Submission on the Inquiry into the 2020 General Election and Referendums

Disabled Persons Assembly NZ Inc.

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**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 to 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

**UN Convention on the Rights of Persons with Disabilities**

**Government accountability**

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) provides the mandate for disabled people to hold the Government to account on ensuring the full and equal enjoyment of all human rights by disabled people.

**Partnership with DPOs**

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.

**CRPD is the minimum standard**

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

**Disabled People’s Right to Vote**

DPA considers that there are two sections of the UNCRPD that are particularly relevant to this inquiry.

These are:

1. **The UNCRPD’s General Principles:**
* Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
* Non-discrimination
* Full and effective participation and inclusion in society
* Respect for difference and acceptance of disabled people as part of human diversity and humanity
* Equality of opportunity
* Accessibility
* Equality between men and women
* Respect for the evolving capacities of disabled children and respect for the right of disabled children to preserve their identities.
1. **Article 29 which states that Governments must ensure disabled people their political rights and the opportunity to enjoy them on an equal basis with others the rights and opportunity for disabled people to vote and be elected including by ensuring:**
* voting procedures, facilities and materials are appropriate and accessible
* disabled people can vote independently and in secret
* disabled people can stand for elections, effectively hold office, and perform all public functions at all levels of government.

**DPA Submission**

DPA welcomes this inquiry into the 2020 General Election and Referendums and the opportunity to provide input to this important issue. DPA’s comments in this submission seek to assist the Justice and Electoral Committee’s inquiry to ensure consistency with, and implementation of, the UNCRPD.

**Impact of COVID-19 on voting.**

Disabled people were, and continue to be, significantly impacted by the COVID-19 pandemic and response in multiple ways. Some of us are also at an increased risk of serious illness or death should we contract COVID. This has meant anxiety and stress for many disabled people around maintaining personal bubbles and social distancing in order to keep themselves and their companions safe.

Social distancing at voting booths and in queues would have been logistically difficult to maintain and enforce had the bulk of the election voting taken place on election day as has previously been the norm. Being expected to vote only on election day would likely have resulted in many disabled people being faced with the Hobson’s choice of having to weigh up the risk of contracting COVID-19 against their right to vote.

The well-advertised and highly visible COVID-19 precautions taken by the Electoral Commission from hand sanitizing, allowing use of personal pens, maintaining social distancing and other measures at voting booths around the country provided reassurance for many disabled people around the safety of voting. The ease of advance voting also provided greater options for disabled people to avoid busy voting times.

**Advance voting**

DPA notes that the increased number of advanced voting booths and the ease of advance voting meant that many disabled people had real flexibility around choosing the day and timing of casting their vote in a way that worked best for them. This was particularly valued by people who rely on coordinating support to access a voting booth or to cast a vote.

**Accessibility of Voting Places**

While information on the physical accessibility of voting places was available online it was not shown on the maps providing the locations of voting places which led to a number of disabled people turning up to vote in inaccessible voting places.

DPA is aware of disabled people turning up to advance voting venues only to find that they were not accessible which caused frustration and stress. While we appreciate that there were efforts made by the Electoral commission to provide information about accessible voting places on their website; the digital divide that exists for disabled people means that many do not have the means to access this digital information.

Equity of access to voting for disabled people means that they should not have to go through extra hoops to find accessible voting places. DPA considers that all advance electoral voting booths as well as those used on election day should be held in accessible venues.

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| **Recommendation: that maps providing the locations of voting places provide information on the accessibility of each of these.**  |

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| **Recommendation: That the Electoral Commission plans and provides for increased uptake of advance voting across the country and ensures that all voting booths (both advance and on election day) are at accessible venues.**  |

**Telephone dictation voting**

The ability to cast an independent vote by telephone dictation in New Zealand has been welcomed by many disabled voters. In the words of a DPA member they said that voting via telephone dictation in 2020 was “a very positive and empowering experience”. Similar positive experiences with telephone dictation voting were reported in the media[[1]](#footnote-2) .

Telephone dictation voting was not perfect however: some voters reported receiving incomplete information for example, being read out only the numbers of the referenda questions (not the questions themselves).

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| **Recommendation: That telephone dictation staff receive additional training on providing full information and clarifying issues with callers.**  |

DPA is also concerned that New Zealanders who are not able to mark a print voting paper independently and who are also living overseas are currently excluded from accessing telephone dictation voting to vote under the Electoral Regulations 1996.

This effectively means that any New Zealander unable to mark a paper independently, whether because they are blind, partially blind or have a physical disability, who happens to be overseas at election time, is unable to cast an independent vote. DPA considers this to be a breach of disabled people’s right to be able to vote independently as outlined in Article 29 of the UNCRPD.

DPA urges the committee to recommend that this be changed before the next election as a matter of priority. We note that the regulations were quickly updated last year to allow people in managed isolation to vote using telephone dictation voting, so in our view there is really no excuse for not updating the regulations to allow eligible disabled people residing overseas to access this service.

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| **Recommendation: Update the Electoral Regulations to allow people usually eligible to cast a vote by telephone dictation to do so from overseas.**  |

**Outdated Offensive Language used in** **Electoral Regulations 1996.**

DPA is concerned by the language used in the Electoral Regulations 1996 Order in Council. Describing some disabled people as “mentally incapable” as used in the form here[[2]](#footnote-3) is outdated, offensive and stigmatising. We have been contacted by parents of people with learning disabilities saying that they are not prepared to sign the form as they don’t agree with the language and find it insulting.

DPA urges that this be updated as a matter of priority. The term “mentally incapable” needs to be replaced with language that is respectful and upholds the mana and dignity of all disabled people, including those with learning and intellectual impairments. Any replacement term needs to be developed in partnership with disabled people and Disabled People’s Organisations (DPOs).

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| **Recommendation: In partnership with disabled people, update the term “mentally incapable” Electoral Regulations with a more appropriate term.**  |

## **Requirement to say name out aloud**

There seems to have been different interpretations on whether the entitlement to cast a vote is contingent on being able to say one’s name out aloud. Some voters who had communication difficulties were informed that to be able to vote they had to be able to say their name out loud whilst others who went to vote were not faced with this imposition. DPA understands that a group of whanau wrote to the Disability Minister who replied saying that this should not have happened and that trainers of voting staff would get better training next time.

Some Deaf voters reported, whilst not being turned away, they had to say their name out aloud repeatedly and others said that they felt that the voting staff made minimal effort to communicate accessibly with them.

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| **Recommendation: That voting place staff receive appropriate training on responding to people with communication impairments.**  |

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| **Recommendation: That clarity is sought as to whether people actually have to be able to say their name out aloud or whether being able to prove who they are is sufficient and recommend a rule change if necessary.**  |

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| **Recommendation: that the remote interpreter trial be extended at the next election and/or allow Deaf people to use their own phones to call an interpreter**  |

## **Seated Voting Booths**

While seated voting booths were reported to be available at many polling places, DPA received reports that not all polling places had such booths.

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| **Recommendation: Look into the number of and availability of seated polling booths and recommend that there is at least one per polling place.**  |

1. [Voting accessibility 2020: A mixed report card | RNZ News](https://www.rnz.co.nz/news/on-the-inside/429445/voting-accessibility-2020-a-mixed-report-card#documentContent) [↑](#footnote-ref-2)
2. <http://www.legislation.govt.nz/regulation/public/1996/0093/25.0/DLM210594.html> [↑](#footnote-ref-3)