

**WAITANGI TRIBUNAL**

Wai 2575

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

the Health Services and  
Outcomes Kaupapa Inquiry

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**MEMORANDUM-DIRECTIONS OF JUDGE D STONE**

16 Hepetema 2024

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## Background

1. On 10 September 2024, the Crown filed a memorandum of counsel seeking confidentiality over parts of the following documents, as well as other matters (Wai 2575, #3.2.1119):
  - a) Rapid Assurance Review: Commercial Management – Whaikaha, Ministry for Disabled People; and
  - b) Independent Review of Disability Support Services: Phase One Report.
2. Counsel for the Crown filed redacted versions of these documents, in line with the *Guide to the Practice and Procedure of the Waitangi Tribunal*, along with a memorandum of counsel and additional filing, to the public distribution list for Wai 2575.

### **Rapid Assurance Review: Commercial Management – Whaikaha, Ministry for Disabled People (Rapid Assurance Review)**

3. Crown counsel seek confidentiality over parts of this document in relation to the named providers involved in the Rapid Assurance Review (Wai 2575, #3.2.1119).
4. In relation to individuals, counsel seek confidentiality on the basis that it is necessary to protect the privacy of those individual informants. In relation to both individuals and entities, counsel seek confidentiality on the basis that the information was supplied on an understanding that it was for internal review only, and as such, that the involvement of the particular providers would be kept confidential (Wai 2575, #3.2.1119).
5. Counsel submit the dissemination of this information may impair similar kinds of review activities that rely on the flow of information from such people and entities (Wai 2575, #3.2.1119).

### **Independent Review of Disability Support Services: Phase One Report (Independent Review)**

6. Crown counsel seek confidentiality of parts of this document, in particular of 'Appendix 5', on the basis that the information is commercially sensitive (Wai 2575, #3.2.1119).
7. Counsel seek directions from the Tribunal restricting the dissemination of this information to the purposes of this inquiry only. Counsel for the Crown advise that claimant counsel may show the document to named claimants who are not associated with a provider of Disability Support Services (DSS). However, counsel seek direction from the Tribunal to restrict claimant counsel who's named claimants are associated with DSS providers, to describe the confidential information in 'abstract terms' only (Wai 2575, #3.2.1119).

## Decision

8. Crown counsel's request for confidentiality of the Rapid Assurance Review and 'Appendix 5' of the Independent Review is **granted**.
9. Counsel's proposed terms for the confidentiality of the Independent Review, mentioned at [7] above are **accepted**. Namely, if a named claimant is not associated with a DSS provider, the confidential information held in 'Appendix 5' of the Independent Review may be disclosed to them by their counsel. If the named claimant is associated with a DSS provider, the confidential information held in 'Appendix 5' of the Independent Review may be disclosed to named claimants by their counsel in **abstract terms only**.

10. If counsel seek further clarification regarding the terms of confidentiality as granted in this direction, they may seek clarification from Crown counsel.

The Registrar is to send this direction to all those on the notification list for Wai 2575, the Health Services and Outcomes Kaupapa Inquiry.

**DATED** i Te Whanganui-aa-Tara i te 16 o ngaa raa o Hepetema 2024.

A handwritten signature in black ink, appearing to read 'Damian Stone', with a long horizontal stroke extending to the right.

Judge Damian Stone  
Presiding Officer

**WAITANGI TRIBUNAL**