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Te Kāhui Tika Tangata
Human Rights Commission

Whakamahia te tūkinokore
ināianei, ā muri ake nei

Acting now for a violence and abuse free future

Executive Summary

Violence and abuse of disabled people in Aotearoa New Zealand
Evidence and recommendations

December 2021

Te Kāhui Tika Tangata
Human Rights Commission



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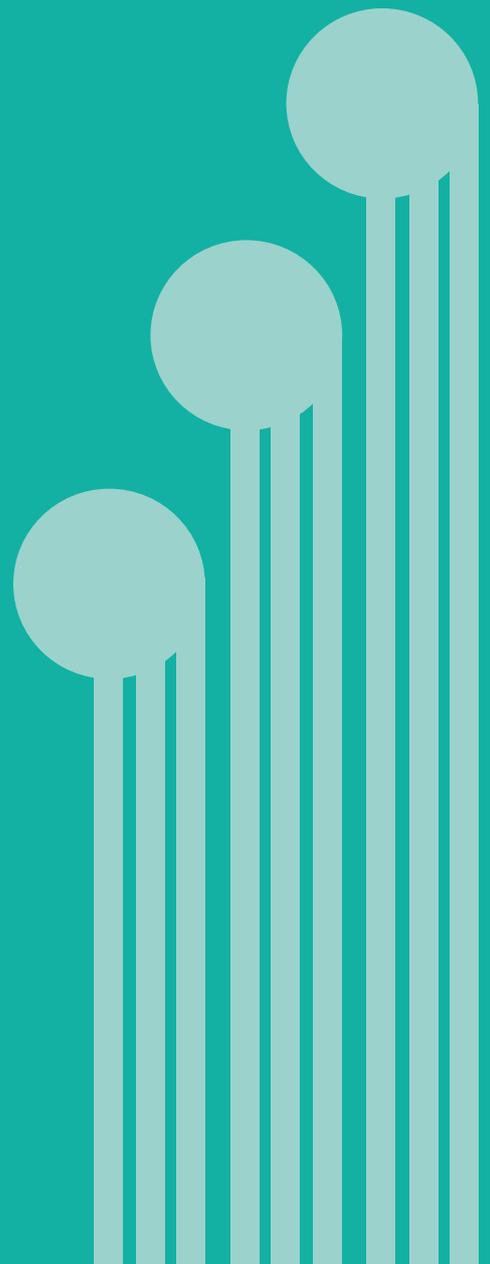
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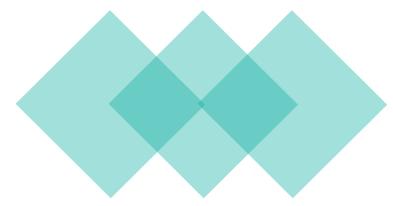
Whakamahia te tūkinō kore ināianei, ā muri ake nei
Acting now for a violence and abuse free future

Human Rights Commission

December 2021

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Foreword

My role is to promote and protect the full and equal enjoyment of disabled people's human rights.ⁱ The government has Te Tiriti o Waitangi and human rights obligations to commit all available resources and measures to prevent, protect against, and rehabilitate from, all forms of violence and abuse of disabled people and tāngata whaikaha Māori.ⁱⁱ

I commissioned this report and the companion report Whakamanahia Te Tiriti, Whakahaumarutia te Tangata (Honour the Treaty, Project the Person) focused specifically on Te Tiriti and issues affecting tāngata whaikaha Māori to provide evidence of those concerns and to offer a Tiriti and human rights roadmap to address them.

In January 2019, the Minister of Justice reported to the United Nations Human Rights Council:

“Women are twice as likely to suffer partner abuse than men. Māori women, queer women, trans women, women living with a disability and young women experience more violence and are more likely to be re-victimised by current systems. This government is determined to ensure that New Zealanders can live free from violence. Our system is failing New Zealand women, girls and families. We need to transform our system by focusing on prevention, early intervention, integrated responses and new approaches to service delivery.”

I welcome the Minister's comment that our rates of family and sexual violence represent a human rights failure and that disabled people are among those who bear a disproportionate burden of that failure.

For too long disabled people and tangata whaikaha Māori have been invisible in the nation's growing awareness of the significant problem of family, sexual and other forms of violence. Violence is one of the gravest symptoms of ableism which is systemic discrimination or prejudice against disabled people.

Only by addressing the underlying structural causes of ableism will we successfully empower disabled people and tāngata whaikaha Māori. A key step is to recognise the magnitude of violence affecting disabled people. Conservatively that magnitude is estimated as twice the overall rate for non-disabled people, increasing to between four and five times the rate for disabled children and women.

This report provides an extensive evidence base and graphic illustration of the many and long-standing risks of violence and abuse and barriers to reaching safety that disabled people experience.

These risks are created by prejudice and discrimination which isolate and disempower disabled people and tāngata whaikaha Māori. To be effective, remedies must therefore take a Tiriti o Waitangi and human rights approach that addresses structural contributors.

Implementing a Tiriti o Waitangi and human rights response is one that:

- ensures Māori are able to exercise self-determination
- addresses structural inequalities
- respects the leadership of disabled people and community
- recognises how different types of discrimination can intersect and add to disadvantage
- is transparent and accountable to the rights holders it must serve.

We have a long way to go to fulfil our international human rights obligations to disabled people agreed by successive governments. My hope is that by building greater awareness of the issues and their magnitude this report ignites action.

This report provides a roadmap for collaborative action towards disabled people living free from violence and abuse and provides a resource for:

- disabled people and tāngata whaikaha Māori to hear and share your voices
- government and public agencies to inform robust policy and legislation
- disability support services to understand more about family and sexual violence
- family and sexual violence services to understand more about ableism and accessibility.

Finally, I acknowledge those disabled people who have been harmed by violence and abuse and those working to prevent it. Alongside you, I commit to doing all I can to help heal the harm and build a violence free future.

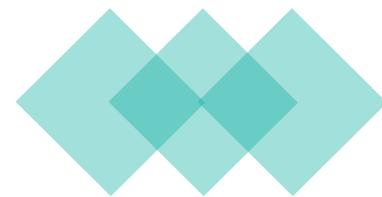
Mā whero, mā pango ka oti ai te mahi

With red and black the work will be complete.



Paula Tesoriero MNZM

Disability Rights Commissioner



Executive summary

Introduction

The purpose of this report is to urge action to address violence and abuse towards tāngata whaikaha Māori and disabled people. It brings together for the first time the evidence about the magnitude and causes of violence and abuse experienced by tāngata whaikaha Māori and disabled people.

The report provides a roadmap and recommendations for a Tiriti and human rights approach to preventing and responding to violence.

The report is a tool for disabled people and allies for continued advocacy for change.

It complements work by the Joint Venture for Prevention Family and Sexual Violence. It is critical reading to ensure effective responses by policy and decision-makers and everyone in the disability and violence prevention sectors.

This report sits alongside Whakamanahia Te Tiriti, Whakahaumarutia te Tangata (Honour the treaty, Protect the person) focusing specifically on Te Tiriti o Waitangi and the issues experienced by tāngata whaikaha Māori (Māori with a disability — whaikaha means 'to have ability' or 'to be enabled').

The body of this report has detailed evidence of the violence and abuse and a fuller explanation of the recommendations.

Te Tiriti o Waitangi and Human Rights

Violence is a Tiriti and human rights issue

Violence against tāngata whaikaha Māori disabled people, Deaf people and adults at risk (adults who are unable to remove themselves from harm) breaches protections offered by Te Tiriti and international human rights instruments.

In Aotearoa New Zealand, Te Tiriti o Waitangi (Te Tiriti) is the foundation of all other human rights obligations. It predates the Universal Declaration of Human Rights by over a century and foreshadows the same fundamentals of self-determination, equity and full citizenship. Even so, the Aotearoa New Zealand government has committed to international instruments which, include:

- The International Convention on the Rights of Persons with Disabilities (CRPD)
- The International Convention on the Elimination of all Forms of Racial Discrimination (CEFRD)

- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
- The Convention on the Rights of the Child (CRC)
- The United Nations Declaration on the Rights of Indigenous People (UNDRIP).

Tāngata whaikaha Māori rights have been breached

Violence against tāngata whaikaha Māori must be considered in the context of colonisation and its ongoing impacts, including institutional racism and structural barriers that have systematically disenfranchised Māori at all levels. Tāngata whaikaha Māori experience multiple barriers and intersecting disadvantages.

A Tiriti-based approach is required – an approach that ensures tāngata whaikaha Māori are resourced and supported to develop and implement their own responses to violence and abuse. The following aspects would be part of this approach:

- Tāngata whaikaha Māori (as Tiriti partners) would take part in decision-making
- Tāngata whaikaha Māori would be enabled and supported to exercise rangatiratanga and self-determination to lead solutions
- equity for tāngata whaikaha Māori would be at the heart of any response.

Disabled people’s human rights have been breached

The Convention on the Rights of Persons with Disabilities states that disabled people have the same civil, political, economic, social and cultural rights as all other people in the world.

A human rights approach to violence and abuse helps to:

- increase understanding of the intersecting forms of disadvantage that disabled people experience
- provide guidance on the many factors that need addressing to prevent violence, create safety, and design constructive responses.

For many years, disabled people’s experiences of violence have been marginalised and ignored. This is discrimination that, under human rights legislation, requires an immediate response from government.

Violence is an abuse of power

Violence is, at its core, an abuse of power. One way to understand power dynamics in perpetrating violence is to examine which people in our society:

- are perceived to be the most important and powerful
- are primarily harmed by violence.

People in society who are harmed are women, children, elderly people, tāngata whenua, LGBTQI+ and disabled men and women.ⁱⁱⁱ

Gender based violence is an epidemic: a gender lens is critical to adequately address violence

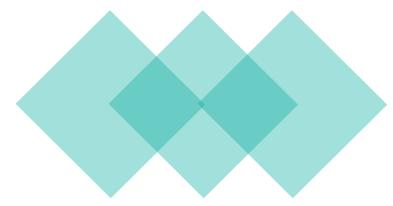
Gender inequity is one result of power that is internationally recognised as causing violence.^{iv} The United Nations identifies that “violence against women and girls is one of the most widespread, persistent and devastating human rights violations in our world today”.^v The World Health Organization calls this a global epidemic.^{vi}

Violence toward disabled people is also an epidemic as disabled people experience even higher rates of violence

Violence against disabled women and men is significantly more of an epidemic, with over 90% of disabled participants in some international studies disclosing physical, sexual and emotional/coercive violence against them.^{vii} In Aotearoa and globally:

- rates of violence against disabled men and boys are significantly higher than those for non-disabled men
- rates of violence against disabled women and girls are higher than rates against disabled men and non-disabled women.^{viii}

The 2019 New Zealand Family Violence Study^{ix} and the New Zealand Crime and Victimisation Survey (2021, NZCVS)^x report significantly higher rates of violence against disabled people compared with non-disabled people.



Disabled People in Aotearoa

Disabled people are a diverse and significant part of the population

The United Nations Convention on the Rights of People with Disabilities (CRPD) explains that disabled people are:

...those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.^{xi}

This aligns with a social model of disability. This is described in the New Zealand Disability Strategy 2016–2026:

Disability is something that happens when people with impairments face barriers in society; it is society that disables us, not our impairments, this is the thing all disabled people have in common. It is something that happens when the world we live in has been designed by people who assume that everyone is the same.^{xii}

In 2013, one in four New Zealanders identified as disabled. Like all people, disabled people inhabit a complex intersection of ethnicities, gender/sexual identities, gender roles and expectations, cultures, and socioeconomic positions. Interestingly, the most recent year for a comprehensive disability survey was in 1993.

Racism and ableism intersect and create unique risks for tāngata whaikaha Māori

Some people gain privilege by these intersections; for others, these intersections create disadvantage that is potentially further complicated by discrimination related to ableism, racism, sexism, audism, classism, sexual orientation, gender identity or expression and sex characteristics. Disabled indigenous people, tāngata whaikaha Māori, must navigate all these barriers in addition to the disabling effects from suppression of their rangatiratanga or ability to define themselves and determine their own lives.

Indigenous people have additional and diverse historical and contemporary impacts of disablement arising from colonisation, racism, subjugation and dysfunction that are in themselves disabling.^{xiii}

Loaded on to this intersectional dis/advantage is the stigma related to societal, cultural, religious and other misunderstandings of disability. Disabled people are misunderstood, discriminated against and stigmatised by cultural values and “erroneous beliefs and myths”^{xiv} that can differ from community to community. Such beliefs or myths are that disability is a punishment, disabled people are in some way evil, or disabled people are childlike and incapable of adult interactions and thought.^{xv} Underpinning this fear and misinterpretation of disability is ableism – the hegemonic (dominant in a political or social context) privileging of certain characteristics of mind and body^{xvi} to the detriment of disabled people.

The discrimination and stigma arising from ableism often results in disabled people experiencing:

- verbal, sexual, coercive, emotional and physical violence and abuse
- denial of rights
- segregation
- lack of accommodation^{xvii}
- denial of appropriate health care.^{xviii}

The consequences of this discrimination include fear, withdrawal, isolation, low self-esteem, reduced social and economic participation, and low participation in education.^{xix} These in turn increase the risk of poverty and violence.

The disability community in Aotearoa reports that disabled people who have intersecting marginalisation experience higher rates of violence. Those affected include people in one or more of the following groups:

- Māori
- Pacific peoples

- women
- people in the rainbow community
- people who live in residential services where their autonomy and choices are limited
- disabled people who have less access to education, employment and sufficient income than non-disabled people.

Disabled people experience significant socioeconomic marginalisation

Disabled people experience inequities in access to housing, employment, education and income. Reduced choices and standards of living create risk.

Explaining violence and abuse against disabled people and tāngata whaikaha Māori

Violence towards disabled people and tāngata whaikaha Māori takes many forms

Violence against disabled people, tāngata whaikaha Māori, Deaf, adults at risk can be physical, sexual, emotional, financial and coercive control. Other forms of violence are also more commonly experienced by disabled people and adults at risk, or are specific to disabled people's circumstances. Abusers can be family members and friends, carers and support people, and acquaintances and strangers in the wider community.

Some groups such as Māori, women, people with learning impairments, people experiencing psycho-social distress, children, and gender diverse people can face multiple and intersecting risks.

Disabled people face many barriers to accessing services and support to stop violence

Disabled people and tāngata whaikaha Māori encounter significant barriers to reporting abuse and stopping violence when it occurs. These barriers include:

- caregivers/support people may be the abusers
- the devaluing of disabled people
- being silenced
- not being believed
- credibility being questioned or undermined when trying to disclose violence and abuse
- societal and particularly police attitudes towards disabled people

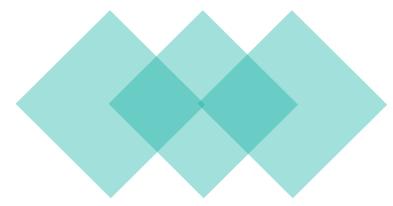
- negative consequences for reporting
- normalisation of abuse
- collusion within services to deny or dismiss disclosures.

Abusive ideologies and structural risks requiring a twin track response

Ableism, socioeconomic disparities and stigma and discrimination experienced by tāngata whaikaha Māori and disabled people pose greater risks. Even so, Aotearoa has no specialised sexual or family violence services for disabled people that respond to these risks. If mainstream services are physically accessible, they rarely have staff with knowledge of disability-specific issues.^{xx} Although Māori bear a disproportionate burden of violence, few kaupapa Māori sexual or family violence services exist. This demonstrates a lack of Te Tiriti partnership. There is also no information about the accessibility of the services that do exist.

Abusive ideologies reinforce power imbalances and increase the likelihood of experiencing exploitation and abuse. These ideologies include indifference towards disabled people, perceptions that disabled people are easy targets, and a lack of accountability.

Many structural factors increase the risk of violence and reduce disabled people's options to escape abuse. These include the denial of people's rights, the silencing of people's voice, a lack of accessible housing, lack of accessible information and reliance on others for support.



We need to address the many gaps in skills and knowledge across current services

Disabled people have identified gaps in knowledge, practitioner competency, and service provision. Research about violence against disabled people in Aotearoa is minimal. Police and service data that is collected about incidence and prevalence of violence does not include questions about disability. Information that is produced about sexual and family violence is generally not available in accessible formats.

People do not require a qualification to work in the violence or disability sectors. These sectors receive few offers to be trained in the topic of violence against disabled people.

Available services are also minimal. Few specialist services are available for adults at risk who require safeguarding. A specialist service

is a bespoke service that requires particular, specific staff expertise and is developed for a particular group of people. An NGO, a health or disability service or any other relevant organisation may run a specialist service.

No services are available for disabled men and boys requiring refuge.

No therapeutic services are available for disabled adults and children.

No services are available for women who are unable to access mainstream refuges because:

- of their age (older women)
- they require 24-hour caregiver support
- they have disabled children
- they have substance abuse or mental health problems which mainstream refuges cannot accommodate.

We need a twin-track approach to address gaps in services, knowledge and practice

Disabled people advise that the solution to fill identified gaps is a prevention and response policy and practice designed using a twin-track approach.^{xxi}

Both tracks must be grounded in Te Tiriti. To achieve this, the tracks must be developed in partnership with tāngata whaikaha Māori and effectively meet their needs.

Twin track one requires mainstream prevention initiatives, services and processes to be accessible. Some gaps identified in the body of the report are:

- lack of data and evidence to inform effective responses
- lack of a shared language
- little intersectoral collaboration to address violence and abuse
- low availability, little physical accessibility and insufficient accessible information create barriers to access

- lack of trust and respect for disabled people
- gaps in workforce competence.

Twin track two requires the availability of specialist prevention initiatives, services and processes needed to meet the intersecting needs of disabled/abused people, including people disabled by violence. Some of the gaps that main report notes are:

- lack of culturally appropriate services
- no national integrated safeguarding response
- no outreach, long-term, wrap-around or 24/7 services
- lack of meaningful participation or partnerships with disabled people.

This report makes a range of recommendations. These align with a twin-track approach to help fill the gaps.

A twin-track approach underpinned by Te Tiriti and human rights

Tāngata whaikaha Māori and disabled people must lead solutions

A Tiriti and human rights-based approach will only be effective when tāngata whaikaha Māori and disabled people lead the work to address violence and abuse of disabled people, and lead the solutions.

This approach would help to create a framework that:

- challenges ableism
- dismantles inequity of access to the social and economic factors that affect health
- fully resources tāngata whaikaha Māori and disabled people's organisations to participate.

Te Tiriti and the CRPD underpin such an approach.

Recommendations: a snapshot

This executive summary provides an overview of the detailed recommendations in the report. The companion report *Whakamanahia Te Tiriti, Whakahaumarutia te Tangata (Honour the Treaty, Protect the person)* has further specific approaches based around Te Tiriti.

Much work needs to be done to reduce the many and long-standing risks of violence and abuse and the barriers to reaching safety that disabled people experience. The recommendations in the main report are extensive, which reflects the extent of the work to be done. Yet some improvements can be made now while the structural changes unfold over the longer term.

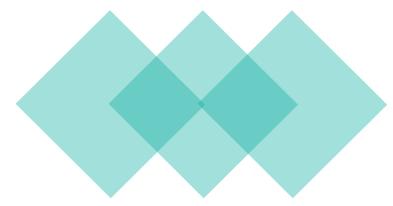
The numbering of the recommendations are for clarity only. They do not indicate priority or hierarchy.

Recommendations to rapidly improve service responses to violence and abuse

1. Develop language to describe violence and abuse. Disabled people should lead the development of this language. The language should be cross-sector and shared.
2. Improve data collection and research. Data collection involves actions such as developing protocols for agencies to collect regular data about the abuse of tāngata whaikaha Māori and disabled people, and disaggregate that data to allow for accurate

recording and analysis. The government would also commission qualitative and quantitative research to better understand the extent of violence and abuse and the needs (for prevention, safety and response to violence) of tāngata whaikaha Māori and disabled people in Aotearoa. Tāngata whaikaha Māori and disabled people would lead this collection and research. They would have appropriate training, such as understanding the limitations in using such data to guide policy and practice.

3. Enshrine protections in legislation, including protections that improve social participation and improve equality. One urgent need is to progress proposed legislation to 'accelerate accessibility'. A complementary urgent need is to address the digital divide.
4. Upscale and fully resource responses that are already proven to enhance safety and response. One effective response is an integrated Safeguarding Framework across the health, social and justice sectors. A related recommendation is to implement the recommendations in the evaluation from the 'Safeguarding Adults From Abuse' pilot.

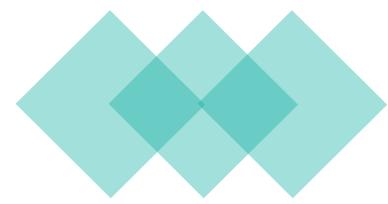


5. Develop training and ensure continuous improvement and training, and make resources available.
 - a. Develop qualifications, competencies and ongoing training that uphold Te Tiriti and Human Rights. Disabled people should lead these developments.
 - b. Ensure continuous improvement and ongoing training across disability, justice and family violence sectors.
 - c. Sufficiently resource disability services to ensure appropriately qualified staff can be employed and standards are upheld.
 - d. Develop all disability services in partnership with disabled people.
 - e. Ensure all information developed about policies and practices is in accessible formats and that all service users can easily access.
 6. Support a twin-track approach to violence response and prevention.
 - a. Twin track one. Ensure all services and information are accessible. These include things such as improved services and resources (including staff and access to training), sustainable funding, relevant and up-to-date information, and best practice standards.
 - b. Twin track two. Make available a variety of specialist prevention initiatives. Two initiatives are an integrated community response to safeguarding adults, and therapeutic services for tāngata whaikaha Māori, disabled people, adults at risk and disabled children.
 7. Keep children safe from harm.
 - a. Enhance resourcing and support for inclusive education.
 - b. Ensure educators understand neurodiversity, mental distress and a social model of disability.
 - c. Ensure disabled children are able to access relationship, sexuality and health education.
 - d. Enhance support for parents of disabled children and ensure access to equipment and services.
 - e. Provide therapeutic support for children exposed to or experiencing violence.
 - f. Embed disability rights expertise in agencies such as Oranga Tamariki, and ensure all public service and health agencies understand disabled people's right to parent and disabled children's right to family.
- Recommendations addressing structural drivers of violence that would help with prevention**
8. Make structural changes to enhance the prevention of violence and abuse. Such structural issues are power/powerlessness, invisibility, lack of access to the social and economic determinants of health, and stigma and discrimination. These issues drive increased rates of disability and violence.
 9. Ensure all actions are grounded in Te Tiriti o Waitangi and human rights. The Whakamanahia Te Tiriti, Whakahaumarutia te Tangata report informs these key high-level recommendations and offers further recommendations for ensuring a Tiriti-based approach.
 - a. Realise the promises of Te Tiriti and rights for tāngata whaikaha Māori under the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and the UNCRPD.
 - b. Value indigenous worldviews with the aim of ensuring that tikanga and Te Ao Māori inform programme design, implementation and evaluation.
 - c. Prioritise tino rangatiratanga, self-determination and autonomous decision-making made by tāngata whaikaha Māori, whānau and communities.
 - d. Support public education of Te Tiriti and human rights, including the UNCRPD.

10. Work to eliminate ableism. These recommendations also reflect the recommendations made by Women with Disabilities to the Australian government.
 - a. Recognise ableism and intersecting forms of inequality and discrimination as the drivers of violence, abuse, neglect and exploitation of people with disability.
 - b. Strongly reinforce that segregation of people with disability is discrimination and facilitates violence, abuse, neglect and exploitation.
 - c. Examine how ableism and intersecting forms of inequality and discrimination operate within the country's legal, policy and practice frameworks and through community attitudes, and how they underpin violence, abuse, neglect and exploitation.
 - d. Address the root causes of violence, abuse, neglect and exploitation and facilitate large scale responses and social transformation.
 - e. Identify ableism as a driver of violence against women and girls with disability.

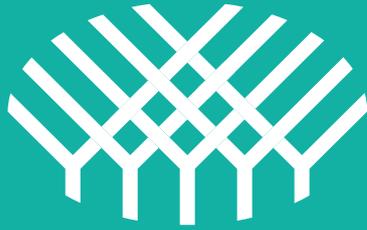
11. Address tāngata whaikaha Māori and disabled people's lack of access to the determinants of health and wellbeing. This recommendation has a range of sub-recommendations.
 - a. Strengthen legislation and policies in relation to reasonable accommodation and accessibility.
 - b. Address discrimination in hiring practices and changing societal knowledge about, and attitudes to, disabled people.
 - c. Develop systems to ensure that tāngata whaikaha Māori and disabled people can fully participate in political processes on an equal basis with others.
 - d. Develop systems to ensure that tāngata whaikaha Māori and disabled people can fully participate in leisure and cultural activities with others of their choice.
 - e. Develop processes to support decision-making, rather than substitute it, if people are unable to make autonomous decisions.
 - f. Shift decision-making about disability-related issues to within the disability community, and provide resources to build capability and capacity within that community.
 - g. Resource and support whānau and families of tāngata whaikaha Māori to support their disabled family member(s).

12. Enhance disabled people's access to justice.
 - a. Include the justice sector and police, in consultation with tāngata whaikaha Māori and disabled people, in all upskilling, policy development and other processes to develop safe, intersectional police and justice sector responses to violence and abuse.
 - b. Help to change attitudes and develop justice sector understanding of legal capacity, supported decision-making versus substituted decision-making and tāngata whaikaha Māori and disabled people's right to be recognised as competent, legitimate witnesses.



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