

Mandate strategy guidelines

Background

What's a mandate strategy?

Mandating is the process by which the claimant group chooses a group of individuals, or an entity (such as a trust), and gives them the authority to negotiate a Treaty settlement with the Crown on their behalf. A **mandate strategy** sets out this process. It contains important information on:

- The body or entity seeking mandate
- The claimant community that the mandated representatives or body will represent
- How the mandated representatives will remain accountable
- A hapū grouping register or beneficiary list
- Crown policy regarding financial accountabilities
- Removing or amending the mandate conferred by the claimant community
- Negotiators
- Mandating hui and voting
- Timeframes for the mandating process.

Mandated representatives need to demonstrate that they represent the claimant group. Likewise, the claimant group need to feel assured that the mandated representatives/body legitimately gained the right to represent them. This can only be achieved through a fair, robust, and open process.

The mandating process

A detailed and well thought out **mandate strategy** is essential for conducting a well-run process that meets the Crown's requirements. It is important that the mandate strategy is endorsed by the Crown before it is implemented. Also, if claimants are seeking Crown Forestry Rental Trust (CFRT) funding, the Crown and the claimant group must agree on the mandate strategy before CFRT funding will be approved.

This document provides guidelines for the information needed in a mandate strategy.

The Mandate Strategy

1. *Definition of claimant group*

A mandate strategy requires a detailed definition of the claimant group.

The definition of a claimant group must include the following:

- a list of marae, hapū and iwi associated with the claimant group
- a list of all historical Treaty of Waitangi (Wai) claims associated with claimant group
- a list of founding ancestors
- a description of the claim area.

2. *The mandated representatives*

The claimant group needs to mandate a body or a group of individuals who have the authority to negotiate and initial a Deed of Settlement. We call this group or body the “**mandated representatives**” of the claimant group. A claimant group can give a mandate to either:

1. Named individuals who personally carry the mandate; or
2. A body or entity, either;
 - a. An existing representative organisation; or
 - b. A new entity formed specifically to negotiate the Treaty claim.

Claimant groups typically give a mandate to a representative body or entity, rather than to individuals. This is mainly to avoid potential issues such as the individual no longer wanting to act, acting outside the scope of the mandate, becoming unavailable due to illness or any other significant life change, and the associated legal problems of certainty and accountability that can come from these kinds of issues.

At publicly notified mandating hui, mandated representatives are elected.

In the mandating strategy, a general statement should be included that describes:

- a. the identity of the body or mandated representatives that will seek mandate.
- b. the basis on which the mandated representatives or the body is or will be constituted, e.g., marae/hapū representation or representation by an already established rūnanga or trust.

3. *Accountability of the mandated representatives*

The mandate strategy will set out how the mandated representatives will be accountable to the claimant community and will make decisions about negotiations. The mandate strategy will state:

- by what means and how often the mandated representatives will report to the claimant community on progress in negotiations;
- the mandated representatives must inform the claimant community when a milestone is reached in negotiations; and
- the mandated representatives must present an initialled deed of settlement to the claimant community for their ratification.

4. *Hapū grouping register or beneficiary list*

It is important that the mandated representatives establish a register or beneficiary list (if one does not already exist) and encourage registrations from the claimant community.

5. *Crown policy regarding financial accountabilities*

In Ngāpuhi, claimant funding for mandating purposes is available for groups seeking mandate. The group seeking a mandate must also report to the Crown (Te Tari Whakataū) on the outcomes of any hui funded and provide invoices and receipts as proof of expenditure. See our Claimant Funding FAQ for more information.

Once mandated, claimant funding for negotiations is managed by the mandated representatives. The responsibility is on the group seeking mandate to be accountable to their claimant group. This includes seeking the claimant group's approval of the claimant funding management policy and disclosing the way the claimant funding is being managed and reported to the claimant group, e.g. by providing financial reports to hui-a-hapū and/or including financial reports in regular newsletters. The mandate strategy should describe how the group seeking mandate plans to do this.

6. *Removing or amending the mandate conferred by the claimant community*

The mandate strategy also needs to state how the claimant community can remove or amend the mandate. The process for removing or amending the mandate and a hapū withdrawal mechanism must be clearly set out. Te Tari Whakataū can provide examples of removal processes and hapū withdrawal mechanisms.

The Crown can also withdraw its recognition of mandate if it considers mandate has not been maintained.

7. *Negotiators*

The people who negotiate with the Crown are usually not identical to the mandated representatives. The mandate strategy will outline how the negotiators are accountable to the mandated representatives including:

- How will the negotiators be appointed and removed and on what basis?
- Are the negotiators bound by the mandated representative's governing document and/or a specific 'terms of reference' and what are they authorised to do?
- How will the negotiators report to the mandated representatives?

8. *Mandating hui and voting*

It is important that members of the claimant group have the opportunity to participate in the mandate process (i.e. to receive adequate information and to vote on the mandate strategy). Most groups hold a number of hui. The mandate strategy needs to contain information on the proposed mandate hui and voting process. The mandate hui and voting processes usually occur at the same time to ensure that the claimant group are informed on what they are voting on.

The Crown recommends that the mandate hui should include the following features:

- a. hui should have a clearly stated purpose. This purpose is usually to present the mandating proposal to the claimant community and seek a mandate from the people.

- b. hui should be publicly advertised at least 21 days in advance. Most groups advertise in national and regional newspapers. Other advertising mediums include websites, 0800-numbers, pānui, public notices, posters and advertisements on television (TV One marae bulletin board and Māori TV), and iwi radio. Te Tari Whakatau and TPK review the draft public notices.
- c. hui should include a standardised presentation to be given at each hui (this is the information pack referenced in The Red Book) and Te Tari Whakatau needs to sign off on this before the hui to ensure accuracy of information on Crown processes. TPK also review the presentation. This presentation should clearly set out:
 - the purpose of the hui;
 - a summary of the claimant group's historical claims;
 - a summary of the claimant group (i.e. **the claimant definition**);
 - the aim of negotiations and the scope of proposed settlement, i.e. comprehensive settlement of all the claimant group's historical claims;
 - the identity and structure of the body or representatives seeking mandate;
 - how the mandated representatives are accountable to the claimant community; and
 - how hapū grouping members who are not currently on the hapū grouping register can enrol.
- d. hui should involve as many members of the claimant group as possible. The strength of a mandate rests largely upon the number of people within the claimant community who support it. Hui should be held in multiple locations. Claimant groups need to assess where their members are located and hold hui in areas outside their rohe if large numbers of members are based there.
- e. hui should provide an opportunity for hui attendees to discuss and debate the mandate proposal and then vote on it. The mandate strategy should specify how attendees will vote, e.g., show of hands, secret ballot or postal ballot.
- f. hui should set out the proposed wording of the mandating resolution to be put to the hui. Groups typically use something like: "That [name of body seeking mandate] is mandated to negotiate a comprehensive settlement of all [name of claimant group]'s historical Treaty claims against the Crown".
- g. hui should include observers from TPK and preferably independent scrutineers to supervise voting and count votes.
- h. hui should be accurately recorded. Full results of voting, a signed list of attendees and comprehensive minutes should be taken at all hui.
- i. hui can allow for postal ballots from eligible voters who could not attend the hui.

9. *Timeframes for the mandating process*

For effective coordination between the Crown and the claimant group, information about the timing of the mandating process should be included in the mandate strategy.

10. *Liaising with Te Tari Whakatau and TPK*

During the mandating process, it is recommended to liaise with Te Tari Whakatau and TPK as they can provide you with support and advice.