

April 2024

**To: Justice Select Committee**

Please find attached DPA’s submission on Inquiry into the 2023 General Election

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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/$file/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:**

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

# The submission

## Introduction

DPA welcomes the opportunity to give feedback to this Justice Select Committee Inquiry into the 2023 General Election.

The 2023 general election provided all New Zealanders, including disabled people, with the ability to elect Members of Parliament (MPs) to represent them for the next three years.

DPA supports the measures that the Electoral Commission has taken to in recent years to increase electoral participation amongst the disabled community across Aotearoa. DPA remains concerned however that some disabled people are not voting due to the barriers some within our community experience when doing so.

In this submission we highlight some things that have improved, and we make recommendations around removing barriers to voting by disabled people so that any changes can be implemented by Parliament and the Electoral Commission ahead of the 2026 General Election.

In doing so, we cast a disability lens over the three focus areas of the inquiry:

* election operations
* electoral law
* long-term trends in elections.

Our submission also draws upon relevant recommendations contained in the report of the Independent Election Review Panel “Our Recommendations for a Fairer, Clearer, and More Accessible Electoral System” (2024).

### UNCRPD and right to electoral/civic participation

Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)[[1]](#footnote-2) is central to any discussion around the participation of disabled people in elections and electoral processes.

New Zealand has obligations to remove barriers to the participation of disabled people under Article 29 of the UNCRPD which outlines the rights of disabled people to freely participate in public and political life:

a. To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

Ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

Iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.[[2]](#footnote-3)

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

* Article 5 – Equality and Non-Discrimination
* Article 9 – Accessibility
* Article 21 – Freedom of expression and opinion, and access to information.

### The New Zealand Disability Strategy (2016–2026)

The New Zealand Disability Strategy[[3]](#footnote-4) is the Government’s primary vehicle for implementing the UNCRPD. One of the key outcomes relevant to this submission is Outcome 8 – Leadership.

#### Outcome 8 – Leadership

A priority was made (Priority 11) under Outcome 8 – Leadership to promote disabled people participating in political and civic processes. The scope of this action includes identifying existing opportunities and developing practical strategies to overcome barriers that limit the involvement or performance of disabled people in the following areas:

* casting a fully informed confidential vote in national elections
* casting a fully informed confidential vote in local elections
* becoming active in political parties and standing for election to Parliament
* becoming active in local politics and possibly standing for election to a local authority such as a regional or city council, a local community board, disability advisory group, district health board, school board of trustees, etc
* holding office in an elected national or local political position
* joining and participating fully in non-government organisations concerned with the political life of New Zealand
* forming organisations that have the capacity to effectively represent the voice of disabled people at local, national and international level.[[4]](#footnote-5)

Other key outcomes of the New Zealand Disability Strategy relevant to this submission are:

* Outcome 5 – Accessibility
* Outcome 7 – Choice and Control.

### Election Operations

DPA notes the general accessibility improvements that were made to ensure that all voters, including disabled people, could access last year’s election and that the Electoral Commission is continuing to implement its Access 2020 Election Strategy,[[5]](#footnote-6) although this is happening more slowly than we had first hoped.

We acknowledge the steps that were taken to improve electoral accessibility last year, which included:

* the expansion of voting places into highly frequented public spaces including supermarkets and malls, and
* an increase in the number of advance voting places,

These steps meant that more disabled people and other electorally disadvantaged population groups would have had improved access to voting than in 2020.

DPA was also pleased to see that the accessibility project first piloted for the Deaf community in terms of having access to NZSL interpreters available either in person or online at selected polling places was continued by the Commission in 2023.

Telephone dictation voting continued to be deployed at the 2023 general election enabling many disabled people, including blind and low vision people and people with communication impairments, to access voting.

The 2023 election also marked the first time that the Election Access Fund was used to support disabled candidates standing for election which DPA strongly supports.

Disabled candidates from a range of political parties accessed this fund, which enabled the removal of barriers that may have otherwise precluded them from standing for Parliament. But more importantly the presence of the fund helped shift public attitudes towards disabled people standing for election.

DPA would like to see the fund expanded to cover local body elections and for the fund to be opened earlier in the election cycle to enable disabled people considering putting their names forwards for selection as a candidate for a political party to access the fund earlier in the process.

DPA supports all the above measures and recommends their retention for future elections. These measures should also be adequately funded as part of the Electoral Commission’s budgets for future general elections.

In terms of electoral operations, there are still changes that need to be made to remove the other barriers which inhibit voting by disabled people.

Some of these measures require Parliament to enact legislative changes while others can be managed operationally through the Electoral Commission.

The issues outlined below have been raised both by DPA and the Electoral Review Panel in their final report. The first is the requirement for voters to state their name when identifying themselves to election staff at polling places.

The requirement for voters to speak their name is an unfair imposition on disabled people, as many within our community have issues in saying their name out loud publicly and this rule also violates New Zealand’s obligations under the UNCRPD.

DPA recommends that this rule be altered through the ability of election officials to recognise any form of communication a person may choose to identify themselves with and that the Electoral Commission and Government jointly engage with disabled people and Disabled People’s Organisations on how best to do so.

The second are the issues that present for blind, deafblind and low vision people and people with communication or other impairments who need support when voting and choose to visit polling places. They must rely on third parties to mark their ballot, and this can include family/whānau, friends, support workers or polling staff. Maintaining that some disabled people may have to vote this way is a violation of the universal right to cast a secret ballot.

For this reason, DPA urges the Electoral Commission and Government to address this barrier through further development of the telephone dictation voting service and electronic voting options.

The third is that while the number of accessible polling places has increased in recent years, more work needs to be done in this space through opening even more accessible polling places, especially during the advance voting period.

Having more accessible polling places open during the advance voting period will mean that more disabled people are able to access the voting process at their own convenience, something which is beneficial for many in the disabled community.

The fourth is the need to pick up on the Electoral Review Panel’s recommendation that alternatives to postal voting be examined because of the decline in postal services creating delays. Postal voting has been another useful alternative for disabled people who cannot access traditional polling places.

DPA recommends that the Electoral Commission and Government work together with disabled people and other impacted communities to develop alternatives to postal voting.

The fifth concerns issues experienced by disabled and older people living in residential facilities about the barriers they face when voting. The Electoral Review Panel heard instances where some family/whānau and staff of older and disabled people in residential facilities believed that some disabled residents could not participate in electoral processes, including voting, due to, for example, neurological impairments including dementia.

DPA supports the review panel’s recommendation that more education be undertaken with disabled and older people in residential facilities alongside families/whānau and staff about electoral rights and the support available to enable electoral participation by people in this group.

The sixth issue (which aligns with the above), is that DPA recommends that Government and the Electoral Commission take up the review panel’s recommendations around funding community groups, including Disabled People’s Organisations to provide community-based civics education programmes.

This would enable the disabled community to develop voter education programmes aimed at and delivered by disabled people which, in turn, would lead to an increase in voter participation by our community in future elections through being empowered by greater knowledge about electoral rights and practises.

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| **Recommendation 1:** that the Electoral Access Fund is expanded to cover local government elections and is opened earlier in the election cycle to enable potential candidates standing for political parties to apply for funding sooner. |
| **Recommendation 2:** that the rule around voters needing to identify themselves through speaking their name be altered through enabling election officials to recognise any form of communication a person may choose to identify themselves. |
| **Recommendation 3:** that the Electoral Commission and Government further develop the telephone dictation voting service and electronic voting options. |
| **Recommendation 4:** thatmore accessible polling places, especially during the advance voting period, be opened by the Electoral Commission. |
| **Recommendation 5:** that alternatives to postal voting be examined by both Government and the Electoral Commission in partnership with both disabled people and other impacted groups. |
| **Recommendation 6:** that more education be undertaken by the Electoral Commission with disabled and older people in residential facilities alongside their families/whānau and staff about electoral rights and the support available to enable participation in the voting process by people in this group. |
| **Recommendation 7:** that Government and the Electoral Commission fund community groups, to provide community-based civics education programmes. |

## Electoral Law

DPA supports the Independent Electoral Review Panel’s call for a sweeping overhaul of our electoral laws.

As the panel’s final report indicated, our current voting legislation in the form of the Electoral Act 1993 is well over thirty years old with many provisions in that law carried over from its 1956 predecessor.

The generally archaic nature of some of the Electoral Act’s provisions infringe on the rights of disabled people. This includes the use of archaic language around mental health and disabled people within these laws.

DPA recommends that any re-write include appropriate, modern language around mental health and disability and that the electoral disqualification for people with psychosocial and learning disabilities who have committed criminal offences be removed as mooted by the panel.

DPA also recommends removing the provisions that require MPs be removed on the grounds of mental incapacity (mental health status) from sitting in Parliament.

There have been reports in recent times about the number of both past and present MPs who have experienced mental distress and poor health during their time in Parliament and have remained as members.

These reports mean that the mental incapacity provisions have become irrelevant and discriminatory.

Our electoral laws need updating especially when it comes to the need for all electoral information to be accessible for disabled people. Information from and about political parties, candidates and other electoral information is largely inaccessible to disabled and Deaf communities.

DPA recommends that electoral legislation incorporate provisions mandating that all registered political parties who field party lists and/or electorate candidates at all parliamentary elections and by-elections are required to provide campaign information in accessible formats including New Zealand Sign Language (NZSL), Braille, Large Print, Easy Read, audio and captioned formats across all media platforms (internet, social media, print, radio and television).

DPA also recommends that audio-description be included in all party political and public service announcements where videos or TV information are used to convey information in a non-verbal way.

DPA notes that there have been and probably are candidates who are excluded from being nominated for Parliament on the basis that they cannot independently fill out and/or sign nomination forms as per the current requirement. The requirement for candidates to do so should be waived if the candidate is a disabled person who cannot independently do this themselves with the power being vested in the candidate to authorise another person or agent to sign on their behalf.

This practice of appointing agents to sign official forms on another person’s behalf is commonplace, particularly if a person cannot independently fill out or sign them as is the case, for example, with the Census and other government forms.

DPA also supports extending the voting rights to all serving prisoners on the basis that a disproportionate number of prisoners in this country identify as disabled people, particularly as tāngata whaikaha disabled Māori.[[6]](#footnote-7)

We recommend that the Government accepts all other recommendations of the Independent Electoral Review Panel and DPA on how to make our electoral laws more accessible and inclusive for everyone, including disabled people.

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| **Recommendation 8:** that any re-write of the Electoral Act incorporate appropriate language around mental health and disability. |
| **Recommendation 9:** that the Electoral Act be amended to remove the electoral disqualification for people with psychosocial and learning disabilities who have committed criminal offences. |
| **Recommendation 10:** that the Electoral Act abolish the provisions requiring that MPs be removed on the grounds of mental incapacity (mental health status). |
| **Recommendation 11:** that the Electoral Act provide for any disabled election candidatewho cannot independently fill out and/or sign their candidate nomination forms the ability to authorise another person or agent to do so on their behalf. |
| **Recommendation 12:** that the Electoral Act incorporate provisions mandating that all registered political parties who field party lists and/or electorate candidates be required to provide all campaign information in accessible formats. |
| **Recommendation 13:** that captions and audio-description be included in all party political and public service announcements where videos or TV information are used to convey information in a non-verbal way. |

## Long-term trends

DPA endorses the Independent Electoral Review Panel’s recommendation that the Electoral Commission be legally required to encourage equitable participation across population groups in elections.

This would give greater impetus to the Electoral Commission’s ongoing work to encourage more New Zealanders to participate in both local and national elections as both voters and candidates.

Maintaining the capacity of the Election Commission to engage with all New Zealanders, especially those who face barriers to electoral participation, should continuously be enhanced.

DPA recognises the significant efforts that the Electoral Commission has gone to in engaging with the disabled community, including with organisations like our own. We support the Commission’s efforts to employ more disabled and Deaf staff, including at elections, to ensure that our key electoral agency represents the diversity of the entire population of Aotearoa.

1. United Nations. *Convention on the Rights of Persons with Disabilities – Articles*. Accessed from: https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html [↑](#footnote-ref-2)
2. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-29-participation-in-political-and-public-life.html> [↑](#footnote-ref-3)
3. Office for Disability Issues. *New Zealand Disability Strategy*. Accessed from: <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#footnote-ref-4)
4. Office for Disability Issues. *Outcome 8 – Leadership. Accessed* from: https://www.odi.govt.nz/nz-disability-strategy/outcome-8-leadership/ [↑](#footnote-ref-5)
5. Electoral Commission. *Access 2020 Disability Strategy.* Accessed from: <https://elections.nz/assets/access-2020-disability-strategy.pdf>. [↑](#footnote-ref-6)
6. <https://www.corrections.govt.nz/resources/strategic_reports/disability_action_plan_2023_2027/introduction> [↑](#footnote-ref-7)