November 2023

To Earthquake Commission

Please find attached DPA’s submission on Code of Insured Persons Rights

For any further inquiries, please contact:

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# Introducing Disabled Persons Assembly NZ

**We work on systemic change for the equity of disabled people**

Disabled Persons Assembly NZ (DPA) is a not-for-profit, pan-impairment Disabled People’s Organisation run by and for disabled people.

**We recognise:**

* Māori as Tangata Whenua and [Te Tiriti o Waitangi](https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi) as the founding document of Aotearoa New Zealand;
* disabled people as experts on their own lives;
* the [Social Model of Disability](https://www.odi.govt.nz/guidance-and-resources/guidance-for-policy-makes/) as the guiding principle for interpreting disability and impairment;
* the [United Nations Convention on the Rights of Persons with Disabilities](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) as the basis for disabled people’s relationship with the State;
* the [New Zealand Disability Strategy](https://www.odi.govt.nz/nz-disability-strategy/) as Government agencies’ guide on disability issues; and
* the [Enabling Good Lives Principles](https://www.enablinggoodlives.co.nz/about-egl/egl-approach/principles/), [Whāia Te Ao Mārama: Māori Disability Action Plan](https://www.health.govt.nz/publication/whaia-te-ao-marama-2018-2022-maori-disability-action-plan), and [Faiva Ora: National Pasifika Disability Disability Plan](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/5E544A3A23BEAECDCC2580FE007F7518/%24file/faiva-ora-2016-2021-national-pasifika-disability-plan-feb17.pdf) as avenues to disabled people gaining greater choice and control over their lives and supports.

**We drive systemic change through:**

* **Leadership:** reflecting the collective voice of disabled people, locally, nationally and internationally.
* **Information and advice:** informing and advising on policies impacting on the lives of disabled people.
* **Advocacy:** supporting disabled people to have a voice, including a collective voice, in society.
* **Monitoring:** monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

## United Nations Convention on the Rights of Persons with Disabilities

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),[[1]](#footnote-2) a foundational document for disabled people, which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention. There are a number of UNCRPD articles particularly relevant to this submission, including:

### Article 9: Accessibility

**Article 11: Situations of risk and humanitarian emergencies**

# The Submission

DPA welcomes the opportunity to feedback on the Earthquake Commission’s Code of Insured Persons Rights.

DPA generally supports the purpose and intent of the Code, designed to improve the customer experience of people needing to access EQC’s successor body, Toka Tū Ake – Natural Hazards Commission from 1 July 2024.

We recognise that people may want to contact Toka Tū Ake at any time and not just during post-disaster periods.

However, many New Zealanders who have needed to contact EQC have done so after significant natural disasters such as the Canterbury earthquakes of 2010/11 and the Kaikoura earthquake in 2016.

These contacts have come at times of great stress for many people who need to access the insurance cover that EQC provides.

During these periods, it is important that the new Toka Tū Ake – Natural Hazards Commission lives up to its expanded mandate to support people in all post-natural disaster situations.

We hope that Toku Tū Ake will do so in a supportive, empathetic, flexible and professional manner with any New Zealanders needing its support.

**Disabled people disadvantaged in disaster situations**

Both local and international research has found that disabled people are most at risk in natural disasters and emergency situations.

Disabled people are at increased risk of losing their accessible housing, support animals, essential equipment (i.e., hearing aids, breathing machines, electronic beds) and other supports in disasters.

Loss of disability-related supports, equipment and housing are not easily replaced in the wake of any disaster.

For this reason, it is important to recognise that disabled people are multiply impacted when it comes to emergency situations.

Hence, we value organisations who make proactive efforts to provide accessible, timely, friendly, professional, flexible and efficient service following times of disaster – as the disabled community can lose more in disasters than non-disabled people do.

Toku Tū Ake should emphasise in its code the need to provide an accessible, inclusive service for everyone, including disabled people.

1. **Will the rights and obligations set out in the draft Code support us to manage and settle claims promptly and in a way that’s fair?**

DPA welcomes Section 1.4 of the Code which stipulates that the rights conferred on all insured persons are in addition to any rights, obligations, responsibilities and entitlements as set out not only in the Natural Hazards Insurance Act 2023 but also the Human Rights Act 1993, Ombudsman Act 1975, and the Privacy Act 2020, amongst others.

Recognising these important pieces of human rights legislation is crucial for all New Zealanders and especially for disabled people.

Disabled people are at risk of having their essential human rights, including right to privacy as well as the right to fair, dignified, professional treatment breached by government agencies.

Working to the above-mentioned laws will be important in safeguarding the rights of disabled claimants when receiving services, making enquiries or raising complaints to Toku Tū Ake.

DPA specifically welcomes the inclusion of Right 2c, which states that Toku Tū Ake will provide accessible information in a timely manner.

DPA recommends the incorporation of a brief explanatory note clarifying that the right to accessible information extends to disabled people and other groups who need this (i.e., English as Second Language speakers).

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| **Recommendation 1:** that a brief explanatory note be included within the document clarifying that the right to accessible information extends to disabled people and other groups needing this. |

We also welcome Right 3 around the right of customers to be fully informed.

This is especially important for disabled people who need information available in alternate formats such as Easy Read, New Zealand Sign Language and Braille in order to make decisions about how to cover themselves for disaster situations, how to access support when claims need to be made and around complaints processes.

We welcome Rights 5a and b outlining that Toku Tū Ake will provide customers with an interpreter or other suitable assistance in any dealings and that it will recognise the nominated support people of clients.

Acknowledging the right of customers to access interpreters and agreeing to pay for this support in any dealings with the new agency will be beneficial to those who speak te reo Māori, English as a second language, or New Zealand Sign Language (NZSL).

From a wider disability perspective, disabled people living with communication impairments will benefit from this provision as well.

1. **Are there any other rights not included in the draft Code which you believe should be included?**

DPA would like to see three further rights added to the draft Code to make it more meaningful to all people, including disabled people.

The first additional right (as Right 2(d)) should be that all clients have the right to receive services in ways that are both flexible and accessible for them.

The second additional right to be added (as a new Right 10) should be full respect for the autonomy of everyone in their dealings with the agency, and this includes full respect for whatever decisions a claimant makes about any claim(s) they have and whether to pursue them, and around how they choose to do so.

A third additional right (as Right 5(c)) should be added to the Code enabling clients to specifically nominate someone to lead engagement with Toku Tū Ake on their behalf.

While Right 5 recognises the role and value of support people, there needs to be further clarification that recognition will be specifically extended to a client’s nominated representative, for example, a lawyer or support worker if they choose not to or are unable to engage with the agency directly themselves.

Many disabled people may choose the option of nominating someone to deal with the agency on their behalf as the stress and barriers involved in living with a disability can be greatly exacerbated in the wake of a disaster.

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| **Recommendation 2:** that a new Right 2(d) be added around the ability of all clients to receive services in ways that are accessible and flexible for them. |

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| **Recommendation 3:** that a new Right 10 around full respect for the autonomy of each customer, including respect for whatever decisions a client makes about any claim be added. |

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| **Recommendation 4:** that a new Right 5(c) is added to the code enabling clients to specifically nominate someone to lead engagement with Toku Tū Ake on their behalf. |

The addition of these rights will support Toku Tū Ake to become more flexible in meeting the needs of its clients under the new structure rather than imposing settlements which can see claimants not having their repair and/or rebuilding needs fully met.

Flexibility is very important for disabled people as the need to build/rebuild homes and properties to accessible standards relies on the agency and its contractors being more fully responsive to the needs of our disabled community and those of others.

1. United Nations. (2006). *United Nations Convention on the Rights of People with Disabilities.* Retrieved from: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [↑](#footnote-ref-2)