November 2022

Submission on the Accessibility for New Zealanders Bill

To the Social Services and Community Committee,

Te Hiringa Mahara, the Mental Health and Wellbeing Commission, welcomes the opportunity to make a submission on the Accessibility for New Zealanders Bill.

This submission stands alone, and so Te Hiringa Mahara does not seek to appear before the committee to speak to it. We would suggest that the voices of those affected most by the Bill be prioritised over our own. However, if the Committee wants further clarification on any of the points that follow, we would be happy to advise in writing or in person.

Submission

Te Hiringa Mahara has a legislated role to monitor the systems that support mental health and wellbeing Aotearoa, and to make recommendations for improvement in those systems. This includes representing the views of disabled people, and advocating for their collective benefit.

We have engaged with representatives from disability communities, and their views have shaped this submission. Your long submission window and efforts to improve accessibility in the select committee process are appreciated. However, those communities have told us that many of their members do not have the time, information or resources to take part in the submission process. When considering the submissions that the committee receives, you should reflect on this: when disabled people speak, give that more weight.

General comments

We support the aims and intent of the Accessibility for New Zealanders Bill. We know that good mental health and wellbeing requires, amongst other things, hope, and the ability to achieve aspirations. We also know that disabled people encounter various serious barriers to wellbeing.

Working to address these barriers, in a way that is informed by those communities, can be expected to make a meaningful impact on wellbeing for disabled people and whānau in Aotearoa.

However, the communities we have engaged with tell us that the ability to set, review, update and enforce standards, where appropriate, is necessary for progressing accessibility in any meaningful and systemic way. The communities have seen many reports, petitions and inquiries over many years, and need certainty that

this legislation will result in real action. We have heard concerns that the proposed Committee lacks the necessary teeth to address known barriers.

With that in mind, Te Hiringa Mahara considers that the Bill should be substantially strengthened before it is passed.

As the function of the Bill is to set up a committee to take the work forward, the actual improvement to the lives and wellbeing of disabled people will be up to the efforts of that group and those who it guides. The Bill is therefore permissive, but care needs to be taken to ensure it supports meaningful improvement:

- The disability community is not monolithic. To ensure that the Committee can improve wellbeing for disabled people and whānau, it should understand, reflect, and represent the diversity of those communities.
- The Bill should better uphold Te Tiriti o Waitangi, if it is to have meaningful impacts for Māori. It should also uphold related international obligations, if it is to realise the rights and aspirations of the diverse disability community.
- Most importantly, the Committee needs to be adequately resourced, with appropriate levers at its disposal, to bring about change.

The detailed points that follow will, in our opinion, strengthen the Bill, and go some way to addressing these concerns.

Detailed points

The Bill repeatedly calls for those involved to give effect to the 'principles' of te Tiriti o Waitangi. If the Bill is to give effect to te Tiriti o Waitangi, it should reflect a partnership between Māori and the Crown. As such, the Māori nominations panel should have a greater role in nominating Committee members, and the Accessibility Committee should explicitly include Māori membership, as well as knowledge and understanding of tikanga and te ao Māori.

- Include an additional clause ***Clause 11(2)(aa)***: "*ensure that at least 3 members of the Accessibility Committee whakapapa Māori*"
- In ***clause 13(1)***, the Māori nominations panel should be established "*for the purpose of nominating 3 or more candidates…*"

Similarly, and reflecting the diverse experiences, aspirations, and barriers faced by disabled people and whānau, we support the inclusion of the points under clause 11(2)(c). Given our legislated role, and what we know about the prevalence and impacts of disability in different communities, we consider that particular attention could be paid to the different needs of disabled people in rural communities, the state care system, and Pacific, Asian, migrant and former refugee communities. To ensure the Bill is able to support those and other underserved communities, wording from the Mental Health and Wellbeing Commission Act could be used.

- ***Clause 11(2)(c)(iv)*** should read "includes perspectives of people from different cultural backgrounds and of different ages, *including from people who share a common identity, experience, or stage in life that increases the risk that they*

will experience poor mental health and wellbeing (for example, the groups that are set out in Schedule 2 of the Mental Health and Wellbeing Commission Act)."

The Bill calls for mechanisms which are consistent with the United Nations Convention on the Rights of Persons with Disabilities and te Tiriti o Waitangi. This reflects that accessibility and the rights of people with disabilities do not operate in a vacuum, separate from other rights and concerns. This notion could be reflected further in the Bill, to strengthen and reflect the intersectional and diverse nature of disabled communities.

- *Objectives of Bill;* and *Clause 4: Principles* should also refer to other relevant UN conventions, including the Rights of the Child; and the United Nations Declaration on the Rights of Indigenous Peoples.

One of the few 'teeth' the Accessibility Committee has, under the Bill, is to gather information, from which it can make advice and recommendations, and most importantly, report on progress by other entities. With this in mind, anything that limits these information gathering powers would undermine the intent of the Bill. In particular:

- *Clause 20(1)(a)* – should be more explicit about which grounds are included here, highlighting the specific sections of the Official Information Act 1982, in order to remove any confusion about 'withholding information' (which has a narrow scope, as opposed to 'refusing requests', which is broadly applied).
- *Clause 20(1)(d)* should be removed, or at very least include clear and explicit parameters for "substantial research" should be included, to preclude any obstruction by the affected entity.

Finally, while the monitoring report is the key tool at the Committee's disposal to drive change, it is necessarily backwards-looking at the past recommendations. To make meaningful change, the Committee should be empowered to require improvement, not just monitor past performance. It will need to be adequately resourced to carry out these functions: is essential that the committee is well supported and resourced, both to facilitate full engagement and participation of members and for staff to do the research and investigations needed.

- People from the disabled community have told us that the legislation needs to go further, setting up a body with regulatory and enforcement powers. Without that, a committee that is just an advisory body to the Minister may act as a bottle neck for action.
- At the very least, to improve visibility and encourage action, we consider that the Committee should be empowered and required to publish its recommendations made to the Minister. The Minister, in turn, should be required to respond to the recommendations.