Submission on the

Disability Support Services Bill

Submitted by

Manawanui Support Ltd

To the Social Services and Community Committee

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Contact: Ellen Campbell | ellen.campbell@manawanui.org.nz

Manawanui requests the opportunity to appear before the Committee.

1. About Manawanui

Manawanui has operated as a provider of Individualised Funding (IF) host services for disabled people and their whanau since 2004, and currently supports more than 10,000 disabled people and their whanau to self-direct their disability supports.

Our kaupapa is founded on tino rangatiratanga — the right of disabled people to exercise genuine authority over their own lives, including who supports them, how, and when. A significant proportion of the people we support choose to employ family members as carers. This enables people with disabilities to access safe, high quality support that meets their unique needs, and select and pay for that support themselves.

We submit on this Bill in that capacity: as an organisation with deep, practical knowledge of the benefits of self-direction and paid family care for the disabled people and whanau we serve.

2. Our Position on the Bill

Manawanui acknowledges the need for a clear legislative framework for disability support services. The current system has operated for many years without primary legislation, which has created inconsistency, opacity, and — as the Supreme Court found in Fleming v Attorney-General [2025] NZSC 188 — genuine ambiguity about the legal nature of key relationships within it. Legislation that addresses those gaps, improves transparency, and gives disabled people and their whanau clearer rights and pathways is, in principle, welcome.

We acknowledge that Parliament has the power to respond to court decisions through legislation. However, the manner in which this Bill does so — extinguishing existing claims and limiting future accountability — raises serious questions about whether the approach is proportionate.

It is worth noting that the Government's transitional fiscal constraint measures introduced ahead of this legislation are already working. At 30 June the DSS budget is projected to underspend by $170 million. Contracts are being renegotiated, and funders, NASCs, and providers have gained time to invest in systems that support better outcomes and accountability. This context matters: the fiscal problem that this Bill partly seeks to address is being managed through operational means. Some of the more interventionist provisions of the Bill — in particular clause 11 — may not be necessary to achieve the Government's legitimate aims.

We are concerned that several specific provisions of the Bill, as drafted, could disadvantage disabled people — and in particular those who rely on paid family carers, or who benefit from the flexibility and self-direction that has been a cornerstone of disability support policy for decades. The remainder of this submission sets out those concerns in detail, with the aim of assisting the Committee to strengthen the Bill.

3. The Value of Paid Family Carers for Disabled People

Before turning to our specific concerns, we want to offer the Committee a clear picture of why access to paid family carers matters — because this context is essential to evaluating the Bill's likely effects.

3.1 Family carers provide support that cannot be replicated

For many disabled people — particularly those with high and complex support needs, those who communicate in non-verbal or highly individual ways, and those for whom cultural safety is paramount — a trusted family member is not a convenience but a necessity. Family carers hold a depth of relational knowledge that no formal worker, however skilled, can replicate. They know the person's communication patterns, sensitivities, history, and aspirations. That knowledge is built over years and cannot be documented in a support plan.

From our experience at Manawanui, the disabled people who benefit most from family carer arrangements include:

- autistic people and people with intellectual disabilities, for whom consistency and familiarity are directly linked to wellbeing and safety;
- people with high medical needs, where a carer's detailed understanding of the person's health patterns can be life-critical;
- Maori and Pasifika disabled people, for whom care within whanau structures aligns with cultural values around manaakitanga, collective responsibility, and identity;
- people in rural and remote areas, where formal support workers are simply unavailable.

We have also seen how family carer arrangements bridge gaps in circumstances when provider organisations and/or non-family employees are unable to do so, for example:

- during Covid lockdowns and other pandemic events;
- following intense weather events that damage access routes and disrupt formal services;
- when needs or support availability changes very suddenly, requiring a rapid response that only someone with deep knowledge of the person can safely provide.

3.2 Payment makes family care sustainable

Family members who provide intensive support to a disabled person commonly reduce or forgo paid employment to do so. Without payment at a level comparable to paid employment, many could not afford to continue. The Supreme Court's decision in Fleming v Attorney-General was, at its heart, a recognition of this economic reality.

The sustainability of paid family care is not only a matter of fairness to carers. It is a matter of continuity of care for the disabled person. When a family carer cannot afford to continue — because the payment model is inadequate, insecure, or unclear — the consequences can be severe: loss of a trusted relationship, disruption to established routines, and potential placement in residential care that does not meet the person's needs or reflect their choices.

It is also a matter of dignity. Having a family member with a disability and being willing to support them in the family home, is a choice that should be respected. That choice should not impoverish the family or cause the disabled person to believe their family would be better off if they went into residential care against their preference.

Family carers who provide this support are disproportionately women, and disproportionately Maori and Pasifika women. Any measure that reduces their economic security should be considered with that context in mind.

4. Aspects of the Bill That May Disadvantage Disabled People

The following sections identify six specific areas of the Bill that we believe the Committee should examine carefully. In each case we explain our concern and offer a recommendation.

4.1 The 'families-first' principle may be used to reduce funded support (clause 8)

Clause 8 requires MSD and contracted providers to take into account, when making decisions about DSS-funded support, that:

- families and whanau have responsibility in the first instance for the wellbeing of their members; and
- before receiving DSS-funded services, eligible persons should, where appropriate, use their own resources and any support available from family, community, or other publicly funded sources.

We understand the intent: to recognise the genuine role families play and to ensure DSS funding is targeted at unmet need. We do not dispute that intent.

However, as drafted, this principle is broad enough to be applied in ways that treat unpaid family care as a substitute for funded support — effectively requiring families to exhaust their goodwill and capacity before the Crown contributes. This risk is not hypothetical. We have already observed informal pressure on disabled people and their families to demonstrate that family is "not available" before funding is approved. Embedding this expectation in primary legislation gives it considerably more weight.

> Recommendation 1: Amend clause 8 to include an express statement that the families-first principle cannot be applied to reduce an eligible person's funding on the basis that family members could provide care informally and without payment. The principle should recognise the role of family without shifting the cost of care onto them.

4.2 The three-year transition creates uncertainty for disabled people and their carers (Schedule 1, clauses 2–5)

The Bill validates existing paid family carer employment agreements for three years (Schedule 1, clause 2), after which those agreements expire (clause 4). The expectation is that an alternative payment model will be developed and implemented within that period.

We are concerned about this approach for several reasons:

- The alternative payment model does not yet exist. The Bill provides no detail about its design, the payment rates it will offer, the conditions attached to it, or whether it will provide economic security comparable to the current employment model.
- Three years is a tight timeframe for developing, consulting on, testing, and implementing a new payment model — particularly one that must serve diverse communities across New Zealand.
- If the model is not in place before existing agreements expire, family carers will find themselves in a legal and financial vacuum. Disabled people will bear the consequences.
- The Bill does not require co-design with disabled people and their whanau. Given that this change fundamentally affects how they organise their lives, that is a significant omission.

> Recommendation 2: Include a guarantee in the Bill that no validated employment agreement will expire until an alternative payment model has been implemented and is available to that person.

Recommendation 3: Require that the alternative payment model be co-designed with disabled people, their whanau, and support providers, before it is finalised.

4.3 The Minimum Wage limitation may mask unmet need (Schedule 1, clause 5)

Clause 5 of Schedule 1 provides that, during the transition period, hours worked by a paid family carer in excess of those funded under DSS policy are not treated as "work" for minimum wage purposes. In other words, family carers cannot seek minimum wage for hours beyond their funded allocation.

We acknowledge the Crown's concern about open-ended fiscal exposure. However, this provision does not distinguish between excess hours that arise because a carer is overreaching and excess hours that arise because a person's actual support needs exceed what their DSS assessment has recognised. In the latter case, the limitation effectively conceals unmet need while denying the carer fair payment for real work.

There is also an equity dimension. Family carers who provide care beyond funded hours are, in many cases, doing so because no alternative support is available — not because they have chosen to exceed the funded allocation. Limiting their wage entitlements for those hours punishes them for a gap that is not of their making.

Recommendation 4: Add a reporting requirement obliging MSD to report annually to the Minister on the ratio of funded to actual hours worked by paid family carers. This would make patterns of unmet need visible and provide an evidence base for future funding decisions, without removing the Minimum Wage limitation in the short term.

4.4 Barring discrimination complaints removes an important accountability mechanism (Schedule 1, clauses 12–15)

Schedule 1 bars complaints to the Human Rights Commission and the Health and Disability Commissioner based on "specified allegations" — broadly, allegations that DSS funding policy discriminated against paid family carers on grounds including disability, sex, family status, or employment status. It also extinguishes existing proceedings in the Employment Relations Authority and Employment Court, and bars future proceedings relating to pre-introduction circumstances.

We understand that the Supreme Court decision created the risk of a wave of similar claims, and that managing that risk through legislation is within Parliament's prerogative. However, the breadth of this bar gives us pause.

The Human Rights Commission and the Health and Disability Commissioner exist precisely to provide accountability when Crown policy or action disadvantages people on protected grounds. Barring access to those mechanisms — even for a defined period and defined set of circumstances — is an exceptional step. Many of those affected by this provision are disabled people and their family carers, who are already among the most economically and socially marginalised groups in Aotearoa New Zealand.

We note also that the Bill's purpose in clause 3(c) explicitly includes mitigating "litigation risk, and related fiscal risk, to the Crown." While that is a legitimate concern, it is striking to see it stated as a co-equal purpose alongside enabling disabled people to live their everyday lives.

Recommendation 5: The Committee should consider whether the litigation bar is proportionate to the risk it seeks to manage, and in particular whether prospective complaints — those arising from events after the Bill's commencement — should remain available to complainants. Barring past claims may be defensible; barring future accountability for future decisions is harder to justify.

4.5 The purpose clause does not reflect a rights-based approach (clause 7)

Clause 7 states that the purpose of DSS-funded disability support services is "to contribute towards enabling eligible persons to live their everyday life by providing disability support services from within public funding available, having regard to their needs and circumstances."

The phrase "from within public funding available" embeds a fiscal constraint into the purpose of the legislation itself. This is unusual and potentially significant: it means that any decision about what support to provide can be justified by reference to funding availability rather than to the person's actual needs. This sits in tension with New Zealand's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which requires progressive realisation of rights, not limitation by available appropriation.

Recommendation 6: Amend clause 7 to more clearly reflect a rights-based approach, consistent with New Zealand's obligations under the UNCRPD. At minimum, the purpose clause should acknowledge that DSS funding exists to enable disabled people to live lives of their choosing, with funding constraints as a system-management consideration, not as a purpose of the legislation.

4.6 Clause 11 Ministerial programmes risk reversing decades of progress towards self-direction

Clause 11 empowers the Minister to establish disability support programmes as secondary legislation, with extensive criteria that may include income and asset testing, the nature of a person's living arrangements, and other conditions. While the clause is framed as providing flexibility, Manawanui has significant concerns about its scope and direction.

For decades, the disability community has worked to move away from top-down, compliance-driven funding models toward personal agency, self-direction, and flexible support. That progress is reflected in the Enabling Good Lives (EGL) approach, the growth of Individualised Funding, and the culture of decision-making that NASCs and families have developed together. Every day, families and support coordinators are using their judgment and experience to make the best use of public money in service of deeply individual needs.

Clause 11, as drafted, points in the opposite direction. It explicitly authorises officials to develop detailed schemes of criteria, rules, and conditions — and states that the list of criteria in the Bill is not exhaustive. The Ministry administered under this Bill is, for the foreseeable future, MSD, an agency whose culture is rightly oriented toward calculating and enforcing standardised income entitlements. Applying that culture to personal disability supports — which are endlessly variable and deeply relational — risks dragging the DSS system toward a benefit dependency model and away from the social model of disability that has guided best practice internationally.

We are also concerned about the explicit authorisation of income and asset testing in clause 11(3)(f) and (g). The Government has stated publicly that it does not intend to introduce means testing for DSS recipients. If that is the case, it is unclear why statutory authorisation for means testing is required in this Bill. Its presence creates real anxiety in the disability community about the future direction of the system.

We note that the top-down, rules-driven approach that clause 11 enables is, in our view, exactly the wrong direction at a time when new technology, data systems, and flexible funding tools make it more possible than ever to provide transparent, outcome-focused, individually tailored support. The tools exist now to build a system that is genuinely accountable for public funding without sacrificing personal agency. Clause 11 risks foreclosing that possibility.

Recommendation 7: Clause 11 should be removed from the Bill, or substantially amended. If clause 11 is retained in any form, 11(2)(b) and 11(3) should be removed, and the Bill should explicitly preserve the right of any eligible person to choose self-directed and flexible funding as the default option.

Recommendation 8: Remove the explicit authorisation of income and asset testing from clause 11(3)(f) and (g), or include a prohibition on their application unless separately authorised by Parliament through primary legislation.

5. Summary of Recommendations

1. Amend clause 8 to clarify that the families-first principle cannot be used to reduce a person's funding on the basis that family members could provide care informally and without payment.
2. Include a guarantee that no validated employment agreement will expire until an alternative payment model is in place and available to that person.
3. Require co-design of the alternative payment model with disabled people, their whanau, and IF host organisations.
4. Add a reporting requirement for MSD to report annually on funded-to-actual hours ratios for paid family carers.
5. Reconsider the scope of the litigation bar, and at minimum confirm that prospective human rights complaints arising after the Bill's commencement will remain available.
6. Amend the purpose clause (clause 7) to better reflect a rights-based approach consistent with the UNCRPD.
7. Remove or substantially narrow clause 11, particularly 11(2)(b) and 11(3); if clause 11 is retained, include a statutory right for eligible people to choose self-directed and flexible funding.
8. Remove the explicit authorisation of income and asset testing from clause 11(3)(f) and (g), or require separate primary legislation before means testing can be introduced.

6. Conclusion

Manawanui supports the goal of a clear, transparent, and consistent legislative framework for disability support services. We do not support the Bill proceeding in its current form. We recommend that substantial amendments are made, and that additional opportunity for public scrutiny and feedback is provided.

We ask that the legislative framework that emerges from this process keeps the disabled person — and their right to live a life of their own choosing — at its centre. For many of the people we support,

access to a paid family carer is what makes that possible. The provisions of this Bill that create uncertainty, remove protections, or limit accountability deserve close scrutiny, precisely because the people most affected by them have the least power to seek redress through other means.

More broadly, we urge the Committee not to allow the legitimate task of resolving ambiguity around employment relationships to become a vehicle for structural changes — like the ministerial programme framework in clause 11 — that have not been consulted on and that risk reversing decades of hard-won progress toward self-direction and personal agency for disabled people.

We would welcome the opportunity to discuss this submission with the Committee, and to facilitate sharing the direct experiences of disabled people and whanau who will be affected by this legislation.

Manawanui Support Ltd | June 2026 | Ellen Campbell