# Overview of the Access Matters Example Accessibility Bill

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# Transcriber's Note

If reading this etext on a portable braille device, please note that it is unproofed by touch.

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# Intro

Private and confidential

The Access Matters Campaign has the vision that every New Zealander should be able to fully participate in society, have the opportunity to learn, to get a job, and to take part in community and social life.

The Access Alliance has developed the thirteen principles we want to see in Aotearoa New Zealand's accessibility legislation. These principles also form the core of the Access Matters Campaign to advocate for accessibility for all, human rights and social justice.

Research had been commissioned to explore the concepts needed to advance this legislation published in "*Let's make Aotearoa New Zealand Accessible for All*".

The current government policy, called a legislative framework, coordinates current government systems including government agencies and regulators. However, the Access Matters Campaign believes this coordination model already currently exists and a new law is not needed to reinforce this coordination model.

From the analysis that has been conducted of this current policy, it does not contain the following features that the Access Matters Campaign is advocating for:

Covering all people experiencing accessibility issues, not only those with disabilities

* Standards for accessibility
* Notification processes when barriers have been encountered
* Appointing an Independent Regulator
* Dispute Resolution mechanism

The example accessibility Bill is an imagining of what the system may look like when considering the principles, research and outcomes we are looking for.

### Support documents

Research:

Let's make Aotearoa New Zealand Accessible for All

United Nations Convention on the Rights of Persons with Disabilities.

United Nations Declaration on the Rights of Indigenous Peoples

Useful legislation:

Accessible Canada Act

Public Service Act 2020

Crown Entities Act 2004

Resource Management Act 2001

WorkSafe New Zealand Act 2013

Health and Safety at Work Act 2015

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## Principles of the Access Matters Campaign

### Principle 1) The Act Applies to all

Detail

a) This Act applies the definition of disability provided by the United Nations Convention on the Rights of Persons with Disabilities.

b) The Act is applied to "PCBU's" or Persons conducting a Business or Undertaking. This is a broad term that not only covers for profit businesses of various structures, but not-for-profit organisations such as Charities, government departments, and local council.

c) The Act applies standards across all environments and through identified domains.

Reference:

a) Page 6, Section 5

b) Page 6, Section 9

c) Page 13, section 22

### Principle 2) The act sets a timeline

Detail

a) This act aims for a barrier-free New Zealand by 1 January 2035.

b) Review periods are defined at 4 years

Reference:

a) Page 8, Section 13 (1)

b) Page 13, Section 21 (1)(i)

### Principle 3) The Act sets the bar

Detail

The intention of the Act is to set enforceable and non-enforceable standards and establish a system that further builds on existing policies, legislation and regulations.

Reference

Part 4, Page 13

### Principle 4) The Act provides accessibility in all areas of life

Detail

a) The Act establishes a process to identify domains and then to establish Standard Development Committees to identify barriers for removal.

b) The Act sets duties to notify disabling experiences and to adhere to standards wherever reasonable.

Reference

a) Page 13, section 22

b) Page 8, Part 2—Removing Barriers for all.

### Principle 5) The Act sets policy

Detail

The Act ensures that a regulator works across the public sector to set plans and ensure they are implemented.

Reference

Page 15, section 26

Page 42, section 101

### Principles 6) The Act champions access to all goods, services, and facilities

### Principles 7) The Act champions accessible workplaces, employment and education

Detail

a) The Act sets standards of which PCBU's will abide by through the production of plans and policy within their respective entities.

b) Standards will also provide accessible workplaces, employment and education by working within those domains.

Reference

Page 14, Section 23−25

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### Principle 8) The Act will charge government with the responsibility to lead, educate, train, inform and review

Detail

The Act establishes a regulator that will be responsible for leading, educating, training, informing and reviewing aspects of the accessibility system.

Reference

Page 9, Part 3

### Principle 9) The Act is enforceable

Detail

The Act details a range of enforcement channels and describes dispute resolution and a Tribunal for enforcement matters.

Reference

Page 16, Part 5

### Principle 10) The Act is made real through regulations

Detail

Regulations are a key output of this Act and are essential for ensuring compliance.

Reference

Page 16, Section 26

### Principle 11) The Act will ensure public funds are not used to create or perpetuate obstacles to full accessibility in all areas of life

Detail

The Act states that public funds will not be used to create barriers.

Reference

Page 15, Section 25 (k)

### Principle 12) The Act is a lens through which to vet legislation

Detail

There's no legislative precedent for a statute to vet other legislation. However, this is done through policy where the consultation and drafting through departmental reporting and the Parliamentary Counsel Office can ensure that new legislation and amendments do not create new barriers.

### Principle 13) The Act has real force and real effect

Detail

The Act is an ambitious attempt to define the accessibility system at a more advanced stage where enforcement is defined and the regulator has powers.

Reference (blank)

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## Accessible Aotearoa New Zealand system

Flowchart.

tn: A flowchart demonstrates how the Accessible Aotearoa New Zealand system works. All pathways originate in the first section (Domains/Environments) and conclude in the last section(Accessible Aotearoa New Zealand). There are three separate pathways shown to Accessible Aotearoa New Zealand. The primary and most direct pathway; and the two less direct and more complex pathways. Text from the flowchart is listed below and for ease of use is organised using the three separate pathways discussed. Supplementary transcriber's notes are also shown in parentheses. End tn.

### (Primary pathway)

Environments (contained within environments is the smaller)Domains

(From Domains to Accessible Aotearoa New Zealand)

Persons conducting business or undertaking

* People with disabilities or other access needs
* Disability organisations
* Accessibility Advisory Group

(Leading to)

Accessible Aotearoa New Zealand

(This concludes the primary pathway)

### (Secondary pathway)

(From Domains to Accessible Aotearoa New Zealand)

Persons conducting business or undertaking.

* Inspect (or) Dispute Resolution Scheme

(arrow from *Dispute Resolution Scheme* to)

* Tribunal

(Leading to)

Accessible Aotearoa New Zealand

(This concludes the secondary pathway)

### (Third pathway)

(From Domains to Accessible Aotearoa New Zealand)

Persons conducting business or undertaking.

* Notify (or) Standard Development Committees

(arrows from *Notify* to both *Accessible Aotearoa New Zealand* and *Designated Agencies*)

* Accessible Aotearoa New Zealand
* Designated Agencies

(arrow from Designated Agencies Leading to)

* Accessible Aotearoa New Zealand

(arrow to)

* Minister for Disability Issues.

(This concludes the third pathway)

End flowchart.

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## Features of the AANZ system

tn: Features are shown as headings in the section below and are followed in each case by notes. End tn

### Accessible Aotearoa New Zealand (AANZ)

Notes: Accessibility system regulator, a Crown Entity that has powers to oversee the accessibility system. A Crown Entity is needed to properly administer the various functions of the system, such as the notification system, investigations and investigators, system learning through the notification and disputes systems, setting and reviewing standards, and working with other regulators (designated agencies) and the Ministry.

### Minister of Disability Issues

Notes: Minister responsible to advocate for disability issues and prepares the New Zealand disability strategy. The Minister is key for facilitating enforceable standards.

### Designated Agencies

Notes: Public agencies and regulators involved with developing standards and sharing information to AANZ. Designated agencies will look to accessibility issues within their areas of responsibility and will help set standards as part of the Standard Development Committees set by AANZ.

### Accessibility Advisory Group

Notes: Advisory group made up of members from organisations representing disabled people and people with other access needs. They provide sector advice to AANZ and keep their members and stakeholders connected to the system.

### Standard Development Committees

Notes: Committees appointed by AANZ made up of experts and stakeholders (such as PCBU's) from identified domains, designated agencies and organisations representing disabled people and people with other access needs. Standard Development Committees set and review standards within their defined domains.

### Organisations representing disabled people and people with other access needs

Notes: Organisations that represent disabled people and people with other access needs. These organisations are a key part of providing a voice of those disabled people and people with other access needs' lived experience within the system. They represent their people on the Accessibility Advisory Group and form a part of the Standards Development Committees.

### Disabled people and people with other access needs

Notes: This group includes but is not limited to disabled people, older people, carers, parents, the temporarily injured, people with chronic health conditions, people with English as a second language, and any other access needs. Their lived experience is essential to develop an accessibility that applies to all.

Their interactions across environments, domains, and workplaces will enable the feedback needed through notification if they are faced with barriers.

Their participation with organisations representing disabled people and people with other access needs ensures that we get greater inclusion, experience and expertise contributing to the system.

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### Persons Conducting Business or Undertaking (PCBU)

Notes: A person conducting a business or undertaking whether or not it is for profit or gain. This includes Government departments (including regulated agencies), local council, and charities.

PCBU's have an accountability to standards as they are developed. They oversee businesses or undertakings and have responsibility to ensure accessibility for all by understanding and complying with accessibility standards.

Having representation of PCBU's on standard development committees ensures that standards are fit for purpose and inclusive.

### Dispute Resolution Scheme

Notes: The scheme that handles disputes within the accessibility system. The scheme will attempt to resolve any dispute between PCBU's, people, and the regulator.

### Tribunal

Notes: The legal forum for handling disputes, appointed by AANZ.

The Tribunal works PCBU's and people within the system where a dispute due to standards arises.

### Notify

Notes: The process to notify the regulator of 1) any barriers/disabling experiences 2) instances where standards are not met.

Notification occurs within a domain or environment when a person comes across a barrier.

### Inspect

Notes: The process that the AANZ conducts to inspect and investigate barriers, disabling experience, or when standards are not met.

### Environment

Notes: Somewhere where people exist or occupy a space. Environments contain different features. Some of these features can be barriers which disable people.

### Domain

Notes: Subsets of Environments that have related features. Multiple domains may interact within a single environment. For instance, a person with a mobility impairment may be excluded from public transport because of digital barriers that inhibit access to relevant information, or physical barriers that exclude them from accessing or operating a vehicle.

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## Features of Example Accessibility Bill

### Part 1: Making Aotearoa New Zealand accessible for all

Feature: Interpretation & meaning

Notes: Definitions of key terms and concepts

Feature: Purpose and principles

Notes: (blank)

Feature: Person Conducting a Business or Undertaking (PCBU)

Notes: PCBU is a broad concept used throughout the Health and Safety at Work Act to describe all types of modern working arrangements.

Most New Zealand businesses, whether large corporates, sole traders, or self-employed, are classed as PCBUs.

The difference between a business and an undertaking is:

* businesses are usually conducted with a view to making a profit and have a degree of organisation, system and continuity.
* undertakings will have elements of organisation, systems, and possible continuity, but are usually not profit-making or commercial in nature.

This includes but is not limited to; Government department or government agency, Local council, School or early childhood education service, Charities.

This is a key aspect of ensuring the Act applies to all.

### Part 2: Removing barriers for all

Feature: Duty to identify barriers and disabling experience

Notes: Core part of the legislation

Feature: Requirement to keep records

Notes: Part of systemic learning which is crucial for identifying barriers and setting standards, and assessing whether standards are working well.

### Part 3: Accessible Aotearoa New Zealand

Feature: Establishment & Crown Entity

Notes: This section established the independent regulator as a Crown Entity.

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Feature: Board

Notes: The Board is made up of disabled people and people with other access needs.

Feature: Advisory groups

Notes: The Accessibility Advisory Group is made up of members from disabled people and people with other access needs.

Feature: Purpose

Notes: This outlines the purpose of the regulator.

### Part 4: Accessibility Standards

Feature: Accessibility standards

Notes: This outlines what accessibility standards are and what is made up within them.

Feature: Identifying domains

Notes: This sets out the process to identify domains—essentially for proportioning accessibility standard development work.

Feature: Standard development process

Notes: This outlines the process of developing the standard.

Feature: Standard development committees (SDC)

Notes: This outlines what SDC's are, their make-up, and function

### Part 5: Enforcement and notification process

Feature: (blank)

Notes: This section outlines the notification process and the enforcement pathways—both ADR and Disputes Tribunal pathways

Features: Improvement notices

Notes: Powers to issue notices, the content of the notice and compliance processes and expectations.

Feature: Disputes Tribunal

Notes: Outlines the setup and disputes pathways through the tribunal. Details the powers of the tribunal for enforcement and its authority—including to civil proceedings and appeals to district court.

Feature: Investigations and complaints

Notes: This outlines the rights of individuals to file complaints and the initial complaints processes.

Feature: Power to conduct investigation

Notes: Details the power and expectations the regulator has in conducting investigations into complaints.

Feature: Alternative Dispute Resolution Scheme (ADRS)—mediation

Notes: This outlines the process of non-judicial alternative disputes resolution scheme—in this instance it is a through facilitation and mediation. Also details the pathway through mediation, settlements, and referral to the disputes tribunal.

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Feature: Enforceable undertaking

Notes: This outlines the use of enforceable undertaking, when they are used, and compliance.

Feature: Reviews appeals

Notes: This outlines the internal reviews and appeals process, the application process, and the responsibilities of the regulator.

Feature: Infringement offenses

Notes: This outlines the proceeding for and use of infringement notices by the regulator.

Feature: Inspectors

Notes: This details the role, appointments, powers, and responsibilities of the inspectors.

Feature: Accessibility plans

Notes: This outlines the responsibilities of the regulated entity to produce an initial accessibility plan and what must be included in the plan, as well as future implementation reports and monitoring.

### Part 6: Administration

Feature: Role of AANZ

Notes: The role of Accessible Aotearoa New Zealand within the Accessibility system.

Feature: Designated agencies &and role

Notes: What designated agencies are and their role

Feature: Joint policy direction & information sharing

Notes: Collaboration across the designated agencies and the sector

Feature: Requirement to notify

Notes: Ensuring that regulators and designated agencies notify of barriers

### Schedule 1

Feature: Example Domains

Notes: Includes examples of domains that are often used and could also be used in standard development.

End of Overview of the Access Matters Example Accessibility Bill