



**Aged Care  
Association**  
NEW ZEALAND

## Aged Care Association submission to the Finance and Expenditure Committee on the proposed Regulatory Standards Bill

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June 2025

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## About the Aged Care Association

This submission is from the Aged Care Association (ACA), the peak body for the aged residential care (ARC) sector in New Zealand.

New Zealand has over 670 aged residential care facilities, with more than 40,000 beds and 35,000 residents. In comparison, Te Whatu Ora | Health NZ oversees 10,748 public hospital beds.

Our members provide rest home, hospital, dementia, psychogeriatric, respite, and palliative care and care for around 700 younger people with disabilities.

Sixty six percent of beds are run by religious institutions, charitable trusts, family-owned, not-for-profits, and privately owned facilities. Most of the remaining beds are operated by listed companies (34 percent), with less than 1 percent provided by Te Whatu Ora | Health NZ.

Residents may be

- very frail and clinically unstable,
- well but disabled and have very high care needs,
- cognitively impaired or with mental health issues, with some requiring a secure environment,
- receiving end of life care.

Funding for aged residential care is a mix of means-tested user-pays and government subsidy.

Aged residential care providers are contracted by Te Whatu Ora | Health NZ to provide care services at a rate that is set annually.

The ACA welcomes the opportunity to make a submission to the Finance and Expenditure Committee on the proposed Regulatory Standards Bill. The ACA represents nearly 100% of the aged care sector and this submission reflects the views of a section of our membership.

## Context

1. We support the creation of responsible and reasonable regulation that ensures an appropriate standard of care and service that must be provided to older New Zealanders. However, **the Association opposes the proposed Bill**, as the fundamental design of the Bill rests on values which, in our opinion, poses a significant risk to equity, collective rights of the community for public welfare, socio-cultural integrity of New Zealand, and the very essence of the democratic process on which New Zealand's legislative functions have been built.
2. We note that the principles and parameters suggested have already been discussed, reviewed and dismissed by the New Zealand Parliament on a number of occasions. We have been unable to identify any major shift in New Zealand society or democratic process that suggests any need or benefits from such a Bill at this time.

## Key Points of Objection to the Proposed Bill

### On the Principles:

3. The Association supports having principles for responsible regulation. The Association also notes the merit in having some of the proposed principles upheld for providing a benchmark for good legislation.
4. However, the omission of the principle of equity is concerning to us. As the peak body for aged residential care in the country, we are aware about the health inequities that disadvantage specific ethnicities, including Māori, Pacific peoples, and other ethnic minorities including Asian communities. We also recognise the need for targeted interventions, including policies and legislations, which understands the specific disadvantages experienced by certain communities. The Association, therefore, strongly recommends that a principle of equity be included as a key principle for good regulation and legislation, as this omission could have far-reaching implications in how New Zealanders access their rights and benefits as promised under various legislations.
5. Furthermore, the Association acknowledges the merit in having the principle of 'good law-making', which promotes the importance of consultation, accounting public interest on any issue, and the assessment of which is likely to benefit and who is likely to suffer a detriment from the legislation. However, we strongly oppose to clause 8(k) for reasons explained in point 7 and 8 of this document.
6. The Association strongly urges the Committee to consider principles 8(i) and (j) in the review of the Regulatory Standards Bill, itself.
7. We note that in the Summary of submissions released by the Ministry for Regulation following the consultation on a discussion document on the Bill, noted opposition on the Bill from 88.26% of the individual submitters, 78.07% of submissions from iwi/hapū and 82.02% of organisations; a resoundingly strong indication of the lack of public support for this Bill. We also note that submitters have called the Bill out for not upholding Te Tiriti o Waitangi, with several critics noting how this could potentially be a detriment for Māori. We strongly urge the Committee to take these points into consideration as it reviews the Bill.
8. The Association objects to the proposed Bill explicitly stating in clause 8(k), that "legislation should be expected to produce benefits that exceed the costs of the legislation to the public

or persons". The Association believes that there would be a notable risk in limiting the guidance principles for legislative design in economic terms and removing any consideration of public good. There is a need for legislation/regulation that over time produce net positive social and economic outcomes and we hold concerns that a narrow cost benefit focus with the capacity for both domestic and international corporations to pursue costs from any perceived benefit loss will have a chilling on government action.

9. An example could be – a future government sees the need to introduce a separate Government funding line, accessible via a grant scheme, with which to refurbish and grow New Zealand's ageing ARC infrastructure. However, to ensure public good and those without the ability to meet the asset and income thresholds the scheme would be targeted to providers who are not-for-profit, charitable or specifically provide to lower socio-economic New Zealanders. The long-term benefits of housing and documented reduction of hospital acute services can be realistically argued to outweigh the upfront costs in immediate terms. Would the suggested principles articulated in this proposed Bill allow a non-eligible organisation to seek compensation for perceived discrimination from the Government? Could the government use as its defence the expectations of Government under Article 25 of the Universal Declaration of Human Rights on the grounds that the above would mean a better quality of life and care for a proportion of our country's older population?

#### On the appointment of the Regulatory Standards Board

10. The Association finds the proposed process for setting up the Regulatory Standards Board concerning, with the Minister for Regulation having the sole authority to appoint members of the Board.
11. Given the overarching powers of the Board over the Parliament and its legislative functions, we consider the authority of appointing the Board resting with the Minister for Regulation alone to be significantly concerning.
12. The Bill also does not state any provisions for appointing the Board members, except as stated in clause 38 (5) that "The Minister may only appoint a person who, in the Minister's opinion, has the appropriate knowledge, skills, and experience to assist the board to perform its functions." The Association finds this insufficient.
13. The Association also finds that the proposed structure, where the appointing Minister is also the one to whom the Board is accountable, worrisome as it raises concerns about the Board's actual independence and impartiality, potentially affecting the perceived integrity of its assessments.
14. The Bill must state a due nomination and election process, with the mandate for consultation with the Opposition on appointment of Board members. This would ensure that the Board is politically neutral and capable of acting in their role without ideology and partisanship.

#### On the functions of the Board

15. The Association finds clause 30 which states "The board may only carry out an inquiry, or consider a consistency accountability statement for a Bill, on the papers (and must not hold a hearing)" concerning. This limitation means that affected individuals, communities, or stakeholders will not have the opportunity to present their views directly to the Board through oral submissions. This could limit the Board's ability to gather comprehensive qualitative data on the lived experiences and diverse impacts of legislation, particularly

affecting those who may not have the resources or capacity to articulate their concerns effectively in written submissions. It may disproportionately affect less privileged groups who rely on direct engagement to voice their concerns, thereby potentially affecting equity in the scrutiny process.

### On the process of the Bill

16. The Association expresses its concerns around the process already agreed to by the Coalition Government. We refer to the Coalition Agreement between the ACT and National Parties, which states “Legislate to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency, by **passing** the Regulatory Standards Act as soon as practicable.” New Zealand has a highly respected democratic process in our Select Committees. While the basis of our parliamentary system is that of the Westminster system the process by which citizens are able to comment on legislation after its first reading in parliament is a core pillar of our participatory democracy. We are conscious that the use of the word ‘passing’ as opposed to ‘introducing’ indicates an undemocratic process that does not make room for any public opposition to the Bill. To negotiate the passing of legislation as a part of the formation of government sets a dangerous precedent and erodes public trust in our democratic process. This draft legislation has already been dismissed on at least two occasions via a full democratic process, it does not embolden trust or participation in democracy when to ensure, through private negotiation, that the wishes of the New Zealand public will be ignored.
17. Further, we note that the World Bank Regulatory Quality Index<sup>2023</sup> ranks New Zealand fourth highest with a score of 1.91 out of 2.5. The average for 2023 based on 193 countries was -0.03 points. The index is defined as capturing “perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development”. The Association recommends that the Committee take this into consideration when reviewing the need for the Regulatory Standards Bill.
18. It is our view that this Bill should not be progressed further. The opposition articulated on previous occasions remains, and the risk of harm to the New Zealand social fabric, public and economy articulated in previous and current submissions is too great for the Bill to be considered further.