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Committee Secretariat
Māori Affairs
PARLIAMENT BUILDINGS

Tēnā koe i nga ahuatanga o te wa

Inquiry into whānau access to and management of tūpāpaku

Introduction: Te Pūtahitanga o Te Waipounamu

Te Pūtahitanga o Te Waipounamu writes in response to the *Inquiry into whānau access to and management of tūpāpaku regarding access to and management of the tūpāpaku of deceased whānau members.*

Te Pūtahitanga o Te Waipounamu is a limited partnership, supported by the nine iwi of Te Waipounamu through a Shareholders Council known as Te Taumata. Te Pūtahitanga o Te Waipounamu was launched in July 2014 as the South Island Commissioning Agency for Whānau Ora. Te Taumata has appointed an independent governance board which is responsible for the investment strategy. The name, Te Pūtahitanga o Te Waipounamu, represents the convergence of the rivers of Te Waipounamu, bringing sustenance to the people, and reflecting the partnership's founding principle of whānaungatanga.

Commissioning in the context of Whānau Ora is the process of identifying the aspirations of whānau and investing in them whether they are new or existing initiatives. These whānau-centred initiatives are expected to best reflect progress towards Whānau Ora outcomes. Whānau Ora is an inclusive approach to support whānau to work together as whānau, rather than separately with individual family members. We consider that Whānau Ora outcomes will be met when whānau are:

- Self-managing;
- Living healthy lifestyles;
- Participating fully in society;
- Confidently participating in Te Ao Māori;
- Economically secure and successfully involved in wealth creation;
- Cohesive, resilient and nurturing;
- And able to act as responsible stewards of their living and natural environments

Submission

New Zealand, as a nation, continues to become more diverse and encompassing of different cultures, beliefs, customs. The traditional Māori concepts that underpin the tikanga of tangihanga includes the responsibility and duty of care for tūpāpaku. Notwithstanding the present inquiry the matter of whānau access to and management of tūpāpaku is pressing. There are numerous cases where whānau who observe traditional Māori tikanga for tangihanga are 'at odds' with their relatives, agencies of the crown such as the police, health professionals and also funeral services. When there is an opposing view to whānau tikanga during tangihanga this is often an affront to whānau customary practices, beliefs and values. This is also a time where tikanga Māori and te ao Māori is at its most vulnerable. If society is to choose between the cultural beliefs and values surrounding tangihanga the law will be at the forefront and tikanga Māori practices and values suffer. It is our view that societal values and legislation significantly disadvantages whānau access to and management of tūpāpaku. This is never more so than when cultures and values clash.

Te Pūtahitanga is happy to contribute towards this kaupapa and presents its views from a Whānau Ora perspective. Dealing with death is difficult for whānau at the best of times, but often the circumstances of the death and the associated complications that can result from an unexpected or irregular death only adds to the stress. Current legislation in the Burial and Cremations Act 1964 is both out-dated and lacking in appropriate recognition of traditional tikanga Māori practices in regards to the management of tūpāpaku. We believe it is a vital expression of the capacity for whānau to be cohesive, resilient and nurturing that whānau needs and aspirations are accommodated in the interface between te hunga ora (the living) and te hunga mate (the dead).

Access to Tūpāpaku

When a death occurs, it is particularly important for Māori (and many other religious/cultural groups) that access to the tūpāpaku happens as soon as possible. However in some cases the circumstances of the death can be unclear and authorities often need extended periods of time to authenticate the cause of death, especially where cause of death needs to be investigated, death is suspicious, or death has occurred via an accident. This can hinder the speed of access whānau has to the tūpāpaku and it is often this stage that contributes significantly to whānau stress. Te Pūtahitanga believes that whānau should be given access to the body as soon as possible but if this cannot occur straight away, whānau should at least be able to visit the mortuary/funeral home or other place where the body is being held.

In tikanga Māori terms, it is appropriate that somebody must be with the tūpāpaku at all times and Te Pūtahitanga believes authorities should be aware of this and should allow members of the whānau to take part in this. Te Pūtahitanga submits that the Select Committee should investigate compulsory training to ensure that all those working with the deceased have the appropriate cultural competencies. This should be not just for Māori and tikanga Māori practices, but for all cultures and different religious groups. The funeral director profession is not heavily regulated and there is often considerable variation in their approaches. A level of consistency is needed. Te Pūtahitanga believes early access to the tūpāpaku is key, as this allows whānau to start the grieving process/tangihanga process. In terms of tikanga, this process does not truly occur until the tūpāpaku is with the family either at home or on the

marae. It is at this stage, that whānau become self-managing and can begin the traditional grieving/tangihanga process and can focus on organising the funeral arrangements.

Relevant Tikanga and Legal Requirements in relation to tūpāpaku and funeral practices

Te Pūtahitanga o Te Waipounamu supports any amendments which would result in increased transparency in the provision of funeral services. We would support the introduction of requirements for funeral services to be explicit about their qualifications, specifically:

- Possessing an up to date, validated licence to operate;
- A clear disclosure of costs involved for the separate elements of the services offered
- Disclosure on qualifications of people involved in the service;
- Reveal affiliation to any professional body associated with their service
- Information about their complaints system.

As noted above, we believe also that Funeral Service providers should be able to demonstrate the cultural competency they have in providing services for whānau Māori and other population groups within their community. We want to ensure there is greater transparency and protection to vulnerable whānau in the provision of funeral services through licensing as well as greater clarity around qualifications, the separation of costs; the adherence to industry standards and cultural competency.

Access to tūpāpaku when death occurs overseas

Whānau members who die overseas are quite a unique case and can be even more difficult for whānau to handle, particularly those whānau that want to apply tikanga Māori practices. One of the immediate decisions that must be made is whether to bring the tūpāpaku back to New Zealand. This can be a long process as a death certificate must be issued in the country of death, where the whānau may have little understanding of the legal processes of that country. Other countries also have different processes to go through regarding authenticating a death. This often leads to bodies having to be further examined on by New Zealand authorities. This further delays the process of getting the body to the whānau.

Currently, whānau members can be supported in overseas ports through the intervention of Members of Parliament, and through them the Ministry of Foreign Affairs. In such circumstances, MFAT officials may be able to immediately contact the relevant diplomatic post or embassy which can assist the whānau who find themselves in dire circumstances overseas. While the intervention by the Minister of Foreign Affairs has often been exemplary, such intervention is not consistently applied for or even known of. It would be helpful for there to be better guidance available for whānau about procedures for access to tūpāpaku in overseas ports. Such information could be distributed through the Whānau Ora Commissioning Agencies and their respective Whānau Ora entities or navigators. Whānau, hapū and iwi might also be able to receive such information through distribution via iwi, rūnanga or marae outlets.

There is a particular need to address issues which occur when whānau die in Australia, where unnecessary delays are common. According to the 2011 Census, there were 187,212 people of New Zealand descent in Australia and 483,398 New Zealand-born people residing in the country at the moment of the census (*Australian Government - Department of Immigration and Border Protection. "New Zealander Australians". Retrieved 14 January 2014.*) so former New Zealanders dying in Australia is a common occurrence. Te Pūtahitanga submits that the Select Committee further investigates in how deaths are authenticated when New Zealanders die overseas and how the process can be further simplified when both New Zealand and other countries communicate and authenticate deaths, particularly between New Zealand and Australia.

Information is critical at times of need. It might be useful for the Department of Customs to consider supplying those New Zealanders entering Australia with a simple pamphlet or a free call number, to assist them at the time of a death within the family. Whānau members seeking to live in Australia for employment prospects may not necessarily have considered the implications when a loved one dies in Australia, or even the costs of attending whānau tangi at home. The inquiry might want to consider the development of an educational initiative which can provide comprehensive information for whānau living in Australia about these matters.

Dealing with conflict in regards to tūpāpaku

Nothing brings whānau back together like dealing with death and then the tangihanga/funeral that is to follow. With whānau often travelling from far and wide, and often not having much contact with each other for extended periods of time prior to the death, there is the chance for conflict to arise. Conflict particularly arises in deciding how the tūpāpaku is managed, for example whether the deceased is buried or cremated and location of where this may happen.

Te Pūtahitanga believes that taking a Whānau Ora approach when it comes to decision making is a way that ensures that all whānau members are respected and in support of the tangihanga process. A collaborative approach where all whānau get to have their say in key decision making is crucial. Whānau members, such as partners of the deceased, children and parents obviously have a lot of influence when it comes to decision making. If the deceased has chosen someone to make decisions relating to their death, the mana of that person also holds considerable weight. We contend that uppermost in any process associated with the access to and management of tūpāpaku is the respectful regard in which conversations are had and decisions are made. The critical element in this dialogue is the opportunity for whānau to transition their loved ones from life to death in ways that bring peace to them.

While a collective whānau based approach is best, sometimes whānau conflict reaches a point where an external influence is needed to help facilitate the whānau conflict. Currently, the only way to formally resolve a conflict is through the High Court. This can be a complicated and costly process and timing wise it is not always the best.

Te Pūtahitanga suggests that when a conflict becomes too much to deal with, that local rūnanga and/or local kaumātua could be useful facilitators and resources in helping to solve conflicts, as they would have the tikanga and experience to deal with such disputes. Te

Pūtahitanga submits that the Select Committee should investigate legislative changes to reflect this. We suggest that providing prompt support to resolve serious disputes amongst whānau is essential to effective resolution.

Police Iwi Liaison Officers are already involved in solving serious family disputes and hold credibility and considerable experience in dealing with such issues. The work undertaken by Police Iwi Liaison Officer provides a positive example of what could be further enhanced by rūnanga and/or kaumātua. Serious funeral disputes may also be best served outside of the High Court and both the Family Court or the Māori Land Court have the experience to deal with such matters and could be valid alternatives. Te Pūtahitanga suggest that the Select Committee should consider these alternatives to using the High Court. The main priority for all involved should be, finding an outcome that best suits the needs of the whānau and the Select Committee should further investigate what mechanisms would be appropriate to do so.

Furthermore, the current legislation in relation to dealing with bodies and the funeral/tangihanga process is individual focused and does not allow for the expression of the views of the whānau. Te Pūtahitanga submits that the Select Committee should investigate ways in which the legislation can be amended to better facilitate the inclusion of whānau perspectives. In this regard, we strongly advocate for the use of Whānau Ora Navigators who are skilled in the art of communication and dialogue in some of the most difficult areas of our life journeys. We promote the notion of kotahitanga and whanaungatanga as a basis for collective decision-making in the resolution of disputes. These are areas of skill and competency which our Whānau Ora Navigators are well versed in.

Te Pūtahitanga is pleased to see that access and management of tūpāpaku is being investigated by the Select Committee and we are open to any future engagement on the Inquiry into whānau access to and management of Tūpāpaku. We appreciate the opportunity to contribute to this inquiry provided by the Māori affairs committee and would be happy to speak to our submission, should this be required.

Contact details for this submission are:

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Heoi ano



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