

**First New Zealand Report on
Implementing the United Nations Convention on
the Rights of Persons with Disabilities**

March 2011

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Overview

Where we stand

- 1 **New Zealand's vision of full participation and improved wellbeing** for disabled people of all ages has developed over several decades. The process began in the 1970s with a paradigm shift from exclusion and care outside mainstream society to a social model of disability, with inclusion and mainstreaming as the default option, and supplementary support services for disabled people as required.
- 2 **The adoption of a national Disability Strategy has further advanced this vision:**¹ Since 2000, New Zealand law has required a national Disability Strategy², under which the Minister for Disability Issues is required to report to Parliament annually on progress made. The Disability Strategy, which includes initiatives across government, is reviewed on an ongoing basis.
- 3 **New Zealand's vision is reflected in its support for the Convention:** The principles given effect in the Disability Strategy provided the basis for New Zealand's role in the development of the United Nations Convention on the Rights of Persons with Disabilities (the Convention). The shift in approach undertaken since the 1970s enabled New Zealand to ratify the Convention in September 2008.
- 4 **The legislative framework is sound and comprehensive:**³ The rights of disabled people are provided for in New Zealand's general human rights law, the New Zealand Bill of Rights Act 1990, in its specialised non-discrimination law, the Human Rights Act 1993, and in specific recognition in legislation governing health, education and other social services. Before ratifying the Convention, New Zealand reviewed its law for consistency with the Convention and made necessary amendments.

Engagement with disabled people

- 5 **Disabled people are essential partners:** Partnerships between government, disabled people and their families, and the disability sector along with robust means of communication underpin New Zealand's continued commitment to its broad vision and to the Convention:
 - 5.1 Disabled people were members of the New Zealand delegation for the negotiation of the Convention;

¹ See, further, Annex, paragraph 6.

² The New Zealand Disability Strategy.

³ See, further, paragraph 14 below.

- 5.2 As part of its engagement with the negotiations, the Government established a standing disability sector reference group. The reference group has continued as a key means of consultation and currently comprises 74 representatives of disabled people, family members, disability advocates and disability service providers;
- 5.3 In both the negotiation and the ratification of the Convention, the Government sought wider input from disability organisations and providers, including the perspectives of children and their advocates.

Our challenges

- 6 **Disabled people are still disadvantaged:** While there have been, and continue to be, improvements, many disabled people experience poorer outcomes in health, education, employment and elsewhere. The degree of relative disadvantage is still greater for women and for Māori and Pacific people.
- 7 **Disabled people still experience social discrimination and practical barriers:** While the Government has taken many steps to strengthen the standing of disabled people, constraints remain in the attitudes of some people, who see disabled people as less than equal. There are also physical and environmental barriers: for example, New Zealand's small population and geographic diversity means that some services are concentrated in main centres and are not readily accessible in more remote areas.
- 8 **Data about disabled people is still limited:** While a range of data is collected, more is needed. As one response, the forthcoming national census is to be followed by an improved survey of disabled people to gather more detailed and more specific data.⁴
- 9 **Support for disabled people can better reflect different cultural contexts:** Across New Zealand's increasingly diverse community, attitudes to disabled people and to appropriate means of support can vary between different cultural groups. The Government includes requirements of cultural sensitivity when contracting for support services and is encouraging the development of indigenous providers and providers using indigenous cultural frameworks. Indigenous provision is still in its early stages.

⁴ The national census and disability survey were to occur in 2011. They have been delayed as a result of the major earthquake in Christchurch in February 2011, with new dates to be set shortly.

Going forward

- 10 **There is leadership at the highest level:** Disabled New Zealanders have an advocate in the Minister for Disability Issues, supported by a Ministerial Committee on Disability Issues⁵ and an Office for Disability Issues.⁶
- 11 **The Government has set priorities for addressing the challenges that we face:**⁷ An independent implementation review found government agencies have undertaken a significant level of activity to implement the Disability Strategy but more is needed to produce real improvements in outcomes for disabled people.⁸ Rather than each agency having their own action plan and focus, having a single combined action plan and priorities was recommended.
- 12 Realising the rightful place of disabled people in New Zealand society is an ongoing and multi-generational goal. The New Zealand Government is developing a Disability Action Plan and is taking concrete actions around three current priorities:
- 12.1 **Accessible New Zealand** – including enhanced community acceptance and improved access to transport and to information;
- 12.2 **Enabling disability supports** – allowing disabled people autonomy, wherever possible, and providing support as early as possible;
- 12.3 **Contributing as citizens** – better ensuring that disabled people can achieve in education and in paid work and can fully experience access to justice and all other rights as members of the community.

Preparation of this report

- 13 In keeping with its engagement with disabled people, the Government consulted widely in preparing this report:
- 13.1 The report and the proposed consultation process were both considered from the outset by the standing disability sector reference group;
- 13.2 A draft was circulated for comment both within the disability sector and across the community as a whole, and consultation procedures also included eight formal meetings, an online discussion forum, an invitation to provide written submissions and a separate survey for young disabled people and their families.

⁵ See, further, Annex, paragraph 1.

⁶ The Office for Disability Issues is the government agency responsible for promoting and monitoring the Disability Strategy and the UN Convention. It supports the Minister for Disability Issues and the Ministerial Committee on Disability Issues.

⁷ See, further, Annex, paragraph 4.

⁸ Litmus Ltd, *Progress Report - 2006/2007 Review of New Zealand Disability Strategy Implementation*, August 2008.

Several of the consultation meetings were targeted at particular groups, including Māori and Pacific peoples. Several hundred people and groups took up one or more of these opportunities.

PART A: GENERAL PROVISIONS OF THE CONVENTION

Articles 1 to 4

Implementation of the Convention

- 14 The Convention is given effect in New Zealand through:⁹
- 14.1 The New Zealand Bill of Rights Act 1990, which guarantees all people fundamental civil and political rights and includes an express prohibition of discrimination against disabled people;
 - 14.2 The Human Rights Act 1993, which is a specialised anti-discrimination statute;¹⁰ and
 - 14.3 Through other specialised legislation: for example, the right of access to education for disabled children is included within the Education Act 1989 while the New Zealand Public Health and Disability Act 2000 makes specific provision for disability services as part of the public health system.¹¹
- 15 In addition, New Zealand reviewed its law for consistency with the Convention prior to ratification. Amendments were made to 23 statutes, most commonly to remove references to disability as a criterion for a number of dated statutory provisions.¹² There are no customary laws that discriminate on the basis of disability.
- 16 New legislation is reviewed for consistency with the Convention:
- 16.1 As outlined below, government decision-making procedures include scope for involvement by the Minister for Disability Issues, the Ministerial Committee on Disability Issues and the Office for Disability Issues, as well as formal assessment of consistency with the Convention and with other international human rights instruments; and
 - 16.2 At a parliamentary level:
 - 16.2.1 Upon introduction of a Bill, the Attorney-General reviews all proposed legislation for consistency with civil and political rights, including the

⁹ See, further, paragraphs 28-30 below and *Common Core Document of New Zealand*, HRI/CORE/NZL/2010, 44.

¹⁰ See, further (including discussion of enforcement mechanisms and reasonable accommodation) Article 5, below.

¹¹ See, further, Annex paragraph 7.

¹² Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008.

CLO REVISION REVIEW DRAFT, 17/3/11

right of non-discrimination. Since ratification of the Convention, the Attorney-General has advised Parliament of one bill that appeared to be inconsistent with the right of non-discrimination on the ground of disability. The Eden Park Trust Amendment Bill 2009 excluded any trustee from office if he or she were subject to court-ordered care by reason of personal incapacity. In presuming that all people subject to such court orders were not competent to act as a trustee, the Bill gave rise to disability discrimination. Parliament considered the Attorney-General's concerns and the Bill was amended accordingly prior to enactment.

16.2.2 Following introduction, almost all legislation is referred for consideration by a Parliamentary Select Committee and the hearing of public submissions.

17 The Government is continuing to promote the Convention through the ongoing implementation of the Disability Strategy. It is currently implementing a comprehensive process for monitoring compliance with and promoting the Convention in conjunction with non-governmental bodies, and additional funding has been provided.

Disabled people and government decision-making

18 The Government has made a commitment to consult and work in partnership with disabled people:

18.1 The Office for Disability Issues is the key government point of contact for the disability sector and is in regular contact with disability groups;

18.2 The Ministerial Committee on Disability Issues, headed by the Minister for Disability Issues, specifically considers disability issues and regularly meets with disabled people;¹³

18.3 Several government agencies and many local government bodies are supported by specialised disability advisory groups;

18.4 Each of the 20 District Health Boards has a Disability Support Advisory Committee;

¹³ See, further, Annex paragraphs 1-3.

- 18.5 The Ministry of Health meets several times a year with a Disability Services Consumer Consortium, which includes disabled people nominated by contracted providers;
- 18.6 The Human Rights Commission, New Zealand's national independent human rights institution, has one Commissioner designated as responsible for disability issues and the Commission is robustly engaged with such issues across its work; and
- 18.7 The Mental Health Commission, an independent Crown entity, advocates for people with mental illness and addictions.

Disability in New Zealand¹⁴

- 19 Statistics New Zealand, the government agency which collects statistics on disability, aligns with international definitions and defines disability as any self-perceived limitation in activity resulting from a long-term condition or health problem lasting or expected to last six months or more, and not completely eliminated by an assistive device. A range of other definitions are used in other contexts and reflect those particular purposes: for example, the national Disability Strategy takes a social and contextual definition,¹⁵ while the non-discrimination protections in the Human Rights Act 1993 take a broader approach that accords protection to, for example, people with short-term disabilities.¹⁶
- 20 Applying the Statistics New Zealand definition, 660,300 New Zealanders reported a disability, representing 17 per cent of the total population. Rates of disability were roughly equal between men and women but boys make up 59 per cent of disabled children, reflecting higher rates of some disabling medical conditions. The most common types of disability were mobility, agility, hearing and psychiatric/psychological.¹⁷
- 21 Forty-five per cent of adults aged 65 and over had a disability, comprising one-third of all people with disabilities. The number of disabled people in New Zealand is expected to grow by 60 per cent over the 40 year period from 2006 to 2046. This expectation is based

¹⁴ See, further, Annex, Tables 1-8.

¹⁵ The Disability Strategy defines "disability" as the process which happens when one group of people create barriers by designing a world only for their way of living, taking no account of the impairments other people have. Disability relates to the interaction between the person with the impairment and the environment. This definition moves New Zealand's focus from a medical to a social model of disability, where it is recognised that society has put up barriers that exclude or disadvantage people with impairments and do not recognise their rights and needs. This is the definition promoted by disabled people, as it focuses on the barriers to participation.

¹⁶ The Human Rights Act 1993 defines disability as physical disability or impairment, physical illness, psychiatric illness, intellectual or psychological disability or impairment, any other loss or abnormality of psychological, physiological, or anatomical structure or function, reliance on a guide dog, wheelchair, or other remedial means and/or the presence in the body of organisms capable of causing illness.

¹⁷ *Household Disability Survey*, Statistics New Zealand, 2006.

on the marked increase in disability prevalence with increasing age, and a projected steady ageing of New Zealand's population.¹⁸

22 Many disabled people experience lower levels of education, income and marriage or other partnership. The 2006 Disability Survey found:

22.1 38 per cent of disabled people aged 25-64 had no educational qualification, against 18 per cent of non-disabled people;

22.2 39 per cent of disabled people aged 15-64 had annual personal incomes of less than NZ\$15,000, compared to 28 per cent of non-disabled people; and

22.3 66 per cent of disabled people aged 25-64 were married/partnered, against 76 per cent of non-disabled people.¹⁹

23 Māori experience higher relative rates of disability (19 per cent against 13 per cent)²⁰ and are significantly more likely to be unemployed and to have a lower income. Disabled Māori adults in the 15–64 years working-age group were less likely to be employed (45 per cent) than disabled non-Māori adults (62 per cent), non-disabled Māori adults (67 per cent), or non-disabled non-Māori adults (77 per cent). Thirty eight per cent of disabled Māori adults received at least one type of disability-related government financial assistance, relative to 28 per cent per cent of disabled non-Māori.²¹ The national Disability Strategy and public health programmes provide a range of initiatives to improve the position of disabled Māori and Pacific peoples,²² including the Māori Disability Strategy and Action Plan and the National Pasifika Disability Action Plan.

24 Just over half of all disabled children (52 per cent) had a single impairment and the remaining 48 per cent had multiple impairments. The majority of disabled children had low or medium support needs.²³

Overview of government support²⁴

25 The Government provides both income support and specialised services to disabled people:

¹⁸ Projection based on age group specific disability prevalence rates from the 2006 New Zealand Disability Survey and Statistics New Zealand's age group specific population projections, base 2006, series 5 (medium birth, death and migration assumptions).

¹⁹ Maskill C, Hodges I. *Indicators from the 1996, 2001 and 2006 New Zealand Disability Surveys for monitoring progress on outcomes for disabled people*. Wellington: Office for Disability Issues 2011 (report prepared by HealthSearch Ltd). <http://www.odi.govt.nz/resources/research/outcomes-for-disabled-people/index.html>.

²⁰ Adjusted for the different age structures of the Māori and non Māori populations. In 2006 Māori were estimated to make up 15 per cent of the population.

²¹ *Disability and Māori in New Zealand in 2006: Results from the New Zealand Disability Survey*, Statistics New Zealand, 2006.

²² See Ministry of Health *Ala Mo'ui: Pathways to Pacific Health and Wellbeing 2010-2014* (2010).

²³ Statistics New Zealand *Disability Survey 2006*.

²⁴ See, further, articles 19 and 25-26 and Annex.

- 25.1 Disability-related income support is provided in the form of the Sickness Benefit, Invalid's Benefit, Disability Allowance and Child Disability Allowance.
- 25.2 Support services for people with long-term impairments, which include personal support, employment assistance, equipment purchase and housing modification. Public expenditure in 2005/2006 on disability support was NZ\$2.876 billion.²⁵
- 25.3 Where disability is caused by accident, the Accident Compensation Corporation (ACC), a public contributory social insurance scheme, provides income support, other compensation and rehabilitation services.
- 26 Some substantial Government initiatives – for example, the introduction of more accessible commuter train carriages – are staged according to the availability of funding over time. Such measures are, in general, improvements upon existing services.
- 27 In addition to its ongoing commitment to existing disability support services, the 2010 New Zealand Government budget delivered an extra \$93 million to expand existing disability support services over the next four years. Of this amount, \$72 million will improve access to disability support services. It includes:
- 27.1 \$25.5 million for home and community support services;
- 27.2 \$3.4 million for other disability support services;
- 27.3 \$21 million for residential services for people with intellectual disabilities;
- 27.4 \$7.9 million for supported independent living;
- 27.5 \$2.7 million for respite care.

PART B: SPECIFIC RIGHTS

Article 5 - Equality and non-discrimination

Legislation forbids discrimination

- 28 The New Zealand Bill of Rights Act 1990 specifically prohibits discrimination on the grounds of disability and extends all protected rights to all people, including disabled people. Under the more detailed provisions of the Human Rights Act 1993 and the Employment Relations Act 2000, less favourable treatment of disabled people is unlawful unless the disabled person requires special services or facilities and it is not reasonable for

²⁵ *Inquiry into the quality of care and service provision for people with disabilities*, Report of the Social Services Committee. Forty-eighth Parliament (Russell Fairbrother, Chairperson), September 2008.

these to be provided. Other specialised legislation, such as the Education Act, provide guarantees of equal access, again subject to narrow exceptions in similar terms.

29 These legislative protections can be enforced by a range of means:

29.1 The Human Rights Commission has the role of receiving, and seeking to resolve, complaints about discrimination under the Human Rights Act. Where complaints cannot be resolved, proceedings can be filed under the Human Rights Review Tribunal. Complainants may seek specialised and publicly-funded representation through the Office of Human Rights Proceedings. Proceedings can result in a range of remedies, including invalidation of government policies and practices and awards of compensation payable by the discriminating party.

29.2 Claims under the New Zealand Bill of Rights Act 1990 can be pursued directly through the courts and can result in a range of remedies. Such proceedings can, where appropriate, receive public legal assistance.

29.3 Specialised legislation, such as that dealing with employment, residential tenancies, health and disability services and a range of other matters, provide procedures for complaints of discrimination, including through court and other procedures.

Reasonable accommodation

30 The Court of Appeal, recently, in relation to a case concerning the provision of supplementary oxygen by Air New Zealand to a disabled woman, observed that the reasonableness provision in that legislation appeared to parallel the standard of reasonable accommodation in Article 2 of the Convention.²⁶ The New Zealand Bill of Rights Act 1990 contains a generally worded prohibition against discrimination on grounds of disability, which will be interpreted by courts consistently with the Convention's non-discrimination right, including the obligation for reasonable accommodation.²⁷

31 The Government considers there to be a need for greater public understanding of the practical application of reasonable accommodation, as there are anecdotal indications that issues of risk, practical difficulty and cost have been unjustifiably used as a rationale to exclude disabled people or to impose additional costs. The Ministry of Justice is currently developing guidance on reasonable accommodation for public activities.

²⁶ [2011] NZCA 20, 18 February 2011.

²⁷ Section 19, New Zealand Bill of Rights Act 1990.

Affirmative action

32 Both the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 specifically allow for affirmative action to redress disadvantage, including on the grounds of disability. As outlined below, for example in respect of education and employment, many programmes to promote participation by disabled people are in place.

Disabled people continue to experience discrimination

33 Despite legislation, disabled people still feel discriminated against. A 2008 survey²⁸ indicated that 57 per cent of respondents identified disabled people as being subject to some or a great deal of discrimination.²⁹ Approximately one-third of complaints to the Human Rights Commission involve allegations of disability discrimination, although a substantial majority of these are resolved or withdrawn.

34 Feedback suggests that disabled people may be perceived as having a lower quality of life as a result of their impairment and that this perception may influence decisions on medical treatment.

Article 8 - Awareness-raising

35 Encouragement and education towards a non-disabling society has been the first objective of the New Zealand Disability Strategy since its adoption in 2000. The Government has taken a very broad range of measures within the scope of this objective, such as:

35.1 The Minister for Disability Issues actively promotes disability issues and the rights of disabled people, including the Convention, while the Office for Disability Issues promotes awareness through websites and newsletters as well as resources, such as practical guides for policy makers;

35.2 Public education programmes to address stigma associated with mental illness. For example, the *Like Minds, Like Mine* has been successful in changing the way New Zealanders think and behave in relation to mental illness,³⁰ while the *National Depression Initiative*, which aims to raise awareness of depression and encourage people to seek help, has received numerous national and international marketing effectiveness awards for its youth-oriented website; and

35.3 Promotion of awareness of the Convention itself at several levels, including:

²⁸ This was a telephone survey of a nationally representative sample of 750 New Zealanders 18 years of age and over, commissioned by the Human Rights Commission.

²⁹ Human Rights Commission UMR research *Treaty of Waitangi, Personal/ Group Discrimination & Disabilities*, December 2008.

³⁰ <http://www.likeminds.org.nz/resourcefinder/index.php?c=listings&m=results&topic=64>.

35.3.1 The compilation of resources by the Office of Disability issues, including online provision of the Convention in New Zealand Sign Language (NZSL); and

35.3.2 Resource materials - *Are you committed to the Convention?* and *Is your agency committed to the Convention?* – produced by the Health and Disability Commissioner to assist governmental and non-governmental organisations that provide disability support.

36 Awareness and understanding of different impairment types by government agencies, professionals and the public varies. Disabled people with uncommon impairments such as those arising from multiple chemical sensitivity syndrome report that there are few or no services available (to respond to severe reactions to chemicals) and health professionals lack knowledge about such conditions.

37 In 2010, the Government announced in 2010 it would undertake a \$3 million public awareness campaign directed at changing attitudes and behaviours that limit opportunities for disabled people.

Article 9 - Accessibility

38 Accessibility of buildings, infrastructure, transport and communications is promoted through a range of measures, including anti-discrimination law, requirements under specific legislation, public services and best practice guidelines. Improving accessibility is a current priority for the Ministerial Committee on Disability Issues.

Public buildings are built to be accessible

39 The Building Act 2004 imposes detailed construction requirements for new buildings to ensure accessibility for disabled people, particularly people who use wheelchairs or have limited vision. These requirements are enforced through the building consent process and disputes can be submitted for binding resolution by the Department of Building and Housing.

40 Accessibility can, however, be compromised by exemptions given to new buildings or later failures to maintain accessibility features, although these can be challenged and remedied under the Human Rights Act 1993.

41 In addition, the Government has funded expert advisory resources, including guidance for the building industry and for government officials on disabled access and set up a specialised advisory panel on disabled people's access.

42 In addition, the Barrier Free New Zealand Trust, a non-governmental organisation, serves as a focal point on access issues for disabled people, local councils, architects, engineers, the building industry and the wider community. It has a nationwide advisor network of accredited Barrier Free Advisors to assist in this work.

There are initiatives in relation to urban design

43 New Zealand believes that successful towns and cities should be inclusive communities that respect and celebrate diversity. The Urban Design Protocol, a voluntary framework co-ordinated by the Ministry for the Environment, seeks to ensure that successful towns and cities accommodate all citizens and offer opportunities for young and old, people on low incomes and disabled people.³¹

44 Many local councils have disability reference groups made up of disabled people and experts who advise the council on accessibility and other issues affecting disabled people.

There are transport policies to help disabled people move around the community

45 Regional public transport plans, prepared by regional councils, must provide for access to basic community activities and services. Disabled people are involved in regional land transport committees and there are a number of organisations who regularly make submissions and advocate for accessible public transport.

46 A 2005 report on accessible public land transport found that significant numbers of disabled people in New Zealand have difficulties using public land transport services: buses, trains, taxis and the related services and infrastructure.³² Since then accessibility standards for all new urban buses have been developed and there has been a large increase in the number of accessible buses on scheduled routes.³³

47 The development and upgrade of urban rail networks in Auckland and Wellington has provided opportunities to consult with disabled people and incorporate their needs into train design. The 48 custom built units for the Wellington train network are setting a new benchmark in the accessibility of rail transport for disabled passengers. Auckland rail has sought to improve on the accessibility standards set by the Wellington rail design.

48 The New Zealand Transport Agency (NZTA) has developed a range of voluntary guidance for local councils, including requirements for urban buses and pedestrian planning, and design guides that cover the mobility and access needs of disabled persons.

³¹ <http://www.mfe.govt.nz/issues/urban/design-protocol/index.html>.

³² Human Rights Commission, *The Accessible Journey*, 2005.

³³ Available at: http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/15-Dec-2010_12-41-59_Chapter_17pp258-279.pdf.

The NZTA administers and assists with the development of land transport rules, including the design and construction requirements for wheelchair hoists, ramps and vehicle occupant restraints.

49 However, challenges remain:

49.1 Survey information indicates that some disabled people continue to experience shortcomings in access to public transport;³⁴

49.2 Regional and local attention to pedestrian infrastructure (such as curbs and accessible road crossings) is inconsistent;

49.3 Consultation with disabled people about public transport planning is not systematic and some transport infrastructure projects are still planned and assessed without reference to possible benefits of access for disabled people.

Information should be accessible

50 The Government supports accessible information through a range of means:

50.1 Government information is provided in a number of languages, including NZSL videos, in Braille, large print, in easy to read formats, on audio tapes and DVDs. There is, however, no standard for all government agencies and it is up to each agency to decide what communication channels to use;

50.2 Public health information broadcast by television is captioned;

50.3 The National Library's Print Disabilities Service offers audio books to adults, young adults and children who have a print disability;

50.4 Many government agencies provide a number of communication channels such as free phone, fax, email and text services for people to request information, provide feedback, or to make a complaint about Ministry-funded disability support services.

50.5 The Government funds captioning of some television programmes and the Ministry of Social Development funds the Royal New Zealand Foundation of the Blind to provide a talking books service to people who are blind or vision-impaired.

51 More specifically, the Government promotes:

51.1 Provision of information online, supported by accessibility standards; and

³⁴ CCS Disability Action and Workbridge, *Journey to Work*, 2010.

51.2 Telephone, video and text-based communication.

- 52 New Zealand On Air is a government entity responsible for the funding of public broadcasting content across television, radio and new media platforms. It provides funding of approximately \$4 million annually for disability-related services, which include television captioning services and disability interest programming. In 2011, it began a trial of an audio-description service on the public television digital channels for people who are blind or vision-impaired.³⁵
- 53 The Government has addressed accessibility of online information for more than a decade. Formal Government Web Standards, which include accessibility requirements, have been developed from the Web Content Accessibility Guidelines. The Standards were last updated in 2009 and direct the use of accessible formats.
- 54 The Government sees online resources as a key means of providing accessible information and is committed to achieving nationwide high speed broadband coverage. This has the potential, for example, to provide deaf people with much greater access to information in sign language and more communication opportunities via the internet. A limited amount of online information is provided in simplified versions and, more often, in audio format.
- 55 Compliance with the Standards varies across Government websites, but the Government is providing additional training and support to government agencies, including a self-assessment resource scheduled to be implemented in 2011.
- 56 Some private website providers follow accessibility standards, but they are not specifically required to do so. The antidiscrimination provisions of the Human Rights Act, including the duty of reasonable accommodation, do, however, apply to websites that provide facilities or services.
- 57 A Telecommunications Relay Service (TRS) was established in 2004 and allows telephone calls to be made through the internet or by text phone. This is particularly useful for deaf people, hearing impaired people, speech impaired people, and deafblind people. The Service has been regularly reviewed in consultation with its users.
- 58 A permanent Video Relay Service (VRS) was implemented in 2010, following an initial trial. VRS enables deaf people to use NZSL to communicate with voice telephone users, and vice versa.

³⁵ Audio description is a special audio track built into broadcast programmes that describes the non verbal on-screen action in a programme alongside the normal soundtrack. It enables vision-impaired people to better access the programmes.

59 The New Zealand Police have developed an emergency text messaging service for deaf and hearing impaired people, which provides immediate access to the Police, fire service and ambulance service.

Article 10 - Right to life

60 The New Zealand Bill of Rights Act 1990 provides that no-one shall be deprived of life. The right applies equally to all people.

Article 11 - Situations of risk and humanitarian emergencies

61 Measures taken in instances of risk, disaster or emergency are extended to all people, regardless of whether they are disabled or not.

62 Civil defence authorities are encouraged to assess and mitigate likely impacts on disabled people in their planning and in responding to emergencies. Recent initiatives to include disabled people in civil defence situations include:

62.1 Public information resources on emergency preparedness specifically address the needs of disabled people, including a written guide produced by the Whakatane Disabilities Resource Centre Trust and the Bay of Plenty Emergency Management Group;

62.2 Resources for people with hearing impairments, to enhance the availability of civil defence emergency management information, were distributed to all local councils in 2010;

62.3 Public education resources for people with sight impairments are to be distributed in 2011.

63 In the recent Christchurch earthquakes, disabled people worked in partnership with Civil Defence. For example, after the September 2010 earthquake, Civil Defence provided updates to deaf community groups, which then used their own information networks to disseminate information. Some television coverage was captioned. After the February 2011 earthquake, NZSL interpreters were used at Civil Defence briefings.

International relief

64 New Zealand's international humanitarian responses to disaster and/or conflict are needs based, with a focus on the most vulnerable including groups such as disabled people (see Article 32).

Article 12 - Equal recognition before the law

- 65 Equality before the law is a fundamental principle of the New Zealand justice system. Disabled people enjoy equal recognition in the law, including protection of civil and other rights and legal capacity to manage their own affairs.
- 66 The Human Rights Act 1993 prohibits discrimination on the basis of disability, including, for example, in relation to business dealings and access to financial services.³⁶
- 67 The key mechanism for safeguarding the interests of disabled people who are unable to manage their own affairs is the Protection of Personal and Property Rights Act 1988 (PPPR Act). The PPPR Act provides for a specialised court procedure, including full rights of participation for the individual concerned, to determine whether an individual meets the high threshold of wholly lacking capacity to manage his or her own affairs. Where that threshold is met, a statutory manager can be appointed to act on the individual's behalf for property and/or welfare matters. Alternatively, a previously made enduring power of attorney can be activated.³⁷
- 68 The PPPR Act proceeds on a model of the least and briefest possible interference with individual capacity:
- 68.1 a presumption of competence. Everyone is presumed competent to make decisions and manage their own affairs unless the criteria establishing lack of capacity are satisfied;
 - 68.2 the PPPR Act emphasises the ability to make a decision – not the nature of the decision – and cannot be invoked simply because a person makes decisions which others might consider imprudent or foolish;
 - 68.3 the principle of the least restrictive intervention. Where there are a number of options available, preference should be given to the one which interferes least with the person's life;
 - 68.4 an obligation on a welfare guardian, property manager or attorney to encourage the person subject to an order to use and develop what capacity they have as much as possible.
- 69 The PPPR Act provides for review of appointments and for court scrutiny of decisions made by those appointed under the PPPR Act.

³⁶ See above paragraphs 28-29.

³⁷ A person can give an "enduring power of attorney" to one or more other people. This means the person authorises the other person or people to act on his or her behalf to manage his or her affairs. The person must not be incapacitated when they set up the enduring power of attorney. An enduring power of attorney can relate to the person's personal care and welfare, or to their property, or to both.

Article 13 - Access to justice

- 70 Access to justice is safeguarded for all people across all aspects of the legal system, without distinction as to disability.
- 71 In courts and tribunals, the Government provides a range of services to ensure that disabled people can participate in legal proceedings on an equal basis. These include NZSL interpreters, Court-appointed representatives for people who lack capacity to instruct a lawyer, including children, accessible courthouses and facilities and the use of audio-visual links in legal proceedings. The Ministry of Justice has developed guidelines to ensure all court staff are aware of its obligations and requirements in terms of engaging with disabled people and their rights.
- 72 Within the criminal justice system, the right of arrested or accused persons to have a NZSL interpreter or other such necessary assistance is safeguarded in the criminal justice process, including police interviews, under the New Zealand Bill of Rights Act 1990. The New Zealand Police continue to action its responsibilities under the areas of accessibility of information, buildings and services, disability awareness, being a good employer and running a disability network supporting staff.
- 73 Disabled people can serve on a jury, although their right to serve can be challenged if they are not capable of acting effectively as a juror. The Juries Act 1981 states that "... a Judge may discharge the summons of a person if the Judge is satisfied that, because of disability, ... the person is not capable of acting effectively as a juror." The Judge must make an individualised assessment of the prospective juror's capacity, in consultation with him or her.
- 74 Under the New Zealand Sign Language Act 2006, NZSL interpreters must be provided in the court system wherever required, including by defendants, witnesses, jurors or otherwise. However, consultation indicates there are significant problems in implementing and monitoring the use of NZSL interpreters in court, including the use of interpreters who lack formal qualifications.³⁸ The provision and quality of interpreters in court forms part of the current review of the NZSL Act 2006, which is due to be completed by mid 2011.
- 75 Measures to ensure accessibility to those participating in court proceedings were particularly prominent in a 2009 murder trial in which the victim was deaf and which attracted great interest from the local deaf community.³⁹ The court arranged for Deaf

³⁸ Undertaken as part of *Review of Human Rights in New Zealand 2010: Ngā Tika Tangata O Aotearoa*.

³⁹ *R v Reid* CA CA794/2008, 7 July 2009.

Aotearoa⁴⁰ to provide additional training for the court staff involved in the trial and for provision of NZSL interpreters, not only to assist witnesses but also to provide continuous interpretation for deaf people attending the trial in the public gallery. The court received extremely positive feedback from the Christchurch deaf community for this approach.

76 The government legal aid scheme funds legal representation and other assistance to people who would otherwise be unable to afford it. Legal aid funding is provided to Auckland Disability Law, an independent law centre that specialises in advice to disabled people. The Government provides specialised publicly funded representation for some proceedings involving discrimination and health or disability services.

Article 14 - Liberty and security of the person

77 Under the New Zealand Bill of Rights Act 1990, everyone has the right not to be arbitrarily detained or arrested. No distinction is made on the basis of disability.

Treatment in custody

78 Disabled prisoners serving a sentence or on remand are accommodated and their custody managed in the mainstream prison environment, with appropriate support in areas such as health and treatment needs, transport and access to visitors. Prisoners whose health or disability needs cannot be adequately managed within the prison environment are referred to the appropriate external agency in the community, such as Mental Health Services and Regional Intellectual Disability Secure Services and may be transferred out of prison custody for this purpose.

79 Health and disability needs are assessed on reception to prison by Prison Health Services staff and on an ongoing basis. Prisoners with complex health needs have an individual treatment plan completed which provides information about their health needs and how these will be addressed.

80 Transportation and escort arrangements are modified as necessary: for example, there are special procedures for the escort of prisoners who use a wheelchair.

81 The Department of Corrections, which is responsible for prisons, has an ongoing work programme in the area of disability that includes continued assessment and improvement of public prison buildings and the improvement of statutory and regulatory access requirements.

⁴⁰ The national association for the signing deaf.

82 Disabled prisoners are entitled to receive additional visits from family and support agencies in addition to prisoner minimum entitlements of one private visitor per week.

No provision for detention on the basis of disability, unless serious individual risk

83 There is no civil detention in New Zealand of people on the basis of disability.

84 Two main pieces of legislation authorise the detention and compulsory treatment or rehabilitation of disabled people, however the trigger for detention is not disability but the risk of harm to self or others.

Compulsory assessment and treatment on serious mental health grounds

85 Compulsory mental health care is governed by the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH(CAT) Act). The threshold for compulsory care is that the person concerned must be clinically assessed as having an abnormal state of mind of such a degree that it poses a serious danger to the health or safety of the person or of others, or seriously diminishes the capacity of the person to take care of him or herself.

86 The MH(CAT) Act requires clinical certification of each person both initially and on an ongoing basis. Compulsory treatment orders can either be as an in-patient in a hospital or as an out-patient in the community, and those who are subject to compulsory care may apply for a review of that compulsory status.

Compulsory care of criminal offenders with severe intellectual disabilities

87 Compulsory care orders can be made under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (IDCCR Act) but only where the court is first satisfied that the person with an intellectual disability has criminally offended and poses an undue risk to themselves or to others. Compulsory care orders can be for secure care or for supervised care in the community. The IDCCR Act also permits the transfer of people from prison or mental health services where they meet the criteria for intellectual disability under the Act.⁴¹

Safeguards

88 The new procedures for assessment, treatment, and review under the MH(CAT) Act have created an atmosphere of greater transparency and accountability. This has largely been

⁴¹ The High Court recently held that the imposition of repeat care orders requires a correspondingly greater degree of risk. That decision is being appealed by the Government which contends that the right of disabled people not to be subject to arbitrary detention means that compulsory care orders can only be imposed when the risk to self or others is undue, but that this threshold is constant.

driven by the increasing regulation of mental health law and practice, and the greater involvement of lawyers in administering the MH(CAT) Act.

- 89 People under compulsory assessment and treatment orders or compulsory care orders have protections provided by law, such as judicial oversight, the appointment of a legal representative, and the right to an interpreter. The Habeas Corpus Act 2001 provides a means by which the lawfulness of any detention can be challenged in the courts on a urgent basis, whether by the detainee or any other person, as does an application for judicial review or an application under the New Zealand Bill of Rights Act 1990.
- 90 The establishment of the Mental Health Commission as a powerful advocacy organisation for people experiencing mental illness has given a more urgent focus to their rights and the exploration of alternative, non-coercive interventions consistent with the notion of recovery. The recovery model has now been adopted as a guiding principle in New Zealand's mental health system, requiring mental health professionals to demonstrate competence in this model.
- 91 While the MH(CAT) Act was deemed compliant with the Convention, some difficulties in the Act and its implementation have been noted.
- 91.1 While people under compulsory care and rehabilitation orders and compulsory assessment and treatment orders are protected by monitoring and review mechanisms, some commentators believe New Zealand assesses competence conservatively, creating difficulties in the release of people from compulsory treatment;
- 91.2 Regular mandatory reviews⁴² of a person's continued compulsory detention are insufficiently frequent;
- 91.3 The criteria used for release from detention are seen by some as requiring a higher standard of wellness than the criteria for compulsory detention;
- 91.4 The requirement to accept compulsory treatment certified by a responsible clinician is seen to impact on the ability to give free and informed consent.
- 92 Data from 2005 to 2009 show that only around six per cent of applicants to the Mental Health Review Tribunal who sought discharge from compulsory treatment status were discharged.

⁴² Compulsory treatment orders are initially reviewed by the courts within 14 days, then must be reviewed again after three months, and every six months thereafter. This is in addition to reviews instigated by the patient, the District Inspector or by others.

De-institutionalisation began 30 years ago in New Zealand

93 Large institutions for disabled people in New Zealand no longer exist. In 1973, the Government rejected the use of large institutions in favour of community care.

94 A deinstitutionalisation programme was implemented with the aim of transferring people out of institutions into community homes in suburban and small town settings. The last of these large institutions was closed in 2006.

95 This transition involved:

95.1 Working with the families of disabled people and the people living in areas around community homes to achieve acceptance and ensure that community support services were available to disabled people moving into communities; and

95.2 Provision of inpatient mental health care in mental health units and other specialised inpatient units in the general public hospital system.

96 Provision of sufficient support services in the community is an ongoing challenge.

Review and complaint mechanisms for detention, conditions and treatment

97 The Director and Deputy Director of Mental Health and the Director-General of Health appoint District Inspectors to monitor services provided to those under compulsory care and rehabilitation orders and compulsory assessment and treatment orders. District Inspectors are responsible for visiting facilities, reporting and conducting inquiries into service issues and complaints alleging breaches of a patient's or care recipient's rights. The New Zealand Ombudsmen, who are independent Officers of Parliament, can examine and monitor the treatment of detained persons who are subject to orders under either Act.

98 The monitoring mechanisms under the Optional Protocol to the Convention against Torture (OPCAT) are used to monitor places of detention, which includes secure facilities under both the MH(CAT and IDDCR Acts. OPCAT is domestically implemented by the Crimes of Torture Act 1989 (COTA). COTA establishes five National Preventive Mechanisms (NPMs): the Human Rights Commission, Office of the Ombudsman, Office of the Children's Commissioner, Independent Police Conduct Authority, and the Inspector of Service Penal Establishments. Under COTA, NPMs are entitled to access all information regarding the number of detainees, their treatment (including the rules and procedures of the facility) and their conditions. The NPMs are tasked with examining at regular intervals, and at any other times that the NPM may decide, the conditions of detention of detainees and the treatment of detainees, and are empowered to make

recommendations aimed at strengthening protections, improving treatment and conditions, and preventing torture or ill treatment.

- 99 One issue that has been raised through review and complaint procedures is the clinical use of seclusion of particular patients from others. The Mental Health Commission, the Human Rights Commission and consumer groups have advocated for increased scrutiny and decreased use of seclusion.
- 100 The Ministry of Health has published guidelines about seclusion for the mental health sector, reflecting its ongoing commitment to promote a culture where, over time, seclusion use will gradually decrease. Mental health services report all seclusion events to the Ministry of Health, which monitors their appropriateness and publishes annual reports on its use.
- 101 Between 1 January and 31 December 2009 a total of 5,654 patients spent time in New Zealand adult mental health in-patient units (excluding forensic and other regional rehabilitation services). This time represented a total of 185,575 bed nights. Of the 5,654 patients, 1,075 (19 per cent) were secluded at some time in the reporting period. As the same people were often secluded more than once (on average 2.7 times) the number of seclusion events, at 2,880, was higher than the number of people secluded. The majority of those secluded were male (62 per cent) and most were between 20 and 49 years of age. In specialist facilities for children and young people a total of 55 young people were secluded, generating 214 seclusion events. The duration of events ranged from two minutes to 365 days.⁴³

Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

- 102 New Zealand protects the rights of disabled people so they are not subjected to torture or cruel treatment, or to medical or scientific experimentation. In addition to the general protections of the criminal and civil law against assault or other ill-treatment, torture is a specific and very serious criminal offence. It is an offence to neglect or ill-treat a patient or proposed patient subject to compulsory treatment.
- 103 As outlined above, New Zealand has adopted national preventive mechanisms (NPMs) as part of its ratification of OPCAT in 2007.
- 104 The Human Rights Commission, as the central national preventative mechanism, co-ordinates the activities of the national monitoring bodies, liaises with the Subcommittee

⁴³ Ministry of Health 2010 *Office of the Director of Mental Health – Annual Report 2009*, Wellington, Ministry of Health.

of the United Nations Committee against Torture and engages with the wider community under the OPCAT scheme.

Article 16 - Freedom from exploitation, violence and abuse

New Zealand is working to reduce violence in families

- 105 Violence, particularly domestic violence, is an issue for all of New Zealand society, not just for disabled people. A primary cross-government initiative in this area is the Government's Taskforce for Action on Violence within Families.
- 106 The Taskforce has identified the lack of New Zealand information on which to take effective action for disabled people. Comparative evidence suggests that disabled people are at higher risk of domestic violence and abuse than non-disabled people. In particular, bullying has been identified by intellectually disabled people as a major barrier limiting their participation in their community.⁴⁴
- 107 The Government is working with a collective of non-government organisations, the Disability Coalition Against Violence, to address violence issues against disabled people. Since 2008, the Disability Coalition Against Violence has led and participated in many anti-violence projects, partially funded by the Government. The work includes:
- 107.1 Ensuring the disabled voice is heard when there are hui (meetings) and korero (discussions) about domestic and family violence;
 - 107.2 Supporting disabled people to tell their stories of violence and abuse and raise public awareness and knowledge about the issues through the Disability Clothesline project;
 - 107.3 Publishing a booklet for disabled people and their carers on identifying and responding effectively to family violence with disabled people and how individuals can seek help and increase their safety and that of their children.
 - 107.4 Developing a training package on the relationship between violence and disability and best practice responses.
- 108 In addition, one of the three priority areas identified by the Minister for Senior Citizens that he is using to champion positive ageing is: **Protecting the Rights and Interests of Older People** - by raising awareness of elder abuse and neglect prevention.

⁴⁴ *IHC Self Advocacy Forums* (2009).

Protections for disabled people

- 109 There continues to be a small number of instances where disabled or vulnerable people have been financially exploited or have not received quality services. The Government is working on raising awareness of these issues so that people or their families are prepared to take issues to the appropriate authority – employers, legal and/or professional bodies or the Health and Disability Commissioner. In addition, more funding has been given for training of support staff.
- 110 In the community:
- 110.1 The New Zealand Police have developed a range of guidance material for police officers on general procedures and duties when dealing with people who have intellectual and physical disabilities. This guidance material is regularly updated, in line with best practice. In addition, all Police staff received human rights awareness training in 2006, delivered jointly with the Human Rights Commission. Dealing sensitively with disabled people was a specific feature of this training.
- 110.2 Where offences do occur, the vulnerability of victims and whether the offender has been motivated by hostility towards particular social groups, including disabled people, are treated as aggravating factors and lead to harsher sentences.
- 111 Within the context of facilities and support services for disabled people, such services are independently monitored to protect people from exploitation, violence and abuse:
- 111.1 Contracts and specifications for relevant disability support services, especially residential services, have explicit expectations that disabled people are protected from exploitation, violence and abuse.
- 111.2 The Government is also working on raising awareness of issues of exploitation so that disabled people or their families know of, and trust, complaint procedures.
- 111.3 Additional funding has been given for training of support staff involved in service provision.
- 112 In relation to health and disability services:
- 112.1 The Health and Disability Code of Consumers' Rights also requires service providers to have complaints processes that are accessible to disabled people. In addition, professional complaints procedures apply for most categories of health and disability practitioners.

- 112.2 The Ministry of Health and the District Health Boards audit and evaluate the services they fund. The Ministry also provides a free complaints telephone service where complaints, including anonymous complaints, are received and followed up. If necessary, information can be passed on to the Police who may undertake an investigation into an allegation. The Ministry of Health is kept informed of any Police investigation.
- 113 More generally, there are also other general and specialised independent entities that can assist in the prevention, detection and resolution of abuse and ill-treatment, including the Human Rights Commission, the Independent Police Conduct Authority, the Privacy Commissioner, the Health and Disability Commissioner and the Children's Commissioner.

Response to historical abuse

- 114 While instances of historical abuse substantially predate the Convention, the Government and a number of non-governmental social service agencies are currently addressing claims of ill-treatment in a range of different institutional and other contexts dating from the 1950s to the early 1990s.
- 115 The Government has detailed its range of responses to these claims, some of which involved disabled people, in its formal response to the Committee against Torture.⁴⁵

Article 17 - Protecting the integrity of the person

- 116 Under New Zealand law, everyone has the right to refuse to undergo any medical treatment. This right is subject only to such reasonable limits as can be justified in a free and democratic society.
- 117 All people accessing health and disability services must be informed of their rights, be treated with respect and receive services in a manner that has regard for their dignity, privacy and independence. The Code of Health and Disability Services Consumers' Rights requires that, apart from in exceptional circumstances, people must give informed consent before a service is provided, including sterilisation.

Non-consensual treatment only under exceptional circumstances and subject to safeguards

- 118 As outlined above, New Zealand law does provide for compulsory assessment and treatment in exceptional circumstances. This happens only where a high level of risk is

⁴⁵ See CAT/C/NZL/CO/5/Add.1, 19 May 2010.

independently determined to exist and is subject to judicial authorisation and continuing scrutiny, as well ensuring independent representation and rights of review and complaint for the person concerned.

- 119 Court-ordered assessment and treatment does not negate the need for clinicians to obtain informed consent if possible at each stage of assessment and for all treatments.

Sterilisation

- 120 Sterilisation without consent can only occur on the basis of the individually assessed clinical needs of the patient and is subject to strict safeguards. Welfare guardians⁴⁶ are specifically prohibited from consenting to sterilisation or medical experimentation on the person under care. It is generally accepted that a court order should be sought to determine if sterilisation is in the best interests of the person, if the person is not capable of making the decision.
- 121 The most recent substantial sterilisation case (illustrating the gravity of the issue and the participation of the affected person) is *KR v MR*,⁴⁷ which emphasised that sterilisation is a special case that goes beyond the competence of a guardian and will be authorised by the court only where the affected person lacks sufficient competence and where no lesser measure would be effective.
- 122 The Paediatric Society, a medical professional body, has developed guidelines for the management of menstrual bleeding and fertility in girls with intellectual disabilities. These support practitioners in making evidence- and principle-based assessments about appropriate treatment for a female minor. If a minor is not capable of making a decision, then it must be a joint decision by parents and clinician that sterilisation is in her best interests. Alternatively, the matter could be taken to court.

Article 18 - Liberty of movement and nationality

- 123 All New Zealanders, including disabled New Zealanders, have the right of freedom of movement, which can only be constrained in accordance with the law.
- 124 The right to New Zealand citizenship and to hold a New Zealand passport makes no distinction on the grounds of disability. Every birth in New Zealand must be registered by law.

⁴⁶ Appointed under the Protection of Personal Property Rights Act 1988: see, further Article 12 above.

⁴⁷ [2004] 2 NZLR 847.

Immigration policy and health criteria

- 125 Immigration policies do not differentiate on the basis of disability. However, foreign nationals are generally required to establish that they do not pose a public health risk, such as from active tuberculosis, and are unlikely to impose excessive costs or demands on New Zealand's health, education and other services.
- 126 This assessment involves an objective determination, made in consultation with the person concerned and their certifying doctor, of the health risk and/or costs of the individual's condition and whether those can reasonably be accommodated in New Zealand. The requirement to not incur excessive costs or demands is designed to protect New Zealand's limited resources.
- 127 A person who does not meet these health requirements may be eligible for a waiver. In particular, refugee protection is accorded regardless of health condition.

Article 19 - Living independently and being included in the community

- 128 Disability policy and practice in New Zealand emphasises the inclusion, participation in society and independence of disabled people within the community.^{48 49}

Community support services aim to enable independent living

- 129 The Ministry of Health funds disability services that focus, where possible, on assisting disabled people to live in their own homes or, if that is not possible, within their own communities. Services provided by the Ministry of Health and District Health Boards include care to live at home, provision of necessary equipment and housing modifications, supported living, and transport assistance.⁵⁰ Limited funding is available for participation in community activities and meeting personal goals. Assistance is also provided through the ACC scheme.⁵¹
- 130 The provision of services is given effect through the Needs Assessment Service Coordination (NASC) procedure. NASC identifies and prioritises disability support needs and available support options, authorizes funding, and co-ordinates support services. NASC seeks to ensure access to services is provided according to need and can be

⁴⁸ This definition of disability services as being services that promote inclusion, independence, and participation in society is contained in Section 6 of the New Zealand Public Health and Disability Act 2000.

⁴⁹ This is reinforced by the Government's New Zealand Positive Ageing Strategy, under which older people are highly valued and where they are recognised as an integral part of families and communities.

⁵⁰ There is current litigation (*Atkinson v Attorney-General*) about whether close family members should be eligible to be paid caregivers for disabled people. Currently, families are not paid for such care, but that has to date been held to constitute discrimination on the grounds of family status.

⁵¹ See paragraphs 199-201 below.

sustained within available resources. NASC can result in withdrawal of services from individuals where resources are needed more urgently elsewhere, and that has led to instances of dissatisfaction among some disabled people.

- 131 For people living with mental illness, independent living schemes can provide accommodation and a support worker to promote individual independence.
- 132 The Ministry of Health funds a Disability Information and Advisory Service to provide information and advice to disabled people, their families and whānau, caregivers, providers and the general public.

Housing assistance contributes to independent living and community inclusion

- 133 Disabled people with physical disabilities who require modified housing are assisted through Housing New Zealand Corporation's (HNZC's) Suitable Homes Service and Healthy Housing programme,⁵² through ACC and/or through the Ministry of Health.
- 134 In addition, public housing can assist disabled people. The Government, through the State-owned HNZC manages a rental housing portfolio of over 69,000 homes, of which 2,635 have been modified for disabled people. In 2008/2009, HNZC assisted 265 disabled people into modified homes.
- 135 HNZC provides housing to government funded community providers for group housing and for care and support services for disabled people. At present, 1,183 properties are provided to organisations that target their services to the needs of people with intellectual, physical and psychiatric disabilities.
- 136 In the private sector, the Government is involved in supporting and promoting accessible housing:
- 136.1 Under the Lifemark project, the Government is working with a non-governmental organisation to promote accessible design standards for new residential houses.⁵³ Lifemark standards require 33 design features, including a level entry, widened doors and passageways and reinforced bathrooms. These measures are directed to ensuring accessibility and adaptability over time.
- 136.2 National standards for retirement villages deal with the needs of disabled residents.

⁵² Healthy Housing is a joint project between Housing New Zealand Corporation and District Health Boards (DHBs). The programme works with Housing New Zealand tenants in selected areas, and began in 2001. Healthy Housing aims to: raise awareness of infectious diseases like meningococcal disease, rheumatic fever, tuberculosis, cellulitis and respiratory diseases; improve access to health and social services; reduce the risk of housing-related health problems and reduce overcrowding.

⁵³ Lifetime Design, a subsidiary of CCS Disability Action.

Continuing challenges

137 Not all communities and not all private property owners welcome disabled people. In response, the Affordable Housing: Enabling Territorial Authorities Act 2008 was passed in 2008 to supplement general anti-discrimination law and prevent property developments from seeking to exclude houses for disabled people.⁵⁴

138 Disabled people also experience problems:

138.1 Loneliness, lack of participation and the ability to develop social networks within local communities can be problematic;

138.2 People in community services sometimes have limited choice in where and with whom they live and in their daily activities. In particular, community mental health services sometimes offer disabled people and their families limited or no choice of service providers or fellow residents.

139 The new independent living model seeks to counter these problems.

Enhancing community living

140 In June 2010, the Government agreed in principle to further improvements in community support, which are to be trialed in 2011. This new independent living model includes:

140.1 A stronger focus on providing information and personal assistance, including through the appointment of designated Local Area Coordinators;

140.2 Allocation of services according to an indicative dollar value of support, affording more flexibility over how available funding is used; and

140.3 Broadening of accountability arrangements to include government agencies, providers and disabled people, and a stronger focus on quality monitoring in terms of whether recipients of support are able to live an ordinary life.

Article 20 - Personal mobility

Assistive aids and equipment are publicly provided

141 The Government provides disabled people with a range of personal mobility assistance, including equipment such as wheelchairs and scooters, assistive devices such as canes and sonar devices, artificial limbs and vehicle and other modifications on the basis of a needs assessment. Training is also provided.

⁵⁴ Affordable Housing: Enabling Territorial Authorities Act 2008. Subsequently restated by Section 277A of the Property Law Act 2007.

142 Disability assist dogs are provided by charitable and non-governmental organisations, but government funding may be provided for ongoing costs. Specific legislation provides that such dogs can be brought into all publicly accessible places.

Transport support is given and is improving

143 In addition to public transport,⁵⁵ the Total Mobility Scheme provides:

143.1 A 50 per cent subsidy for taxi services to disabled people who are unable to use public transport; and

143.2 Funding assistance for the purchase and installation of wheelchair hoists in taxi vans. There were 298 hoists in use in 2009/2010, almost three times as many as in 2004/2005.

144 ACC provides transport assistance to people disabled by injury.

145 A national mobility parking scheme provides for specified car parks for disabled people with a mobility permit in both public and private parking settings (eg supermarket car parks). The Building Act 2004 requires accessible parking to be supplied for any public building when being constructed or altered. Monitoring and enforcement of the scheme is a problem, particularly with car parks on private property.

Article 21 - Freedom of expression and opinion and access to information

146 All people in New Zealand have the right of freedom of expression, which includes the right to seek, receive and impart information and opinions of any kind in any form.

Assistance to communicate⁵⁶

147 The Government assists in providing equipment and other resources necessary for self-expression, including assistive technology, speech language therapists and other qualified professionals.

New Zealand sign language is an official language

148 More specifically, the New Zealand Sign Language Act 2006 designates NZSL as one of New Zealand's three official languages and provides for its use in legal proceedings and by the Government. In the 2006 Census, a total of 24,090 people reported the ability to use NZSL, although people's fluency in the language was not identified.

⁵⁵ Access to public transport is discussed in Article 9 above.

⁵⁶ See also accessibility of information at Article 8 above.

149 In addition to provision in the court system, the Government funds interpreter services across a range of government agencies and, in 2008/2009, funded Deaf Aotearoa to establish a range of equipment and promotional material and programmes.

Article 22 - Respect for privacy

150 Everyone in New Zealand has the right to privacy in their personal information under the Privacy Act 1993, subject only to narrowly framed and implemented exceptions where information is required for public purposes.⁵⁷ There are specialised protections for privacy in respect of health and disability support services.

151 In 2010, the New Zealand Law Commission, an independent government law reform body, conducted a review of privacy values, changes in technology, international trends and their implications for New Zealand law. The Commission's report, which is currently under consideration by the Government, identified conditions under which health information should and could be shared as an area for reform.

Article 23 - Respect for home and the family

152 A disabled person has the same right to marry as any other person. There are no distinctions based on disability in relation to adoption, fostering, access to family planning services or whether a couple is eligible for publicly funded in vitro fertilisation.

153 Some disabled people, and particularly those with an intellectual disability, do, however, report negative societal attitudes.

Adequate support for families

154 New Zealand child policy sees family as the best environment for all children, including disabled children.

155 Disabled parents with child care responsibilities can receive support services and, subject to an income test, financial assistance. In particular, up to 50 hours of childcare per week is available to disabled parents with dependent children.

156 Parents and other family of disabled people are recognised and supported through the Carers Strategy.⁵⁸ One of the most important services available to families caring for a disabled family member is respite care. A subsidy is available that contributes to the cost of non-resident family, neighbours or others providing respite care and funds some spaces

⁵⁷ Set out in the Privacy Act 1993 and the Official Information Act 1982.

⁵⁸ See, further, Annex, paragraph 8.

in residential or day facilities. Respite care for young adults with complex needs is reportedly difficult to arrange.

Protection of disabled children

- 157 In accordance with the Convention on the Rights of the Child, New Zealand law concerning the care of children treats the welfare and best interests of the child as a paramount consideration in determining and supporting care arrangements.
- 158 New Zealand has extensive arrangements for supporting and, where necessary, protecting children, including disabled children. However, even where abuse or neglect necessitates intervention by social agencies, disability support is to be maintained in all circumstances. Further, all options for supporting a disabled child or young person to remain living with family must be fully explored before considering an out-of-home placement.

Article 24 - Education

Access to education

- 159 Disabled New Zealanders have equal rights of access to education, including in the early childhood, compulsory and tertiary sectors. Access to public and private education providers is safeguarded both by general anti-discrimination law and by education law and policy requirements. Teachers and others working in the education system are protected by anti-discrimination law.
- 160 Education for disabled people in New Zealand is governed by the following broad principles:
- 160.1 Students with special education needs have the same rights, freedoms and responsibilities as people of the same age who do not have special education needs;
 - 160.2 The primary focus of special education is to meet individuals' learning and developmental needs;
 - 160.3 Special education resources are used in the most effective and efficient way possible, taking into account parental choice and the needs of the student;
 - 160.4 A student's language and culture comprise a vital context for learning and development and must be taken into consideration in planning programmes
 - 160.5 Partnership between parents and education providers is essential in overcoming barriers to learning; and

- 160.6 Students with special education needs will have seamless access to education, from the time that their needs are identified until they leave school.
- 161 Reflecting these principles:
- 161.1 More than 30,000 children and young people aged up to 21 years receive specialist education services. Most of these are in mainstream schools. Funding is given to schools to support 40,000 to 60,000 children with more moderate special education needs. Around 5,200 students with special education needs receive subsidised or fully funded daily school transport assistance.
- 161.2 Of the 7,569 children receiving support in early childhood education, 2,247 are girls and 5,322 are boys. Of the students with high needs in primary and secondary schooling, 2,565 are girls and 4,321 are boys. The differences between the numbers of girls and boys reflect the fact that some medical conditions causing disability appear to be gender linked.
- 161.3 Approximately 2,600 deaf or hearing impaired children and young people receive specialist education support from birth to the time they transition out of school. There are two specialist schools for the deaf that act as resource centres to support deaf children.
- 161.4 In 2008, five per cent of tertiary students identified themselves as disabled. Disabled tertiary students make up seven per cent in lower levels of the tertiary system (studying level 1-3 certificates) compared to four per cent studying for a bachelor's degree.
- 162 The Education Review Office (ERO) monitors practice across early childhood education centres and schools both at an individual level and systemically. The ERO audit process includes identification of policies or practice that discriminate against disabled students and disabled school staff, which then must be remedied by the school or centre concerned.

Support for disabled people in early childhood and compulsory education

- 163 Pre-school screening tools form part of child health and development checks and are used to detect developmental and behavioural problems in children before they start school, so that any issues can be addressed from the outset.
- 164 In early childhood education, there are qualified, experienced staff who work with preschool children with special education needs. They provide assessment services,

general information, specialist services, knowledge sharing and support to families, educators and other professionals.

- 165 Within the school system, the majority of disabled students are mainstreamed into local schools, going to the same school and classrooms as other students in the area. All schools receive a special education grant to support students with moderate levels of additional educational need. In addition, school alterations are funded to enable access for children, with approximately 50 per cent of all schools modified to enhance the accessibility for all students. Legislation requires that, as public buildings, all new schools be accessible.
- 166 Other students are in special school satellites based in mainstream schools, or in special education schools, including specialist schools for children who are deaf or blind or have an intellectual disability. Some specialist schools cover large geographic areas so students may have to be residential boarders at the school.
- 167 Professional development opportunities are available for teachers to assist them with responding to the diverse needs of students. The extent to which teachers and schools take up these opportunities is variable and teacher training in special education is not mandatory.
- 168 The Government's nationwide special education service, part of the Ministry of Education, works to remove barriers to accessing education so that children are present, participating and learning within existing school services. These services are available irrespective of the type of school the disabled child is attending. There are 950 frontline specialist field staff working with and for children with specialist education needs and their families.⁵⁹) A further 900 part-time support workers work directly with students to implement individual student learning plans.
- 169 Government spending on special education, not including separate tertiary education expenditure, is approximately \$460 million. Special education services include:
- 169.1 Orientation and mobility services, and accessible format materials for the vision impaired;
 - 169.2 Specialist teaching services for deaf children;
 - 169.3 Speech language therapy to assist those with communication barriers;
 - 169.4 Occupational and physiotherapy to assist those with physical disabilities;

⁵⁹ There were 51,974 teachers for all children directly employed by schools, as at 2010.

- 169.5 Specialist staff such as psychologists, resource teachers, teacher aides, interpreters, note takers and kaitakawaenga;⁶⁰ and
- 169.6 Assistive technology services such as computer hardware and software, vision equipment, specialised seating, tables and hearing devices.

Tertiary education and transition to work

- 170 Disabled people have access to adult learning, including in formal tertiary education settings. Tertiary institutions are expected to be accessible to disabled students. Additional funding is available to them to help meet the needs of disabled students.⁶¹ Financial support for disabled people attending education and training, including for transport costs, is available through Workbridge, which is funded by the Ministry of Social Development.
- 171 In 2004, the Tertiary Education Commission (TEC) and Ministry of Education published a voluntary code of practice for tertiary education organisations to use in supporting students with impairments.⁶² It was developed by the tertiary sector disability network ACHIEVE to assist tertiary education providers create a fully inclusive environment for students with impairments.
- 172 Best practice guidelines suggest that transition from education to employment is an area where improvement is needed. Transition from education to employment should start at about age 14 with a plan for each student. Funding of transition services is available for those with high specialist education needs during their last year in school. Despite this, some schools (and some parents) still appear to assume that open employment is not a viable option for disabled students, and parents of disabled children have commented on the low aspirations that teachers have for disabled students in terms of academic achievements and/or careers.
- 173 A cross-agency working group is working on how to create a disability confident school so that the transition process is smooth and barrier-free.

Continuing challenges

- 174 Complaint mechanisms continue to indicate gaps in the implementation of accessible schooling. Enrolment and suspension/exclusion decisions involving disabled students

⁶⁰ Specialists in Māori cultural advice and support.

⁶¹ This Equity Funding programme is replacing the previous programme, Special Education Special Supplementary Grants. Under Equity Funding, the TEC makes investment decisions based on plans submitted by each Tertiary Education Institute on how each institution plans to respond to government priorities and stakeholder needs over a three year period.

⁶² Kia Orite: Achieving Equity New Zealand Code of Practice for an Inclusive Tertiary Education Environment for Students with Impairments.

have been the subject of complaints to the Human Rights Commission and the Children's Commissioner, as have levels of support and reasonable accommodation.⁶³

- 175 More specifically, there are insufficient NZSL teachers and interpreters across the country to support all deaf children to acquire NZSL or be taught through NZSL. The Ministry of Education is taking initiatives to address this problem, including through scholarship funding to encourage interpreter training.
- 176 In 2010, ERO undertook a systemic audit of schools' inclusive practices in relation to the broader grouping of students who need additional support or assistance, principally comprising disabled students. The audit, concluded in mid-2010, indicated that approximately half of the schools in the study comprehensively demonstrated inclusive practices, with some areas of inclusive practice in 30 per cent and few or no inclusive practice in the remaining 20 per cent.
- 177 ERO observed that inclusive practices were primarily a question of approach, rather than resources, finding that the level of inclusiveness at schools was not correlated with funding. Instead, the quality of leadership and the extent to which schools adopt a specialised form of teaching for students with high needs.

Review and reform of special education

- 178 In response to the ERO review and wider community concerns, the Government undertook a review of special education, including issues of access to schools, quality of workforce, accountability and cost and volume of services. The review report, *Success for All - Every School, Every Child*, was published in late 2010.⁶⁴
- 179 The Government has committed to:
- 179.1 Making schools more accountable for accepting, supporting and including students with special education needs;
 - 179.2 Making it easier for parents and their disabled children to access special education services;
 - 179.3 Extending some special education services and making them more flexible;
 - 179.4 Strengthening teacher and school board of trustees' education and awareness about disabled children; and

⁶³ 17 per cent of all disability-related complaints to the Human Rights Commission in 2009 were about the education of disabled students. Complaints included problems enrolling in schools or tertiary institutions, and disabled children being suspended or excluded from schools due to behaviours associated with their disabilities. Almost a third of the complaints were regarding the reasonable accommodation or support for disabled school and tertiary students.

⁶⁴ *Success for All - Every School, Every Child*, 2010

<http://www.minedu.govt.nz/NZEducation/EducationPolicies/SpecialEducation/SuccessForAll.aspx>.

179.5 Agreeing to carry out more work in relation to transport and transition from school to employment for disabled youth.⁶⁵

180 One thousand more children with severe educational difficulties will get special education support. A further thousand children will be able to get specialist support in their first three years of school - making the transition to school easier and reducing waiting lists.

181 Schools have been set targets to improve their performance, with provision for regular progress reports. By the end of 2014, 80 per cent of schools are expected to be including students with special education needs and the remainder well on their way.

Article 25 - Health⁶⁶

182 All people have the right to adequate standards of care. The Government funds a comprehensive range of personal health services, including mental health services and sexual and reproductive health services, for both disabled and non-disabled people. This includes free access to high quality care in public hospitals and subsidised access to primary health care. People who are on low family incomes, including disabled people, are entitled to subsidised primary health care. Subsidised drugs are available through general medical practitioners and specialists.

183 Primary health care organisations that provide free care to children under six years old receive additional subsidies from the Government. The Government also funds a free immunisation programme for all children, to prevent illnesses which could result in secondary disabilities.

184 Public health campaigns do not differentiate on the basis of disability. Campaign promotions are increasingly using a range of media to assist in reaching populations such as disabled people. Examples of this are the public health campaign on H1N1 flu which used sign language, and the public health campaign on the cervical cancer vaccine which used captioning.

185 District Health Boards are required to provide accessible health services. This requirement also applies to primary health care services supplied through primary health care organisations. However, while there is a reasonable understanding about wheelchair and ambulatory mobility issues, there is less of an understanding about barriers that are faced by people with intellectual, mental or sensory disabilities.

⁶⁵ http://www.minedu.govt.nz/NZEducation/EducationPolicies/SpecialEducation/~/_media/MinEdu/Files/EducationSectors/SpecialEducation/CabinetPaperSuccessForAll.pdf.

⁶⁶ See also paragraphs 85-87 & 117-118 (requirements for non-consensual care and treatment) and paragraphs 97-98 (complaint and audit procedures).

186 District Health Boards set priorities for their own communities, which means that the particular mix and level of services can differ from region to region. Economies of scale mean that some services are only available in the larger cities.

The need to improve the health of people with intellectual disabilities

187 Analysis of health data, carried out by the Ministry of Health in 2010, indicates the health of people with intellectual disability in New Zealand is markedly poorer than for people without identified intellectual disability. Hospital events relating to coronary heart disease and chronic respiratory disease occur approximately 1.5 to 2 times the rate of people without an intellectual disability. Prevalence data indicates higher than average rates of diabetes, and public hospitalisations for injury and mental health conditions are over three times higher than for people without an intellectual disability. People with intellectual disabilities are also over-represented in mental health and addiction statistics.

188 The Ministry of Health recognises this is an issue and is identifying options to improve health for intellectually disabled people.

Addressing Māori and Pacific disadvantage

189 Strategies targeted towards Māori and Pacific people have been developed to achieve better health outcomes for these groups, including disabled people. The Government purchases specific Māori and Pacific health and disability support services from both Māori and Pacific service providers as well as mainstream providers. Health and disability service standards recognise the values and beliefs of Māori and Pacific health and disability consumers, stating that the needs of individuals must be met in a manner that acknowledges individual and cultural values and beliefs.

Addressing multiple impairments

190 Services tend to be set up to meet the specific needs of a client group with a single impairment. When multiple impairments exist, such as mental illness plus a physical or sensory impairment, the person's overall needs and access to appropriate services are not always co-ordinated. The health needs of disabled people can be seen as secondary to their disability needs, and therefore not always treated with the same degree of urgency as a non-disabled person presenting with health needs. The Government has been raising awareness among service providers about people with multiple impairments.

Improving training of the health sector workforce

- 191 There is no overall cross health and disability sector initiative in place to train health professionals on the rights and specific needs of disabled people. The Ministry of Health, ACC, and District Health Boards have invested heavily in building the capacity of the sector workforce in recent years. There are initiatives in place for parts of the health workforce eg mental health professionals. Improved training and skills development has been led by the sector industry training organisation, with various new tertiary level qualifications, including a graduate diploma, receiving approval from the New Zealand Qualifications Authority. Increased levels of funding by Government can be tied to the qualifications of staff, providing financial incentives for many employers to encourage staff to improve their skills.
- 192 One of New Zealand's two medical schools (the Wellington campus of the Otago Medical School) has commenced training for its students in the subject of disability. This is a joint initiative between the medical school and Capital City Health and offers specific disability awareness training, which had not previously been part of the curriculum.

HIV/AIDS

- 193 The Ministry of Health largely funds the work of the New Zealand AIDS Foundation, a non-governmental organisation. The AIDS Foundation's goals are to prevent the transmission of HIV and to support those affected by HIV to maximise their health and wellbeing. The Foundation is working in partnership with Pacific Island organisations on a three year programme of capacity building work focused on improving the sexual health and wellbeing and human rights of Pacific men who have sex with men, and reducing stigma and discrimination against such men in the Pacific.

Insurance

- 194 It is unlawful for an insurer to refuse to provide a disabled person with insurance or to treat them less favourably. However, insurers can include different terms and conditions in insurance policies on the grounds of sex, age or disability if the difference can be supported by statistical or actuarial data.
- 195 In the case of disability, differences in policies may be allowed if, in the absence of statistical data, there is medical advice or opinion that it is reasonable to rely on.

Article 26 - Habilitation and rehabilitation

Maximising independence

- 196 The Government funds a wide range of health and disability support services that contribute to habilitation and rehabilitation and in turn support independence. Participation in these programmes is voluntary. Habilitation and rehabilitation are provided in hospital and community settings.
- 197 The Ministry of Health, District Health Boards and ACC all fund habilitation and rehabilitation services. ACC is responsible for those whose need for rehabilitation arises from an accident, the Ministry funds services to those with a physical, mental or sensory impairment under the age of 65, and District Health Boards fund services to older New Zealanders and those with support needs arising from mental health or addiction issues.
- 198 National guidelines are in place for Ministry of Health funded services. Since each of the twenty District Health Boards set their own service priorities and funding allocations there can be different thresholds for eligibility between regions.
- 199 A review of long-term disability supports identified inconsistencies in service provision because different parts of government use different criteria to determine eligibility for support services.⁶⁷ Better co-ordination of the different services a disabled person needs has been identified as an area in which improvement could be made.

Social insurance for disability by accident

- 200 ACC is responsible for all rehabilitation arising from all accidental injury, whether suffered in the workplace or otherwise, and provides a range of support services. Rehabilitative programmes include:
- 200.1 Supported activities programme – a day programme provided to long-term clients;
 - 200.2 Short-term intensive interventions to increase independence in daily living; and
 - 200.3 School to work transition.
- 201 The level of services provided by ACC is often higher, particularly in the short term, than those available across the general health and disability support systems. In particular, and in order to minimise costs arising from the ongoing support of injured people, services may be provided faster, at a higher amount, and initially more frequently than for people receiving health and disability supports from other government agencies.

⁶⁷ <http://www.odi.govt.nz/what-we-do/review-dss/index.html>.

202 A recent case brought under the Human Rights Act 1993 complained that the Ministry of Health's scheme for providing disability support services was discriminatory because it was not as generous as that provided by ACC. However, the Court of Appeal held that it was not discriminatory as any anomalies arose from the trade-off under the 'no fault' ACC scheme, under which there is no right to sue for injury caused by an accident, and the policy choice of government to continue to provide for the cost of illness through the health system.⁶⁸

Article 27 - Work and employment

203 Disabled people have the same access to legal safeguards as all other workers, including in terms of harassment, unfair dismissal, and trade union rights. Discrimination on the grounds of disability in employment is unlawful both under employment law and under general anti-discrimination law, which impose a duty of reasonable accommodation. Anti-discrimination law exempts affirmative action measures taken to redress disadvantage experienced by disabled people.

204 In addition, all employers' health and safety obligations require employers to take all practical steps to eliminate hazards, which could include harm arising from bullying or harassment, whether by the employer, by other employees or otherwise.

205 Both public and private sector employers are subject to particular duties towards disabled people. Within the public sector, the State Sector Act 1988, the Crown Entities Act 2004 and the Local Government Act 2002 promote the interests of disabled people through the promotion of equal employment opportunities. More broadly, public sector employers are subject to a specific duty to act as a "good employer", in particular by:

205.1 Providing good and safe working conditions for all;

205.2 Ensuring impartial selection of suitably qualified personnel for appointment; and

205.3 Recognising the aims, aspirations and employment requirements of disadvantaged groups, including disabled people.

206 Private sector employers are subject to less specific duties of good faith and mutual trust and confidence, which reflect similar principles.

207 Further, wage rates, including minimum wage protections make no distinctions for disabled people. As part of the move away from sheltered employment, discussed below, the general exemption of such employment from general wage and working conditions

⁶⁸ *Treventhick v Ministry of Health* [2009] NZAR 18 at [18].

ceased in March 2007. In its place, there is a limited scheme for individually assessed exemptions that allow reduced wages to be paid according to individual productivity. Approximately 1,200 individual workers remain under such exceptions, principally in the remaining sheltered workplaces.⁶⁹

208 The exemption process has, however, been criticised as both cumbersome and as sometimes involving inaccurate assessments of individual productivity. The Ministry of Social Development is currently funding an employment advocacy service for workers with intellectual disabilities, in part to assist disabled workers in respect of such exemptions.

Major challenges remain in practice

209 Disabled people are less likely to seek work and, if seeking work, less likely to be employed than non-disabled people and tend to be employed in lower-paid work.⁷⁰

210 Several surveys over the last few years have found that disabled people want to work,⁷¹ but employers' lack of knowledge and discrimination are acting as barriers. Recent Human Rights Commission research among employers and current and potential employees found:⁷²

210.1 An unwillingness on the part of employers to give opportunities to disabled people;

210.2 Incorrect assumptions about what employing a person with a disability might entail and about health and safety concerns; and

210.3 Concerns that disclosing mental health issues would exclude job applicants from consideration.

Government support for disabled workers

211 In a 2000 review of vocational services,⁷³ disabled people said they wanted real work for real wages. Since then, efforts have been made to ensure that mainstream employment services are accessible to disabled people, though disabled people continue to indicate that more should be done.

⁶⁹ Nationally, there were 1,242 exemptions at 30 June 2008, 1,250 exemptions at June 2009 and 1,236 at the end of June 2010.

⁷⁰ See Annex, table 4.

⁷¹ Ministry of Social Development, Working Paper 07/04: *Wellbeing, Employment, Independence: the Views of Sickness and Invalids' Benefit Clients*, 2004 and 2007 Royal New Zealand Foundation of the Blind survey.

⁷² Human Rights Commission, *What Next? National Conversation about Work*, 2010.

⁷³ *Pathways to Inclusion*, Department of Labour 2000.

Changing attitudes

212 One of the primary goals of the Government funded Human Rights Commission is for all people in New Zealand to have equal employment opportunities and access to decent and productive work. This work is led within the Commission by a designated Equal Employment Opportunities Commissioner.

213 In addition:

213.1 The Government partially funds the Equal Employment Opportunities Trust, a not-for-profit organisation that provides information and tools to employers and raises awareness of diversity issues in workplaces;

213.2 The Government has recently facilitated the development of an Employers Disability Network, an independent employer-led organisation that supports employers to employ disabled people and to reach disabled customers by promoting best practices.

Facilitating real work for real pay

214 Since the 1990s, there has been a continuing shift away from sheltered employment for disabled people, into employment in the general workforce, with additional support where required.

215 Some categories of income support that are paid to disabled people were previously exempted from general obligations to look for appropriate employment. The Government is now encouraging recipients of such support to seek part time work, if appropriate and available, and from May 2011 some recipients may, if assessed as capable of working part-time, be required to look for and accept such work.

216 Further, and in addition to the usual job seeker support, the Government provides a range of assistance. The Government funds a range of vocational services, amounting in 2008-2009 to services for 19,918 disabled people, including 9,384 who were placed or supported into paid open employment and 1,000 supported in sheltered workplaces. Vocational services include.

216.1 Placement into ongoing open employment by Work and Income, the general government employment assistance agency, or by Workbridge, an independent specialist agency funded on a contractual basis, and other supported employment services;

- 216.2 Financial assistance through Workbridge to meet the additional costs of disability in open employment, training, or self employment, including assistive technology.
- 217 In addition:
- 217.1 Subsidies are available to support disabled job seekers into self employment; and
- 217.2 The Mainstream Employment Programme provides a package of salary and training subsidies and other support for two years and provides work experience in the State sector to people with significant disabilities as a pathway to ongoing employment.
- 218 A Welfare Working Group was established by the Government in 2010 to examine long-term welfare dependence. The terms of reference included how best to promote opportunities and independence from benefit for disabled people. The Welfare Working Group concluded in February 2011, and recommended active support for disabled people in accordance with the Disability Strategy.⁷⁴ The Government will respond to this and other recommendations in due course.

Work in the informal sector

- 219 Like anyone else, disabled New Zealanders may perform voluntary work, and all general protections against exploitation apply to them.

Article 28 - Adequate standard of living and social protection⁷⁵

- 220 Publicly funded income support benefits are available for people who cannot work due to disability. All people aged 65 and over who have met a residency requirement are entitled to publicly funded superannuation, which is paid irrespective of past employment or income.
- 221 Income assistance for disabled people who are unable to work is fixed at a slightly higher level than general unemployment assistance. However, practice indicates that people are at greater risk of poverty if dependent on income assistance in the long term. While financial assistance is available to people in hardship, the Government emphasises employment, with the forms of support outlined previously, as the most effective way that most people can improve their situation.

⁷⁴ <http://ips.ac.nz/WelfareWorkingGroup/index.html>.

⁷⁵ See also Article 19.

222 Specialised supplementary income assistance is provided to assist disabled people who face additional living costs of living:

222.1 The Disability Allowance provides income-tested assistance to people who have additional costs because of a disability or health condition;

222.2 The Child Disability Allowance is not income-tested and provides assistance to the principal caregivers of dependent children who have a serious disability.

Article 29 - Participation in political and public life

Voting

223 Under the Electoral Act 1993, every adult New Zealand citizen or permanent resident is qualified to be registered as a voter if that person has at some time resided continuously in New Zealand for a period of not less than one year. There is no distinction on the basis of disability.

224 In particular, all people under compulsory care or treatment are entitled to vote unless they have committed criminal offences and have been detained for three years or longer (the same applies to the general population) and are still detained.

Ensuring access

225 The Government, in consultation with groups from the disability sector, developed and successfully implemented an accessibility action plan for the 2008 general election. More is planned for the 2011 election. Initiatives in 2008 included:

225.1 Development of a simple plain English and pictorial *Easy Guide to Voting* resource for voters with learning and intellectual disabilities, and their caregivers. This resource was developed in conjunction with IHC New Zealand and People First organisations;⁷⁶

225.2 Production of a DVD in collaboration with Deaf Aotearoa that uses sign language, captions and spoken English to explain enrolment and voting processes;

225.3 Provision of information about voting in a range of formats including Braille, audio tape and large print;

225.4 Training of election officials on how to assist disabled people; and

⁷⁶ The main provider and advocacy organisations for people with an intellectual disability.

225.5 Provision of independent help for some residents of community care homes, for example from Justices of the Peace.

226 As in previous years, disabled voters were surveyed following the 2008 general election.⁷⁷ Eighty five per cent of disabled voters were satisfied with voting information provided and 96 per cent of disabled voters considered the length of time taken to cast a vote to be “about right”. Most (86 per cent) disabled voters cast their votes at a polling station, rather than – as is possible – by post, at a hospital care facility or through advance voting and, while assistance was provided when required, 57 per cent of disabled voters were able to vote unassisted.

Support for civil society

227 The Office for Disability Issues, some central government agencies, District Health Boards and local councils have all set up advisory boards of disabled people. Central government agencies in the social sector have a number of contracts with disabled peoples’ organisations, some for the provision of advice and others for provision of services.

ARTICLE 30 - PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT⁷⁸

228 The Government supports cultural and recreation activities both directly through specialised agencies⁷⁹ and through health, education and other activities, and indirectly through local government, which is required to support sport, culture and leisure for all members of the community. Provision of funding for cultural, sporting and other social activities for disabled people in communities is a priority area for funding allocation from government lotteries.

Cultural activities

229 Creative New Zealand, a Government agency, is responsible for supporting cultural activities, including many initiatives for disabled people:

229.1 It funds a national non-government organisation, Arts Access Aotearoa: Whakahauhau Katoa o Hanga, which works to increase artistic opportunities and access to the arts for disabled people;

⁷⁷ <http://www.elections.org.nz/study/researchers/satisfaction/disability.html>.

⁷⁸ See also Article 21 above (New Zealand Sign Language).

⁷⁹ See also paragraph 51 (public funding for broadcasting).

- 229.2 It has published, with Arts Access Aotearoa, *Arts for All: opening doors to disabled people*, a guide on practical and long-term ways for artists and arts organisations to enhance access and market their events to disabled people;
- 229.3 It has convened workshops with arts organisations in 2010, and plans an audit of arts organisations in 2011 to review current standards and capabilities;
- 229.4 It has sponsored a new award, developed by Arts Access Aotearoa, to acknowledge an arts organisation or group that has gone to extraordinary lengths to become more accessible to disabled people;
- 229.5 It plans to develop a diversity strategy that will encompass access to, and participation in, the arts for disabled New Zealanders by 2013.
- 230 Particular arts organisations, which receive public funding, have initiatives to support disabled people in pursuing cultural activities:
- 230.1 In December 2010, Dance Aotearoa New Zealand launched a disability dance strategy, *Would You Like This Dance?* which is intended as a blueprint for the development of dance participation, creation and performance by disabled people.⁸⁰
- 230.2 The New Zealand Symphony Orchestra is working to assist disabled people better experience classical music, including discounted tickets, transport to events, making open rehearsals accessible to disabled people and a *Music in the Dark* event, which was aimed primarily at the blind and sight impaired.
- 231 The Copyright Act 1994 provides specific exceptions to intellectual property regulations for the production of Braille and other accessible materials for disabled people.
- 232 Disabled Māori have identified their right to access Māori culture and language is not always met. Marae (meeting places)⁸¹ are generally not accessible and there are only three qualified trilingual interpreters (English-Māori-NZSL) in New Zealand.

Sport and recreation

- 233 In addition to sport and recreation support provided through the education system, other government services and local government, the Government is pursuing three broad objectives under its current *No Exceptions* programme:
- 233.1 More disabled New Zealanders active in sport and physical recreation;

⁸⁰ <http://www.danz.org.nz/NZDDS.php>.

⁸¹ These are community facilities owned and operated by kin based descent groups.

- 233.2 More New Zealanders participating in the support and delivery of sport and recreation to disabled New Zealanders; and
- 233.3 Promoting access to sport and recreation and the achievements of disabled New Zealanders, to encourage participation by more disabled New Zealanders.
- 234 The Government assists high performance sport for disabled people.
- 235 This approach will see specific funding for disabled people increase to approximately \$4.7 million from 2009 to 2012.

PART C: SITUATION OF DISABLED BOYS, GIRLS, WOMEN

Article 6 - Women with disabilities

- 236 New Zealand has ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- 237 All disabled women in New Zealand are entitled to enjoy their rights on an equal basis with disabled men, and with non-disabled people. The Human Rights Act 1993 prohibits discrimination on the grounds of gender and applies to all New Zealanders, including disabled women.

New Zealand situation – disabled women are further disadvantaged

- 238 Eighteen per cent (or 332,600) of women aged 15 years and over report having a disability⁸². By virtue of their gender and their disability, they are doubly disadvantaged.
- 239 Disabled women are disproportionately represented among those who lack qualifications, those who do not work, and those who are living on a low income.⁸³ Detachment from education and employment means that more disabled women experience poorer social and economic outcomes across their life.

But there are policies that support disabled women

- 240 Disabled women have comprehensive access to all forms of State assistance, including assistance into employment. As access to assistance is based on disadvantage, disabled women access a correspondingly high proportion of State assistance. New Zealand's focus is on supporting those with greatest needs rather than setting up affirmative action programmes. For example, at the end of December 2010, 57 per cent of working-age recipients of main benefits (aged 18–64 years) were female.

⁸² Maskill C, Hodges I. *Indicators from the 1996, 2001 and 2006 New Zealand Disability Surveys for monitoring progress on outcomes for disabled people*. Wellington: Office for Disability Issues 2011 (report prepared by HealthSearch Ltd). <http://www.odi.govt.nz/resources/research/outcomes-for-disabled-people/index.html>.

⁸³ 2006 Household Disability Survey.

- 241 The Ministry of Women's Affairs (MWA) is tasked with addressing disparities for all women, including disabled women. The MWA monitors women's participation in education and the workforce, including disabled women.
- 242 Both the MWA and the Office for Disability Issues run services nominating candidates for leadership vacancies on State sector boards. Disabled women are nominated for roles for which individual candidates have suitable skills and experience.
- 243 Reducing violence against women is a priority area for the MWA. From July 2007 to September 2009, the MWA researched effective interventions for adult victims of sexual violence. One study found 33 per cent of victims of sexual violence interviewed⁸⁴ indicated that they had a disability or impairment.⁸⁵ However, the research did not establish whether the disability was the result of sexual violence or preceded it.
- 244 The Taskforce for Action on Violence within Families is working to reduce the impact of violence against women, including disabled women (see Article 16). Women's refuges, which provide a safe place for women, are not always accessible for disabled women.

Article 7 - Children with disabilities

- 245 The Human Rights Act 1993, the New Zealand Bill of Rights Act 1990 and the Code of Health and Disability Services Consumers' Rights apply to disabled children and young people. Disabled children and young people are entitled to the same health, education and other services that non-disabled children and young people receive.
- 246 The Government funds a range of health care and disability support services for disabled children and young people, including child development services and other disability support services. There is specialised provision for disabled children: for example, the Ministry of Health funds early detection and intervention in respect of disabilities in young children, while social workers dealing with disabled children in government care have access to specialist child disability advisors.
- 247 The 'best interests of the child' principle is broadly reflected across decision-making procedures concerning children, including family law, care and protection and elsewhere.

Representing the views of disabled children

- 248 The Office of the Children's Commissioner, an independent Crown entity, advocates for the best interests of all children and young people in New Zealand and monitors how their rights are respected and upheld. The Children's Commissioner has the statutory

⁸⁴ The survey included 58 victim / survivors interviewed and surveys completed by 17 victim/survivors.

⁸⁵ Kingi and Jordan, *Responding to sexual violence: Pathways to recovery*, Ministry of Women's Affairs, 2009.

responsibility and requirement to promote practices allowing children to have input into issues that affect them. The Office communicates with children and young people through a variety of mechanisms, including a standing Young People's Reference Group and provision of information resources. The Commissioner undertakes advocacy in matters affecting all children, including disabled children, for example contributing to the recent Special Education review.

- 249 The Ministry of Youth Development offers a broad range of youth participation channels. One of the highest profile events is Youth Parliament, held every three years.
- 250 Young people from around New Zealand are chosen by their local Member of Parliament to participate as Youth Members of Parliament. Youth Members debate current legislation and current issues. Three of the 120 Youth MPs in the 2010 Youth Parliament had disabilities.

Current challenges

- 251 In practice, not all disabled children and their families have access to the supports that they need or knowledge about the full range of services available. With limited resources in the health and education systems and variable levels of co-ordinated services at local levels, both access to and the amount of resources provided can be less than optimal. Services for disabled children can be disjointed or fail to focus on their holistic needs because they are delivered or funded by different agencies in an unco-ordinated way. As in other areas, improved co-ordination of support is a current government focus.
- 252 Social attitudes are a challenge. In some cultural and other groups, parents often make decisions without consulting their children. This can mean that the views of children, particularly disabled children, are not always heard within their immediate or extended family. Current and planned awareness-raising programmes are seeking to address such attitudes.

PART D. SPECIFIC OBLIGATIONS

Article 31 - Statistics and data collection

- 253 In addition to the collection of information as part of the five-yearly national census of population, each census is followed by a Household Disability Survey and a Disability Survey of Residential Facilities. These surveys collect information on the prevalence, nature, duration and cause of disability, on demographic characteristics, and on the barriers that disabled people encounter in their everyday lives. Statistical information is

collected in a manner that complies with all privacy, data protection and other relevant standards.

254 Statistics New Zealand, which conducts the national census and the two surveys, consults with the community, including the disability sector, over the form and content of these and other data collection exercises. The Office of Disability Issues is also consulted.

Available data

255 The Disability Surveys are currently the best available source of statistical information on disabled New Zealanders. They enable disaggregation of data on a range of variables. However the sample size of these surveys limits the degree of disaggregation possible. Potential alternative sources have been considered, but costs associated with achieving sample sizes that would allow the desired level of disaggregation have proven prohibitive.

256 The next disability surveys to enhance their quality and utility. They will cover more social and economic outcomes-related variables than the previous Disability Surveys.⁸⁶

257 In addition, health authorities compile – in accordance with privacy and other standards – a large amount of health data on health and disability support services, including data used for investigation of the health status and service use of people with intellectual disabilities and the development of an overall database of disability support.

258 There are specific obligations to compile and report on particular matters that affect disabled people, including statutory orders for compulsory care and reporting of every use of electro-convulsive therapy and seclusion in mental health services.

259 However, more specific information on disability is frequently lacking or incomplete in most government agencies' databases. The government regards improvement of data collection as an essential task.

Article 32 - International cooperation

260 New Zealand's aid programme is guided by a policy framework which refers to the need for international co-operation to be inclusive of and accessible to disabled people. It provides support to a number of disability-specific initiatives.⁸⁷

⁸⁶ A post-census disability survey was developed for 2011. The content of this survey were redeveloped to meet information needs on outcomes and align it more closely with the International Classification of Functioning Disability and Health. The survey, which will sample approximately 20,000 respondents, was to commence in July 2011 but, as with the 2011 Census, has been deferred following the February 2011 earthquake in Christchurch. A new date has yet to be set. This Household Disability Survey will be followed by a shorter and smaller survey of disabled people in residential care.

⁸⁷ See Annex, Table 11.

- 261 New Zealand's aid programme recognises some people as more marginalised and vulnerable than others. Disabled women, disabled youth and people with mental illness and intellectual impairment are specifically identified.
- 262 New Zealand is committed to the Millennium Development Goals (MDGs). New Zealand's international development assistance programme is focused on development in the Pacific and the MDGs are a crucial measurement of achievement.
- 263 The New Zealand aid programme's core funding to the Pacific Development Fund includes specific support to women and youth. The Fund has a one day meeting for disabled women each year within their Annual General Meeting. With the support of New Zealand, the Fund has taken on specific responsibility for people with mental illness or intellectual impairment. New Zealand has supported two Pacific initiatives focused on mental health, both of which took a rights-based approach.
- 264 New Zealand has provided technical advice to the Pacific Development Fund on broader issues concerning disabled people.
- 265 Capacity building for disabled people and disabled persons organisations is an important component of New Zealand's aid programme. Most initiatives include an element of capacity building, from the provision of organisational capacity development to specific training courses (eg training disabled people to become disability rights advocates). New Zealand provided initial funding to support the establishment of the Pacific Disability Forum for disabled persons' organisations in the Pacific.
- 266 Support to minimise and prevent secondary disability is included in some health programmes. This includes prevention of non-communicable diseases in the Pacific, which are a significant contributor to disability in the region. One example includes testing for diabetic retinopathy in Fiji.

Article 33 - National implementation and monitoring

Government monitoring and implementation

- 267 The Government has designated the Office for Disability Issues as the focal point for implementation issues and, as noted previously, has established the Ministerial Committee on Disability Issues, chaired by the Minister for Disability Issues, with responsibility for overall co-ordination of government policies and practices.
- 268 The Ministerial Committee is tasked with overseeing the improved effectiveness of government agencies' implementation of the Disability Strategy. The membership of the

Committee includes senior Ministers, who are responsible for decisions on disability issues across the key portfolios that impact on disabled people.

269 The Government is continuing to undertake awareness-raising both within and beyond government decision-making to reinforce engagement with the Convention.

Independent agencies

270 The Human Rights Commission and the Office of the Ombudsmen, both of which are publicly funded agencies with statutory independence, have been funded to provide independent oversight of the ongoing application of the Convention. The 2010 budget allocated additional funding of \$1.59 million to reflect these particular responsibilities.

Civil society

271 As outlined previously, the Government has consulted with disabled people and others involved with disability in the course of supporting and then ratifying the Convention and across the scope of government decision-making.

272 In addition, and to support participation by civil society in Convention implementation, the Government has funded the Convention Coalition, a group of disabled people's non-governmental organisations, to monitor implementation of the Convention. These organisations include the Association of Blind Citizens, Deaf Aotearoa, the Disabled Persons Assembly, Nga Hau E Wha,⁸⁸ Ngati Kāpo⁸⁹ and People First.⁹⁰

273 In the 2010 budget process \$750,000 was allocated from 2010-2013 for resourcing disabled people's organisations to collect evidence directly from disabled people and report on changes in disabled people's lives and the impact of government-funded services.

274 This will involve implementing a qualitative research and monitoring programme, with oversight by the Disability Rights Promotion International Project.⁹¹ The first report, *Disability Rights in Aotearoa New Zealand*, was published in 2010.⁹²

⁸⁸ A network of organisations of people with experience of mental illness.

⁸⁹ A nationwide consumer driven Māori health and disability service provider.

⁹⁰ A national organisation for people with intellectual disability.

⁹¹ Based at York University, Canada.

⁹² <http://www.dpa.org.nz/publications/index.html>.

**First New Zealand Report on
Implementing the United Nations Convention on
the Rights of Persons with Disabilities**

March 2011

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MINISTERIAL COMMITTEE ON DISABILITY ISSUES

1 The Government has established a Ministerial Committee on Disability Issues to provide visible leadership and accountability for implementing the New Zealand Disability Strategy and the United Nations Convention on the Rights of People with Disabilities, and set a coherent direction for disability issues across Government.

The Ministerial Committee is chaired by the Minister for Disability Issues and has other key Ministers as members. Having Ministers from different portfolios working closely together with government agencies is expected to better focus their activity and policy development on what makes a real difference in disabled people's lives. The Government wants departments to be smarter and work collectively on common areas.

Ministers are supported by the Chief Executives Group on Disability Issues, which is tasked to lead and co-ordinate government agencies implementation of the Ministerial Committee's priorities. This group is chaired by the Chief Executive of the Ministry of Social Development. Other group members are from the Ministries of Health, Education, Justice, Transport, Culture and Heritage and the Accident Compensation Corporation and Housing New Zealand Corporation.

Priorities for government agencies

The Ministerial Committee on Disability Issues has prioritised three areas for government agencies to focus their action on disability issues. These areas are further broken down into sub-priorities:

Enabling disability supports:

- simple, easy entry;
- self-determination;
- choice;
- resilient families;
- community development.

Accessible New Zealand:

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accepting communities;

accessible government;

accessible cities.

Contributing citizens:

achieving at work and school;

looking after self and family;

equal access to justice;

‘Nothing about us without us’.

Action under these three themes will contribute to the vision of the New Zealand Disability Strategy: “A fully inclusive New Zealand, where people with impairments can say ‘we live in a society that highly values our lives and continually enhances our full participation’.”

NEW ZEALAND DISABILITY STRATEGY 2001 OBJECTIVES

The New Zealand Disability Strategy contains 15 objectives.

Objective 1: Encourage and educate for a non-disabling society

Encourage the emergence of a non-disabling society that respects and highly values the lives of disabled people and supports inclusive communities.

Objective 2: Ensure rights for disabled people

Uphold and promote the rights of disabled people.

Objective 3: Provide the best education for disabled people

Improve education so that all children, youth and adult learners will have equal opportunities to learn and develop in their local, regular educational centres.

Objective 4: Provide opportunities in employment and economic development for disabled people

Enable disabled people to work in the open labour market (in accordance with human rights principles) and maintain an adequate income.

Objective 5: Foster leadership by disabled people

Acknowledge the experience of disability as a form of specialised knowledge and strengthen the leadership of disabled people.

Objective 6: Foster an aware and responsive public service

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Ensure that government agencies, publicly funded services and publicly accountable bodies (such as territorial authorities) are aware of and responsive to disabled people.

Objective 7: Create long-term support systems centred on the individual

Create a quality assessment and service delivery system that is centred on disabled people, ensures their participation in assessment and service delivery has invisible borders and is easy to access.

Objective 8: Support quality living in the community for disabled people

Provide opportunities for disabled people to have their own homes and lives in the community.

Objective 9: Support lifestyle choices, recreation and culture for disabled people

Create and support lifestyle choices for disabled people within the community and promote access to recreation and cultural opportunities.

Objective 10: Collect and use relevant information about disabled people and disability issues

Improve the quality of relevant disability information collected, analysed and used, including regular national surveys of activity limitation.

Objective 11: Promote participation of disabled Māori

Promote opportunities for disabled Māori to participate in their communities and access disability services. Disabled Māori should receive an equitable level of resource that is delivered in a culturally appropriate way.

Objective 12: Promote participation of disabled Pacific peoples

Promote opportunities for disabled Pacific peoples to participate in their communities and access disability services. Disabled Pacific peoples should receive an equitable level of resource that is delivered in a culturally appropriate way.

Objective 13: Enable disabled children and youth to lead full and active lives

Disabled children and youth should enjoy full and active lives, in conditions that prepare them for adulthood and which:

- ensure their dignity
- affirm their right to a good future and to participate in education, relationships, leisure, work and political processes
- recognise their emerging identities as individuals and reinforce their sense of self
- promote self-reliance
- recognise their important links with family, friends and school
- facilitate their active participation in the community.

Objective 14: Promote participation of disabled women in order to improve their quality of life

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Improve opportunities for disabled women to participate in their communities, access appropriate disability services, and improve their quality of life.

Objective 15: Value families, whānau and people providing ongoing support

Acknowledge and support the roles, responsibilities and issues facing family, whānau and those who support disabled people.

LEGISLATION RELEVANT TO DISABLED PEOPLE

There are a number of other Acts that reinforce the rights of disabled people and their ability to access services to support them to live ordinary lives and support those who are vulnerable by reason of their disability. These include:

| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|--|--|---|--------------------------|--------------------|-------------------------------|
| Accident Compensation Act 2001 | | Establishes the ACC system and entitlements for people with injuries | Labour | 26 | 7 |
| Adoption Act 1955 | Section 8 Cases where consent may be dispensed with | Cases where consent may be dispensed with by reason of physical or mental incapacity | Justice | 23 | 15 |
| Alcoholism and Drug Addiction Act 1966 | | Crossover with compulsory treatment of people with mental disorders | Health | 14, 25, 26 | 7 |
| Broadcasting Act 1989 | 21 Functions of Authority | Support codes of broadcasting practice, including safeguards preventing discrimination on basis of disability | Culture and Heritage | 8, 30 | 1 |
| Broadcasting Act 1989 | 36 Functions of Commission | Provide for the interests of persons with disabilities | Culture and Heritage | 8, 30 | 1 |
| Building Act 2004 | 4 Principles to be applied in performing functions or duties, or exercising powers, under this Act | Ensure access to publicly accessible buildings for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 7 Interpretation | Definition of person with a disability for the Act | Building and Housing | 9 | 8 |
| Building Act 2004 | 35 Content of project information memorandum | Flagging requirements in a building development process for access for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 67 Territorial authority may grant building consent subject to waivers or | Accessibility requirements cannot usually be waived for a building consent | Building and Housing | 9 | 8 |

ANNEX

| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|-------------------|---|--|--------------------------|--------------------|-------------------------------|
| | modifications of building code | | | | |
| Building Act 2004 | 69 Waiver or modification may only be granted by chief executive in certain cases | Accessibility requirements may only be waived on an individual basis through determinations from the Chief Executive of the Department | Building and Housing | 9 | 8 |
| Building Act 2004 | 103 Content of compliance schedule | Building compliance schedule must refer to access for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 112 Alterations to existing buildings | Accessibility requirements for disabled people apply to alterations to existing buildings | Building and Housing | 9 | 8 |
| Building Act 2004 | 115 Code compliance requirements: change of use | Buildings that undergo a change of use must also ensure access for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 116A Code compliance requirements: subdivision | Consents for a subdivision affecting a building must ensure access for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 118 Access and facilities for persons with disabilities to and within buildings | New buildings or alterations to existing buildings that are publicly-accessible must have reasonable access for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 119 Compliance document for requirements of persons with disabilities | Establishes as a compliance document the New Zealand Standard Specification No 4121 (the code of practice for design for access and use of buildings by persons with disabilities) | Building and Housing | 9 | 8 |
| Building Act 2004 | 120 Symbols of access must be displayed | The international symbol of access for disabled people should be displayed in a building with accessibility features | Building and Housing | 9 | 8 |
| Building Act 2004 | 170 Chief executive must consult in performing certain functions | The department should consult with the Office for Disability Issues (MSD) on determinations relating to disability | Building and Housing | 9 | 8 |
| Building Act 2004 | 172 Appointment of building advisory panel | Members should include people with knowledge and experience of accessibility for disabled people | Building and Housing | 9 | 8 |
| Building Act 2004 | 176 Meaning of party | A determination regarding access for disabled people may also be lodged by any person with a direct interest in the matter | Building and Housing | 9 | 8 |

ANNEX

| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|--|---|--|--------------------------|--------------------|-------------------------------|
| Building Act 2004 | Schedule 1 Exempt building work | Two exemptions to having a building consent allowed where accessibility for disabled people is not reduced | Building and Housing | 9 | 8 |
| Building Act 2004 | Schedule 2 Buildings in respect of which requirement for provision of access and facilities for persons with disabilities applies | List of types of buildings where accessibility for disabled people is required | Building and Housing | 9 | 8 |
| Children, Young Persons, and Their Families Act 1989 | 9 Interpreters | An interpreter is provided during any court proceeding under the Act where the child or parent/guardian does not speak or cannot speak English. | Social Development | 23 | 13, 15 |
| Children, Young Persons, and Their Families Act 1989 | 141 Agreements for extended care of severely disabled children and young persons | Arrangements for care of a disabled child that is not able to be suitably cared for by their parents/guardians | Social Development | 23 | 13, 15 |
| Children, Young Persons, and Their Families Act 1989 | 142 Agreements with persons providing residential disability care | Arrangements for care of a disabled child in a residential care facility | Social Development | 23 | 13, 15 |
| Children, Young Persons, and Their Families Act 1989 | 144 Agreement not to be made without consent of child or young person | Exemption for seeking consent of a child for their placement in a residential care facility if by reason of their impairment the disabled child is not able to understand the agreement in order to give their consent | Social Development | 23 | 13, 15 |
| Children's Commissioner Act 2003 | | UN Convention on the Rights of the Child has a specific article on disabled children | Social Development | 7 | 13 |
| Contraception, Sterilisation, and Abortion Act 1977 | 4 Administering of contraceptives to mentally subnormal females | Arrangements for determining whether contraceptives should be administered to a woman where that woman is deemed not able to understand the effective use of contraceptives and where it is in their best interests | Justice | 23 | 9 |
| Contraception, Sterilisation, and Abortion Act 1977 | 34 Special provisions where patient mentally subnormal | Arrangements for determining whether a woman should have an abortion where that woman is deemed not capable to give her consent | Justice | 23 | 9 |

ANNEX

| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|--------------------|--|---|--------------------------|--------------------|-------------------------------|
| Copyright Act 1994 | 69 Provision of Braille copies of literary or dramatic works | Allows for copies of printed materials to be made into formats accessible for print disabled people, by authorised bodies | Economic Development | 30 | 9 |
| Copyright Act 1994 | 89 Provision of subtitled copies of communication work | Allows for copies of communication works to be made into formats accessible for disabled people, by authorised bodies | Economic Development | 30 | 9 |
| Copyright Act 1994 | 190 Provision of subtitled copies of communication work | Allows for recordings of communication works where the purpose is to modify the work into formats accessible for disabled people, by authorised bodies | Economic Development | 30 | 9 |
| Crimes Act 1961 | 23 Insanity | Definition of "insanity" is where a person is labouring under natural imbecility or disease of the mind, and does not understand their actions or know their actions are wrong | Justice | 4 | 2 |
| Crimes Act 1961 | 122 Assisting escape of mentally impaired person detained for offence | Penalty for allowing or assisting to escape from detention a mentally disordered person or person with intellectual disability who is legally detained | Justice | 14 | 2 |
| Crimes Act 1961 | 128A Allowing sexual activity does not amount to consent in some circumstances | Consent is not given where a person's mental or physical impairment is such that the person is not capable of giving or refusing consent | Justice | 16 | 2 |
| Crimes Act 1961 | 138 Sexual exploitation of person with significant impairment | Penalty for sexual exploitation where the subjected person has a physical or mental impairment that prevents their understanding or consenting to sexual activity | Justice | 16 | 2 |
| Crimes Act 1961 | 178 Infanticide | Arrangements when a woman committed infanticide is found to be insane by reason of childbirth | Justice | 4 | 2 |
| Crimes Act 1961 | 187A Meaning of unlawfully | Allows for the procurement of an abortion or miscarriage of a pregnancy of not more than 20 weeks gestation, including where the likelihood of the child being born is that the child will have a serious physical or mental impairment, where this act is otherwise unlawful | Justice | 23 | 9 |

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| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|--|--|--|--------------------------|--------------------|-------------------------------|
| Crimes Act 1961 | 195 Cruelty to a child | Penalty for harm to a child where that harm results in a mental disorder or disability | Justice | 25 | 13 |
| Crimes of Torture Act 1989 | | Establishes national preventative mechanism for monitoring places of detention, including secure facilities under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, and hospitals | Justice | 16 | 2 |
| Criminal Procedure (Mentally Impaired Persons) Act 2003 | | Provides the courts with appropriate options for the detention, assessment, and care of defendants and offenders with an intellectual disability | Justice | 13, 14 | 2 |
| Disabled Persons Community Welfare Act 1975 | Part 2A Right of persons in residential care to review Part 3 Vocational training of the disabled | Provides for the right of review of persons in residential care; and provides funding for supporting disabled people into employment or appropriate care and activity | Social Development | 26, 27, 28 | 4, 7 |
| Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 | | Amended various Statutes and Regulations to remove inconsistencies with the UN Convention on the Rights of Persons with Disabilities | Social Development | 4 | 2 |
| Dog Control Act 1996 | 75 Disability assist dogs | Provides exemptions for dogs otherwise prohibited from entering certain spaces, where the dogs perform functions as defined by "disability assist dogs". Section 2 defines a disability assist dog as a dog certified by a listed organisation as trained to assist, or being in training to assist, a disabled person | Internal Affairs | 9 | 8 |
| Education Act 1989 | 9 Special education | Provides for the enrolment of a person under 21 in a particular State school, a special school, special class or special clinic, or direction to education or help from a special service | Education | 24 | 3 |
| Education Act 1989 | 3 Right to free primary and secondary education | Provides for free enrolment and free education at any state school for any person who is not a foreign student, between the ages of 5 and 19 | Education | 24 | 3 |

ANNEX

| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|-------------------------------|--|---|--------------------------|--------------------|-------------------------------|
| Electoral Act 1993 | 56 Member becoming mentally disordered | Provides for the Speaker to be advised of any Member of Parliament (MP) admitted to hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992; and to declare the MP's seat vacant | Justice | 29? | 5? |
| Electoral Act 1993 | 86 Registration of mentally incapable persons | Provides for registration by another person of a person who lacks the capacity to understand the nature of the decision to register as an elector | Justice | 29 | 5 |
| Electoral Act 1993 | 152A Incapacity of candidate before close of nominations | Provides for an application to be made to cancel the nomination of a candidate who becomes incapacitated before the close of nominations and who has not cancelled their nomination | Justice | 29 | 5 |
| Electoral Act 1993 | 159A Interpreters | Provides for the returning officer to provide candidates on request with names of polling place officials designated as interpreters | Justice | 29 | 5 |
| Electoral Act 1993 | 170 Blind, disabled or illiterate voters | Provides for a voter who is wholly or partially blind, or (whether because of physical handicap or otherwise) is unable to read or write or has severe difficulty in reading or writing (or has difficulty in understanding English), to nominate someone to assist them with marking the ballot paper and to inspect the ballot paper before it is deposited | Justice | 29 | 5 |
| Employment Relations Act 2000 | 105 Prohibited grounds of discrimination for purposes of section 104 | Includes disability as a prohibited ground of discrimination in employment | Labour | 27 | 24 |
| Evidence Act 2006 | 85 Unacceptable questions | Includes any physical, intellectual, psychological, or psychiatric impairment of the witness as grounds for judges to disallow questions of witnesses or direct that witnesses are not obliged to answer the questions | Justice | 11 | 6 |

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| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|--|---|--|--------------------------|--------------------|-------------------------------|
| Evidence Act 2006 | 95 Restrictions on cross-examination by parties in person | Includes the physical, intellectual, psychological, or psychiatric impairment of the witness as grounds for judges to order that a witness must not be cross examined | Justice | 11 | 6 |
| Evidence Act 2006 | 105 Alternative ways of giving evidence | Provides for witnesses to give evidence from an appropriate place outside the courtroom, either in New Zealand or elsewhere; or) by a video record made before the hearing of the proceeding | Justice | 11 | 6 |
| Fire Service Act 1975 | 21A Relevant building defined for purposes of sections 21B to 21H | Provides for relevant buildings covered by sections 21B to 21H, to include buildings providing specialised care for persons with disabilities. These sections set out an owner's obligations | Internal Affairs | 19 | 8 |
| Fisheries Act 1996 | 97 Special permits | Provides for a permit for sport and recreation purposes to be issued to a disabled person who would otherwise be unable to fish by the methods permitted in the Act | Fisheries | 30 | 9 |
| Gambling Act 2003 | 77 Purposes for which profits may be distributed | Provides for "opportunities for social, recreational, civil, or cultural participation and reducing or overcoming barriers to such participation" as one purpose of distribution; and provides for regard to be had to the needs of persons with disabilities, along with others, in distribution of profits | Internal Affairs | 30 | 9; 6 |
| Health and Disability Commissioner Act 1994 | | Provides for a Health and Disability Commissioner; a Code of Rights for health and disability service consumers; and related complaints procedures | Health | 25; 26 | 6; 7 |
| Health and Disability Services (Safety) Act 2001 | | Provides for the promotion of safe and quality health and disability services | Health | 25; 26 | 6; 7 |
| Human Rights Act 1993 | | Includes disability as one of the prohibited grounds of discrimination, against which the Act provides safeguards | Justice | 1 | 2 |

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| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|---|---|--|--------------------------|--------------------|-------------------------------|
| Injury Prevention, Rehabilitation and Compensation Act 2001 | | Renamed the Accident Compensation Act 2001 (referred to at the start of this table) | Labour | | |
| Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 | | Provides courts with compulsory care and rehabilitation options for persons with an intellectual disability charged with or convicted of an offence; safeguards their special rights; and provides for different levels of care for individuals who remain subject to the Act. | Justice | 12; 13 | 2; 7 |
| Juries Act 1981 | 8 Certain persons not to serve | Includes persons with an intellectual disability among the people who are not to serve on any jury | Justice | Nil | Nil |
| Juries Act 1981 | 16AA Judge may discharge summons of person with disability or language difficulty | Provides for a judge to discharge a person's summons to jury service if satisfied that the person is not capable of acting as a juror because of disability | Justice | Nil | Nil |
| Mental Health (Compulsory Assessment and Treatment) Act 1992 | | Provides for procedures and safeguards for compulsory treatment and assessment of people whose mental condition means that they may be a danger to themselves or others, or may not be able to care for themselves | Health | Nil | Nil |
| Mental Health Commission Act 1998 | | Sets up the Mental Health Commission to advocate on behalf of those with mental illness and their families; undertake work to promote understanding of mental illness and challenge discrimination; and support the development of integrated care | Health | 8 | 1 |
| Minimum Wage Act 1983 | 8 Minimum wage exemption permit | Provides for the issue of a minimum wage exemption permit to an employee significantly and demonstrably limited in carrying out work requirements due to disability | Labour | 20? | 4 |

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| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|---|--|---|------------------------------------|--------------------|-------------------------------|
| National Parks Act 1980 | 56E Persons authorised to take dogs into national park area without dog control permit | Includes blind and partially blind people who use guide dogs among those entitled to take their dogs into a national park without being the holder of a dog control permit | Conservation | 30 | 9 |
| New Zealand Bill of Rights Act 1990 | | Affirms, protects and promotes fundamental human rights, and affirms New Zealand's commitment to the International Covenant on Civil and Political Rights | Justice | 4 | 2 |
| New Zealand Public Health and Disability Act 2000 | | Provides for public funding and provision of health and disability support services, to provide a community voice on matters relating to these, and to facilitate access to information | Health | 25; 26 | 7 |
| New Zealand Sign Language Act 2006 | | Promotes and maintains NZSL by declaring it to be a official language; providing for it to be used in legal proceedings; empowering the making of competency standards for NZSL interpretation in legal proceedings; and stating principles to guide departments in promotion and use of NZSL | Social Development | 9; 13 | 6; 3 |
| Property Law Act 2007 Section 227A | | Ensures land subdivided and sold is free from any restrictions on disabled people living there | Justice | 19 | 8 |
| Protection of Personal and Property Rights Act 1988 | | Protects the welfare and rights of vulnerable people | Justice | 16 | 6 |
| Public Transport Management Act 2008 | | Empowers regional councils to set standards for commercial public transport services; provides for and regulates the registration of commercial public transport services; helps regional councils and the Land Transport Management Agency achieve an affordable, integrated, safe, responsive and sustainable public transport system | Land Transport Safety Agency | 9 | 8 |
| Retirement Villages Act 2003 | Schedule 5 | Requires the Code of Practice to include the manner in which each village's physical environment and management practices maintain and enhance the physical safety | Department of Building and Housing | 9; 19 | 8? |

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| Statute | Specific reference (if within an Act) | Summary | Administering department | Convention Article | Disability Strategy objective |
|---|---|--|------------------------------|-----------------------|----------------------------------|
| | | and security of residents, including those with disabilities | | | |
| Royal Society of New Zealand Act 1997 | 24 Co-opted Councillors | Provides for co-option of Councillors to give effect to the principle of equal opportunity for persons with disabilities | | 29 | 5 |
| Sale of Goods Act 1908 | 4 Capacity to buy and sell | (1) Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property | Commerce | 12 | 2 |
| | | provided that where necessaries are sold and delivered to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price | | | |
| | | (2) Necessaries in this section means goods suitable to the condition in life of the person, and to his actual requirements at the time of the sale and delivery | | | |
| Sentencing Act 2002 | 9 Aggravating and mitigating factors | Disability to be included as factors when determining a sentence | | | |
| Social Security Act 1964 | | Sets criteria for income support, and the different benefits that can support disabled people | Social Development | 4, 7 | 28 |
| State Sector Act 1988 | 56 General principles (2(h)) 77A General principles (2(h)) | For the purposes of this section, a good employer is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— (h) Recognition of the employment requirements of persons with disabilities | State Services Commission | 4, 6 | 27 |

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CARERS' STRATEGY AND FIVE-YEAR ACTION PLAN

The Strategy

The New Zealand Carers' Strategy and Five-Year Action Plan was published on 28 April 2008. It is a major step towards valuing the immense contribution of carers to New Zealand.

The Carers' Strategy, is supported by a Five-Year Action Plan to begin addressing some of the issues that impact on the thousands of New Zealanders who assist friends and family members who need help with everyday living because of ill health, disability or old age.

The Carers' Strategy was developed in a partnership between government agencies and the New Zealand Carers Alliance, a network of over 40 non-governmental organisations.

This strategy acknowledges the very real difference carers make in people's lives. Improving support for informal carers is important for developing strong healthy families and meeting future challenges of providing care.

Vision

The Carers' Strategy outlines the Government's vision for carers in New Zealand. New Zealand Aotearoa is a society that values individuals, families, whānau or aiga who support others who need help with their everyday living.

This will be achieved when:

carers have choices and opportunities to participate in family life, social activities, employment and education;

carers' voices are heard in decision-making that affects them.

Principles

The Carers' Strategy provides a framework of principles to guide policy development and the delivery of services by government agencies and non-government organisations that work with carers. These are:

recognise diversity: acknowledge and respond to the diversity of needs and aspirations of carers;

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be proactive: enable family focused support to be in place for carers when they need it;

enable carers: enable carers to have choices and the autonomy to develop, grow and sustain their personal, family and community support systems; and ensure that formal supports are reliable and are able to provide real support to carers;

be inclusive: acknowledge that the needs of carers, family, whānau, or aiga and the person being supported are often intertwined.

Implementing the Carers' strategy

The items in the Action Plan address issues identified by carers during the consultation process. They aim to achieve five objectives:

provide information;

protect the health and wellbeing of carers;

enable carers to take a break;

provide financial support for carers; and

provide training and pathways to employment for carers.

The objectives have been progressed by:

Improved information on the financial support available for carers: 'Outreach' - a strategy to make sure that carers who are eligible for financial support do in fact receive it. This included promotion through new publications and events;

New respite services to enable carers to have a break: The Ministry of Health has contracted for new respite services in Hawke's Bay, Bay of Plenty, Waikato, Wellington, Canterbury and Wanganui for people with physical, sensory and intellectual disabilities. In addition, new funding was secured in Budget 2009 for dedicated residential respite beds for older people (\$2.5 million in 2009/2010, and \$5 million for the following three years);

A wellbeing and learning programme for carers has been implemented: Carers were consulted on their information needs and the best ways to reach carers with this information. Following this, resources were included in editions of

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the *Family Care* magazine and radio shows on carer wellbeing have been broadcast. Face to face workshops on wellbeing were held at the national Carers' Conference in September 2009;

Developing better information: Carers were consulted about their information needs and about a distribution strategy for information. Following this, a publication was developed in 2009 to summarise the assistance available from different government agencies.

Information for Carers

The Guide for Carers, released in September 2009, provides practical help for people caring for family or friends who are older or have ill health, a disability or a mental health, alcohol or other drug issue.

The guide includes information on the government-funded services and supports available for carers, such as:

financial help;

needs assessments (NASC);

help at home;

help if the carer needs a break;

transport and travel;

help related to children with special education needs;

health and disability rights;

equipment and modifications.

Other information resources were also made available in Māori and Pacific languages. A dedicated carer website was also developed to help carers find information and network with each other.

Carers New Zealand, the New Zealand Carers Alliance and the Ministry of Social Development worked together to develop these resources.

Carers were consulted in 2010 about how to improve the Guide, and an updated version was released in 2011. There was very positive feedback about the Guide, in particular

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about having one resource to describe the different kinds of support available and how to access support.

CODE OF ACC CLAIMANTS' RIGHTS

The Accident Compensation Corporation (ACC) provides assistance to people who are disabled as a result of an accident. The Code of ACC Claimants' Rights came into effect in February 2003.

In summary, the Code of ACC Claimants' Rights aims to make sure that ACC provides you (ACC claimants) with a high standard of service by:

treating you with dignity, respect, honesty and courtesy. We'll understand you may be finding everyday life hard (physically, emotionally, socially, financially)

treating you fairly and listening to your views. We'll respect any impairment you may have

respecting your culture, values and beliefs

welcoming any support people you bring with you

keeping you well informed. We'll give you information about the types of help that we provide, how to apply and how long things may take. We'll tell you about entitlements and responsibilities and let you know if these change.

We'll tell you about your options to review and appeal a decision we make

respecting your privacy and letting you see and correct the information we hold about you

respecting your right to complain. We'll work with you to find a solution. We'll tell you about the options for resolving issues and how long it is likely to take.

CODE OF HEALTH AND DISABILITY SERVICES CONSUMERS' RIGHTS

Everyone using a health or disability service is protected by a code of rights (refer below for the code).

The Health and Disability Commissioner, an independent statutory officer, is responsible for promoting and protecting these rights. The code covers a very broad range of services such as hospitals, rest homes, ambulance services, doctors and health therapists.

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Code

1 Consumers have rights and providers have duties

- (1) Every consumer has the rights in this Code.
- (2) Every provider is subject to the duties in this Code.
- (3) Every provider must take action to—
 - (a) inform consumers of their rights; and
 - (b) enable consumers to exercise their rights.

2 Rights of consumers and duties of providers

The rights of consumers and the duties of providers under this Code are as follows:

Right 1: Right to be treated with respect

- (1) Every consumer has the right to be treated with respect.
- (2) Every consumer has the right to have his or her privacy respected.
- (3) Every consumer has the right to be provided with services that take into account the needs, values, and beliefs of different cultural, religious, social, and ethnic groups, including the needs, values, and beliefs of Māori.

Right 2: Right to freedom from discrimination, coercion, harassment, and exploitation

Every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial, or other exploitation.

Right 3: Right to dignity and independence

Every consumer has the right to have services provided in a manner that respects the dignity and independence of the individual.

Right 4: Right to services of an appropriate standard

- (1) Every consumer has the right to have services provided with reasonable care and skill.
- (2) Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.
- (3) Every consumer has the right to have services provided in a manner consistent with his or her needs.
- (4) Every consumer has the right to have services provided in a manner that minimises the potential harm to, and optimises the quality of life of, that consumer.

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(5) Every consumer has the right to co-operation among providers to ensure quality and continuity of services.

Right 5: Right to effective communication

(1) Every consumer has the right to effective communication in a form, language, and manner that enables the consumer to understand the information provided. Where necessary and reasonably practicable, this includes the right to a competent interpreter.

(2) Every consumer has the right to an environment that enables both consumer and provider to communicate openly, honestly, and effectively.

Right 6: Right to be fully informed

(1) Every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, would expect to receive, including—

- (a) an explanation of his or her condition; and
- (b) an explanation of the options available, including an assessment of the expected risks, side effects, benefits, and costs of each option; and
- (c) advice of the estimated time within which the services will be provided; and
- (d) notification of any proposed participation in teaching or research, including whether the research requires and has received ethical approval; and
- (e) any other information required by legal, professional, ethical, and other relevant standards; and
- (f) the results of tests; and
- (g) the results of procedures.

(2) Before making a choice or giving consent, every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, needs to make an informed choice or give informed consent.

(3) Every consumer has the right to honest and accurate answers to questions relating to services, including questions about—

- (a) the identity and qualifications of the provider; and
- (b) the recommendation of the provider; and
- (c) how to obtain an opinion from another provider; and
- (d) the results of research.

(4) Every consumer has the right to receive, on request, a written summary of information provided.

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Right 7: Right to make an informed choice and give informed consent

- (1) Services may be provided to a consumer only if that consumer makes an informed choice and gives informed consent, except where any enactment, or the common law, or any other provision of this Code provides otherwise.
- (2) Every consumer must be presumed competent to make an informed choice and give informed consent, unless there are reasonable grounds for believing that the consumer is not competent.
- (3) Where a consumer has diminished competence, that consumer retains the right to make informed choices and give informed consent, to the extent appropriate to his or her level of competence.
- (4) Where a consumer is not competent to make an informed choice and give informed consent, and no person entitled to consent on behalf of the consumer is available, the provider may provide services where—
 - (a) it is in the best interests of the consumer; and
 - (b) reasonable steps have been taken to ascertain the views of the consumer; and
 - (c) either,—
 - (i) if the consumer's views have been ascertained, and having regard to those views, the provider believes, on reasonable grounds, that the provision of the services is consistent with the informed choice the consumer would make if he or she were competent; or
 - (ii) if the consumer's views have not been ascertained, the provider takes into account the views of other suitable persons who are interested in the welfare of the consumer and available to advise the provider.
- (5) Every consumer may use an advance directive in accordance with the common law.
- (6) Where informed consent to a health care procedure is required, it must be in writing if—
 - (a) the consumer is to participate in any research; or
 - (b) the procedure is experimental; or
 - (c) the consumer will be under general anaesthetic; or
 - (d) there is a significant risk of adverse effects on the consumer.
- (7) Every consumer has the right to refuse services and to withdraw consent to services.
- (8) Every consumer has the right to express a preference as to who will provide services and have that preference met where practicable.
- (9) Every consumer has the right to make a decision about the return or disposal of any body parts or bodily substances removed or obtained in the course of a health care procedure.

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(10) No body part or bodily substance removed or obtained in the course of a health care procedure may be stored, preserved, or used otherwise than—

- (a) with the informed consent of the consumer; or
- (b) for the purposes of research that has received the approval of an ethics committee; or
- (c) for the purposes of one or more of the following activities, being activities that are each undertaken to assure or improve the quality of services:
 - (i) a professionally recognised quality assurance programme
 - (ii) an external audit of services
 - (iii) an external evaluation of services.

Right 8: Right to support

Every consumer has the right to have one or more support persons of his or her choice present, except where safety may be compromised or another consumer's rights may be unreasonably infringed.

Right 9: Rights in respect of teaching or research

The rights in this Code extend to those occasions when a consumer is participating in, or it is proposed that a consumer participate in, teaching or research.

Right 10: Right to complain

- (1) Every consumer has the right to complain about a provider in any form appropriate to the consumer.
- (2) Every consumer may make a complaint to—
 - (a) the individual or individuals who provided the services complained of; and
 - (b) any person authorised to receive complaints about that provider; and
 - (c) any other appropriate person, including—
 - (i) an independent advocate provided under the Health and Disability Commissioner Act 1994; and
 - (ii) the Health and Disability Commissioner.
- (3) Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints.
- (4) Every provider must inform a consumer about progress on the consumer's complaint at intervals of not more than 1 month.

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- (5) Every provider must comply with all the other relevant rights in this Code when dealing with complaints.
- (6) Every provider, unless an employee of a provider, must have a complaints procedure that ensures that—
- (a) the complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the consumer within that period; and
 - (b) the consumer is informed of any relevant internal and external complaints procedures, including the availability of—
 - (i) independent advocates provided under the Health and Disability Commissioner Act 1994; and
 - (ii) the Health and Disability Commissioner; and
 - (c) the consumer's complaint and the actions of the provider regarding that complaint are documented; and
 - (d) the consumer receives all information held by the provider that is or may be relevant to the complaint.
- (7) Within 10 working days of giving written acknowledgement of a complaint, the provider must,—
- (a) decide whether the provider—
 - accepts that the complaint is justified; or
 - does not accept that the complaint is justified; or
 - (b) if it decides that more time is needed to investigate the complaint,—
 - determine how much additional time is needed; and
 - if that additional time is more than 20 working days, inform the consumer of that determination and of the reasons for it.
- (8) As soon as practicable after a provider decides whether or not it accepts that a complaint is justified, the provider must inform the consumer of—
- (a) the reasons for the decision; and
 - (b) any actions the provider proposes to take; and
 - (c) any appeal procedure the provider has in place.

3 Provider compliance

- (1) A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.
- (2) The onus is on the provider to prove that it took reasonable actions.

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(3) For the purposes of this clause, **the circumstances** means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.

4 Definitions

In this Code, unless the context otherwise requires,—

advance directive means a written or oral directive—

- (a) by which a consumer makes a choice about a possible future health care procedure; and
- (b) that is intended to be effective only when he or she is not competent

choice means a decision—

- (a) to receive services;
- (b) to refuse services;
- (c) to withdraw consent to services

consumer means a health consumer or a disability services consumer; and, for the purposes of rights 5, 6, 7(1), 7(7) to 7(10), and 10, includes a person entitled to give consent on behalf of that consumer

discrimination means discrimination that is unlawful by virtue of Part 2 of the Human Rights Act 1993

duties includes duties and obligations corresponding to the rights in this Code

ethics committee means an ethics committee—

- (a) established by, or appointed under, an enactment; or
- (b) approved by the Director-General of Health

exploitation includes any abuse of a position of trust, breach of a fiduciary duty, or exercise of undue influence

optimise the quality of life means to take a holistic view of the needs of the consumer in order to achieve the best possible outcome in the circumstances

privacy means all matters of privacy in respect of a consumer, other than matters of privacy that may be the subject of a complaint under Part 7 or Part 8 of the Privacy Act 1993 or matters to which Part 10 of that Act relates

provider means a health care provider or a disability services provider

research means health research or disability research

rights includes rights corresponding to the duties in this Code

services means health services, or disability services, or both; and includes health care procedures

teaching includes training of providers.

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5 Other enactments

Nothing in this Code requires a provider to act in breach of any duty or obligation imposed by any enactment or prevents a provider doing an act authorised by any enactment.

6 Other rights not affected

An existing right is not overridden or restricted simply because the right is not included in this Code or is included only in part.

ASSISTANCE AVAILABLE

Disabled people may require extra resources to live an ordinary life. This section outlines some of the assistance that is available to disabled people and the families that support them.

Financial assistance

There are a number of different types of financial help that may be available.

| Need | Financial help |
|--|--|
| Help for the individual's normal living costs | Invalid's Benefit, Sickness Benefit |
| Help for normal living costs for people caring for someone with a disability | Domestic Purposes Benefit – Care of Sick or Infirm (DPB-CSI) |
| Help with extra costs | Disability Allowance, Assistance for hardship |
| Extra help with medical costs | Community Services Card |
| | High Use Health Card |
| Extra help with housing costs | Accommodation Supplement |
| | Rates Rebate Scheme |
| Extra help if you are caring for a child | Child Disability Allowance, Disability Allowance |
| | Working for Families Tax Credits |
| | Child Care Subsidy |

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Main benefits

Invalid's Benefit

This income tested benefit is for people who have a permanent and severe sickness, injury or disability that stops them working or makes it difficult to work.

This means the sickness, injury or disability is expected to continue for at least two years. It can also mean the illness is terminal and the person is not expected to live more than two years. The person can not work regularly for 15 hours or more a week. People who are totally blind can also receive this benefit.

To qualify for an Invalid's Benefit the person must:

- be 16 years old or over; and

- be a New Zealand citizen or permanent resident (ie not be in New Zealand unlawfully or on a temporary permit); and

- have lived continuously in New Zealand for two years or more at any one time since becoming a New Zealand citizen or permanent resident;

- be ordinarily resident in New Zealand when they first apply for the benefit; and

- be permanently and severely restricted in their capacity for work because of sickness, injury or disability, or be totally blind.

Sickness Benefit

The Sickness Benefit is an income tested benefit to help people who are not working at the moment, or are working fewer hours, because they are sick, injured, disabled or pregnant.

A person may get this benefit if, because of their sickness, injury, disability or pregnancy, they:

- have had to reduce their hours; or

- have had to stop working; or

- are not working or are working part-time and unable to look for or undertake full-time work.

To receive a Sickness Benefit the person must:

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not be in full-time work, be willing to undertake it, but because of sickness, injury or disability is limited in his or her capacity to seek, undertake, or be available for full-time employment; or

be in employment, but losing earnings through sickness or injury; not actually working; or working at a reduced level;

be aged 18 years or older; or

be aged 16 years or older, be married, in a civil union or de facto relationship and have one or more dependent children;

have continuously lived in New Zealand for two years or more since becoming a New Zealand citizen or permanent resident;

have no income or an income of less than the amount that would fully abate the benefit.

Domestic Purposes Benefit – Care of Sick or Infirm

The Domestic Purposes Benefit – Care of Sick or Infirm provides help for people who are caring full-time at home for a person who has a serious illness or disability. The person can be a:

child (including a person's own child); or

family member (other than a partner or spouse) or

member of the community.

The person must have no income or an income of less than the amount that would fully abate the benefit.

They do not need to be single.

Help with extra costs

Disability Allowance

The Disability Allowance is for people who have ongoing extra costs because of a disability or illness. Receipt of this allowance is not dependent upon age.

It can help pay for things like regular visits to the doctor, prescriptions or some travel costs.

These extra costs must be because of ill health or disability.

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To be able to receive a Disability Allowance a person must:

meet an income test; and

have a disability which is likely to last at least six months; and

have ongoing, additional costs arising from that disability; and

be a New Zealand citizen or permanent resident (i.e. not be in New Zealand unlawfully or on a temporary permit); and

generally be ordinarily resident in New Zealand.

The amount paid is based on the actual costs that have been or will be incurred on a regular basis, up to a maximum rate (adjusted annually for inflation). A special Disability Allowance is paid to the partners of a beneficiary or pensioner who is in long-term residential care.

Assistance for hardship

There are a number of payments or advances available if a person is not able to pay for essential items. A person does not have to be on a benefit to get some of this help.

Extra help with health costs

Community Services Card

The Community Services Card can help with the costs of healthcare. There is an income limit to get this card.

The Community Services Card can reduce the cost of:

prescription fees;

fees for after-hours doctor visits;

visits to a doctor who is not a person's regular doctor;

glasses, vision tests and eye patches for children under 16 years;

emergency dental care provided by hospitals and approved dental contractors;

travel and accommodation for treatment by a specialist at a public hospital outside the person's area.

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High Use Health Card

The High Use Health Card helps people who do not have a Community Services Card, but who have ongoing health problems that mean they visit a doctor often. The card can be used to get a subsidy for a doctor's visit at a practice that is not the one usually used or for after-hours medical care. This card also gives a subsidy on some prescription charges.

A High Use Health Card is for a person who has made 12 or more visits to a doctor in the previous 12 months. The card is free, and there is no income limit. It can only be used by the cardholder and does not give benefits to the rest of the family.

Help with housing costs

Accommodation Supplement

This payment can help with rent, board or the cost of owning a home. A person does not have to be getting another benefit to receive an Accommodation Supplement. There is an income and cash asset limit for this payment.

The accommodation supplement is not for people who are renting a property owned or managed by Housing New Zealand Corporation (the Corporation).

Housing New Zealand Corporation Income Related Rents

People who rent from the Corporation are able to have their rent adjusted so that it reflects the level of income that they receive. Rents are usually set at no more than 25 per cent of income.

Rates Rebate Scheme

Ratepayers on a low income may be able to get a reduction in their rates.

Extra help if caring for a child

Child Disability Allowance

This allowance is for the main carer of a child or young person under 18 years who has a serious illness or disability and needs constant care and attention. Usually the allowance stops when the child turns 18 years (unless the young person starts to receive the Invalid's Benefit). Children can apply for the Invalid's Benefit when they turn 16 years old. This additional payment is made because of the extra care that may be required.

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There is no income or asset test for the Child Disability Allowance. A child may be able to get both the Child Disability Allowance and the Disability Allowance.

Working for Families Tax Credits

Working for Families Tax Credits are for families with dependent children aged 18 or younger. Payments vary according to income and how many children are in the family.

Childcare subsidy

The childcare subsidy assists people access preschool education for their child if they or their child are seriously disabled or ill. It is also available to assist people with dependent children undertake employment, education and training.

Extra help with living expenses

Extra assistance is available if a person is not able to work, or is working fewer hours due to their sickness, injury, disability or pregnancy.

Live Organ Donor Assistance: a payment to compensate people for loss of income and/or childcare costs when they donate a kidney or liver tissue for transplant.

Civilian Amputee Assistance: an allowance which helps people with regular, ongoing costs because of an amputation, such as visits to the doctor or hospital, medicines, extra clothing or travel.

Community Costs: to help people in short-term residential treatment programmes to meet on-going costs in the community.

House Modification Funding: provides assistance to people who need to modify a home, including when they are caring for a disabled child.

Residential Support Subsidy: a subsidy for residential care needed because of a physical, intellectual, or psychiatric disability (including drug and alcohol rehabilitation).

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Employment assistance

Mainstream Employment Programme

The Mainstream Employment Programme provides a package of subsidies, training, and other support to help people with significant disabilities get work in the State Sector. By taking part in the Programme, employers are tapping into the benefits of employing someone with a disability and future-proofing their workforce.

The Mainstream Employment Programme provides:

- a 100 per cent salary subsidy for the first year of employment, and 50 per cent of the salary for the second year;
- funding for external training for Mainstream participants and their direct supervisors;
- induction training for Mainstream participants and their supervisors;
- funding to meet participants' adaptive technology or specialised assistance costs;
- an advice and referral service for employers and Mainstream participants; and
- follow-up support for participants and their direct supervisors.

The programme exists to:

- ensure that the State Sector workforce reflects the make-up of the people it serves;
- empower employers to feel confident about giving work opportunities to people with disabilities;
- give people with disabilities and little work experience the chance to show they are an asset to the workforce;
- provide a stepping-stone to independent sustainable employment for people with disabilities.

Mainstream is a four-way partnership between Work and Income, placement specialists (disability employment experts), employers, and people with disabilities. The specially created positions must be outside of the staff allocation or staff cap and tailored to the skills and aptitude of the participants, and the needs of the employers. Participants are not expected to be 'job-ready' when they start. They are trained on the job and have access to extra training funding from the organisation. Pay is

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comparable to the pay of others performing similar duties and knowledge and skills are built up over time, with the support and goodwill of co-workers.

After two years, it is expected that participants will be much better equipped to compete for advertised vacancies. No guarantee of on-going employment is expected but most participants go on to get sustainable employment. Mainstream participants work throughout New Zealand, from large cities like Wellington to small centres like Kaikohe.

Providing Access to Health Services (PATHS)

PATHS is an employment programme for clients on either the Sickness Benefit or Invalid's Benefit who want to work but need support to achieve their objective.

The overall objective of the PATHS service is to identify and provide an appropriate intervention for clients on either the Sickness Benefit or Invalid's Benefit including access to health care with the objective of participants returning to employment.

This is achieved by:

- developing a health to employment plan with the client;
- providing holistic, supportive and personalised case management;
- providing a service navigation role to improve access; and
- providing funding to enable timely access to health interventions not otherwise funded.

The key objectives of the PATHS service are to:

- identify the health needs preventing a return to employment;
- plan to reduce or remove those needs;
- build rapport and confidence with the client;
- provide service navigation;
- offer funded health intervention(s) where appropriate; and
- review effectiveness.

The PATHS service is provided through partnerships between Work and Income, District Health Boards (DHBs), Primary Health Organisations (PHOs) and Community Mental Health Non-Government Organisations (NGOs).

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Job Support

Job Support is a payment which makes it easier for disabled people or people with ill health to get work and/or stay in work. Job Support grants and subsidies help meet extra costs such as:

workplace modifications;

job coaching;

mentoring;

physical support including on the job physiotherapy or attendant care;

special equipment needed because of the person's disability or ill health;

additional costs of transport or parking.

It does not include any cost the employer has to legally provide, and the level of assistance a person receives depends on their individual circumstances.

To be able to get Job Support a person must:

have a disability or suffer from ill health that is likely to last for more than six months; and

be a New Zealand citizen or permanent resident.

They should also normally live in New Zealand and intend to stay here.

Vocational services

The Ministry of Social Development contracts with a number of non-government agencies to deliver employment support for disabled people:

Workbridge is contracted to place disabled people into ongoing open paid employment.

Supported employment agencies are contracted to find suitable, open paid employment for people with significant disabilities, and provide ongoing support for as long as necessary.

Business Enterprises are contracted to provide employment for disabled people with wages commensurate with the productivity of the employee.

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Additional help with finding a job

Looking for work: Work and Income provide job search assistance in all main centres.

Modification Grant: Funding is available for workplace changes or equipment if a person is disabled which make it easier for them to stay in or get work.

Car Modification Funding: provides assistance with car modifications for disabled people.

Employment Transition Assistance: People completing an Invalid's Benefit Employment Trial may be eligible for extra assistance.

Transport and travel assistance

Funding may be available to help with transport and travel costs if a person has limited mobility.

National Travel Assistance (NTA) Scheme for Health Services

The National Travel Assistance (NTA) Scheme helps with travel costs for people who need to travel often, or for long distances, to get specialist health or disability services. Sometimes, it can help with accommodation costs too.

To get this service, a person needs to be referred by a specialist (not a family doctor) to see another specialist or to receive specialist services. Both the specialists must be part of a service funded by the Government. For example, this could be a renal dialysis centre, a specialist cancer service or a child development service. Getting this service also depends on how far you have to travel and how often. The rules are different for children and adults and for those holding a Community Services Card. Sometimes, a support person can get help too.

Total Mobility Scheme

The Total Mobility Scheme is a subsidised taxi service. It works using vouchers that give a 50 per cent discount on normal taxi fares. The scheme is part-funded by the New Zealand Transport Agency and part-funded and managed by local authorities (usually regional councils). It is available nationally (mainly in cities), and operates slightly differently dependent upon where a person lives.

The scheme is available to people who are unable to use public transport due to the nature of their disability. This includes:

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getting to the place where the transport departs;
getting onto the transport;
riding securely;
getting off the transport; and
getting to the destination.

Mobility Parking Permit Scheme

With a Mobility Parking Permit (a card you put in the window of your car), you can use mobility car parks provided by councils, hospitals, supermarkets and other organisations. Most councils offer additional discounts on standard car parks. The permit is registered to an individual and can only be used when the permit holder is using the vehicle.

The scheme is open to people of all ages who:

are unable to walk and rely on a wheelchair for mobility; or
rely on mobility aids like crutches, walking sticks, splints or walking frames; or
are unable to walk 200 metres unaided because of the nature/severity of their health condition.

People with a short-term disability through an accident or illness may apply for a short-term permit. There is a one-off fee for each permit. Short-term permits are valid for up to 12 months. Long-term permits last for five years.

Respite care

There are two main forms of respite care available for people who care for those with a serious disability. These are:

formal out-of-home care;
the Carer Support Subsidy.

A person may get both of these types of help, depending on their needs and the services available. Breaks can be for a short period (half a day or longer, including overnight) or for several weeks.

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Formal out-of-home services

Formal out-of-home services like rest homes, respite houses and school camps. These services are contracted by the Ministry of Health and District Health Boards and are free. An assessment determines the number of days' break that will be paid for.

Carer Support Subsidy

Carer Support is a subsidy towards the daily cost of respite care.

Carer Support can be paid to:

- friends and some family members;
- neighbours or other people who provide relief care;
- formal services (a rest home, school camp and so on).

To get formal out-of-home services or the Carer Support Subsidy, a person must be the main carer for the person being cared for, caring more than four hours a day. A person does not have to live with the person being supported, as long as they are their main carer and responsible for their ongoing care and wellbeing.

There are different rules around respite care for a person with mental health, alcohol or other drug issues. Respite funding may be available even if the person is largely caring for themselves.

Special education needs

Help is available for children who have special education needs. For eligible children all services are free. The need may be a physical disability, a vision or hearing difficulty, issues with communication, learning or behaviour, or a combination of these.

Support is available for children from the time they are born. Ministry of Education, Special Education staff or service providers work with children with moderate to severe special education needs at home or in kindergartens, early childhood education and care centres, and kohanga reo (Māori language preschools).

Services can include:

- advice for teachers and parents;

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information about play techniques to teach the child new skills (such as drawing, blocks);

ways to improve social and learning skills and manage behaviour (for example, how to reinforce good behaviour, language to use when talking with your child);

speech language therapy (such as helping a child learn to swallow better, or gain language skills);

education support workers (helping a child one-to-one at their early childhood education centre);

developing special resources such as communication aids (for example special picture-based communication boards to help a child communicate if they can't speak);

co-ordinating physiotherapy, occupational therapy and equipment (working with health and disability therapists if required).

Once a child starts school, children with special education needs receive support and services from their school. If necessary, schools can arrange for specialist teachers to provide services or make a referral to the Ministry of Education, Special Education (SE). An assessment of a child may be needed to:

determine whether they have mild, moderate or high SE needs;

identify whether they need special teaching in order to learn, or special equipment to help them see, hear or move around and be safe at school.

Assessment is carried out by the class teacher, school staff and specialists from appropriate agencies, and parents are involved in the process. The information gained will be used to tailor a plan for the child (called an Individual Education Programme or IEP).

Students with high special education needs

A very small number (3 per cent) of children are defined as having high needs and meet the criteria for specialist help, usually through individual programmes and specialist support at school.

Education services and funding are available through schemes managed either by SE services or schools approved as Accredited Special Education Service Providers. An example

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is the Ongoing and Reviewable Resourcing Schemes (ORRS), which provide resources for students with severe disabilities in the areas of learning, vision, hearing, mobility or language use and social communication. ORRS funding can be for extra teacher time, specialist programmes and therapies, teacher aide support and additional school property allocation.

The Ministry of Education also has Special Education Facilitators whose role it is to help resolve problems between schools and caregivers/families and whānau of children with special education needs.

Environmental support services

A variety of assistance is available to help people with equipment needs. This is funded by the Ministry of Health.

Equipment

Equipment may be available for people with physical, intellectual, sensory (vision or hearing) and/or age-related disability needs. People with chronic health conditions and high ongoing support needs under 65 years may also be able to access equipment.

Equipment is generally provided at no charge, although part charges for some items may apply and less expensive items are not funded.

Equipment might include items to help with:

personal care, such as eating, going to the toilet and showering (a shower stool or a hoist, for example) and household tasks (such as a kitchen trolley);

mobility, standing and/or postural support (a walking frame or wheelchair, for example);

speaking, understanding, writing and making sense of information (such as a communication board, speaking device or software to make it easier to use a computer);

hearing (such as hearing aids, listening devices and alarms);

vision (such as magnifiers, mobility canes, computer screen reading software and glasses).

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Subsidy for glasses/spectacles

Children with vision problems, aged 15 years or under, may be able to get help with the cost of vision tests, glasses (frames, lenses or repairs) or eye patches.

Hearing aids for children

The Ministry of Health provides funding for hearing aids and FM (frequency modulated) systems for preschoolers and hearing aids for children and young people 20 years and under who are studying either at school or tertiary level.

Hearing aids for adults

A Hearing Aid Subsidy (HAS) is available for people who need a hearing aid. People meeting certain criteria can access fully funded hearing aids.

Hearing therapy services

The Ministry of Health funds hearing therapy services, and these are provided free of charge.

Hearing therapists can assess hearing needs, provide information about hearing aids and other equipment, teach people how to manage their hearing loss and advise them on the equipment that might help them.

Housing and vehicle modifications

Assistance with housing or vehicle modifications (a wheelchair carrier or hoist, for example) is provided by the Ministry of Health for people with a long term disability.

Housing modifications

Housing modifications might include:

handrails to make it safer to use the steps into the house;

ramps and/or widening of doors to improve access into the house;

level access shower and other bathroom alterations so the disabled person can use the bathroom/toilet safely;

fencing to protect someone who is at risk of injury because of their disability.

Vehicle modifications

Access to vehicle modification funding is quite restricted. Vehicle modifications may include:

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for drivers – hand controls, seating, ramps, hoists and wheelchair carriers;

for passengers – special seating, safety restraints, ramps, hoists and wheelchair carriers.

Lottery grants

The Lottery Individuals With Disabilities Committee considers applications from people throughout New Zealand who have significant mobility and communication-related disabilities.

The Committee approves grants for vehicles, vehicle modifications, mobility scooters and mobility equipment so people with mobility-related disabilities can get out and about to everyday activities such as shopping, visiting friends or family, sporting events, the library. The Committee also makes grants to people with communication-related disabilities for equipment to facilitate interactive communication with other people.

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STATISTICAL INFORMATION

Table 1: Age and sex profile of disabled and non-disabled people living in households 2006

| Disability status and age group | Sex | | | | Total | |
|---------------------------------|------------------|-----------|------------------|-----------|------------------|------------|
| | Males | | Females | | No. | % |
| | No. | % | No. | % | | |
| Disabled | | | | | | |
| 0–14 | 53,500 | 17 | 36,500 | 12 | 90,000 | 14 |
| 15–24 | 19,500 | 6 | 13,700 | 4 | 33,200 | 5 |
| 25–44 | 54,200 | 17 | 53,800 | 17 | 108,000 | 17 |
| 45–64 | 104,000 | 33 | 103,000 | 33 | 207,100 | 33 |
| 65–74 | 42,600 | 13 | 42,800 | 14 | 85,400 | 14 |
| 75+ | 44,600 | 14 | 61,000 | 20 | 105,600 | 17 |
| Total | 318,400 | 51 | 310,800 | 49 | 629,200 | 100 |
| Non-disabled | | | | | | |
| 0–14 | 389,100 | 24 | 386,000 | 23 | 775,100 | 23 |
| 15–24 | 238,500 | 15 | 238,100 | 14 | 476,600 | 14 |
| 25–44 | 466,400 | 29 | 505,000 | 29 | 971,500 | 29 |
| 45–64 | 395,200 | 24 | 436,100 | 25 | 831,300 | 25 |
| 65–74 | 81,800 | 5 | 94,600 | 6 | 176,300 | 5 |
| 75+ | 42,900 | 3 | 54,600 | 3 | 97,500 | 3 |
| Total | 1,614,000 | 48 | 1,714,300 | 52 | 3,328,300 | 100 |

Source: Maskill C, Hodges I. *Indicators from the 1996, 2001 and 2006 New Zealand Disability Surveys for monitoring progress on outcomes for disabled people*. Wellington: Office for Disability Issues (report prepared by HealthSearch Ltd).

Note: Due to rounding, individual numbers may not sum to stated total.

% = percentage of all people in respective age groups living in households for example: 17% or 53,500 of all disabled males (318,400) living in households are aged 14 or under.

Note: only the columns in bold add up to 100%

Table 2: Age, sex and ethnic profile of disabled and non-disabled people living in households 2006

| Disability status and age group | Ethnic group | | | | | | | | Total | |
|---------------------------------|------------------|-----------|----------------|-----------|----------------|-----------|------------------------|----|------------------|------------|
| | European | | Māori | | Other | | Not elsewhere included | | | |
| | No. | % | No. | % | No. | % | No. | % | No. | % |
| Disabled | | | | | | | | | | |
| 0–14 | 42,500 | 10 | 28,200 | 30 | 19,300 | 17 | -- | -- | 90,000 | 14 |
| 15–44 | 79,900 | 19 | 33,000 | 34 | 28,400 | 25 | -- | -- | 141,200 | 22 |
| 45–64 | 141,700 | 34 | 24,100 | 25 | 41,300 | 36 | -- | -- | 207,100 | 33 |
| 65+ | 156,200 | 37 | 10,400 | 11 | 24,300 | 21 | -- | -- | 190,900 | 30 |
| Total | 420,200 | 67 | 95,700 | 15 | 113,300 | 18 | -- | -- | 629,200 | 100 |
| | | | | | | | | | | |
| Males | 210,200 | 50 | 47,300 | 49 | 61,000 | 54 | -- | -- | 318,400 | 51 |
| Females | 210,000 | 50 | 48,400 | 51 | 52,300 | 46 | -- | -- | 310,800 | 49 |
| Total | 420,200 | 67 | 95,700 | 15 | 113,300 | 18 | -- | -- | 629,200 | 100 |
| Non-disabled | | | | | | | | | | |
| 0–14 | 390,700 | 20 | 170,900 | 37 | 213,500 | 24 | -- | -- | 775,100 | 23 |
| 15–44 | 814,200 | 41 | 217,400 | 47 | 416,500 | 47 | -- | -- | 1,448,100 | 44 |
| 45–64 | 566,900 | 29 | 62,300 | 13 | 202,100 | 23 | -- | -- | 831,300 | 25 |
| 65+ | 216,000 | 11 | 11,900 | 3 | 45,900 | 5 | -- | -- | 273,800 | 8 |
| Total | 1,987,800 | 60 | 462,500 | 14 | 878,000 | 26 | -- | -- | 3,328,300 | 100 |
| | | | | | | | | | | |
| Males | 949,500 | 48 | 223,000 | 48 | 441,500 | 50 | -- | -- | 1,614,000 | 48 |
| Females | 1,038,300 | 52 | 239,600 | 52 | 436,500 | 50 | -- | -- | 1,714,300 | 52 |
| Total | 1,987,800 | 60 | 462,500 | 14 | 878,000 | 26 | -- | -- | 3,328,300 | 100 |

Source: Maskill C, Hodges I. *Indicators from the 1996, 2001 and 2006 New Zealand Disability Surveys for monitoring progress on outcomes for disabled people*. Wellington: Office for Disability Issues (report prepared by HealthSearch Ltd).

Note: Due to rounding, individual numbers may not sum to stated total.

%=percentage of all people in respective age groups living in households for example: 37% or 170,900 of all non-disabled Māori (462,500) living in households are aged 14 or under

Note: only the columns in bold add up to 100%. Symbol -- = too small to be expressed.

Table 3: Disabled adults living in households and residential facilities by age group 2006

| Age group (years) | Residence | | | | Total | |
|-------------------|----------------|-----------|------------------------|----------|----------------|------------|
| | Households | | Residential facilities | | No. | % |
| | No. | % | No. | % | | |
| 15–44 | 141,200 | 100 | -- | -- | 141,500 | 25 |
| 45–64 | 207,100 | 99 | 1,500 | 1 | 208,500 | 37 |
| 65–74 | 85,400 | 97 | 3,000 | 3 | 88,400 | 15 |
| 75+ | 105,600 | 80 | 26,300 | 20 | 131,900 | 23 |
| Total | 539,200 | 95 | 31,100 | 5 | 570,300 | 100 |

Source Statistics New Zealand 2006 Household Disability Survey and 2006 Disability Survey of Residential Facilities

Notes:

Residential facilities include rest homes, continuing care hospitals, intellectual disability units, physical disability units and multi-disability units.

Due to rounding individual numbers may not sum to stated totals.

% = percentage of disabled people living in households and residential facilities. Psychiatric disability units not included in 2006 Survey. Symbol

-- = figure too small to be expressed

Suppression has been done for quality reasons (rather than confidentiality) as the data is considered unreliable.

Table 4: Annual Household Income for Disabled and Non-disabled People by age group 2006

| Status and age | Household income | | | | | | | | Not elsewhere included | | Total | |
|----------------------|-----------------------|-----------|-----------------------|-----------|-----------------------|-----------|----------------------|-----------|------------------------------|-----------|------------------|------------|
| | Less than \$15,001 | | \$15,001– \$30,000 | | \$30,001– \$50,000 | | \$50,001 and over | | No. | % | No. | % |
| | No. | % | No. | % | No. | % | No. | % | | | | |
| Disabled | | | | | | | | | | | | |
| 0–14 | 5,100 | 6 | 11,400 | 13 | 15,600 | 17 | 39,300 | 44 | 18,500 | 21 | 90,000 | 14 |
| 15–44 | 8,600 | 6 | 17,600 | 12 | 25,400 | 18 | 61,800 | 44 | 27,800 | 20 | 141,200 | 22 |
| 45–64 | 15,800 | 8 | 36,000 | 17 | 39,900 | 19 | 78,300 | 38 | 37,100 | 18 | 207,100 | 33 |
| 65+ | 23,000 | 12 | 75,100 | 39 | 30,800 | 16 | 31,200 | 16 | 30,900 | 16 | 190,900 | 30 |
| Total | 52,500 | 8 | 140,100 | 22 | 111,600 | 18 | 210,700 | 33 | 114,300 | 18 | 629,200 | 100 |
| Non-disabled | | | | | | | | | | | | |
| 0–14 | 31,300 | 4 | 70,600 | 9 | 114,400 | 15 | 424,400 | 55 | 134,400 | 17 | 775,100 | 23 |
| 15–44 | 43,700 | 3 | 89,600 | 6 | 191,700 | 13 | 865,600 | 60 | 257,500 | 18 | 1,448,100 | 44 |
| 45–64 | 23,800 | 3 | 63,500 | 8 | 108,900 | 13 | 515,900 | 62 | 119,200 | 14 | 831,300 | 25 |
| 65+ | 22,400 | 8 | 94,000 | 34 | 59,500 | 22 | 60,400 | 22 | 37,500 | 14 | 273,800 | 8 |
| Total | 121,200 | 4 | 317,600 | 10 | 474,500 | 14 | 1,866,300 | 56 | 548,600 | 16 | 3,328,300 | 100 |

Source Statistics New Zealand 2006 Household Disability Survey and 2006 Disability Survey of Residential Facilities

Note: Due to rounding individual numbers may not sum to stated totals.

% = percentage of disabled people living in households for that age group for example: 5,100 children aged 14 or under or 6% of all children aged 14 or under (90,000) live in households with income less than \$15,001.

Note: only the columns in bold add up to 100%

Table 5: Highest level of educational achievement for disabled and non-disabled adults, by ethnic group, age group and qualification level 2006

| Age group (years) | Level of educational achievement | | | | | | Not elsewhere included | | Total | |
|-------------------------------------|----------------------------------|-----------|-----------------------|-----------|---------------------------|-----------|------------------------|-----------|----------------|------------|
| | No qualification | | School qualifications | | Post-school qualification | | | | | |
| | No. | % | No. | % | No. | % | No. | % | No. | % |
| Disabled Māori | | | | | | | | | | |
| 15–24 | 3,100 | 39 | 2,500 | 30 | 1,000 | 12 | 1,500 | 19 | 8,100 | 12 |
| 25–44 | 8,800 | 36 | 6,300 | 25 | 6,300 | 25 | 3,400 | 14 | 24,900 | 37 |
| 45–64 | 11,700 | 49 | 3,200 | 13 | 4,700 | 20 | 4,400 | 18 | 24,100 | 36 |
| 65+ | 4,400 | 43 | 1,300 | 12 | 1,600 | 16 | 3,000 | 29 | 10,400 | 15 |
| Total | 28,100 | 42 | 13,300 | 20 | 13,700 | 20 | 12,400 | 18 | 67,500 | 100 |
| Disabled non-Māori | | | | | | | | | | |
| 15–24 | 9,300 | 37 | 7,600 | 30 | - | - | 4,900 | 20 | 25,100 | 5 |
| 25–44 | 22,200 | 27 | 24,700 | 30 | 31,200 | 37 | 5,100 | 6 | 83,200 | 18 |
| 45–64 | 64,600 | 35 | 42,800 | 23 | 57,200 | 31 | 18,400 | 10 | 182,900 | 39 |
| 65+ | 63,400 | 35 | 40,600 | 22 | 40,100 | 22 | 36,400 | 20 | 180,500 | 38 |
| Total | 159,500 | 34 | 115,700 | 25 | 131,800 | 28 | 64,800 | 14 | 471,700 | 100 |
| Disabled (all ethnic groups) | | | | | | | | | | |
| 15–24 | 12,400 | 37 | 10,100 | 30 | 4,300 | 13 | 6,400 | 19 | 33,200 | 6 |
| 25–44 | 31,000 | 29 | 31,000 | 29 | 37,400 | 35 | 8,500 | 8 | 108,000 | 20 |
| 45–64 | 76,300 | 37 | 46,000 | 22 | 61,900 | 30 | 22,800 | 11 | 207,100 | 38 |
| 65+ | 67,800 | 36 | 41,900 | 22 | 41,700 | 22 | 39,500 | 21 | 190,900 | 35 |
| Total | 187,600 | 35 | 129,000 | 24 | 145,400 | 27 | 77,200 | 14 | 539,200 | 100 |
| Non-disabled Māori | | | | | | | | | | |
| 15–24 | 26,000 | 30 | 37,700 | 44 | 10,900 | 13 | 11,700 | 14 | 86,400 | 30 |
| 25–44 | 31,200 | 24 | 41,500 | 32 | 47,800 | 37 | 10,500 | 8 | 131,000 | 45 |
| 45–64 | 21,600 | 35 | 12,800 | 20 | 17,300 | 28 | 10,600 | 17 | 62,300 | 21 |
| 65+ | 4,700 | 39 | 1,900 | 16 | 2,500 | 21 | 2,900 | 24 | 11,900 | 4 |
| Total | 83,500 | 29 | 93,800 | 32 | 78,500 | 27 | 35,700 | 12 | 291,600 | 100 |
| Non-disabled non-Māori | | | | | | | | | | |
| 15–24 | 64,800 | 17 | 218,300 | 56 | 65,600 | 17 | 41,500 | 11 | 390,200 | 17 |
| 25–44 | 93,900 | 11 | 268,800 | 32 | 421,100 | 50 | 56,700 | 7 | 840,400 | 37 |

| Age group (years) | Level of educational achievement | | | | | | Not elsewhere included | | Total | |
|---|----------------------------------|-----------|-----------------------|-----------|---------------------------|-----------|------------------------|----------|------------------|------------|
| | No qualification | | School qualifications | | Post-school qualification | | No. | % | No. | % |
| | No. | % | No. | % | No. | % | | | | |
| 45–64 | 150,800 | 20 | 209,900 | 27 | 345,700 | 45 | 62,600 | 8 | 769,000 | 34 |
| 65+ | 84,300 | 32 | 60,000 | 23 | 79,000 | 30 | 38,700 | 15 | 261,900 | 12 |
| Total | 393,700 | 17 | 757,000 | 33 | 911,500 | 40 | 199,400 | 9 | 2,261,600 | 100 |
| Non-disabled (all ethnic groups) | | | | | | | | | | |
| 15–24 | 90,800 | 19 | 256,000 | 54 | 76,600 | 16 | 53,300 | 11 | 476,600 | 19 |
| 25–44 | 125,100 | 13 | 310,300 | 32 | 469,000 | 48 | 67,100 | 7 | 971,500 | 38 |
| 45–64 | 172,400 | 21 | 222,600 | 27 | 363,000 | 44 | 73,200 | 9 | 831,300 | 32 |
| 65+ | 89,000 | 32 | 61,800 | 23 | 81,500 | 30 | 41,600 | 15 | 273,800 | 11 |
| Total | 477,200 | 19 | 850,800 | 33 | 990,000 | 39 | 235,100 | 9 | 2,553,200 | 100 |

Source: Statistics New Zealand 2006 Household Disability Survey.

Note: Due to rounding individual numbers may not sum to stated totals.

% = percentage of disabled people living in households, for example: 36% of disabled adults (76,800) over the age of 65 have no educational qualifications.

Note: only the columns in bold add up to 100%

Symbol -- = figure too small to be expressed.

Table 6: Labour force status, by disability status by sex, New Zealand, 2006

| Labour force status | Males | | Females | |
|----------------------------|------------|----------------|------------|----------------|
| | % Disabled | % Non-disabled | % Disabled | % Non-disabled |
| Employed | 49 | 75 | 35 | 65 |
| Unemployed | 2 | 3 | 3 | 3 |
| Not in labour force | 48 | 17 | 62 | 27 |
| Not specified | 0 | 5 | 0 | 5 |
| Total | 100 | 100 | 100 | 100 |

Source: Statistics New Zealand, *Disability and the Labour Market in New Zealand*, 2006

Table 7: Employment rates for Māori aged 15 – 64 years

| Group | Employment rate per cent |
|-------------------------------|--------------------------|
| Disabled Māori adults | 45 |
| Disabled non-Māori adults | 62 |
| Non-disabled Māori adults | 67 |
| Non-disabled non-Māori adults | 77 |

Source: Disability and Māori: Office for Disability Issues and Statistics New Zealand, 2010.

Table 8: Total additional weekly costs for a single person living alone by impairment type and degree of need

| Impairment type | Moderate needs | High needs |
|-----------------|----------------|------------|
| Physical | \$639 | \$2,284 |
| Vision | \$353 | \$719 |
| Hearing | \$204 | \$761 |
| Intellectual | \$578 | \$2,568 |
| Mental health | \$714 | \$,2413 |

Source: *Cost of Disability*: Disability Resource Centre 2010 (a research project jointly funded by the Ministry of Social Development and the Health Research Council of New Zealand).

The aim of the research was to identify the additional resources (support, equipment, transport and time) and the costs associated with these resources that disabled people aged 18 – 64 years require to live in the community and achieve an ordinary standard of living. People with physical, sensory, intellectual and mental health impairment were included. The costs identified are those that it is estimated a person with the identified impairment has over and above the normal living costs of a person without that impairment.

Table 9: Human Rights Commission Complaint Statistics

The number of complaints on the ground of disability received by the Human Rights Commission in the year ended 30 June 2009 was 529.

| Area of Discrimination | Number | Per cent |
|----------------------------|--------|----------|
| Advertisements | 1 | 0.2 |
| Educational establishments | 79 | 15 |

| Area of Discrimination | Number | Per cent |
|-------------------------------------|---------------|-----------------|
| Employment | 108 | 20 |
| Government activity | 150 | 28 |
| Land, housing and accommodation | 22 | 4 |
| Places, facilities, vehicles | 28 | 5 |
| Pre-employment | 48 | 9 |
| Professional and Trade Associations | 4 | 0.8 |
| Provision of goods and services | 88 | 17 |
| Qualifying Bodies | 1 | 0.2 |
| Total | 529 | 100 |

Source: Human Rights Commission, January 2011

Note: Due to rounding percentage column does not sum to stated total.

Comment

Over the past five years, the majority of employment complaints from disabled people have related to three issues: termination of employment, lack of reasonable accommodation in the workplace, and treatment on less favourable terms. In relation to pre-employment, being declined employment because of a disability and inappropriate questions on application forms were the two most common sources of complaint.

Another significant area of complaints relates to education. A 2009 Commission review of complaints and enquiries revealed that in the seven years from January 2002 to December 2008, the Commission received 261 complaints and enquiries about disabled student's right to education in the compulsory education sector.

Table 10: Children's Commissioner Complaint Statistics

The number of complaints in the area of special education received by the Office of the Children's Commissioner in the year ended 30 June 2010 was 38.

| Area of Discrimination | Number | Percent |
|--|---------------|----------------|
| Lack of resources or funding to ensure children remain at school well supervised | 18 | 47 |

| Area of Discrimination | Number | Percent |
|--|---------------|----------------|
| Exclusion from school arising from lack of teacher aides or other supports, children's behaviour, impact of the child's disability | 16 | 42 |
| Behaviour issues including lack of supervision, over intensive supervision, confusion of disability impact with behavioural problems | 4 | 11 |
| Total | 38 | 100 |

Table 11: New Zealand Disability Aid Initiatives

| | Country / Programme | Name of Initiative | Total Commitment NZ \$ | 2009/2010 amount NZ \$ |
|---|--|---|---|--------------------------------------|
| 1 | Vanuatu | Core funding to Disabled Persons Advocacy Association (DPA) | 60,000 | 10,000 |
| 2 | Samoa | Core funding to Nuanua O Le Alofa (NOLA – the national DPO) Core Funding to Loto Taumafai (service provider) | 73,000 108,000 | 46,000 54,000 |
| 3 | Cook Islands | Disability Action Team Creative Centre Cook Islands Red Cross Cook Islands National Disability Council (from the Community Initiatives Scheme) | 600,000 410,000 330,000 20,000 | 87,000 50,000 65,000 20,000 |
| 4 | Pacific Regional Human Development Programme | Core funding to the Pacific Disability Forum (covering 14 Pacific Island Countries and Territories) | 1.1 million | 345,000 |
| 5 | Pacific Regional Human Development Programme | Youth and Mental Health Programme (implemented by the Foundation of the Peoples of the South Pacific International) | 1.2 million | 100,000 |
| 6 | KOHA-PICD | India - Samuha-Samarthya integrated | 75,991 | 75,991 |

| | Country / Programme | Name of Initiative | Total Commitment NZ \$ | 2009/2010 amount NZ \$ |
|--------------|----------------------------------|--|---|---|
| | and the Humanitarian Action Fund | therapeutic and rights-based community intervention for disabled people India - Equal opportunities, protection of rights and full participation of disabled people in Gujarat Thailand - Community based rehabilitation for visually impaired and other disabilities Tanzania - Comprehensive community based rehabilitation in Manzese Bangladesh/India - Disaster preparedness in Bangladesh and India with CBM regional office and partners Sri Lanka - Livelihoods Support for return of IDPs Haiti - Child care and therapy for injured or disabled children | 84,984 92,837 127,489 125,000 124,995 70,000 | 84,984 92,837 127,489 125,000 124,995 70,000 |
| TOTAL | | | | 1,478,296 |