

Giving effect to the New Zealand Sign Language Act

A guide for Government departments

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- **Government departments** for sharing information about their use of NZSL to provide information and promote their services, and the accessibility of their services to the Deaf community.

Introduction

The New Zealand Sign Language (“NZSL”) Act was passed in 2006 in order to promote and maintain the use of NZSL.¹

The Act makes NZSL an official language and provides for the use of NZSL in legal proceedings.

It also sets out **principles** to guide public service departments and ministries when exercising their functions and powers.

This is a practical guide for departments on how to give effect to the principles through their policies and practices in order to promote access to government information and services for the Deaf community.

The guide covers:

- **Important context**
The Deaf community, Deaf culture and NZSL
- **The guiding principles**
Understanding the guiding principles under the NZSL Act
- **Giving effect to the guiding principles**
Practical guidance for departments on how to give effect to the principles
- **Other relevant frameworks**
Other statutory, policy and international frameworks relevant to how departments and other government agencies engage with the Deaf community.
- **More help and guidance**
Other resources and people who can help

Who is this guide for?

The NZSL Act applies to the departments and ministries (“departments”) listed in [Part 1 of Schedule 1 of the Ombudsmen Act 1975](#), so this guide is for them.

The guide is also relevant to other government agencies that are bound by statutory non-discrimination provisions, and must have regard to the United Nations Convention on the Rights of Persons with Disabilities (“the Disability Convention”) (see [Other relevant frameworks](#) for more information).

This guide is also for the Deaf community and people who are Deaf, to be able to know what standards they can expect departments to adhere to in their dealings with them.

¹ See s 3 NZSL Act.

Important context

This section sets out important context about:

- [The Deaf community](#)
- [Deaf culture](#)
- [New Zealand Sign Language](#)

The Deaf community

Many Deaf people in New Zealand identify as members of a distinct linguistic and cultural group, who use NZSL as their first or preferred language. Whether a Deaf person identifies with the Deaf community is a personal choice.

The NZSL Act defines the “Deaf community” as the distinct linguistic and cultural group of people who are Deaf and who use NZSL as their first or preferred language, and people who are Deaf and who identify with that group.

The NZSL Act does not define the term “Deaf”. As at the 2018 Census, 7,647 people were unable to hear at all, and 55,221 people had a lot of difficulty hearing.²

The Deaf community can include people of varying degrees of hearing loss, as well as family members of Deaf people and sign language interpreters.

As with any community, the Deaf community has different groups of people who experience life in different ways – for example, young and old, rural and urban, Māori and Pacific Deaf, Deaf immigrants and refugees, Deaf people of differing sexual orientations and gender identities, Deaf people with disabilities, and Children of Deaf Adults (sometimes referred to as “CODAs”).

Deaf culture

Like any group of people who share a common language and similar life experiences, Deaf people have their own culture. This includes beliefs, attitudes, history, norms, values, literary traditions, and art.

Deaf culture is fundamentally about valuing and celebrating Deafhood.³ Members of the Deaf community share a strong connection. Values include participation in the community, sharing resources, and providing mutual support and assistance.

Deaf spaces – that is, safe spaces where Deaf people do not have to try so hard to communicate, such as Deaf clubs, community events or schools – are important, as is visual information and NZSL.

² Census 2018, *2018 Census totals by topic – national highlights – Table 1*, Stats New Zealand.

³ Unlike ‘Deafness’, which defines people by reference to their hearing loss, ‘Deafhood’ conveys an affirmative and positive acceptance of being deaf.

New Zealand Sign Language

NZSL is the language used by the New Zealand Deaf community, and is an integral part of Deaf culture.

There are approximately 23,000 people in New Zealand who use NZSL.⁴ This includes hearing parents who use NZSL to communicate with their Deaf children.

NZSL is not a visual expression of the English language. It is very different from English, both because it is a visual-gestural language, and in its grammar and syntax.

NZSL is a separate language in its own right, and the preferred way for many Deaf people to fully express themselves. It is **essential to effective communication** with the Deaf community.

Most Deaf NZSL users have been Deaf since infancy. Delayed access to a fully visual language like NZSL can result in language deprivation. That deprivation can have far-reaching developmental and educational impacts.⁵ As a result, **written English** is inaccessible to many Deaf people, and **is not an adequate substitute** for NZSL.⁶

The guiding principles

The NZSL Act sets out principles by which departments should be guided, so far as reasonably practicable, when exercising their functions and powers.⁷

The purpose of the principles is to promote access to government information and services for the Deaf community.⁸

The principles – which overlap and reinforce one another – relate to:

- [Consultation on matters relating to NZSL](#);
- [Using NZSL to promote services and provide information](#); and
- [Making services and information accessible to the Deaf community](#).

What is **reasonably practicable** depends on the circumstances. This means weighing the anticipated [benefits](#) of a potential course of action against the anticipated costs or

⁴ Census 2018, *2018 Census totals by topic – national highlights – Table 14*, Stats New Zealand.

⁵ Joanne Witko, Pauline Boyles, Kirsten Smiler and Rachel McKee “Deaf New Zealand Sign Language users’ access to healthcare” NZMJ 1 December 2017, Vol 130 No 1466 at 53.

⁶ See “A Era in the Right to Sign” (Human Rights Commission, 2013): “There is little New Zealand data about the comparative achievement levels of deaf children. However, research in New Zealand and other countries has identified that many deaf children leave school with poor levels of achievement and a lower than average written language literacy age”. See also “Scoping support for New Zealand Sign Language users accessing the curriculum. Part II: A New Zealand Overview” (Ministry of Education, 2010): “Education levels are much lower than would be expected for a group of children and adults largely without cognitive impairment, although precise data on educational achievement is difficult to obtain”.

⁷ See s 9(1) NZSL Act.

⁸ See s 9(3) NZSL Act.

disadvantages.

In every case, departments should use their **genuine best endeavours** to give effect to the principles when exercising their functions and powers consistent with the purpose of **promoting and maintaining** the use of NZSL.

Benefits of complying with the principles

The principles are about fairness, and society as a whole benefits when its individual members are treated fairly.

Giving effect to the principles can have significant benefits for Deaf people, the Deaf community, departments themselves, and society as whole. For example:

- Improved safety and wellbeing of members of the Deaf community
- The realisation of individual human rights
- Departmental compliance with the NZSL Act and other relevant frameworks (see [Other relevant frameworks](#) below)
- Enhanced public participation in government decision making processes
- Better / fairer government decision making processes, that are more likely to gain acceptance and buy-in from the Deaf community

Principle 1: Consultation on matters relating to NZSL

The first principle is that the Deaf community should be consulted on matters relating to NZSL.⁹ This would include work to develop policies on NZSL interpreting or translation (see [Policies](#)).

This obligation is placed on **the chief executive** of the department. The Act says that the required consultation is to be “*effected by the chief executive*” consulting – to the extent that is reasonably practicable – with the persons or organisations that the chief executive considers to be **representative** of the interests of the members of the Deaf community.¹⁰

Chief executives should take advice on which persons or organisations may be considered representative of the interests of members of the Deaf community in a particular case (see [More help and guidance](#)).

Deaf representative organisations include, but are not limited to:

- [Deaf Action New Zealand](#)
- [Deaf Aotearoa](#)
- [Deaf Children of New Zealand](#)

Deaf Aotearoa is a Disabled Person’s Organisation (“DPO”) representing the Deaf community in New Zealand. DPOs were established to give effect to the Government’s obligations under the [Disability Convention](#) to consult with, and actively involve, disabled

⁹ Section 9(1)(a) NZSL Act.

¹⁰ Section 9(2) NZSL Act.

persons in developing legislation and policy to implement the Convention through their representative organisations.¹¹

As discussed above, the [Deaf community](#) is very diverse, and it may not be enough just to consult a representative organisation. Departments should ask for [help and guidance](#) to identify the appropriate persons and organisations to consult.

While the obligation to consult applies to matters **relating to NZSL** this should not be interpreted in a narrow way. As a matter of good practice, departments should consult the Deaf community on any matters that will impact on them as citizens or residents, including their ability to access services. General consultation processes should be accessible to the Deaf community.

See [Consulting](#) for guidance on how to give effect to this principle.

Principle 2: Using NZSL to promote services and provide information

The second principle is that NZSL should be used in promoting government services and providing information to the public.¹²

This means that information **promoting government services** should, where reasonably practicable, be translated and made available in NZSL videos.

Departments provide a huge amount of written **information to the public**. Careful [planning](#) (and consultation with the Deaf community) is needed to determine what information should be provided in NZSL.

See [Translating](#) for guidance on how to give effect to this principle.

Principle 3: Making services and information accessible to the Deaf community

The third principle is that Government services and information should be made accessible to the Deaf community through the use of appropriate means (including the use of NZSL).¹³

This means that departments should arrange and pay for NZSL interpreting services when meeting with Deaf people, and translate information into NZSL. However, it is not limited to that.

“Appropriate means” can include any other designs or accommodations that should reasonably be made in order to make government services and information accessible to the Deaf community.

See [Interpreting](#), [Translating](#), and [Alternative ways of communicating](#) for guidance on how to give effect to this principle.

¹¹ Article 4.3 Disability Convention.

¹² Section 9(1)(b) NZSL Act.

¹³ Section 9(1)(c) NZSL Act.

Giving effect to the guiding principles

This section provides some practical guidance for departments on how to give effect to the guiding principles. It covers:

- [Leadership and culture](#)
- [Consulting](#)
- [Interpreting](#)
- [Translating](#)
- [Alternative ways of communicating](#)
- [Policies](#)
- [Capacity and capability](#)
- [Monitoring](#)

Leadership and culture

Chief executives and senior leaders should lead by example in promoting awareness and use of NZSL as an official language of New Zealand, and ensuring the accessibility of departmental services to Deaf people and the Deaf community. They should actively work together to promote a Deaf-friendly culture within the department. This could involve:

- Clear and regular communication to external audiences about the department's commitment to using NZSL and ensuring accessible services, including the availability of NZSL interpreters.
- Clear and regular communication to staff about the department's commitment to using NZSL and ensuring accessible services.
- Appointing a senior leader with responsibility for implementing the department's commitment to using NZSL and ensuring accessible services.
- Allocating adequate resources for NZSL translation and interpreting services to ensure that departmental services are accessible to Deaf people and important information is available in NZSL.
- Establishing and maintaining relationships with the Deaf community and Deaf representative organisations.
- Establishing and maintaining comprehensive and up-to-date policies on how the department will implement its obligations under the NZSL Act, including by providing NZSL interpreting services and translating information into NZSL (see [Policies](#));
- Building departmental capacity and capability to give effect to the principles of the NZSL Act, including through provision of regular training to staff and appointing Deaf members of staff (see [Capacity and capability](#));
- Ongoing monitoring of the department's efforts to comply, so far as reasonably practicable, with the principles of the NZSL Act (see [Monitoring](#)).

“It’s attitude. Be open-minded. No more excuses. This should be part of the culture, and it filters from the top” – Deaf NZSL user

Consulting

Compliance with the NZSL Act requires (so far as reasonably practicable) departments to consult with the Deaf community on matters relating to NZSL.¹⁴ As a matter of good practice, departments should also consult the Deaf community on any matters that will impact on them as citizens or residents, including their ability to access services.

Consultation with the Deaf community cannot rely solely on communications in written English. As discussed above, written English is inaccessible to many Deaf people, and is not an adequate substitute for NZSL (see [Important context – New Zealand Sign Language](#)).

As a minimum, therefore, consultation with the Deaf community should involve:

- Communications about the purpose of the consultation in NZSL, so that Deaf people can participate on an informed basis;
- Enabling Deaf people to participate in the consultation process in NZSL (which may include the ability to make video submissions in NZSL); and
- Communications about the outcome of the consultation process in NZSL, so that Deaf people can understand how their input was considered.

Face to face communication

NZSL is a visual language, and so it makes sense that there is a strong preference for face-to-face (kanohi ki te kanohi) communication when conducting consultation with the Deaf community. Face-to-face usually means in-person, but it could also mean online, through a video conferencing platform. In the alternative, departments could offer to receive video submissions in NZSL, which can then be translated.

“Some consultations are faceless. They put out a bit of information in English and expect the Deaf community to provide feedback on it. We need people to come out to our communities – to clarify and answer questions in our language. Deaf culture places a really high value on face to face communication” – Deaf NZSL user

Targeted communication

Consultation that is targeted to Deaf people, rather than an add-on to general consultation processes, may be more effective.

“I’ve been involved in general consultations where NZSL interpreters were provided, but

¹⁴ See s 9(1)(a) NZSL Act.

they were still hearing dominated. The examples and experiences given by hearing attendees were irrelevant to the Deaf attendees. It is very difficult to interrupt a conversation people are having orally. The hearing group communicated more quickly. We needed more time. We needed space for us” – Deaf NZSL user

Planning and preparation

Consultation with the Deaf community should be planned – not an afterthought. Early involvement of Deaf people in the planning and preparation for consultation will help to ensure that the consultation process, and the information and examples that are provided in NZSL, are relatable, effective and fit for purpose.

Deaf participants should be given advance information (in NZSL) about the purpose of the consultation, and the questions that will be asked, so they can think and prepare beforehand.

NZSL interpreters also need to be booked well in advance to ensure availability and adequate time to prepare (see [Interpreting – Planning and preparation](#)).

The time to do all of this needs to be built into the consultation process.

“A good consultation process would involve skilled Deaf people from the beginning advising the government department on how the consultation can be run in a Deaf cultural and appropriate manner. This would ensure that the planning is Deaf/NZSL friendly from the beginning rather than us having to try and spin some magic ... at the end ...” – Deaf NZSL user

Deaf facilitators

Appointing a Deaf facilitator to lead the consultation process can support effective communication, and help to create a safe space for Deaf participants to freely express their views.

A Deaf facilitator can conduct the consultation and report back to the Department. Officials can also take part in the consultation process as participant observers, with the assistance of NZSL interpreters. That way information can go both ways, and officials can answer any questions the other participants may have.

“[Consultation] sessions should absolutely be run or co-run with a skilled Deaf person to ensure the process is appropriate and the audience comfortable to give the best feedback they can” – Deaf NZSL user

Logistics

Think carefully about the timing and location of consultation processes. A poor choice of time (for example, in the middle of a work day, when people may be busy or have to take leave) can be a barrier to effective participation for many. So too a poor choice of location. Consultation in a “Deaf space” will be appreciated. A “Deaf space” is somewhere comfortable and familiar to Deaf people – for example, local Deaf clubs.

Interpreting

“Interpretation” is defined in the NZSL Act as the expression in NZSL of words spoken in English and/or te reo Māori, and the oral expression in English and/or te reo Māori of messages expressed in NZSL.¹⁵ It therefore enables Deaf people to understand information communicated **orally** by providing that information in NZSL.

Compliance with the NZSL Act requires departments (so far as reasonably practicable) to provide accessible services and information to the Deaf community.¹⁶ This means booking and paying for NZSL interpreting services whenever a meeting is required with a Deaf person. Trilingual interpreters (English/te reo Māori/NZSL) will be required if the spoken language is te reo Māori.

Departments should establish and maintain comprehensive and up-to-date policies on providing NZSL interpreters (see [Policies](#)), and ensure that staff are aware of those policies (See [Capacity and capability](#)).

Language Assistance Services (LAS)

LAS is run by the Ministry of Business, Innovation and Employment (MBIE) with the aim of establishing a comprehensive framework for the delivery of high quality, consistent and coordinated language assistance services across Government. It includes a new national model for agencies to access face-to-face interpreting services, including NZSL interpreting services. Visit www.mbie.govt.nz for more information.

Effective communication with Deaf people: A guide to working with New Zealand Sign Language interpreters

Departments should refer to this [guide by the Office for Disability Issues](#) for detailed information on working with NZSL interpreters, including information on what they do; how to know they are professionally competent; legal requirements for providing interpreters; when and how to book interpreters; and who pays.

Choice

Departments should always start by asking the Deaf person if they have particular requirements or preferences for a NZSL interpreter. Some reasons for preferring a particular

¹⁵ See s 4 NZSL Act.

¹⁶ See s 9(1)(c) NZSL Act.

interpreter include:

- The gender of the interpreter;
- The experience and knowledge of the interpreter (e.g. medical or legal);
- Consistency (e.g. if the same interpreter has handled previous similar assignments);
- The Deaf person's desire to control who has access to their personal information (see [What about privacy](#) below); and
- Language repertoire (e.g. an interpreter who uses clear English lip patterns in combination with NZSL, or is familiar with older or younger people's signing style).

If it is not reasonably practicable to meet the Deaf person's preferences, they should be informed as soon as possible and appropriate alternatives discussed.

Qualified NZSL interpreters

Departments should generally only use professional NZSL interpreters. Professional NZSL interpreters belong to the Sign Language Interpreters Association (SLIANZ) and/or the New Zealand Society of Translators and Interpreters (NZSTI), and follow those organisations' Code of Ethics. The guide to [Effective communication with Deaf people](#) has more detail on how to know if an interpreter is professionally competent.

Departments should avoid using unqualified people as interpreters – for example, a staff member, or friend or family member of the Deaf person. While a friend or family member can provide support, they should not be the sole or primary source of interpreting services. They do not have to abide by the same ethical standards (like confidentiality) as professional interpreters. There is also no way of knowing whether an unqualified person is fluent enough to enable effective communication. This is particularly risky in situations where a clear understanding is critical – for example, where the discussion feeds into a decision affecting the rights or entitlements of the Deaf person. It also does not respect the Deaf person's right to privacy (for more on [privacy](#) see below).

Using a qualified NZSL interpreter usually means booking an interpreter through a NZSL interpreting service (visit www.mbie.govt.nz for more information about the new national model for agencies to access face-to-face interpreting services).

Some departments or government agencies may have qualified NZSL interpreters on staff. This is great in order to ensure a base level of access to NZSL interpreting services, but it is still important to respect the Deaf person's right to choose an interpreter independent of the department or government agency (see [Choice](#) above).

Where the subject matter is very technical or specialised (such as health or legal interpreting), departments should work with booking agencies to ensure the right interpreter is booked, and that they are appropriately prepared for the job (see [Planning and preparation](#)).

The role of interpreters

Interpreters facilitate communication between Deaf and hearing people by interpreting between NZSL and spoken language.

The interpreter's role is to convey meaning between spoken and signed language, not to become involved in the interpreted event in a substantive way. The interpreter will not offer advice or opinions on the situation, other than to assist participants to work effectively with the interpreter when necessary.

Staff should face toward and speak directly to the Deaf person they are meeting with – not the NZSL interpreter.

The interpreter will keep the interpreted interaction confidential.

“[There is a] lack of knowledge of the NZSL interpreter's role: agency staff often say to the interpreter 'Please tell him/her [the Deaf person]...' or ask 'What do you [interpreter] think?' Agencies [need] to understand the professional role of interpreters and their code of conduct and ethics – Deaf NZSL user

Planning and preparation

NZSL interpreters should be booked well in advance. This is particularly true for trilingual interpreters (English/te reo Māori/NZSL) because there are fewer of them. If a trilingual interpreter is not available, it may be possible to use a team to interpret between English, te reo Māori and NZSL. If left to the last minute, an interpreter may be unavailable, and the Deaf person may not get their choice of interpreter, or any interpreter at all.

Booking in advance is also important to ensure adequate time for the interpreter to prepare for the meeting. This involves briefing the interpreter on the purpose of the meeting, the names and roles of attendees, the agenda and any other relevant documentation (for example, speech notes, handouts or a copy of a copy of presentation slides). This helps the interpreter to understand the context of the meeting, and any specialised language or terms used which may not be common in NZSL or known by the Deaf person.

A meeting involving NZSL interpreters may take a bit longer, and this should be factored in when setting the appointment. If a meeting or event lasts more than one hour, then at least two interpreters will be required. If only one interpreter is working, allow 5 to 10 minutes of rest break for each 30 to 45 minutes of interpreting.

Deaf interpreters

Not all NZSL interpreters are hearing people who have learned NZSL. Deaf interpreters are native NZSL users, and have lived experience of Deafness. Using Deaf interpreters can significantly aid comprehension and communication, and make the experience more

interactive for Deaf participants, who can ask questions and have them answered directly. You can find more information about Deaf Interpreting in New Zealand at www.odi.govt.nz.

Logistics

The Deaf person(s) needs to be able to see the NZSL interpreter clearly. The NZSL interpreter needs to be able to see everyone and hear everything clearly. Often it is helpful if the NZSL interpreter sits next to the person speaking. That way the Deaf person can see the interpreter, as well as the expressions and body language of the person speaking. The Deaf person and/or the NZSL interpreter will be able to advise on the best position.

What about privacy?

The role of NZSL interpreters means they will come into possession of personal information (sometimes sensitive personal information) about the people they are interpreting for.

This isn't something to be concerned about, provided professional NZSL interpreters are used. Professional NZSL interpreters are subject to a code of ethics requiring them to maintain confidentiality and not to disclose information acquired during the course of their work.

However, it is important to think about where your discussion is taking place. Signed conversations in public places (like an open plan office) can be 'overheard' by anyone who knows NZSL. Consider whether it would be more appropriate to meet in a private room.

Translating

"Translation" is defined in the NZSL Act as the written expression in English and/or te reo Māori of messages expressed in NZSL and the signed expression in NZSL of words written in English and/or te reo Māori.¹⁷ It therefore enables Deaf people to understand **written** information by providing that information in NZSL.

Compliance with the NZSL Act requires (so far as reasonably practicable) departments to promote government services and provide information to the public in NZSL.¹⁸ This means translating information about departmental services, and other key information (particularly high stakes information relating to health and safety), into NZSL videos.

Translating information into NZSL videos enables Deaf people to access information independently at a time and place that is convenient to them. Quality NZSL translations, using video, are a valuable way to provide information in an accessible format for Deaf people.

Once the translated information has been published it should be regularly reviewed to

¹⁷ See s 4 NZSL Act.

¹⁸ See s 9(1)(b) NZSL Act.

ensure that it remains accurate and up-to-date.

Departments should establish and maintain comprehensive and up-to-date policies on translating information into NZSL (see [Policies](#)) and ensure that staff are aware of those policies (See [Capacity and capability](#)).

Accessibility guidance and advice

Departments should see [MSD's website](#) for advice and guidance on making information accessible. This includes the [Accessibility Guide](#), which provides guidelines for the creation of accessible material, including the provision of information in alternate formats for Deaf people, like translating the information into NZSL on video, and adding closed (can be turned on) or open (permanently on) captions to videos. MSD's Accessibility Team can also provide advice on translating content into alternate formats, including NZSL.

Planning and preparation

Deciding what information should be translated into NZSL requires careful planning.

Departments should involve members of the Deaf community in the planning process – asking what they would like to see translated into English, and sense-checking the resources as they are developed.

The following information should be considered for translation into NZSL:

- Information to support the everyday life and needs of the Deaf community;
- Forms, correspondence, pamphlets and brochures used by the department to facilitate or promote public services;
- Information about the department's functions and responsibilities;
- The department's policy for providing NZSL interpreting services;
- Information about rules used by the department to make decisions about people's rights and entitlements;
- Key resources developed by the department for public use;
- Information about policy development processes that are likely to impact on the everyday life and needs of the Deaf community;
- Information about particular public consultation processes that are likely to impact on the everyday life and needs of the Deaf community;
- Information about law or rule changes that are likely to impact on the everyday life and needs of the Deaf community;
- Information about particular events, especially 'high stakes' information that will have a significant impact on people's lives or personal safety;
- Information about particular inquiries into matters of public interest;
- Information about complaints and appeal processes; and
- Key accountability information, like annual reports.

It's important to think about translation **early** in the process because it can take time to do it well. Developing the material with translation in mind is more likely to result in a better, more useable, resource. Departments need to schedule adequate time and allocate funding for a translation provider and experienced video producer. Ideally the written information and the NZSL translation of that information would be released at the same time.

Effective translation

A direct translation from written English to NZSL will not be the most effective way of getting a message across. The focus should be on presenting the most important information in NZSL, in the most understandable way. Departments should seek specialist advice on the best way to go about translating information into NZSL (see [More help and guidance](#) below). Aids to effective translation include:

- Ensuring the content is targeted to, and relevant for, the Deaf community;
- Using NZSL grammar without following the grammar of the English text too closely;
- Having a clear introduction at the start of the video to provide context;
- Using clear, slow signing with pauses, role shifting,¹⁹ clear lip patterns and facial expressions;
- Using key text and visual cues on screen to help the audience relate to the information;
- Providing additional information and explanations to aid understanding;
- Producing short videos, or breaking longer videos into chapters, so the viewer can digest the information they want at an appropriate pace;
- Using role-plays and real life examples to make the content more relatable and easier to understand;
- Providing Deaf-friendly ways to contact the department for more information, such as video email or meeting face to face (see [Alternative ways of communicating](#));
- Presenting contact details in both NZSL and writing;
- Adding closed (can be turned on) English captions, so viewers can choose whether to watch the videos with or without captions.
- Using a plain background for videos, that contrasts clearly with the clothing worn by the presenter and any captions or text.

A team approach, involving the department, the translation provider and Deaf end users, will enable resources to be checked, reviewed and adapted as they are developed, and result in a more effective translation.

¹⁹ Role shifting is where a signer reports another person's statements or actions in another context using a range of markers (such as body shifting, gaze shifting, head shifting and head tilting) that imitatively depict the other person in that context.


Case study: Royal Commission of Inquiry into Abuse in Care

The Royal Commission of Inquiry into Abuse in Care published its terms of reference in NZSL. It also created a range of resources in NZSL – collated at www.abuseincare.org.nz/about-us/deaf-community/ – addressing the background to the inquiry, how inquiries work, how Deaf people could share their experiences with the inquiry (including NZSL interpreting services), and what the inquiry would do with the information that was received. The Royal Commission also provided NZSL interpreting services for all livestreamed public hearings.

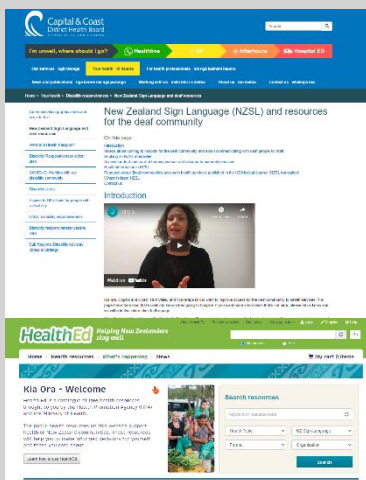
Easy to find

Translating material into NZSL is only the first step. There also needs to be a focus on disseminating translated material.

New NZSL resources should be publicised (for example, through Deaf community social media groups or pages), so that as many members of the Deaf community as possible know they are available. The translation provider used by the Department may have ideas for how to publicise new resources.

All departments should consider creating a webpage that is accessible from their homepage that collates in one place all the information that is available on their websites in NZSL. Using the NZSL logo () will help to signpost resources in NZSL. It is also good idea to include a way for Deaf people to submit feedback on NZSL resources and requests for information to be translated into NZSL.

Case study: Wellington health services



Capital and Coast District Health Board (“DHB”) hosts a [webpage](#) on behalf of the Wellington region DHBs that pulls together in one place the information that is available in NZSL or relevant to the Deaf community. Users are invited to contact the DHB if they want more information to be published on the webpage.

Case study: HealthEd

HealthEd.govt.nz is a website run by the Health Promotion Agency and the Ministry of Health. It contains a searchable catalogue of free health resources. Users can search by language, including NZSL, to find a complete list of health resources in NZSL.

Alternative ways of communicating

There are lots of ways of communicating with the Deaf community and Deaf people. The more alternatives used, the more effective the communication will be.

Many departments will still need to communicate with people in **writing**. If written communications are simple and clear this will help everyone – not just Deaf people. Where contact details are provided, these should include email and/or text message, as well as phone numbers (along with information on how to use the New Zealand Relay Service (see below)).

A primary method of communication will be through the Department's **website**, and video content published in NZSL on that website. Video content that is not in NZSL can be made more accessible for people who are Deaf by adding closed (can be turned on) or open (permanently on) captions. A NZSL translation can also be added to existing videos by adding a "picture in picture".

Social media platforms can also provide an effective way of communicating with the Deaf community. There are lots of Deaf groups active on Facebook. They may be willing to help get messages out to the Deaf community.

There are also **video email** applications that enable Deaf people to record and send videos in NZSL just as they would an email.

[The New Zealand Relay Service](#) enables Deaf and hearing people to communicate by phone or video conferencing platform, with the assistance of a NZSL interpreter. Departments should consider setting up a specific phone number for Relay Service users, or prioritising calls from Relay Service users, as long wait times can impact on the availability of NZSL interpreters. This would also ensure that calls are taken by staff trained on how the Relay Service works.

Departments should bear in mind that not all Deaf people have access to technology, so communication alternatives should ideally include some low-tech options too (for example, community meetings).

Policies

Departments should develop a policy on how they will implement their obligations under the NZSL Act, including by:

- providing NZSL [interpreting](#) services; and
- [translating](#) departmental information into NZSL.

This gives a clear signal to staff about the importance of complying with the NZSL Act, and meeting the accessibility and information needs of the Deaf community, where reasonably practicable.

It also ensures that staff are aware of a Deaf person's right to access a NZSL interpreter for meetings, and of the need to take responsibility for booking and paying for a NZSL interpreter where reasonably practicable.

Departments should consult the Deaf community when developing or revising these policies. This is precisely the kind of consultation mandated by the NZSL Act.²⁰

Policies should nominate a senior leader with responsibility for implementation, and for ensuring the policies are reviewed and updated on a regular basis.

Departments should consider translating their policies into NZSL and publishing that information on their websites, so that NZSL users know the department's policy, particularly in relation to providing NZSL interpreting services (see [Translating – Planning and preparation](#)).

Case study: MOU between MCDEM and Deaf Aotearoa

An [MOU between the Ministry of Civil Defence & Emergency Management \("MCDEM"\) and Deaf Aotearoa](#) addresses a number of the matters discussed above. For example, MCDEM agrees:

- To use qualified and suitable NZSL interpreters at pre-planned formal MCDEM-led media briefings where important safety information is being communicated verbally to media and the general public.
- To advocate to camera operators attending such briefings that they frame the NZSL interpreter properly to fully include their hand actions, facial expressions, and upper body.
- To engage with Deaf Aotearoa when developing or updating any documentation, resources, guidance or projects/initiatives that directly relate to, or is likely to have a significant effect on, the life and safety of Deaf people.
- To collaborate with Deaf Aotearoa to develop and promote emergency preparedness resources for Deaf people.
- To promote NZ Sign Language Week on its relevant social media channels.
- To arrange meetings at least annually between MCDEM and Deaf Aotearoa.
- To respond to any correspondence from Deaf Aotearoa in a timely, informative and constructive manner.
- To assume responsibility for payment for NZSL interpreter services for any mutually agreed appointments/engagements between the two parties, whether that be a media briefing or a meeting.

²⁰ See s 9(1)(a) NZSL Act: "the Deaf community should be consulted on matters relating to NZSL".

Capacity and capability

Hand in hand with establishing and maintaining policies, departments should ensure that staff receive regular training on:

- the NZSL Act;
- NZSL and Deaf culture;
- communicating with Deaf people, including how the New Zealand Relay Service works;
- when and how to book NZSL interpreters;
- the role of NZSL interpreters; and
- when and how to consider translating information into NZSL.

It is also important that departmental staff reflect the diversity of New Zealand. Having Deaf people on staff will help to grow institutional knowledge of NZSL and what it means to be Deaf.

This is part of broader public service goals relating to diversity and inclusion. See www.publicservice.govt.nz for more information about diversity and inclusion in the public service.

Having specialist Deaf cultural advisers or NZSL interpreters on staff may also help departments to comply with their obligations under the NZSL Act. Some government agencies have also established teams or expert advisory groups to assist.

Deaf staff and advisors must be supported by their employers to have influence within the relevant department by ensuring they can access all of the information they need to carry out their role, and making reasonable accommodations, including adequate access to NZSL interpreting services.

Case study: Department of Internal Affairs (“DIA”)

DIA has a small group of staff who can be called on to support staff members to work effectively with Deaf customers. Members of this group periodically run education sessions for customer-facing staff to assist their awareness and understanding of when assistance may be required, as well as a broad understanding of Deaf culture.

Monitoring

As a matter of good practice, departments should undertake regular monitoring and evaluation to assess their level of compliance with the NZSL Act. This may include:

- monitoring and evaluating demand for, and supply of, NZSL interpreting services, and expenditure on NZSL interpreting services;
- monitoring and evaluating the volume of NZSL translations, requests for information to

- be translated into NZSL, and feedback received on NZSL resources;
- monitoring and evaluating feedback and complaints, to identify instances of inaccessible information and processes and working to resolve the situation.

Other relevant frameworks

This section provides an outline of other relevant statutory, policy and international frameworks. These frameworks give rise to their own obligations, and provide important context when interpreting the scope of a Department’s obligations under the NZSL Act. It covers:

- [New Zealand Bill of Rights Act and the Human Rights Act](#)
- [Te Tiriti o Waitangi](#)
- [Disability Convention](#)
- [New Zealand Sign Language Strategy](#)
- [New Zealand Disability Strategy and Action Plan](#)

New Zealand Bill of Rights Act and the Human Rights Act

The [New Zealand Bill of Rights Act 1990](#) (“the BORA”) affirms, protects, and promotes human rights and fundamental freedoms in New Zealand. All branches of the Government are subject to the BORA.²¹

The rights in the BORA are subject only to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”.²²

One of the rights in the BORA is the right to freedom of expression, including the **freedom to seek, receive, and impart information** and opinions of any kind in any form.²³ The realisation of this right for Deaf people requires the ability to seek, receive and impart information in NZSL.

Another is the right to **freedom from discrimination** on the grounds of discrimination in the [Human Rights Act 1993](#) (“HRA”).²⁴ This includes discrimination on the grounds of physical disability or impairment.²⁵ Generally, if a Department or agency acts inconsistently with that right, it is a breach of the HRA,²⁶ and can be the subject of a complaint to the Human Rights Commission,²⁷ or to the courts.

The two Acts – the BORA and the HRA – therefore work together to define and protect

²¹ Section 3 BORA.

²² Section 5 BORA.

²³ Section 14 BORA.

²⁴ Section 19 BORA.

²⁵ Section 21(1)(h) HRA.

²⁶ Part 1A ss 20I and 20L HRA.

²⁷ Part 3 HRA.

people from discrimination.²⁸

Indirect discrimination

Discrimination does not need to be direct, but may be indirect.²⁹ Indirect discrimination can arise “when a criterion in a law or policy, which is not on its face discriminatory, corresponds to a feature (or lack thereof) of all or part of a group and results in that group being treated differently on a prohibited ground”.³⁰

In *Ngaronoa v Attorney-General* our Court of Appeal gave a Canadian case – *Eldridge v British Columbia (Attorney-General)* – as an example of indirect discrimination.³¹

The Canadian Supreme Court considered whether the fact that the British Columbia public health system did not fund the provision of translation services to Deaf patients was discriminatory.³² The Supreme Court held that the object of the system was to secure access to core medical services. The failure to provide translation services to Deaf patients effectively denied them equal access to core benefits otherwise accorded to everyone within the province, and was therefore discriminatory.

Te Tiriti o Waitangi

Te Tiriti o Waitangi (“Te Tiriti”) is a founding document of the government in New Zealand,³³ and it is one of the roles of the public service to support the Crown in its relationships with Māori under Te Tiriti.³⁴

Te Tiriti forms part of the relevant context or backdrop against which the obligations under the NZSL Act, and to Māori members of the Deaf community, should be interpreted.

The principles of Te Tiriti, relevant under the Treaty of Waitangi Act 1975, are:³⁵

- Partnership: Māori and the Crown have a relationship of good faith, mutual respect and understanding, and shared decision-making.
- Participation: the Crown and Māori will work together to ensure Māori (including whānau, hapū, iwi and communities) participate at all levels of decision-making. This includes the right to seek opportunities for self-determination and self-management.
- Protection: the Crown actively contributes to improving the wellbeing of Māori, including support for independent living and the protection of Māori property and identity, in accordance with Māori values. Māori have the same rights and privileges as

²⁸ *Ngaronoa v Attorney-General* [2017] 3 NZLR 643, [2017] NZCA 351 at [111].

²⁹ Section 65 HRA.

³⁰ *Ngaronoa v Attorney-General* note 28 at [119].

³¹ *Ngaronoa v Attorney-General* note 28 at [135]. There are no comparable New Zealand court judgments relating to discrimination through non-provision of NZSL interpreting services.

³² *Eldridge v British Columbia (Attorney-General)* [1997] 3 SCR 624.

³³ Cabinet Manual 2017 at 1.

³⁴ See s 14(1) Public Service Act 2020.

³⁵ [New Zealand Disability Strategy](#) at 18.

other citizens.

Disability Convention

The [Disability Convention](#) is an international human rights treaty with specific obligations in relation to Deaf people, the Deaf community and NZSL. It was ratified by New Zealand in September 2008.

The Government is required to implement its obligations under the Disability Convention. The Government is also required to report to the United Nations every four years on progress with implementing the Disability Convention.

Departments should have regard to New Zealand’s obligations under the Disability Convention when considering what is required to comply with the NZSL Act. Laws (like the NZSL Act) should, where possible, be interpreted consistently with international obligations.³⁶

Departments and government agencies should be guided by the Convention when engaging with Deaf people or the Deaf community, and when making decisions that impact on access to services and information.

Relevant parts of the Disability Convention are set out [below](#).

In New Zealand, an Independent Monitoring Mechanism (IMM) monitors the Government to make sure it is implementing the Disability Convention. The IMM is made up of the Human Rights Commission (HRC), the Ombudsman and the Disabled People’s Organisations’ Coalition, a body that represents the voice of disabled people in New Zealand.

The [Ombudsman](#) is able to consider complaints from disabled people that they have been treated unfairly or unreasonably by a Department or agency.³⁷ This can include consideration of whether a Department or agency has followed the principles of the Disability Convention.

New Zealand is also a signatory to the Optional Protocol to the Disability Convention, which establishes an international complaints mechanism for disabled people who believe their rights under the Disability Convention have been denied. See the Ombudsman’s guide on [Making complaints to the UN Disability Committee](#) for more information about this.

Relevant parts of the Disability Convention in this context	
Accessibility Article 9, 9(2)(e)	<ul style="list-style-type: none">To enable disabled people to live independently and participate fully in all aspects of life, the State must take appropriate measures to ensure equal access for disabled people to information and communications and to public facilities and

³⁶ “It is now accepted that, if possible, statutes should be interpreted consistently with international obligations”: *Helu v Immigration and Protection Tribunal* [2016] 1 NZLR 298 (SC) at [207] and also [144], citing *Tavita v Minister of Immigration* [1994] 2 NZLR 257 (CA).

³⁷ Under the Ombudsmen Act 1975.

	<p>services.</p> <ul style="list-style-type: none"> • States must also take appropriate measures to provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public. For Deaf people this means providing professional NZSL interpreters and resources translated into NZSL.
<p>Freedom of expression and opinion, and access to information</p> <p>Article 21, 21(b) and 21(e)</p>	<ul style="list-style-type: none"> • States must take all appropriate measures to ensure that disabled people can exercise the right to freedom of expression, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice. • This includes accepting and facilitating the use of sign languages in official communications, and recognising and promoting the use of sign languages.
<p>Education</p> <p>Article 24(3)(b)</p>	<ul style="list-style-type: none"> • To enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community, States must facilitate the learning of sign language and the promotion of the linguistic identity of the Deaf community.
<p>Participation in cultural life</p> <p>Article 30(4)</p>	<ul style="list-style-type: none"> • Disabled people are entitled to equal recognition and support of their specific cultural and linguistic identity, including sign languages and Deaf culture.

New Zealand Sign Language Strategy

The NZSL Strategy has been approved by Cabinet to guide the work of the NZSL Board from 2018 to 2023. It is also intended to guide the NZSL work of government agencies and Crown entities.

The NZSL Strategy has five planning priorities – one of which relates to use / access of NZSL. The purpose is to promote the use of NZSL and social equality for Deaf NZSL users by ensuring they have access to information and services in NZSL.

For each planning priority, the NZSL Strategy outlines aspirational descriptions of what the future will look like in 2023, after five years of implementing the Strategy. In relation to use / access of NZSL, the description states (emphasis added):

*Core government services and information, which are the responsibility of key **central government agencies** ... as well as local government agencies are accessible to Deaf NZSL users because they:*

- ***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 [NZSL Strategy] and the use of robust data and evidence.*

New Zealand Disability Strategy and Action Plan

The [New Zealand Disability Strategy](#) (“Disability Strategy”) is the primary vehicle for progressive realisation of the [Disability Convention](#).³⁸ Some of the outcomes and actions under the Disability Strategy relate directly to accessibility of services and information in NZSL.

The Disability Strategy guides the work of government agencies on disability issues from 2016 to 2026. The vision of the Disability Strategy is that New Zealand is a non-disabling society – a place where disabled people have an equal opportunity to achieve their goals and aspirations, and all of New Zealand works together to make this happen.

The Disability Strategy has eight outcome areas that contribute to achieving this vision. Outcome 5 (Accessibility) covers accessibility of services and information, including information in NZSL.

A Disability Action Plan sits under the Disability Strategy and contains specific actions to implement the outcomes in the Disability Strategy.³⁹

Disability Action Plan 2014-2018

Actions delivered under the [Disability Action Plan 2014-2018](#) include the development of an [Accessibility Charter](#) and [Accessibility Guide](#).

All Departments and government agencies are expected to sign the [Accessibility Charter](#), which commits them to “...working progressively over the next five years towards ensuring that all information intended for the public is accessible to everyone”. All Chief Executives have signed up to the Charter.

The Accessibility Charter is implemented through a seven-point process, which includes the appointment of sponsors and champions, and the development of an agency action plan. The Accessibility Charter means (among other things):

- meeting the New Zealand Government Web Accessibility Standard and the Web Usability Standard (which includes provision of information through alternate formats, like NZSL videos);
- ensuring that forms, correspondence, pamphlets, brochures and other means of interacting with the public are available in a range of accessible formats including NZSL;

³⁸ The Disability Strategy is a requirement under s 8(2) of the New Zealand Public Health and Disability Act 2000.

³⁹ [Disability Action Plan 2019–2023](#) and [Disability Action Plan 2014-2018](#).

- responding positively when customers draw attention to instances of inaccessible information and processes and working to resolve the situation; and
- adopting a flexible approach to interacting with the public where an individual may not otherwise be able to carry out their business with full independence and dignity.

The [Accessibility Guide](#) provides guidelines for the creation of accessible material, including provision of information in alternate formats for Deaf people, like translating the information into NZSL on video, and adding closed (can be turned on) or open (permanently on) captions to videos.

Disability Action Plan 2019-2023

Actions in progress under the [Disability Action Plan 2019–2023](#) to improve accessibility include projects (led by the Ministry of Social Development) to develop a new legislative framework to accelerate progress towards accessibility in Aotearoa New Zealand,⁴⁰ and to improve accessibility of public information. Read more about the Accelerating Accessibility work programme [here](#).

More help and guidance

You can find lots of helpful resources on the websites for the [Office for Disability Issues](#) and the [NZSL Board](#).

The Office for Disability Issues and the NZSL Board can also provide help and guidance to departments on giving effect to the NZSL Act, including consultation with the Deaf community, the provision of NZSL interpreting services, and the translation of information into NZSL.

Contact the Office for Disability Issues here: odi@msd.govt.nz.

You can also find help on making information accessible on [MSD's](#) website.

The Accessibility Team at MSD can also provide advice on translating content into alternate formats. Contact them here: accessibility@msd.govt.nz.

⁴⁰ More information on the framework to accelerate progress towards accessibility in Aotearoa New Zealand can be found at www.msd.govt.nz.