

December 2024

**To Social Services and Community Select Committee**

Please find attached our submission on the Responding to Abuse in Care Legislation Amendment Bill

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/$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.

## 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.

The following UNCRPD articles are particularly relevant to this submission:

* **Article 7 – Children with Disabilities**
* **Article 12 – Equal recognition before the law**
* **Article 13 – Access to justice**
* **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**
* **Article 16 – Freedom from exploitation, violence and abuse**

## New Zealand Disability Strategy 2016-2026

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy[[2]](#footnote-3) to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision.

The following outcomes are particularly relevant to this submission:

* **Outcome 4 – Rights protection and justice**

# The Submission

DPA welcomes the opportunity to engage with the Social Services and Community Select Committee on the Responding to Abuse in Care Legislation Amendment Bill.

**DPA supports the Bill being passed with amendment.**

We do so on the basis that the Bill will:

* remove strip searches of children in care and provide new search powers for people visiting youth justice facilities
* strengthen restrictions for people working with young children
* enforce better record keeping by Government agencies
* amend the Crimes Act to include disability in the definition of vulnerable adult.

These changes have been recommended following the publication of *Whanaketia*, the final report of the Royal Commission into Abuse in Care.

Both the final and preliminary reports of the commission extensively elaborated on the systemic abuse of disabled children and adults within our care and support systems.

We welcome the abovementioned changes as they will improve the ability to protect at risk children and adults in any setting.

**DPA opposes defining disabled adults as vulnerable**

DPA opposes the section in the Bill seeking to define adult disabled people as being ‘vulnerable adults.’

DPA acknowledges the reasons for recognising that disabled people are at higher risk of abuse and the need for this to be specifically recognised in legislation.

However, we disagree with disabled people being defined as vulnerable people for the following reasons:

* Disabled people are not inherently vulnerable.  It is the lack of structural support and resourcing that creates the circumstances where harm can occur.
* We ask that the language of vulnerability be removed and, in its place, that the term **Adult at Risk** is used as it is not deficit based and is inclusive of all people, including disabled people, who may be unable to remove themselves from harm.

DPA recommends that the Bill is amended by deleting proposed section 2(1) on defining disabled people as vulnerable adults and inserting the following new section on **Adults at Risk** who would be defined as:

* a person (18 yrs and over) who has needs for care and/or support, (whether they are receiving services for those needs or not) and
* is experiencing (or is at risk of) family violence, sexual violence, or any form of abuse, neglect and harm, and
* because of their needs for care and/or support, and because of the lack of structural resources, supports and services available to them, is unable to protect themselves against abuse, or the risk of it.

All parts of the definition need to apply.

Otherwise, DPA supports the Bill as it marks a step in the journey towards recognising children and adults need for support and protection in abusive situations.

1. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> [↑](#footnote-ref-2)
2. <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#footnote-ref-3)