

April 2024

**To: Accident Compensation Corporation**

Please find attached DPA’s submission on the ACC Annual Scheme Access Reporting Consultation Paper 2024

Disabled Persons Assembly NZ

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**Introducing Disabled Persons Assembly**

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

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

**We recognise:**

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

**We drive systemic change through:**

**Leadership:** reflecting the collective voice of disabled people, locally, nationally and internationally.

**Information and advice:** informing and advising on policies impacting on the lives of disabled people.

**Advocacy:** supporting disabled people to have a voice, including a collective voice, in society.

**Monitoring:** monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

# **The submission**

DPA welcomes the opportunity to give feedback on the Accident Compensation Corporation’s (ACC’s) Annual Access Reporting Consultation paper.

As this is being written, ACC is commemorating its 50th anniversary as a world leading accident compensation scheme.

DPA wishes to take this opportunity to congratulate ACC on reaching this milestone.

# **Inequities between ACC and Disability Support Services (DSS) clients create trust issues**

Since 1974, ACC as an organisation has been subjected to various changes which have seen either expansions or restrictions to coverage being made by numerous governments.

During the last half century, these changes have led to the growth of inequities between disabled people (mainly injured related) covered by ACC and disabled people (non-injury related) covered by the Social Welfare, Ministry of Health and Whaikaha – Ministry of Disabled People Disability Support Services (DSS) systems respectively.

These inequities have seen disabled people covered by ACC receive comparatively better support than disabled people covered by non-ACC DSS systems in terms of being able to access more timely comprehensive supports in terms of equipment, modifications and domestic/personal assistance as well as income-related compensation.

**These inequities have been created by dividing New Zealand’s disability support system in two by determining support on the causation of a person’s disability/impairment.**

**While DPA supported the legislation which created the new ACC reporting requirements, we believe that the historical inequities inherent in the two-tiered DSS system are why disabled people - particularly those born or injured before the inception of the scheme and also disabled people deemed not to have accidentally caused impairments - are denied ACC cover.**

Some of the most glaring examples of these inequities was highlighted in Warren Forster’s “Removing Disabling Experiences: a vision for the future of our people” (2022) report.[[1]](#footnote-2)

These examples include that people who become blind through accidents are given financial compensation and rehabilitation to assist recovery whereas people who are born blind are not given the same level of support.

Both these and other discrepancies including the legal fine lines which can see, for example, babies born with head injuries denied ACC cover when specialists determine that a child’s impairment was present at birth and not caused by the birthing process itself can cause massive, costly legal battles for families/whānau and disabled people alike.

ACC cover can also be denied to people with birth-related impairments who acquire, for example, workplace related injuries including Occupational Overuse Syndrome (OOS) as assessors acting on the Corporation’s behalf can argue that natural deterioration due to a person’s pre-existing impairment, for example, Cerebral Palsy or arthritis, is the cause of their discomfort and not anything work related as it most likely could be.

There are also boundless other cases including of disabled people (with pre-existing impairments) who may have accidents in their home or while outdoors mobilising on a wheelchair or other mobility device who are covered by ACC for any medical treatment but, if they are on an income-tested benefit paid by the Ministry of Social Development (MSD) this may affect any income-related compensation they may be eligible for, particularly if they are working part-time.

Systemic barriers such as these are the main reasons why disabled people (especially those outside of the ACC system) are already highly mistrustful of the system while disabled people already covered by ACC have been subjected to constant change, particularly people who have been in receipt of long-term support from the Corporation and have become equally disdainful of it as the result of numerous assessments and poor decisions.

Māori and Tāngata Whaikaha – Disabled Māori are far more likely to have negative views of ACC than their Tangata Tiriti counterparts. In the recent Waitangi Tribunal Health Services and Outcomes Inquiry (Wai 2575)[[2]](#footnote-3), Māori disabled shared the stories of ACC’s inaccessibility and the impact it had on them as disabled children and adults.

DPA supported the legislation centring around the need to improve access to ACC services, supports and coverage for Māori given the low number doing so. ACC has given the most retrograde advice on claimants' files, and they have been the subject of many complaints over their advice about degenerative versus accident-related injuries[[3]](#footnote-4).

We support the greater provision of ACC services on a Te Tiriti-basis. We hope that the Corporation’s planned research will enable greater light to be shed on the reasons behind the low uptake of ACC amongst Māori, which we believe maybe due to the same biases which face tangata whenua when accessing the existing welfare system through MSD’s Work and Income service.

# **Our views on the proposed methods**

DPA recommends using the general methodologies outlined for collating data for each of the three required reports due between 2024 and 2026.

DPA also welcomes ACC’s plans to refine its methodologies through engaging with interested people and groups ahead of the preparation of each report. DPA signals its interest in being consulted as part of this process.

However, we recommend that the process go beyond just consultation to become a full co-design process between ACC and each of the population groups being researched, including disabled people.

Co-design processes enable disabled people and other population equity groups to work together with researchers as to how the process should be undertaken, the questions which need asking and embark on full collaboration in the analysis and report writing phases.

Only through carrying out the research in partnership with each of the identified equity groups - Māori, Disabled, Pasifika, and Asian – will ACC and its future Ministers come to truly understand some of the issues we have outlined above plus any others identified during the investigative phase. ACC continues to use the American Medical Association guidelines, so an update based on New Zealand guidelines in partnership with our equity groups would be beneficial too[[4]](#footnote-5).

Through ACC using a co-design and co-research approach will issues like trust and cooperation, especially with disabled people who may have experienced historical mistrust issues with the Corporation, be overcome through using Disabled People’s Organisations (including DPA) as part of the information sharing and outreach process for each report.

An example of a very successful co-research project is that undertaken by DPA with Waka Kotahi – New Zealand Transport Agency in producing its report “Transport experiences of disabled people Aotearoa New Zealand” (2022)[[5]](#footnote-6) which enabled over 20,000 disabled New Zealanders to feedback on their experiences of using our transport system.

DPA endorses, notwithstanding all we have stated above, the need for a systemic overhaul of our two-tiered disability support system towards being the single-payer, universal, sustainable one recommended in the Forster Report.

In DPA’s view, all the energy that will be expended in producing three separate reports on improving service access to the existing ACC system for currently disadvantaged groups, many of the answers already lie in earlier research, including that contained in the Forster Report.

However, we recognise that while the current fragmented disability system exists that it is prudent for further research to be carried out which may further validate many of the points made in the Forster Report and/or uncover new inequities needing further exploration and policy decisions by Ministers.

From DPA’s perspective, if better research means that ACC improves its services and supports to reach more disabled people, then this would be positive but more comprehensive system change would be better.

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| **Recommendation 1:** that ACC use the general methodologies outlined for collating data for each of the three required reports due between 2024 and 2026. |
| **Recommendation 2:** that the process go beyond just consultation to be made a full co-design /partnership process between ACC and each of the identified equity groups - Māori, Disabled, Pasifika, and Asian. |
| **Recommendation 3:** that Disabled Persons Organisations (DPOs) including DPA be involved as full co-design partners in the research process. |

1. <https://forster.co.nz/report> [↑](#footnote-ref-2)
2. <https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/> [↑](#footnote-ref-3)
3. NZ Herald. (2012, Sept 7). *Editorial: ACC culture must be more fair and open*

   <https://www.nzherald.co.nz/nz/editorial-acc-culture-must-be-more-fair-and-open/ZCHN2RIDLVC3X5I52IYHZBHB7U/> [↑](#footnote-ref-4)
4. Accident Compensation Corporation. (Dec 2022). *Impairment Assessments – Operational Guidelines*

   <https://www.acc.co.nz/assets/provider/impairment-assessment-services-og.pdf> [↑](#footnote-ref-5)
5. <https://www.nzta.govt.nz/resources/research/reports/690> [↑](#footnote-ref-6)