

May 2024

**To Finance and Expenditure Select Committee**

Please find attached DPA’s submission on Contracts of Insurance Bill 2024

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# Introducing Disabled Persons Assembly NZ

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

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

**We recognise:**

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

**We drive systemic change through:**

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

**Pārongo me te tohutohu / Information and advice**: informing and advising on policies impacting on the lives of disabled people.

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

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

## United Nations Convention on the Rights of Persons with Disabilities

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),1 a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention.

The following UNCRPD articles are particularly relevant to this submission:

* **Article 3 – General principles**
* **Article 5 – Equality and non-discrimination**
* **Article 28 – Adequate standard of living and social protection**

## New Zealand Disability Strategy 2016-2026

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy2 to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision.

The following outcomes are particularly relevant to this submission:

* **Outcome 2 – Employment and Economic Security**
* **Outcome 5 – Accessibility**
* **Outcome 7 – Choice and Control**

# The Submission

DPA welcomes the opportunity to give feedback to the Finance Select Committee on the Contracts of Insurance Bill.

DPA supports this legislation with amendments.

Disabled people take out insurance to cover everyday things in the same way that non-disabled New Zealanders do. We also are aware that there is an expectation on the part of government providers that disabled people take out insurance cover for essential disability related equipment provided to them by Whaikaha – Ministry of Disabled People, Accident Compensation Corporation, Health NZ – Te Whatu Ora or private providers around, for example, wheelchairs, mobility aids, CPAP devices, electronic beds and screen readers.

Disabled people and the families/whānau of disabled people also take out life insurance and other policies to cover such things as, for example, home and car repairs and any costs incurred in renting (such as damage to property) as many disabled people are renters.

One of the most significant ongoing issues for disabled people in the insurance space concerns the ability to acquire insurance cover on the same terms as non-disabled people. DPA have heard anecdotal stories over the years about insurers discriminatorily refusing life insurance coverage in some cases to disabled people, for example, when life insurance is required to take out mortgages.

DPA wants to see the insurance industry needs to end the discriminatory practises which prevent many disabled people from taking out insurance.

While this legislation goes some way towards addressing this, it will take a fundamental reform of industry practises and processes to address the ongoing discrimination faced by disabled people from the insurance industry.

DPA is pleased to see that the legislation will amend the Financial Markets Control Act 1989 by imposing a duty on insurers to ensure that all insurance contracts are worded and presented in a clear, concise and effective manner.

We want to see insurance providers present their contracts in plain language that can be understood by all customers.

For a wide range of reasons, complex documents - such as those common in the insurance industry - are neither accessible nor understandable for significant number of disabled people.

DPA supports ensures the insurance industry adopt contracts which are provided in Plain English formats as well as in more legal (but comprehensible) prose to ensure that all customers, including disabled people, can more readily understand what they are signing up to.

## Clause 49: Knowledge: wilful blindness

DPA notes that the term wilful blindness relates to the common law doctrine of the same name which explains, according to an American law website, how an individual ‘will intentionally shield themselves from acknowledging information that might make them liable in a civil or criminal case, even denying these facts to themselves.’[[1]](#footnote-2) DPA recognises that this wording is there to provide legal guidance in cases where insurance fraud has been alleged.

However, while we understand that this term is used in other similar jurisdictions to New Zealand (i.e., United States, United Kingdom), the fact remains that it uses language in a way that reinforces negative stereotypes and attitudes towards disabled people.

The use of this terminology creates negative connotations around blindness by implying that, for example, blind people willingly make themselves blind or can easily evade responsibility for doing illegal/bad things through not being able to visually see documents or events.

More generally, the use of a term relating to a specific impairment as a negative description of an action pervades much of our legislation, and it is time to remove these terms from legislation whenever an act is reviewed or amended

There are plenty of more appropriate terms that can be substituted instead.

For this reason, DPA strongly recommends that the committee amend the clause by replacing ‘wilful blindness’ with the term ‘wilful ignorance’ which is not ableist and more accurately describes the intent of the clause in terms of preventing fraud.

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| **Recommendation 1:** that the term ‘wilful blindness’ is replaced with the term ‘wilful ignorance’. |

1. <https://jbsimonslaw.com/willful-blindness/> [↑](#footnote-ref-2)