February 2022

To Education and Workforce Committee

Please find below DPA’s submission on the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill.

## Disabled Persons Assembly NZ

Contact:

## **Prudence Walker**

## **Chief Executive**

## **021 546 006**

## **policy@dpa.org.nz**

# Introducing Disabled Persons Assembly NZ

The Disabled Persons Assembly NZ (DPA) is a pan-impairment 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

# United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

## **Government obligations:**

The UNCRPD[[1]](#endnote-1) places an obligation on Government to ensure and promote the full realisation of all human rights and fundamental freedoms for all disabled people without discrimination of any kind on the basis of disability.

## **UNCRPD is the minimum standard:**

DPA upholds the UNCRPD as the minimum standard for our participation in society.

## **Partnership with DPOs (Article 4.3):**

The implementation of the UNCRPD depends on a partnership between DPOs and the Government. This is highlighted in Article 4.3 which says governments shall consult closely with and actively involve disabled people, including disabled children, through their representative organisations. This partnership goes beyond just consulting with disabled people. It mandates governments to actively involve disabled people and our organisations in everything that affects us.

Other key Articles of the UNCRPD relevant to this submission are:

## **Article 3 - General Principles**

## **Article 5 - Equality and Non-Discrimination**

## **Article 6 - Women with Disabilities**

## **Article 7 - Children with Disabilities**

## **Article 25 - Health**

## **Article 26 - Habilitation and Rehabilitation**

# The New Zealand Disability Strategy (2016-2026)

The New Zealand Disability Strategy[[2]](#endnote-2), which is the Government’s primary vehicle for implementing the UNCRPD, has the following outcome relevant to this Bill:

## **Outcome 3 - Health and Wellbeing**

# The Submission

DPA supports the intent of this Bill to better care for birth parents who receive injuries as a result of giving birth. However, we believe that the Bill requires significant improvements in order to ensure such care is equitable and comprehensive.

# DPA’s Recommendations

In order to make the Bill more equitable and comprehensive, DPA recommends the following:

## **Recommendation 1**

DPA recommends that the Bill be amended to cover all birth injuries, not just those specifically listed in the Bill.

Covering only some birth injuries will lead to inequities where some parents receive support and others do not, even though the cause of injury is the same.

## **Recommendation 2**

DPA strongly recommends that mental health injury from a birth should be covered as a birth injury regardless of whether or not the birth parent has experienced a physical injury.

Many women experience mental health issues after a traumatic birth and this should be subject to ACC cover.

## **Recommendation 3**

DPA recommends that the coverage of this Bill be made retrospective to enable all parents dealing with the ongoing effects of birth injuries to be eligible for ACC cover.

The proposed legislation only covers parents who have given birth after 01 October 2022. We believe that it is inequitable to deny entitlement to rehabilitation and other support to people who require it solely on the basis of an arbitrary date.

## **Recommendation 4**

DPA strongly recommends that ACC birth injury cover be available to babies who experience injuries during the birthing process.

At present only injuries to new-born babies that are the result of “treatment injuries” during birth are eligible for ACC cover. This, again, is inequitable and inconsistent.

## **Recommendation 5**

DPA strongly recommends that the Government remove the sensitive claims assessment process for women who have experienced sexual assault.

Giving birth is re-traumatising for many women who have experienced sexual trauma. Women should not need to go through the sensitive claims assessment process in order to receive ACC cover.

## **Recommendation 6**

DPA recommends that this proposed legislation be amended to ensure ACC covers both stand-alone mental trauma and all physical injuries caused by the birthing process, not only those specifically listed in the Bill.

A Te Ao Māori view of maternal health is holistic and recognises the importance of whānau wellbeing, and the connection between orange whānau, oranga tinana, oranga tinengaro and oranga wairau. This legislation should cover all injuries related to birth so that whānau can get holistic maternal healthcare and do not have to face bureaucratic barriers.

The Accident Compensation Act does not mention Te Tiriti O Waitangi once. A commitment to Te Tiriti and equitable care for Māori must also be embedded in the legislation so that ACC can work toward bridging disparities for Māori.

1. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> [↑](#endnote-ref-1)
2. <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#endnote-ref-2)