

Takutai Moana Financial Assistance Scheme Consultation Hui

Date: 15 January 2025

Time: 12pm – 1pm

Location: Online

Summary of feedback received

1. Pipeline and milestone issues

- Application pathways are lengthy (it can take years), making it difficult for applicants to plan accordingly.
- Applicants wonder if it is worth planning now if they are unlikely to be prioritised for funding but they also have time-pressure on their tikanga evidence collection due to the aging of kaumātua.
- Milestone payments and their linkage to project management activities remain unclear. Project managers (and their time-sheeting) may span multiple milestones at once.
- The idea of milestone-based funding replacing reimbursement funding has an appeal, but there are concerns about how it may work in practise, given the reliance on court supervision of the process.
- Designing milestones that fit applicants' needs and prioritising evidence collection from kaumātua were suggested.

2. Legal Aid rates concerns

- Eligible rates, which are aligned to legal aid rates, fall below commercial rates (particularly for senior counsel, and King's Counsel). This raises concerns about the quality of legal representation and the ability to retain counsel.

3. Allocation of Funding

- Delays in budget approvals (e.g. waiting until July 2025 for some applicants) disrupt planning. The inability to get budget approval without a confirmed hearing date means applicants cannot make the necessary preparations until that point.
- Difference in timing of financial years (government vs. accounting year) also raised as a potential issue for timing of allocation forecasting.
- Unanticipated changes, such as re-hearings imposed by appeal judgments, mean financial requirements may change from what is agreed with Te Arawhiti in budgeted workplans.

4. Annual allocation process

- Concerns were raised about the policy framework for annual funding allocations including independence of decision-making about funding from decision-making about engagement and determinations (which aligns with the legal aid system), and alignment with other allocation frameworks.
- Concerns were also raised about the annual allocation approach due to the potential for change in plans in any given year e.g. changes based on outcomes of cases that are released.
- It was suggested that allocation criteria need to consider applicable international obligations, such as the Committee on the Elimination of Racial Discrimination (CERD).

5. Feedback on Government policy and Court system

- The displacement of supplier engagement contracts by new policies has led to breaches of contract for both clients and providers.
- Other Courts and tribunals in Aotearoa offer flexibility for special treatment, including the ability to fund as per preexisting agreements during a transition period. Participants suggested considering whether this could apply to the Takutai Moana process.
- Not enough judges are allocated to process applications efficiently, exacerbating delays.
- Suggestions included creating a special High Court jurisdiction with dedicated resources to expedite applications.
- Concerns about Crown policies being perceived as undermining Māori rights were emphasised.

6. Other issues

- Applicants raised their frustration with the timing between sending a request for processing and receiving payment, which means they need to front-foot costs. In some cases, particularly court related costs, the financial burden is unmanageable. A request to consider prioritisation of invoices with more urgency was made.
- It was raised that some applicants don't meet the criteria e.g., 1840 presence requirement yet groups with overlapping applications are still required to use resources engaging with them, which seemed unnecessary.