DPA

Disabled Persons Assembly (New Zealand) Inc

INCLUSIVE COMMUNITIES

What New Zealand local authorities and district health boards need to know about the rights of disabled people

Third edition, August 2010

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Foreword – Ross Brereton, chief executive of DPA

A new era for the human rights of disabled people worldwide began in March 2007, when New Zealand, along with many other countries, signed the United Nations Convention on the Rights of Persons with Disabilities. Disabled people's organisations worldwide and significantly from New Zealand played a leading role in achieving the Convention, which at its heart declares disabled people must have the same human rights as everyone else, meaning we must be supported to make decisions for ourselves about our lives, and barriers to our full inclusion in society must be removed.

By ratifying the Convention in 2008, the government bound itself to abide by it in domestic law. The New Zealand government is responsible for implementing the Convention and reporting to the UN. Disabled people will be independently monitoring the Convention and reporting to the UN about the status of our rights. Local government has a key role in ensuring mainstream services are inclusive of disabled people and are delivered in non-discriminatory ways.

Inclusive Communities sets out the general principles governing partnership with us and describes specific action areas for removing barriers that prevent us being included in society. The framework for this 2010 iteration of *Inclusive Communities* is based upon the Disability Convention, government strategy and reports, including the New Zealand Disability Strategy, and the collective expertise and experience of disabled people. It sets out our expectations of people standing for public office within district health boards, regional, district and city councils, who will partner with us, our families and friends in to achieve the best solutions for disabled people and our wider communities.

This document:
- describes the key principles and key action areas for local authorities and DHBs to work on in partnership with disabled people and their families and friends;
- can be used by disabled people and their families and supporters to lobby people standing for election for public office on local authorities and DHBs;
- may assist local authorities and DHBs fulfil their legislative obligations;
- provides the perspective on our rights needed by elected members and staff of local authorities and DHBs, community advocates and the community at large to work toward a fully inclusive society.

DPA is the lead organisation representing disabled people in New Zealand. We have been advocating for disabled people since 1983. We want to establish and maintain partnerships with government to improve the lives of disabled New Zealanders.

DPA acknowledges funding assistance from the Office for Disability Issues in publishing this document.

Ross Brereton

Introduction

The United Nations Convention on the Rights of Persons with Disabilities ('the Convention' or 'the Disability Convention'), is now the established international legal framework obliging government agencies to recognise and act on our rights. *Inclusive Communities* relies upon the Disability Convention for its key principles, and also for the expectation that councils and DHBs will partner with us to fully recognise our rights to a dignified life alongside other New Zealanders. There are Key Actions for both DHBs and councils and also required actions specific to each.

Disability, says the United Nations Convention on the Rights of Persons with Disabilities results when people with impairments come up against barriers in society that don't include everyone. Impairments might be long-term physical, mental, intellectual, or sensory in nature, and in themselves represent a challenge to ordinary living. It is when – and where – we as disabled people encounter barriers that our full participation in society is hindered, and the lives of those who love and care for us are also adversely affected. The barriers we encounter exist in the built environment, information, services, and in attitudes and behaviour, yet we are just like other New Zealanders in wanting to live ordinary lives of our choosing. We as disabled people are entitled to the same rights as other New Zealanders.

From the small amount of reliable information available in New Zealand, it is clear disabled people have a poor experience of life compared with others. The three disability surveys run in conjunction with the national census in 1996, 2001 and 2006 show the position of disabled people relative to others has scarcely improved. In fundamental areas such as employment, education, standard of living and accessible public transport, disabled people in New Zealand remain at a significant disadvantage.

"In fundamental areas like employment, education, standard of living and accessible public transport, disabled people in New Zealand remain at a significant disadvantage."

The New Zealand Disability Strategy was established by law (The New Zealand Public Health and Disability Act 2000) to ensure all government agencies consider us in their decision making. There has been a lack of action plans with outcomes, targets and indicators to turn the ideas in the Strategy into reality for us, our families and friends.

Disabled people, councils and DHBs

One in five New Zealanders are disabled, and we and our wider network of family, friends and supporters make up a considerable section of any community in the country.

Because local authorities ('councils') and district health boards ('DHBs') have responsibilities for policy making, design and delivery of services within New Zealand communities, many decisions made by the elected members and staff of these bodies impact on us, our families and friends. Policy which has not included us continues to negatively impact on our lives, especially in the areas of accessibility to public transport and disability support services. Immediate improvements have to be made, especially to assist us to overcome existing barriers. On the positive side, even small changes which remove barriers to our inclusion can have a significant effect on a much wider circle of people.

Council/DHB functions and disabled people

(key impact areas in brackets)

At the time of writing, councils in New Zealand comprised 12 regional councils, 16 city councils and 57 district councils.

In terms of council functions and their impact on disabled people:

- Regional councils are responsible for regional land transport planning and contracting of passenger services
(Accessible public transport)
- Territorial councils – district and city councils – are responsible for community well-being and development; environmental health and safety; infrastructure; recreation and culture; resource management including land use management and control
(Accessible parks, reserves, public facilities and buildings, parking enforcement, community 'needs')

New Zealand's 20 DHBs have responsibility for planning and funding health services and providing hospital and related services, to communities. For disabled people, the following functions are particularly relevant:

- Running hospitals
- Funding of health and disability support services for people over 65 years of age
- Funding and providing a range of support services to assist people who experience mental illness, including psychiatric disabilities
- Funding and providing health services for people with disabilities of all ages
- Funding transport assistance to enable you to access specialist health and disability support services
(Accessible hospitals and specialist facilities; accessible transport; health and support service funding and provision)

Sources of information: Local Government NZ: www.lgnz.co.nz; Ministry of Health: www.moh.govt.nz

"Anyone is only a drunk driver, a work accident, or a banana skin away from being disabled."

Some results from disability surveys (1996, 2001, 2006*):

- 17% of people reported having a disability in 2006
- Disability increases with age; the number of disabled people is increasing
- Disease or illness, accidents or injuries and natural ageing are the leading causes of disability among adults
- People may have more than one cause of disability
- Māori have a higher rate of disability than non-Māori
- Disabled people are particularly disadvantaged in employment, education, standard of living, and access to public transport

* According to Statistics New Zealand, the 1996, 2001 and 2006 surveys collected information on the prevalence, nature, duration and cause of disability, and on the barriers that people with disability encountered in everyday life. Statistics are available for children (0–14 years) and adults living in households, and for adults living in residential facilities. A post-censal Disability Survey is being developed for 2011.
www.stats.govt.nz/browse_for_stats/health/disabilities.aspx

Key principles

The key principles for* Inclusive Communities *are the same general principles which underpin the Disability Convention. By ratifying the Convention in September 2008, the New Zealand government is now bound to uphold the Convention in domestic law. The government is obliged to report to the United Nations on its progress implementing the Convention, and we will be independently monitoring the Convention ourselves. Discrimination against disabled people will be exposed to international scrutiny.

The United Nations Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities is an international law to "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity" (Article 1 of the Convention).

The Disability Convention marks a turning point in the lives of disabled people worldwide. It establishes an international legal framework to ensure disabled people's human rights are valued the same as everyone else's, and it puts disabled people at the centre of decision making about our lives. The Convention does not introduce any NEW rights for disabled people. It clarifies the obligations and legal responsibilities of countries to respect and guarantee the human rights which apply to all disabled people, regardless of where we live and our socio-economic status.

The New Zealand government and disabled New Zealanders in particular made a significant contribution to the development of the Convention. New Zealand signed the Convention in March 2007 and ratified it in September 2008. Countries that have ratified the Convention have agreed to comply with the Convention in their domestic laws, and must report to the United Nations on how they are implementing and monitoring the Convention. Progress reports must be developed with "the full participation of disabled people".

The UN committee responsible for overseeing implementation of the Convention will make recommendations to countries on their progress implementing the Convention, based on reports from governments, national human rights organisations (NHRIs) and disability groups like DPA who will be independently monitoring the Convention.

Lack of progress with implementing and monitoring the Convention and evidence of discrimination will likely be exposed to international scrutiny.

DPA has led the establishment of a coalition of DPOs and we have received government funding to independently monitor the implementation of the Convention. We will be writing our own reports with the option of submitting these to the UN committee, so the committee has a balanced view of the New Zealand government's progress with implementing the Convention.

Summary of the guiding principles of the Disability Convention (outlined in Article 3)

- Dignity
- Individual autonomy
- Non-discrimination
- Full and effective participation in society
- Inclusion in society
- Accessibility
- Equality of opportunity
- Equality between men and women
- Respect for children

Implementing and monitoring the Convention will require a partnership between disabled people and the government. Roles within government are still being sorted out (see box below).

Government roles around the Convention

- The Ministerial Committee on Disability Issues will provide visible leadership and accountability for implementing the Convention
- The Office for Disability Issues is the lead government agency for action in implementing the Convention in New Zealand, and will have responsibility for authoring the official reports to the United Nations (their first report due March 2011)
- The independent Human Rights Commission and the Office of the Ombudsmen will be responsible for monitoring implementation of the Convention

> **"Implementing and monitoring the Convention will require a partnership between disabled people and the government."**

Information on the Disability Convention:

www.un.org/disabilities/
www.icrpd.net/implementation/en/index.htm

Key principles for elected members and staff of councils and DHBs:

- Councils and DHBs must establish a partnership of equality with us to ensure that in all areas of policy making and service delivery, we are at the centre of decision making about our lives.
- Of particular importance for us is to make immediate progress to remove existing barriers to our full participation and inclusion in society.
- We have the same rights as other New Zealanders to a dignified life; adequate standard of living; independence; non-discrimination; full and effective participation in society; inclusion in society; access to the built and natural environment, information and transport, and support services; equality of opportunity, especially in education and employment; equality between men and women; and respect for our children.
- Partnership with us to achieve these goals must include measurable outcomes, monitoring and information gathering.
- These principles are part of international law and must be upheld.

Key action area 1 – Partnership and inclusion

Introduction: from barriers and assumptions to partnership and inclusion

Disability is created when someone with an impairment (be it sensory, intellectual, physical, or mental illness) is disadvantaged by barriers to their lives in ordinary society. Usually these barriers begin with incorrect assumptions and negative attitudes, and affect whole families and communities, as well as the disabled person. This is the main reason why disabled people in New Zealand are particularly disadvantaged in employment, education, standard of living, and access to public transport.

The government's guiding document about disability since 2001, the New Zealand Disability Strategy, was underpinned by a vision of a fully inclusive society. The Strategy, which contains many of the principles and themes of the Disability Convention, tells us:

> "Disability is the process that happens when one group of people create barriers by designing a world only for their way of living and taking no account of the impairments other people have. Our society is built in a way that assumes we can all see signs, read directions, hear announcements, reach buttons, have the strength to open heavy doors and have stable moods and perceptions."

Like most people, disabled people just want to live a good, ordinary life. The *To Have an Ordinary Life* report (2003) says this includes:

"Having your life taken seriously, being able to give and receive love, having long-lasting friendships, having your cultural values respected, being given opportunities to grow and learn, and being valued by others for what you have to offer. These are the ordinary things which all New Zealanders and their families wish for."

The New Zealand Disability Strategy also notes that:

> "Along with other New Zealanders, disabled people aspire to a good life. However, they also face huge barriers to achieving the life that so many take for granted."

Most barriers can be found in:
- the built environment;
- information and services;
- social attitudes and behaviours.

Achieving full and effective participation and inclusion in society is a key requirement of the Disability Convention. The Convention requires a partnership between councils, DHBs and us, to ensure we are included, and so councils and DHBs have the full benefit of our experience and expertise in obtaining a correct view of the issues in our lives.

Policy making and ad hoc committees within councils and DHBs must include us in governance roles; and we must especially have a majority voice on bodies dealing directly with issues affecting us such as disability advisory councils. It is also vital that the needs of disabled women and young people are included in decisions.

By partnering with us in professional consultative relationships, and including disabled people on all advisory bodies, the best and most cost-effective solutions to the issues affecting disabled people can be found.

We are the experts on disability and on what we need to ensure our full inclusion. It makes economic and social sense to partner with us.

Our participation might include:

- professional consultation
- governance roles
- paid employment
- membership on ad hoc committees (we must have majority membership on committees with a specific disability focus).

"Achieving full and effective participation and inclusion in society is a key requirement of the Convention."

The Disability Convention and changing attitudes

The Disability Convention constitutes a paradigm shift in our human rights by placing us at the centre of decision making about our lives. This means we must have a say in how society perceives us and we must be included in plans to change public attitudes to us.

While we accept there will be an adjustment period while everyone gets accustomed to the new environment of equal partnership between government – including councils and DHBs – and us, introduced by the Disability Convention, immediate adjustments must be made to overcome barriers to our full inclusion in society. At the crux of this is incorrect assumptions and negative attitudes about us, which result in discrimination.

We must make the public aware that we are just like other New Zealanders, that our impairments do not make us wrong, ill, or less deserving of the same rights as everyone else. In fact, everyone benefits, both socially and economically, when we are included as equals in society.

Treaty partnership

Disabled Māori and whānau have the same aspirations and right to live and fully participate in the communities we choose as do non-Māori, including communities that are part of our Māori whānau, hapū and iwi.

For those of us who are disabled and Māori, participating in our communities is about having the ability to access marae and te reo Māori in formats that are accessible.

Te Tiriti o Waitangi provides the foundation for the understanding and implementation of partnership between peoples. Partnership is essential between Māori and non-Māori people. Partnership is also essential between us disabled Māori, our whānau and the communities in which we live in order for these communities to be fully accessible.

‘Reasonable accommodation’

Minimum standards and guidelines must include actions to achieve ‘reasonable accommodation’ (Article 2 of the Convention). This is because we will require immediate adjustments to standard services to make them available to us on an equal basis with others; and this should not impose an undue burden on the service provider. Over time, inclusive service design (e.g. adhering to the inclusive building standard NZS 4121; and to the government standard for accessible websites) will reduce the need for specific adjustments. Failing to provide reasonable accommodation constitutes discrimination according to the Convention.

Key actions for councils and DHBs

- Partner with us in professional consultative relationships to obtain correct information and input into council and DHB decision making, especially in areas that directly affect our lives.
- Set an example for society to follow by practising the principles in the Disability Convention throughout council and DHB operations. For example, by employing more disabled people within staff and ensuring we are represented appropriately on advisory committees.
- Partner with us to promote public awareness about disability, including what the Convention means for all New Zealanders. All council and DHB staff, as well as the New Zealand public, need to be aware what we need to support ourselves, as well as what we contribute to society.
- Partner with disabled people to provide or extend disability training for all staff and elected officials.

Key action area 2 – Accessibility

Accessibility and the Disability Convention

Accessibility is one of the key requirements of the Disability Convention. We must be able to "live independently and participate fully in all aspects of life". This will be achieved by systematically removing barriers obstructing our rights to live on an equal basis as others. Article 9 of the Convention obliges the government to ensure all disabled people can access the built environment, transport services, public facilities, individual supports, public services and communication technologies the same as others.

We must have access to the information we need to make decisions about our own lives, in places and in formats which are accessible to us, including Braille and New Zealand Sign Language interpreters (NZSL has been our third official language since 2006), Easy Read and audio file and other accessible formats, including accessible websites.

We must have access to public transport the same as other New Zealanders. Accessible public land transport is essential to enable us to take part in all aspects of community life, such as education, employment and health. A disproportionate number of us do not have access to a private vehicle and so are more reliant than others on public transport for independent mobility. For those of us who have vehicles, we need mobility parking schemes to be well-managed and monitored so unauthorised use is eliminated. The 2005 Human Rights Commission national inquiry (*The Accessible Journey*) found public land transport to be significantly less available, less accessible, less affordable and less acceptable for us than for others. The progress made by some councils since the inquiry report in improving the accessibility of public buses and trains and disability training for public transport drivers, must continue and be extended nationally.

Accessible information needs to be:

- User-focused
- Relevant
- Timely
- Concise
- Understandable
- Portable
- Perceivable
- Acceptable
- Tested
- Available

* Copyright AccEase; www.AccEase.com

> **"For me as a disabled mother with a disabled child, whether I can get on a bus or not is a hit-or-miss affair."**

Access to employment is a basic requirement for independent living. Disability Survey information shows we are among the least likely to be employed. Disabled Māori are even less likely to be employed than non-disabled Māori. Consultations undertaken by the Human Rights Commission in 2009-10 suggest the barriers we face to employment include discrimination, inaccessible buildings and public transport. Those of us who are Deaf or with intellectual disabilities are particularly susceptible to discrimination. This means removing barriers to access in the built environment and public transport will have a flow-on effect in improving our employment prospects.

Key actions for councils and DHBs

- Partner with us to identify barriers to access and the actions required to remove them in the built environment; transport services; public facilities; individual supports; public services and communication technologies. For example:
  - o unauthorised use of mobility parking must be eliminated;
  - o there must be fair access to the Total Mobility Scheme;
  - o Sign Language interpreters must be provided when required;
  - o ensure all facilities conform with fully accessible design standards and that upstream and downstream consultants and contractors comply with these requirements and receive information and training;
  - o ensure public parks, walkways and toilets are accessible, including information;
  - o ensure airports, ferry, train and bus terminals meet our needs;
  - o ensure we can seek and gain fulfilment in life through participation in arts, recreation, leisure and sporting activities of our choice;
  - o make all public information available at no extra cost in appropriate, accessible formats, e.g. Braille, audio, electronic, and especially websites;
  - o public meetings are held in accessible venues and are advertised widely through a variety of media, including accessibility information and plain language directions accessible to us, with NZ Sign Language interpreters provided and funded.
- Ensure building consents meet the requirements of NZS 4121:2001, the standard for access and facilities for people with disabilities; and the requirements of the standard are enforced.
- Partner with disabled Māori to ensure access to marae and accessible formats in te reo Māori, including te reo Māori sign language interpreters.
- All staff and volunteers involved in public services must have disability training provided by partnering with us, so all staff and volunteers engaged by councils are responsive to our needs, especially at public functions and events.
- Removing barriers must include actions to achieve ‘reasonable accommodation’.

Key action area 3 – Delivery of health care and support services for disabled people

Inquiry into care and service provision for disabled people

The report of parliament's Social Services Committee in September 2008, *Inquiry into the quality of care and service provision for people with disabilities* is referred to here because it summarises all our concerns in this area, and the changes we require from DHBs.

It was a focus of the committee to report on the adequacy of services to enable people with disabilities to lead independent lives. In summary, the report found that, overall, "the provision of disability services lacks direction and leadership, services are variable throughout the country, and significant systemic problems have developed unchecked". In particular, the New Zealand Disability Strategy had not been implemented.

The report acknowledged the positive changes in legislation affecting people with disability since 1993, but found the absence of government accountability for the provision of disability services had proved damaging.

Another area for concern expressed in the report was people with disabilities "often feel they have little control over the services they receive, and funding is relatively inflexible". Also, although the large institutions that used to dominate the disability sector had been abolished, hundreds of miniature institutions had since sprung up "where people with disabilities still have little say over their lives".

The committee expressed its dismay in the report that monitoring and auditing of disability service providers mostly failed to consider the quality of life offered to people with disabilities who received services, and did not seek feedback from staff, residents, or residents' families.

"Disability is not a health issue, though we also have health needs, just like other New Zealanders."

The committee considered advocacy services for people with disabilities needed to be expanded and expressed concern about working conditions in care and support services in the disability sector, noting in particular that something needed to be done about unreliable and abusive staff.

We say

We should not be housed in inappropriate community facilities; we must be able to choose where we live, who we live with and who supports us in our homes.

Disability support is not a health issue, though we also have health needs, just like other New Zealanders. Health services must meet our needs, be responsive and accessible for us.

Key actions for DHBs

- Partner with us by including us in governance roles on advisory committees where design and/or delivery of health, care and support services are involved. This is vital in the area of disability support services for people over 65 years of age, managed by DHBs.
- Information gathering is vital to identify the benefits of services for disabled people.
- Partner with us to establish guidelines for the provision of adequate support services, including being able to choose our advocates, and be supported to make our own decisions in our choice of support service and the provision of services.
- Partner with us to ensure health services are responsive to our needs and are fully accessible, including:
  - transport provided by DHBs;
  - facilities, buildings, parking and set-down areas, accessways;
  - all the information we need, including Braille and New Zealand Sign Language interpreters, Easy Read and audio file and other accessible formats, including accessible websites.
- All staff and volunteers in health, care and disability support services must have disability training provided by us so they are responsive to our needs. Paramount in this training is the understanding that disability support is not a health issue; when we are over 65, we might have health issues relating to advancing age; and we also have impairments, which we may have lived with all of our lives.
- Removing barriers must include actions to achieve ‘reasonable accommodation’.

DPA wants to establish and maintain partnerships with government to improve the lives of disabled New Zealanders.

DPA (NZ) Inc is the lead organisation representing disabled people in New Zealand. We have the expertise and experience to partner with councils and DHBs to achieve the goal of a fully inclusive society (we have been advocating for disabled people since 1983). Our main strength is our regional organisations, whose members have a wealth of experience about the particular issues affecting disabled people within their region. Contact DPA national office to receive advice about who to get in touch with in your area (refer to our contact details on the title page).

Contacts

Disabled Persons Assembly (DPA): www.dpa.org.nz

Office for Disability Issues: www.odi.govt.nz

Human Rights Commission: www.hrc.co.nz

Health & Disability Commissioner: www.hdc.org.nz

Ministry of Health: www.moh.govt.nz

Office of the Ombudsmen: www.ombudsmen.parliament.nz

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