

[Date]

Social Services and Community Select Committee

Parliament Buildings

Wellington

Submission on the Accessibility for New Zealanders Bill

Tēnā koe [or Hello]

[Your organisation] welcomes the opportunity to submit on the Accessibility for New Zealanders Bill (**Bill**). [Insert a brief summary of your organisation, including its aims, structure/membership, and why the Bill is relevant to its operations].

[Your organisation] supports the legislative action to address the accessibility barriers that prevent disabled people, tāngata whaikaha and their whānau, and others with accessibility needs from living independently, and which aims to grow accessibility practices in New Zealand.

[Your organisation] believes that New Zealand should be a place where every person, regardless of their disability, should be able to fully participate in a society that recognises and provides for their access needs. We believe it is not only possible, but essential, that New Zealand is fully accessible by 2035, and welcome the introduction of a legislative framework to enable this. While we are generally supportive of the Bill, we suggest that additional amendments are required.

[Your organisation] would like / does not believe it necessary to be heard by the Committee on this submission. [If wishing to be heard] We are able to facilitate this [choose one] in person / via video conference, and ask that the Social Services and Community Select Committee contact us to arrange this [please provide contact details before or after submission if wishing to be heard].

Executive Summary

[You may wish to include an executive summary where your submission is longer than several pages. However, unnecessarily long submissions are generally discouraged as they may be too long for Select Committee members to consider fully.

If included, this part should summarise the key points made under the headings below in 1-2 paragraphs (following the same structure the headings provide) enough that a Select Committee member could generally understand your position and supporting reasons].

Areas of Support

[Your organisation] believes that wider scope of removing accessibility barriers will result in faster and more effective removal of barriers. For this reason, we support that the Bill applies to the Crown, Government departments, departmental agencies, statutory entities, Veteran's Affairs and local authorities (**specified entities**).

[Your organisation] welcomes the creation of an Accessibility Committee (**Committee**), to provide advice and recommendations to the designated Minister (**Minister**) on accessibility barriers and practices and the prevention or removal of those barriers by specified entities, and to assess and report on progress made by specified entities in implementing the Committee's recommendations. We support the Committee being provided the power to request relevant information from specified entities in order to assess and report on progress.

We support legislative and policy change that recognises the role of te Tiriti o Waitangi and the importance of striving towards equitable outcomes for tāngata whaikaha and their whanau. We welcome the inclusion of clause 5, providing for te Tiriti, the creation of a Māori nominations panel in clause 13, and the duty on the Committee in clause 16(1)(a) to give effect to the principles of te Tiriti and consider tikanga and te ao Maori in exercising its functions.

[Your organisation] believes that effective development and implementation of public policy is essential for enhancing and improving access to goods, services and programmes not available to those with disabilities, and supports the ability of the Committee to influence those through the powers above.

We recognise that the environment in which accessibility barriers and obstacles exist is evolving, and that the legislative framework will need regular review to ensure it can respond to this evolution. For this reason, we support the requirement for a review of the Act in clause 25.

Meaningful change for disabled people, tāngata whaikaha and their whanau will not occur without effective legislative and government measures that provide for this. [Your organisation] supports a Bill that provides accountability to specified entities to enable this.

[Recommendations backed by statistics and other evidence will make your submission more persuasive. Refer to [Access Matters Campaign Key Statistics 2022](#) for additional information and data you may wish to include in support of your submission]

Recommendations

[Your organisation] suggests several amendments that would strengthen the Bill and further provide for its purposes. We have categorised most of these into four parts: standards; the establishment of a regulator; a barrier notification system; and a disputes resolution process. In addition, we make some preliminary recommendations below.

Further to our submission above that the more bodies that are accountable, the faster and more effective improvements will be, we note that the Bill as proposed only applies to specified entities, which include government departments, departmental agencies, statutory entities and local authorities. [Your organisation] believes that, to better remove accessibility barriers, this should be extended to persons conducting a business or undertaking (**PCBUs**) as defined under the Health and Safety at Work Act 2015.

As discussed above, we support mandatory review of the Act, however, we believe that a three-year review, as recommended in the Regulatory Impact Statement (**RIS**),[\[1\]](#) will allow for more responsive change than the current five-year period.

To ensure timely accountability to Parliament, we recommend that clauses 17(3) and 25(4) be amended to provide that the Minister present the annual monitoring report and report on the review of the Act to the House of Representatives as soon as is practicable "and no later than 20 working days after receiving the report."

[Your organisation] notes also that the Committee's functions and duties, as outlined in subpart 2 of the Bill, are extensive, and may be onerous given Committee members will likely be part of other groups or organisations with additional commitments. We note that support and adequate resourcing of the Committee will be essential to ensure the Bill achieves its objectives.

[Your organisation] suggests that the definition of "disabled" in clause 11(2)(a) of the Bill should be expanded to include all individuals with access needs.

Accessibility Standards

[Your organisation] supports the creation of meaningful accessibility standards that (among other things) endeavour to design and build an environment that is accessible for all New Zealanders, promote awareness, and ensure that services meet the needs of disabled people and treat them with respect and independence. We agree with the Legislation Drafting Advisory Committee that laws should set out what people can and cannot do, rather than merely setting out aspirational goals.[\[2\]](#)

We recommend the Committee be granted the power to develop both binding and non-binding standards for identified domains (physical and digital environments). The creation of standards should be subject to a consultative process prescribed by the Bill, which should include consultation with Maori, relevant organisations representing disabled people, tāngata whaikaha and their whānau, specified entities and any other stakeholders the Committee considers relevant. The standards may then be established via regulations made under the Act, with failure to comply with binding standards constituting an offence. [Your organisation] recognises that not all sectors are amenable to binding standards, and believes that allowing for the Committee to develop standards for phased implementation via regulation will allow for a robust process of developing, testing, learning and adjusting, which will ensure standards are not onerously imposed.

Further, [your organisation] recommends that the Committee be empowered to make binding recommendations to specified entities as part of its progress assessment

process. We also recommend that the Minister be statutorily required to take into account the Committee's recommendations when directing the Ministry of Disabled People or otherwise undertaking policy decisions.

Currently, the Bill does not provide any obligations on specified entities (including on PCBUs). [Your organisation] recommends that, in addition to standards and recommendations, specific statutory obligations be imposed, including a duty to identify barriers, a requirement to keep records, and to provide accessibility plans.

Establishment of a Regulator

[Your organisation] supports Cabinet's decision in 2020 that accessibility legislation sit alongside regulatory systems, and the Minister for Disability Issues' acknowledgement that officials should develop a legislative approach to enforceable standards to be incorporated into the legislative regime.^[3]

To give effect to this, we recommend that a regulator be established to monitor the compliance of specified entities. This regulator should be a Crown entity with powers of investigation and enforcement, including the ability to accept enforceable undertakings.

We note that the Human Rights Act 1993, which prohibits discrimination on the basis of disability, does little to practically address discrimination. Further, it is a complicated and costly process to address discrimination through the Human Rights Commission, and its tendency towards confidential settlement of disputes means there is little system learning. We recommend that the Bill provide the regulator to bring an action for infringement against an infringing entity. We note that the power to issue fines is typically reserved for the courts.

Where initial enforcement processes are ineffective at remedying the infringement, the Bill should provide the regulator the ability to bring an action against the infringing entity to the District Court or High Court, similar to the enforcement mechanisms under Part 6 of the Commerce Act 1986.

Barrier Notification System

To ensure that Aotearoa New Zealand is barrier free by 1 January 2035, the Bill should provide for a barrier notification system. This system will enable the regulator to set processes, plans and systems to adequately record barriers identified through notification.

This notification system should require the regulator to provide an anonymous mechanism through which an individual can notify the regulator of a disabling experience, that it can then investigate. Further, there should also be a duty on specified entities to keep a record of each disabling experience for at least five years.

This system must also include a duty on specified entities to notify and remove barriers under their control.

Disputes Resolution Process

Given the Bill as currently drafted does not provide for any dispute resolution or enforcement, we advocate for a regulator to bring an action against a specified entity (as the Commerce Commission is able).

The Bill should create a dispute resolution scheme providing for an individual to file a complaint with the regulator, which the regulator may investigate at its discretion (in line with guiding principles in the Bill). Following the conclusion of this investigation, the regulator should have the power to order the regulated entity to take corrective measures or pay compensation. Alternatively, the Bill could provide for a free-to-consumer dispute resolution process that specified entities must be part of (similar to the Financial Service Providers (Registration and Dispute Resolution) Act 2008).

Where a specified entity or individual has a dispute with the regulator in regard to the result of an investigation, the Bill should provide for a process of mediation to resolve the dispute.

Conclusion

[This is not necessary for submissions shorter than several pages].

[Your organisation] supports this Bill, however, as discussed above, we suggest it be amended to provide for:

- an extended scope to include PCBUs;
- a three-yearly review of the Act;
- timely accountability to the House of Representatives;
- accessibility standards;
- the establishment of a regulator;
- a barrier notification system; and
- a disputes resolution process.

Nāku noa, nā, [or Yours sincerely,]

[Signature]

[Name of organisation representative]

[Role at organisation]

[\[1\]](#) Ministry of Social Development "Regulatory Impact Statement: Accelerating Accessibility" (23 September 2021) at 42.

[\[2\]](#) Ministry of Social Development "Regulatory Impact Statement: Accelerating Accessibility" (23 September 2021) at 6.

[3] Ministry of Social Development "Regulatory Impact Statement: Accelerating Accessibility" (23 September 2021) at 30.

Go to [the New Zealand Parliament website](#) to file your organisation's submission, add contact details, and upload your organisation's document.