

Disabled Persons Assembly NZ



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To

Please find attached DPA's submission to the United Nations (UN) Human Rights Council for New Zealand 2018 Universal Periodic Review

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Introducing Disabled Persons Assembly NZ

The Disabled Persons Assembly NZ (DPA) is a pan-disability disabled person's organisation that works to realise an equitable society, where all disabled people (of all impairment types and including women, Māori, Pasifika, young people) are able to direct their own lives. DPA works to improve social indicators for disabled people and for disabled people be recognised as valued members of society. DPA and its members work with the wider disability community, other DPOs, government agencies, service providers, international disability organisations, and the public by:



telling our stories and identifying systemic barriers



developing and advocating for solutions



celebrating innovation and good practice

New Zealand's Universal Periodic Review

DPA has more than thirty years of history of advocating for disabled people's rights. In this time New Zealand has shown significant leadership in improving outcomes for disabled people, for example in the development of the world's first national Disability Strategy in 2001. DPA was also heavily involved in the New Zealand delegation to the UN, to develop the UNCRPD. However, the translation of New Zealand's aspirational policies into meaningful change for disabled people remains a frustratingly slow process.

The importance of improving outcomes for disabled cannot be understated as it has the potential to transform the lives of not only disabled people, but their extended family, whānau and wider society. Disabled Persons Organisations must be adequately resourced to build connections between members of the disability community and to lead this change, working towards the full realisation of disabled people's human rights and citizenship.

Our contribution to this review uses the UNCRPD as our primary frame of reference, as well as acknowledging the significance of other international agreements such as UNCROC and CEDAW in relation to disabled people's lives.

We also acknowledge the significance of UNDRIP, particularly as there are higher rates of disability among Māori than non-Māori. Te Tiriti o Waitangi (the Treaty of Waitangi) is New Zealand's founding document. As a population overrepresented in

disability statistics, we note that disabled Māori face particular barriers to not only social, but cultural access, which is the right of Māori under Te Tiriti.

There is no enforceable right to accessibility in New Zealand, beyond limited provision for physical access in the Building Code. While this has broad implications for all disabled people it means Marae are not at a standard level of accessibility and may lack the resources to ensure access to all iwi members. Another example, of limited cultural access is specific to Deaf Maori, given that there are around three trilingual interpreters nationwide, Deaf Maori often lack access to tikanga Māori (Māori protocols). In a fully accessible world, Deaf and disabled tangata whenua (Māori) will be fully supported in both their disability and Maori identities as a matter of course.

Achievements and Progress

The Disabled Persons Assembly New Zealand (DPA) welcomes New Zealand's third UN periodic review as an opportunity to reflect on both New Zealand's progress and persistent gaps. The review is particularly significant to our organisation in that it has come in year that also marks the ten year anniversary since New Zealand signed the Optional Protocol of the UNCRPD. There has been no process established for the complete implementation of the principles of the UNCRPD. We were pleased to note the commitment of funding in this year's Budget, which will allow Robert Martin to continue his invaluable work for disabled people on the UNCRPD Committee.

As a first term Government this administration has positioned itself as one of transformational reform. We are so far heartened to see an increased focus on child wellbeing with the proposed introduction of a Child Wellbeing Strategy. A similar focus is likely to characterise proposed Education reforms and reforms to Oranga Tamariki (the Ministry for Children), the Justice Sector and Social Welfare. While disabled people and their organisations have engaged in these processes, we are as yet unclear on what particular consideration will be given to the experience of disabled people, their families and whānau in policy resulting from this work. We are aware that for some disabled people the consultation processes did not meet their accessibility needs and more will need to be done to ensure disabled voices are heard in future processes.

As commented on in our CEDAW submission, the Pay Equity settlement for care workers in 2017 was significant to disabled people in ensuring the wellbeing and financial security of the workforce (predominantly women) who support them in their daily lives. This year the settlement was extended to cover Mental Health and Addiction Support Workers. The settlement was backdated to the 1st of July 2017 to bring it in line with the original settlement. This has laid positive groundwork for the

proper remuneration of the workforce supporting disabled people in other sectors, such as Teacher Aides in Education.

There is significant ongoing work in reforming the way that Disability Services are administered and accessed. This process called Enabling Good Lives has been carried out over the last five years, as a co-design process between disabled people, family members and Government. It is due to be trialled in the Mid-Central region this year, a mixed, semi-rural region in the middle of New Zealand's North Island. The intention for 'Systems Transformation' is to give disabled people more choice and control over the role and nature of support in their lives. We are pleased to note a stated commitment on behalf of the Ministry of Health (who are the Government lead in this work) to employing disabled people to work within the system, as well as receiving support. The potential employment opportunity within the system is significant; it would make a contribution towards reducing unemployment among disabled people while acknowledging the significant lived experience and knowledge among disabled people of navigating Government systems, such as Health and Disability services.

We believe that the co-design process has potential to bring real change to disabled people's lives. We hope to see it further developed and used as the approach to policy design of the future. However, we remain concerned at the lack of significant investment (including, but not limited to, financial investment) in the disability community as a whole. The results of the systemic neglect and exclusion of disabled people in our society can be seen in the

Education

Despite an enforceable right to education many disabled people still find it difficult or impossible to access compulsory education. Parents of disabled children frequently characterise their experience of interacting with schools as "going into battle" for their child's right to attend school with the right supports in place for them to succeed. Disabled students are still not welcome at some schools, especially if they do not come with extra resources (Wills & Rosenbaum, 2013). There is an abundance of anecdotal evidence that many families feel pressure to self-fund the cost of accommodations that will support their child's learning, for example paying for additional teacher aide hours.

There is a major resourcing gap between mainstream school environments and special schools. The two schooling experiences on offer to students are ones where their disability related needs may not be met or will be the sole focus of their education. There has been recent commitment of extra funding to learning support, and while this will boost support to individuals it will not address the inequities of what is effectively two parallel approaches to disabled students education. Teaching staff need to be effectively resourced, trained and given time to consider accessibility

and inclusion in their lesson planning. Within the education system disabled people experience lower social inclusion and academic achievement. The law also continues to make provision for disabled students to stay in secondary education until the age of 21. This is frequently a choice made by students and families in the absence of other meaningful options such as tertiary study or employment options.

The inaccessibility of the compulsory education sector has ongoing implications for disabled people's ability to access higher education or meaningful employment. Despite a cultural trend of young people entering higher education (France and Roberts, 2017) the rate of young disabled people not in education, employment or training is 42.3% (Statistics NZ, 2017).

In addition, disabled people are also overrepresented in unemployment figures, with latest figures showing disabled people are almost twice as likely to be unemployed as non-disabled people (Statistics New Zealand, 2013). This has flow on effects for low income statistics – in the 2013 Census 59% of disabled people earned \$30,000 or less per year, compared to 43% of non-disabled people.

Access

New Zealand has previously had some form of enforceable accessibility legislation under the Disabled Persons Community Welfare Act 1975. This Act was largely repealed over time, meaning that the standards of accessibility are inconsistent. There has been a collective effort by disability organisations to work alongside Government, business and other interested parties towards the implementation of enforceable accessibility legislation. New Zealand legislation would be modelled the Accessibility for Ontarians Act. The Canadian implementation process has allowed for a period of time for business and public services to reach agreed standards of accessibility. The DPA would support a process which ensured that all interested parties were fully committed and resourced to realise a high standard of accessibility. However, the interests of disabled people would need to be at the centre of any change.

Justice

DPA has a commitment to realising a world where disabled people do not experience violence and abuse, disabled people have access to the supports they need in the criminal justice system, and are not overrepresented in the prison system. In our work we continue to find that disabled people experience discrimination and are not always equal before the law. It is urgent that Government commit to working with people with learning disabilities and their representative organisations to move towards the implementation of Supported Decision making practices and away from the practice of Welfare Guardianship. Creating the legal

infrastructure for supported will enable people with learning disabilities to experience more autonomy and dignity.

Disabled people are frequently more vulnerable to abuse and neglect. Much of this remains underreported or is not taken through the courts. We were pleased to see that the experience of disabled people came in scope of the Government Inquiry into Historic Abuse in State Care. We hope to see compensation for those people affected. We believe abuse of disabled people will continue to be an issue as long as the experience of disability is stigmatised and viewed as a burden on families and communities. In cases of abuse, disabled people lack access to accessible support services and information as well as the avenues to leave abusive situations. Seclusion and restraint are used against disabled people, both in mental health and education contexts, even after attention has been drawn to these issues from the community, media and the Human Rights Commission. Despite a move towards the social inclusion of all disabled people, many of our community are still not enabled to live with dignity and self-determination in their local communities.

Among the disability community knowledge of legal rights is inconsistent. Navigating the justice system is often an intimidating, 'scary' and inaccessible experience for disabled people. In addition, the legal system is not set up to take account of the experience of disability and how this may impact someone's experience of, or response to the justice system. This is true even though up to 90% of youth offenders may experience some form of disability, particularly 'neurodisability', which in itself is a legal term and not the language the disability community themselves talk about their experience, but is broadly understood to include: intellectual disabilities, specific learning difficulties, communication disorders, attention deficit hyperactivity disorder (ADHD), Autism Spectrum Disorders (ASD), Traumatic Brain Injury (TBI), Epilepsy, Foetal Alcohol Syndrome Disorder (FASD), as well as other forms of learning disability and neurodiversity.

There is a great need accessible legal advice and advocacy to support and empower disabled New Zealanders. New Zealand has one dedicated disability legal service which is presently not resourced to offer support to the community on a national scale.

Housing

Government has acknowledged that New Zealand is facing a large scale housing shortage and increased rate of homelessness. While there is a concerted effort to address the problem through initiatives such as the KiwiBuild scheme, we are concerned that the housing needs of the disability community will fail to be met while disabled people and their organisations are not consulted on general and specific accessibility and urban design and planning requirements. Disabled people's experience is one of the hidden stories of a housing shortage. At present disabled

people depend on 'love and luck' to ensure they have access to adequate accessible accommodation. This means that disabled people, as a low income population, depend on either the financial support of family into appropriate adapted housing or the 'luck' of having access to either adapted private housing or Housing New Zealand stock. For many these options are not available.

With an aging population we also believe it is expedient for the Government to invest in building housing stock which allows people to live independently in their homes and communities across their life span.

Health services

Health services are often an indispensable part of disabled people's lives. In a recent submission to the Government Mental Health and Addictions Inquiry, DPA highlighted that despite being a population who could be considered 'at risk', disabled people face barriers to accessing adequate healthcare, mental health support and sexual or family violence services. We note that disabled women are particularly likely to experience sexual and family violence, as well as barriers to supports. These barriers include lack of access to appropriate information in accessible formats, lack of access to appropriate communication tools including to NZSL interpreters. We commented more specifically on the intersection between mental health, the law and disability in reference to the Compulsory Care and Treatment Act, making the following observation. "Currently, many disabled people find themselves under Compulsory care as an alternative to sentencing. This however is an ill-fitting mechanism and frequently fails to ensure the wellbeing of the disabled person. There is often little capacity for services to respond to disabled people under their care which acknowledges both mental health and disability supports and responds holistically. We would like to see a shift towards mental health services which are responsive and have the capacity to enable supported decision making processes well before such an intervention is seen to be needed. Supported decision -making elevates disabled people's ability to make decisions about their own health care. It is the approach to decision making that the UN would see a universal move towards giving disabled people the dignity of greater autonomy over their own lives."