



5 July 2023

Tēnā koe

On 7 June 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

*has no concerns about this OIA request but would like to make an OIA request for a full copy of the following report:*

- *Amending the NZSL Act 2006: Options to progress this work  
REP/22/12/1213*

Please find attached the report titled: REP/22/12/1213- *Amending the NZSL Act 2006: Options to progress this work.*

You will note that the information regarding some individuals is withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Some information has also been withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by

publishing this letter and attachments on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact [OIA\\_Requests@msd.govt.nz](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response regarding REP/22/12/1213 – Amending the NZSL Act 2006: Options to progress this work, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui

A handwritten signature in black ink, appearing to be 'Sarah Palmer', with a long horizontal line extending to the right.

Sarah Palmer  
**Policy Manager**  
**Disability Policy**



# Report

**Date:** 2 December 2022

**Security  
Level:**

IN CONFIDENCE

**To:** Hon Poto Williams, Minister for Disability Issues

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## Amending the NZSL Act 2006: Options to progress this work

### Purpose of the report

- 1 This report responds to your request for further information on:
  - 1.1 delaying your paper to Cabinet on amending the New Zealand Sign Language Act 2006 (the NZSL Act) until early 2023
  - 1.2 consultation with Deaf Aotearoa and the Disabled Peoples Organisations Coalition (the DPO Coalition)
  - 1.3 the ability of Whaikaha – Ministry of Disabled People (Whaikaha) to resource amendments to the NZSL Act within existing baselines.

### Recommended actions

It is recommended that you:

- 1 **note** that in 2019, the then Minister for Disability Issues agreed to a review of the NZSL Act focused on promoting and maintaining the use of NZSL and alignment with the NZSL Strategy [REP/19/11/1107 refers]
- 2 **note** a first principles review of the NZSL Act was not considered or included in the scope of this review
- 3 **note** that on 15 November 2022, you agreed the final policy proposals to amend the NZSL Act, and noted that officials would provide you with a draft Cabinet paper for Ministerial consultation, with the intent of seeking agreement from the Cabinet Social Wellbeing Committee (SWC) on 14 December 2022 [REP/22/11/1053 refers]
- 4 **note** the proposals to amend the NZSL Act were developed in partnership with the NZSL Board, and MSD officials have engaged with Disabled People's Organisations (DPO Coalition) and Deaf Aotearoa throughout the process to

develop proposals to amend the NZSL Act and undertake public consultation (in person and online) with the Deaf community and Turi Māori

5 **note** that as part of consulting on a draft Cabinet paper, MSD officials met with the DPO Coalition, and they signalled, based on information provided by Deaf Aotearoa (a member of the Coalition) that they did not support the proposals to amend the NZSL Act on the basis that the outcome of the review was too narrowly focused and not ambitious enough

6 **note** that officials have identified four options in relation to the next steps for the work on amending the NZSL Act

7 **indicate** your preferred option from the following:

7.1 proceed with the current amendments to the NZSL with the current timeframe (recommended)

**Agree / Disagree**

7.2 direct officials to re-engage with the DPO Coalition and Deaf Aotearoa on the existing scope of the review of the NZSL Act

**Agree / Disagree**

7.3 direct officials to rescope the review of the NZSL Act

**Agree / Disagree**

7.4 direct officials to stop work on the amending the NZSL Act

**Agree / Disagree**

8 **note** that we recommend you inform the DPO Coalition of your position when you meet with them on 8 December 2022, and that officials will provide you with additional advice to support your discussion

9 s9(2)(g)(i)

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Sarah Palmer  
Policy Manager, Disability Policy

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Date

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Hon Poto Williams  
Minister for Disability Issues

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Date

## Background

- 2 On 19 November 2019, the then Minister for Disability Issues (Hon Carmel Sepuloni) requested:
  - 2.1 the NZSL Board provide her with more information about a possible review of the NZSL Act, and
  - 2.2 that this advice focus on how the NZSL Act could be updated to better align with the principles of the NZSL Strategy 2018-2023 (the NZSL Strategy) [REP/19/11/1107 refers].
- 3 In December 2020, Minister Sepuloni received a report from the NZSL Board that recommended a review of the NZSL Act. She agreed, in principle, to a review of the NZSL Act, and directed officials to report back with initial policy proposals in early 2022 [REP/20/9/1002 refers].
- 4 Minister Sepuloni did not direct officials to undertake a first principles approach to developing proposals for amending the NZSL Act.
- 5 MSD officials have worked in partnership with the NZSL Team and the NZSL Board throughout the process of developing, testing, consulting, and finalising proposals to amend the NZSL Act.
- 6 On 31 August 2022, SWC considered your Cabinet paper seeking agreement to consult with the Deaf community on suggested amendments to the NZSL Act with a focus on options to:
  - 6.1 strengthen the mandate for public leadership of the Deaf community
  - 6.2 create a mechanism to monitor the operation and implementation of the NZSL Act, with a focus on government agencies' responsibilities under the Act
  - 6.3 better reflect Te Tiriti o Waitangi / The Treaty of Waitangi [SWC-22-MIN-0158 refers].
- 7 Cabinet invited you to report back to SWC in December 2022 with final policy proposals for amending the NZSL Act [SWC-22-MIN-0158 refers].
- 8 Consultation on the suggested amendments to the NZSL Act with the Deaf community began on 7 September 2022 and closed on 11 November 2022.
- 9 On 15 November 2022, you received advice on your disability portfolio priorities for 2023 legislative programme. The Bill to amend the NZSL Act was ranked three out of four and given a proposed legislative priority of Category 4 (to be referred to Select Committee before the 2023 general election) [REP/22/11/1098 refers].
- 10 On 15 November 2022, you agreed to the final policy proposals to amend the NZSL Act and noted that officials would provide you with a draft Cabinet for Ministerial consultation on 18 November 2022 [REP/22/11/1053 refers].
- 11 On 21 November 2022, you agreed to forward a draft Cabinet paper for Ministerial consultation and noted officials would provide you with a final draft

for your agreement to lodge the final Cabinet paper on 8 December 2002, for consideration by SWC on 14 December 2022 [REP/22/11/1127 refers].

## **Engagement with DPO Coalition and Deaf Aotearoa**

- 12 On 24 November 2022, MSD officials meet with the DPO Coalition to discuss their feedback on a draft Cabinet paper that set out the final proposals to amend the NZSL Act. The DPO Coalition advised MSD officials that they do not support these proposals.
- 13 The DPO Coalition's main concern was that the review was not a first principles review of possible functions and powers, leading to engagement on a broader range of forms the NZSL Board or a new leadership group could take. Therefore, their position is that the engagement was not genuine as the Deaf community were not provided with enough information on the full range of potential options to have informed opinions about the review.
- 14 MSD's view is that the scope of the review that the DPO Coalition is advocating for is significantly broader than the scope that Cabinet agreed to, which focused on updating the Act to better align with the NZSL Strategy.
- 15 The other key issue raised by the DPO Coalition is that the amendments to the NZSL Act will not address the significant issues faced by the Deaf community, such as education, access, and the interpreter workforce (these issues were also raised during consultation).
- 16 MSDs' view is that, while these issues and concerns are outside the scope of this review, as the Minister for Disability Issues you can progress work to address these issues through non-legislative means and by working with other Ministers.

## **We have identified options in response to the DPO Coalition not supporting the proposals**

### **Option 1: Proceed with the current amendments on the current timeframe**

- 17 The scope for reviewing the NZSL Act was focused on how it could better meet its primary purpose of promoting and maintaining the use of NZSL and how the NZSL Act could better align with the NZSL Strategy.
- 18 It was not a first principles review of the Act. Many of the issues raised by the DPO Coalition and Deaf Aotearoa (and during the consultation with the Deaf community) fall outside the scope of the review commissioned by Minister Sepuloni.
- 19 While the DPO Coalition and Deaf Aotearoa have signalled they do not support the proposals, feedback through consultation was generally supportive. The NZSL Board is also supportive of these changes as they complement the work it has already done to make better use of its existing powers.

20 If you choose to proceed with these proposals, then we recommend proceeding with the current timeframe of seeking Cabinet’s approval this year and introducing a Bill into the House in the first half of 2023. This option honours the general level of agreement provided by the Deaf community during consultation, the expectations of the NZSL Board, and Cabinet’s expectations on the scope of the review of the NZSL Act.

**Option 2: Direct officials to re-engage with the DPO Coalition and Deaf Aotearoa**

- 21 Officials could re-engage with the DPO Coalition and Deaf Aotearoa on proposals to the NZSL Act. This would require a slower timeframe and would mean deferring seeking Cabinet’s agreement to amend the NZSL Act until early in 2023.
- 22 Deferring seeking Cabinet’s agreement to amend the NZSL Act would mean a Bill would not be ready to introduce before the House rises ahead of the 2023 general election (more information about timeframes is in Appendix 1).
- 23 Officials advise against this, as re-engagement would be limited to the proposals that Cabinet agreed be consulted on in August 2022. Officials would not be able to engage the DPO Coalition on other options to amend the NZSL Act, including establishing a commission or on addressing the wider issues raised by the DPO Coalition and Deaf Aotearoa.
- 24 This option is likely to create concerns for the NZSL Board, and the approximately 220 members of the Deaf community who attended the consultation meetings and have engaged, in good faith, with the suggested amendments to the NZSL Act.

**Option 3: Direct officials to rescope the review of the NZSL Act**

- 25 You could advise Cabinet, as part of the invitation to report back to SWC in December 2022 with final policy proposals for amending the NZSL Act, that significant concerns were raised during consultation about the limited scope of the review, and as such, you are now seeking Cabinet approval for a first principles review.
- 26 Work on a new scope and focus would need to be undertaken by Whaikaha who would then lead work on the review itself.
- 27 s9(2)(g)(i)
- 28 If this option was progressed, it is unlikely that it would achieve all the outcomes Deaf Aotearoa and the DPO Coalition are seeking, as these may require changes in legislation that other Ministers have responsibility for, such as the education legislation and regulations.

**Option 4: Direct officials to stop work on amending the NZSL Act**

- 29 You can ask officials to stop work on amending the NZSL Act. This would be on the basis that key stakeholders (Deaf Aotearoa and the DPO Coalition) was

disappointed that the review of the NZSL Act was not a first principles reviews and wanted the review to have a broader scope than Cabinet agreed.

30 You would need to advise Cabinet of your decision, in response to the invitation to report back to SWC in December 2022 with final policy proposals.

31 s9(2)(g)(i)

32 There was no support for the status quo (ie not amending the NZSL Act) during the consultation period. There was broad acceptance that the proposed amendments would build on the progress already achieved in the maintenance and promotion of NZSL, even if not fulfilling all the of the community's aspirations and concerns.

### Resourcing implementation of proposed amendments

33 Minister of Finance officials have suggested that the implementation of the proposals to amend the NZSL Act could be meet from within baselines.

34 s9(2)(g)(i)

However, implementing the amendments (should they be accepted by Cabinet and passed into law) can be met within the current NZSL Budget, s9(2)(g)(i)

### Next steps

35 You have your regular meeting with the DPO Coalition on 8 December 2022. We recommend that you inform the DPO Coalition which option you are taking at that meeting. The DPO Coalition has asked to have this issue included on the agenda.

36 Whaikaha officials are preparing advice to support you at this meeting, and MSD officials will contribute to this advice in relation to your decision on amending the NZSL Act.

37 MSD officials are currently revising the draft Cabinet paper to reflect feedback from agency and Ministerial consultation. You are due to lodge this on Thursday 8 December 2022.

38 On 6 December 2022, you will be provided with a final draft of the Cabinet paper to amend the NZSL Act, for consideration by SWC on 14 December 2022.



File ref: REP/22/12/1213

Author: s9(2)(a) , Senior Policy Analyst

Responsible manager: Sarah Palmer, Policy Manager, Disability Policy

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OFFICIAL INFORMATION ACT

## Appendix 1: Implications for deferring decisions to amend the NZSL Act until early 2023

- 1 The indicative Cabinet Committee timetable indicates that regular Cabinet and Cabinet committee meetings will resume from the week of Monday 13 February 2023 [CO Notice (22) 6 refers].
- 2 However, as SWC are only expected to meet twice in February 2023, it is likely that an NZSL Cabinet paper would be pushed from February meeting agendas due to other priorities.
- 3 If you decide to delay providing the NZSL Cabinet paper to SWC for consideration until late February or early March 2023, it is likely that the proposed NZSL Act Amendment Bill would be introduced into the House during the three-month period before the general election.
- 4 The table below summarises timeframes, steps and timing for the proposed NZSL Amendment Bill should you choose to delay the Cabinet paper.

Date	Step	Consultation
8 March 2023	Consideration by SWC	<p>A revised Cabinet paper will be provided to the NZSL Board, the DPO Coalition and Deaf Aotearoa for feedback in early February 2023 (approximately 2 weeks)</p> <p>If there are significant changes to the draft Cabinet paper that was provided for Ministerial and agency consultation, then this consultation process may need to be repeated (approximately 2 weeks)</p>
3 April 2023	Complete drafting instructions provided to Parliamentary Counsel Office (PCO) by this date	<p>We may seek permission to share a draft of the proposal Bill with the NZSL Board, with consultation taking around two weeks</p> <p>We have been advised to allow at least 5 months for PCO drafting process</p>
3 August 2023	Bill will go to the Minister of Justice for NZ Bill of Rights Act 1990 consistency	We have been advised to allow for 2 weeks for this process
24 August 2023	Consideration of Bill by Cabinet Legislation committee	
28 August 2023	Cabinet decision to introduce Bill	
31 August 2023	Bill introduced into the House	