of the aforementioned breaches (of note is that many of the prejudice were identified by the NZPB itself in 2001):
 - a) Inequitable Outcomes of Psychological Services;
 - b) Low cultural competency levels across the Registered Psychology workforce as a whole;
 - c) Māori Registered Psychologists remain significantly under-represented. Māori are currently identified at approximately 6% of the total Registered Psychologist workforce. This has increased by 1.3% since 2003;
 - d) The Māori Registered Psychologist workforce does not reflect the demographic needs of sectors in which they work;
 - e) It is often impossible for a Māori Psychologist to be provided when requested by a Maori client;
 - f) Māori perspectives for clients are often not considered or are only considered via the interpretation of a non-Māori Psychologist; and
 - g) The unavailability of Māori Psychologists is especially problematic in the court, corrections, justice, mental health services, education, and social development (vulnerable children) sectors.

Findings and Recommendations

79. The claimant seeks the following findings and recommendations:

- a) That this claim is well founded;
- b) That the Crown, including those responsible for teaching and training Psychologists, take into account, implement and ensure that the issues raised in this claim are fully addressed and resolved. This may require mediation and consultation with Māori including the claimant and/or a complete 're-think' of how Psychology is taught in New Zealand; and
- c) That the Crown including those who teach and train Psychologists implement real and meaningful practices and policies to address the underrepresentation of Māori being taught Psychology, as well as in areas where Psychologists are employed to administer health care, particularly to Māori; and
- d) Any finding that the Tribunal deems appropriate.

DATED at Auckland this 29th day of March 2018.



David Martin Stone
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Catherine Leauga
Counsel for the Claimant

TO: The Registrar, Waitangi Tribunal; Crown Law Office; and those on the notification list for the Wai 2575 Health Services and Outcomes Kaupapa Inquiry.