

7 November 2022

## **Social Services and Community Select Committee**

### **Re: Submission on the Accessibility for New Zealanders Bill**

Tēnā koe,

Foetal Anti-Convulsant Syndrome New Zealand (FACSNZ) welcomes the opportunity to submit on the Accessibility for New Zealanders Bill (**Bill**). FACSNZ provides support, education, awareness and prevention of Fetal Anticonvulsant Syndromes (FACS). FACS is an umbrella term relating to a range of conditions whereby an unborn foetus is negatively impacted by the childbearing person taking anti-seizure medicines while pregnant. While mainly taken to prevent seizure disorders, anti-seizure medicines are also prescribed for mental health conditions, migraines and pain management.

Some of the ways the person exposed to the medicine could be affected include: dysmorphic facial features, congenital malformations, developmental delay, neurodevelopmental difficulties, attention and memory difficulties, lower IQ, Autism Spectrum Disorder, speech and language difficulties, gross and fine motor difficulties, low muscle tone, or even death. We are writing this submission as our many of our FACS community are left with disabilities and require an accessible New Zealand. This means FACSNZ supports the legislative action to address the accessibility barriers that prevent disabled people, tāngata whaikaha, family and whānau, and people with accessibility needs from living independently, and which aims to grow accessibility practices in New Zealand.

While FACSNZ are generally supportive of the Bill, we suggest that additional amendments are required.

FACSNZ would like to make an oral submission.

### ***Recommendations***

FACSNZ suggests several amendments that would strengthen the Bill and further provide for its purposes. We have categorised most of these into four parts: standards; the establishment of a regulator; a barrier notification system; and a disputes resolution process. In addition, we make some preliminary recommendations below.

#### Changes to terminology

Replace "...disabled people, tāngata whaikaha and their families or whānau, and others with accessibility needs..."

with

“...disabled people, tāngata whaikaha, families and whānau, and people with accessibility needs...”

This is to ensure that family and whānau that are not Māori have the opportunity to be represented in this bill, are on the committee, and also that others with accessibility needs are being equally included, not an add on.

### Amendments

Under clause 6 FACSNZ recommend that there is an acknowledgement that some people have supported independence, therefore changing the wording to “...others with accessibility needs from living supported/independently...”

We believe that a three-year review will allow for more responsive change than the current five-year period.

FACSNZ would like the removal of 15(3)(e) as accessibility to all is a human right.

To ensure timely accountability to Parliament, we recommend that clauses 17(3) and 25(4) be amended to provide that the Minister present the annual monitoring report and report on the review of the Act to the House of Representatives as soon as is practicable "and no later than 20 working days after receiving the report."

FACSNZ suggests that the definition of "disabled" in clause 11(2)(a) of the Bill should be expanded to include all individuals with access needs.

We recommend that in clause 11(2)(b) and 23(e) when referring to work programmes and Government's responses being published on a website, that this is done so in an accessible manner e.g. easy read, NZSL, te reo Māori. Additionally we recommend that there is paper copies available in easy read, te reo Māori, and other accessible ways for people who cannot access computers or internet.

Under Schedule 2 3(1), FACSNZ believes there should be an addition of (c) have accessibility needs met at the expense of the Government.

### **Accessibility Standards**

FACSNZ supports the creation of meaningful accessibility standards that (among other things) endeavour to design and build an environment that is accessible for all New Zealanders, promote awareness, and ensure that services meet the needs of disabled people and treat them with respect and independence.

We recommend the Committee be granted the power to develop both binding and non-binding standards for identified domains (physical and digital environments). The creation of standards should be subject to a consultative process prescribed by the Bill, which should include consultation with Māori, relevant organisations representing disabled people, tāngata whaikaha, family and whānau, specified entities and any other stakeholders the

Committee considers relevant. The standards may then be established via regulations made under the Act, with failure to comply with binding standards constituting an offence.

### **Establishment of a Regulator**

FACSNZ supports Cabinet's decision in 2020 that accessibility legislation sit alongside regulatory systems, and the Minister for Disability Issues' acknowledgement that officials should develop a legislative approach to enforceable standards to be incorporated into the legislative regime.

To give effect to this, we recommend that a regulator be established to monitor the compliance of specified entities. This regulator should be a Crown entity with powers of investigation and enforcement, including the ability to accept enforceable undertakings.

### **Barrier Notification System**

To ensure that Aotearoa New Zealand is barrier free by 1 January 2035, the Bill should provide for a barrier notification system. This system will enable the regulator to set processes, plans and systems to adequately record barriers identified through notification.

This notification system should require the regulator to provide an anonymous mechanism through which an individual can notify the regulator of a disabling experience, that it can then investigate. Further, there should also be a duty on specified entities to keep a record of each disabling experience for at least five years.

This system must also include a duty on specified entities to notify and remove barriers under their control.

### **Disputes Resolution Process**

Given the Bill as currently drafted does not provide for any dispute resolution or enforcement, we advocate for a regulator to bring an action against a specified entity.

The Bill should create a dispute resolution scheme providing for an individual to file a complaint with the regulator, which the regulator may investigate at its discretion (in line with guiding principles in the Bill). Following the conclusion of this investigation, the regulator should have the power to order the regulated entity to take corrective measures or pay compensation. Alternatively, the Bill could provide for a free-to-consumer dispute resolution process that specified entities must be part of.

Where a specified entity or individual has a dispute with the regulator in regard to the result of an investigation, the Bill should provide for a process of mediation to resolve the dispute.

Nāku noa, nā,

Denise Astill  
Executive Officer,



Foetal Anti-Convulsant Syndrome New Zealand (FACSNZ)