

Office for Disability issues

Te Tari Mō Ngā Take Hauātanga
Administered by the Ministry of Social Development

Date: 16 September 2003

Security Level: In Confidence

Report to : Minister for Disability Issues

NEW ZEALAND SIGN LANGUAGE BILL

Executive Summary

- 1 A draft Cabinet paper with proposals for the New Zealand Sign Language Bill is attached for your submission to the Cabinet Social Development Committee, if you agree.

Background

- 2 We have prepared a draft Cabinet paper with proposals for the New Zealand Sign Language Bill. The draft has been revised following your directions to separate the issues of official recognition of NZSL from the effects of official recognition. As a result, the proposals for the Bill are much clearer and more succinct. The paper includes a Regulatory Impact Statement which summarises the need for the Bill, the objectives and the costs and benefits.

Issues that arose in the last round of consultation

- 3 There were several issues that came up in the very late in the consultations with government agencies and which delayed getting this paper to you. We have outlined them for you in the event that they are raised with you by other Ministers and because one of the issues has resulted in recommendation 4.7 in the draft paper.

The use of principles and the link to the Disability Strategy

- 4 State Services Commission raised two issues and was extremely concerned that these be dealt with properly in the proposals. The first issue was that SSC was uncomfortable with the proposal to have statutory principles that are able to be implemented via the Disability Strategy. SSC did not consider that a link to the Strategy is needed and that the Bill should only deal with the status of NZSL and nothing else.
- 5 However, we consider it important for the Bill provides some guidance to departments about the principles to consider when responding to the Bill. You will recall that the original proposal was for a set of enforceable rights and that the principles approach, while sensible, was not the preferred option. The principles themselves are centred on the language rights of Deaf people and it seems to make sense to have a legislative link to the New Zealand Public Health and Disability Act.

- 6 SSC then raised its objection that if the NZSL Bill included a link to the disability strategy then Deaf people would get priority over other groups under the strategy and that would be discrimination against other people with disabilities. SSC considers that in its experience government departments will consider that the non-binding non-enforceable principles will take precedence over the status of other groups in the disability strategy. SSC was concerned enough to suggest alternative recommendations for the paper.
- 7 We have made it clear to SSC that this is not the intention of the Bill nor the likely outcome. The intention is simply to provide a link between the law giving legal status to NZSL and the mechanism for implementing the disability strategy which at present does not contain any specific recognition of NZSL. There are no other groups which have this issue related to the status of their language under the Strategy.
- 8 The Ministry of Justice has indicated that it does not consider that the Bill will result in unjustifiable intra-ground discrimination under the Bill of Rights Act. Furthermore, section 19 (2) of the Bill of Rights Act states that “measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination that is unlawful by virtue of Part 2 of the Human Rights Act 1993 do not constitute discrimination”.
- 9 In the interests of trying to resolve the matter we proposed a range of options for amending the paper and the recommendations and finally agreed upon the wording in para 4.7, namely that the Bill :
- Provides that the Minister of the Crown who is responsible for disability issues may report progress in implementing these principles when reporting on the disability strategy and making it clear that this is not intended to result in the advantage of one group over another under the strategy;
- 10 A related issue, raised by the Disabled Persons Assembly, was that NZSL is a language, not a disability, so that the Disability Strategy might not be the appropriate place to monitor the principles. We agree that the link to the Disability Strategy needs to be squarely based on the language issues (which is how the principles are framed) and not in disability issues. We have also thought about other options for monitoring the NZSL Bill, including considering establishing a new and separate reporting mechanism. Reporting as part of the Disability Strategy is not intended to limit the options for responses to the Bill or the options for meeting the needs of Deaf people. The intention is to use an existing mechanism, rather than to create a new one for what is a comparatively small group.
- 11 A more minor matter relates to the use of interpreters in Courts. The Department of Courts wishes to do more work on how NZSL interpreting might best be recorded in legal proceedings to cover the risk of problems with translations. The issue has come up in other cases involving the use of interpreters for spoken languages, and is not specifically about NZSL. Deaf people reported access to justice as a high priority, although the Department for Courts says that demand for NZSL interpreters is low and generally able to be met. It is sensible to make sure that the necessary procedures are in place and the Department has been included in the working party to look at these issues.

Financial implications

- 12 As noted in the draft paper, Treasury considers that there are likely to be additional costs on departments. While departments will be expected to meet additional costs within baselines, it has not been possible to determine the exact financial implications because government

departments have not been prepared to detail these before the final form of the Bill is known and in isolation from their other initiatives under the disability strategy. In addition, some departments want time to determine whether or not they can collaborate on initiatives and so minimise likely costs. At this stage, therefore, there are no specific funding implications detailed in the paper. Following a meeting with SSC and Treasury to deal with this point, Treasury are happy with the financial implications in the draft paper.

- 13 Finally, in the event that you need it for discussions with others, we have attached a fact sheet on NZSL and some information from the consultation with the Deaf community.

Recommended actions


We recommend that you:

- 1 **Note** the issues that have arisen in final round of consultations on the Cabinet paper

AGREE / DISAGREE

- 2 **Sign** the attached paper and forward it for submission to Cabinet Social Development Committee

AGREE / DISAGREE



Jan Scown
Director
Office for Disability Issues



Date

Hon Ruth Dyson
Minister for Disability Issues

Date

File Reference : DI/PA/4/4