December 2024

**To Social Services and Community Select Committee**

Please find attached our submission on the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill 2024

For any further inquiries, please contact:

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**Introducing Disabled Persons Assembly NZ**

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

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

**We recognise:**

* Māori as Tangata Whenua and [Te Tiriti o Waitangi](https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi) as the founding document of Aotearoa New Zealand;
* disabled people as experts on their own lives;
* the [Social Model of Disability](https://www.odi.govt.nz/guidance-and-resources/guidance-for-policy-makes/) as the guiding principle for interpreting disability and impairment;
* the [United Nations Convention on the Rights of Persons with Disabilities](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) as the basis for disabled people’s relationship with the State;
* the [New Zealand Disability Strategy](https://www.odi.govt.nz/nz-disability-strategy/) as Government agencies’ guide on disability issues; and
* the [Enabling Good Lives Principles](https://www.enablinggoodlives.co.nz/about-egl/egl-approach/principles/), [Whāia Te Ao Mārama: Māori Disability Action Plan](https://www.health.govt.nz/publication/whaia-te-ao-marama-2018-2022-maori-disability-action-plan), and [Faiva Ora: National Pasifika Disability Disability Plan](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/5E544A3A23BEAECDCC2580FE007F7518/%24file/faiva-ora-2016-2021-national-pasifika-disability-plan-feb17.pdf) as avenues to disabled people gaining greater choice and control over their lives and supports.

**We drive systemic change through:**

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

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

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

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

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

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),[[1]](#footnote-2) a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention.

The following UNCRPD articles are particularly relevant to this submission:

* **Article 3 – General Principles**
* **Article 7 – Children with disabilities**
* **Article 12 – Equal recognition before the law**
* **Article 13 – Access to justice**
* **Article 14 – Liberty and security of the person**
* **Article 15 – Freedom from torture or cruel, unusual, inhuman or degrading treatment or punishment**
* **Article 16 – Freedom from exploitation, violence and abuse**

## New Zealand Disability Strategy 2016-2026

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

The following outcomes are particularly relevant to this submission:

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

**The Submission**

DPA welcomes this opportunity to feedback to the Social Services and Community Select Committee on the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill 2024.

**DPA asks that the Bill be withdrawn.**

DPA opposes this legislation due to the disproportionate impact it will have on young disabled people, especially tangata whaikaha disabled Māori who may form a large proportion of those sentenced to these programmes.

Should this legislation be passed, New Zealand could be in breach of several articles of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), given the high number of disabled young people who will likely be sentenced to serve time in boot camps.

The UNCRPD articles this country will likely be in breach of if this legislation is passed includes:

* Article 3 – General Principles
* Article 7 – Children with disabilities
* Article 12 – Equal recognition before the law
* Article 13 – Access to justice
* Article 14 – Liberty and security of the person
* Article 15 – Freedom from torture or cruel, unusual, inhuman or degrading treatment or punishment
* Article 16 – Freedom from exploitation, violence and abuse

Regarding the high numbers of disabled rangatahi who could be impacted, we draw attention to the comments made in the House by MP Kahurangi Carter during the Bill’s first reading highlighting the high number of young disabled people and people with health conditions who could be potentially ensnared within the boot camp system:

*“An Oranga Tamariki briefing paints a stark picture of the background of these tamariki - 80 percent have a confirmed or suspected mental health - or disability-related diagnosis, 80 percent; 20 percent have attempted suicide; 90 percent face significant learning difficulties. Half of the boys and a quarter of the girls have been physically harmed more than three times in the past year, and the overwhelming majority have grown up in poverty.”*

These statistics about the disproportionately high levels of abuse, violence and poverty amongst disabled tamariki and rangatahi have been referenced in numerous reports and studies, including those undertaken by the Royal Commission of Inquiry into Abuse in Care.[[3]](#footnote-4)

The Royal Commission also investigated previous boot camp experiments, such as Te Whakapakari, run by the former Department of Social Welfare, in the early 1990s.[[4]](#footnote-5)

The investigation into Te Whakapakari uncovered instances where survivors were subjected to physical, mental and sexual abuse. Participants were subjected to physical, educational and medical neglect as well.

From our perspective, it is appalling that such a harmful and damaging programme is being resurrected. We believe there is a very real risk of further harm being caused by the state as a result as has been seen within the current boot camp pilot with the absconding of two rangatahi involved in it from Oranga Tamariki (OT) care and the tragic death of a third participant in a car accident post-placement.

These recent instances mean that the new boot camps are highly likely to be just as harmful and damaging for the young people placed in these as those run in the past.

Boot camps are modelled on the system of traditional military discipline and there have been numerous instances of the abuse and mistreatment of New Zealand Defence Force recruits and serving personnel, sometimes leading to their becoming disabled through acquiring impairment via physical or psychological injuries.[[5]](#footnote-6),[[6]](#footnote-7)

The Royal Commission also highlighted the recurrent historical theme of the State failing to listen and respond to the real lived, complex experiences of young people, disabled people and their families/whānau.

Following the publication of Whanaketia, the State has made some moves towards recognising the historical hurt generated through the abuse in care of generations of tamariki children and rangatahi youth, and this includes of disabled tamariki and rangatahi.

However, proceeding with this bill seriously undermines the recent apology that was made to survivors of abuse in care as it contradicts one of the most pivotal findings of the royal commission – that state sanctioned harm and abuse against children and young people must stop.

The provisions of the Bill permitting OT staff to use reasonable force in situations where young people are threatening to escape from programmes are a very concerning aspect of this bill, and another reason why this legislation should not proceed

In effect a new generation of young people, including disabled rangatahi are being traumatised with the latest iteration of boot camps.[[7]](#footnote-8)

In doing so, the government is ignoring the success of community-based rehabilitation programmes like Kotahi te Whakaaro, Circuit Breaker, Fast Track and Ngāpuhi Iwi Social Services Mahuru programme which have all contributed to a significant decline in youth offending amongst participating rangatahi.

While these types of offender rehabilitation programmes do not receive the same level of media publicity that the crimes perpetrated by young people get, they are effective and should be receiving more government funding to expand.

Further, the evidence is clear that programmes that aim to tackle the multiple economic, social and cultural barriers faced by young offenders are the most effective in creating better outcomes.

One of our DPA members who has previous experience of working in the youth justice space reflected this to us about the experiences of disabled youth offenders and the background many come from:

*“Many of the disabled offenders I worked with were raised in a household where abuse or addiction was the norm, their parents coming from the gangs that exist because of abuse in state care. Some of the disabled youth were able to rebuild their lives, but not all due to the many barriers they encountered to finding jobs, getting off the benefit, getting a good education as well as not having the support to deal with their trauma and being re-traumatised by the state violence towards them.”*

DPA asks that Government invest in the wellbeing of youth in education, employment, health, housing, community involvement and cultural participation instead of squandering resourcing on initiatives that promote incarceration. In our view boot camps will effectively prepare rangatahi and tamariki for a life in prison – the use of language claiming that is for their benefit shows the lack of connection to the lived realities of the young people who stand to be affected.

We close this submission with a whakatauki from the late kuia Dame Whina Cooper:

“*Take care of our children. Take care of what they hear. Take care of what they see. For how the children grow, so will the shape of Aotearoa*.”

Dame Whina Cooper’s words are pertinent to the legislation before this committee in that if we fail as a society to take adequate care of our children and young people – including those who offend - then we will be impacting on the ability of a number of children, including disabled children, to grow and thrive in the same way as their better supported peers.

1. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> [↑](#footnote-ref-2)
2. <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#footnote-ref-3)
3. <https://www.abuseincare.org.nz/reports/whanaketia> [↑](#footnote-ref-4)
4. <https://www.abuseincare.org.nz/reports/whanaketia/case-studies/case-study-whakapakari/executive-summary> [↑](#footnote-ref-5)
5. <https://nzfvc.org.nz/news/reports-identify-need-improve-police-and-defence-response-harmful-sexual-behaviour-among-staff> [↑](#footnote-ref-6)
6. <https://www.stuff.co.nz/national/300289449/half-of-the-women-questioned-for-a-study-of-the-army-report-being-sexually-assaulted> [↑](#footnote-ref-7)
7. <https://www.stuff.co.nz/national/300289449/half-of-the-women-questioned-for-a-study-of-the-army-report-being-sexually-assaulted> [↑](#footnote-ref-8)