(1) ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS OR IDENTIFYING PARTICULARS OF THE AGGRIEVED PERSON AND OF HIS PARTNER

(2) ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS OR IDENTIFYING PARTICULARS OF THE VICTIMS

(3) ORDER PREVENTING SEARCH OF THE TRIBUNAL FILE WITHOUT LEAVE OF THE CHAIRPERSON

IN THE HUMAN RIGHTS REVIEW TRIBUNAL **[2013] NZHRRT 26**

	Reference No. HRRT 006/2013
UNDER	**THE PRIVACY ACT 1993**
IN THE MATTER OF	**AN APPLICATION TO BE HEARD BY THE VICTIMS OF THE AGGRIEVED PERSON**
BETWEEN	**DIRECTOR OF HUMAN RIGHTS PROCEEDINGS**
	PLAINTIFF
AND	**THE SENSIBLE SENTENCING GROUP TRUST**
	DEFENDANT

AT AUCKLAND

BEFORE:
Mr RPG Haines QC, Chairperson
Ms GJ Goodwin, Member
Mr RK Musuku Member

REPRESENTATION:
Mr SRG Judd for plaintiff
Mr DA Garrett for defendant
Ms NM Pender for the victims

DATE OF SUBMISSIONS: 19 and 31 July 2013; 1 August 2013

DATE OF DECISION: 19 August 2013

DECISION OF TRIBUNAL ON APPLICATION BY VICTIMS THAT THEY BE HEARD AND THAT AMICUS CURIAE BE APPOINTED

Non-publication orders operate

[1] In an interim decision published as *Director of Human Rights Proceedings v Sensible Sentencing Group Trust (Application for Interim Non-Publication Orders)* [2013] NZHRRT 14 (22 April 2013) the Chairperson made non-publication orders pursuant to ss 95 and 107(3)(b) of the Human Rights Act 1993 and s 89 of the Privacy Act 1993 in the following terms:

> **[64.1]** Publication of the name and occupation or of any other details which might lead to the identification of the aggrieved person in these proceedings is prohibited pending further order of the Tribunal or of the Chairperson.
>
> **[64.2]** Publication of the name, address, occupation or of any other details which might lead to the identification of the partner of the aggrieved person in these proceedings, including the name of her business, is prohibited pending further order of the Tribunal or of the Chairperson.
>
> **[64.3]** Publication of the name and occupation or of any other details which might lead to the identification of the victims of the aggrieved person is prohibited pending further order of the Tribunal or of the Chairperson.
>
> **[64.4]** There is to be no search of the Tribunal file without leave of the Chairperson.

[2] There has been no appeal against that decision nor any review under s 96 of the Human Rights Act. However, on or about 17 July 2013 the Sensible Sentencing Group Trust (SSGT) filed in the High Court at Wellington an application for judicial review seeking (inter alia) an order quashing the interim orders. The judicial review proceedings have not yet been heard and are not of direct relevance to the issues addressed in this decision. We note also that no interim order has been sought from the High Court staying the proceedings before the Tribunal and it is understood that no such application is intended.

BACKGROUND

[3] The background circumstances are fully set out in the Chairperson's interim decision dated 22 April 2013 and will not be repeated here. It need only be noted that the proceedings have not yet been set down for hearing as the parties have been working their way through the pre-hearing timetable steps set by the Chairperson.

[4] By application dated 20 June 2013 the two victims of the aggrieved person sought orders that:

> **[4.1]** They be permitted to intervene as interested parties in these proceedings.
>
> **[4.2]** Their solicitor, Ms Pender, be appointed as amicus curiae to represent their interests in the proceedings.
>
> **[4.3]** Their legal costs be met out of public funds.

[5] In a *Minute* issued on 28 June 2013 the Chairperson noted that potentially, the application gave rise to a range of issues, including:

> **[5.1]** Whether the application, although framed as an application to intervene, was to be treated as an application under s 108 of the Human Rights Act 1993.
>
> **[5.2]** Whether the Tribunal has jurisdiction to:
>
> > **[5.2.1]** Appoint an amicus.
> >
> > **[5.2.2]** Direct that the legal costs of an amicus be paid from public funds.

> **[5.3]** Whether it was appropriate that a non-party given leave to appear before the Tribunal and to call evidence be represented by an amicus.

[6] The victims and parties were requested to file memoranda addressing these issues. Their attention was drawn to *Beneficial Owners of Whangaruru Whakaturia No. 4 v Warin* [2009] NZCA 60, [2009] NZAR 523 and to *Taylor v Manager of Auckland Prison* [2012] NZHC 1241 (5 June 2012, Duffy J).

[7] The following directions were made:

> **[5.1]** The victims are to give notice whether their application dated 20 June 2013 is to be treated in all respects as an application under s 108 of the Human Rights Act 1993 to appear and to call evidence. Such notice is to be filed and served on the Director and on the defendant by 5pm on Monday 8 July 2013.
>
> **[5.2]** Any party intending to oppose the application must file a notice of opposition stating the party's intention to oppose and the grounds of the opposition. Such notice must also refer to any particular enactments or principles of law or judicial decisions on which the party relies. The notice of opposition must be filed and served by 5pm on Friday 12 July 2013.
>
> **[5.3]** The victims and the parties are to file memoranda addressing the points listed at [3] above. The memorandum by the victims is to be filed and served by 5pm on Friday 19 July 2013. The memoranda by the Director and by the defendant are to be filed and served by 5pm on Friday 2 August 2013.
>
> **[5.4]** A teleconference is to be convened by the Secretary at the first convenient opportunity following Friday 2 August 2013.
>
> **[5.5]** Leave is reserved to the victims and to both parties to make further application should the need arise.

[8] As required by the timetable, on 5 July 2013 the victims sought leave to appear and to call evidence in these proceedings as well as ancillary orders. The terms of the application will be addressed shortly. At the same time, by letter dated 5 July 2013 addressed to the Secretary the victims through their solicitors sought (inter alia) copies of "[a]ll applications, decisions and other related documents in cases where the Tribunal has appointed an amicus curiae". The Secretary replied that the Tribunal did not keep a record of such cases and advised that it would be necessary for the victims to file an on notice application so that the parties to the proceedings to which access was sought could be heard on the application. Attention was drawn to the decisions of the Tribunal in *IHC New Zealand v Ministry of Education (Non-Party Access to Tribunal File)* [2013] NZHRRT 2 (31 January 2013); *Adoption Action Incorporated v Attorney-General (Non-Party Access to Tribunal File)* [2013] NZHRRT 4 (22 February 2013) and *Director of Human Rights Proceedings v Sensible Sentencing Group Trust (Application by the New Zealand Herald for Access to Tribunal File)* [2013] NZHRRT 20 (14 May 2013).

[9] By letter dated 8 July 2013 the solicitors for the victims narrowed their request for non-party access to certain of the Tribunal files. On 9 July 2013 the Secretary responded that it would still be necessary for an on notice application to be filed so that the parties to those other proceedings were both formally and fully informed of what was sought and therefore able more meaningfully to be heard on the application. By subsequent email dated 11 July 2013 the Secretary provided further information relevant to the request for access to the Tribunal files. In the event the application for non-party access to files held by the Tribunal was not pursued.

[10] All memoranda having been filed as required by the timetable, the Chairperson convened a teleconference on 12 August 2013. It was confirmed that there were no

further outstanding matters and that the Tribunal could determine the application on the papers.

The amended application

[11] In their amended application dated 5 July 2013 the victims seek orders:

> **[11.1]** That they be granted the right to appear and to call evidence on any matter relevant to these proceedings.
>
> **[11.2]** That their solicitor, Ms Pender, be appointed as amicus curiae to represent their interests in the proceedings.
>
> **[11.3]** That Ms Pender's legal costs be paid from money appropriated by Parliament for such purposes.
>
> **[11.4]** In the alternative, that payment of all reasonable costs incurred by them be met out of public funds or by the Director of Human Rights Proceedings (the Director).

[12] The grounds on which the orders are sought are stated to be that the victims have an interest in the proceedings greater than the public generally and that the orders accord with the principles of natural justice and are fair and reasonable under the circumstances. The application relies on ss 82 and 89 of the Privacy Act 1993 and ss 104, 105 and 108 of the Human Rights Act 1993.

[13] The SSGT by memorandum filed on 1 August 2013 submitted that it would be appropriate that the victims be represented in these proceedings but the SSGT has no particular view on the form such representation should take. It was also submitted that it would be in the interests of justice that the cost of representation be met from public funds but no submissions were made as to how this might be achieved.

[14] By notice of opposition dated 9 July 2013 the Director:

> **[14.1]** Did not oppose the victims being heard under s 108 of the Human Rights Act.
>
> **[14.2]** Opposed the appointment of Ms Pender as amicus on the grounds that:
>
> > **[14.2.1]** The appointment of an amicus should only occur where a party either does not defend proceedings or is not represented by legal counsel.
> >
> > **[14.2.2]** As both the plaintiff and defendant are represented by legal counsel there is no need for an amicus to be appointed.
> >
> > **[14.2.3]** The jurisdiction to appoint an amicus should be used to assist the Tribunal rather than to assist non-parties who wish to be heard.
>
> **[14.3]** Submitted that the Tribunal does not have jurisdiction to order that the victims' legal costs be paid out of public funds. The applicants were not legally required or compelled to intervene in these proceedings and the question whether a non-party given leave under s 108 might be entitled to public funds to pay for legal representation is a matter for determination by the Legal Services Commissioner under the Legal Services Act 2011.

DISCUSSION

SECTION 108 – PERSONS ENTITLED TO BE HEARD

[15] The Tribunal's jurisdiction flows from three sources: the Human Rights Act 1993, the Privacy Act 1993 and the Health and Disability Commissioner Act 1994. While each statute makes separate and particular provision for the matters that can be brought before the Tribunal, Part 4 of the Human Rights Act has common application. See s 89 of the Privacy Act and s 58 of the Health and Disability Commissioner Act. For present purposes two provisions of Part 4 of the Human Rights Act are relevant. The first is s 105 which requires, inter alia, the Tribunal to act according to the substantial merits of the case, without regard to technicalities:

> **105 Substantial merits**
>
> (1) The Tribunal must act according to the substantial merits of the case, without regard to technicalities.
> (2) In exercising its powers and functions, the Tribunal must act—
> (a) in accordance with the principles of natural justice; and
> (b) in a manner that is fair and reasonable; and
> (c) according to equity and good conscience.

[16] The second is s 108 which stipulates that certain non-parties may be allowed to appear before the Tribunal:

> **108 Persons entitled to be heard**
>
> (1) Any person who is a party to the proceedings before the Tribunal, and any person who satisfies the Tribunal that he or she has an interest in the proceedings greater than the public generally, may appear and may call evidence on any matter that should be taken into account in determining the proceedings.
> (2) If any person who is not a party to the proceedings before the Tribunal wishes to appear, the person must give notice to the Tribunal and to every party before appearing.
> (3) A person who has a right to appear or is allowed to appear before the Tribunal may appear in person or be represented by his or her counsel or agent.

[17] This provision does not appear to have been the subject of consideration either by the Tribunal or by the Courts. In the present case we would note only that in determining whether it has been "satisfied" that a non-party has an interest in the proceedings greater than the public generally, the Tribunal will be required to balance competing interests. On the one hand there may be a concern to ensure everyone interested in a particular matter is heard but on the other hand proceedings involving a number of parties may become cumbersome and costly. Section 105 can conceivably be deployed on both sides of the balance. The main concern must be to deal with the merits of the case in the best way possible given the needs of the particular case and of the parties to the proceedings.

[18] We observe that s 108 appears to anticipate that a non-party can apply either to appear to make submissions or to appear and to call evidence on any matter that should be taken into account in determining the proceedings. One of the purposes of the notice required by s 108(2) is to alert the existing parties and the Tribunal to the nature and extent of the participation envisaged by the non-party as well as the grounds on which it is said that the non-party has an interest in the proceedings greater than the public generally. The parties can then more meaningfully respond to the application.

[19] If the Tribunal is satisfied that the non-party has an interest in the proceedings greater than the public and allows the non-party to appear before the Tribunal it does not follow that the non-party then becomes a "party" to the proceedings. While we have

heard no argument on the point our tentative view is that the non-party remains a "non-party" but is either allowed to appear to make submissions or to appear and to call evidence "on any matter that should be taken into account in determining the proceedings". It may well be the case that the non-party has no right to appeal against any decision of the Tribunal as such right is given to a "party" only. See s 123.

[20] Nor do we intend in this decision to address the question whether an award of costs can be made either in favour of or against a non-party who is heard under s 108. That is an issue for determination in the future. Section 92L of the Human Rights Act, s 85(2) of the Privacy Act and s 54(2) of the Health and Disability Commissioner Act appear to restrict the award of costs to one of the parties to the proceedings ie a plaintiff or a defendant.

Section 108 – whether victims have satisfied s 108

[21] Returning to the present application, at the heart of the Director's case in the substantive proceedings is the question whether there is an order of the District Court or a statutory provision having the effect that in relation to the matters for which he has been convicted, the aggrieved person's name and identifying details cannot be published. The applicants are the victims of the crimes for which the aggrieved person was convicted and it is not disputed by the Director or by the SSGT that they have a special interest in this issue. Furthermore, in their submissions dated 19 July 2013 the victims have advised that application has been made to have their own name suppression lifted under s 203(3)(b) of the Criminal Procedure Act 2011 which replaces s 139(1)(b) of the Criminal Justice Act 1985. Whether an order permitting publication of their names will have material relevance to the proceedings before the Tribunal is an issue yet to be determined but this does not diminish the fact that the victims have an interest in these proceedings greater than the public generally.

[22] Because the Tribunal is satisfied that the victims do have an interest in the proceedings greater than the public generally, they will be allowed to appear and to call evidence on any matter that should be taken into account in determining the proceedings.

[23] However, it is a condition of their being allowed to appear before the Tribunal that the victims give notice to the parties of the issues they (the victims) will raise at the substantive hearing and that they also comply with the timetable which follows at the end of this decision. In this regard it is noted that the Director and the SSGT have already filed all their evidence. Both parties will require an opportunity to file evidence in reply to the evidence filed by the victims.

[24] We now turn to the amicus application.

WHETHER AMICUS CURIAE TO BE APPOINTED

[25] The victims seek an order that Ms Pender be appointed "amicus curiae to represent the victims' interests in the proceedings". This application is inherently problematical in several respects. First, the application conflates the distinctly different roles of an amicus on the one hand and counsel for a party on the other. It also fails to distinguish the role of an amicus from that of an intervener. Second, the victims fail to establish jurisdiction for the Tribunal to order the appointment of an amicus and similarly fail to establish jurisdiction for the Tribunal to order that an amicus be paid out of public funds. We begin with an overview of the proper role of an amicus.

Amicus not an advocate for a party

[26] In *Beneficial Owners of Whangaruru Whakaturia No. 4 v Warin* [2009] NZCA 60, [2009] NZAR 523 the issue was whether an amicus may file an appeal. In holding that an amicus has no standing to appeal the Court of Appeal made the following observations about the role of an amicus:

> **[26.1]** An amicus is not a party to an action but a person appointed by the court to help the court by expounding law impartially, or if one of the parties is unrepresented, by advancing legal arguments on his or her behalf. An amicus is not a party. He or she is appointed at the discretion of the court and the extent to which he or she may file documents and present legal argument is at the discretion of that court. Unlike orders for joinder as a plaintiff or a defendant, appointments of amici curiae do not require the consent of the parties. See the judgment at [19] and [20]. Reference can also be made to *Taylor v Manager of Auckland Prison* [2012] NZHC 1241 (5 June 2012, Duffy J) at [86] and the observation that the appointment of an amicus is not done to assist a party or to ensure that he or she has legal representation. It is done to assist the court so that the judge who hears the substantive matter has his or her attention directed to all relevant arguments that can be made, and can maintain appropriate judicial distance from the inquiry that needs to be made.
>
> **[26.2]** There is a substantial difference between expounding law impartially and advancing legal arguments on a party's behalf. The latter involves partisan advocacy, while the former does not; the latter involves engaged confrontation with opposing counsel, but the former involves giving assistance to the court in a neutral and comprehensive way, particularly to ensure that all aspects of a dispute are teased out and addressed. See *Beneficial Owners of Whangaruru Whakaturia No. 4* at [20].
>
> **[26.3]** The tenure of an amicus endures for the length of a proceeding and terminates upon judgment. The amicus has no right of appeal from that judgment because he or she is not a party. See *Beneficial Owners of Whangaruru Whakaturia No. 4* at [36].

[27] In the light of these authorities we do not accept that it is possible for Ms Pender, as the solicitor for the victims, to be appointed as amicus curiae to represent the victims' interests in these proceedings, assuming for the moment that the Tribunal has jurisdiction to appoint an amicus, an issue we address shortly.

Amicus not an intervener

[28] In civil proceedings a non-party given leave to participate in the proceedings is an intervener. Whereas an amicus is appointed at the behest of the court, an intervener enters a proceeding voluntarily because they have an interest in the case or responsibilities in the matter at issue in their own right. Although an intervener is still not a party and cannot therefore exercise appeal rights any more than an amicus can, appointment of an intervener rather than an amicus may be appropriate in cases where the issues that the intervening party will address requires or will compel substantially partial legal argument. See *Beneficial Owners of Whangaruru Whakaturia No. 4* at [27].

[29] There is good reason for the courts to be reluctant to admit interveners in civil proceedings, since unlike joined parties their appointment does not require the consent of the parties. But that does not mean that an amicus should be used as a backdoor

route to substantially partisan participation of non-party persons or interest groups in a proceeding. See *Beneficial Owners of Whangaruru Whakaturia No. 4* at [31].

[30] In the present case, it is clear that the victims intend taking an adversarial, partial stance in relation to both the Director and the aggrieved person, a stance which will support the SSGT. They are, in that sense, interveners. But the distinguishing feature of an amicus curiae is that he or she neither acts as the legal representative of an unrepresented person nor otherwise appears as his or her personal representative. The role of amicus is to give assistance to the court in a neutral and comprehensive way, not to advance partisan interests.

[31] It follows from the above that the application that Ms Pender be appointed as amicus curiae to represent the victims' interests in these proceedings must be declined in principle.

[32] We turn now to the question whether the Tribunal would in any event have jurisdiction to appoint an amicus.

Whether Tribunal has jurisdiction to appoint amicus

[33] Unlike the High Court, the Tribunal is not a court of general jurisdiction, nor is it possessed of "all judicial jurisdiction which may be necessary to administer the laws of New Zealand" (Judicature Act 1908, s 16). It is an inferior tribunal of limited statutory jurisdiction. It has no inherent jurisdiction though inherent powers may exist. See generally *Attorney-General v Otahuhu District Court* [2001] 3 NZLR 740 (CA) at [16]; *Transport Accident Commission v Wellington District Court* [2008] NZAR 595 at [16] (Dobson J) and *Department of Social Welfare v Stewart* [1990] 1 NZLR 697 at 701 (Wylie J).

[34] In these circumstances the appropriate comparator is neither the High Court nor the District Court and the references which the victims make to High Court Rules, r 4.27 and District Court Rules, r 3.33 are not helpful. The power of a tribunal to appoint counsel assisting must be conferred by statute, as in the case of the Immigration Act 2009, s 269 which empowers the Immigration and Protection Tribunal to appoint counsel assisting for the purpose of any proceedings involved classified information. That power is accompanied by specific statutory provision for the payment of counsel assisting. See Immigration Act, s 271. This is a point to which we return shortly.

[35] The victims refer to the fact that in *Forrest v Inland Revenue Department* [2007] NZHRRT 19 (5 October 2007) the then Chairperson, by *Minute* dated 26 June 2007, appointed a barrister to act as amicus curiae. The one page document does not address the jurisdiction of the Chairperson, still less that of the Tribunal, to make such appointment nor is any reference made to the question of payment. In these circumstances we do not regard the *Forrest* case as providing any assistance.

[36] Reference was also made to *Bevan-Smith v Television New Zealand Ltd* [2006] NZHRRT 21 (6 June 2006). That decision records that the then Director of Proceedings, Mr R Hesketh, appeared as "amicus". The label, however, is misleading. Mr Hesketh in that case exercised his statutory right under s 86 of the Privacy Act to appear and to be heard before the Tribunal.

[37] Our conclusion is that in the absence of statutory authorisation, the Tribunal does not have jurisdiction to appoint an amicus curiae.

[38] We turn now to the related issue of how an amicus is to be paid.

Amicus – payment

[39] It is a fundamental principle that public money cannot be spent without statutory authority. See the Public Finance Act 1989, s 5:

> **5 Public money must not be spent unless in accordance with statutory authority**
>
> The Crown or an Office of Parliament must not spend public money, except as expressly authorised by or under an Act (including this Act).

[40] An example of such statutory authority is found in s 99A of the Judicature Act 1908 which, in the context of the superior courts of New Zealand, provides for the payment of counsel assisting the court "out of money appropriated by Parliament for the purpose". An example from the District Court jurisdiction is the Care of Children Act 2004. Section 130 provides for the appointment of a lawyer to assist the Court and s 131 directs that payment is to be out of "public money appropriated by Parliament for the purpose". An example drawn from the tribunal context is the Immigration Act, s 271 which makes provision for the payment of the fee of counsel assisting "out of money appropriated by Parliament for that purpose".

[41] These examples underline the principle that without express statutory authority an inferior tribunal has no power, implied or otherwise, to debit an expense against public money.

[42] It follows that a person who is allowed to appear before the Tribunal under s 108 of the Human Rights Act and who elects to be represented by counsel must meet the costs of such counsel personally or obtain a grant of legal aid under the Legal Services Act 2011.

First alternative argument – Director to pay victims' costs

[43] It was submitted in the alternative that the Director should meet the cost of the victims' legal representation. Little of substance was advanced in support of this submission apart from a suggestion that the Director ought to be representing the interests of the victims, not those of the aggrieved person.

[44] The short answer to the submission is that the Tribunal has no jurisdiction to make the order sought.

Second alternative argument – victims' costs to come from public funds

[45] In the further alternative it was submitted that the Tribunal should direct that "in fairness" the applicants' legal costs be paid out of public funds "just as [the aggrieved person's] legal costs are being publicly funded".

[46] Quite apart from the impediment that the Tribunal has no power to spend public money, this submission reveals a fundamental misapprehension of the nature of the proceedings brought by the Director. Under s 82(2) of the Privacy Act the Director has the right to bring civil proceedings in his own name against any person in respect of whom an investigation has been conducted under Part 8 of the Act. Where such proceedings are commenced by the Director the aggrieved individual is not an original party to the proceedings unless the Tribunal otherwise orders. See s 82(5). If the Director has costs awarded against him, the Privacy Commissioner is not entitled to be indemnified by the aggrieved individual. See s 85(3). It is simply not the case that the aggrieved person's legal costs are "being publicly funded". He is not even a party to the proceedings.

[47] Finally, the victims rely on the Victims Rights Act 2002, s 8 which provides:

> **8 Access to services**
>
> A victim or member of a victim's family who has welfare, health, counselling, medical, or legal needs arising from the offence should have access to services that are responsive to those needs.

[48] We do not see how this provision assists in the face of the complete absence of jurisdiction for the Tribunal to make the orders sought. It should also be added that there is no requirement for the victims to appear and be heard in these proceedings and there is no requirement that they instruct legal counsel. As the Director points out in his submissions, if a person chooses to intervene in a case when there is no necessity or compulsion to do so, then the intervener must accept responsibility for meeting the costs of legal counsel should such counsel be engaged.

Summary of conclusions

[49] In summary our conclusion is that while the victims are to be allowed to appear before the Tribunal in person or to be represented by counsel, it would be contrary to principle for Ms Pender to be appointed as amicus curiae to represent their interests in the proceeding. Finally, there is no jurisdiction for the Tribunal to direct that payment of the legal costs incurred by the victims in appearing in these proceedings be met by the Director or out of public funds.

FORMAL ORDERS

[50] For the reasons explained earlier the following formal orders are made:

> **[50.1]** Pursuant to s 108 of the Human Rights Act 1993 the victims are allowed to appear before the Tribunal and to make submissions and to call evidence on any matter that should be taken into account in determining the present proceedings. The victims may appear in person or be represented by counsel.
>
> **[50.2]** The application that the solicitor for the victims, Ms Pender, be appointed as amicus curiae to represent the interests of the victims in these proceedings is dismissed.
>
> **[50.3]** The application that the victims' legal costs be paid out of public funds or by the Director of Human Rights Proceedings is dismissed.
>
> **[50.4]** It is a condition to the victims being allowed to appear before the Tribunal that they comply with the timetable which is set out in this decision, or any modified timetable approved by the Chairperson.
>
> **[50.5]** The question of costs is reserved.

THE TIMETABLE

[51] So that the parties are made aware of the issues to be raised at the hearing by the victims, the victims must file a full and particularised statement of reply to the statement of claim dated 8 April 2013. They must also file full briefs of evidence in advance of the hearing.

[52] The following directions are made:

[52.1] An address for service for the victims is to be filed and served by 5pm on Friday 30 August 2013.

[52.2] The Director of Human Rights Proceedings and the Sensible Sentencing Group Trust are to serve on the victims their statement of claim and statement of reply respectively together with a complete set of their briefs of evidence filed in these proceedings to date. Such service is to be achieved by 5pm on Friday 6 September 2013.

[52.3] A full and particularised statement of reply by the victims is to be filed and served by 5pm on Friday 27 September 2013.

[52.4] Written statements of the evidence to be called at the hearing by the victims and all documents they intend to rely on are to be filed and served by 5pm on Friday 18 October 2013.

[52.5] Any written statements of evidence in reply by the Sensible Sentencing Group Trust are to be filed by 5pm on Friday 25 October 2013.

[52.6] Any written statements of evidence in reply by the Director of Human Rights Proceedings are to be filed and served by 5pm on 8 November 2013.

[52.7] A teleconference is to be convened by the Secretary at the first convenient opportunity following the filing by the Director of his statements of evidence in reply.

[52.8] In consultation with Mr Garrett and with counsel for the victims, the Director is to prepare the common bundle of documents and that bundle is to be filed and served by 5pm on a date yet to be fixed.

[52.9] The proceedings are to be heard at Auckland on a date yet to be fixed.

[52.10] Leave is reserved to both parties and to the victims to make further application should the need arise.

[53] In case it should prove necessary we leave it to the Chairperson of the Tribunal to vary the foregoing timetable.

.....	.....	.....
Mr RPG Haines QC	**Ms GJ Goodwin**	**Mr RK Musuku**
Chairperson	**Member**	**Member**