



03 MAR 2021

On 4 February 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *I note that the consultancy services order talks about "an initial review of the NZSL Act 2006 in September 2020 to prepare advice for the Minister of Disability Issues". I wondered if I could get a copy of that initial review.*

Please find a copy of the following document attached to this letter:

- REP/20/9/1002 – *Report – New Zealand Sign Language Act 2006: Results of initial review, dated 7 December 2020.*

Some information is withheld under section 9(2)(f)(iv) of the Act as it is under active consideration. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

You will note that the names of some individuals are 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.

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 attachments available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development'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.

If you are not satisfied with this response regarding the New Zealand Sign Language Act 2006, 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 or 0800 802 602.

Ngā mihi nui

A handwritten signature in black ink, appearing to be 'BC' or similar initials, written in a cursive style.

Brian Coffey
Director
Office for Disability Issues

Report

Date: 7 December 2020

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Disability Issues

From: Brian Coffey, Director, Office for Disability Issues

Report No. REP/20/9/1002

New Zealand Sign Language Act 2006: Results of initial review

Purpose of this report

- 1 This report summaries an initial review of the New Zealand Sign Language (NZSL) Act 2006 (the Act) conducted by the NZSL Board (the Board), and outlines options for the next steps.

Executive Summary

- 2 On 19 November 2019, you requested the Board provide you with more information about a possible review of the Act with a focus on how it could be better aligned with the principles with the NZSL Strategy 2018-2023 [REP/19/11/1107 refers].
- 3 The Board's report, informed by interviews with key members of the Deaf community, is attached in Appendix One. Deaf Aotearoa also provided feedback, which is consistent with the advice provided in the Board's report and is attached in Appendix Two.
- 4 The Board's review suggests the Act is not meeting its primary purpose of prompting and maintaining the use of NZSL, and that it does not align with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) or the NZSL Strategy 2018-2023.
- 5 s 9(2)(f)(iv) OIA
- 6 The Act allows for making regulations for the purpose of prescribing the standards of competency of a person who is to act in legal proceedings as an interpreter of NZSL must attain or for any other matters necessary for giving the Act its full intent. The Board suggests that policy and legal analysis be undertaken to scope out what regulations could be made.

- 7 In addition, the Board has identified issues with the wider framework supporting NZSL, such as the need for a centralised NZSL interpreter service delivery model, and guidance for government departments on how to meet their obligations under the Act (and other legislation which specifies NZSL rights).
- 8 Some of the Board's concerns about the promoting and maintaining the use of NZSL could be addressed in the Accelerating Accessibility programme of work. Other issues like the low numbers of qualified, competent NZSL interpreters could be better resolved by a specific workforce development strategy and/or an interpreter register.

Recommendations

It is recommended that you:

- 1 **note** that the New Zealand Sign Language Board have been consulted on the following recommendations
- 2 **note** that the Minister for Disability Issues is the Minister responsible for the New Zealand Sign Language Act 2006, and can request agencies report on their progress towards implementing the principles of the New Zealand Sign Language Act 2006
- 3 **request** a report on the progress made by the Ministry of Social Development, Ministry of Health, Ministry of Justice and Ministry of Education to implement the principles of the New Zealand Sign Language Act 2006
- 4 **request** a meeting with the Minister of Education to discuss ways to accelerate progress of the draft Development Map for NZSL in education outcomes
- 5 **note** that such a report may be included in the December 2021 Annual Report on progress being made implementing the New Zealand Disability Strategy
- 6 **note** that the New Zealand Sign Language Board and the Office for Disability Issues are currently developing guidance for government departments on how to meet their obligations under the New Zealand Sign Language Act 2006 and that this is expected to be published by March 2021

AGREE / DISAGREE

AGREE / DISAGREE

7 s 9(2)(f)(iv) OIA

8

- 9 **note** that the New Zealand Sign Language Board and the Office for Disability Issues will continue work to negotiate the use of New Zealand Sign Language across all domains of society through the Accelerating Accessibility work programme.



Brian Coffey
Director
Office for Disability Issues

11/12/2020
Date



Hon Sepuloni
Minister for Disability Issues

12/12/20
Date

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Context for the Board's assessment

NZSL Act 2006

- 9 In 2003, the Minister for Disability Issues directed the Office for Disability Issues to begin work on drafting a NZSL Bill. The Bill was progressed through Parliament between 2004 and 2006 and was passed in April 2006.
- 10 The purpose of the Act is to 'promote and maintain the use of NZSL' by:
 - making NZSL an official language
 - providing for the use of NZSL in legal proceedings
 - empowering the making of regulations setting competency standards for the interpretation of legal proceedings in NZSL
 - stating principles principle to guide government agencies in the promotion of NZSL.
- 11 The Act is administered by the Ministry of Social Development (MSD). However, under the Register of Assigned Legislation, the Act is the responsibility of the Minister for Disability Issues.

Review of the Act 2010-2011

- 12 Clause 11 of the Act required the Minister to review the operation of the Act as soon as practicable after three years of its coming into force. This review also was to determine if any amendments to the scope and contents of the Act were necessary or desirable.
- 13 In 2010-2011, the Office for Disability Issues conducted a review of the Act and concluded no change was needed. The review did suggest that government agencies could improve implementation through policy and practice.
- 14 While the Act allows for the Minister for Disability Issues to request reports on the progress made towards implementing the principles set out in the Act, the Act does not specify an entity who is responsible for ensuring the Act is implemented.

s 9(2)(f)(iv) OIA

- 15 The Board's initial assessment is that:
 - it is out of date and does not align with the NZSL Strategy (2018-2023) or with New Zealand's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
 - it does not reference Te Tiriti o Waitangi, which is a significant oversight
 - it only confers the right to use NZSL in one component of the justice system (legal proceedings)
 - the Act does not specify a mechanism for implementing its intent.

- 16 The Board's view is that the Act is not meeting its primary purpose of prompting and maintaining the use of NZSL - evidenced by the decreasing percentage of the Deaf community learning and using NZSL.¹

17 s 9(2)(f)(iv) OIA

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...while making better use of its existing powers

- 19 The Board have identified powers under the Act that could be better utilised to promote and maintain the use of NZSL such as the reporting and regulation-making clauses. Under Section 10 of the Act, the Minister for Disability Issues may report on the progress being made in implementing the principles of the Act.²
- 20 One option would be for the Minister for Disability Issues to request a report on the progress key government agencies have made in implementing the principles of the Act, for example, the Ministries of Social Development, Health, Justice and Education.
- 21 In relation to the regulation making clause, the Act also allows for the making of regulations to prescribe the standards of competency that a person who is to act in legal proceedings as an interpreter must attain, and for any other matters necessary for the administration or to give the Act full effect.³

¹ McKee, Rachel Locker (2017) Assessing the vitality of New Zealand Sign Language. *Sign Language Studies*, 17(3):322-62.

² New Zealand Sign Language Act 2006, s.9(1)(b) 'NZSL should be used in the promotion to the public of government services and in the provision of information to the public'; s.9(1)(c) 'government services and information should be made accessible to the Deaf community through the use of appropriate means (including the use of NZSL)'.

³ New Zealand Sign Language Act 2006, s.13(1)(a) and 9(b).

Other actions to promote and maintain NZSL

NZSL interpreter service delivery model

- 23 The Board has identified issues with the current NZSL interpreter service delivery model. It suggests that ODI could commission work to develop a sign language interpreter service delivery model that works for the Deaf community, NZSL interpreters, and those needing interpreting services.
- 24 This work would seek to align with the Ministry of Business, Innovation and Employment's Language Assistance Services programme, which is working to establish a nationwide interpreting service solution.
- 25 To support any revised NZSL interpreter service delivery model, consideration would also need to be given to an interpreter workforce development programme. This would ensure that the increased demand for interpreters does not outstrip the supply of qualified interpreters.

Deaf education workforce

- 26 The Board has identified another key concern – the competency of the deaf education workforce and the educational attainment of deaf children.
- 27 There is no requirement for teachers of the Deaf to be fluent in NZSL. This puts Deaf children and young people whose first or preferred language is NZSL at a significant disadvantage to their peers.
- 28 The Ministry of Education has developed a 'draft Development Map for NZSL in Education' and has been investing in this area in recent years.
- 29 However, we would like your support to encourage the Ministry of Education to identify ways of making accelerated progress to ensure that the deaf education workforce is sufficiently skilled in NZSL.

Developing best practice guidance for government departments

- 30 Another option identified by the Board would be for ODI, or the Board, to develop best practice guidance for government departments on implementing the purpose and principles of the Act. This work is currently underway, with an expected delivery date of March 2021.

Accelerating Accessibility work programme

- 31 It is our view that a sensible way forward would be to capitalise on the work already underway to create accessibility legislation, as well as promote and education, about the benefits of increasing accessibility. This platform could be used to promote the use and access of NZSL across different areas of society.

- 32 The Board's report notes that the Accelerating Accessibility work programme offers opportunities to progress access rights for the Deaf community and other users of NZSL in a way that would be consistent with the UNCRPD.

Next steps

- 33 We recommend that the first step to improve the promotion and maintenance of the NZSL is for you to request a report from government departments on the work they are doing to implement the Act. Thirty-two government departments are obligated under the Act; this may be a surprise for them.
- 34 As mentioned, the Board and ODI are currently working to develop the best practice guidance on how to implement the Act and this should be ready for publication by the end of March 2021.
- 35 We recommend that a request for a report of progress should be made after the release of the guidance, with a timeframe for delivery that aligns with the Annual Report to Parliament on the implementation of the New Zealand Disability Strategy (which is usually tabled in December each year).
- 36 Subject to your agreement, we will provide a letter from you to the Chief Executives of the Ministry of Social Development, Ministry of Health, Ministry of Justice and Ministry of Education seeking a report on the progress they have made, for delivery in December 2021.
- 37 Also subject to your agreement, we will draft a letter from you to the Minister of Education requesting a discussion on how to accelerate progress on the draft Development Map for NZSL in education, especially in relation to upskilling the Deaf education workforce.
- 38 Officials are available the options and recommendations outlined in this report.

APPENDIX 1



Report to the Minister for Disability Issues on the review of the New Zealand Sign Language Act 2006

From: Rhian Yates, Chair, New Zealand Sign Language Board

Date: 29 October 2020

Introduction

1. In November 2019, you asked us to provide you with more information about a review of the New Zealand Sign Language Act 2006 (the Act). This report provides you with this information.
2. It identifies problems with the status quo, outlines what we want from any reforms, and provides some indicative options for change.
3. We understand that consideration of any changes must take into account other legislative changes and wider reforms across the disability sector. This report provides a summary of these.
4. We look forward to supporting you with any future work to secure rights for Deaf people and other users of NZSL to use/access NZSL across all domains of society.

Background / Status quo

5. This section outlines the key features of the Act and other relevant aspects of the 'NZSL system' as it currently stands.

Purpose and principles of the NZSL Act 2006

6. The purpose of the Act is to "**promote and maintain the use** of New Zealand Sign Language by:
 - a. declaring New Zealand Sign Language to be an official language of New Zealand; and
 - b. providing for the use of New Zealand Sign Language in legal proceedings; and
 - c. empowering the making of regulations setting competency standards for the interpretation in legal proceedings of New Zealand Sign Language; and
 - d. stating principles to guide government departments in the promotion and use of New Zealand Sign Language".
7. The principles referred to in 6(d) above are:
 - a. "the Deaf community should be consulted on matters relating to NZSL (including, for example, the promotion of the use of NZSL);
 - b. NZSL should be used in the promotion to the public of government services and in the provision of information to the public;
 - c. government services and information should be made accessible to the Deaf community through the use of appropriate means (including the use of NZSL)".

Who is responsible for the Act's implementation?

8. The Act does not establish any entity to lead, advise on, or monitor the implementation of the Act.
9. In 2013, the Human Rights Commission published the results of their NZSL Inquiry. One of their recommendations was to establish 'a designated strategic body which has responsibility for maintaining and promoting NZSL' (the same purpose as the Act).
10. In May 2014, the government established a NZSL Advisory Board (the Board) [SOC Min (14) 9/7 refers]. Its purpose is to:

- a. maintain and promote the use of NZSL by ensuring the development, preservation and acquisition of the language
 - b. help ensure the rights of D/deaf⁴ people and NZSL users to use NZSL as outlined in the NZSL Act 2006 and United Nations Convention on the Rights of Persons with Disabilities and other relevant national and international legislation
 - c. provide expert advice to government and the community on NZSL.
11. Whilst there is no legislative link between the Act and the Board, the Board – through its terms of reference – is tasked with ensuring that the rights conferred by the Act are upheld.

Official recognition

12. Official recognition of sign languages is the first step in the path toward achieving human rights for Deaf people. There are more than 200 sign languages used around the world and approximately 50 countries have formally granted their sign languages an equal status to their national spoken language(s).
13. Through the Act, New Zealand legally recognised NZSL as an official language in 2006. Rights and obligations do not flow automatically from official recognition and there is currently no clarification in New Zealand law about what it means to be an official language.
14. The Act currently specifies that official recognition status does not create any legally enforceable rights, except for the right to use NZSL in legal proceedings.

Use in legal proceedings

15. The Act gives NZSL users the right to use NZSL in legal proceedings. This means that if someone⁵ wants to use NZSL in legal proceedings, the presiding officer must ensure that a competent interpreter is available.
16. In 2019/20, the number of NZSL interpreter requests was 266. The majority of these were for criminal court proceedings (206). In 2018/19 there were 209 requests and in 2017/18 there were 203 requests.
17. Corrections have advised that about six requests per year are made for interpreters in Parole Board hearings.

Competency standards

18. The Act allows for the making of regulations to “prescribe the standards of competency that a person who is to act in legal proceedings as an interpreter must attain”. There are currently no such regulations.
19. In the absence of regulations, courts have used guidance developed by the Ministry of Justice called ‘Using NZSL in Court and Tribunals’. We understand most courts do use

⁴ The capitalised D is commonly used when referring to Deaf culture and the Deaf community. A small ‘d’ is used to describe those who use NZSL but may not identify as a member of the Deaf community.

⁵ This includes: any member of the court, any party or witness, any counsel or other person representing a party in proceedings, any other person with leave of the presiding officer

this Guidance which used to be publicised in a regular 'Court Circular' but this has been discontinued.

20. The Board funded Victoria University of Wellington to develop sign language interpreters' competencies and standards for general and legal settings. These were provided to the Board at the end of September 2020.
21. There is currently no assessment methodology to sit alongside these new standards. However, the Ministry of Business, Innovation and Employment (MBIE) are working on introducing new standards and certification framework for (all) language practitioners working in the public sector – through their Language Assistance Services programme (note that this work is currently on hold due to COVID-19). They have agreed to use the NZSL interpreters' standards once developed, but the gap of assessing competency against the standards remains.

Regulations

22. In addition to the regulations prescribing the standards of competency for interpreters of legal proceedings, the Act provides for regulations "for any other matters contemplated by the Act or necessary for its administration or necessary for giving it full effect". These regulation making powers are usefully broad; however, no regulations have been promulgated to date.

Reporting

23. The Act gives the Minister for Disability Issues the power to report from time to time on the progress being made in implementing the principles set out in section 9 of the Act.
24. The Act provides for any such reports to be included with reports on progress being made in implementing the NZ Disability Strategy. However, no commentary has been provided within any of the Office for Disability Issues (ODI) Annual Reports, or the Annual Reports from the NZSL Board. The next Annual Report from ODI is due in December 2020.
25. In addition to annual reporting, the Board is also tasked with monitoring and reporting on key government activity that supports the Board's priorities (these priorities are set out in the NZSL Strategy 2018-2023). In supporting the Board to carry out this function, the Ministries of Education, Social Development, Justice and Health are required (mandated by the Board's terms of reference) to provide the Board with a report on their progress, annually or as required. To date, no formal reports have been provided by these agencies to the Board.

Other aspects of the NZSL system

NZSL interpreter service delivery model

26. There are around 100-120 qualified NZSL interpreters in New Zealand. It is a small, highly specialised workforce. The majority are freelance/fee for service. Approximately 90 percent are female.
27. There are very few deaf interpreters and very limited opportunities for deaf interpreters to find work. Deaf interpreting uses a consecutive interpreting process, whereby a hearing interpreter relays the message from the hearing person to the deaf

interpreter. The deaf interpreter then interprets the message linguistically and culturally to the deaf person.

28. There are three national NZSL interpreter booking agents (iSign, Wordsworth and Connect Interpreting).

NZSL Teachers/Tutors

29. Deaf teachers/tutors who teach NZSL out in the community are trained at Victoria University of Wellington (Certificate in Deaf Studies). There are around 100 trained NZSL teachers/tutors. There is no simple pathway for qualified NZSL teachers and tutors to teach deaf or hearing children NZSL or deliver education in NZSL (other than to also attain an Education degree).

Teachers of the Deaf (deaf education workforce)

30. Teachers of the Deaf first train to be teachers (standard Education qualifications) and then specialise post-grad to teach children with special needs. They only need to attain a 'novice plus' level in NZSL to teach deaf students. This is insufficient to deliver quality, comprehensive education to students whose first or preferred language is NZSL.

Problems with the status quo

31. This section outlines the main problems with the Act and other aspects of the NZSL system. In summary, these problems are:

- a. the Act is out of date and does not align with our obligations under the UNCRPD
- b. the Act does not align with the NZSL Strategy
- c. the Act does not refer to the Treaty of Waitangi
- d. the Act isn't effective in fully achieving its purpose
- e. the Act does not specify a mechanism for implementation
- f. the Act only confers one right to use NZSL (which is restricted to legal proceedings); there are no requirements to access NZSL across the whole justice pipeline
- g. the NZSL interpreter service delivery model does not fully meet the needs of the Deaf community and other users of NZSL, agencies needing to secure interpreters, nor does it adequately support NZSL interpreter professionals
- h. there are issues with NZSL teachers, teachers of the deaf, and educational attainment of deaf children.

The Act is out of date and does not align with our obligations under the UNCRPD

32. The context has changed significantly since the Act was enacted. Shortly after the Act came into force, the UNCRPD was adopted, which New Zealand ratified in 2008. This step was instrumental in changing the conversation with respect to disability policy, from a deficit/medical model to a social/human rights model.
33. Twelve years on from ratification, it is acknowledged that the right to sign language is a human, cultural, social and economic right, and Deaf people and other users of sign language have the right to fully exercise their rights without discrimination. It is not possible to isolate one right among the entire set and expect participation in society in the same way as other citizens.

34. However, the Act only confers one right for NZSL users – its use in legal proceedings. No other rights are conferred. A key right is missing; the right to the provision of quality education in sign language (at ECE, primary, secondary and tertiary levels). This key right is closely followed by the right of NZSL users to access social and employment services and all other domains of life in NZSL, such as health, justice and emergency services.
35. The Act also precedes both the NZ Disability Strategy 2016-2026 and the NZSL Strategy 2018-2023 and other key events in NZSL language planning and policy in the past decade which have shaped thinking beyond what is in the Act.

The Act does not align with the NZSL Strategy

36. Both the Act and the NZSL Strategy have the same purpose but their principles are different.
37. The purpose of the Act is to 'promote and maintain the use of NZSL'. The principles in it are about consultation with the Deaf community, and the promotion to the public of government services and provision of public information in NZSL.
38. While the NZSL Strategy's purpose is also to 'maintain and promote the use of NZSL by Deaf people and other users', the Strategy focuses on five language planning priorities (which relate to acquisition, use/access, attitudes, documentation and status). These priorities go far beyond promotion of government services and provision of accessible information. The Strategy confers a much broader set of rights and places greater expectations on government agencies with respect to implementation.
39. So, while the purposes of the two are relatively aligned, the principles are not. This creates confusion about what is expected of government agencies and makes it more difficult for the NZSL Board to progress its own work programme and ensure that the rights set out in the Act are being realised at the same time.

The Act does not refer to the Treaty of Waitangi

40. The Treaty promises to protect Māori culture and to enable Māori to live in New Zealand as Māori. Treaty rights can only be enforced when an Act explicitly refers to the Treaty. The NZSL Act does not refer to the Treaty, and this needs to be addressed. New Zealand has an obligation to protect the rights of Māori, including Māori Deaf.

The Act isn't effective in fully achieving its purpose

41. While NZSL is now more recognised and accepted by society, a decreasing percentage of the deaf population are learning and using the language (McKee, 2017⁶). NZSL is therefore considered to be a threatened language. It could be argued that the Act is therefore failing part of its primary purpose to 'maintain the use of NZSL'.
42. With respect to official language status, recognition has been achieved but discrimination continues. While the Act declares official status, it does not provide clarity or a definition about how this status might take effect, or whether any resources are committed to giving effect to this status. In effect, the declaration of

⁶ McKee, Rachel Locker. 2017. Assessing the vitality of New Zealand Sign Language. *Sign Language Studies*, 17(3), 322-362.

official status has not progressed many of the practical rights needed to resolve inequities faced by NZSL users.

Lack of implementation

43. The Act has been criticised for not providing a mechanism for promoting and maintaining the language.
44. Whilst the NZSL Board was established to fill this gap (nearly ten years after the Act's enactment), the fact remains that the Act is silent on implementation and roll out of the Act's principles and purpose has been slow.
45. Without any prescribed mechanism, there has been an inconsistent approach by government agencies in applying the principles of the Act. Access to government information in NZSL remains poor. There are no penalties or repercussions for government agencies for non-compliance.
46. Because no-one has responsibility to ensure that the Act is implemented, implementation has been superficial. Reporting on progress hasn't occurred and the regulation-making powers haven't been utilised.

Legal proceedings and the absence of the right to sign throughout the justice system

47. Deaf people have reported several incidences of turning up to court proceedings only to find out that the presiding officer has not booked an interpreter. Sometimes inexperienced interpreters are supplied. Other reported problems include pressure from lawyers to get cases thrown out because the interpreter and the Deaf plaintiff/defendant are known to each other (which is to be expected when the pool of interpreters is small, as is the Deaf community). It is also not fully understood that interpreters need to be supplied for anyone who needs it in legal proceedings, not just the defendant/plaintiff.
48. Another key issue is that the right to use NZSL in legal proceedings is only a subsection of the justice system. Deaf people who interact with the Justice system need this right to apply to the whole justice pipeline, from Police through to Corrections.

Issues with the NZSL interpreter service delivery model (evidence of market 'stress')

49. There are issues with the supply and demand of interpreters. Deaf people say there is a shortage of interpreters. Interpreters say that they can't get enough work. It is not clear if supply is meeting demand or vice versa.
50. Deaf people are frustrated by the lack of choice and neutrality throughout the system. The Deaf community want to be able to select an interpreter of their choice, in any setting, at any time. The current service model does not meet this need.
51. There is only one training institution to become an interpreter and the pool of interpreters isn't growing. There is no mechanism for formalised ongoing professional development (noting that some interpreter booking agents do provide informal professional development) or a requirement to demonstrate competence. There is no interpreter workforce supply strategy to ensure we have enough interpreters for future demand.

52. Government departments aren't always clear about where to go to source interpreters, and don't know if the interpreter they have booked is right for the job. One idea could be to investigate a centralised service delivery model.
53. The overall impression from interviewees was that the whole profession and service delivery model needs to shift.

Issues with NZSL teachers, the deaf education workforce, and educational attainment of deaf children

54. There is currently no legal requirement for people who teach NZSL (out in the community) to be a competent NZSL teacher. The New Zealand Sign Language Teachers Association (NZSLTA) currently voluntarily operates a registration system, however enforcement of this is voluntary. There are increasing numbers of 'cowboy' tutors who are teaching NZSL after only a few weeks learning NZSL themselves.
55. Many qualified Teachers of the Deaf employed within the education system who are teaching the NZ Curriculum to deaf students are not fluent in NZSL. This puts their deaf students at a significant disadvantage. Qualified teachers in English and/or Māori mediums are not allowed to gain teaching registration if they cannot speak English/Māori fluently, yet there is no similar requirement enforced for teachers teaching in NZSL. More needs to be done to improve the sign language skills of educators.
56. While there are a number of teachers' aides employed who have NZSL skills there is no qualification or competency criteria for the NZSL skills in the teacher aide work force. Neither is there any additional remuneration to recognise NZSL competencies for teacher's aides working with deaf children.
57. A Sign Language Proficiency Interview (SLPI) process has been set up, which is available to measure the proficiency of adult NZSL users. However, there are no requirements for agencies to use this tool, nor is there any minimum proficiency level specified for different professions or situations.
58. The Ministry of Education has begun to invest more strongly in NZSL in education, however deaf children are still not achieving at the same levels as non-deaf children. Whilst their 'development map for NZSL in education' shows promise and progress has been made over the past few years, there is more work to be done to ensure that quality education is available in NZSL for those learners those who need/want it.

Objectives

59. This section outlines what the Deaf community, other users of NZSL, and the NZSL Board want the Act to achieve. ^{s 9(2)(f)(iv) OIA}
60. The Deaf community and other users of NZSL would like the Act (or other mechanism) to achieve the following:
- full and effective access to all domains of society, including specialized and mainstream services, through the use of sign language
 - real implementation and government accountability
 - guaranteed access to sign language interpreters, where necessary, in a wide range of settings

- d. recognition that Deaf people should be the guardians of their language and for official language status to mean something
- e. evidence that NZSL is treated on a par with efforts to promote and maintain the use of Te Reo
- f. effective promotion and protection of Deaf culture (recognition and understanding of the Deaf world view).

61. The Board agrees with the above s 9(2)(iv) OIA
s 9(2)(iv) OIA

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Table 1: NZSL language planning priority outcomes

Acquisition	<p>Deaf children and young people who use NZSL are learning and acquiring NZSL at age-appropriate levels throughout their education through full immersion with signing peers and adult NZSL models.</p> <p>Families and whānau are able to learn NZSL throughout their child's education, enabling them to communicate more easily with their deaf child.</p> <p>Professionals working in educational contexts with deaf children and young people who are NZSL users, are proficient in NZSL to an appropriate level, supporting deaf children and young people to acquire NZSL at age-appropriate levels.</p>
Use /access	<p>The Deaf community is able to maintain Deaf domains of intergenerational transmission of NZSL amongst the Deaf community. Deaf domains include organisations, events, places and spaces (for example, face-to-face or online interaction) where Deaf people are able to use NZSL.</p> <p>Core government services and information, which are the responsibility of key central government agencies such as the Ministries of Education (pre-school, compulsory and tertiary), Health, Justice, and Social Development as well as local government agencies are accessible to Deaf NZSL users because they:</p> <ul style="list-style-type: none"> • provide professional NZSL interpreters • translate written information into NZSL • use up-to-date information and communication technology that provides Deaf NZSL users access to services and information • provide services and information directly in NZSL, for example via NZSL fluent staff • make decisions that are informed by the Board's Strategy and the use of robust data and evidence. <p>NZSL interpreter standards provide high quality professional interpreting services throughout New Zealand that meet the diverse needs of Deaf NZSL users.</p> <p>Māori Deaf have access to Te Ao Māori and Māori speaking domains through the training and retention of trilingual interpreters (Te Reo Māori, NZSL and English).</p>
Attitude	<p>The Deaf community believes that NZSL is recognised and valued by New Zealanders.</p> <p>Families and whānau of deaf children make a conscious choice to learn and use NZSL and recognise it as an equal language alongside spoken languages.</p> <p>Government agencies, Crown entities and New Zealanders demonstrate awareness of, and positive attitudes towards the use of NZSL in New Zealand.</p>
Documentation	<p>NZSL users have ongoing access to comprehensive records of NZSL, including an NZSL online dictionary that documents NZSL and maintains a high standard of content and usability.</p> <p>NZSL documentation and research is ongoing, reflecting partnerships between research institutions, individuals and the NZSL community.</p>
Status	<p>Central and local government and Crown entities are implementing the principles of the NZSL Act 2006, particularly in the priority areas of education, social and employment services, health, justice and emergency services</p> <p>A positive environment, including legislation, policy and practice, support the use of NZSL.</p>

Indicative options for change

65. This section outlines some ideas for fixing the problems with the status quo. These options are not exhaustive, and their feasibility will need to be subject to further policy and legal analysis.

s 9(2)(f)(iv) OIA




71. The Board or ODI could also develop best practice guidance for government departments in implementing the purpose and principles of the Act (the 2010 review of the Act stated that government agencies needed to improve implementation through policy and practice). We suspect that many government agencies do not know what their obligations are under the Act, and that being asked to report on progress will be a surprise to them.

Increasing momentum for the need to review the Act

72. Christchurch MP Ruth Dyson said in her valedictory speech (Aug 2020) that whilst she was proud to have been instrumental in the passing of the Act, she regretted that it wasn't more prescriptive in its implementation, which meant that roll out was slower than it could have been. She concluded by saying that this should be fixed. She also said that the Act was only supposed to be the beginning, but that nothing much has eventuated in the past 14 years.
73. Media coverage throughout NZSL week (21-27 September 2020) and COVID-19 has shone a spotlight on the use of sign language and the importance of securing formalised rights of the Deaf community to use sign language to fully participate in society. There are growing community expectations for a review of the Act. You may face increasing pressure to agree to this.

Wider accessibility and disability sector reforms

74. s 9(2)(f)(iv) OIA
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Accelerating Accessibility

75. In June 2020, Cabinet confirmed the framework to accelerate progress towards accessibility [CAB-2-MIN-0295]. The new intended policy approach to accelerating accessibility is a new legislative framework to address the rights, needs and concerns of disabled people. An Accessible Aotearoa New Zealand bill is expected to be introduced to the House during 2021.
76. Cabinet agreed that any new framework should set accessibility as a high-level concept (rather than a detailed, prescriptive definition) about the prevention and removal of barriers, so people can independently access the public spaces, built environments, goods, products or services they need to fully participate and be included in society.

78. Should this work progress as intended, the work of the advisory councils will provide the appropriate forward-thinking space to progress access rights for the Deaf community and other users of NZSL, in a manner that is consistent with the UNCRPD.

Health and Disability System reforms

79. In June 2020, the government released the final report on the Health and Disability System Review, which makes a series of recommendations to build a stronger public health service. One of the recommendations includes the development of a 'health and disability system charter'. The charter will set out shared values to guide the culture, behaviours and attitudes expected of all parts of the system. This could provide opportunities for improving access to health services for NZSL users.



Rhian Yates
Chair
New Zealand Sign Language Board

s 9(2)(a) OIA

Senior Advisor, OIA

11/12/2020

Date

APPENDIX 2

Feedback from Deaf Aotearoa on this initial review of the NZSL Act

28th September 2020

The NZSL Act 2006 was a watershed for the Deaf community because it declared NZSL an official language of New Zealand and put NZSL on an equal footing with spoken languages. This largely brought to rest decades of Deaf people needing to constantly argue that their language is a real language and is in no way a lesser language than spoken languages.

The NZSL Act and the annual NZSL Week celebrations have raised awareness of NZSL across Government and in the public, supported also by the increasing presence of NZSL interpreters in the media.

After the passing of the NZSL Act, Deaf people noted that while there was an increase in the status of NZSL, there was not a corresponding increase in NZSL access to society. This led to the Human Rights Commission's one-year NZSL Inquiry that highlighted the lack of linguistic rights for Deaf people in key areas of life, most notably early childhood, education, services and information. The HRC Inquiry recommended actions to enable the linguistic human rights of Deaf people and included the recommendation of establishing an expert body to oversee the promotion and maintenance of NZSL.

The establishment of the NZSL Board and associated resourcing for the promotion and maintenance of NZSL (NZSL Fund) provided a clear mechanism to actively support the maintenance of NZSL. This resourcing for official language protection should have been provided at the time of the passing of the NZSL Act and needs to be recognised as a crucial element in the maintenance and preservation of a minority language.

The NZSL Act's focus is primarily on the status and promotion and maintenance of the language. This can be seen as a necessary former step to achieving greater rights of access. If a language and its community are strong, it can develop the necessary resources and infrastructure to enable increasing access to society through that language. Thus, it is useful to separate rights of access from the protection and maintenance of NZSL. This is commonly referred to in the Deaf world as achieving human rights through linguistic rights, ie: ensuring Deaf people's linguistic rights enables the realisation of all human rights for Deaf people.

Deaf Aotearoa advocates for full participation and realisation of human rights for Deaf people. Our organisation's strategic priorities include ensuring access to education, health, employment, information and social services. It also includes priorities to ensure the sustainability of NZSL and the NZSL community.

Deaf Aotearoa would like to see greater action and accountability from the Government on ensuring Deaf people can realise their linguistic rights and in the Government's responsibilities to provide access through NZSL. This accountability should include regular reporting on NZSL access in the key priority areas of health, education, employment, justice, social services and information. The Government's accountability for NZSL promotion and maintenance should also require the Government to publicly report of the use of the NZSL Fund, including how the NZSL funded initiatives have contributed to the implementation of the NZSL Strategy.

The NZSL Act includes a regulation making provision that could be used to develop standards of practice for NZSL interpreters. This is a long-term project and one that Deaf

Aotearoa advocates for as it will support increasing the quality of NZSL access for Deaf people.

Deaf Aotearoa supports retaining the NZSL Act and its focus on the promotion, maintenance and protection of NZSL as an official language of New Zealand.

Deaf Aotearoa advocates strongly for better and more access to society for Deaf people. As a founding member of the Access Alliance, Deaf Aotearoa is closely involved in the work to progress an Accessibility Act for New Zealand. This Accessibility Act will consider human rights as they apply to disabled people and it is in these discussions and this work that rights of access can be progressed for Deaf people. This seems the logical place to progress access rights while retaining the NZSL Act as the mechanism for the protection, promotion and maintenance of NZSL.