

Appendix B. Outline of a fast-track process for claims in districts with completed Tribunal inquiries

The following extracts from the Chairperson's memorandum of 22 September 2015 describe a standing panel process for inquiring into remaining historical claims arising in inquiry districts where the Tribunal has completed a district inquiry or an inquiry into the principal tribal claims. The extracts have minor updates where needed to align the text with the changed context of this memorandum-directions.

A fast-track process in districts with completed inquiries

37. Many of the remaining historical claims arise in districts on which Tribunal panels have previously reported (18) or are now preparing their reports (3). In all these inquiries the Tribunal investigated the principal grievances of the participating claimants. In most, the Tribunal heard claimants on all the issues they wished to present, whether district-wide or local. It is likely that many claimants with remaining historical claims will find some or all of their grievances have been addressed in the respective district inquiry's evidential record of documents and Tribunal report.
38. The nexus between remaining historical claims and previous district inquiries, in particular their evidential resources and the Tribunal's reports on claims with similar issues, opens the door to a fast-track inquiry process. The process will focus on claims with grievances where a nexus can be demonstrated.
39. In outline, under the fast-track process the Tribunal will take the following steps for each district:
 - a) Identify remaining claims with historical grievances that arise in the district and relate to issues heard in the preceding district inquiry;
 - b) Consult with and confirm which claimants want the Tribunal to consider their claims;
 - c) Resolve any jurisdictional matters affecting the Tribunal's ability to inquiry into the claims;
 - d) Commission an assessment of claim issue coverage in the evidential record of the preceding district inquiry and in the Tribunal report;
 - e) In consultation with the claimants, determine:
 - which claims or parts of claims are ready to proceed;
 - what are the priority issues to be heard; and
 - which claims, if any, raise grievances not considered in the preceding inquiry;
 - f) Commission any essential gap-filling research required;
 - g) Hear any claimant and Crown evidence, any technical research, and submissions from the parties; and
 - h) Complete short reports on the claims, either individually or jointly.
40. The main purpose of this expedited process is to enable many of the claimants with remaining historical claims that were submitted too late for inclusion in a district inquiry to have their claims rapidly considered and reported on by the Tribunal. To that end, under step 39(d) above the Tribunal will commission, for consultation with the parties, a claim coverage assessment for each district that will assess:
 - a) The sufficiency of evidence relevant to the claims that is already on the record of inquiry or otherwise in the public domain;
 - b) The extent to which issues similar to those of the remaining claims have been addressed in the previous Tribunal's report, and in what manner.

41. The Tribunal will generally not commission new technical research for the fast-track process. Exceptions may apply where a remaining claim's issues are covered in the respective Tribunal report but there is insufficient specific evidence on the claim itself. Brief, targeted research may then be undertaken. It will also be open to the claimants to commission their own evidence, produce expert witnesses and present tangata whenua evidence. For a fast-track process to achieve its purpose, however, the parties must be ready to proceed rapidly to hearing. The Tribunal will seek to ensure that the production of any new evidence does not unduly slow the proceedings.
42. Together with any gap-filling research and any new evidence and submissions presented by the parties, the claim coverage assessment will assist the Tribunal in determining the extent to which it can hear and report on the remaining historical claims before it.
43. The focus of the fast-track process is on remaining historical claims. The Tribunal's overarching goal of completing historical claims requires that contemporary (post-1992) grievances be deferred to a subsequent contemporary claims process. However, particular exceptions may be allowed into the fast-track process where a historical grievance extends beyond 1992 and falls within the issue coverage of the Tribunal's district inquiry report, provided that the claimants are ready to proceed with it.
44. This fast-track process will best serve its purpose if it moves at pace. Any required gap-filling research will be precisely targeted and claim issues prioritised for hearing and rapid Tribunal reporting. With the cooperation of the parties, the Tribunal considers that its consideration of many of the outstanding historical claims can be effectively expedited.

Standing panel – fast track process

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50. As a general approach, the standing panel will consider remaining historical claims within a single inquiry process for each district in which they arise. This has the advantage of being able to draw on a common foundation of evidence and Tribunal reporting in the preceding district inquiry.
51. At the same time the standing panel will be able to adopt flexible procedures. These may include:
 - a) proceeding in parallel with multiple districts;
 - b) taking into account the readiness of claimants to proceed with their claims;
 - c) early access for claims in circumstances meriting priority; and
 - d) opportunities to bring together all aspects of claims that span more than one district.

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67. It will be for each standing panel to decide the order in which the districts for which it is responsible will proceed. There is no predetermined order and a panel may decide to consider several districts in parallel.
68. As circumstances are likely to vary widely across districts and between the claimants in a district, the standing panel will adopt a flexible and responsive approach to setting a process for considering the claims arising in each district.