



PSA 

Deaf & Disabled members network

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 81,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including for departments, Crown agents and other crown entities including Te Whatu Ora, and state-owned enterprises; local authorities; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

The PSA Deaf and Disabled Network is the PSA structure representing members who identify as Deaf or disabled. The Network has 1,200 members and its purpose is to promote the interests of Deaf and disabled people within the PSA, facilitate the sharing of information and experiences, encourage and support Deaf and disabled peoples' participation in the representative structures at all levels.

In this submission we start by defining what accessibility means and what we want accessibility legislation to deliver and then we outline the inadequacy of the current bill and avenues for improvement.

Access for All

In this section, the PSA Deaf and Disabled Network set out our broad definition of accessibility, and the barriers that Deaf and Disabled people face that must be removed. In order to have true equitable access to participate in society the devices, structures, and processes that are in place and create an artificial barrier to participation must be removed.

The PSA Deaf and Disabled Network sees accessibility as having qualities such as:

- Access for All approaches for physical and digital spaces
- Universal Design being the standard in housing, built up, and public spaces
- 'Needs Based' needs to be about achieving equity when being applied to decision making or assessments rather than being skewed towards financial or medical based bias.
- Similarly, 'reasonable accommodation' needs to shift to include a greater weight on removing inequity when assessing on what is reasonable.

Examples of what these qualities look like when being applied to a New Zealanders way of living and interacting with our society are as follows:

- Physical spaces are inclusive of all people with different needs. This includes (but not limited to) sensory stimulation considerations, wheelchair access that doesn't place someone apart from others, hidden disabilities from medical conditions being taken into account in design of spaces, and people with



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sensory disabilities are able to interact with the physical space without needing assistance.

- The 'public transport' or other 'public' services are truly able to be used by all people in an independent way regardless of whether you have a visible or hidden disability.
- Assistance animals are given greater legal protection and status. This includes recognising them as being more than just a pet when the animal dies. These animals are often people's key to independent living, so things like losing one animal and needing to bond/train another takes time. This is not often recognised in employment situations and creates barriers to entering into or maintaining employment.
- Legislation and participation in our democracy is made so that all can access these rights. This includes making sure legislation is in plain language so that neurodiverse people can digest what legislation, political policy, etc. is meant to be achieving and give feedback if they don't agree. Feedback and submission process is designed to capture the needs of disability community wanting to engage with the political system, whether this be via making New Zealand Sign Language a standard method of communicating or allowing non-verbal people to make submissions in a method appropriate for them.
- It should be noted that if disabled people are expected to live under legislation and a political system then they must be provided with a system that enables them interact with it in an equitable, dignified, and as independently as possible way.
- All documents and websites are screen reader compatible for both PC and mobile devices, and take into account colour blindness or other sensory requirements.
- Methods of contacting service centres and other customer care services are open to wider options than phone or email.
- Technology has standardised accessibility in it to reduce the already heavy financial burden having a disability creates in a 'user pays' economy. For example, keyboards and push button devices like EFTPOS machines have 'guide keys' that allow people to know where the numbers and letters are by touch. However, it should be noted that older technology does have these features, but a lot of these are being replaced with flat screen devices with no touch



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based non-visual guides. This makes shopping independently for low vision and blind people very difficult, especially if you have to get someone else to put your PIN in for you every time you use the EFTPOS machine.

- In addition to the above examples, accessibility needs to include removing anything that would increase the likelihood of a disabled person being a victim of a crime. This can include situations like the EFTPOS machines above, or having wheelchair access in locations that places the user at greater risk of sexual violence, accessibility is about recognising that disabled people have the same right to have their safety and wellbeing being considered as non-disabled people.

Access for All also includes the removal of barriers in the political and legal space. This does not just mean physical devices, but include a way of working that enables people with hidden disabilities like neurodiversity to be able participate fully.

For example, it has been hard for those with learning disabilities, ADHD, and other neurodiversity to compile their thoughts enough to write a submission on this piece of legislation. The very process of participating in our democracy is a barrier to people with disabilities. How can someone communicate what is important to them if the devices we use to collect societies input in decision making inherently excludes large numbers of people. All of this, of course, assumes that the neurodiverse person has been able to understand the proposed Bill, because none of our legislation is in plain English which is an important point if you want people to understand what they should be adhering to.

Access for All needs to be greater than providing a ramp via the loading bay to have access to a building, or a disability toilet with doors or a corridor not wide enough for wheel chairs. If the physical accessibility devices do not provide equal use, safety or dignity to a disabled person as an abled body person, then a legal and enforceable mechanism to remedy this needs to be in place.

For example, it would not be considered socially acceptable to make a woman go through a loading bay and down a dark alley to come and go to work. People would rightly point out that this endangers the woman by placing them in situations where attacks are easily able to happen.

However, this is exactly what people consider acceptable for disabled people, and it is as if society thinks that disabled people do not have the same threats to their safety and wellbeing concerns as the non-disabled. The legislation must have the power to enforce accessibility requirements so that the same level of socially acceptable circumstances are applied to disabled and non-disabled people. This is what is meant by living with equal dignity, access, and participation in society.



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Needs Based to be Equal Access should strengthen existing legislation(s) that discuss 'reasonable accommodation' to be an assessment to be greater than the heavily monetary only consideration it is now.

One example of this is assessing the accommodation in relation to considering it acceptable to another demographic. For example, in a fire evacuation is it acceptable that all non-disabled white men wait in the lift lobby until the Fire Department arrives and carries them out of the building?

In this example, if the answer is no for the non-disabled white men but yes for a disabled person, then the reasonable accommodation that is being presented would need to be reconsidered as it does not bring the disabled person into equal 'standing' as their peers. The proposed legislation must have the power to enforce a needs based accessibility view point to 'reasonable accommodation' debates so that accessibility barriers are removed.

Recommendations for Accessibility for New Zealanders Bill

New Zealand's currently approach to accessibility is clearly inadequate and this Bill does not provide for the substantial change is needed.

The key aspects of effective accessibility legislation are that it is codesigned with Tāngata Whaikaha, disabled people and their organisation and that it provides for Enforceable accessibility rights through:

- Timeframes to improve accessibility
- Minimum standards of accessibility
- The ability to investigate accessibility breaches

One of the more troubling aspects of the Bill is the lack of anything enforceable, or even appealable, that enhances the rights of disabled people in real and measurable ways.

There are many existing examples of legislative devices that law makers could have used as the basis of the Accessibility for New Zealanders Bill.

The most common of these devices is the use of Regulations attached to a piece of legislation that are able to be updated without an amendment Act being needed provided that the updates are allowable under the original Act. This allows for complex matters to be accounted for, and evolve over time, without making legislation so vague that it is unenforceable. Examples of this device can be found in the legislation surrounding the building sector and in the Healthy Homes Act.



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Another element missing is the element of accountability when linked directly to providing accessibility. A useful lesson from the Health and Safety in the Work Place Act, was the removal of 'contracting out' responsibility for providing a safe workplace. The responsibility and accountability for providing accessibility, regardless of the nature of that accessibility, must not be able to be avoided with this legislation.

In order to realise enforceable accessibility rights, legislation needs to provide a mechanism for a remedy in instances where accessibility has not been provided.

The proposed legislation should have the power of investigation and enforcement abilities too. It should have a legal device allowing it to look at accessibility on behalf of New Zealanders, and without necessarily receiving a specific complaint, if it believes that a pattern or trend is emerging that warrants investigation. This is a similar legal device as the one introduced in the Residential Tenancies Amendment Act 2020 when investigating landlords for breaches of the Act. From there the legislation should allow for enforcement activities until the situation is remedied, and penalties for delays or repeat offenses.

The legislation must have the power to enforce accessibility and hold the Government, Parliament, and the Judiciary accountable for their failures to provide equal access to our democracy and legal proceedings. This mechanism must be independent with a clear mandate to be outside politics and legally enforceable.

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