

Accessibility for New Zealanders Bill

We are writing this submission on behalf of the New Zealand Speech-Language Therapists' Association which represents the speech-language therapy community in Aotearoa.

1 Our key messages

This legislation is not ready to be passed

We agree that accessibility in Aotearoa requires serious attention, but that the legislation proposed is not yet ready to be passed.

We agree that action must be taken urgently to ensure all New Zealanders can participate in all aspects of their lives and that accessibility barriers are addressed effectively as the status quo is intolerable for many and multiple breaches of human rights currently occur. However, whilst we agree with the aims of the legislation, **we do not agree that it should pass in its current form.**

We urge the committee to review the points we make below and those made by many disabled people, such as the submissions from the Disabled Persons' Assembly and the Access Matters Campaign and revise this legislation.

The Accessibility for New Zealanders Bill covers multiple aspects of accessibility, but the area our submission relates to is specific to our scope of practice as speech-language therapists – our submission focuses on issues relating to **communication accessibility.**

2 Who we are - New Zealand Speech-Language Therapists' Association

Our submission draws on the experiences our membership of the New Zealand Speech-Language Therapists' Association have had as speech/language/communication specialist professionals working with clients of all ages in multiple settings. Our members work alongside children, young people and adults who experience a wide range of communication accessibility barriers. Some of our membership have also experienced communication access barriers first-hand themselves or through experiences their whānau have had.

Ensure all voices are heard and centre the voices of those with lived-experience of accessibility barriers

We are not wanting to speak FOR the disabled community. We encourage the Committee to listen to the expertise of the community, which will be highly varied in relation to communication access, (and other accessibility issues) and therefore it is essential that a broad range of views are gathered and weight is given to the views of those who have direct lived-experience of accessibility barriers and who can generate the solutions that they deem are relevant and most effective.

The current consultation process is not adequate - some critical voices will not be heard

We are grateful for the efforts the Select Committee have made to address some of the communication barriers that might be involved for some individuals to submit their views in this legislation submission process. However, even though opportunities have been provided to submit views in a range of formats in order to address *some* communication access needs (those who use NZSL, those who want to audio-record a submission, those who want to present an oral submission etc), there will be those in Aotearoa who would need a process of consultation on this topic that accommodates other communication needs in a highly flexible way.

We are concerned that some voices will be missing from this submission process because communication issues often create a barrier for people to participate and have their say, and addressing such issues can be a highly complex task requiring a bespoke approach for some individuals or groups. Some of the people New Zealand Speech-language Therapists' Association members work with have speech, language and communication difficulties or disabilities which means they may not know about this legislation or be in a position to express a view about it, yet it may have profound implications for their lives.

3 More work needed to define and describe communication accessibility in this Bill

Addressing communication accessible barriers effectively in Aotearoa requires a more comprehensive scope and set of processes than laid out in this Bill in its current form. We feel that the Bill does not demonstrate an adequate appreciation of the complexity of the issues concerned relating to communication access. It might raise some much-needed awareness, but it will not result in the changes that are required. In relation to communication accessibility, the Bill needs significant development.

Communication access needs are diverse

Some people have communication access needs that might only impact them in certain specific situations and might be temporary, and it might be possible to implement accommodations that enable effective communication access. This might be quite a simple task, depending on what is involved (the communication profiles of those involved, the topic being communicated about, the context, the awareness, skills, knowledge, and resources of the communication partners/stakeholders).

For other people or situations, a range of complex bespoke accommodations may need to be designed and implemented. This has resource implications to ensure the person's needs are accurately recognised and identified, their own views are gathered, and the necessary resources are then in place to enable barriers to be addressed effectively. This is not always an easy task for a range of reasons.

Communication access barriers need to be identified accurately and can have serious consequences

Many people who experience communication access barriers have 'invisible disabilities', and many clients tell us of situations where their needs have been misunderstood, often resulting in opportunities for participation being denied, but also sometimes resulting in discrimination or abuse. We work alongside people who tell us that their communication access requirements have frequently been unrecognised or misunderstood, and they have not had the accommodations they

required. These barriers present differently for people of different ages and in different contexts, but just some examples are given below.

Adults have told us

- the accommodations they have needed to address communication barriers often have not been provided,
- they have been ignored or patronised by professionals,
- asked to leave shops,
- turned away from taxis,
- mistaken for being drunk or accused of behaving in ways that have attracted the attention of the Police.

They tell us that at times, sometimes in high stakes contexts,

- they have not understood what others have asked them or have required them to do,
- they have not had the opportunity to express their views to others,
- communication strategies, devices or resources have not been used, or
- they have faced documentation that is confusing and overwhelming.

Our public services including education, health, disability support services, work and income systems, immigration, and justice all require language and communication skills to access and navigate, which sometimes leads to inequities of access and experience.

Some youth and adults have said that they have experienced being under a mental health section in the hospital for extended periods because they couldn't communicate effectively enough to participate in the required psychological assessment, and accommodations were not explored and implemented.

Children and young people have told us that in education, because of spoken and written communication barriers:

- others have formed inaccurate and damaging views of them, concluding they were rude, unmotivated, and less capable,
- they have been required to participate in lessons where they can't understand the teacher,
- they sometimes miss out on important information and knowledge because it wasn't presented in a way they can understand,
- they sometimes face assignments and tests where the directions are too wordy,
- they haven't been able to express their views because others have not known how to communicate with them in ways that work best for them,
- making and keeping friends has been challenging so they have been isolated which has impacted on their mental wellbeing,
- they can't always participate effectively in educational disciplinary processes and as a result have sometimes been involved in unjustified or more severe disciplinary processes (with resulting serious consequences for them), sometimes resulting in exclusion, stand downs or denial of enrolment in school.

People are frequently unaware of the unmet language and communication needs underpinning such challenges. Many tamariki and rangatahi do not have any or sufficient access to professionals and systems that are well-equipped to recognise and support such needs. Our profession of speech-language therapy is often highly limited or absent in settings where it could provide effective solutions to accessibility barriers related to communication.

The impact of such communication breakdowns is often the cause of stress and trauma for people and damages their mana. Some face communication access barriers that have a profound and sustained impact across multiple contexts.

The processes that are needed must address the complexity experienced by many people

These communication accessibility issues might intersect with a range of other accessibility barriers faced by the person. The person might experience these barriers in all the settings relevant to their life over their lifetime, resulting in a profound and serious impact. These issues need urgent attention, but our concern is that this legislation will not result in the change that is required.

4 What is meant by communication accessibility?

We want to know how communication will be defined within the scope of this legislation. When we think about communication as speech-language therapists, we think about spoken, signed and written language, as well as other aspects of communication, such as body language, facial expression, tone of voice, and the role that objects, symbols and pictures might have in communication as well as spoken and written words and sentences.

We think about someone's engagement in interactions, their comprehension of what is being communicated, and the way messages might be expressed by all the communication partners involved. A multitude of factors can impact on the resulting communication. The level of complexity of the communication involved can vary considerably and might involve words or no words at all. It can be anything from a raised eyebrow carrying a message to another person, to someone making a detailed, complex persuasive speech to a crowd. This legislation will need to clarify carefully what 'communication' is considered to be, what accessible 'information' might mean to different people, and what constitutes communication barriers and communication accessibility.

What are the workforce implications of addressing communication accessibility in relation to this legislation?

Speech-language therapists' services are integral to communication accessibility issues for many people in Aotearoa but not all who currently need our services can access them. This needs to be addressed, whether or not this legislation passes. We work with people to enable effective communication across the entire lifespan – from babies, right through to those at the end of their lives. We also work across a range of diverse contexts, from working within people's homes, educational settings, health contexts, such as hospitals and community rehabilitation settings, in justice, care and protection and a range of community settings.

Essentially, anywhere where someone needs to communicate their views or understand what someone else is communicating to them is a context that needs consideration from a communication access perspective. We are interested to understand more about the contexts that are deemed relevant in this legislation, and we also want to know what implications there will be for our profession if this legislation passes. How will communication barriers be addressed and what workforce considerations will this entail, for our profession and others?

How will this legislation intersect with existing legislation and current processes relating to communication accessibility?

Some of our members are engaged by some government agencies (and sometimes other agencies) as Communication Assistants. This work involves understanding the unique communication access needs of an individual, and accurately identifying the potential communication barriers that might exist in the specific situations that are relevant for them.

Communication Assistants work with the person to create a set of recommendations for managing these communication access needs in a specific context e.g. a police interview, cross-examination during a criminal trial, participating in a Family Group Conference, participating in a Parole Board Hearing etc. The Communication Assistant then works with all involved to implement the recommendations and monitor the effectiveness of these, intervening to explore solutions to address communication barriers if they arise. The legislation that enables the appointment of a Communication Assistant in legal contexts (e.g. s80/S81 of The Evidence Act and parts of the Oranga Tamariki Act) would need to be considered in relation to this proposed Accessibility for New Zealanders Bill, and there is likely to be other legislation that is also relevant. Any processes that this Bill under consideration would impact would need to be considered carefully with the existing policies and processes relating to a wide range of government and non-government agencies and institutions.

5 Questions that the Select Committee must consider in relation to this legislation

The Bill in its current form raises some complex questions that need more consideration about what it is seeking to do and how it would achieve that in relation to communication accessibility.

Communication access is a term that captures a broad and complex set of concepts. What is communication accessible for one person may be completely inaccessible for another, depending on many variables relating to the people concerned, the context and what it is that is being communicated about.

Communication is a dynamic process that occurs between people, is highly complex going beyond the physical (body) into social, psychological, spiritual and other domains. Communication barriers may impact on the person having a say, having their views fully understood by others, understanding what others have said or written. It may impact on them advocating for their own needs, enacting their rights, making decisions, and participating in a range of activities of daily life, as well as impacting on their participation in high-stakes contexts.

The Committee that would be established within this Bill, the Minister responsible, and the various other stakeholders would specifically need to carefully consider the following points:

How would communication access be defined in the Bill?

- Across the lifespan - for children as well as adults?
- In relation to disability as well as for those who do not identify as having a disability but may still experience communication access barriers?
- In relation to culture and ethnicity? Communication is intrinsically related to culture and within Aotearoa people identify with a wide range of cultures, and many are bi- or multilingual, and often speak different languages or are non-English speakers.

- It would be essential that the legislation and resulting processes and actions honour Te Tiriti o Waitangi, and that tangata whenua are comprehensively consulted.
- How would the definitions that would be relevant in this Bill intersect with other legislation, policies and processes relevant to Aotearoa? In particular, we would want to see how this Bill relates to the relevant communication access aspects of the following: United Nations Convention on the Rights of Persons with Disabilities, the United Nations Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Evidence Act 2006, the Oranga Tamariki Act 1989, etc.

What contexts would be considered relevant for communication access within this Bill?

- People communicate in the places they live in face to face interactions, online, over the phone, but also in multiple contexts outside their homes, for a huge range of reasons, e.g. in day to day dealings with family, neighbours, friends and strangers, and in settings related to education, health, social services, labour/employment, recreation, personal, religious and cultural practices, and in activities related to participation in civil and legal process such as interacting with police, lawyers, judges and other professionals in legal contexts.

What happens if communication access barriers are identified as a result of this Bill?

- What knowledge, skills and resources are involved for whom in enabling communication access/dismantling communication barriers if this Bill passes?
- What does this mean for the training, practices, and monitoring of stakeholders?
- Who decides who might have a communication access need (and who might not) and what steps would be defined in addressing this?
- What happens if there was a dispute about whether there was or wasn't a communication access need, or a dispute about how it had been addressed?

Who decides if communication access has been achieved or not, using what criteria and what would then occur?

6 Our conclusions

Aotearoa needs strong legislation that will be effective in addressing accessibility issues, including communication access.

We do not believe that sufficient consideration of these and the issues raised by other submissions (e.g. Access Matters, Disabled Persons' Assembly) has occurred which means that this Bill, as it has been drafted, will not achieve what it sets out to do.

The establishment of an accessibility committee will not enhance accountability and co-ordination across the Public Service and Government to the level it intends.

We do not believe that clear responsibilities for the Minister for Disability Issues, the chief executive of Whaikaha - Ministry of Disabled People, and the Accessibility Committee will be achieved by this Bill in relation to Communication Accessibility as the concepts have not yet been sufficiently defined and addressed, and the processes proposed will not achieve what they aim to.

Although some knowledge and awareness about addressing accessibility barriers might be achieved, which is definitely needed, this will not be sufficient to enable those who face these barriers to participate and enact their rights in all the contexts they may need and want to.

Effective legislation relating to accessibility must

- result in requirements that can be enforced. We do not believe the current legislation has an effective means of enforcement.
- be applicable across all relevant contexts. We understand the current legislation is limited in terms of the contexts it applies to. It must apply to private as well as central government sectors.
- set out measurable standards and processes which have clear timeframes and include establishing clear roles and responsibilities of those who will oversee and enforce the legislation.
- not be reliable on the values, priorities and decisions of individuals who may only be in role for a limited time period such as the Minister. Changes to accessibility need to be sustainable over time, regardless of who is in post.

We request that a consultation process that incorporates the issues we have raised in this submission, together with the issues raised by other submitters (especially those with direct lived-experience of accessibility barriers) is undertaken to ensure that all the views of all whose needs and rights that this Bill will impact are considered. The current legislation needs significant revision to consider communication accessibility.

We would like to make an oral submission and would welcome the opportunity to provide additional information and to help the Select Committee consider how they might canvas the views of those who might have communication barriers in participating in this consultation process.
