

In Confidence

Office of the Minister for Disability Issues

Cabinet Social Outcomes Committee

Progressing the Government response to the UNCRPD Concluding Observations

Proposal

- 1 This paper seeks approval to actions to implement the Concluding Observations (recommendations) made by the United Nations Committee on the Rights of Persons with Disabilities in 2022. These actions are set out in **Appendix Two**.
- 2 The paper also fulfils a requirement to report back to Cabinet on progress towards the Concluding Observations.

Relation to government priorities

- 3 The response to the recommendations will improve our domestic human rights protections and support our reputation as an international leader in the field of human rights. It also supports the Government's priorities to deliver better public services, and achieve better results in health, education, community safety, housing, and employment.

Executive Summary

- 4 New Zealand is required to monitor and report back to the United Nations on progress towards implementing the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The UN Committee made 63 Concluding Observations (recommendations) to New Zealand in 2022.
- 5 In July 2023, the previous Government agreed a whole-of-government response to progress 55 of these recommendations through the NZ Disability Strategy (NZDS) and Action Plans and invited the Minister for Disability Issues to report back on agencies' implementation progress.
- 6 Agencies have updated their responses to the recommendations that sit within their portfolios, proposing actions that could implement the recommendations and noting where no specific actions are currently proposed. Agencies also considered where actions agreed by Cabinet in August for the response to New Zealand's fourth Universal Periodic Review (UPR) would contribute to implementing the recommendations.
- 7 I propose that 30 recommendations can be progressed with actions for implementation where Government work is already underway or planned, and for a further 17 to be considered as part of the development of the refreshed NZDS in 2025. The remaining 16 recommendations do not have specific actions for implementation, where there is no work underway or planned at this time.

- 8 After Cabinet consideration the recommendations and actions for the UNCRPD will be added to *Human Rights Monitor*, the New Zealand Government's online human rights monitoring tool. Process steps will be added to each action so that progress can be tracked, supporting transparency and accountability. Additional actions and process steps can be added during the reporting period as work programmes are developed and agreed.
- 9 I intend to report back on progress towards the recommendations, including those considered as part of the development of a refreshed NZDS, by December 2025.

Background

New Zealand is required to monitor and report back to the United Nations on progress towards implementing the UNCRPD

- 10 The Ministry of Disabled People – Whaikaha (the Ministry) has a responsibility to promote and coordinate New Zealand's implementation of the UNCRPD. Government agencies, including the Ministry, are responsible for leading progress on aspects of the UNCRPD relevant to their portfolios.
- 11 The UNCRPD¹ requires States to:
- 11.1 develop a framework, including one or more independent mechanisms, to promote, protect and monitor its implementation.
 - 11.2 actively involve, and closely consult disabled people, their representative organisations and civil society.
- 12 To fulfil these requirements, an Independent Monitoring Mechanism (IMM) was formally established by Gazette notice² in 2011 to monitor and report on progress to realise the UNCRPD. The IMM has provided a comment on the recommendations in this paper. This comment is summarised in paragraphs 44 - 46 and attached in full as **Appendix One**.
- 13 I have also re-established a Ministerial Disability Leadership Group to drive collective action and progress for disabled people across Government priorities, and to engage with the IMM to monitor progress of the UNCRPD. The group met for the first time on 7 November. Members include:
- 13.1 Hon Louise Upston (Minister for Disability Issues) – Chair
 - 13.2 Hon Chris Bishop (Minister of Housing)

¹ United Nations, CRPD, Article 33 – National Implementing and Monitoring.
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-33-national-implementation-and-monitoring.html>

United Nations, CRPD, Article 4 – General Obligations.
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-4-general-obligations.html>

² Gazette, Notice of Designation of Independent Monitoring Mechanism for the Purposes of Implementing the UNCRPD. <https://gazette.govt.nz/notice/id/2011-go6983>

- 13.3 Hon Shane Reti (Minister of Health)
- 13.4 Hon Simeon Brown (Minister for Local Government)
- 13.5 Hon Erica Stanford (Minister of Education)
- 13.6 Hon Karen Chhour (Minister for Children).

The UN Committee on the Rights of Persons with Disabilities made 63 Concluding Observations for New Zealand in 2022

- 14 New Zealand was most recently examined on its progress towards implementation of the UNCRPD in August 2022. The UN Committee, an independent international committee of 18 experts on disability rights and policy, undertook the examination.
- 15 The UN Committee issued 63 Concluding Observations (recommendations) for New Zealand to address. These are an important way in which states are held to account for progressive implementation of UN Conventions and create a focus for domestic mechanisms to progress the UNCPRD.
- 16 For the UNCRPD, it is not necessary to provide a formal response to the Committee, setting out where we support, support in part, or note (reject) their recommendations (as it was for the response to New Zealand’s recent UPR). The general expectation is that New Zealand will progress the recommendations by its fourth periodic report to the Committee, which is due in October 2030, and that report will provide an update on implementation.
- 17 In July 2023, the previous Government agreed a whole-of-government response to progress 55 of the 63³ Concluding Observations either in whole or with some modification⁴ through the Disability Action Plan (DAP) process. At that time, eight Concluding Observations were noted but not accepted, where current settings were deemed appropriate [SWC-23-MIN-0083].
- 18 Cabinet invited the Minister for Disability Issues to report back on agencies’ implementation progress, and a possible mechanism for implementing the whole-of-government response. This paper fulfils that request.

Process for New Zealand’s response

- 19 Agencies proposed actions to implement recommendations that sit within their portfolios, noting where no specific actions are currently proposed.

³ There was a counting error in the July 2023 Cabinet paper, which states a total of 51 out of 60 Concluding Observations were agreed to. The paper itself includes all 63 Concluding Observations made by the UN Committee, and the previous Government’s response.

⁴ Generally, agencies agreed to accept with modification if the recommendation: includes proposals on how the recommendation should be implemented, but the proposed approach is not possible or is not considered the best way to achieve the recommendation in the New Zealand context or; requires Cabinet or Budget decisions to fully implement it; or includes an absolute target that cannot be fully committed to.

- 20 Agencies also considered where actions agreed by Cabinet in August for the response to New Zealand's fourth UPR would contribute to implementing the recommendations [CBC-24-MIN-0082 refers].
- 21 After Cabinet consideration the recommendations and actions for the UNCRPD will be added to *Human Rights Monitor*, the New Zealand Government's online monitoring tool⁵. Process steps will be added to each action so that progress can be tracked, supporting transparency and accountability. Additional actions and process steps can be added during the reporting period as work programmes are developed and agreed.

The New Zealand Disability Strategy and Disability Action Plans are vehicles to implement progress towards the UNCRPD and Concluding Observations

- 22 The New Zealand Disability Strategy (NZDS) has guided the work of government agencies on disability issues, including the UNCRPD since its ratification. First developed in 2001 and last revised in 2016, the NZDS is designed to be a whole-of-life, long-term programme of work. The 2016-2026 NZDS seeks to eliminate barriers across eight key strategic areas so that disabled people have equal opportunity to achieve goals, reach their potential and participate fully in the community. A new NZDS is due in 2026 and will be refreshed over the coming year.
- 23 Since the establishment of the NZDS, two successive Disability Action Plans (DAPs) have supported a cross-government work programme to implement the Strategy. When the NZDS is refreshed, officials will work to develop a new DAP to drive progress on the UNCRPD.

Proposed response

- 24 Of the 63 recommendations, I propose that 30 recommendations can be progressed at this time. Some recommendations have multiple actions, and some actions are assigned to multiple recommendations.
- 25 The recommendations that I propose New Zealand progress are those where work is ongoing or is planned.
- 26 There are some instances in which recommendations are similar to or the same as those received during New Zealand's fourth UPR. Where UNCRPD recommendations can be implemented by actions agreed for the UPR, those actions have been included. This includes the responses to recommendations about inclusive education, rights-based healthcare for intersex children, growth attenuation treatment, and employment for disabled people.
- 27 For 16 recommendations, I have not proposed a specific action. This is for recommendations where no work is underway or planned.
- 28 The previous Government considered no action would be taken over the reporting period in relation to eight of the recommendations. The position on seven of these has

⁵ The tool was launched in September 2024 and currently includes the actions being taken to implement recommendations received during New Zealand's fourth Universal Periodic Review. It can be accessed at <https://humanrights.govt.nz/>.

not changed. However, recommendation 48 (a) to develop an inclusive education strategy and measures, is similar to one of the UPR actions and actions agreed for the latter will help to implement the UNCRPD recommendation.

29 Agencies also recommended that nine more recommendations should have no action associated with them at this time. This is in large part due to changes in the Government’s position on:

- 29.1.1 the introduction of the Accessibility for New Zealanders Bill
- 29.1.2 the removal of Minimum Wage Exemption permits
- 29.1.3 the recommendations from the Welfare Expert Advisory Group report
- 29.1.4 legislation and policy to reflect Te Tiriti o Waitangi.

30 I propose that a further 17 recommendations are considered as part of the development of the next NZDS over the coming year. Many of these recommendations require significant policy work, including some modification to the approach to align with New Zealand’s context. The Ministry will work with agencies and the IMM to test and determine the extent to which these recommendations can be progressed under a new NZDS, or whether they should be deferred.

31 **Appendix Two** details the recommendations I propose to be progressed with specific actions, those to be considered as part of the development of the refreshed NZDS, and those that do not have current actions proposed. Table One below summarises these:

Table One: Summary of proposed approach

Recommendations with actions for implementation	30
Recommendations to consider in the development of the refreshed NZDS	17
Recommendations with no action currently proposed	16
Total	63

Risks and mitigation

32 Disabled people and their allies are likely to be disappointed that this approach does not include actions for all 63 recommendations. The Disabled People’s Organisations (DPO) Coalition has stressed the importance of all recommendations made by the UN Committee.

33 However, the recommended approach allows for additional actions and process steps to be added during the reporting period as work programmes are developed and agreed.

34 Transparency and continued monitoring of progress through the online Human Rights Monitor, and by lead agencies, the IMM, and the Ministerial Disability Leadership Group, will maintain momentum on progressively implementing the recommendations.

Implementation

- 35 The Ministry of Disabled People will lead the monitoring and coordination of work to implement the actions identified, and on the development of the refreshed NZDS.
- 36 Government agencies, including the Ministry of Disabled People, will continue to lead progress on the recommendations and associated actions relating to their portfolios.
- 37 Progress on the Concluding Observations will be uploaded to the Human Rights Monitor progressively and updated on a six-monthly basis.

Cost-of-living Implications

- 38 There are no cost-of-living implications associated with this paper.

Financial Implications

- 39 There are no financial implications arising directly out of the recommendations in this paper. Funding for any of the work noted in the actions is for the lead agency to consider.

Legislative Implications

- 40 No legislation is needed to implement the proposals outlined in this paper.

Impact Analysis

- 41 A ‘Regulatory Impact Statement’ and ‘Climate Implications of Policy Assessment’ are not required for this paper.

Population Implications

- 42 Population implications are set out in the following table, and sourced from the 2013 Disability Survey:

Population group	How the proposal may affect this group
Disabled people	24% of the New Zealand population were identified as disabled.
Pākehā NZ European	25% of the Pākehā / NZ European population were identified as disabled.
Māori	26% of the Māori population were identified as disabled. Tāngata whaikaha Māori (Māori disabled people) tend to have poorer material wellbeing and quality of life outcomes than non-disabled Māori and the disability population as a whole.
Asian	13% of the Asian population were identified as disabled.
Ethnic Communities	28% of the Middle Eastern/Latin American/African (MELAA) population and other ethnicities were identified as disabled.
Pacific people	19% of the Pacific population were identified as disabled.

Seniors	Older people experience high rates of disability (59% of New Zealanders aged 65). It is expected older people will make up an increasing proportion of the disabled population.
Women	24% of women were identified as disabled. Disabled women face additional barriers to accessing health care services (including sexual and reproductive health care), and employment which affects their pay and economic independence. Disabled men and women are more likely to experience non-partner physical and sexual violence.

Human Rights

43 Treaty body reporting supports the protection and promotion of human rights domestically and is an important process to promote effective implementation by other countries internationally. A constructive approach to treaty body reporting is consistent with this systemic interest and, in this case, New Zealand’s international leadership on disability rights. The introduction of an actions-based response, via the Human Rights Monitor, helps to ensure transparency and accountability on our human rights commitments. The proposals in this paper will contribute to New Zealand’s implementation of the UNCRPD.

IMM Comment

44 The IMM provided feedback on earlier drafts of this Cabinet paper. The IMM noted the positive commitment to accessibility and to improved access to justice, and support for the progressive realisation approach. The IMM recommended improved engagement with disabled people and their representative organisations for future work.

45 The IMM also raised concerns regarding the number of Concluding Observations without identified action, and concerns with some individual responses. These concluding observations⁶ relate to supporting disabled children in care, developing a national disability data framework, developing legislative and policy frameworks that reflect Te Tiriti o Waitangi and the UNCRPD, the national rollout of Enabling Good Lives, implementing the recommendations from the Welfare Expert Advisory Group, and differences between ACC and DSS-funded disability supports.

46 A full copy of the IMM’s feedback is included as Appendix One.

Consultation

47 The following agencies were consulted on this paper and provided comments on the status of the Concluding Observations in their remit, or on the paper itself: The Accident Compensation Corporation; Department of Corrections, Public Service Commission; and Statistics New Zealand; and the Ministries of/for Business, Innovation and Employment; Children – Oranga Tamariki; Culture and Heritage; Education; Ethnic Communities; Foreign Affairs and Trade; Health; Housing and Urban Development; Justice; Social Development; Women; and Youth Development.

⁶ 12 (a) – Oranga Tamariki, 12 (b) – Oranga Tamariki, 58 – Statistics New Zealand, 6 (b) – Ministry of Disabled People, 40 (a) – Ministry of Social Development (MSD), 54 (a) – MSD, and 54 (b) – MSD.

- 48 Some agencies were approached for comment but did not provide feedback. These were the Ministry for Pacific Peoples, Te Puni Kōkiri, and the Office for Seniors.

Communications

- 49 I intend to announce this paper when it is proactively released. Consistent with best practice, I will ensure this paper is communicated in all alternate formats (Braille, New Zealand Sign Language, Easy Read, Audio and Large Print).

Proactive Release

- 50 I intend to proactively release this paper in accordance with Cabinet Office Circular CO (18) 4, subject to any redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Disability Issues recommends that Cabinet:

- 1 **Note** that New Zealand is required to monitor and report back to the United Nations on progress towards implementing the UNCRPD, including the Concluding Observations (recommendations).
- 2 **Note** that the UNCRPD Committee made 63 recommendations for NZ in 2022.
- 3 **Note** that the previous Government agreed to 55 of the 63 recommendations in July 2023.
- 4 **Note** that agencies have provided updated responses to recommendations within their portfolios, proposing actions that could implement the recommendations and noting where no specific actions are currently proposed.
- 5 **Note** that agencies also considered where actions agreed by Cabinet in August for the response to New Zealand's fourth UPR would implement the recommendations.
- 6 **Agree** to the proposed approach in Appendix Two to progressing the recommendations through the framework adopted in the Human Rights Monitor online tool, with additional actions and process steps to be added during the reporting period as work programmes are developed and agreed.
- 7 **Invite** the Minister for Disability Issues to report back on progress towards the recommendations and those considered as part of the development of a refreshed NZDS, by December 2025.

Authorised for lodgement

Hon Louise Upston

Minister for Disability Issues

Appendix one: Full IMM comment

The IMM appreciates the opportunity to have reviewed a near final draft of this Cabinet Paper and was pleased to see in an early version, positive commitment to accessibility (Concluding Observations 44 (a) and 16 (b) and to improving Access to Justice. (Concluding Observation 24 (b)

We also appreciate that there has been a positive response to the IMM's promotion of a progressive realisation approach. We are pleased that our rationale that the following Concluding Observations be added to the list for immediate action, has been accepted, with these Concluding Observations now either incorporated, or under consideration, except for 6 (b).

Concluding Observations 12 (a) and 12 (b)

Data gaps notwithstanding, we know disabled children are overrepresented in Oranga Tamariki. In the context of the Royal Commission of Inquiry into Abuse in Care, the development of the second action plan of Te Aorerekura, and Oranga Tamariki's own improving practice guidance, we consider it both feasible and necessary that any measure to better protect disabled children in the care of the state, must be progressed now. This should be considered business as usual for Oranga Tamariki.

The IMM recognises the decision to include these Concluding Observations for consideration in a new Disability Strategy but remain committed to seeing these progressed as urgent priorities.

Concluding Observation 22

The government must give serious consideration to the findings and recommendations of the Law Commissions Review of Adult Decision-Making law. A concerted effort needs to be made to move to supported decision making to ensure disabled people can exercise their legal capacity under the law on an equal basis.

This Concluding Observation also has relevance for the recently introduced Mental Health Bill. The IMM recognises that the Ministry of Justice has recorded that they will provide advice as part of this Concluding Observation and that work has been moved forward from within the new Disability Strategy. We remain committed to seeing this Concluding Observation being progressed as an essential priority.

Concluding Observation 58

The IMM shares the government's interest in data and evidence backing policy and legislative decisions. Our mutual monitoring of real progress relies on it. For this reason, Concluding Observation 58 must be included in the first tranche of actions. This should not be onerous as work is already underway, and this Concluding Observation is in line with Stats NZ plans to modernise the Census. It would also offer an opportunity for a completed observation and contribute to Concluding Observation 12 (b).

Concluding Observations 6 (b) and 14 (b)

While the IMM is pleased to see the commitment to concluding observation 44 (d) by Te Puni Kōkiri, we consider that concluding observation 6 (b) is an important pre cursor to that work to ensure the initiatives developed, are both culturally, and disability sensitive.

IN CONFIDENCE

Similarly, in view of the work underway in the evolution of disability support services, and the upcoming work to refresh of the disability strategy, it would be beneficial to immediately commence work on Concluding Observation 14 (b) to ensure better inclusion of marginalised voices.

The above is not an exhaustive list but reflects the time available for IMM comment.

The positive aspects of the proposed approach notwithstanding, the IMM has outstanding concerns that:

- Concluding observations 40 (a) 54 (a) and 54(b) previously for action under the disability strategy now have no actions proposed. As functions for the provision of disability support services are under active review and evolution at present, we consider that these Concluding Observations must be actively considered by the Taskforce reviewing the disability support system.
- commentary about many of the proposed actions does not fully respond to the intent of the Concluding Observations and may therefore risk failing to fully realise them (see for example Concluding Observation 32(b) and many lack measurable outcomes at this point, (see for example 60 (a).
- a desire to fully complete the first tranche of actions has impeded a commitment to a greater number of Concluding Observations. The IMM would see partial completion of a larger set of Concluding Observations as more meaningfully fulfilling the aim of progressive realisation.
- the need to uphold Article 4.3 and the involvement of disabled people and their representative organisations in this process has not been fully realised and could be enhanced in the future. We urge greater engagement through existing mechanisms in all future stages of development.
- the development of an updated Disability Strategy is quite an indirect means of progressing work on Concluding Observations. Strategies describe outcomes, and the Concluding Observations themselves already constitute a plan of action. We wish to emphasise that the IMM will monitor these Concluding Observations, and the planned actions and timelines attached to them, through the Disability Strategy process.
- agencies which could and should incorporate into their business-as-usual operations, actions which meet the needs of disabled people, may not do so unless they are given explicit direction.
- there appears to be a considerable number of Concluding Observations that have no action at all planned, and the timeframes for any actions are indistinct.

For the IMM to be confident of meaningful progress, we will need to see clear milestones and regular and transparent reporting.