



Briefing

Date:	5 December 2023
For:	Hon Penny Simmonds, Minister for Disability Issues
File reference:	REP/WHK/23/12/008
Security level:	In Confidence

Whaikaha functions and actions for safeguarding disabled people and ensuring the quality of disability supports

Purpose

This briefing provides an overview of:

- Quality and safeguarding issues for the disability community.
- Existing Whaikaha mechanisms to monitor the quality of disability supports and services.
- What Whaikaha does to improve the quality of disability supports and ensure the safeguarding of disabled people who are at risk of abuse or neglect.
- A recently published report into complaints management at IDEA Services, as an example of a recent Whaikaha action to improve the quality of services.

We would welcome the opportunity to discuss this work programme with you.

Executive summary

We know that disabled people and tāngata whaikaha Māori are much more likely to experience victimisation, violence, and sexual assault than other New Zealanders.



For example, disabled adults are 52% more likely than non-disabled adults to be sexually assaulted in their lifetime¹.

The Royal Commission of Inquiry into Abuse in State Care, the Waitangi Tribunal Inquiry Wai2575 and the cross-Government National Strategy to Eliminate Family Violence and Sexual Violence (Te Aorerekura) have all highlighted the high rates of violence against disabled people and the need for Whaikaha to strengthen the quality and safeguarding mechanisms for the disability support system.

Whaikaha is committed to enhancing the rights of disabled people and ensuring they are free from abuse, violence, and neglect, also known as safeguarding.

As the funder of disability supports, Whaikaha has a responsibility to ensure the supports and services we commission meet the quality expected by disabled people and their families and whānau, and that they are keeping disabled people safe from abuse and neglect. This responsibility is implemented through the commissioning and contracting roles that Whaikaha undertakes for the Crown. Whaikaha does not have any legislative powers to ensure quality and safeguarding of disabled people.

We also recognise that other agencies and organisations have a part to play, such as the Police, Oranga Tamariki, the Health and Disability Commissioner (HDC), and the Coroner. The Human Rights Commission (HRC) and the Office of the Ombudsman alongside disabled people through their membership organisations also have a role as independent complaints organisations, and together form an Independent Monitoring Mechanism (IMM). We have reporting requirements for the IMM and the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment for Punishment (UNCAT).

The quality and safeguarding actions Whaikaha is taking are:

- Improving our capacity and capability relating to quality assurance and safeguarding, including increased audit, evaluation, and investigation capacity.
- Making improvements to our existing quality mechanisms (complaints, critical incident reporting, death reporting, and audit, evaluation, and investigation processes).
- Improving data management and reporting, including developing non-identifying data analysis that can be published.

¹ Te-Aorerekura-National-Strategy-final.pdf (tepunaaonui.govt.nz)



- New quality improvement and safeguarding services that focus on the voice and safety of disabled people, such as:
 - The Disability Abuse Prevention and Response team (DAPAR).
 - Growing Voice and Safety - People for Us (a disabled person-led peer monitoring service).
 - Growing Voice and Safety - Assisting Change (an improvement advisory service for providers).
 - Developing and implementing a safeguarding work programme for disabled adults as part of implementing Action 28 of Te Aorerekura – the cross agency National Strategy to Eliminate Family Violence and Sexual Violence.
 - Developing a new strategic quality framework for a transformed system (engagement and design for this to occur throughout 2024).

These actions will align with other system transformation actions across Whaikaha, such as the My Home My Choice programme, the Monitoring, Evaluation, Analysis and Learning (MEAL) programme, and the wider system transformation work programme.

Disabled people, tāngata whaikaha Māori and family/whānau will be closely involved in driving these actions.

An example of a recent action Whaikaha has undertaken to improve the quality of disability supports is the review of complaint management at IDEA Services. In 2023 Whaikaha commissioned a review, from an independent barrister, into the processes and practices for managing complaints about the delivery of disability support services by IDEA Services. The review also sought recommendations on how Whaikaha could improve its approach to responding to complaints about service providers. The report made a number of recommendations for IDEA and for Whaikaha to improve complaint management and rebuild trust with the disability community.



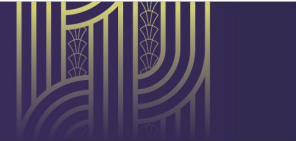
Recommendations

It is recommended that you **note** the contents of this briefing.

Hon Penny Simmonds
Minister for Disability Issues
Date



Ben O'Meara
Deputy Chief Executive Policy, Strategy and Partnerships
Date 5 December 2023



Current quality and safeguarding issues

1. Tāngata whaikaha Māori and disabled people experience violence and abuse that is common with all abusive relationships - physical, sexual, psychological/emotional, and financial abuse, including patterns of power, control and coercion. In addition, tāngata whaikaha Māori and disabled people also experience other forms of abuse that are more specific to disabled people, such as:
 - discrimination and ableism
 - limited disability specific support options
 - services not being driven by, or focused on, a person's will and preference
 - restraint and control
 - human rights violations
 - abuse of authority by a legal representative
 - institutional abuse
 - neglect.
2. As well as these issues, a range of other factors can increase a person's risk of being targeted for abuse and harm; for instance, the degree of autonomy that people have over their lives, and being reliant on others (who may misuse their position) for making decisions on vital needs, including mobility, access to information, control of finances, and provision of care and support.
3. There are significant gaps in terms of systems and policies to safeguard people in these situations. In addition to the support worker relationship, in cases of intimate partner violence and intrafamilial abuse, the primary aggressor can be the disabled person's primary carer. There is currently a gap in the knowledge and skills of the police and family violence systems to safely respond to these situations. There is limited data on the prevalence of abuse of disabled people, but what there is clearly indicates high levels of abuse and harm. See Appendix One for definitions of safeguarding, vulnerable adult and adult at risk.



Whaikaha quality mechanisms

4. The mechanisms Whaikaha currently has in place to monitor quality are implemented through the contracts between Whaikaha and disability providers. Whaikaha:
 - 4.1. **Receives and manages critical incident reports for all Whaikaha contracted services. During 2023 Whaikaha has received an average of 182 critical incident reports per month. [Reporting of critical incidents and deaths | Whaikaha - Ministry of Disabled People](#)**
 - 4.2. **Receives and manages notifications of deaths of disabled people in Whaikaha funded residential care. During 2023 Whaikaha has received an average of 11 death reports per month. [Reporting of critical incidents and deaths | Whaikaha - Ministry of Disabled People](#)**
 - 4.3. **Audits, evaluates and investigates Whaikaha contracted providers. [Audit and evaluation | Whaikaha - Ministry of Disabled People](#)**
 - 4.4. **Manages complaints about the quality of Whaikaha contracted disability supports and services. During 2023 Whaikaha has received an average of 6 complaints per month. [Complaints and feedback | Whaikaha - Ministry of Disabled People](#)**
5. Data from the Whaikaha critical incident reporting shows that, in the seven months from March to September 2023²:
 - 5.1. **There were 1374 critical incidents reported by contracted providers.**
 - 5.2. **Of these, 573 (41.7%) were reports of abuse or assault (of disabled people or disability support staff).**
 - 5.3. **Of these, 214 (relating to 133 different individuals) were reports of abuse or assault of disabled people, (either by other disabled people, staff, or another group)**
 - 5.4. **Over 96% of these 214 incidents relating to abuse or assault of disabled people were reported by either residential services or High and Complex services under the Intellectual Disability (Compulsory Care and Rehabilitation) Act (IDCC&R).**

² On 1 March 2023 Whaikaha updated how critical incidents are categorised and provides identifiable data, which for the first time enables us to analyse the demographic breakdown of critical incidents. Therefore the data is taken from this time period.



- 5.5. Demographic analysis of the 133 individual disabled people impacted by the incidents relating to abuse or assault of disabled people shows:**
- Their ethnicity distribution is similar to that of the ethnicity distribution of disabled people in Whaikaha-funded residential services.

Table 1: Prioritised ethnicity breakdown by count and percentage of the 133 disabled individuals assaulted compared with disabled people in Whaikaha funded residential services.

	Māori	Pacific	Asian	European / Other	Not stated
Reports of abuse or assault	24 (18.0%)	7 (5.3%)	6 (4.5%)	96 (72.2%)	-
Disabled people in Whaikaha funded residential services	1,174 (16.6%)	280 (4.0%)	194 (2.7%)	5,280 (74.8%)	127 (1.8%)

- 5.6. Approximately half of these incidents were abuse or assault of female disabled people and half related to male disabled people. This reflects the gender distribution of disabled people in Whaikaha-funded residential services.**
- 5.7. Younger people are overrepresented in the abuse or assault incidents reported to Whaikaha. Nearly 60% of these incidents were of disabled people aged between 20-39 years old. Whereas the 20–39 years old age group makes up just over 26% of all disabled people in Whaikaha-funded residential services.**
- 5.8. Almost all the disabled people with reported assault/abuse incidents have either an intellectual disability (69.2%) or are autistic (22.6%).**
- 5.9. Autistic people are over-represented in the abuse or assault statistics. Autistic people had 22.6% of the reported assaults, compared with the approximately 8% of disabled people in Whaikaha-funded residential services who are autistic.**



- 5.10. The percentage of people assaulted who have an intellectual disability is similar to the percentage of people with an intellectual disability living in Whaikaha-funded residential services.**
6. Whaikaha is working to address the high proportion of critical incident reports in High and Complex services under the IDCC&R³. We will do this through:
- 6.1. **The Whaikaha High and Complex Framework Strategy.** [High and Complex Framework Strategy | Whaikaha - Ministry of Disabled People](#)
- 6.2. **Working with the Ministry of Health to investigate using the Health Quality and Safety Commission adverse event reporting framework used by hospitals.**

Improvements to quality and safeguarding mechanisms

7. Whaikaha considers that the existing quality mechanisms are not sufficient in terms of depth and breadth to provide monitoring oversight and service improvement to the standard expected by disabled people, tāngata whaikaha Māori and whānau.
8. There is an increased expectation from the disability community that the perspectives of disabled people, tāngata whaikaha Māori and whānau are stronger in the work of Whaikaha, including in the quality mechanisms.
9. The findings of the Royal Commission of Inquiry into Abuse in State Care and the Waitangi Tribunal Inquiry Wai2575 are expected to further highlight the need for Whaikaha to strengthen the quality and safeguarding mechanisms for the disability support system.
10. Whaikaha has made a commitment to broaden our approach to safeguarding and improving the quality of supports and services for disabled people and tāngata whaikaha Māori. Improvements in the disability support system will include:
- 10.1. Clearer authority to investigate and act.**
- 10.2. More independent checks on services.**
- 10.3. Trusted mechanisms for disabled people, tāngata whaikaha Māori and whānau to share their experiences and concerns.**
- 10.4. More support for providers to improve their services.**

³ Refer to the High and Complex BIM



- 10.5. Improved capacity and capability in Whaikaha to respond to quality and safeguarding concerns, particularly allegations of abuse and neglect of disabled people and tāngata whaikaha Māori.**

Safeguarding work programme

11. Whaikaha is responsible for the implementation of Te Aorerekura Action 28 (Safeguarding Responses for Disabled and Vulnerable Adults). Budget 2023 allocated \$6.11 million over 4 years to increase access to specialist supports through the Waitematā Safeguarding response and expanding the initiative to other localities, while also supporting improved access to mainstream family violence and sexual violence services.
12. As part of this Whaikaha has developed a plan to implement a safeguarding approach that protects and promotes tāngata whaikaha Māori (disabled Māori) and disabled people’s rights, culture, identity and wellbeing, prevents and responds to violence, abuse and neglect, and is aligned with Enabling Good Lives (EGL) principles. We will:
- 12.1. Improve our established quality and monitoring mechanisms and processes so we prevent further abuse.**
 - 12.2. Develop and implement a Safeguarding approach that puts into practice the EGL approach and Te Tiriti o Waitangi principles.**
 - 12.3. Work in collaboration with other agencies to implement safeguarding Actions.**
13. To date Whaikaha has:
- 13.1. Established a new community-led Disability Abuse Prevention and Response team (DAPAR). The team is disabled-led and made up of trained specialists in family violence and safeguarding adults from abuse. They respond to tāngata whaikaha Māori and disabled people who are experiencing violence or who are unable to protect or remove themselves from abusive situations because of their needs for disability support. DAPAR will implement a cross agency approach in Waitematā and begin to provide national coverage for people using Needs Assessment and Coordination Services (NASC), and those working with the EGL sites.**
 - 13.2. Finalised the evaluation of the Waitemata Safeguarding Adults from Abuse pilot in collaboration with Te Puna Aonui.**



- 13.3. **Established a Whaikaha Specialist Situations of Concern Panel to receive and consider referrals from disabled people, tāngata whaikaha Māori, and providers, relating to abuse, violence, neglect and any other form of human rights infringement and to make recommendations on action. Referrals arrive through the general Whaikaha email contact inbox, individual staff, and through quality mechanisms relating to individual situations of concern. This process will be further developed and opened to the community.**
 - 13.4. **Developed a draft road map for the implementation of the safeguarding framework.**
 - 13.5. **Funded and co-developed with tāngata whaikaha Māori a draft kaupapa Māori community approach to safeguarding. This aims to ensure safeguarding is Māori focused with a whānau-centric, Māori-led model.**
14. The foundation for this work was provided in part by the Waitemata evaluation. We are awaiting publication of this evaluation.

The implementation of new quality initiatives to build the voice and safety of disabled people

15. Whaikaha is currently implementing two new quality initiatives to build the voice and safety of disabled people. The initiatives are:

Growing Voice and Safety – People for Us

16. Whaikaha has designed this service to focus on the voice, good lives and human rights of disabled people and tāngata whaikaha Māori, while also reducing the risks and occurrences of neglect and abuse in services.
17. The People for Us service will partner with disabled people, tāngata whaikaha Māori and family/whānau for early identification of those most at risk of harm who are not living a good life. The initial priority groups are likely to be those living in residential services, who have little or no family or whānau contact, limited community engagement and may communicate in a variety of ways.
18. The service will sit externally from Whaikaha and be independent from service providers funded by Whaikaha. People for Us will provide another mechanism to seek the perspectives of disabled people and build a picture of concerns, issues and trends, that will be fed into the Whaikaha quality system.
19. People for Us will support disabled people and tāngata whaikaha Māori who are experiencing harm or who are at high-risk of harm to connect to the right



support pathways. This could include referrals to the Disability Abuse Prevention and Response (DAPAR) Team, the Police, My Home My Choice project, independent advocates, community networks, EGL connectors/kaitūhono, or NASC.

Growing Voice and Safety – Assisting Change

20. Whaikaha has designed this initiative to provide targeted developmental support to service providers who support disabled people who are considered most at risk of abuse and harm, those identified to have a pattern of quality issues and who wish to develop their service in line with the principles of EGL.
21. Whaikaha intends to contract a provider for the improvement advisory service. The contracted organisation will source a pool of specialist advisors with a diverse range of skill sets and experience, then act as a broker, matching an advisor to work alongside a provider for a short time to support them to address their specific quality issue(s). This will include culturally appropriate matches for kaupapa Māori and Pacific providers. Whaikaha will also fund a contribution to the intensive advice.
22. The providers supported under this initiative could be identified through the existing Whaikaha audit/developmental evaluation programme, or through other existing quality mechanisms.

Improvements to existing quality mechanisms

23. We have made improvements to the reporting of critical incidents that occur in Whaikaha funded services and deaths that occur in Whaikaha funded residential services. These improvements have resulted in updates to the reporting forms, which can be found at [Reporting of critical incidents and deaths | Whaikaha - Ministry of Disabled People](#). **These improvements aim to gather useful information to inform decisions about triage and management of**

the incidents or deaths, to provide a clearer perspective from the disabled person and family/whānau relating to the incident or death, and to provide improved data for robust analysis.

24. We are also in the process of improving our standard operating procedures for our existing quality mechanisms. In particular, we are aiming to improve the ways that disabled people, tāngata whaikaha Māori and family/whānau can share their experiences and provide feedback on the quality of their disability supports. The updated standard operating procedures will be published as they



are completed, and will cover complaints, critical incidents, deaths and audits, evaluations, and investigations.

25. Whaikaha is developing data analysis relating to the quality of disability supports to ensure the data is robust. Working in partnership with representatives from the disability community, relevant datasets will be published on our website.
26. We have also approved increased capacity for the audit, evaluation, and investigation programme to undertake independent checks of services against their contracts.

Development of a new quality framework that is fit for purpose for a transformed disability support system

27. Whaikaha is currently undertaking a procurement process to engage an organisation to design a quality framework that is fit for purpose for a transformed disability support system. The engagement and design of this framework will occur during 2024.
28. The outcome of the framework will be that Whaikaha, disabled people, tāngata whaikaha Māori and family/whānau have appropriate mechanisms and powers to ensure that disability supports are of high quality and enable disabled people to have a good life. This framework will need to:
 - 28.1. **Enable disabled people and tāngata whaikaha Māori to have greater choice and control over their lives and supports, including assessing the quality of their support.**
 - 28.2. **Clarify when Whaikaha will 'step in' where quality of support is a concern.**
 - 28.3. **Outline the range of quality mechanisms needed.**
 - 28.4. **Provide the appropriate authority for the actors and mechanisms to work effectively.**
 - 28.5. **Drive better outcomes for disabled people, tāngata whaikaha Māori and family/whānau.**



The Disabled Monitoring Evaluation Analysis and Learning (MEAL) Strategy

29. The MEAL Strategy models and mandates a partnership approach for all aspects of evaluating disability system transformation initiatives. The Strategy is overseen by an Insights Alliance, which is a tripartite arrangement between the Ministry, disabled people and tāngata whaikaha Māori.
30. Within the MEAL action plan, safeguarding is being evaluated in an integrated way using a developmental process. This will include a try, learn and adjust approach to improving responses and approaches to support disabled people and tāngata whaikaha Māori who are at risk.
31. The intention is that all new projects for evaluating improvements to current disability supports are reviewed by the Insights Alliance to reflect the partnership approach for evaluation.
32. The aim is to gather data of all kinds including qualitative anonymised voice data. Outcomes will reflect the priorities that are defined by disabled people and tāngata whaikaha Māori alongside the government's monitoring requirements for public expenditure.

Report into the processes and practices for managing complaints about the delivery of disability supports by IDEA Services

33. In 2023 Whaikaha commissioned independent Barrister Rachael Schmidt-McCleave to undertake a review into the processes and practices for managing complaints about the delivery of disability supports by IDEA Services. This review was commissioned in response to concerns from family and whānau about the standard of disability support services provided by IDEA Services, and the way IDEA Services responded to complaints. IDEA Services is the largest provider contracted by Whaikaha.
34. The review made a number of recommendations for:
 - 34.1. **IDEA Services on how to effectively respond to complaints.**
 - 34.2. **Whaikaha on ways that we can strengthen processes and practices for managing complaints about service providers, including IDEA Services. Whaikaha has accepted all the recommendations that relate to our role.**



35. We will continue to work collaboratively with IDEA services, our other service providers and the disabled community so that there is predictability and transparency in how Whaikaha will respond to complaints about service providers. Associated with this is the need to rebuild trust with IDEA Services and the community when responding to complaints.
36. We will work with IDEA Services and the community to strengthen processes and practices for managing complaints.
37. We have proactively released the report on our **website**: [Cabinet Papers and information Releases | Whaikaha - Ministry of Disabled People](#)

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Appendix One: Definitions

38. **Safeguarding:** Being broader than child and adult protection, safeguarding relates to the actions taken to promote, enhance and protect a person's life outcomes, human rights, decision making, choice and control, safety, wellbeing and culture, citizenship, and quality of life.
39. **Vulnerable Adults:** Identifying 'Vulnerable Adults' and responding to changes in the Crimes Act 1961, introduced in 2012, mean that certain people are legally responsible for protecting 'vulnerable adults' from serious harm. The Act defines a 'vulnerable adult' as a person "who is unable, by reason of detention, age, sickness, mental impairment, or any other cause, to withdraw themselves from the care or charge of another person".
40. **Adult at risk:** The disability community and family violence experts prefer this term instead of vulnerable adult. An Adult at Risk is defined as someone who meets all three of the following criteria:
 - 40.1. A person (aged 18 years or over) who has an unmet need for appropriate support, and
 - 40.2. who is experiencing (or at risk of) harm, violence, abuse, and neglect, and
 - 40.3. because of an unmet need for support, is unable to protect themselves.
41. An adult at risk can be any person who meets the above definition, they may or may not be a disabled person.