

WAITANGI TRIBUNAL

Wai 3132

CONCERNING

the Treaty of Waitangi Act 1975

AND

a claim by Sheena Ross on behalf of herself, Ngāti Korokoro and the Ngāti Korokoro Hapū Trust

MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 29 April 2022.

The claimant should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Sheena Ross on behalf of herself, Ngāti Korokoro and the Ngāti Korokoro Hapū Trust, and concerns the justice system. The claimant alleges that the Crown has breached the principles of the Treaty of Waitangi by:

- failing to consult, gain consent from or work in partnership with Māori when establishing laws, rules, regulations and policies within the justice system that impact Māori;
- implementing a justice system which fails to work in good faith with Māori and fails to take into account the unique circumstances and needs of Māori;
- imposing a justice system which fails to provide access to justice in a mana enhancing way;
- failing to provide equal access to justice for Māori;
- failing to provide a legal aid system which is appropriate and adequate to meet the needs of Māori and which provides support, resources and access to resources which are necessary for Māori to successfully prosecute and file Court proceedings, including in the Waitangi Tribunal, the Māori Land Court, the Environment Court and the civil courts;
- the establishment of a justice system and surrounding infrastructure that contains barriers and restrictions which prevent Māori from fully realising their citizenship rights under the New Zealand Bill of Rights Act 1990;
- failing to address the inequities, power imbalance and prejudicial outcomes which exist within the current justice system; and
- imposing a justice system with a complicated web of policies and practices which are inconsistent and difficult to navigate, and are intimidating and foreign to many Māori and whānau.

The claimant seeks a variety of relief, including recommendations that the Crown:

- apologise for the breaches of Te Tiriti and the subsequent prejudice faced by the claimant and Māori;
- remove barriers which exist to Māori accessing legal aid across all jurisdictions;
- provide resourcing and funding to help Māori prepare evidence, hold hui, advertise for hui, access specialist services and to undertake research for the claimants and cases before the Waitangi Tribunal, Māori Land Court and Environment Court;
- provide equality for Māori to access justice before the courts and tribunals, including the removal of policies which prohibit Māori individuals from accessing legal aid;
- provide free and easily accessible legal services to Māori in respect of matters which concern their lands and resources and which are corollary of breaches of Te Tiriti;
- remove the requirement for Māori to pay filing fees in the civil courts;
- remove any income thresholds for the access of legal aid, or at least limiting the income threshold so lower and middle income Māori can access legal aid where it is required;
- remove the requirement for Māori to repay legal aid where an applicant of legal aid has been successful in proceedings; and
- compensate for the time exhausted and the personal claimant costs involved in preparing for and prosecuting a successful claim in the Waitangi Tribunal, Māori Land Court and civil courts; and

The claimant may amend this claim at a later stage. In any case the Tribunal may require the claimant to prepare a fully particularised statement of claim before the claim can be heard.

The Tribunal currently runs district and kaupapa inquiry programmes in which claims are grouped either by district or by kaupapa (thematic) issue. Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations made in this claim are contemporary in nature. They pertain to the justice system and as such may be best suited for consideration in Wai 3060, Te Rau o Te Tika: the Justice System kaupapa inquiry.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimant needs to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Treaty of Waitangi Act 1975). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimant also needs to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

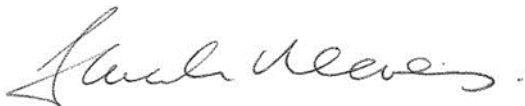
Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimant should check their telephone directory for contact details.

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

The Registrar is to send a copy of this direction to the claimant and to:

- Crown Law Office;
- Te Kahui Whakatau (Treaty Settlements), Office for Māori Crown Relations – Te Arawhiti;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri;
- Ministry of Justice; and
- all those on the notification list for Wai 3060, Te Rau o Te Tika: The Justice System kaupapa inquiry.

DATED at Wellington this 5th day of May 2022

A handwritten signature in cursive script, appearing to read 'Sarah Reeves'.

Judge Sarah Reeves
Deputy Chairperson

WAITANGI TRIBUNAL