



Caption: Entrance to the Waiheke COVID-19 Testing & Assessment Centre.

Health

Personal Protective Equipment – mixed messages

Why wasn't PPE distributed properly to everyone who needed it? There was so much confusion around PPE gear, there wasn't enough and others said there was plenty of PPE. How were we meant to get it? Who was meant to wear it? Support workers or their clients? Or both? Carers and frontline staff, especially in aged care facilities, should've had proper PPE, and had the right training around wearing it properly. Clients should have been offered the chance to wear masks so they could feel safe, and for people caring for them to feel safe, too. They should make sure there is enough PPE for everyone (support workers and clients).

Loss in lockdown

I only found out my father was seriously ill in hospital when the Police arrived on my doorstep to tell me. I had no access to a phone, TV, or internet during lockdown, so I had no way of contacting my family or them contacting me. The Police arranged for me to use my neighbour's phone, so I could call my brother to find out what was happening. My brother could visit my father as he lived in the same city. I live in another city, and it wasn't possible for me to visit him. It was about 10 days later when the Police visited me again. This time the news was worse. My father had died. It was then that I found out he had died from COVID-19. I found this really shocking because I didn't know. I had received no updates about my father's health between these visits, and I didn't get the chance to say goodbye. I know death is part of life, but I felt that my father had simply become a statistic, a number. We didn't even get a chance to have a funeral. The way this was all handled caused a lot of distress for me.

Introduction

Maintaining the health and wellbeing of disabled people was of critical importance during the COVID-19 emergency. As reported in the IMM's most recent *Making Disability Rights Real* report, disabled people — particularly those with a learning/intellectual disability — have significantly poorer health outcomes than the general population, including lower life expectancies and an increased risk of chronic health conditions.

The COVID-19 emergency placed increased pressure on New Zealand's health system and led to disruptions in the way health and disability services usually operate. Lockdown periods also had an effect on the mental health and wellbeing of many disabled people.

What happened?

There was widespread concern that disabled people would be disproportionately impacted if the spread of COVID-19 was unable to be controlled domestically. Most disabled people supported the lockdown measures and felt grateful that New Zealanders abided by the guidelines at each Alert Level.

Disabled people, particularly those receiving home-based support services, expressed concern about the continuity of these services and initial delays in designating some workers as essential during Alert Levels 3 and 4. Some disabled people reported that their health was adversely affected because support workers were unable to visit and provide assistance during the COVID-19 emergency. Some disabled people who were living in group environments felt that their living arrangements placed them at increased risk of infection because physical distancing was more difficult to maintain.

The Ministry of Health's initial guidance for PPE did not specifically address the needs of community care providers. Specific guidance was eventually published, but not until after the Alert Level 4 lockdown was lifted.

What did disabled people tell us?

Access and services

- Disabled people raised concerns about community-based health appointments being cancelled due to the risk of COVID-19 infection. They felt that these postponements were likely to lead to disabled people being further disadvantaged compared to the rest of the population. Disabled people were concerned about the lack of direct consultation afforded to them around prioritisation of essential health treatment. In many cases, disabled people did not know to whom to turn for assistance when appointments were cancelled. Several people said that uncertainties about routine medical treatment caused them anxiety.
- Guidelines and standards were confusing for disabled people who required home-based support services. Some members of the disability community advised that their usual support workers had changed, and that the worker who attended did not have a comprehensive understanding of their needs. Of significant concern was the fact that some disabled people said they did not receive any visits from support workers, despite multiple requests for assistance. It was distressing for some disabled people who were unable to leave their homes without support during the COVID-19 emergency. One individual said they were only able to eat frozen vegetables for several days.
- Some disabled people described physical distancing as a privilege, noting that in-person disability supports led to some disabled people feeling more at risk of contracting COVID-19. Disabled people were also concerned about receiving

support from people who were not wearing appropriate PPE during the initial stages of the COVID-19 response. Additionally, some disabled people reported that these workers did not change their PPE between visits. Some disabled people raised concerns that they were not provided with PPE to wear as protection from visiting carers.

- On a positive note, disabled people felt that community pharmacies were generally efficient, responsive, and able to ensure appropriate physical distancing.

Mental health and wellbeing

- For some members of the disability community, social isolation was very challenging during lockdown. For many, particularly disabled people living alone, this led to increased feelings of anxiety and depression. Some disabled people advised that they experienced a psychosocial impairment for the first time during the COVID-19 emergency. It is clear, however, that those who were proficient users of the internet felt better connected and more supported.
- By contrast, some disabled people advised that they enjoyed the lockdown. It meant they did not have to face common societal barriers on an everyday basis. Some disabled people felt that they were better equipped to deal with lockdown than the general population, given the barriers that disabled people frequently face and overcome. One individual commented that disabled people are well placed to teach the general population lessons in resilience when faced with challenging circumstances.
- Disabled people generally appreciated the daily 1pm briefings from the Government. Some noted these were a source of information they could trust, and provided reassurance. This was not the case for everyone, as some disabled people could not access 1pm briefings, while others stated that the information was not locally relevant. Some disabled people felt distressed when attempting to access health-related information on the websites of Government agencies. It was noted that the format and location of key health information on these websites moved or changed frequently, which could be unsettling. The delay and difficulties in accessing information, which was sometimes confusing, also led to anxiety for many disabled people.

Testing

- Some disabled people expressed concern about visiting COVID-19 testing services due to the possibility of long queues and the chance of transmission. This concern was greater for people with immunocompromised health.
- Some disabled people felt they should have been prioritised for testing, and that a specific time of day could have been allocated.
- Some concerns were raised about the accessibility of COVID-19 testing services and stations, and the ability for health information to be discussed privately.

Personal protective equipment (PPE)

- There was confusion throughout lockdown about the supply and distribution of PPE. Some disabled people reported that some health workers they interacted with wore it, while others did not. Many disabled people felt it was difficult to obtain PPE equipment (such as masks and hand sanitiser), and were frustrated when the general population purchased these items in bulk.
- Deaf and hard of hearing people felt there was a lack of reasonable accommodation in considering alternatives to wearing masks. Those who relied on lip-reading outlined negative experiences where health workers refused to remove their masks, even at a distance, and refused to try alternative ways of communicating (such as writing) in order to convey important information.

Disabled People's Organisations

Many disabled people told us that their representative DPOs aided them to navigate a quickly changing health environment during the COVID-19 emergency. Members of some DPOs undertook wellbeing checks by telephone with members of their community who had indicated they wanted assistance or were feeling lonely. Several DPOs undertook 'drive-by' visits to people who had no phone or internet and spoke to them from a safe distance. This was the only support or contact some disabled people had during Alert Levels 3 and 4. The Government created an online directory of mental wellbeing resources, including those produced by DPOs and non-government organisations. DPOs played an integral role in getting health-related information out to their members and communities, and some set up databases to keep a record of their constituents' enquiries, including concerns about wellbeing.

What needs to change?

Article 25 of the Disability Convention recognises that disabled people have the right to enjoy the highest attainable standard of health without discrimination on the basis of disability. During the COVID-19 emergency, disabled people reported health and wellbeing experiences less favourable than those of the general population. The fact that some disabled people believe that they can teach the general population lessons in resilience based on the barriers they routinely face, shows that there is still important work to do to ensure disabled people have equitable health access and outcomes.

We need to make sure that disabled people are not further disadvantaged in humanitarian emergencies. Support for health needs should be available during all stages of an emergency. Services must ensure any additional health needs are identified at an early stage.

Recommendations

In addition to the recommendations under Article 25 in the *Making Disability Rights Real 2014–2019* report, the IMM recommends that the Government:

13. works with disabled people and their representative organisations to establish a comprehensive understanding of their health experiences and challenges during the COVID-19 emergency, and use this information to inform future emergency planning;
14. ensures health-related information relevant to emergency situations is communicated in a logical, consistent, and accessible manner, through more than one mode of communication;
15. contractually requires providers of home-based health and support services to ensure continuity of service for disabled people during emergencies and, in doing so, ensure non-discrimination of disabled people, and people over 70 years of age employed as care and support workers;
16. ensures clear protocols for personal protective equipment use are updated in a timely fashion in response to emerging evidence and community needs; and
17. encourages health professionals to provide reasonable accommodation to disabled people who request flexibility around the use of PPE, particularly people who are Deaf and hard of hearing, who find face masks act as a barrier.



Caption: Shian McCartan stands holding a large bowl, in readiness to gather some herbs for his evening meal. Photograph by Jeff McEwan / Courtesy of Life Unlimited.

Work and employment

Job losses

I heard of people becoming unemployed. My fear for the future is that it is hard enough for 'normal' people during tough times like these, and our fear is that it's going to be harder to find roles for disabled people. There is digital access but it's still going to be a tough ride. We're going to have to look at it differently, and get the Government to look at employment differently for disabled people.

Resilience

COVID has made no difference as disabled people still experience isolation. This time many other people also experienced isolation and adapting to a new world. Perhaps disabled people could lead in helping to build non-disabled New Zealanders' coping skills and resilience in this area, especially with regard to managing the effects of COVID-19. As a country we need to develop resilience, and disabled people have a lot more resilience and have the skills to be able to do this.

Introduction

It is vitally important for disabled people to have equal work opportunities and fair employment conditions. Despite recent initiatives, such as those described in the *Working Matters* disability employment action plan, labour market and employment inequities are persistent and entrenched for disabled New Zealanders.³⁵ Disabled people have considerably lower rates of labour force participation (24 percent) compared with non-disabled people (72 percent).³⁶ Māori and Pacific people are even more underrepresented in the labour force, likely meaning tāngata whaikaha Māori³⁷ and Pacific disabled people³⁸ will face greater marginalisation. For disabled people who are employed, the COVID-19 emergency, and associated lockdowns, highlighted opportunities and increased flexibility, as well as some unfavourable employment conditions.

What happened?

During Alert Level 4, all non-essential businesses closed or had employees work from home. During Alert Level 3, some businesses could open, as long as they followed strict COVID-19 health and safety protocols. The Ministry of Social Development (MSD) introduced a wage subsidy for eligible employers to pay and retain employees during Alert Level 4 and transition periods. This subsidy ran from March to September 2020.³⁹ Many disabled people reported losing their jobs due to the economic disruption caused by Alert Levels 3 and 4, especially in hospitality, tourism, and retail. To provide further assistance, MSD introduced a 12-week COVID-19 Income Relief Payment,⁴⁰ and a COVID-19 Leave Support Scheme to help pay self-isolating employees who could not work from home.⁴¹ MSD encouraged employers to allow more flexibility for staff during the COVID-19 emergency, and provided lump sum payments to disability employment services to support their viability during this time.

What did disabled people tell us?

- Many disabled people praised the wage subsidy, because it enabled employers to continue their employment.
- During Alert Levels 3 and 4, many businesses began working remotely. Working from home better accommodated the needs of many disabled people.
- Maintaining the flexibility that arose as a result of the COVID-19 emergency could improve disabled people's future employment opportunities and working conditions.
- Due to the issues that many disabled people faced accessing the internet and devices, as well as the reliance that remote working has on technology, working from home was problematic or not possible in some cases.
- Some disabled people missed the social contact and routine that going into a place of work offered. In addition to this, many disabled people working from home had difficulty with competing priorities at home.
- Some disabled people reported higher expenses while working from home, including increased energy, telecommunications, food, and delivery costs.
- Communication over the phone and online was difficult for some disabled people who required access to alternative forms of communication.
- Some disabled workers on minimum wage exemption permits (MWEPP) were made redundant during Alert Level 4.⁴² During this time, Employment New Zealand Labour Inspectors conducted fewer workplace visits to monitor and enforce MWEPP standards.
- Disabled people already have low employment rates compared with non-disabled people. Because of this, some disabled people worried about getting a new job due to the economic downturn caused by the COVID-19 emergency.
- Some disabled people found it unfair that the 12-week COVID-19 Income Relief Payment was paid at a higher rate than most benefits.⁴³
- Some disabled essential workers felt their health was put at risk by being on work premises during Alert Levels 3 and 4.
- Employees had 90 days from the end of their employment to raise a grievance.⁴⁴ Some disabled workers considered this was an unrealistic timeline during the COVID-19 emergency, due to limited access to legal and employment assistance.

Disabled People's Organisations

DPOs and disability service providers advocated for fair employment conditions, assisted with job brokering, and facilitated access to the various wage subsidies and income support available during the COVID-19 emergency. For example, some organisations operated COVID-19 helplines, social media information pages, and website information for disabled members.

What needs to change?

Household Labour Force Survey data from August 2020 shows that only a quarter of disabled people are presently employed.⁴⁵ It is discouraging to see that the proportion of disabled people in employment has not increased in the past four years.⁴⁶ Disability Rights Commissioner, Paula Tesoriero, has publicly called for the COVID-19 recovery to invest in initiatives that are inclusive of, and accessible to, disabled people, noting:⁴⁷

COVID-19 is making employment more elusive than ever for disabled people. Businesses can assist by providing flexible work conditions and access to assistive technologies. These are relatively quick gains that can support equal access to employment opportunities for disabled people.

Article 27 of the Disability Convention affirms disabled people's right to enjoy, on an equal basis with others, freely chosen work and favourable working conditions. Many disabled people felt they had less favourable employment situations as a result of the COVID-19 emergency. Many who lost their jobs were not hopeful of gaining new employment. The Government must ensure disabled people are given fair employment opportunities and conditions. The IMM notes that Article 27 obliges governments to:

- prohibit employment discrimination on the basis of disability;
- ensure that reasonable accommodation is provided to disabled people in the workplace;
- employ disabled people in the public sector; and
- promote the universal right to employment in the private sector.

Encouraging flexible working conditions on an ongoing basis will allow more labour force participation. The WHO recommends that governments adopt flexible, work-from-home policies along with financial compensation for the required

technology. The WHO also recommends that governments provide financial compensation for families and caregivers who need to take time off work to care for loved ones. During Alert Level 3 and 4 the New Zealand Government required non-essential work premises to close, leading to large numbers of people working from home and a rapid uptake of remote working practices and technologies. Virtual meetings during Alert Levels 3 and 4 aided those with physical impairments, and provided Deaf people with access to a larger pool of NZSL interpreters. Despite encouraging changes to some employment practices during the COVID-19 emergency, disabled people's experiences of employment are overwhelmingly characterised by underemployment and unfavourable working conditions.

Recommendations

In addition to the recommendations under Article 27 in the *Making Disability Rights Real 2014–2019* report, the IMM recommends that the Government:

18. implements a financial compensation policy to ensure disabled people who are expected to work from home during situations of humanitarian emergencies have access to the required technology and training;
19. increases resourcing of the Employment New Zealand Labour Inspectorate and increase the frequency of visits to workplaces where employees are on minimum wage exemption permits (while they continue to exist); and
20. provides targeted employment opportunities for disabled people as part of the Government's COVID-19 economic recovery plan, and ensures funding and contracts to the private sector include requirements to ensure employment is accessible for disabled people.



Caption: The historic wooden Court House in the small West Coast town, Reefton.

Access to justice and disabled people in places of detention

Custody

One of our members simply didn't understand lockdown, and walks about five or six kilometres each day. During lockdown, they were stopped by Police and became very agitated. Subsequently they were taken into custody for six hours. Eventually, the situation was sorted out, but it was a very distressing time for them.

Introduction

The importance of disabled people having access to justice, including reviews of decisions and redress for errors, was particularly evident during the COVID-19 emergency. The rights and needs of disabled people in places of detention must also receive concerted attention when restrictions or reduced oversight are put in place to stop the spread of infection.

New Zealand has an international human rights obligation under the United Nations Optional Protocol to the Convention against Torture (OPCAT) to prevent torture and other cruel, inhuman, or degrading treatment or punishment for those in places of detention. Article 13 of the Disability Convention affirms disabled people's right to equal access to justice, while Article 14 recognises that disabled people should have their freedoms protected by law on an equal basis with others.

What happened?

Courts were deemed an essential service and continued to operate, at reduced capacity, during the COVID-19 emergency.

Disabled people's access to legal advice and lawyers was limited due to restrictions put in place around face-to-face visits and communication. Some disabled people found they could not access appropriate legal advice or support online, and had services deferred. Physical isolation from whānau and support networks also meant that some disabled people could not call on these supports to access services.

While some facilities took steps to reduce occupancy in places of detention, people who did remain in these facilities experienced increased restrictions aimed at preventing the risk of COVID-19 infection. These restrictions meant that COVID-19 did not enter any prisons or secure mental health or intellectual disability services during the COVID-19 emergency. However, the restrictions also affected the wellbeing of some detainees. Visits from whānau or friends were stopped, and there were changes to daily routines. These steps were unsettling and confusing, particularly in the transition between Alert Levels.

Under OPCAT, the Ombudsman conducted inspections in secure aged-care facilities, prisons, and mental health facilities during various Alert Levels in the COVID-19 emergency.

What did inspections and monitoring reveal?

Secure aged-care facilities (psychogeriatric and dementia units)

- Disabled residents' ability to raise issues or concerns in private was reduced during COVID-19 Alert Levels 3 and 4. Whānau were unable to visit, and communication using digital means often relied on the assistance of staff. Complaints boxes were frequently in reception areas of secure aged-care facilities, not commonly accessible to residents.
- Facilities inspected were physically accessible for residents of all mobility levels. Residents were usually able to access fresh air at a time of their own choosing.
- The majority of facilities ensured that residents with hearing impairments were supported to have hearing aids. One facility advised inspectors that it was not practicable to provide residents in a dementia unit with hearing aids, as these were often lost or required ongoing repairs.
- Some residents who rely on lip-reading or experienced communication difficulties found it more challenging during the COVID-19 emergency, due to physical distancing and staff wearing masks.
- Some disabled people felt safer in their aged-care facility due to the lack of physical contact with the outside world. These residents often worried about the health and wellbeing of whānau members living in the community. Other disabled people, however, felt lonely and isolated without regular visits from whānau and friends.

Prisons

- Prisoners considered by the Ministry of Health to be particularly vulnerable to COVID-19 were placed in 'medical isolation', including older people (generally over 70 years old), and those with pre-existing chronic health conditions, including dementia-related presentations.
- One prison took additional measures to develop a list of prisoners who might be particularly vulnerable to COVID-19 infection, and tailored their regime and contact with health services accordingly. Another prison had a system whereby any prisoners who reported cold or flu symptoms or mental health concerns would be seen by a medical professional the same day.
- Disabled prisoners were housed in cells appropriate to their needs, including some being located on ground floor units to accommodate accessibility needs.

Secure mental health services

- There were low occupancy rates at acute mental health facilities during COVID-19 Alert Levels 3 and 4, compared to before the COVID-19 emergency when there was a shortage of beds. This reflects an increase in transfers to community-based services.
- Contact with the outside world is critical for the psychological wellbeing of mental health service users. Restricting visitor access to facilities was one of the most significant changes introduced by the Government's alert level system. While visiting practices were disrupted, particularly during COVID-19 Alert Levels 3 and 4, some facilities allowed additional communication avenues such as video conferencing with whānau, District Inspectors, and professional services.
- Information and resources on complaints processes was not always visible or available in the facilities for service users.

Access to legal services/justice

- Some disabled people struggled to access legal advice through their usual channels (generally face-to-face) in a time of great uncertainty. This resulted in increased anxiety, and many disabled people spent a significant amount of time learning about their rights under different COVID-19 Alert Levels.
- Many disabled people reported that members of their respective communities wore 'multiple hats' in order to provide legal guidance or direction.
- Some disabled people expressed concerns about domestic violence during COVID-19 Alert Levels 3 and 4, and were unsure about where to seek support or raise concerns.

Disabled People's Organisations

Some disabled people told us that their representative DPO took on additional responsibilities in locating or summarising key information about their legal rights during the COVID-19 emergency. A number of disabled people asked a DPO to help them locate information on their rights in the absence of their usual support networks. One DPO actively advocated with the Ministry of Health to discharge all patients in secure mental health facilities who had a safe place to go, and sought evidence of what protocols were in place to prevent the spread of infection among those who remained in secure facilities.

What needs to change?

Article 14(2) of the Disability Convention states that if disabled people are deprived of their liberty through any process, they are entitled to be treated on an equal basis with others, in compliance with the objectives and principles of the Disability Convention. During the COVID-19 emergency, disabled people in places of detention experienced some barriers, particularly around accessing appropriate complaints mechanisms, and having information given to them in a clear and reliable way. Some disabled people in aged-care facilities were also denied aids to assist their understanding of key information about the pandemic. Places of detention need to ensure that they provide disabled people with reasonable accommodation, particularly during a humanitarian emergency.

According to Article 13(2), governments should ensure effective access to justice for disabled people and promote training for those working in administration of justice. Disabled people said that, due to the closure of many community-based services, they did not always know where or to whom to turn with concerns about the safeguarding of their rights. Many disabled people felt they could not easily find key information about their rights on the internet. Further work needs to be done to ensure that appropriate training on disability rights (including access to information) is provided to those working in the justice sector. This should be achieved by engaging directly with disabled people.

Recommendations

In addition to the recommendations made in the *Making Disability Rights Real 2014–2019* report, and the published reports of the Chief Ombudsman regarding secure facilities that were inspected during the COVID-19 emergency, the IMM recommends that the Government:

21. ensures that reasonable accommodation, particularly, disability support aids, is provided to disabled people in places of detention to allow them to effectively communicate in emergency situations;
22. ensures information on complaints processes and mechanisms is accessible and available to all disabled people in places of detention at all times without intermediary involvement of staff, and that disabled people feel supported to express their needs or concerns;

23. engages with disabled people and their representative organisations to better facilitate disabled people's access to legal advice and information during emergency situations; and
24. strengthens intersectional collection and analysis of data about disabled people at risk of violence in order to accurately record, monitor, and reduce violence towards them, including in situations of risk and emergency.

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Endnotes

- 1 New Zealand was in a nationwide state of national emergency from 25 March to 13 May 2020, and during the immediate period after this (National Transition Period) which lasted until 8 June 2020, when the country moved to Alert Level 1.
- 2 For further information, see: <https://www.rnz.co.nz/national/programmes/afternoons/audio/2018753426/the-creator-of-the-bubble>, accessed November 2020.
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- 16 See <https://kauwhatareo.govt.nz/en/news-holder/ki-te-ao-marama-learning-packs/#>, accessed November 2020.
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- 18 Civil Defence, *COVID-19 Foodbank FAQs*. See <https://www.civildefence.govt.nz/cdem-sector/guidelines/claims-factsheets/covid-19-welfare-response-and-costs-eligible-for-reimbursement/covid-19-foodbank-faqs/>, accessed November 2020.
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- 32 Tertiary Education Commission, *COVID-19 (coronavirus) information*. See <https://www.tec.govt.nz/about-us/covid-19-coronavirus-information/>, accessed November 2020.
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