

26th March 2026

Class Action Q&A

Who took the Class Action?

The College of Midwives took the Class Action on behalf of more than 1500 of its members who work as community-based, self-employed midwives, also known as Lead Maternity Carers or LMCs. LMCs provide essential pregnancy, birth and postnatal care to more than 55,000 women and their babies every year.

What did the Class Action allege?

It alleged the Crown breached its obligations to ensure self-employed midwives receive fair and reasonable remuneration and working conditions by failing to honour contractual commitments dating back to 2015, which were recorded in two signed settlement agreements with the College.

It involves several claims, including breaches of contract, failure to honour commitments made to LMC midwives, and gender-based discrimination. The Class action argues LMCs should be eligible for damages, restitution and declaratory remedies due to the breaches and broken promises.

How are Lead Maternity Carers (LMCs) employed and paid?

As part of the Pae Ora (Healthy Futures) Act, the Crown can unilaterally set terms and conditions under which LMCs work. Unlike comparable self-employed primary health professionals such as GPs or community pharmacists, LMCs cannot negotiate remuneration, working conditions, or hours worked. They cannot set their own fees to cover things such as outgoings like travel, equipment, office space, or annual and sick leave.

How did the matter end up in court?

In August 2022, after unsuccessful attempts to resolve issues with the Ministry of Health by mediation sessions, the College filed a Class Action with the High Court to enforce their contractual rights and address gender-based discrimination. In September 2024 the Class Action was heard in court, after which the judge considered the case and issued a decision.

Judicial Review versus Class Action

After a series of failed negotiations, mediations and settlement agreements with the Ministry of Health dating back to 2015, the College decided legal action was the only way to achieve fair and equitable outcomes for its LMC members and their ability to provide the best care for the families and communities they serve. In August 2022 the College filed a Class Action with the High Court.

What do the College and members involved in the Class Action want?

- Establishment of a new primary midwifery contract model that gives LMC midwives entitlements like those available to other contracted primary health professionals such as GPs and community pharmacists as committed to in the 2018 Agreement.
- Consistent national investment in structures and processes to support LMC workforce sustainability and the demands of 24/7 service delivery.
- Fair and equitable remuneration, as also promised in the 2018 Agreement.

What did the judge decide and what does it mean?

The Court released its decision on 26 March 2026 in favour of the LMC midwives and awarded costs against the Crown. Significant findings include:

- The Crown breached its contractual promise to the College that the Crown would ensure self-employed midwives receive fair and reasonable remuneration. The Judge ordered that loss of income to each Representative Plaintiff in the proceeding be back-dated to 1 July 2020 and to continue in subsequent years;
- The Crown did not act in good faith in its dealings with the College in the period leading up to the College's decision that it had no alternative but to take the Crown to court.
- Going back as far as 2007 and continuing to the present, the Crown's method for paying LMC midwives unlawfully discriminated against LMC midwives on the basis of their sex in breach of section 19 of the New Zealand Bill of Rights Act 1990.
- In addition to damages for breach of contract, the Crown must pay to each of the Representative Plaintiffs the sum of \$1,000 for Bill of Rights damages for the "inherent loss of dignity by virtue of the unlawful discrimination, with such an award serving to "vindicate the public interest".

TIMELINE

August 2015

Concerned about the sustainability of primary midwifery services, the College initiates judicial review proceedings against the Attorney-General, alleging gender-based discrimination under the New Zealand Bill of Rights Act 1990.

August 2016

Prior to case going to trial the Crown offers mediation and College accepts. Initial mediation overseen by Chief Mediator from the New Zealand Human Rights Commission.

May 2017

First settlement agreement reached including commitment to co-design new funding model - College withdraws the High Court claim.

May to December 2017

Co-design process for new funding model undertaken between Crown and the College.

December 2018 to January 2019

Crown admits breaching the first settlement agreement and apologises to the College and its members. Second settlement agreement reached, including fair and reasonable pay for LMCs.

August 2022

The College files a Statement of Claim against the Crown with the High Court alleging breach of the second settlement agreement. Case taken as Class Action.

August 2024

Class Action Case heard in the High Court, with almost 1500 midwife participants.