**How Whaikaha checks the quality of disability supports and safeguarding of disabled people (Quality and safeguarding framework)**

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## Overview

* Whaikaha – Ministry of Disabled People (Whaikaha) funds over $2 billion of disability supports each year and has over 800 contracts with disability support providers delivering support to almost 50,000 disabled people each year.
* Whaikaha has several ways that we check we are funding services to deliver quality disability supports. These checks also safeguard disabled people and tāngata whaikaha Māori from abuse and neglect. We are calling this a quality and safeguarding framework.
* This document gives an overview of the current Whaikaha quality and safeguarding framework for disability supports funded by Whaikaha. It describes what we currently aim to do in the context of the current disability system.
* Whaikaha acknowledges there are gaps in the systems and policies to safeguard people and check the quality of supports. We aim to learn, improve and develop ways to address those gaps.

## What is quality?

We expect quality disability supports to:

1. support disabled people, tāngata whaikaha Māori, family and whānau to achieve their good life **outcomes**
2. **safeguard** disabled people and tāngata whaikaha Māori from abuse and neglect
3. be **experienced** positively by disabled people, tāngata whaikaha Māori, family and whānau
4. have robust **organisational** policies and practices
5. be good **value for money**
6. be aligned with **Te Tiriti o Waitangi, Enabling Good Lives and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**.

## What is safeguarding?

Safeguarding promotes and protects a person’s right to make their own decisions about their life, including decisions about their safety and wellbeing. Safeguarding is taking action to prevent, identify and respond to situations where a person is at risk of, or experiencing abuse, neglect, violence or harm.

We know that disabled people and tāngata whaikaha Māori are much more likely to experience violence and abuse or neglect than other New Zealanders. Safeguarding is particularly important for disabled people and tāngata whaikaha Māori who are:

* not able to remove themselves from a risk of serious harm and keep themselves safe
* experiencing compromised human rights
* at risk of or experiencing harm, violence, abuse and neglect.

Help is available if you or someone you know is currently feeling unsafe or experiencing violence, abuse or neglect: [Help and support for violence, abuse or neglect | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/support-and-services/health-and-wellbeing/help-and-support-for-violence-abuse-or-neglect)

## We all have a role, and we work together

Whaikaha puts disabled people and tāngata whaikaha Māori at the centre of our approach to quality, underpinned by this whakataukī:

*Me he aka rātā ka tipu-tahi, ka puāwai-tahi kia tū kaha I ngā hihi ō Tamanuiterā.*

Like the rātā vines constantly growing and flourishing together to stand strong in the warmth of the sun. The Whaikaha whakatauākī, written by Tim Worrall of Ngāi Tūhoe, is developed as a message that underpins the visual language for the Ministry. It tells a beautiful story to describe a core promise the Ministry represents – thriving futures for all of our disabled communities.

The disability community, disability providers, Whaikaha and other organisations across Government each have a role in improving the quality of disability supports and safeguarding of disabled people. These roles are:

* **Disabled people, tāngata whaikaha, families and whānau** bring their knowledge, experiences and expectations of quality supports, and talk with their disability support provider about things that are working well and things that could improve. Those people accessing support through Personal Budgets or Individualised Funding are also responsible for checking the quality of the supports that they purchase.
* **Organisations that provide disability support** are responsible for delivering quality disability supports. The contracts between Whaikaha and disability providers outline quality expectations, including compliance with the Health and Disability Commissioner’s Code of Rights, critical incident and death reporting, audit and remedy requirements (refer Table 3 and Appendix 2).
* **Whaikaha** checks that the services we fund deliver quality and safe supports, as described in the relevant contracts, legislation, regulation and policies. Whaikaha does not check the quality of services funded by other organisations (such as ACC, MSD or the health system). The standard terms and conditions in the contracts between Whaikaha and disability providers include a requirement of commissioned providers to submit issues, problems or incidents that arise in relation to the provider’s performance of the Outcome Agreement. That includes any problems or issues related to the quality of service or the ability of the provider to deliver the service they are commissioned to provide.
* Needs Assessment Service Coordination (**NASC**) and Enabling Good Lives (**EGL**) sites work with the disabled person and their family to access disability supports that enable their good life. This includes reviewing supports for the disabled person if quality or safeguarding concerns indicate a need for change.
* **Other government agencies** have a role, for example, the Health and Disability Commissioner (for complaints relating to the Code of Rights), the Ministry of Health (to check providers against Ngā Paerewa Health and Disability Services standards) and the Police. For more information see Appendix 2: Quality mechanisms for disability across Government.

## The ways that Whaikaha checks quality and safeguarding

Whaikaha is working towards quality and safeguarding actions that aim to:

* **Prevent** - Prevent issues happening
* **Identify** - Identify issues when they do happen
* **Respond** - Respond to issues that are found
* **Develop** – develop and improve disability supports.

Because Whaikaha relies on the contracts with disability providers for checking quality and safeguarding, there are more things that Whaikaha can do to check the quality of contracted services than for non-contracted supports (such as Individualised Funding or personal budgets).

Tables 1 and 2 provide an overview of which quality and safeguarding processes currently prevent, identify and respond to quality and safeguarding issues, and those that help develop improved disability supports. For definitions and more information about each process, see Table 3.

*Table 1:* What **Whaikaha** does to check the quality of supports and safeguarding of disabled people, based on the way disabled people access Whaikaha funded supports

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| --- | --- | --- | --- | --- |
|  | **Prevent** | **Identify** | **Respond** | **Develop** |
| Contracted services | Contractual expectations  Operational guidance  For certified providers: compliance with Ngā Paerewa | Critical incident reporting  Death reporting  Complaints  People for Us  DAPAR  Developmental evaluations  Financial audit  Monitoring reports from providers | Investigations  Assisting Change  DAPAR  Performance management of providers against their contract | Developmental evaluations  Assisting Change  Publish data and insights  DAPAR |
| Non-contracted supports | Purchase Rules | DAPAR  Financial audit | DAPAR | DAPAR |

*Table 2:* What **disabled people, tāngata whaikaha Māori, family and whānau** can do to help ensure quality of supports and safeguarding of disabled people, based on the way disabled people access Whaikaha funded supports

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Prevent** | **Identify** | **Respond** | **Develop** |
| Contracted services | Talk to your provider about your quality and safeguarding expectations.  Build supported decision-making skills and supports if required.  Connect with disability community local or national networks | Identify where your disability support is not the expected quality, if people are unsafe, or their rights are not being met.  Provide feedback / make a complaint to the provider, and/or to Whaikaha and/or to HDC.  Provide your perspective for critical incident reports, death reports, developmental evaluations, People for Us, DAPAR. | Provide your perspective for investigations, Assisting Change, DAPAR. | Provide your perspective for developmental evaluations, Assisting Change.  Talk with your provider about things that are working well and things that could improve. |
| Non-contracted supports | Make your quality and safeguarding expectations clear with those who provide your disability support.  Build supported decision-making skills and supports if required.  Connect with disability networks | Identify where their disability support is not the expected quality, if people are unsafe, or their rights are not being met.  Provide feedback / make a complaint to the provider and/or to HDC. | Investigate any quality and safeguarding issues and make changes to your disability support as needed | Talk with your provider about things that are working well and things that could improve. |

*Table 3:* Description of Whaikaha quality and safeguarding processes

|  |  |
| --- | --- |
| Whaikaha process | Brief description |
| Complaints | Manages complaints about the quality of Whaikaha contracted disability supports and services.  [Complaints and feedback | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/contact-us/complaints-feedback/) |
| Feedback | Receive feedback about the quality of Whaikaha contracted disability supports and services.  [Disability services complaints and feedback | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/contact-us/complaints-feedback) |
| Critical incident reporting | Receives and manages critical incident reports for all Whaikaha contracted services.  [Reporting of critical incidents and deaths | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/get-involved/information-for-service-providers/critical-incidents-death/#what-is-critical-incident) |
| Death notifications | Receives and manages notifications of deaths of disabled people in Whaikaha funded residential care.  [Reporting of critical incidents and deaths | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/get-involved/information-for-service-providers/critical-incidents-death/#what-is-critical-incident) |
| Contract developmental evaluations and investigations | Evaluates and investigates Whaikaha contracted providers. Each year Whaikaha commissions evaluations for a sample of contracted providers against their contracts, as part of the Whaikaha commissioning and performance management process. Investigations are commissioned as needed in response to serious complaints, incidents, deaths or concerns.  [Audit and evaluation | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/get-involved/information-for-service-providers/audit-and-evaluation/) |
| People for Us *(will be established by late-2024)* | People for Us will be delivered by community organisations and staffed by disabled people, tāngata whaikaha Māori, and Pacific disabled people. They will work alongside disabled adults who live in residential services to find out if they are safe, living their good life and experiencing high quality support from services. They will help disabled people with safety or wellbeing concerns to find the best way to resolve their concerns.  [Growing Voice and Safety | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/about-us/programmes-strategies-and-studies/programmes-and-strategies/growing-voice-and-safety/) |
| Assisting Change *(will be established by mid-2024)* | The Assisting Change service supports disability providers to improve the quality of their supports. It will be delivered by a community organisation and will match the disability provider with advisors with the right skills to assist them to address and resolve specific quality issues. Kaupapa Māori and Pacific advisors will be available for Māori and Pacific providers.  [Growing Voice and Safety | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/about-us/programmes-strategies-and-studies/programmes-and-strategies/growing-voice-and-safety/) |
| Disability Abuse Prevention and Response prototype (DAPAR)  *Website information in development.* | DAPAR is a new disabled-led community-led team of specialists in family violence and safeguarding disabled adults from abuse. DAPAR:   1. responds to situations where disabled adults are experiencing abuse or who are unable to protect or remove themselves from abusive situations. They work directly with the disabled person and build a cross agency response with that person. DAPAR is currently only receiving referrals from Whaikaha and NASCs. 2. builds capacity and capability across communities, agencies, and the health, disability, and violence prevention sectors, to be responsive to situations of abuse of disabled people. |
| Develop and publish quality data and insights (*in development)* | Whaikaha is developing data analysis and insights to inform learning and continuous improvement, which is intended to be published on our website. |

## Expected behaviours for Whaikaha staff and providers

All Whaikaha staff and disability support providers are expected to manage quality and safeguarding concerns and processes in the following ways (for more detail refer to Appendix 1):

1. We act according to good **quality management principles**:
   1. we uphold the rights of disabled people
   2. we are responsive
   3. we treat all parties fairly
   4. we are accountable for what we do
   5. we learn and improve.
2. Our work is underpinned by our obligations to **Te Tiriti o Waitangi**:
   1. *Kawanatanga* – partnering and shared decision making: We work together to improve the quality of disability supports and safeguard tāngata whaikaha Māori.
   2. *Tino rangatiratanga* – self-determination: We enable tāngata whaikaha Māori me ō rātou whānau to have greater choice and control over their lives and the things of importance to them.
   3. *Ōritetanga* – equity for tāngata whenua: We ensure our approach is equitable for Māori and are culturally responsive and anti-discriminatory.
   4. *Wairuatanga –* values and belief systems: We acknowledge the importance of cultural and faith-based values and beliefs in people’s lives.
3. We act in line with the **EGL principles**:
   1. *Self-determination:* we respect the choices disabled people and tāngata whaikaha Māori make about the quality of their support and their safety
   2. *Beginning early:* we respond and act quickly to quality and safeguarding concerns
   3. *Easy to use:* we ensure accessibility of the quality and safeguarding processes
   4. *Person centred:* we seek out and value the perspectives and rangatiratanga of disabled people and tāngata whaikaha Māori
   5. *Ordinary life outcomes:* we support disabled people and tāngata whaikaha Māori to live their good life
   6. *Mainstream first:* quality and safeguarding concerns are managed by the right organisation (including police and family violence organisations).
   7. *Mana enhancing:* we treat quality and safeguarding concerns seriously. We value the mana of the person/people we engage with.
   8. *Relationship building:* we build trusting relationships with all parties to achieve a successful resolution of quality and safeguarding concerns, and aim to restore relationships.

## Appendix 1: Expected behaviours when managing quality and safeguarding

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| We act according to good **quality management principles** | We uphold the **rights** of disabled people | We are **responsive** | We treat all parties **fairly** | We are **accountable** for what we do | We learn and **improve** |
| * We will uphold the rights of disabled people the Code of Health and Disability Services Consumers' Rights. * We uphold the right of people to raise concerns without fear of reprisals. * We uphold the right of disabled people to be free from abuse and neglect. | * We take complaints, quality issues and safeguarding concerns seriously. * We encourage an environment where it is okay to complain and report quality issues. * We aim to resolve complaints at the lowest possible level and escalate when needed. * We respond to complaints in a timely manner. | * We will treat all parties fairly, according to the principles of natural justice:   + freedom from bias by the person making the decision / judgement.   + transparency and fairness of the process.   + all parties are given the opportunity to respond. | * We will build trust and confidence in Whaikaha and with the person who raised the quality issue. * We are accountable for the decisions we make. * We are open to appropriate levels of scrutiny and will publish information on the Whaikaha website. We will not share or publish confidential or identifiable information. * We will act with integrity. | * We will learn and continually seek ways to improve how we do things. * We will regularly analyse data to identify any recurring or systemic issues. |

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| Meeting Te **Tiriti o Waitangi** obligations | **Article 1 Kāwanatanga:** Partnership and shared decision-making | **Article 2 Rangatiratanga:** Self-determination, protection | **Article 3 Ōritetanga:** Equity, participation and equality and non-discrimination | **Article 4 – Wairuatanga:** values and belief systems |
| * We work together to improve the quality of disability supports and safeguard tāngata whaikaha Māori. * Whaikaha supports the Crown to meet it’s obligations to iwi and hapū Māori so that tāngata whaikaha me ō rātou whānau are supported to realise their aspirations and succeed as Māori. | * We enable tāngata whaikaha Māori me ō rātou whānau to have greater choice and control over their lives and the things of importance to them. * Protection, revitalisation, and development of taonga | * We ensure our approach is equitable for Māori and ensure our safeguarding and quality processes are culturally responsive and anti-discriminatory. * We are working to improve our data to enable evidence informed decisions and improve outcomes for tāngata whaikaha Māori. | * We acknowledge the importance of cultural and faith-based values and beliefs in people’s lives. * We support the expression of cultural and faith-based practices in achieving restoration and wellness. |

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| We act according to the **EGL** principles  *(The EGL principles applied to Whaikaha quality processes)* | **Beginning early** | **Easy to use** | **Person centred** | **Ordinary life outcomes** | **Mainstream first** | **Mana enhancing** | **Relationship building** | **Self-determination** |
| * We respond and act quickly to build a relationship of trust and confidence with the person who raised the concern. * We communicate with the person who raised the concern in a timely manner. * We aim to address concerns within our target timeframes. | * We provide clear and accessible information about how, where and when to raise quality and safeguarding concerns. * We have multiple accessible avenues for people to contact Whaikaha. * Our processes are easy to use. | * We respect disabled people’s preferences, values knowledge, abilities, choices, and experiences. * We have ways to support the person through the process. * Our process is flexible, accessible, and based on the preferences of disabled people. | * We take action to resolve issues raised. * Our quality and safeguarding processes support disabled people and tāngata whaikaha Māori to live their good life. * We develop a purposeful relationship that is outcomes focused. | * We support people to raise their concerns with the best place for the best resolution. * When concerns need to be referred to another organisation, we support the person to contact that organisation. | * We value the mana of the person/people we engage with. * We treat people with dignity and respect. * We treat all quality and safeguarding concerns seriously. * We provide the option for people to contact Whaikaha confidentially. | * We build trusting relationships with all parties to achieve a successful resolution of quality and safeguarding concerns. * We have open and honest communication. * We are working towards restorative practices. | * We respect the choices disabled people make about the quality of their supports. * Disabled people are recognised as the experts about their lives, safety, and aspirations. * We proactively seek informed consent about what information Whaikaha can share. |

## Appendix 2: Quality mechanisms for disability across Government

Whaikaha funded disability providers are held accountable for the quality of their supports in several ways:

1. For those with contracts with Whaikaha: as outlined in their contracts [Contracts and service specifications | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/for-service-providers/contracts-and-service-specifications/) (contract and quality assurance administered by Whaikaha). The contract-based quality mechanisms are outlined in more detail in this framework and in operational guidance documents.
2. For residential services with 5 or more beds and hospital level services: Certification of providers against the Ngā Paerewa Health and Disability Services Standard according to the Health and Disability Services (Safety) Act 2001 (administered by the Ministry of Health). They may also review incidents / deaths notified under Section 31(5) of the Act and take action as necessary, including referral to Whaikaha. [Resources for Ngā Paerewa Health and Disability Services Standard | Ministry of Health NZ](https://www.health.govt.nz/our-work/regulation-health-and-disability-system/certification-health-care-services/services-standard/resources-nga-paerewa-health-and-disability-services-standard).
3. For providers delivering services under the High and Complex Framework: Compliance with statutory requirements under the Intellectual Disability (Compulsory Care and Rehabilitation) Act (ID(CC&R)), administered by the Ministry of Health [Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 | Ministry of Health NZ](https://www.health.govt.nz/our-work/disability-services/intellectual-disability-compulsory-care-and-rehabilitation-act-2003).
4. For all disability support providers: The rights of people who use health and disability services as outlined in the Code of Health and Disability Services Consumers’ Rights (the HDC Code of Rights). Anyone can make a complaint to the HDC about their disability service. Whaikaha and HDC can receive and manage a complaint at the same time. [The Code and Your Rights — Health & Disability Commissioner (hdc.org.nz)](https://www.hdc.org.nz/disability/the-code-and-your-rights/). People can also access the HDC Advocacy Service in relation to concerns about a provider [The Advocacy Service - a free and independent service — Health & Disability Commissioner (hdc.org.nz)](https://www.hdc.org.nz/advocacy/).
5. For those who contract their own disability supports (such as through Personal Budgets or Individualised Funding): they are responsible for ensuring the quality of their own supports, as long as they are in line with the Purchasing Guidelines [Purchasing Guidelines | Whaikaha - Ministry of Disabled People](https://www.whaikaha.govt.nz/assessments-and-funding/types-of-funding/purchasing-guidelines/).
6. For all parts of the disability system: The Human Rights Commission (HRC) and the Office of the Ombudsman alongside disabled people through their membership organisations together form an Independent Monitoring Mechanism (IMM) to monitor implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). [Fair treatment for disabled people | Ombudsman New Zealand](https://www.ombudsman.parliament.nz/what-ombudsman-can-help/fair-treatment-disabled-people#:~:text=The%20IMM%3A,and%20practice%20affecting%20disabled%20people.).
7. For all parts of the disability system: We have reporting requirements for the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment for Punishment (UNCAT) [Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment | New Zealand Ministry of Justice](https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/human-rights/international-human-rights/cat/).
8. A coroner may look into unexpected, violent or suspicious deaths to find out what happened. Some deaths must be reported to the coroner by the person’s medical professional [Deaths that must be reported to the coroner | Coronial Services of New Zealand (justice.govt.nz)](https://coronialservices.justice.govt.nz/information-for-doctors-and-nurse-practitioners/deaths-that-must-be-reported-to-the-coroner/). All deaths in services under the ID(CC&R) Act must be reported. The coroner may decide to undertake an inquiry, make comments or recommendations if something can be done to prevent similar deaths. Coroners do not blame or punish people. [What to expect during an inquiry | Coronial Services of New Zealand (justice.govt.nz)](https://coronialservices.justice.govt.nz/what-to-expect-during-an-inquiry/) and [MOJ0047-SEP22-FINAL-V2-WEB.pdf (justice.govt.nz)](https://www.justice.govt.nz/assets/Documents/Publications/MOJ0047-SEP22-FINAL-V2-WEB.pdf). Whaikaha and the Coroner can investigate the same death within their scope.
9. For the whole population, including disabled people: Police investigate and manage incidents relating to criminal matters. To ensure the integrity of the police investigation, the police investigation must be completed before Whaikaha investigates a complaint, incident, or death.
10. For people, providers and organisations that meet the definition of a person conducting a business or undertaking (PCBU) under the Health and Safety at Work Act 2015: WorkSafe regulates work related events and must be notified by the PCBU of events that meet their notification criteria. [What events need to be notified? | WorkSafe](https://www.worksafe.govt.nz/notifications/what-events-need-to-be-notified/).
11. For services that support disabled children under the care of Oranga Tamariki: Must comply with the National Care Standards [Care standards | Practice Centre | Oranga Tamariki](https://practice.orangatamariki.govt.nz/our-work/care/care-standards/) and supported by Oranga Tamariki practices [Working with disabled tamariki and their whānau or family who may need specialised out-of-home care | Practice Centre | Oranga Tamariki](https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/assessment-for-tamariki-and-rangatahi-in-care/assessment-of-needs-relating-to-any-disability/working-with-disabled-tamariki-and-their-familywhanau-who-may-need-specialised-out-of-home-care/). These providers must be accredited by Social Services Accreditation [Welcome to Social Services Accreditation (xn--tekhuikhu-7bbe.govt.nz)](https://xn--tekhuikhu-7bbe.govt.nz/accreditation/index.html).