Te Ao Mārama Aotearoa

Submission on the Disability Support Services Bill

To the Social Services and Community Committee

12 June 2026

Submitter: Te Ao Mārama Aotearoa Trust (TAMA), the umbrella Disabled People's Organisation for tāngata whaikaha Māori me ō rātou whānau

Contact: Professor Dr Tristram R. Ingham KSO ONZM, Pou Tokorangi (Chair), tristram.ingham@TAMA.nz

Oral hearing: TAMA wishes to appear before the committee in support of this submission.

He kupu matua | Key points

- TAMA, the umbrella Disabled People's Organisation for tāngata whaikaha Māori me ō rātou whānau, opposes this Bill in its entirety and asks the committee to recommend that it not proceed.
- The Bill was developed without consultation, in breach of Article 4(3) of the UNCRPD and Article 19 of UNDRIP. The Crown bypassed TAMA while negotiating a relationship agreement with us in the same week the Bill was introduced.
- Clause 8 conscripts whānau: an unquantifiable, unregulable, and indefinite expectation of unpaid care that falls hardest on whānau Māori, and on wāhine Māori in particular.
- The Bill overrides the Minimum Wage Act 1983 and the Supreme Court's unanimous decision in Fleming v Attorney-General [2025] NZSC 188, stripping employment protections from family carers without replacement.
- Schedule 1 extinguishes live claims and bars complaints to the Human Rights Commission and the Health and Disability Commissioner: the principal accessible avenues of domestic accountability, removed.
- Clause 11(3)(f) and (g) erect the architecture for means-testing disability support by ministerial notice, over a population official data cannot adequately see or monitor.
- The Bill contains no reference to Te Tiriti o Waitangi and fails every standard in the Waitangi Tribunal's Wai 2575 Hauora report. TAMA wishes to appear before the committee.

1. Ko wai mātou: who we are

1.1 E te komiti, tēnā koutou katoa. Te Ao Mārama Aotearoa Trust (TAMA) is the pan-iwi, pan-impairment umbrella Disabled People's Organisation (DPO) for tāngata whaikaha Māori me ō rātou whānau: disabled Māori and their families. Our vision is that the mana of tāngata whaikaha Māori drives positive change within whānau, hapū, iwi, and wider social systems.

1.2 TAMA's whakapapa within the Crown's own architecture is long. We evolved from the Te Ao Mārama Disability Advisory Group, established by the Ministry of Health in 2012, and we are recognised as kaitiaki of Whāia Te Ao Mārama, the national Māori disability action plan. Our governance comprises the TAMA Board of trustees, supported by Te Tāhuhu, the Board's

executive subcommittee of officers, and the National Taumata o ngā Tāngata Whaikaha Māori, a national leadership assembly drawing together more than fifty-five affiliating rōpū and organisations through fifteen regional and thematic Pou, including Pou representing Turi (Deaf), Kāpō (blind and low vision), hauā ā-hinengaro (learning disabled), and rangatahi hauā (disabled young people).

1.3 TAMA is a representative organisation of disabled people within the meaning of Article 4(3) of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as elaborated by the Committee on the Rights of Persons with Disabilities in General Comment No. 7 (2018), which specifically recognises organisations of Indigenous persons with disabilities. The Crown itself recognises this standing: Whaikaha, the Ministry of Disabled People, has been negotiating with TAMA a relationship agreement, Te Kawenata Whakawhanaungatanga, which records TAMA as an umbrella DPO for tāngata whaikaha Māori me ō rātou whānau. This submission represents the consensus position of the National Taumata.

1.4 **TAMA opposes this Bill in its entirety.** We have long called for a clear legislative foundation for disability support. A legislative foundation built without disabled people, encoding open-ended whānau obligation, overriding employment law and a unanimous Supreme Court decision, barring access to human rights accountability, and erecting the architecture of means-testing by ministerial notice, is not a foundation. It is a regression, and tāngata whaikaha Māori will bear its heaviest weight.

2. Summary of position

2.1 TAMA's objections are these:

(a) The Bill was developed and introduced without consultation, in breach of Article 4(3) of the UNCRPD and of the obligation in Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to obtain the free, prior, and informed consent of Indigenous peoples before adopting legislative measures that affect them. For TAMA, the breach is also direct and particular: the Crown bypassed a representative organisation it had itself helped establish, formally recognises, and was actively negotiating a relationship agreement with as the Bill was introduced.

(b) The Bill reverses commitments the Crown has already made, most pointedly the CRPD Committee's 2022 recommendation that New Zealand adopt legislative frameworks reflecting Te Tiriti o Waitangi, the UNCRPD, and UNDRIP that recognise the self-determination of Māori disabled people.

(c) Clause 8 conscripts whānau. It converts whanaungatanga into a fiscal instrument: an unquantifiable, unregulable, and indefinite expectation of unpaid care that falls most heavily on the cultures with the widest conceptions of family, and on wāhine Māori in particular.

(d) Schedule 1 deems family care above funded allocations not to be work under the Minimum Wage Act 1983, strips employment protections without replacement, and legislates around Fleming v Attorney-General [2025] NZSC 188.

(e) Schedule 1 extinguishes pending claims and bars complaints to the Human Rights Commission and the Health and Disability Commissioner. Because neither the UNCRPD nor UNDRIP is incorporated into domestic law, these bodies are among the only accessible avenues through which tāngata whaikaha Māori can hold the Crown to account. The Bill removes them precisely where the documented record of harm demands more scrutiny, not less.

(f) Clause 11(3)(f) and (g) create statutory authority to means-test disability support by ministerial notice, over a population the Crown's own data systems cannot adequately see or monitor.

(g) The Bill contains no reference to Te Tiriti o Waitangi and fails every standard articulated by the Waitangi Tribunal in its Hauora report on the Wai 2575 inquiry.

3. The Crown was obliged to engage with us directly, and did not

3.1 Article 4(3) of the UNCRPD obliges the Crown, in developing legislation concerning disabled people, to closely consult with and actively involve disabled people through their representative organisations. General Comment No. 7 makes clear that this obligation extends specifically to organisations of Indigenous persons with disabilities, and that consultation must be timely, accessible, and capable of influencing outcomes. Article 19 of UNDRIP, which New Zealand endorsed in 2010, obliges the Crown to consult and cooperate in good faith with Māori through our own representative institutions in order to obtain free, prior, and informed consent before adopting legislative measures that may affect us. The Regulatory Impact Statement accompanying this Bill concedes, at paragraph 44, that no community consultation occurred and that this may be inconsistent with the Convention. Both obligations were engaged. Neither was met.

3.2 For TAMA the failure is not abstract. The Crown established our antecedent advisory group in 2012. The Crown recognises us as kaitiaki of its own national Māori disability action plan. In the very week this Bill was introduced, Whaikaha and TAMA were exchanging drafts of Te Kawenata Whakawhanaungatanga, a relationship agreement whose principles include rangatiratanga, mana ōrite (the commitment that mātauranga tāngata whaikaha and Te Tiriti-based Māori worldviews are treated as authoritative foundations for problem-definition and decision advice, not as stakeholder input), and te tika me te pono, justice and integrity grounded in Te Tiriti, the UNCRPD, and human rights. That agreement commits the parties to agree an engagement level at the outset of each kaupapa and to lift engagement progressively toward collaboration, co-design, and empowerment.

3.3 Measured against that framework, the engagement level achieved on the most significant disability legislation in a generation was none. TAMA was not informed, let alone consulted. One arm of the Crown negotiated the terms of a high-trust relationship with us while another drafted, in private, legislation restructuring the legal position of every tangata whaikaha and every whānau we represent. The committee should understand what that does to the relationship the Crown says it wants. Good faith promised in a kawenata and withheld in legislation is not good faith. It teaches our communities, again, that recognition is ceremonial and decisions are made elsewhere.

3.4 We say plainly: the manner of this Bill's introduction is offensive to the principle that has anchored the disability rights movement for decades, nothing about us, without us, and to its Māori expression in tino rangatiratanga. A select committee window of approximately three weeks, for a community requiring accessible formats, te reo Māori materials, New Zealand Sign Language, Easy Read, and the time to convene collective deliberation through tikanga, does not remedy the breach. Whatever this process is, it is not the close consultation and active involvement the Convention requires, nor the free, prior, and informed consent the Declaration requires.

4. The Bill reverses commitments the Crown has already made

4.1 In its 2022 Concluding Observations on New Zealand (CRPD/C/NZL/CO/2-3), the CRPD Committee recommended at paragraph 6(b) that New Zealand adopt legislative and policy frameworks reflecting Te Tiriti o Waitangi, the UNCRPD, and UNDRIP that recognise the self-determination of Māori persons with disabilities. The Government's own published response

records that no actions are currently proposed against this recommendation, noting a change from a position previously agreed by Cabinet in 2023. This Bill is the inverse of that recommendation given legislative form: a framework with no reference to Te Tiriti, no anchor in the Convention, and no recognition of the self-determination of tāngata whaikaha Māori, in which every substantive power sits with the Minister.

4.2 The Bill likewise abandons the Enabling Good Lives principles the Crown formally adopted as the basis of disability system transformation: self-determination, person-centred support, an ordinary life, and mana enhancement. Clause 8 replaces self-determination with presumed family dependency. The ministerial programme architecture replaces person-centred decision-making with criteria set by notice. Nothing in the Bill enhances the mana of anyone.

4.3 The Waitangi Tribunal's Hauora report on the Wai 2575 inquiry found the Crown in breach of Te Tiriti in the health system and articulated the operative standards: tino rangatiratanga over the design and delivery of services, equity, active protection, options, and partnership. The departmental disclosure statement asserts that no Te Tiriti reference was considered necessary in this Bill. That assessment is untenable. Tāngata whaikaha Māori are disproportionately represented among the people this Bill governs: after adjusting for age, around one in three Māori live with disability, and Māori whānau are disproportionately represented among family carers. Legislation restructuring the Crown's obligations to this population, and the obligations of whānau to their disabled members, engages Te Tiriti at every point. A Bill developed without partnership, conferring unreviewable ministerial discretion, encoding unresourced whānau obligation, and removing accountability mechanisms fails all five Hauora standards at once.

5. Clause 8: the conscription of whānau

5.1 Clause 8 establishes as binding statutory principle that families, whānau, and other culturally recognised family groups have responsibility in the first instance for the well-being of their members, and that an eligible person is expected to exhaust their own resources, and support available from family, whānau, and community, before disability support is provided. The Bill defines family member expansively, reaching grandparents, aunts and uncles, nieces and nephews, first cousins, and any person in a close relationship within a culturally recognised family group.

5.2 We must name what this drafting does. Its language is facially inclusive; its operation is extractive. The wider a person's whānau, the more unpaid labour the Crown may presume to exist before it funds support. The communities with the most expansive conceptions of collective responsibility, our communities, carry the heaviest statutory expectation, while the Crown that drafted the clause carries none: no duty to assess whether the presumed support exists, is safe, is sustainable, or is consented to by the whānau or by the disabled person; no training, no respite guarantee, no income protection; no limit in scope or duration; no point at which the obligation is fulfilled. Whanaungatanga is a taonga. It is not fiscal infrastructure for the Crown to draw down, and aroha is not a substitute for the state meeting its obligations to its disabled citizens.

5.3 The expectation clause 8 encodes is also impossible to quantify or regulate. It directs decision-makers and contracted providers to take into account a principle whose content the statute nowhere defines, guaranteeing inconsistent and effectively unreviewable decisions about how much unpaid whānau labour may be presumed. And it presumes resources the Crown's own evidence shows do not exist. Whānau Māori already experience disproportionate material hardship; households with disabled children are substantially more likely to live in poverty; most family carers are women, many of them ageing parents caring for disabled adult children into their own old age. Clause 8 deepens precisely the inequities the Crown is obliged, under Te Tiriti and under Article 28 of the UNCRPD, actively to reduce. It also inverts the logic

of Whānau Ora: a generation of Crown policy has been directed at strengthening whānau capability, and this Bill instead treats whānau capability as a resource to be exhausted.

5.4 Finally, clause 8 is contrary to Article 19 of the UNCRPD, which guarantees disabled people the right to live independently in the community with the personal assistance necessary to prevent isolation and segregation. Tāngata whaikaha Māori are adults, citizens, and rights-holders, not perpetual dependants of their extended families. A statutory principle that positions us first as objects of family obligation, and only then as citizens entitled to support, diminishes our agency and commodifies both our personhood and our whānau relationships.

6. The employment provisions: overriding the Supreme Court and the minimum wage

6.1 In Fleming v Attorney-General [2025] NZSC 188, the Supreme Court unanimously held that two parents providing round-the-clock care to their disabled adult children were employees of the Ministry of Health, grounding that conclusion in the reality of the work, the constraints on the carers' lives, and the Crown's knowledge of and reliance on their labour. The decision sits in a line of authority including Ministry of Health v Atkinson [2012] NZCA 184, where the Crown's refusal to pay family carers was held to be unjustified discrimination.

6.2 This Bill responds by deeming hours of family care above a funded allocation not to be work for the purposes of the Minimum Wage Act 1983, and by removing the protections of the Employment Relations Act 2000, the Holidays Act 2003, the Health and Safety at Work Act 2015, and parental leave legislation from family carers, without replacement. The supporting analysis presents these removals as relief from administrative burden. They are the removal of minimum workplace protections from a workforce composed substantially of women, in which wāhine Māori are disproportionately represented, performing labour from which the Crown demonstrably benefits. Legislating that work is not work does not change its nature; it ensures only that the people doing it cannot be paid fairly and cannot ask a court whether they should be. Employment remains the operative model for family carers in health and ACC settings. The Bill simply carves disability support out of protections available everywhere else, for one defined group of carers and the disabled people they support.

7. Removing accountability where the record demands more of it

7.1 New Zealand has a dualist legal system. International instruments bind domestically only to the extent Parliament incorporates them, and neither the UNCRPD nor UNDRIP has been incorporated into New Zealand law. Ratification has not meant enforcement. In consequence, the Human Rights Commission, the Health and Disability Commissioner, and the courts applying the New Zealand Bill of Rights Act 1990 are the principal accessible avenues through which tāngata whaikaha Māori can hold the Crown to account for disability support policy. Schedule 1 of this Bill bars new and existing complaints to the Commission and the Commissioner, and proceedings before courts and tribunals, where they relate in whole or in part to Crown disability support policies affecting paid family carers, and extinguishes pending employment claims brought in good-faith reliance on a unanimous decision of the highest court. That is the Crown legislating its own immunity, and it is inconsistent with the right to justice affirmed by section 27 of the New Zealand Bill of Rights Act 1990.

7.2 The committee should set these provisions against the documented record. The Royal Commission of Inquiry into Abuse in Care found in Whanaketia (2024) that disabled people, and tāngata whaikaha Māori in particular, were over-represented in institutional care and treated more harshly within it, at the intersection of colonisation, racism, and ableism. The Health and Disability Commissioner has reported on approximately 1,800 complaints from disabled people about health services between 2023 and 2025, and separately on residential disability support services, documenting restraint, unsafe medication practice, and the failure to treat disabled people and whānau as experts in their own lives. Te Tāhū Hauora's A Window

on Disability documents persistently poorer outcomes and bias in service design, with ten-fold higher rates of amenable mortality in our population. The Royal Commission into COVID-19 found disabled people faced inaccessible information and support shortfalls, and called for our involvement in planning. Every one of these inquiries records harm flourishing where scrutiny was weak. The Crown's response, in this Bill, is to weaken scrutiny further.

7.3 Parliament has been here before. After the Atkinson decision, Part 4A of the New Zealand Public Health and Disability Act 2000 was enacted in 2013 under urgency, barring complaints about family care policy. The Human Rights Commission opposed it; it was widely condemned; it was repealed in 2020. This Bill reinstates a comparable bar, broader in scope, again without consultation. A constitutional mistake Parliament has already made, condemned, and repealed should not be repeated in stronger form against the same community.

8. Means-testing by notice, over a population the data cannot see

8.1 Clause 11(3)(f) and (g) authorise ministerial programmes to apply income-based and asset-based criteria. Disability support has never been means-tested in this country; access has followed need. ACC is not means-tested, public hospital care is not means-tested, and school education is not means-tested. This Bill would make disability support the exception, by ministerial notice, with no statutory consultation duty, no parliamentary vote, no protective floor, and no requirement of reasonableness or proportionality. Read with clause 8, the architecture is complete: a principle that personal and whānau resources must be exhausted first, and a mechanism to set the thresholds that give it force. A change of this constitutional significance belongs in primary legislation, where Parliament must debate it and our people may submit on it.

8.2 For tāngata whaikaha Māori there is a further, fundamental objection: the Crown cannot see the population it proposes to means-test. The Washington Group Short Set, as conventionally analysed, counts around fifteen per cent of Māori as having an activity limitation; analysed at a three-level threshold, the figure exceeds seventy per cent. The conventional analysis erases more than half of the Māori disability experience, and the instrument cannot see whakapapa, whānau, marae, whenua, or reo, the very domains disability cuts our people off from. The Ministry of Health concluded in 2019 that there is no statistically sound way to measure disability in its entirety for Māori over time, and national statistics still cannot be disaggregated reliably by disability and indigeneity together. The CRPD Committee's recommendation that New Zealand establish a national disability data framework has likewise been deferred. Income and asset testing imposed on a population that official data cannot adequately identify could be neither designed equitably nor monitored for its impacts. Māori disability data are taonga, subject to Māori data sovereignty; decisions of this consequence cannot rest on instruments that render us invisible and processes that exclude us.

9. Recommendations

9.1 TAMA's primary recommendation is that the committee report this Bill back with a recommendation that it **not proceed**. The Crown should begin again, co-designing a legislative framework with disabled people through their representative organisations, with TAMA engaged directly as the umbrella DPO for tāngata whaikaha Māori me ō rātou whānau and as a Te Tiriti partner, consistent with Article 4(3) of the UNCRPD, General Comment No. 7, Article 19 of UNDRIP, and the relationship principles the Crown has itself negotiated with us.

9.2 If the Bill proceeds despite that recommendation, TAMA recommends at minimum that the committee:

1. Insert a Te Tiriti o Waitangi clause with substantive effect, and a rights-based purpose clause grounding the legislation in the UNCRPD, the social model of disability, and the Enabling Good Lives principles, giving effect to the CRPD Committee's recommendation 6(b) (2022).
2. Enact a statutory duty to consult disabled people through their representative organisations, including Māori DPOs, before any ministerial programme is established or materially varied, with engagement at the level of co-design for matters substantively affecting tāngata whaikaha Māori.
3. Remove clause 8. Any retained acknowledgement of family and community support must be descriptive rather than determinative: incapable of operating to reduce or decline funding, conditioned on documented assessment of carer capacity, wellbeing, safety, and consent (including the consent of the disabled person), and subject to explicit limits on what whānau can be expected to provide and for how long.
4. Remove clause 11(3)(f) and (g). Alternatively, require that any income-based or asset-based criteria be enacted by Act of Parliament, and enact a non-regression floor below which eligibility and support cannot be reduced by ministerial programme.
5. Remove the Schedule 1 provisions barring complaints to the Human Rights Commission and the Health and Disability Commissioner and barring court and tribunal proceedings, in their entirety.
6. Replace the extinguishment of pending claims with a structured settlement process for claimants who acted in reliance on Fleming v Attorney-General [2025] NZSC 188.
7. Remove the provisions deeming family care hours not to be work under the Minimum Wage Act 1983, retain employment as an available model consistent with health and ACC settings, and require that any replacement payment model be co-designed with carers and disabled people with a statutory guarantee of protections at least equivalent to existing employment entitlements.
8. Establish an accessible, independent review and appeals mechanism in force before commencement, not deferred to a later phase.
9. Commission and publish a Te Tiriti analysis of the Bill measured against the Wai 2575 Hauora standards before the Bill proceeds, and engage directly with TAMA, through the National Taumata and our regional and thematic Pou networks, during the remainder of the committee's consideration.
10. Extend the select committee process, with regional hearings and materials and hearings accessible in te reo Māori, New Zealand Sign Language, Easy Read, and alternate formats.

10. Conclusion

10.1 The Crown has, over fourteen years, established our advisory forebear, recognised us as kaitiaki of its national Māori disability action plan, negotiated a relationship agreement founded on mana ōrite, and assured the CRPD Committee of its commitments to Māori disabled people. This Bill was developed as though none of that had happened. It asks whānau Māori to carry an obligation no official can measure, tells our carers their labour is not work, closes the accountability pathways our people have only just learned to reach, and reserves to a Minister the power to means-test the support on which the ordinary citizenship of tāngata whaikaha Māori depends. TAMA opposes the Bill in its entirety, urges the committee to recommend it **not proceed**, and stands ready, as we have always stood ready, to work with the Crown on legislation worthy of the relationship it has promised us.

10.2 Ehara taku toa i te toa takitahi, engari he toa takitini. Our strength is not that of one, but of many.

Nāku noa, nā

Professor Dr Tristram R. Ingham KSO ONZM
Pou Tokorangi (Chair), on behalf of the TAMA Board and the National Taumata o ngā Tāngata Whaikaha Māori
Te Ao Mārama Aotearoa Trust