

Takutai Moana Financial Assistance Scheme

Court workstream: Reasonable cost guidance and activities

1 July 2024 - 30 June 2025

About this guidance

The Takutai Moana Financial Assistance Scheme (the Scheme) contributes to the costs incurred by applicants seeking recognition of customary interests under the Act.

This guidance refers to the costs under the Court workstream of the Scheme, which relate to preparation for and participation in takutai moana court hearings.

Costs incurred to progress an application that fall outside of the court workstream guidance, such as project management or historical research, may be covered by the Activity workstream. Please refer to the [Activity workstream guidelines](#) for more information.

Available funding

Who is eligible? Court workstream funding is available for iwi, hapū or whānau groups who have made an application under te Takutai Moana Act 2011 or Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and are participating in a scheduled hearing between 1 July 2024 and 30 June 2025 as outlined below.

What funding is available? From 1 July 2024, funding is available for hearings scheduled between 1 July 2024 and 30 June 2025.

The maximum funding available per applicant group for the following substantive hearings is \$140,000 (+ GST):

- Whangārei 1(b) (Whangārei Coast)
- Ruapuke Island
- South Taranaki
- Central Bay of Plenty

The maximum funding available per applicant group for the following follow-up High Court hearings is \$25,000 (+ GST):

- Tokomaru Bay 2
- Wairarapa 1(a) wāhi tapu
- Wairarapa 1(b) wāhi tapu
- Group N 1(a) (Kāpiti-Manawatū) continuance

The maximum funding available per applicant group for the following appeals is \$30,000 (+ GST).

Court workstream costs incurred that exceed the maximum funding available are not eligible for reimbursement.

What if my court hearing is not listed here? Any hearings between July 2024 and June 2025 not listed here do not have funding allocated to them. This includes interlocutory hearings such as case management conferences (CMCs) that are not directly related to the hearings in the list. For example, CMCs relating to hearings from 1 July 2025 are not funded.

How to apply?

Before eligible groups can access Court funding, they must submit a budgeted workplan for approval by Te Arawhiti before committing to or incurring costs. Only after approval has been provided in writing can requests for funding be submitted.

After you receive approval of your budget in writing, you may make requests for reimbursement by completing a [Court Funding Request Form](#).

Funding is provided via a reimbursement model. Any reimbursement requests **must** be made within 6 months of the mahi being carried out and the cost being incurred.

Any requests for reimbursement for expenses under the Court workstream that are not submitted within 6 months cannot be funded by the Scheme.

Incurring Court workstream costs

Fair and reasonable expenditure

All expenditure claimed must be eligible costs to progress a takutai moana application, and considered fair and reasonable. This document provides guidance on what fair and reasonable expenditure looks like in relation to a court hearing.

The Court workstream relates to costs incurred in preparation for and participation in court hearings, including:

- Preliminary and preparation work
- Disbursements for legal counsel and expert witnesses to participate in a hearing
- Hearing participation
- Post-hearing work (as directed by Court)
- Court fees (filing, scheduling and hearing fees)
- Costs associated with court-directed site visits

If your planned expenditure or mahi falls outside the guidance, please highlight this in your budgeted workplan along with any argument for its inclusion as an eligible cost.

Rates

All rates in this guidance are based on a combination of actual costs incurred by applicants to date, Legal Aid rates, consideration of market rates, and government expenditure policies for matters such as travel and accommodation. Any expenses that fall outside these guidelines require approval from the Funding Team before committing to or incurring any cost (including, for example, a contract for services signed with a third party).

Updates to the guidance

To ensure the ongoing financial sustainability of the Scheme, Te Arawhiti may be required to reconsider and update the policy outlined in this guidance. Notifications of changes to the policy will be made in advance of their coming into effect.



Hourly rates

The Scheme provides the following time and attendance/hourly rate reimbursement.

Travel time – Reimbursement for eligible travel (related to preparation for or attendance at a takutai moana hearing) will be at a rate of \$63.00 per hour (excluding GST) for both legal counsel and expert witnesses.

Exclusions

- Costs of travel to somewhere that is a usual place of work
- Travel where the return travel time is less than one hour, or the return distance is less than 50km
- Walking time

Expert witness – Being those required to appear in court to provide evidence and/or be examined, such as historians, mapping experts, and iwi members sharing tikanga evidence.

The Scheme's Court workstream provides reimbursement at an hourly rate of up to \$150 (excluding GST) for the time expert witnesses require to prepare and provide evidence at the hearing.

This can be claimed via an invoice/koha and requires supporting timesheets to reflect the costs.

Legal counsel – For both preparation for and participation in an approved hearing, and post-hearing court-related work.

The level of lawyer must be appropriate for the legal task. In limited circumstances, the services of a King's Counsel (KC) may be appropriate. If you need the services of a KC, you must engage with the Funding Team **before** you commit to or incur any cost.

The following tables give an overview of the roles and types of eligible tasks that legal counsel might undertake in preparation for and attendance at a hearing.

Table 1: Legal Counsel Roles and Hourly Rates	
Job level	Hourly rate (excl. GST)
Senior Associate/Senior Solicitor/Barrister <ul style="list-style-type: none">• A person with at least 9 complete years of litigation experience	<ul style="list-style-type: none">• High Court - \$167.00• Court of Appeal and Supreme Court - \$178.00
Solicitor/Associate <ul style="list-style-type: none">• A person with at least 4 and up to 9 complete years of litigation experience	<ul style="list-style-type: none">• High Court - \$150.00• Court of Appeal and Supreme Court - \$161.00
Junior (including law clerk, paralegal)	<ul style="list-style-type: none">• High Court - \$134.00• Court of Appeal and Supreme Court - \$146.00
Admin Personnel <ul style="list-style-type: none">• Providing administrative services and support to Counsel in preparation for and during a hearing	<ul style="list-style-type: none">• High Court - \$75• Court of Appeal and Supreme Court - \$75



Table 2: Court preparation Eligible Tasks

Many of the tasks below are common to all hearing types. If they are specific to a hearing type, this is noted in brackets.

Client relationship preparing for or participating in a hearing

- Taking instructions from client
- Reporting to client on pre-hearing and hearing developments
- Coordinating applicant group and expert witnesses

Evidence and witnesses

- Reviewing and considering other parties' submissions/evidence
- Preparing and filing evidence
- Locating expert witnesses
- Liaising, obtaining and reviewing expert witness reports
- Briefing expert witnesses (e.g. historian)
- Preparing affidavits or written or oral statements of evidence
- Preparing and submitting additional required evidence after hearing

Documents

- Preparing documents – lists of issues, authorities and documents for 'common bundle' (affidavits, statements of evidence) (time + actual costs)
- Preparing any other relevant documents (time + actual costs)
- Preparing and filing notices
- Responding to notices

Miscellaneous

- Legal research – checking background facts/enactments/relevant cases
- Liaising with the court/other parties' lawyers/Crown lawyers
- Preparing questions for court
- Preparing submissions, including drafting and filing written submissions
- Court-directed site visits – time and actual costs incurred if not funded by the Ministry of Justice (see also reasonable costs guidelines for hui)
- Preparing for the pūkenga process, including selecting pūkenga

Court administration

- Drafting memoranda pertaining to court hearing
- Seeking leave to appeal, including drafting and filing notice of appeal
- Drawing up and submitting an Order for sealing
- Considering court minutes/directions
- Adjusted filed pleading in response to other amendments to pleading
- Preparing and filing interlocutory application (e.g. stays/strikeouts/amendments to applications)



Legal Counsel Disbursements

Travel related

Where travel is required, it is encouraged that bookings are made in advance to get the best possible price. The scheme covers the following travel related expenses:

- Rental and petrol costs of vehicle appropriate for the required travel
- Mileage at **standard IRD rates** for travel by private vehicle
- Parking costs
- Taxis/rideshare where needed
- Public transport as needed
- Flights

How to claim these expenses: For all travel expenses excluding mileage, a sufficient receipt is required to support the reimbursement request (please note an eftpos receipt is not sufficient). Mileage can be included in Counsel's invoice but must be clearly marked as mileage and include the starting and finishing points and the number of kilometers claimed.

Exclusions

- Costs of travel to somewhere that is a usual place of work
- Costs of travel where the return travel time is less than one hour, or the return distance is less than 50km
- Fines or penalties received while driving either a private or a hire vehicle.
- Any insurance excess payable in the event of an insurance claim.
- Overseas flights
- GST on mileage
- Priority seating/seat upgrades, re-booking of flights and carbon offset fees.

Accommodation and kai

If overnight travel is necessary, a maximum amount of \$275.75 (excluding GST) / \$317.39 (including GST) per person per day is available to reimburse accommodation and meal costs.

Where overnight accommodation is **not** required, a maximum amount of \$100.00 (excluding GST) / \$115 (including GST) per day is available to reimburse **meal** costs. Please note that expenses that will not be reimbursed include:

- Alcohol, minibar and snack bar costs
- Any other non-accommodation/kai hotel costs (e.g. movie rental, gym/spa usage)

How to claim these expenses: For all accommodation and kai a sufficient receipt is required to support the reimbursement request (please note an eftpos receipt is not sufficient). Where a receipt relates to more than one expense (e.g. a supermarket shop, accommodation or dinner for two counsel), appropriate detail must be provided for clarity, e.g. how many people (including their name and/or role), the amount claimed (if less than the total receipt), and/or the days it covers (in the case of multiple meals).

The days for which accommodation and meals are claimed must be clearly recorded.

Staying with family or friends

If 'informal' accommodation is used, the financial assistance scheme covers koha of up to \$50 per night per counsel towards kai/accommodation costs. The koha (and related transaction fees if applicable) can be claimed as a disbursement and must be within the kai and accommodation guidelines as above.

Please provide the details of who the koha is for, who is staying, and the dates of stay. Use of pre-paid cards is permitted, with a receipt provided as proof.

Other disbursements

Printing of court-related documents – up to \$0.10 per page (excluding GST) / \$0.12 per page (including GST)



Applicant/Expert Witness

Disbursements:

Travel related

The scheme covers travel-related costs for court proceedings for:

- Expert witnesses and other witnesses (including applicants who are appearing as a witness): for days where they participate in court as a witness, with an extra day either side to allow sufficient time to travel and prepare.
- The scheme can also cover travel-related costs for a support person for any of the active participants in a hearing, if required. This must be agreed with the Funding Team **before** committing to or incurring any costs.
- For international travel that may be required in exceptional circumstances, approval is required from Te Arawhiti before committing to or incurring any cost.

In determining whether travel is necessary, the applicant group's legal provider is expected to consider whether the witnesses' evidence can be effectively given by audio visual link.

Where travel is required, it is encouraged that bookings are made in advance to get the best possible price. The scheme covers the following Travel related Expenses:

- Rental and petrol costs of vehicle appropriate for the required travel.
- Mileage at **standard IRD rates** for travel by private vehicle.
- Parking costs
- Taxis/rideshare where needed.
- Public transport as needed.
- Flights

How to claim these expenses: For all travel expenses excluding mileage, a sufficient receipt is required to support the reimbursement request (please note an eftpos receipt is not sufficient). Mileage can be included in disbursements but must be clearly itemized and include the starting and finishing points, and the number of kilometers claimed.

Exclusions

- Costs of travel to somewhere that is a usual place of work
- Costs of travel where the return travel time is less than one hour, or the return distance is less than 50km
- Fines or penalties received while driving either a private or a hire vehicle.

- Any insurance excess payable in the event of an insurance claim.
- Overseas flights (without prior-approval)
- GST on mileage
- Priority Seating/seat upgrades, re-booking of flights and carbon offsets

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