A New Era in the Right to Sign

He Houhanga Rongo te Tika Ki Te Reo Turi

Report of the New Zealand Sign Language Inquiry

September 2013
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To you all as leaders with wisdom and diverse languages, greetings.

Matariki emerges from the darkness and breathes again, the sign of a new dawn.

When the New Zealand Sign Language (NZSL) Act was passed by Parliament, the gallery of deaf people erupted, raising and waving their hands in applause. NZSL became an official language of New Zealand alongside English and te reo Māori. It was a new era in the right to sign, the sign of a new dawn for deaf New Zealanders.

Later that year, the United Nations adopted the UN Convention on the Rights of Persons with Disabilities (Disability Convention). Again, this was met with a mix of visible and audible applause. The rights of disabled people, including the language and cultural rights of deaf people became international law in May 2008 when the Disability Convention came into force. This was a new era in disability rights, the sign of a new dawn for disabled people around the world.

A few years later earthquakes devastated the Canterbury region. Many of the usual ways of communicating and informing people of what was happening were not available. Some of the early television broadcasts included NZSL interpreters. For many New Zealanders this was seeing something new – realising that NZSL is a whole and vibrant language. The use of NZSL interpreters recognised the diversity of people and communication needs within our communities. It was a first sign of hope emerging amid the devastation – the sign of a new dawn for all New Zealanders.

However, leading up to the initial post-quake response on TV, the situation behind
the scenes was very different. Deaf people and their allies had to fight to get interpreters and to receive vital information about civil defence, clean drinking water, sanitation, and health and safety issues.

Before and during this Inquiry, we heard many stories of the denial of people’s rights to communicate using NZSL, and children and families being discouraged to learn their language. Battles like these must not happen in future.

This Inquiry also found many encouraging signs. New Zealand has a strong deaf community with high expectations. Frequent gatherings are held where culture is strengthened and history passed on. There are groups beyond the deaf community for which NZSL can prove life changing. There are new technologies to assist people in remote locations, an interested public who want to learn basic NZSL and increasing use of te reo Māori. Government departments have shown a new willingness to engage with NZSL aspirations and goals, and Ministers understand links between language and culture and are ready to act. There is recognition that all disabled people’s rights in the Disability Convention must be made real.

I look forward to a time when NZSL is constantly visible in our streets, schools, hospitals, and on TV. Imagine a time when every child learns the basics of NZSL in early childhood education; when all deaf, hearing impaired, and speech impaired children learn to sign; and when every citizen can sign the national anthem. In these ways the unique contribution of articulate deaf people is valued not only in their own community but across all parts of New Zealand society. And at bedtime, once the hearing aids and cochlear implants have been taken off, any mother or father can say “Goodnight, I love you” in NZSL to their small deaf child.

Our call to action is to make this real, and to implement the recommendations of this Inquiry. To ensure that, from now on, at the dawn of every child’s life there will be the opportunity to learn our latest official language, NZSL. Taking these steps together will mark a new era in the right to sign.

Paul Gibson
Disability Rights Commissioner
Kaihautū Tika Hauātanga

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The Human Rights Commission would like to thank everybody who has worked on, contributed to, and responded to this Inquiry report and its early drafts. The Commission particularly acknowledges the deaf community who have “had to constantly retell their stories and restate their rights”.

The Inquiry team was helped by Dr Rachel McKee and Victoria University’s Deaf Studies Research Unit, whose research and guidance were significant to the Inquiry. Thank you to the Commission’s staff, especially Victoria Manning. Her unique capability as an NZSL user and expert, policy analyst, and deaf community member and leader made the Inquiry both possible and credible.

The Commission would also like to acknowledge Deaf Aotearoa and Handmade Productions Aotearoa for allowing us to use their images in this report.
Background

In 2006, after many years of lobbying by the deaf community, the New Zealand Sign Language Act was passed, making New Zealand Sign Language (NZSL) an official language of New Zealand. However, the Human Rights Commission continues to receive enquiries and complaints from deaf people about discrimination they experience trying to access or use NZSL.

The Commission began this NZSL Inquiry because of concerns about the barriers deaf people continue to experience when using their own language. Barriers restrict their quality of life and full enjoyment of fundamental human rights.

In 2008, New Zealand ratified the United Nations Convention on the Rights of Persons with Disabilities (Disability Convention). This Convention recognises sign languages as equal to spoken languages. It requires governments to progressively strengthen the status of sign language in different fields of a person’s life. These steps are necessary to respect, protect and promote the right to dignity, equality, freedom of expression and independence for deaf people and other NZSL users.

This Inquiry has considered the human rights implications of the barriers that deaf people continue to face. Its areas of focus were closely informed by priorities identified in the Disability Convention and through previous consultations with the deaf community. The Inquiry also recognises that NZSL is important for hearing people with communication difficulties, and for family/whānau, friends and others communicating with a NZSL user. Therefore the Inquiry’s three priority areas have been:

1. the right to education for deaf people and other NZSL users
2. the right to freedom of expression and opinion including the right to receive and impart information using NZSL interpreter services
3. the promotion and maintenance of NZSL as an official language of New Zealand.

New Zealand has a responsibility to promote and protect its official languages. NZSL and te reo Māori are each vital to the expression of culture and identity. There is a strong practical need for NZSL’s official status as deaf people have limited
or no access to New Zealand’s two spoken official languages, English and te reo Māori. In addition, there is a deep historic justification for the official status of te reo, based on the rights affirmed in the Treaty of Waitangi.

**Education in NZSL**

Article 24 of the Disability Convention highlights the right to education including how this can be realised for deaf children. It requires ensuring education “in the most appropriate languages”. For deaf people this includes learning through sign language.

The right to education has been identified as a high priority because of deaf people’s persistent under-achievement in the education system. Improving education outcomes for deaf children and young people will have a significant impact in many other areas of their life including their right to work and right to an adequate standard of living.

It is crucial that children acquire language skills early in life. Children born deaf or who become deaf before their speech is well-established often depend on NZSL to communicate. Most deaf children are born into hearing families who do not have prior experience of childhood deafness. The current mix of locally available evening classes, minimal NZSL resources and limited support for families is not enough. It makes it too difficult to create a natural learning environment for children to acquire NZSL skills as a foundational language.

There is much to be learnt from previous reports and good practice examples. These include “deaf nests” and Kōhanga Reo in New Zealand, and other countries which support sign language tuition and resources for children and their families.

Deaf students, other students reliant on NZSL to communicate and their families need access to NZSL. This is true whether they are in regular schools, special units, resource centres or schools for deaf children. While some NZSL support and resources are available, opportunities to come together with NZSL signing peers are scarce. Wherever a deaf child is schooled, face-to-face NZSL learning opportunities should be available alongside those options that can be accessed through video technologies.

The status of sign language users throughout history has been closely bound up with how education systems have responded to providing deaf children with access to sign language. Deaf schools play an important role in the transmission and maintenance of sign languages.

Training in NZSL and deaf culture is minimal for staff working with deaf students. Interpreters need to be an available option
in schools alongside steps to increase NZSL fluency amongst all staff. Training deaf people for roles in early intervention teams is another way to help create NZSL learning environments.

Deaf people require NZSL interpreter and translation services in order to access tertiary education and have the same range of tertiary courses and providers as other students. Current Equity funding does not recognise the high costs of NZSL services and excludes private training establishments. The Commission strongly suggests that Equity funding for deaf students is reviewed in order to improve deaf students’ enrolment and achievements levels in tertiary education.

Both the NZSL Act and the Disability Convention highlight the importance of consultation with the deaf community on matters relating to sign language. The Commission is concerned that there is no formalised mechanism for the Ministry of Education or other government agencies to access such expert, strategic advice and guidance on NZSL.

**Access to NZSL**

NZSL interpreter services help provide access to everyday life, recognise deaf people’s human rights and autonomy, and give them the opportunity to achieve their full potential and aspirations.

Section 9 of the NZSL Act sets out the principles that government departments should be guided by, so far as reasonably practicable. These include that NZSL should be used to promote government services and provide information to the public, and to make government services and information accessible to the deaf community.

While not covered by the NZSL Act, providing NZSL interpreters has been an explicit expectation of the health service since well before the NZSL Act. This includes expectations in the Code of Health and Disability Services Consumers’ Rights. Without access to NZSL interpreters and resources, it is impossible for many deaf people to realise their rights. These are the rights to effective communication, to be fully informed, to make an informed choice and give informed consent, and to have their cultural needs taken into account.

These expectations are also in the Operating Policy Framework of the Crown Funding Agreement with District Health Boards (DHBs). Yet the Ministry of Health collects no monitoring information from DHBs about this requirement.

There is no monitoring of the quantity or cost of NZSL interpreter services within or across government agencies, including DHBs. This makes it extremely difficult to know whether the guiding principles of the NZSL Act are being followed, let alone whether deaf people’s rights under the Disability Convention or domestic laws and policies.
are being realised. This report recommends that government agencies either develop their own monitoring of NZSL provision, including any unmet demand, or contract an external booking agency to play this role.

There continue to be reports of government agencies refusing to arrange or pay for qualified NZSL interpreters and inappropriately writing notes or asking a deaf person’s unqualified family member to interpret. Access to NZSL interpreters and information in NZSL cannot be solely a reactive process, dependent on deaf people asserting their right to a NZSL interpreter or translator. In particular, it is difficult for many deaf people to question a decision by someone in authority that an interpreter is not necessary.

Government funding of NZSL interpreter services is piecemeal and the funding gaps create often insurmountable barriers for deaf people. Specific groups within the deaf community face additional barriers accessing NZSL interpreter services, including those who require trilingual, deafblind or deaf relay interpreters. Monitoring gaps in access to NZSL interpreter services should not be entirely dependent upon complaints from deaf people. Monitoring would be assisted if there was a centralised point within government providing such an overview.

Workbridge administers two Ministry of Social Development funds that deaf people can access. Job Support funds cover the additional work-related costs directly related to being deaf. The Training Support fund can be used for interviews, training, education or work experience as part of a plan to gain open employment. Interpreters’ fees have increased in recent years yet the maximum annual payment under the Job Support fund has not changed in over 10 years. It does not meet the needs of deaf people in jobs that require significant amounts of communication using NZSL interpreters.

The lifetime limit for the Training Support fund is insufficient to cover the interpreting costs of fulltime study on many courses, let alone for subsequent career development or training. Submitters were unsure whether this fund is available for job interviews. They were also concerned it was too low to cover the rising work-search obligations for deaf people, which result from welfare reforms.

It is in everyone’s interest to improve the level of collaboration, monitoring, accountability and information that will enable good practice to be identified. The roll-out of video remote interpreting (VRI) is one positive example of such collaboration. It is also essential that VRI complements face-to-face interpreting, which will often continue to be the most appropriate and accessible service for deaf people.

It is impossible to adequately recognise the place of NZSL as an official language
without valuing the role played by NZSL interpreters. There are no minimum interpreter standards outside court settings or any system to assess or rank the competency level of interpreters after graduation. Workforce development options, such as potential registration processes and a more robust complaints mechanism, need some external resourcing to be sustainable. The current focus on encouraging a greater supply of interpreters is unlikely to be successful unless there is funding to cover current interpreting gaps. There should also be incentives for people to work away from larger cities or to gain specialist skills.

**Promoting and maintaining NZSL**

Under international and domestic law, the New Zealand Government has obligations to maintain and protect NZSL. It must closely consult and actively involve disabled people in this work. The NZSL Act has been criticised for not providing a mechanism for promoting and maintaining the language.

This Inquiry report has drawn from the 2011 Waitangi Tribunal findings that spelt out what is necessary for an effective language strategy for te reo Māori. These emphasised the importance of partnership. Partnership with the deaf community would give real effect to government obligations under the Disability Convention and NZSL Act. It would acknowledge the vital role deaf people play in the maintenance, promotion and survival of their language.

There is no monitoring of when and if government agencies consult with representatives of the deaf community on matters relating to NZSL, or with whom they consult. The Commission proposes improving this by establishing a formalised partnership mechanism.

In countries that have recognised a national sign language some have created an entity with custodial responsibilities for the language. In 2005, the Justice and Electoral Select Committee considered submissions on the NZSL Bill. It recommended that serious consideration be given to several improvements. These included establishing an advisory group to monitor the effects of the NZSL Act, providing a focus for contact between government and the community, and looking at new areas in which work could be done.

This Inquiry revisits that recommendation. It has considered overseas models as well as the role Te Taura Whiri i te Reo Māori (the Māori Language Commission) plays in relation to te reo Māori. It agrees with the Select Committee’s choice of an advisory group. But this should only be as an interim measure to develop options for an NZSL Statutory Board, similar to the successful model in Belgium.
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A Statutory Board would provide a stronger formal partnership between government agencies and the deaf community. It would have the greater degree of permanence needed to develop a longer term NZSL strategy within the context of a national languages policy. On the other hand, it would be considerably less expensive than a NZSL commission.

This Inquiry’s strong preferred option is that the Ministry of Education would lead the development of such a Statutory Board, given the pivotal role education plays in access to NZSL. However, it is one of a range of government agencies contributing to the promotion and maintenance of NZSL. Therefore, the Inquiry recommends that decisions about a lead agency and progressing options for an NZSL Statutory Board are made by the Ministerial Committee on Disability Issues, based on advice from the proposed Expert Advisory Group on NZSL.

Both the Statutory Board and Expert Advisory group should include a majority of members who are deaf NZSL users. Other members should be recognised experts with demonstrated experience in developing, promoting and protecting NZSL.
Recommendations

A  Education

Early childhood

That the Ministry of Education, in consultation with other relevant government agencies and the proposed interim Expert Advisory Group on NZSL and ultimately the NZSL Statutory Board:

1 increases NZSL resources and support to enable the acquisition of NZSL in early childhood by deaf children, children with communication difficulties and their families, including by:

a increasing levels of NZSL fluency amongst staff in early intervention services including by financially recognising NZSL skills

b exploring options for new roles to provide NZSL support within the home

c facilitating the development of local language nests as an opportunity for pre-school children and their families to learn NZSL

d reviewing and further developing NZSL resources and promoting these to families where a child is deaf or has communication difficulties

e ensuring the collection and analysis of early childhood data that can be disaggregated by deafness and NZSL usage

f continuing to promote and develop the use of NZSL in all early childhood education centres.

Schools

That the Ministry of Education, in consultation with other relevant government agencies and the proposed interim Expert Advisory Group on NZSL and ultimately the NZSL Statutory Board:

2 increases access to education via NZSL by:

a increasing levels of NZSL fluency amongst staff working in the compulsory school sector including by financially recognising NZSL skills

b exploring options for new roles for people fluent in NZSL in the compulsory school sector

c establishing a funding stream for NZSL interpreting (educational interpreters) within schools
increasing opportunities for deaf children and children with communication difficulties to interact with signing peers and fluent NZSL users

e  reviewing and further developing NZSL curriculum resources.

That District Health Boards:

3  prioritise training in disability awareness, NZSL, deaf culture and human rights for health care early intervention staff, including audiologists, ear, nose and throat specialists, and other specialists working with children with communication difficulties.

B  Access to NZSL

That government agencies and DHBs:

4  develop and/or review their NZSL interpreting and translation policies, including through close consultation with the deaf community, monitor their effectiveness and share good practice models of providing access to NZSL interpreting and translation services

5  allocate sufficient funds to meet current demand for NZSL interpreter and translation services and explore options to monitor demand for, supply of and expenditure on these services (including associated travel costs and for deafblind, deaf relay and trilingual interpreting).

That DHBs:

6  consider a sub-regional pilot that would pool existing budgets for NZSL interpreting services and trial working with a single booking agency to provide these services.

That government agencies:

7  explore the option of allocating current expenditure on NZSL interpreting services to an external booking service that has experience working with deaf people.

That the Ministry of Health:

8  continues to monitor the scope, uptake and value of its contract with Deaf Aotearoa and explores options for Deaf Aotearoa to report on requests for NZSL interpreters that fall outside the contract’s criteria or cannot be met within the current level of funding.

That the Ministry of Social Development:

9  reviews Job Support funding including the adequacy of the yearly limit, ways to reduce the administrative burden on deaf people and the feasibility of contingency funding for situations where a person needs additional support (including access to NZSL services) to undertake their paid job

10 explores how the Training Support fund could better meet the additional costs incurred by deaf people when undertaking education or training necessary to gain employment in the open labour market.
That Workbridge:

11 monitors and reports on expenditure of Job Support and Training Support funding on NZSL interpreter and translation services, including the number and proportion of deaf people whose Job Support funding runs out before their annual funding renewal anniversary.

That the Ministry for Business, Innovation and Employment:

12 develops reporting mechanisms for measuring uptake of video remote interpreting (VRI), in consultation with other government agencies, to enable government agencies to make comparisons between usage of VRI and face-to-face interpreter services.

That the Office for Disability Issues and relevant government agencies:

13 scope a project on workforce development issues for NZSL interpreters to inform the proposed NZSL strategy, in consultation with the proposed interim Expert Advisory Group on NZSL and the Sign Language Interpreters’ Association of New Zealand (SLIANZ).

C Promotion and maintenance of NZSL recommendations

That the Ministerial Committee on Disability Issues:

14 progresses options for establishing an NZSL Statutory Board in 2014/15 to oversee the promotion and maintenance of NZSL, in consultation with the proposed interim Expert Advisory Group on NZSL.

That the Office for Disability Issues, in consultation with deaf community stakeholders and other NZSL users:

15 establishes an interim Expert Advisory Group on NZSL, with a majority of deaf NZSL users as members, by 31 December 2013, for the purposes of advising the Ministerial Committee on Disability Issues on options for establishing an NZSL Statutory Board that would:

a develop a strategy for the promotion and maintenance of NZSL

b advise, guide and monitor government agencies’ use and promotion of NZSL

c provide NZSL expertise into a national languages policy.
1 Background information

Tōku reo, tōku ohooho
My language is my awakening*

1.1 Introduction

This section considers the official language status given to New Zealand Sign Language (NZSL) in 2006 through the New Zealand Sign Language Act (NZSL Act). What does it mean to be recognised as an official language? What lessons can be learnt from the official recognition of te reo Māori in New Zealand and of sign languages in other countries? How does the history of sign language in New Zealand influence the situation today and the possibilities in the future?

In answering these questions, this chapter highlights the underpinning human rights standards that can guide ongoing legislative and policy development. The following chapters apply this framework to the three areas of focus in the Inquiry’s terms of reference. These look at:

- the right to education for deaf people and other NZSL users
- the right to freedom of expression and opinion including the right to receive and impart information using NZSL interpreter services
- the promotion and maintenance of NZSL as an official language of New Zealand.

1.2 Views of deaf people

According to the World Federation of the Deaf, the human rights of deaf people are contingent upon the right and the opportunity to acquire and use sign language. This is necessary to fulfil the right to communication itself, which is the fundamental basis of a person’s mental and social existence.¹

The Human Rights Commission (the Commission) took seriously the principle in section 9(1)(a) of the NZSL Act. This states that the deaf community should be
consulted, so far as reasonably practicable, on matters relating to NZSL. It looked at the deaf community’s priorities and aspirations for their language when considering how to give effect to the official status of NZSL. These priorities have been drawn from various government and non-government engagements, research and reports. In order of importance, they are that:

1. education is available in NZSL

2. deaf children and their families/whānau can access NZSL resources in early childhood

3. quality NZSL interpreter services enable deaf people to access government services and information and to participate in society

4. a designated strategic body has responsibility for maintaining and promoting NZSL.

1.3 Methodology

The Commission is a Crown entity, independent of the Government. Its functions and powers are set out in section 5 of the Human Rights Act 1993 (HRA). These include the authority to inquire generally into any matter [that] … involves, or may involve, the infringement of human rights”.

The Commission began this NZSL Inquiry because of concerns about the barriers deaf people continue to experience when using their own language. Barriers restrict their quality of life and full enjoyment of fundamental human rights. These concerns were based on evidence drawn from:

- complaints and enquiries the Commission received about discrimination and language barriers that deaf people faced

- extensive community consultations carried out by the Commission in 2010 and 2011

- the Convention Coalition’s independent monitoring report on New Zealand’s implementation of the United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention, also known as UNCRPD or CRPD)

- reports from disabled people’s organisations (DPOs) such as Deaf Aotearoa New Zealand and research papers on deaf people in New Zealand.

The Inquiry’s Terms of Reference (see Appendix 1) were closely informed by the requirements of the Disability Convention. This includes the importance placed on the deaf community’s priorities for their language.
The Commission’s approach has been to focus on working with those government departments responsible for the priority areas identified above. It has explored how these agencies give effect to the official status of NZSL and provide accessible services to NZSL users.

By bringing this information together in one place, the Inquiry sought to build on existing NZSL work. The aim is to identify steps forward for ensuring greater realisation of linguistic human rights for deaf people.

1.4 New Zealand Sign Language history

Bringing a critical mass of deaf people together enables the development of a signing community. In New Zealand this is first known to have occurred when a deaf school was established in Christchurch in 1880. This was followed later by two more deaf schools in the North Island. These schools taught using the oral method (training in speech and lip-reading) only and forbade the use of sign language by teachers and pupils. This was consistent with international methods of educating deaf children at that time. The oral method elevated the status of spoken language over sign language. It used spoken language as the medium and goal of education for deaf children. As a result, the education of deaf children was largely dedicated to training in speech articulation, lip-reading and preparation for employment in manual vocations. But for most prelingually deaf children, an oral approach compromised meaningful access to education and self-esteem.

The use of sign language was forbidden in New Zealand deaf schools until 1979. However, an underground “language of the hands” thrived among the playgrounds, in the hostels of the deaf schools and among ex-school students in the community. Since the mid-1980s this language has been known as NZSL.

The stigma that positioned sign languages as inferior to spoken languages was influenced by an historical view. This saw sign languages as a symbol of “otherness” and a sure path to alienation from society. The view was reinforced by a traditional medical approach to deafness that focused on the physical condition of “not hearing”. All other aspects of deaf people’s lives were interpreted through that lens. This deficit approach contrasts starkly with a human rights approach which recognises the inherent dignity and equality of deaf people and values their linguistic and cultural identity.

Since the 1970s, deaf communities around the world, including in New Zealand, have been speaking for themselves. They have been challenging the historical view of deafness as a problem. Deaf people in New
Zealand formed a national association to gain a representative voice for their community. They began to assert that insufficient attention to their language needs had led to social disadvantage in education, health, justice and access to welfare services. Deaf people began to claim their “otherness” in a positive way, calling for recognition and support of their minority language status.

In the 1980s, this shift in focus moved from people burdened by hearing loss to a vibrant cultural-language group. This was supported by international and national linguistic research that documented sign languages, including NZSL, as real languages. Sign language is different from spoken languages because it is wholly visual, with its own grammatical structure. It is a common misconception that sign language is somehow more limited than spoken languages. NZSL however, like other sign languages, is comprehensive and able to express all communications and ideas. Within signing communities, sign language is the bedrock foundation of Deaf culture. It has enabled the passing on of shared values, norms, behaviours, history, humour, art, stories, poetry and traditions.
Since the 1980s, deaf New Zealanders have assumed a more positive sense of ownership of their language and asserted a Deaf cultural identity. NZSL was accepted for use in deaf education from 1993. Other significant developments since the 1990s include establishing the NZSL interpreter training course, documenting NZSL (for example through NZSL dictionaries) and expanding teaching of NZSL. In 2006, after many years of lobbying by the deaf community, NZSL was made an official language of New Zealand with the passing of the NZSL Act.

1.5 Official recognition of a language

Internationally, there are different approaches to the term “official language” as it applies to spoken languages. The legal framework and consequences of official status vary between countries and for different languages. Typically, a country’s official languages are also administrative language(s) used in society, schools and government. However, not all official languages are in such common usage. Minority languages are often made official too, in order to promote a less dominant language and improve equality of outcomes for that population group. This may involve promoting the rights of minority groups to speak their language and ensuring they will not be discriminated against for doing so. It can include protecting the language itself.

Although rights and obligations do not flow automatically from official recognition, it is usual for some specific rights to be assigned to those wishing to use an official language. Most often these involve the right to use an official language in the justice system, in public administration and in the education sector. In the case of a minority language, declaring that language to be “official” implies an expectation on a country to adopt measures that enable this language to be used in day-to-day public interactions.

1.5.1 Official recognition of sign languages

Internationally, a growing number of countries have recognised the rights of sign language users, through a variety of legislative and policy measures including amendments to a country's constitution. These have implemented specific sign language provisions or clarified sign language users' rights under anti-discrimination or education laws and policies.

Most often, recognition has occurred in education law and policy. These clarify the linguistic rights of sign language users, setting out how these are to be implemented in the education sector. Recognition, for symbolic purposes, has typically followed such education changes. For example, Swedish Sign Language was legally recognised in 1981 specifically to mandate the provision of bilingual education for deaf children. This included provisions for
their families to learn sign language from the time of diagnosis. Norway, Finland and Uganda are among other nations that have recognised sign language as a rightful first language of deaf children. They have provided substantial government resources for parent and child education in sign language from an early age.

1.6 New Zealand’s official languages

New Zealand has two official languages, te reo Māori and NZSL. However, English is a “de facto” third official language by virtue of its widespread use.

Te reo Māori became an official language in 1987. NZSL was made an official language of New Zealand in April 2006. It is one of nine sign languages internationally to be recognised in law. However, there is no clarification in New Zealand law about what it means to be an official language. No such information is found in either the NZSL Act or the Māori Language Act 1987 (MLA).

In 1986, the Waitangi Tribunal published its comprehensive report on the te reo Māori claim. It found that te reo was a taonga guaranteed protection under article 2 of the Treaty of Waitangi and that the Crown had significant responsibilities for protecting and promoting the language. The MLA was a response to the Waitangi Tribunal’s report and, in part, the Act’s provisions “restore or compensate for losses”.

The purpose of the NZSL Bill was to remedy the fact that “deaf New Zealanders have not been afforded the same right to their language as other New Zealanders”. They have suffered serious disadvantage as a result. These proposals were motivated both by disability rights principles of inclusion (such as the NZ Disability Strategy) and by language rights principles that recognise deaf people’s language and culture.

Parliamentary debates during the Bill’s passage through Parliament highlighted its potential to reduce the social exclusion of NZSL users and improve deaf people’s educational and employment prospects.

1.6.1 NZ Sign Language Act

The New Zealand Sign Language Act was the result of over twenty years of lobbying by the deaf community for recognition of their language. It was promoted in Parliament by the then Minister for Disability Issues, Ruth Dyson. She had affiliations with the deaf community as patron of the Deaf Society of Canterbury and through her involvement with the Van Asch Deaf Education Centre located within her electorate.

Section 3 of the NZSL Act sets out the purpose of the legislation, namely “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

b providing for the use of New Zealand Sign Language in legal proceedings

c empowering the making of regulations setting competency standards for the interpretation in legal proceedings of New Zealand Sign Language

d stating principles to guide government departments in the promotion and use of New Zealand Sign Language.

Section 9(1) clarifies that government departments should be guided, so far as reasonably practicable, by the following principles:

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 using appropriate means (including the use of NZSL).

The NZSL Act is silent on the use of sign language in education. This has been criticised given the importance the deaf community places on access to NZSL in schools. There is a known positive link between the status of a sign language and its use within the education sector.20

The provisions and wording of the NZSL Act draw closely on those of the MLA. But there is a significant difference between the provisions in the two acts. This is the absence in the NZSL Act of powers similar to those assigned to the Māori Language Commission. This has the power to foster and regulate community and official uses of the language and the associated government funds for implementation.21 The MLA also provides more direction regarding the administration of competency standards for interpreters in legal proceedings.

The government has responsibilities to promote and protect both of its official languages. Te reo Māori and NZSL are each vital to the expression of culture and identity. In addition, there is a deep historic justification for the official status of te reo, based on the rights affirmed in the Treaty of Waitangi. In the case of NZSL, there is a strong practical need for its official status.
This is because without access to NZSL many deaf people have limited or no access to New Zealand’s two spoken “official languages”, English and te reo Māori.

1.6.2 The Treaty of Waitangi, MLA and Waitangi Tribunal Claims

The Waitangi Tribunal questioned “whether the principles and broad objectives of the Treaty can ever be achieved if there is not a recognised place for the language of one of the partners to the Treaty”. The centrality of these Treaty obligations to the MLA is reflected upfront, in its preamble.

Twenty five years later, the Waitangi Tribunal’s 2011 report examined claims about New Zealand law and policy that affects Māori culture and identity. The Tribunal re-examined the position of te reo Māori. It reflected on Māori language initiatives and Treaty of Waitangi litigation and policy development in the intervening decades.

The Tribunal’s report Ko Aotearoa tēnei, also known as claim Wai 262, identifies four primary duties on the Crown and two on Māori in respect to te reo. The Crown’s duties are:

a partnership – this Treaty principle requires each party to act reasonably and with utmost good faith to the other

b wise policy – based on the Crown’s right to govern under article 1 of the Treaty and reflecting the status of te reo as a taonga of utmost importance

c appropriate resources to achieve policy goals – particularly given the protection guaranteed to te reo under article 2 of the Treaty

d a Māori-speaking government – to give effect to the Tribunal’s 1986 recommendations that Māori speakers should be able to engage with all agencies of the State in te reo as of right.

The Wai 262 report also defined duties for Māori around speaking their language (kōrero Māori) and their role in such a partnership approach. The Tribunal concluded there has been a failure of partnership as Māori lack meaningful input into decisions about their own language. Policy developments have also come too late and have been under-resourced. As well, the Government has not met its obligations to become more Māori-speaking.

The Commission considers all of these duties relevant to the maintenance and promotion of NZSL and its status as an official language. In part, this reflects some common underlying human rights principles contained in the Disability Convention
and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). These include the concepts of partnership, close consultation and full and effective participation.28

Each of the following chapters in this report attempt to identify further opportunities for a partnership approach. Such an approach would support the development of policies and practice that adequately reflect the official status of NZSL.

1.7 International and domestic human rights standards

The following section summarises the key international and domestic human rights standards. They are referred to throughout this report and underpin its analysis and recommendations.

1.7.1 United Nations Convention on the Rights of Persons with Disabilities

It cannot be highlighted enough that states have to recognize the importance of services, information, education and culture available in sign language in order to assure Deaf people’s human rights.29 (World Federation of the Deaf)

New Zealand ratified the Disability Convention in 2008 and is bound to respect, protect and promote the rights of deaf people by progressively realising all of the Convention’s provisions. This requires regularly reporting on steps taken to meet its obligations under the Disability Convention.

The Disability Convention is the first international treaty that recognises sign languages as equal to spoken languages.30 It establishes the right to accessibility for disabled people. For deaf people this requires professional sign language interpreter services and information in sign language.31 The Disability Convention provides the right to interact in sign languages, and to get information and to express oneself in sign language, including in official interactions.32 States are also urged to recognise and promote sign languages and to facilitate their use.33

Article 24 of this convention has been described as the most important provision for deaf people as it focuses on the right to education.34 In-depth discussion of these obligations is provided in the next chapter of this report. Articles 2, 9, 21, 24 and 30 aim to strengthen the status of sign language in different fields of a deaf person’s life. This would realise deaf people’s right to dignity, equality, freedom of expression and independence.

1.7.2 NZ Bill of Rights Act 1990

There are two sections in the New Zealand Bill of Rights Act 1990 (NZBORA) that are
relevant to the recognition of NZSL. Firstly, section 24(g) guarantees the right to the free assistance of an interpreter where a person charged with an offence does not understand the language used in court. Section 24(g) supports other NZBORA rights such as the right to a fair trial and to present a full answer in defence to any charges. Presumably these NZBORA rights underpin the focus in section 7 of the NZSL Act on the right to use NZSL in legal proceedings.

Secondly, section 20 of NZBORA stipulates the rights of minorities, namely:

A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority.

This is a negative right, that is, the right to not be denied the rights set out above. “Expressed in this way s20 of NZBORA does not place positive obligations on the New Zealand Government to promote a particular minority’s enjoyment of its culture, religion or language”. 35 However, it does impose positive obligations on the State to avoid known threats to such rights, in particular circumstances. Arguably, current pressures on the survival of both NZSL (and te reo Māori) represent such threats.

There has been very little case law in New Zealand that has examined the meaning and interpretation of section 20 of the NZBORA. International jurisprudence, especially the work of the United Nation’s Human Rights Committee (UNHRC), is particularly relevant given that section 20 is based on article 27 of the International Covenant on Civil and Political Rights. Many commentators have argued for a more expansive, free-standing duty to promote minorities’ culture, religion and language. However, that approach has not found support within the UNHRC.

1.7.3 Human Rights Act 1993

“Language” is not a prohibited ground of discrimination under New Zealand’s HRA. This was commented on by the UNHRC in 2002 when New Zealand reported on progress implementing the International Covenant on Civil and Political Rights. The Committee expressed regret that New Zealand does not consider it necessary to protect all of the prohibited grounds of discrimination stated in the Covenant, in particular language. 36

These concerns were reflected in the Minister of Disability Issues’ proposal to the Cabinet Social Development Committee seeking policy agreement for the NZSL Bill:

The legal status of the right to language has caused problems with the recognition of NZSL, the
first or preferred language of Deaf New Zealanders. Language is not a separate prohibited ground of discrimination under our human rights law but is usually dealt with as an aspect of race or ethnicity. This does not afford Deaf New Zealanders the same right to their language as other New Zealanders. The language of Deaf New Zealanders needs specific legal status as a unique New Zealand language, by way of the NZSL Bill.37

The absence of language as a separate ground of prohibited discrimination does not prevent the Human Rights Commission from accepting related complaints. However, it does mean that they are either considered as an aspect of discrimination based on one’s race or ethnic or national origins.38 Or, in the case of deaf people, they are considered as an aspect of disability discrimination.39

Complaints of discrimination under the HRA, whatever ground is cited, revolve around the facts of the individual case.

Complaints under s21 of the HRA focus solely on the right to freedom from discrimination. Therefore they are narrower in scope than the full range of relevant
human rights set out in the Disability Convention.

Between January 2000 and December 2012, the Commission received 396 complaints and enquiries related to discrimination and access issues for deaf people. Before the passage of the NZSL Act this was an average of 22 complaints or enquiries a year. Since the Act was passed, there has been an average of 38 complaints each year. Since January 2000, about half of these were about the actions of government agencies, most commonly education providers. These complaints and enquiries fall under Part 1A of the HRA. The remainder related to actions of individuals, groups and businesses outside government and come under Part 2 of the HRA. Most commonly they were about employment issues, with 90 enquiries and complaints received from deaf people about employment discrimination.

Of the 396 complaints and enquiries, 79 made specific reference to NZSL. Further analysis of these is provided in chapter 3 of this report. The number of complaints and enquiries has remained consistent despite the passage of the NZSL Act, with 44 lodged from 2007 onwards, after NZSL became an official language.

1.8 Who this report refers to

This NZSL Inquiry focuses on key issues for current and potential users of NZSL. This includes deaf people, hearing people with communication difficulties, family/whānau members, friends, and professionals.

1.8.1 Deaf with a “D” or a “d”

The capitalised “D” in “Deaf” is used internationally to recognise a group of deaf people who use sign language as their first or preferred language. They are members of a deaf community and identify with Deaf culture. The small “d” in “deaf”, however, refers to a description of hearing impairment. It includes people who may or may not use sign language or identify with the deaf community. This report uses the small “d” because the boundaries between Deaf and deaf people are sometimes not clear. All deaf people should have opportunities to use NZSL throughout their lives. A capital “D” has only been used to describe Deaf culture or in citations or names that use that format.

The owners and originators of sign languages are deaf people who identify with Deaf culture. Most of them were deafened prior to learning spoken language. They have a strong visual orientation to the world. In New Zealand, this group are the “native speakers” of NZSL and it is typically their primary language. They have a leadership role around maintaining and promoting NZSL.
1.8.2 People with communication difficulties

Hearing people with communication difficulties are included in the scope of this report. Some currently use NZSL and many others may potentially benefit from access to NZSL. International research highlights the benefits of providing sign language learning and teaching for hearing disabled children, including children with autism, Down's Syndrome and learning disabilities. In New Zealand a trust has been established to foster the use of sign language and visual communication for children with communication difficulties, their families and teachers.

1.8.3 People who use NZSL

Given the official status of NZSL, it is relevant to consider its wider use in New Zealand. The 2006 census figures reveal that 24,000 New Zealanders identify themselves as being able to use NZSL. This figure includes deaf people, their children, parents, siblings, spouses and friends, disabled people with communication difficulties, and interpreters. It is also likely to include adults who are second language learners of NZSL. The Inquiry’s analysis and recommendations have also considered the needs and aspirations of this wider group.

There are no exact statistics on the number of signing deaf NZSL users in New Zealand. Statistics New Zealand’s 2006 Disability Survey showed that some 7700 partially or completely deaf adults living in households use NZSL. Other lower estimates, such as those done by Munro-Ludders, Dugdale and Johnston, are based on the assumption that many deaf adults may not rely primarily on NZSL. Their estimate is that there are approximately 4000 signing deaf people in New Zealand.

Māori make up a large proportion of the deaf population in New Zealand, significantly higher than across the general population. The most recently available Census data found that, in 2006, 39 per cent of deaf people under the age of 19 were Māori.
2 Education

If I say yes to another person’s language, I have said yes to that person.
If I say no to a language, I have said no to the person, because language is a part of one’s self.**

2.1 Introduction

Education is both a right in itself and an indispensable means towards realising other rights. The right to education has been identified as a high priority for deaf people because of persistent under-achievement in the education system. It is an area where significant gains can be made to realise deaf people’s human rights.45

A key priority for the deaf community is that deaf children are able to realise their right to education through NZSL. This chapter considers what that would require, what is currently provided and what can be improved. Given the centrality of NZSL to education, the initial focus is on how and when support is provided to families as the first and primary teachers of deaf children. The chapter then considers policy and practices in place to support children’s access to NZSL in schools.

It is crucial that a child acquires language skills early in life.46 Early language fluency supports social development, cognitive development and further language development.47 For prelingually deaf children their right to language can be dependent on access to both sign language and spoken/written language.

Sign languages have been characterised as natural languages for deaf people and “the language one acquired first and/or identifies with and/or uses as a primary means of communication”.48 Deaf children exposed to fluent users of the language are able to learn sign languages naturally and spontaneously.49

Sign language gives deaf children unambiguous and total access to human language and thought processes through a visual modality.50 It is a wholly visual language that is specifically designed for deaf people. Research on sign languages demonstrates that they are acquired and
used in parallel ways to spoken languages. They have all the requisite grammatical properties of a full language, including style and tone.51

The status of sign language users throughout history has been closely bound up with how education systems have responded to providing deaf children with access to language and education.52 In most countries, special residential schools for the deaf have created a critical mass of deaf peers that enables the learning and transmission of sign language between generations.53 “Changes to the status of sign languages are rarely effected without consideration of its use in the education of deaf children”.54

Advancements in hearing technologies (such as hearing aids and cochlear implants) can provide some deaf children with access to spoken language. It is important to remember, however, that “hearing with current implant technology is still not normal and even the best [cochlear] implant users struggle to hear in some situations, particularly in background noise.”55 For prelingually deaf children, hearing technologies typically do not provide complete access to spoken language in everyday settings, on an equal basis with hearing people.56 Sign language can offer these deaf children windows into the world and other avenues for learning.57
There are some strong views on the provision of sign language and assistive technologies for deaf children. The Commission acknowledges the value of offering both sign language and hearing technologies together. This means parents have access to both and then opt out of, rather than into, a specific approach.

There are an estimated 3000 deaf and hearing impaired students who need specialist support to access the curriculum. Their levels of need range from those who are profoundly deaf to those with a mild or unilateral (one ear) hearing impairment. It is estimated that 98 per cent of these deaf and hearing impaired students are enrolled in regular schools. A small number are enrolled in the Kelston or Van Asch Deaf Education Centres (DECs) in Auckland and Christchurch, or in satellite units. The two DECs are schools for deaf children and national providers of specialist outreach services.

This diverse group of learners covers a range of cultures, ages and abilities. It includes an estimated 300 to 500 prelingually deaf children whose learning could benefit from NZSL to develop language effectively and to access the curriculum. In addition, there are non deaf students with communication difficulties who may benefit from access to NZSL. There are 7250 children who have difficulties with talking, listening and understanding language, and who receive support from the Ministry of Education’s Communication Services.

2.2 What is required

2.2.1 International framework

The right to education for all children was recognised in the Universal Declaration of Human Rights (UDHR, Article 26) in 1948. It has since been articulated in a range of international treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) and the Convention on the Rights of the Child (UNCROC, 1989).

The right to education is set out in articles 28 and 29 of the UNCROC. In addition, article 23 recognises children with physical or mental disabilities are entitled to enjoy a “full and decent life” in conditions that ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.

Article 24 of the Disability Convention addresses the right to education, specifying how this right can be realised for deaf children. It has been described as the most important article for deaf people. It assures the right to education “in the most appropriate languages” which for deaf people includes learning through sign language. The Disability Convention calls on governments to take appropriate steps.
to facilitate the learning of sign language and the linguistic identity of the deaf community. It also requires them to employ teachers who are appropriately qualified in sign language.62

2.2.2 New Zealand framework

Disabled children have the same rights in relation to education as all other children in New Zealand. In particular, section 8(1) of the Education Act 1989 confirms that “people who have special educational needs (whether because of a disability or otherwise) have the same rights to enrol and receive education at state schools as people who do not”.

Under subsection 60A(1) of the Education Act 1989 the Minister of Education is empowered to publish national education goals, curriculum policy and statements, and administration guidelines. These set the regulatory framework for schools. National Education Goals (NEGs) that form part of the National Education Guidelines lay out national priorities for education. These are statements of desirable achievements by schools and of government policy objectives for the school system.63 They include opportunities for equality of education by removing barriers to achievement, ensuring those with special needs receive appropriate support. The guidelines also ensure that early years’ programmes include support for parents in their vital role as their children’s first teachers.64

Principle 6 of the Special Education Policy Guidelines is applicable to deaf children. It states that a student’s language and culture must be taken into consideration in planning programmes.65

The New Zealand curriculum is a statement of official policy relating to teaching and learning in schools. It recognises the official status of NZSL and the right of deaf learners to access education in NZSL. The official languages section of the NZ curriculum states that English, Māori and NZSL may be studied as first or additional languages. They “may also be the medium of instruction across all learning areas”.66

2.3 Early childhood

2.3.1 What is provided

In the last few years, New Zealand has increased its focus on providing early intervention services to families with a child who has a hearing impairment. In July 2007, the Government introduced the Universal Newborn Hearing Screening and Early Intervention Programme (UNHSEIP). The UNHSEIP aims to identify newborns with hearing loss “so that appropriate assistance can be provided as soon as possible, leading to better outcomes for children as well as their families/whānau and society”.67 One goal of the programme is to complete audiology assessments before a child is three months old.
Another is to begin appropriate medical, audiological and early intervention services before the child is six months old.

This programme is jointly led by the Ministries of Health and Education. The Ministry of Health then provides the hearing assessment services (by audiologists within district health boards). The Ministry of Education then provides the follow-on early intervention services. Where significant hearing loss is identified, an audiologist refers the baby or child to medical specialists and provides information to the family/whānau on deafness. 68 Parents may also be referred to the Ministry of Education’s advisors on deaf children (AODC) and parent support organisation, the NZ Federation for Deaf Children (NZFDC). 69

The AODCs provide advice and guidance to families and schools, and coordinate an interdisciplinary team of specialists who provide ongoing support to the child and family. Specialists, such as speech language therapists and educational psychologists, work together for the best outcome for each learner. The AODC may also make referrals to other specialists if needed or where requested. These include NZSL instructors or tutors, 70 depending on availability. The Ministry of Education has advised that changes to the AODC role, giving greater focus to their involvement in a child’s early years, are currently being trialled. 71

One of the aims of the early intervention services is to establish and maintain a language programme that meets the needs and choices of the family and child. The goal is to achieve a strong foundation in the chosen communication approach “so that foundation language skills can be developed to an academic level for educational learning”. 72 NZSL is included in the information and choices provided to families. The Ministry of Education states that information and advice on support options is impartial. It aims to enable families to make an informed choice based on the family’s and baby’s needs.

The northern and southern cochlear implant programmes receive funding from the Ministry of Health. They accept referrals from medical specialists, audiologists, AODCs and family doctors. The programmes provide cochlear implant services and follow-on early intervention services for deaf children who have cochlear implants, including listening and speech therapy.

Pre-school children enrolled in the DECs have access to audiology services such as fitting, checking and maintenance of hearing aids. The DECs’ Resource Teachers: Deaf (RTDs) provide an average of three hours per week support to children aged three or older who are attending an early childhood centre.
The NZFDC advocates for deaf and hearing impaired children and their families. It provides information kits to families, newsletters, tutor fee assistance, an assistive equipment subsidy, and annual scholarships for tertiary students. It also organises social events.

### 2.3.2 What is needed

**Early intervention services**

The Government’s focus on newborn screening, early intervention and enabling families to make informed choices is positive and accords with New Zealand’s international human rights obligations. However, the Commission is concerned that too little is being done too late to facilitate children’s and families’ access to NZSL in these crucial early years. Even when impartial information is provided about language options, and referrals made to NZSL tutors, there are insufficient resources available to support families who want NZSL to be their child’s foundational language.

Most deaf children are born into hearing families who do not have prior experience of childhood deafness. The communication needs of the entire family are therefore altered by the diagnosis of a deaf child. With respect to NZSL, a challenge for early intervention services is to support families, not just the deaf children, to learn sign language skills. If this does not occur at an early stage there can be far-reaching implications not only for a child but also for a family. Restricted or delayed language acquisition adversely affects communication, parent-child attachment, socio-emotional health, literacy and educational and career possibilities. It is crucial therefore that the early intervention model enables effective language learning in the family and at home, so that this is not delayed until entry to school.

Families’ decisions about the communication modality for their deaf child occur within a context that is skewed towards medical rather than linguistic responses to deafness. For example, the family may follow a medical approach and an oral-aural mode of communication. This is resourced through access to hearing aids and cochlear implants. In contrast, families who want or need to use NZSL to communicate with their child are largely left to develop NZSL skills on their own.

Current support for NZSL in the early years mainly involves providing sign language resources such as information booklets and an introductory NZSL DVD. Support may include referral to an AODC whose role and skill base is not directed at teaching NZSL other than to a basic level.

A family might be encouraged to learn sign language through adult community education classes. However, these are typically night classes which can be an impractical time for parents and/
or young siblings to attend. Community education classes focus on adult-to-adult communication. They are unlikely to be sufficient to meet a family’s needs to pick up a new language and learn how to use it with a baby or toddler. The availability of community classes in NZSL was also significantly reduced following major cuts to adult community education programmes in 2009. Currently there is a combination of locally available evening classes, minimal NZSL resources and limited support for families. This is not enough to provide the natural learning environment for children to acquire NZSL skills as a foundational language.

Relatively more assistance is available to those who live in Auckland and Christchurch. Kelston DEC has an early childhood centre and Van Asch DEC provides an early intervention service. Both use NZSL to some extent. But families outside these areas have limited or no access to acquiring NZSL as a foundational language through the early intervention system.

In 2010, the Ministry of Education commissioned a scoping report on support needed by NZSL users in order to access the curriculum. The final document, known as the Fitzgerald Report, recommended a new approach to early intervention that formally allowed for bilingual language development in both NZSL and English (written and spoken). Until recently, some cochlear implant programmes typically advised families that a child should not learn sign language unless the technology failed to achieve the expected language outcomes. This could mean delayed language development for some children, compared to potential progress through a bilingual approach. This is unfortunate given there is no evidence that early use of sign language in children with cochlear implants impedes speech development. Conversely, the use of sign language can support or co-exist with the successful development of spoken language.

It is important that those working with deaf infants and children provide balanced advice for parents to make informed decisions about their deaf child’s education or health. Article 25(d) of the Disability Convention highlights the need to train health professionals in order to raise “awareness of the human rights, dignity, autonomy and needs” of disabled people. For health professionals working with deaf children this should include training on NZSL and about Deaf culture.

The Commission supports a bilingual approach in early intervention that provides sign language and hearing technologies together. This could offer early access to NZSL support and services to all families with a child who is deaf or who has communication difficulties. Parents may opt out of either approach (assistive
hearing technologies or NZSL services). They may also have support if they choose both approaches together.

A bilingual approach requires more NZSL fluent personnel within early intervention services. AODCs, as the key support people for families, generally have a level of basic NZSL competency but most are not fluent users or teachers of the language. The Fitzgerald Report showed that, although some NZSL training for early intervention staff was occurring, there was a large gap if fluent NZSL is expected.

Parents and the deaf community valued the early intervention role undertaken by the deaf mentors/deaf resource person positions employed by the DECs between 2000 and 2010. These were NZSL fluent para-professionals who provided NZSL instruction and Deaf cultural support to families. The Fitzgerald Report proposed that “a broader range of early childhood intervention staff is required to ensure adequate development of sign language”. It said this should include new positions for deaf consultants and NZSL tutors. The Commission supports this proposal.

Currently the Ministry of Education and Ministry of Health are reviewing processes to ensure parents of deaf children are able to make fully informed choices. This work is important and requires input from parents and other stakeholders, including the deaf community. Increasing NZSL services and support available at an early age is likely to be needed to make the option of using NZSL a real one.

**Good practice in language support in early childhood**

There are lessons to be learnt from other early language initiatives in New Zealand.

The Ministry of Education provide kaitakawaenga positions to help Special Education provide culturally appropriate services to Māori children, their whānau and educators. The Fitzgerald Report suggested this model could be mirrored with the provision of Deaf cultural advisors.

Kōhanga Reo provide total immersion in te reo Māori for whānau and children from birth to six years. Kōhanga Reo were community initiated and are now government funded. They have been central to the transmission of te reo Māori and to whānau development.

DECs provide immersion in NZSL in Auckland and Christchurch. Outside these areas, there is potential to develop “deaf nests” along similar lines to Kōhanga Reo. Deaf nests have existed in the past and could provide opportunities for full immersion in NZSL for pre-school children and their families. Establishing these would require resourcing and leadership.
In addition, New Zealand can learn from overseas examples. Sweden, Norway and Finland provide substantial government funding for sign language tuition and resources for families from the time a child is identified as deaf. In Norway, parents are offered a total of 40 weeks of training in sign language over the first 16 years of their deaf child's life. Government support includes covering the costs of tuition, travel, accommodation and compensation for loss of earnings whilst training. Deaf children whose parents received sign language training were described as more knowledgeable and well-adjusted when starting school. These positive outcomes were attributed to the children's early exposure to sign language.

The Fitzgerald Report discussed the strengths and weaknesses of international initiatives and suggested options for New Zealand. It recommended that a broader range of early intervention staff be employed, including fluent and trained NZSL instructors to provide 1.5 hours per week of NZSL support to children and their families at home. The report further suggested that deaf people with existing sign language skills could be trained to be early intervention deaf consultants and NZSL tutors, in order to improve services and options for deaf children.

2.4 Compulsory education

2.4.1 What is provided

Schools are directly funded by government to provide support for the majority of children with special education needs. If a child has high or very high needs related to a disability, a school can call on additional support from the Ministry of Education. A needs assessment outlines how much help a child will require to join in and learn alongside their peers. The Ministry of Education directly funds a higher level of support for a child with high or very high needs through a range of schemes or services. These include the:

a. Ongoing Resourcing Scheme (ORS) that provides support for children with severe or multiple needs through additional specialist teachers, teacher's aides or other specialists, or through purchasing items a child might need in the classroom.

b. Communication Service which provides support for children who have difficulties with talking, listening and understanding language.

Services to deaf and hearing impaired children and young people are offered by a variety of providers, such as:
a the two deaf education centres which function as schools for deaf children and national providers of specialist outreach services. These include satellite “Deaf units” and specialist Resource Teachers: Deaf who support children to access the curriculum in their regular school.

b resources and technical services to support access to the curriculum, including assistive listening devices and NZSL resources

c Ministry of Education regional offices which provide access to specialist services including AODCs, speech language therapists, educational psychologists and kaitakawaenga

d regular schools that receive ORS funding, for verified students

e audiological services provided through district health boards, private audiologists and audiologists based in the DECs.

In 2010, there were 125 deaf students enrolled in the DECs. A further 750 were enrolled in regular schools and receiving services from the DECs.

The Ministry of Education’s support to school age children who are classified as severely or profoundly deaf is largely through ORS funding. At March 2013, 365 deaf children were ORS verified as deaf and receiving ORS funded support. This does not include children who are verified as having another disability and who are also deaf.

Each student who is deaf or has a hearing impairment and is ORS verified as having “high” or “very high” needs, receives 0.1 or 0.2 fulltime equivalent (FTE) additional specialist teacher support (usually a Resource Teacher: Deaf). The “fund holder” also receives $10,561 (high needs) or $18,209 (very high needs) annually for each of these students. This funding is used to provide additional support including specialist services (such as AODC and speech language therapy support) and para-professional support from teacher’s aides. Up to 70 per cent of the funding component may be used for para-professional support, with the remainder being used for specialist support services, consumables and a small amount for administrative costs.

Teacher’s aides are usually employed by the local school. Their role is to work alongside the classroom teacher to provide access to the curriculum, helping with communication and language development.

The RTD is a specialist teacher, with post graduate qualification. He or she is trained in language development for both NZSL and spoken English, the use of assistive technology and deaf students’ learning
needs. RTDs teach students and support classroom teachers in the DECs, satellite classes or in regular schools.\textsuperscript{102}

AODCs are usually qualified teachers experienced in working with deaf children. In most cases, the AODC is a family’s key contact person. Once the child starts school, the AODC typically supports the family and advises the school about how to access information and services to meet the child’s needs.\textsuperscript{103} As already noted, the AODC role is undergoing change and is likely to involve a greater focus on early intervention.

**Progress in deaf education**

Since the 1990s significant steps have been taken in NZ to facilitate deaf children’s access to education. As occurred with the revival of te reo Māori, the driving force for much of the change has been the community.

In 1994, a group called the Deaf Education Access Forum was formed by professionals, parents and deaf community representatives. The forum’s purpose was to advocate for deaf students’ access to the curriculum through NZSL. In particular, it recommended the employment of qualified NZSL interpreters in schools. In 2002, the Ministry of Education established the Deaf Education Aotearoa NZ (DEANZ) charitable trust to address some of the issues raised by the Deaf Education Access Forum and to provide stakeholder advice to the Ministry on deaf education.

DEANZ produced a *National Plan for Education of Deaf and Hearing Impaired Children*. This involved significant consultation with key stakeholders including DECs, parents of deaf children, cochlear implant programme staff, NZSL experts and the Ministry of Education. Principle 7 of the plan stated that “all deaf and hearing impaired children will be able to access NZSL and Deaf culture from a young age”. It also says that “children and young people will have access to a nationally developed Deaf Studies Curriculum”.\textsuperscript{104} Further, the plan identified the deaf community as a partner in the process, stating it is “a natural community of interest and is a cultural resource in relation to deaf and hearing impaired children”.\textsuperscript{105}

In 2003, DEANZ developed a “Service Matrix” which outlined the outcomes and services required to implement its national plan. Further work, including a gap analysis, identified key priorities for action. These were:

1. improving early linguistic development in early intervention services
2. raising the NZSL skill levels of personnel who work with deaf children
3. consistent access to resources nationally
4. services to Māori and Pacific families
5. standardised assessment and monitoring.\textsuperscript{106}
DEANZ was disestablished in 2007 and in its place the Ministry of Education established a “Deaf Education Steering Group” comprising members from the DECs, parent groups and deaf community representatives. The steering group met a few times a year and helped the Ministry plan for the Deaf Education Review that occurred in 2010. It last met in June 2011.

In 2009 and 2010, the Government conducted a review of special education. The review resulted in the development of the Success for All: Every School, Every Child vision for special education. It set a target that 80 per cent of schools would provide inclusive education by 2014. In 2012, a Taskforce for Inclusive Education was established within the Ministry of Education to progress this goal. This is part of the Government’s broader focus on raising the rate of participation in early childhood education and the percentage of 18 year olds with NCEA Level 2.

The Government also decided to aggregate and improve resources for students with vision and hearing impairments through the two DECs. The intent was to create more flexibility and scope for customising resources to deaf students’ needs by using specialist teachers, note-takers, interpreters and new specialist roles.

A work stream, developed from the special education review to address workforce capability, specifically included NZSL capability and the quality of specialist teachers. Another initiative from the review was enhancing “early language acquisition – oral and NZSL – for access to the curriculum and building identity”. These are yet to be implemented.

In conjunction with the Review of Special Education, a Deaf Education Review was undertaken in 2010. The aim was to consider the role of the deaf education centres and how they could best work together to achieve a national strategy for deaf education. The key recommendation from this review was that the two DECs be governed by a single board to improve consistency and equity of services. This has been implemented.

The DECs and the Blind and Low Vision Education Network (BLENZ) have started to look at options for aggregating para-professional resources for students with sensory impairments. They will determine whether this could provide more responsive and flexible use of available resources to lift achievement outcomes.

The Ministry of Education reports a number of other initiatives have been recently undertaken to improve deaf education, including:

1. additional funding for more study awards for RTDs and more NZSL interpreter training scholarships
2. research reports on ways to support NZSL users to access the curriculum

3. improved data collection projects to enhance the Ministry’s use of available data and identify data gaps

4. transitions work to support students between secondary schooling and further study or employment.

The Ministry has developed a curriculum for teaching NZSL as a second language to year 7 and 8 students, as part of the ‘learning languages’ strand of the national curriculum. This includes online teaching materials and is called Thumbs Up.

In 2013, the Ministry recognised the specific needs of students whose parents are deaf NZSL users. The Ministry now funds NZSL interpreters for deaf parents to contribute to and participate in their children’s core educational activities. This was an important step given the vital role parents play in their children’s education.

2.4.2 What is needed

As outlined above, a number of initiatives have been implemented to progress deaf education in NZ since the 1990s. The Commission strongly supports the Government’s focus on making schools more inclusive and on lifting achievement levels of all students, including those who are deaf. It also supports the following Ministry of Education statement on deaf learners:

… to be successful deaf students will have strengthened identity, language and achievement outcomes including gaining NZSL and oral language skills early.113

However, there are important issues that remain to be addressed if these goals are to be realised for deaf students.

Achievement levels

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.114 Average achievement for severe and profoundly deaf children has been described as “significantly lower than the national average at all ages”.115

At the same time, deaf people are reported to have levels of intelligence that are close to the mean for hearing people.116 This suggests that other factors impact on lower achievement rates for deaf students, including the level of support and resources available to meet deaf children’s learning needs.117

Disadvantage in education begins with linguistic delay in early childhood and is
compounded by school environments that do not provide full access to language and/or the curriculum.\textsuperscript{118} Inadequate support to deaf children in schools can include linguistic isolation and a lack of appropriate teaching strategies for deaf students. Another issue is the over-dependence on teacher’s aides with insufficient support from qualified teachers and other specialists.\textsuperscript{119}

**Language environments**

Acquiring a language requires environments that bring together a critical mass of users of that language, including fluent users. In the case of te reo Māori, Kōhanga Reo and Kura Kaupapa have played a critical role in creating such environments for Māori children and their whānau. Māori children cannot be expected to acquire te reo and Māori culture in a classroom where they are the only Māori person and where there are no fluent Māori speakers.

Similarly, deaf children cannot acquire NZSL and deaf culture in mainstream classrooms where there are no other fluent signers. In most countries, special residential schools for the deaf have created a critical mass of deaf peers that enables the transmission of sign language between generations.\textsuperscript{120}

In New Zealand, if parents choose an NZSL approach for their child there are very few educational environments that provide a bilingual educational and social environment for deaf students. Providing NZSL learning environments that bring together deaf children and adults fluent in NZSL is vital for deaf children to have the option of NZSL as a foundational language.

Deaf students and their families need real choices in education. These include access to NZSL whether they are in mainstream schools, special units, resource centres or schools for deaf children. Wherever a deaf child is schooled, face-to-face NZSL language learning opportunities should be available alongside options that can be accessed through video technologies. Enabling deaf peers to come together in this way brings to life the importance of connection and linguistic identity set out in the New Zealand Disability Strategy and the Disability Convention respectively.\textsuperscript{121}

**NZSL support and resources in schools**

Access to education for many prelingually deaf children depends on sufficient sign language resourcing. This includes a sufficient level of NZSL proficiency amongst those involved in educating deaf children. However, there are concerns about the low level of NZSL competency amongst the professionals and para-professionals involved in deaf education. Training in NZSL and deaf cultural issues is minimal for teacher’s aides, RTDs, AODCs and other staff working with deaf students.

Some staffing for deaf education supports can now be aggregated and customised to
learner needs. But there remain concerns that the ORS framework does not provide sufficient NZSL resources and support necessary for some deaf students. For example, the use of qualified sign language interpreters as a support role in schools is not well established in the ORS framework. NZSL interpreters are not yet included in the list of approved ORS specialists and ORS funding may be insufficient to enable the use of interpreters for full access to the curriculum.¹²²

Qualified NZSL interpreters are rarely employed to support deaf students in mainstream schools. In most cases, the interpreting role is undertaken by teacher’s aides most of whom are not trained or qualified for the complex demands of mediating classroom communication in NZSL.¹²³ This practice is documented in the literature on educational interpreting as creating an illusion of access. But it risks restricting or distorting a deaf student’s access to the communication environment.¹²⁴

The option of interpreters in schools needs to be available. Other options include considering ways to increase NZSL fluency amongst staff, create NZSL language environments, and use visual technologies. The existing tertiary level NZSL courses available at Auckland University of
Technology (AUT) and Victoria University of Wellington (VUW) could be an avenue for increasing NZSL proficiency levels of staff in deaf education.

Valuing NZSL proficiency is an important incentive for upskilling the current education workforce that supports deaf students. This includes the remuneration linked to NZSL proficiency. While most education personnel working with deaf students are not fluent NZSL users, a small number are. The Commission understands that, while this is reflected in an additional language payment for teaching staff, there is no equivalent payment for teacher’s aides who are proficient in NZSL.

Training deaf people who already have linguistic and cultural skills for working with deaf students has been identified as another way of increasing NZSL competency in deaf education. This might include training deaf people for roles in early intervention teams. They could be teacher’s aides, language assistants or take on other roles in schools which would support NZSL learning environments. These issues should be explored and progressed further.\textsuperscript{125}

Some NZSL resources and curriculum materials for teaching have been developed by the DECs. The Fitzgerald Report suggested reviewing current resources and developing additional ones to address identified gaps.\textsuperscript{126} Since then, the Commission understands there has been little measureable change in the level and range of NZSL resources available to deaf students in schools.

Although numbers of deaf children are small, the Fitzgerald Report proposed that the priority was to develop systems that would support NZSL users to access the curriculum. This is regardless of the number of students involved. It emphasised that families would determine demand – and that would be highly dependent on the availability of quality NZSL resources.\textsuperscript{127}

Use of information technology will play a key role in NZSL planning for the future. It presents ever-increasing opportunities to overcome some of the disadvantages of a small and dispersed deaf population. The Government has funded an initiative to provide ultrafast broadband Internet access to all schools. Currently, broadband enables some visual communication for deaf students through video programmes such as Skype.

New technology has the potential to enable real-time video conferencing and virtual classrooms. This could play a valuable role linking deaf students to NZSL. Options include using peers in other locations, increasing the NZSL capacity of the deaf education workforce, and expanding NZSL access to the curriculum.\textsuperscript{128}

In determining the Wai 262 claim, the Waitangi Tribunal was highly critical of the
Crown having failed to plan and allocate resources for actual and projected demand for te reo Māori. This was found to have a direct impact on the maintenance of te reo, as older native speakers passed away and were not being replaced in sufficient numbers by younger speakers. The Tribunal emphasised the importance of the Government providing Māori medium education programmes that are highly effective and appropriately resourced. To avoid similar criticism in relation to NZSL, it is a matter of urgency that steps are taken by the Government to improve the level of NZSL fluent staff and resources in education.

**Partnership**

Over the years the Ministry of Education has engaged with the deaf community, parents of deaf children and the wider sector to address the challenges of deaf education. The DEANZ Trust was one example of a government-community partnership. It operated between 2000 and 2007, represented a wide range of deaf sector viewpoints and included a strong NZSL expert presence. DEANZ aimed to provide a strategic approach to promoting and providing NZSL in education.

Since the ending of DEANZ, the Ministry of Education reports that it has continued to work with the deaf sector through a range of forums and approaches. These include the Special Education Advisory Group, the DECs’ board of trustees, NZFDC, DANZ, the Disabled Persons Assembly, and individuals’ and stakeholders’ input on projects.

The Commission is concerned that there is no formalised mechanism for the Ministry or other government agencies to access expert, strategic advice and guidance on NZSL. Chapter 4 of this report considers possible options to meet this gap.

The recommendations in this chapter focus more specifically on steps required to enable deaf children to realise their right to education through NZSL. In implementing these recommendations, it is vital that the Ministry consults closely with deaf NZSL users, other NZSL users, the DECs, parents of deaf children and Deaf Aotearoa NZ. These groups would also have a role to play within structures proposed in chapter 4 to support the maintenance and promotion of NZSL. This is one reason why the Commission strongly supports the Ministry of Education being the lead agency for any such body.

If the Ministry of Education is not the lead agency for maintaining and promoting NZSL, then the Commission strongly suggests that the Ministry establishes its own NZSL advisory group to provide specific guidance on deaf children’s access to education through NZSL. However, this is not the Commission’s preferred option, given the reduced ability for cross-agency collaboration on all of the Inquiry’s recommendations.
2.5 Tertiary education

While the Commission’s NZSL Inquiry has largely focused on early childhood and compulsory education, submitters also raised concerns about access to tertiary education for deaf people. Tertiary education is crucial for participation in the labour force and is important to human rights outcomes. Therefore a brief summary of current provision and gaps is outlined below.

The Government provides equity funding to tertiary education institutions to improve equity of access and achievement for Māori, Pacific and disabled students. This funding is in response to evidence that these three groups experience clear disadvantages within the tertiary education system.

Improving equity of access and achievement for all learners is a core part of the tertiary sector’s contribution to New Zealand’s educational priorities. The Equity funding recognises additional support is needed to improve participation, retention, completion and progression of learners from these targeted groups. Government expectations about the type of support offered to disabled students are set out in Kia Ōrite: Achieving Equity. This is a voluntary code of practice for an inclusive tertiary education environment for students with impairments.

Equity funding for disabled students is available to universities, institutes of technology, polytechnics and wānanga, but excludes private training establishments. This is different to the equity funding for Māori and Pacific students that is available to all tertiary education organisations, including private training establishments.

Equity funding is not intended to be the sole or primary source of funding used to support disabled students. It is a “top-up” to general funding, in recognition of the higher costs that can be associated with supporting these students. The funding amount is based on the total number of all students – the equivalent fulltime students (EFTS) – at an institution.

Deaf people require NZSL interpreter and translation services in order to access tertiary education. Comments on the NZSL Inquiry draft report stated that the current system is problematic and is not encouraging deaf people to gain tertiary education. Submitters described how tertiary providers that had a track record of supporting deaf students often became “magnet” institutions. They attracted a higher proportion of deaf students and greater associated NZSL interpreter costs. Costs double where courses involve full day and/or long hours of class time that require two interpreters working as a team.

NZSL interpreter services for a fulltime undergraduate deaf student can be as much
as $30,000 per semester. One institution reported that they spent 80 per cent of their Equity funding on the provision of NZSL interpreter services to about 12 deaf students. These made up less than four per cent of their total disabled student population. Smaller tertiary education institutions may struggle to fund the high costs of NZSL interpreters.

Deaf students may also apply to use their Workbridge Training Support funds for tertiary study. However, this is a capped one-off, lifetime limit of $15,600 which could be depleted very quickly in many tertiary education courses. Deaf people are sometimes wary of using this limited funding when they might require it for future career-related training.

The current system of support for deaf students to gain tertiary education qualifications is problematic. It does not recognise the high costs of NZSL interpreter services in tertiary education settings and limits deaf people’s participation in tertiary education. Deaf people should have access to the same range of tertiary courses and providers as other people. Submitters suggested that the funding model should be improved to realistically recognise the costs of NZSL interpreter services. It should be tagged to the deaf student irrespective of what tertiary provider or course they attend.

The Commission strongly suggests that the Tertiary Education Commission reviews Equity funding for deaf students in order to improve deaf students’ enrolment and achievement levels in tertiary education. Options to be explored would include:

1. increasing the funding level to cover the costs of NZSL interpreter services
2. broadening the range of eligible tertiary education organisations to include private training establishments
3. investigating whether such funding should be tagged to individual deaf students rather than allocated according to total enrolments.

**Recommendations**

In implementing the recommendations below, the Ministry of Education is strongly encouraged to consider the recommendations of the Fitzgerald Report. It should also explore technological opportunities such as those provided by ultrafast broadband Internet.

**Early childhood**

That the Ministry of Education, in consultation with other relevant government agencies and the proposed interim Expert Advisory Group on NZSL and ultimately the NZSL Statutory Board:

1. increases NZSL resources and support to enable the acquisition of NZSL in early
childhood by deaf children, children with communication difficulties and their families, including by:

a increasing levels of NZSL fluency amongst staff in early intervention services including by financially recognising NZSL skills

b exploring options for new roles to provide NZSL support within the home

c facilitating the development of local language nests as an opportunity for pre-school children and their families to learn NZSL

d reviewing and further developing NZSL resources and promoting these to families where a child is deaf or has communication difficulties

e ensuring the collection and analysis of early childhood data that can be disaggregated by deafness and NZSL usage

f continuing to promote and develop the use of NZSL in all early childhood education centres.

Advisory Group on NZSL and ultimately the NZSL Statutory Board:

2 increases access to education via NZSL by:

a increasing levels of NZSL fluency amongst staff working in the compulsory school sector including by financially recognising NZSL skills

b exploring options for new roles for people fluent in NZSL in the compulsory school sector

c establishing a funding stream for NZSL interpreting (educational interpreters) within schools

d increasing opportunities for deaf children and children with communication difficulties to interact with signing peers and fluent NZSL users

e reviewing and further developing NZSL curriculum resources.

That District Health Boards:

3 prioritise training in disability awareness, NZSL, deaf culture and human rights for health care early intervention staff, including audiologists, ear, nose and throat specialists, and other specialists working with children with communication difficulties.

Schools

That the Ministry of Education, in consultation with other relevant government agencies and the proposed interim Expert
3  The rights of deaf people to access communication, information and services through NZSL

New Zealand Sign Language is not only about access, it is the voice of dreams, hopes, ambition and aspirations. It is the life force of the Deaf community. – Kellye Bensley, 2013

3.1  Introduction

3.1.1  Barriers faced by deaf people

Having a language, sharing it and communicating with others is essential for any person to participate within their family, community and society. When information is not provided in accessible ways it limits disabled people’s opportunities and excludes them.\(^{133}\)

Therefore it is not surprising that deaf people have prioritised access to NZSL as a prerequisite for realising their human rights. For many deaf people, access to information and communication is dependent on having NZSL interpreters and information translated into NZSL.\(^{134}\)

Deaf people have consistently identified the barriers they face trying to access government information and services. These were reported through consultations on the development of the NZSL Bill between 2003 and 2005, the 2010 Deaf Way report and the 2011 NZSL Act Review. Deaf people have said that their language and cultural needs are often not recognised, resulting in general feelings of disempowerment and isolation.\(^{135}\)

Translating information into NZSL video clips enables deaf people to access information independently at a time and place that is convenient to them. Some government departments have begun providing some of their information in NZSL video clips. But this progress is slow and inconsistent both within and across government agencies. Overall, only a small proportion of information about government services is accessible through NZSL. The NZSL Act Review found:

The low level of information on government services accessible through NZSL, especially key information, needs to be improved. Government agencies clearly need to be more proactive in this area.\(^{136}\)
Access to government information and services in NZSL is highly variable and generally poor.\textsuperscript{137} It includes instances of key agencies that have national policies on providing interpreters. Yet they have patchy provision at the local level, depending on the interests and awareness of local staff.\textsuperscript{138} This suggests some agencies may be struggling to apply their own policies.

There continue to be reports of government agencies refusing to arrange or pay for qualified NZSL interpreters. Instead, staff inappropriately write notes or ask a deaf person’s unqualified family member to interpret.\textsuperscript{139} This neither respects a deaf person’s right to privacy nor considers whether the sign language fluency of a family member is sufficient to enable effective communication.

Government agencies as well as deaf people are sometimes confused about when interpreters must be provided and who is responsible for booking and paying for them.\textsuperscript{140} Deaf people are also denied access to information or services because there is no funding available for NZSL interpreters or resources, or the approval process is ad hoc or slow. Given these barriers, there is a strong sense among deaf people of having to fight for or justify their need for interpreters in most situations.\textsuperscript{141}

\begin{center}
NZSL Learners having fun at an NZSL Taster Class in Wellington. © Deaf Aotearoa.
\end{center}
In the words of a deaf person:

Why should we have to fight every time to get an interpreter?142

During this Inquiry, deaf people also raised concerns about funding gaps for NZSL interpreter services or resources. These, coupled with administrative hurdles that restricted access to available funds, meant deaf people did not have the same opportunities as hearing people. Deaf people were concerned that some government agencies made decisions based on reducing potential interpreter or translation costs rather than on the most appropriate intervention for a specific deaf person.

3.1.2 What is required under the Disability Convention

A shared language is a fundamental component of someone’s cultural identity. Article 30(4) of the Disability Convention reiterates this when it states:

Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

The Disability Convention states that countries need to ensure equal access to information, communications and to public facilities and services.143 For deaf people this includes providing professional sign language interpreters and resources translated into NZSL.144 For some deaf people, realising these rights is entirely dependent on access to these NZSL services.

Article 21 of the Disability Convention focuses on freedom of expression and opinion, and access to information. It explicitly addresses deaf people’s right to an interpreter when accessing government services and the need to recognise and promote the use of sign languages. Therefore countries, such as New Zealand, that have ratified the Disability Convention must accept and facilitate the use of sign languages in official interactions, through both interpreting and translation services.145 This places an obligation on government agencies to progressively realise these rights.

3.1.3 What is required under the Human Rights Act

Government agencies are bound by the anti-discrimination provisions of the Human Rights Act (HRA), including its reasonable accommodation requirements. “Reasonable accommodation” refers to creating an environment that will ensure equality of opportunity, including for people with disabilities. It applies to the provision of goods and services as well as employment,
as set out in sections 52 and 29 of the HRA respectively.

When providing services for disabled people, the Court of Appeal has said that there is a presumption that a provider will make the necessary accommodation unless it is unreasonable.\textsuperscript{146} This would include ensuring a deaf person can access services using NZSL.

Between January 2000 and December 2012, the Commission received a total of 396 complaints and enquiries related to discrimination or broader human rights issues for deaf people. Of these, 79 specifically mentioned NZSL. Typically these NZSL complaints and enquiries related to difficulties deaf people experienced accessing NZSL interpreters or resources when dealing with a range of agencies or parts of their life. Specific agencies or sectors mentioned are listed in the table below:

A further five complaints or enquiries were about access to NZSL–te reo Māori (trilingual) interpreters, the funding and regulation of NZSL interpreters or the availability of NZSL courses.\textsuperscript{147}

This chapter focuses in particular on two sectors. First it considers the funding and provision of NZSL interpreters in the health sector, either by the Ministry of Health or district health boards (DHBs). Secondly, it considers funding for deaf people to access NZSL support in employment, primarily through the Ministry of Social Development’s (MSD’s) contract with Workbridge.

Access to employment and to health, alongside the right to education, impact significantly on deaf people’s right to an adequate standard of living. They are also areas where previous research has shown persistent inequalities for deaf people.\textsuperscript{148}

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3.2 Health sector

What is required

Before the passage of the NZSL Act, all health and disability providers were already bound by the Code of Health and Disability Services Consumers’ Rights. Four of the 10 rights covered in the Code reinforce the importance of access to NZSL interpreters and resources. These are the rights to:

1. effective communication – Right 5
2. be fully informed – Right 6
3. make an informed choice and give informed consent – Right 7
4. have one’s cultural needs taken into account – Right 2(3).

A 2007 discussion paper proposed a national approach to interpreting and translating services in Aotearoa-New Zealand. It noted “it would be impossible for these rights to be respected without the provision of interpreter services for those who are unable to understand spoken English”.¹⁴⁹

In material provided to this Inquiry, the Ministry of Health stated that:

[The Code] is well understood and promoted in relation to providing interpretation for deaf people …

Provision of interpreter services has been an explicit expectation of the health service for many years. The most recent relevant legislation is the NZSL Act 2006.

Most DHB and core disability support services service specifications explicitly refer to the requirement to provide access to NZSL interpreters. Hospitals, rest homes and providers of residential disability care (where there are five or more residents) are bound by and audited against the Health and Disability Services Standards.¹⁵⁰ These too require access to interpreters, including NZSL interpreters where appropriate.

The Ministry of Health does not directly fund most DHB services. However, it does set out expectations about the provision of NZSL interpreters. Before 2006, the accountability provisions in the Operational Policy Framework (OPF) of the Crown Funding Agreement stipulated the need to make services available to people who are deaf. This was to be done through the provision of interpreters and devices to assist communication.¹⁵¹ The Ministry of Health does not ask explicitly for targets and goals in this area, so these are left for DHBs to determine.

In 2006, these OPF accountability provisions were expanded. They included a requirement that each DHB provide “an outline of how [it is] responding to the NZSL Act” as part of its plan for advancing
the health objectives of the NZ Disability Strategy. Yet, while the expectation is clear, the monitoring responsibilities are not. In information supplied to the Commission for this Inquiry, the Ministry of Health clarified that it does not currently collect monitoring information from the DHBs related to this OPF requirement.

The Office for Disability Issues (ODI) is part of the Ministry of Social Development. In its 2011 review of the NZSL Act, the Office noted that Crown entities, such as DHBs “are not obliged to provide NZSL interpreters under the NZSL Act or translate information on their services”. It then went on to state that Crown entities are, however, required to have regard to the Disability Convention and the anti-discrimination provisions of the Human Rights Act. In addition, the ODI could have usefully clarified that providing interpreters is an explicit expectation within health sector contracts. It is also a requirement of the Code of Health and Disability Services Consumers’ Rights “where necessary and reasonably practicable”. This reflects international case law which stipulates that informed consent for deaf people requires access to sign language interpreters.

The DHBs’ primary means for monitoring progress in improving access to health for deaf people is likely to be against their New Zealand Disability Strategy Implementation Plans. These may not necessarily include details about access to NZSL interpreters or resources in NZSL. Monitoring against the plan is voluntary and the Commission has been informed that only a small number of DHBs undertake such reporting, though some of these have reported regularly.

3.2.2 What is provided

Ministry of Health funded services

Disability Support Services in the Ministry of Health has a contract with Deaf Aotearoa NZ to provide interpreter services for deaf people. These services are delivered through DANZ’s subsidiary organisation, iSign. As the contract states, the services are to enable deaf people to access public health and disability support services and information. They are to enable deaf people to be fully informed of their rights and responsibilities. This annual funding was increased by $300,000 in July 2007 to $458,612 per year. The ODI’s 2011 review of the NZSL Act noted that “further increases will be considered by the Ministry of Health.”

From 1 October 2011, the Ministry allocated an additional $100,000 per annum to DANZ for the provision of NZSL interpreter services by iSign. This brought the annual funding to just over $550,000. Background information provided in that contract variation noted that DANZ would not have been able to maintain services, including its interpreter booking service, under existing funding levels because of rising operational costs. The additional $100,000 per annum was to meet both increased operational costs and, in the
2011/12 financial year, to complete user testing and trialling of video phones.

In order to clarify what is covered by this contract, DANZ and the Ministry of Health have outlined those health-related services where the Ministry funds access to a NZSL interpreter. These are attached as Appendix 2 to this report. They cover a broad range of health services including those provided by disability non-government organisations (NGOs). Services funded by DHBs or the Accident Compensation Corporation (ACC) are outside the scope of this contract. The Ministry of Health contract also covers interpreter services for life skills that impact on health outcomes for deaf people and their families. Examples include budgeting advice, driver licensing and testing, and parenting support services.

Booking requests made by iSign need to fit within the types of services covered by the contract and also its annual funding limit. In practice, iSign confirmed this means regular bookings are typically approved in short-term blocks, so that expenditure against yearly funding can be closely monitored.

The Ministry’s contract with a booking agency, in this case iSign, provides deaf people with a greater degree of certainty and consistency when seeking an interpreter than if they had to negotiate with each individual health provider. The booking service’s role is not to question the need for an interpreter but to enable deaf people to access NZSL interpreter services. If an enquiry falls within the scope of a specific contract, the booking service is required to provide timely access to a professional, qualified NZSL interpreter.

**DHB funded services**

The Ministry of Health surveyed DHBs in 2002/3 about their requirement to provide NZSL. The October 2003 Cabinet paper on the NZSL Bill noted:

> While most district health boards (DHBs) are believed to have policies around accessing interpreters there is a need to ensure that policies are comprehensive, specify the use of qualified interpreters, and that DHB services and information are accessible.\(^{159}\)

In 2005/6 the Ministry contracted the National Foundation for the Deaf to undertake a subsequent survey. Of the 19 DHBs that responded, about two-thirds (13) had NZSL policies.\(^{160}\)

Even when NZSL interpreters are generally provided by DHB-funded services, deaf people can face significant barriers if the health provider retains an element of discretion about deciding whether an interpreter is necessary. This is further exacerbated because booking of interpreters for DHB-funded services is typically initiated by the healthcare provider (as the paying client) and not at a deaf person’s request.
In May/June 2012, the Sign Language Interpreters Association of New Zealand (SLIANZ) consulted with deaf community members on its code of ethics. Several comments were made about some DHBs’ reluctance to book NZSL interpreters if a deaf person could lip-read, or if an unqualified communicator was available. This suggests some DHBs may benefit from information about why a trained interpreter fluent in NZSL is necessary. The Commission understands that SLIANZ and DANZ have recently written to a provincial DHB raising concerns about the use of unqualified communicators.

During this Inquiry an interpreter provided the Commission with two recent examples where frontline receptionists at accident and emergency services had informed her that interpreters could only be requested between 9am and 5pm Monday to Friday. In both cases the situation was only resolved because the interpreter insisted on being put through to the hospital’s interpreter booking agency.

In submissions to this Inquiry, mental health professionals and interpreters working in this field shared examples of deaf people not being provided with necessary interpreter services. These were described as common or typical experiences and some had resulted in devastating outcomes. Examples include:

1. A deaf person with severe and enduring mental health needs has a care manager who communicates through writing notes, rather than through a qualified interpreter. An interpreter is provided for review meetings with the psychiatrist, held every couple of months. However, there has been no interpreting for this person’s regular home visits from the local DHB-funded mental health team. It is concerning that the deaf person involved did not realise they could ask for an interpreter in these situations.

2. A community support worker for a deaf person refused to book or use an interpreter for house visits, claiming these were unplanned so it was impossible to book an interpreter in advance. The support worker would turn up at the client’s home, check the client was all right using a thumbs-up gesture, and then proceed to consult only with family members at the address. The client became unwell and required hospitalisation, displaying symptoms that were not picked up by the support worker.

3. A severely ill deaf person was hospitalised in a mental health unit. The hospital relied on a hearing support worker, with very limited NZSL skill, to interpret treatment to this deaf person.
The Commission is also aware of positive mental health initiatives for deaf people developing within some DHBs, including those led by the three Wellington region DHBs.

3.2.3 What is needed

Ministry of Health funded services

The demand for NZSL interpreters continues to exceed current funding levels. In the 2011/2012 year iSign exceeded its budget by 10 per cent. While Ministry of Health funding increased in October 2011, the contract scope was also broadened to include deafblind people.

The Commission has been informed that booking services and interpreters themselves have sometimes provided interpreter services free of charge. This happens when interpreting funds have been depleted, funding criteria have not been met or when there is a lack of clarity around who will pay that cannot be solved before the appointment. Reasons cited for giving pro bono services include deaf people's need to access time-sensitive information so they can make health decisions and provide informed consent.\(^\text{161}\)

Ongoing monitoring of the scope, uptake and cost of the Ministry of Health's contact with DANZ would provide valuable information on access to NZSL interpreter services. It would be helpful if DANZ is able to report on requests for NZSL interpreters that fall outside the contract's criteria or cannot be met within the current level of funding.

DHB funded services

Access to NZSL interpreters and information in NZSL cannot be solely a reactive process, dependent on deaf people asserting their right to an NZSL interpreter or NZSL resources. In particular, it is difficult for many deaf people to question a decision by someone in authority that an interpreter is not necessary.

Clear NZSL policies and expectations are vital. Otherwise, as one DHB noted, frontline staff may not be aware of the organisation's responsibility to provide NZSL interpreters or feel they do not have the authority to authorise such payments. This DHB recommended that DHB websites should include information clearly stating that a deaf person has the right to request an NZSL interpreter across the full range of DHB-funded services. Quality NZSL translations, using video-clips, are a valuable way to provide website information in an accessible format for deaf people.

There is no transparent means to monitor DHBs' current provision of NZSL interpreter services and NZSL resources or how much they cost. Nor is there any evidence of monitoring against requirements to provide interpreters as set out in the OPF, sector standards, Code of Rights or service specifications.
One barrier identified by some DHBs is that information about budgeting and expenditure is held by the provider arm of the DHB, not its funder arm. A piece of work would need to be done to pull out information on how NZSL interpreters are used and to separate this budget from the general interpreter budget.

Another DHB noted that, because all its NZSL interpreters are booked through the same agency, this would potentially make it simpler to track its use of them. It is timely to consider how best to monitor and coordinate access to NZSL interpreters across DHBs. The integration of planning and funding services between the three Wellington region DHBs potentially provides the chance to better record and track access to and expenditure on NZSL interpreter services.

Similarly, one Auckland DHB noted the close working relationship between DHBs in Auckland and Northland was “a great opportunity to make a difference for the deaf community and for consistency across the upper North Island”. There are also likely to be benefits from DHBs sharing good practice about ensuring deaf people are able to access NZSL interpreters. These would usefully look at ways to overcome access barriers including in rural areas, emergency situations, at short notice or after hours.

DHB-funded primary care providers have general interpreter budgets to cover the costs of all interpreter services, including NZSL interpreters. Anecdotal evidence provided by some DHBs suggests these are not often used by deaf people. One DHB recommended that allocating some existing resources specifically to NZSL interpreter services, and then monitoring uptake, would be a useful first step.

**Possible pilot for pooling interpreting funds**

Some DHBs already use an external booking service for all or some of their NZSL interpreting requirements. There was support from a number of DHBs for a sub-regional pilot that would pool existing NZSL interpreting budgets and trial working with a single booking agency to provide these services. The pilot would test the effectiveness of this approach in removing barriers deaf people face accessing NZSL interpreters. It would look at how to improve monitoring of DHBs’ use of NZSL interpreter services and consider the potential to reduce costs through some economies of scale.

There should be an open tendering process for any such pilot, with priority given to meeting the needs of deaf people accessing DHB-funded services. Even in circumstances where a preferred provider is selected, there should be some flexibility for instances where another interpreter or booking service is most appropriate to meet a deaf person’s preferences or specific needs.
3.3 Job support and training support funding

3.3.1 What is required

All government departments should be guided, so far as reasonably practicable, by the principles in section 9 of the NZSL Act. Specifically section 9(c) that requires that “government services and information should be made accessible to the deaf community through the use of appropriate means (including the use of NZSL)”.

The Commission notes the relative progress that government agencies have made in developing internal human resources policies which recognise the right for deaf staff members and job applicants to access NZSL interpreters. This section of the Inquiry report focuses instead on the extent to which government funding for work-related or training costs is available for deaf people to purchase NZSL interpreter services and resources.

3.3.2 What is provided

Job Support fund

The Ministry of Social Development provides Workbridge with funds that disabled people can access for Job Support to enable them to do their job. Employed deaf people can apply to this funding to help with the additional work-related costs directly related to being deaf. This can cover the costs of interpreter services for work meetings, supervision, professional development and staff events. It also is used for NZSL translation services and assistive devices such as modified fire alarms.

This funding is capped at $16,900 per person in any 12 month period. MSD’s Job Support Fund Operational Guidelines stipulate that no applicant can receive more than $16,900 from all MSD sources. Workbridge advised the Commission that it is only able to make payments above the Job Support yearly limit if directed to do so by MSD (for example, to back pay an invoice from a previous year).

The Commission was informed that some employed deaf people aged over 65 have experienced difficulties accessing Workbridge funding. These raise concerns about potential age discrimination. Workbridge advised that a deaf person who is over 65 and in employment is eligible for an exemption to the upper age limit. Workbridge is also able to apply to MSD for a waiver if a deaf person is unemployed and requires Job Support funding to re-enter the workforce. These decisions are made by MSD based on individual circumstances.

The MSD guidelines also note “given the capped nature of Job Support, care should be taken to ensure that the NZSL interpreters are used to the best advantage of the applicant”. There is no pool of contingency funding for unexpected
additional costs. The guidelines describe Job Support as “a fund of last resort”, after reasonable accommodation has been taken into account. This includes employers’ responsibility to provide NZSL interpreters for deaf staff. Government departments are expected to draw on organisational resources to meet their good employer obligations, in the first instance. Then they should seek assistance from Job Support in more exceptional circumstances.166

**Training Support fund**

In addition, Workbridge administers the Training Support Fund. It provides financial support when a disabled person undergoes training, education, an assessment period or work experience as part of their plan to gain employment. It may be used to pay for NZSL interpreters including for job interviews. The lifetime limit for each individual is $15,600. Over the last five years, the average level of Training Support funding that deaf people received for NZSL interpreter services has fluctuated. It ranged from $1175 in 2009/10 to $537 and $657 per person per year in the last two financial years respectively.167

Requests for additional Training Support funding may be approved at the discretion of MSD. Typically this relates to situations when someone runs out of funding needed to complete a course that has a direct employment outcome. In these instances, MSD makes the final decision based on information supplied, including the estimated cost of additional Training Support required to complete the course.

3.3.3 What is needed

**Job Support fund**

Interpreter fees have increased in recent years yet the maximum payment under the Job Support fund has remained unchanged for more than 10 years. For some deaf people this means their Job Support funding runs out before the end of the year, effectively limiting their labour force participation. Yet at the same time many other deaf people access a very small proportion of their yearly limit. In 2011/12 the average amount of Job Support funds used by deaf people for NZSL interpreter services was just $4139.168

Given the strong equity and efficiency arguments for increasing employment amongst deaf people, it is timely to reconsider the adequacy of this fund. Deaf people in jobs that require significant amounts of communication need more assistance than is currently available.

The Job Support funding does not differentiate between the number of hours someone works, the type of paid employment, or the extent to which the job role requires a deaf person to communicate with hearing people. Yet all of these factors impact on the amount of NZSL interpreter and translation services that a deaf person is likely to require to participate
in the labour force. The following case study is just one example of how capped funding can impede deaf people's ability to work fulltime. The cap can also hinder employment in fields where a deaf person's knowledge of Deaf culture and language is a key requirement for the job.

Good employer obligations, alongside Job Support as funding of last resort, are important levers for supporting the employment of deaf staff. However, evidence to date suggests that they do not provide sufficient incentive for organisations to develop specific roles for deaf staff to work with predominately hearing audiences. The Commission encourages agencies to set aside specific budgets for such positions, but is mindful that official recognition of NZSL has come at a time of economic constraints and public sector budget cuts.

Case study: Employment of Deaf advocates

The nationwide Health and Disability Consumer Advocacy (HDCA) service employs three deaf people to work as advocates with the deaf community. They provide education to health consumers about their rights and the options available to resolve any complaints. The Deaf advocates also educate providers about responding effectively to deaf people who use their services as well as to family members who are deaf.

There is a large demand for the Deaf advocates' work across a wide range of health providers. Deaf advocates exhaust their $16,900 annual limit and are therefore unable to meet this demand. Instead they face having to reduce their hours, because they are unable to work without funding for NZSL interpreters.

Education and training courses provided by health and disability advocates are free of charge, so it is difficult to charge providers to cover the cost of the NZSL interpreter working alongside a Deaf advocate. The advocacy service does not have sufficient funding to cover this level of interpreting costs.

A couple of DHBs have indicated they might be open to discussions about sharing the cost for interpreters from their disability awareness training budgets. However, this requires ongoing negotiation with every provider. It is very time-consuming and provides no ongoing or sustainable funding security.
The number and proportion of deaf people likely to be employed in roles that require such intensive use of NZSL interpreters is relatively small. The Commission therefore recommends that explicit provision is made for the Job Support annual cap to be increased for deaf workers in situations such as these. In the case of Deaf advocates specifically, the Commission hopes that greater regional collaboration and transparency around current DHB expenditure will provide avenues for joint DHB support for such roles.

There may also be opportunities for employers with a large number of deaf staff to combine Job Support funding and, through economies of scale, reduce the NZSL interpreting cost per staff member. One example is the Kelston Deaf Education Centre (KDEC). The centre disestablished its interpreter positions because of funding cuts. Then an arrangement was made with staff and Workbridge to transfer an agreed percentage of staff members’ Job Support funds to KDEC to administer. The Commission has been informed that this has resulted in a significant reduction in NZSL interpreter costs for the group of deaf staff at KDEC.

The Inquiry requested information from MSD about the number of deaf people whose annual Job Support funds had run out in less than 12 months. This information was not held by MSD because it is not required for monitoring its contract with Workbridge. Nor was Workbridge able to confirm the number of deaf people who have run out of Job Support funds, as it is reliant on individual deaf people notifying Workbridge that their Job Support funds are depleted. The responsibility to manage capped funding rests on deaf people and can be an additional administrative burden on top of worrying that there will be insufficient funding to cover the full year.

**Training Support fund**

The lifetime cap on the Training Support fund limits its effectiveness in enabling deaf people to undertake education and training in order to gain open employment. It is becoming harder for deaf people to get paid work without formal qualifications. Yet participating in tertiary education is very difficult without access to NZSL interpreter services. As already noted in the education chapter, the Training Support fund is insufficient to cover the interpreting costs of fulltime study on many courses, let alone subsequent career development or retraining. In addition, deaf people in self-employment who require interpreters to build up their business are ineligible for Training Support if that business does not show income streams that meet minimum wage criteria. Further steps are needed to ensure that the Training Support fund realistically enables deaf people to move into decent work.

DANZ commented that it had several times used its own funds to cover the cost of
interpreters for job interviews or urgent workplace meetings such as disciplinary meetings. This happened when a deaf person had not applied for Support Funds or had exhausted their entitlement. Given the importance of procedural fairness in any disciplinary meeting, any state sector employer should provide NZSL interpreting in these circumstances.

Other submitters stated there is a lack of clarity around funding available to pay for interpreters for job interviews. This information should be transparent and consistent, and the funding must be available at short notice. Demand for NZSL interpreting for job search activities or job interviews is likely to remain high. It may also increase given the tight labour market and more intensive job search requirements related to welfare reforms. Therefore it is timely to review whether the Training Support fund is sufficient to cover interpreting costs linked to “cold-calling” employers and job interviews.

3.4 Other government agencies

3.4.1 What is required
The ODI advised government agencies in 2009 on providing NZSL interpreters. It clearly spelt out the importance of assuming that an interpreter will be needed for any meeting or event where deaf people will be present as well as in response to any request from a deaf person. The ODI suggests “it is useful for departments to have an agreed policy on using sign language interpreters” and that “budgeting (including a budget for interpreter services) will be a crucial part” of such policies. Its 2011 review noted:

As these are principles rather than directions, government departments also consider the reasonableness of these actions in terms of the magnitude of cost, resourcing and timeliness.

3.4.2 What is provided
DANZ’s 2010 Deaf Way report found significant variability in communication access for deaf people across government agencies, even where national policies existed:

Work and Income, for example, have a clear national policy as well as dedicated staff to ensure that interpreters are available for deaf people when needed, but local provision is still seen as patchy depending on the interest and awareness of local staff.

The most comprehensive information about access to NZSL interpreters occurs in relation to the NZSL Act’s interpreting requirements in legal proceedings. It is much more difficult to identify how other government agencies are meeting the guiding principles in the NZSL Act. The
ODI has not asked government agencies to provide New Zealand Disability Strategy plans since 2007/08 and no longer publishes these.

Submitters to the NZSL Act Review reported varying ability to access government services or information in NZSL, even within the same agency. The review’s final report includes a section on key government agencies’ implementation of the Act. This collates some important information about activities undertaken by government agencies. However, it does not assess the extent to which the guiding principles in section 9 of the Act have been realised. However, the report’s conclusions and recommendations do identify concerns about poor practice, specifically:

Government agencies that tend to have face-to-face interactions with deaf clients have policies on the use of NZSL interpreters. These appear to be appropriate and to demonstrate the principles set out under the NZSL Act for government departments. However, it appears that some staff may be unaware of their department’s policies, or are not applying them. This situation needs to improve. Departments need to have, and to implement, clear processes for interacting with deaf clients and for the use of NZSL interpreters.

This Inquiry approached the ODI for information on government agencies’ policies on use of NZSL interpreters. It asked whether the ODI has specific budgets for NZSL interpreters or communications in NZSL. The ODI does not have this information. It confirmed it had previously tried to obtain information about the level of expenditure by government agencies on NZSL interpreters. However, agencies did not systematically collect this information. As payments for NZSL interpreters were coded to various expenditure codes within and across government agencies, collated data was not easily available. Agencies could not disaggregate the data to identify expenditure on NZSL interpreter services. Booking services’ databases might be an alternative source of such information.

Translation services

Evolving technology and improved broadband capacity across New Zealand offers some new options for increasing access to NZSL interpreter and translation services. For example, Seeflow NZSL Direct enables deaf NZSL signers to use the internet to record and send a message to participating organisations who pay for the English language translation. A number of government agencies have used Seeflow to consult with the deaf community. For example, the Electoral Commission sought deaf people’s views about the mixed member proportional (MMP) review and the percentage of deaf submitters per capita exceeded that of the general population.
Seeflow also produces NZSL translations of key information from government agencies.

**Video remote interpreting**

On 17 May 2013, at the close of New Zealand Sign Language Week, the Minister for Disability Issues announced that four government agencies have jointly funded a video remote interpreting (VRI) initiative. This uses video internet technology to connect a remotely-based NZSL interpreter with a face-to-face meeting between a hearing government worker and a deaf person. The VRI service will start from 1 September 2013, initially in selected provincial areas where there is a shortage of sign language interpreters.\(^{178}\)

ACC and the Ministries of Education, Health and Social Development have provided $300,000 per annum for this service, on an ongoing basis. This funding will be transferred to the Ministry of Business, Innovation and Employment (MBIE) who will deliver the VRI service through its existing agreement with Sprint International New Zealand. Sprint has supplied a video relay service since June 2009. The Commission understands Deaf Aotearoa New Zealand will be subcontracted to develop and deliver outreach tasks including deaf awareness training to frontline staff.

DANZ welcomed the VRI initiative particularly in remote rural areas where a small deaf population means there is insufficient demand to sustain a locally-based interpreter.\(^{179}\) The Commission also supports this development and the proactive role taken by the government agencies that initiated it, including the ODI.

Guidelines are being developed by the MBIE on the appropriate use of VRI, drawing on established good practice in Australia and the United States of America. These will include, but not be limited to, the use of VRI in health settings. The MBIE has received a volume of material to aid developing those guidelines. A steering group has been formed comprising officials from the funding agencies, MBIE, Sprint and a representative of the Hutt Valley DHB. The Commission welcomes the development of these guidelines, and stresses the importance of early and ongoing consultation with DANZ and SLIANZ.

### 3.4.2 What is needed

Despite clear advice from the ODI, some government agencies restrict access to NZSL interpreters to instances where they have initiated the contact with a deaf person. This impedes deaf people’s ability to access information generally. The Inquiry is particularly concerned that it limits deaf people’s ability to question an agency’s decisions or make a complaint.\(^{180}\)

Without sufficient information about agencies’ NZSL policies and expenditure on NZSL interpreter services, it is very difficult
to monitor their effectiveness in enabling deaf people to access NZSL interpreters. The ODI’s 2011 review concluded that “promoting best practice, and closer monitoring of implementation activities, is an appropriate way to address many of the issues identified by submitters”. Current information gaps frustrate the ability to do either. Ideally such monitoring would focus both on the actions of government agencies and also the minimum practice standards expected of any contractors including external booking agencies.

When announcing government agencies’ funding for video remote interpreting the Minister noted that further information will be shared with the deaf community from August 2013. It is important that material identifies both the opportunities and limitations of VRI, particularly those circumstances where face-to-face interpreting is still required. Submitters to this Inquiry have emphasised that great care must be taken to ensure that the quality of interpreting is not reduced, especially in high risk settings including mental health and emergency services. These and other limitations are reiterated in overseas practice guidelines.

Similarly, the New Zealand guidelines being developed should address these concerns and identify the challenges and requirements in specific circumstances, including general medical, mental health, educational and legal settings.

Consultation with DANZ and SLIANZ should also encompass how the roll-out of VRI can best contribute to the vision of the New Zealand Disability Strategy and the requirements of domestic laws and policies and the Disability Convention. How can VRI enable deaf people to have access to the appropriate form of interpreting needed to access information and services?

Concerns have been raised with the Commission that VRI could make or break the sustainability of NZSL interpreters in smaller provincial and rural areas. It would be a perverse unintended consequence if the VRI roll-out to provincial areas removed the option of face-to-face interpreting by undermining the financial sustainability for local interpreters. Conversely, retaining a provincial NZSL interpreter workforce could be supported by basing some VRI staff in those areas.

### 3.5 Other interpreting gaps

Increased flexibility in the scope of the Ministry of Health’s contract with DANZ in recent years has improved the cover of NZSL interpreter services. However, there are still many situations where there is no government funding for these services.

DANZ, iSign and other stakeholders in the deaf community say the following instances are examples of where deaf people are still unable to access funded
NZSL interpreter services. These include:

- access to courts where the deaf person is not a party or witness but may be supporting a child or other family member who is appearing in court
- some tertiary education institutions, particularly private training establishments
- important internal family discussions (e.g. about whether a parent will move into residential care)
- public events including expos
- weddings
- church services
- art workshops, performances and theatre.

In addition there are specific groups within the deaf community who face additional barriers when attempting to access NZSL interpreter services. These are outlined below.

Trilingual interpreter services
There is no government funding tagged specifically for trilingual interpreter services for Māori. Therefore it is difficult to obtain interpreters for tangihanga, and for iwi, whānau and hapū hui. This is of particular concern given the high proportion of the deaf population who are Māori.

There are also no trilingual interpreters in other languages, including Pacific languages.

Deaf relay interpreters
Another gap is the need for deaf relay interpreters to communicate with deaf people who have minimal language skills. This includes deaf people with learning disabilities or those who have had little or no language learning opportunities. A deaf relay interpreter works between a qualified NZSL interpreter and the deaf person to break down the information into more visual forms so that it is better understood. Deaf relay interpreters are also helpful in situations requiring communication with a deaf refugee or migrant who uses a sign language other than NZSL. If a deaf relay interpreter is required this will be in addition to the NZSL interpreter, effectively at least doubling the costs involved.

Deafblind interpreters
A deafblind interpreter is used exclusively with one deafblind person. This may involve tactile signing, where the deafblind person places a hand gently on the interpreter’s hands to understand what the interpreter is signing. The deafblind interpreter usually sits next to the deafblind person and works as their sole interpreter. This means they cannot also interpret for other deaf people present. Therefore, additional interpreters will be required for deaf participants as well as an individual interpreter for each deafblind person attending. Again this
typically doubles or trebles the interpreter costs.

The Ministry of Health’s increased funding to DANZ in October 2011 to include deafblind interpreting costs is a positive example of an agency recognising these additional costs. However, there is currently no formal training for deafblind interpreters or deaf relay interpreters, and no protocol for when a deafrelay interpreter should be employed.

**Travel and accommodation costs**

For those outside the main cities there are significant travel costs for transporting interpreters, especially to smaller regions. In addition to flights, airport transfers and/or rental car costs, there may be accommodation and meal costs if the job ends late or starts early. As already noted, VRI is sometimes a viable option but there are times when a face-to-face interpreter is necessary or preferable (including for large group meetings or performances).

Monitoring gaps in access to NZSL interpreter services should not be entirely dependent upon complaints from deaf groups or individuals. The Commission suggests that a centralised point should be identified within government for reporting and monitoring gaps in service provision. It could help clarify the instances where no funding is available as well as those where contractual requirements to provide an NZSL interpreter have not been met.

### 3.6 NZSL interpreter workforce

Professional, quality NZSL interpreters are crucial. They enable deaf people’s freedom of expression and opinion and their ability to communicate and access information and services in NZSL. Interpreters provide a language bridge that is essential for deaf people to be fully included and have the opportunity to achieve their aspirations and full potential.

A full analysis of workforce development issues for NZSL interpreters is outside the scope of this Inquiry. However, it is impossible to adequately recognise the place of NZSL as an official language without valuing the role played by the interpreters. This section briefly summarises the largely self-regulated nature of NZSL interpreter services and identifies the opportunities that better data collection and coordination of current resources could provide for the NZSL workforce too.

**Ministry of Justice standards**

Section 7(3) of the NZSL Act requires the presiding officer in any legal proceedings to ensure that a competent interpreter is available. In 2006, the Ministry of Justice issued instructions to courts and tribunals identifying the qualifications for a “competent interpreter”. These specify that the minimum standard for interpreting in court is to hold the Diploma of Sign Language Interpreting, have two years’ post-graduation experience and be a
member of a professional interpreting body. These instructions were reviewed in 2011 and no changes made to the policy.

**SLIANZ membership requirements**

There are no regulated minimum interpreter standards outside court settings. SLIANZ members must meet the minimum qualification levels to be an NZSL interpreter. They must follow SLIANZ’s code of ethics and code of practice and participate in a minimum of four professional development events a year. SLIANZ and the New Zealand Society of Translators and Interpreters (NZSTI) each have codes of ethics requiring interpreters to only undertake assignments within their competence. Both bodies have a process for dealing with complaints about their members.

At present, SLIANZ maintains a directory of qualified members and provides mentoring and ongoing professional development. It monitors a minimum standard of qualification for its members and provides an avenue for consumers to raise complaints about NZSL interpreters. SLIANZ also enforces its code of ethics and code of conduct. It forms partnerships with DANZ and interpreting organisations in Australasia. All this is done on a voluntary basis. The passage of the NZSL Act has not led to any infrastructural support for SLIANZ’s work. But the workforce development issues signalled in this report, including potential registration processes and a more robust complaints mechanism, are unlikely to be sustainable without some external resourcing.

**ODI expectations**

The ODI’s advice to government agencies outlines the competencies, qualifications, skills and characteristics that someone should expect to find in a professional sign language interpreter. It also notes that “at present there is no system to assess or rank the competency levels of NZSL interpreters after graduation”. Several suggestions have been made to the Commission by some interpreters. These include the need for a formal registration process with sanctions, or requirements
that new graduates should work alongside an experienced interpreter.

**Issues of fluctuating demand**

Until recently much of the workforce development debate has centred on an insufficient supply of NZSL interpreters. However there are also demand issues linked to funding constraints and limited appreciation of the value and role of NZSL interpreters. In November 2012, SLIANZ undertook a work survey of NZSL interpreters. Just over half of the 39 respondents considered interpreting work to be their full-time job, yet none worked more than 30 hours per week. Many interpreters stated there was not enough available work to be able to rely solely on income earned through interpreting. This situation was exacerbated outside university terms.

**Coordination and information gaps**

The survey identified coordination and information gaps relevant to this Inquiry. The gaps limited deaf people’s access to NZSL interpreters. These included:

1. limited understanding about the benefits of using interpreters or the requirements for government agencies to provide access to information and services through NZSL

2. confusion within both the deaf community and the wider public about what funding is available for NZSL interpreters and in what areas

3. insufficient liaison between different community and institutional booking services (e.g. those run by tertiary institutions), that created an exaggerated sense of an interpreter shortage

4. inadequate notice for bookings coupled with insufficient flexibility to work around interpreters’ availability.

The following two quotes from NZSL interpreters express this tension:

I also have heard of deaf people desperate for interpreters but not being able to get one, while on the same day, an interpreter is not able to work. There needs to be a solution to resolve this.

Book your interpreter before you book your meetings. Ask us for times when we are available before booking everything.

This Inquiry supports the need for further work on developing a comprehensive approach to workforce development issues for NZSL interpreters.
Recommendations

That government agencies and District Health Boards:

4 develop and/or review their NZSL interpreting and translation policies, including through close consultation with the deaf community, monitor their effectiveness and share good practice models of providing access to NZSL interpreting and translation services.

5 allocate sufficient funds to meet current demand for NZSL interpreter and translation services and explore options to monitor demand for, supply of and expenditure on these services (including associated travel costs and for deafblind, deaf relay and trilingual interpreting).

That District Health Boards:

6 consider a sub-regional pilot that would pool existing budgets for NZSL interpreter services and trial working with a single booking agency to provide these services.

That government agencies:

7 explore the option of allocating current expenditure on NZSL interpreting services to an external booking service that has experience working with deaf people.

That the Ministry of Health:

8 continues to monitor the scope, uptake and value of its contract with Deaf Aotearoa and explores options for Deaf Aotearoa to report on requests for NZSL interpreters that fall outside the contract’s criteria or cannot be met within the current level of funding.

That the Ministry of Social Development:

9 reviews Job Support funding including the adequacy of the yearly limit, ways to reduce the administrative burden on deaf people and the feasibility of contingency funding for situations where a person needs additional support (including access to NZSL services) to undertake their paid job.

10 explores how the Training Support fund could better meet the additional costs incurred by deaf people when undertaking education or training necessary to gain employment in the open labour market.

That Workbridge:

11 monitors and reports on expenditure of Job Support and Training Support funding on NZSL interpreter and translation services, including the number and proportion of deaf people whose Job Support funding runs out before their annual funding renewal anniversary.
That the Ministry for Business, Innovation and Employment:

12 develops reporting mechanisms for measuring uptake of video remote interpreting (VRI), in consultation with other government agencies, to enable government agencies to make comparisons between usage of VRI and face-to-face interpreter services.

That the Office for Disability Issues and relevant government agencies:

13 scope a project on workforce development issues for NZSL interpreters to inform the proposed NZSL strategy, in consultation with the proposed interim Expert Advisory Group on NZSL and the Sign Language Interpreters’ Association of New Zealand (SLIANZ).
4 Promoting and maintaining NZSL as an official language of New Zealand

The [New Zealand government] should take specific measures aimed at preserving ... languages, by ensuring that adequate funding is allocated for specific programmes.†

4.1 Why language promotion and maintenance is important

A culture’s visual and verbal language is its most profound and vital means of expression. It embodies the history, values and traditions of a people. Language binds people together and with their environment. It enables the transfer of the culture from one generation to the next, it is the expression of individual and collective identity. It is a means of survival.187

For a language to live, it must be taught and used to communicate, first and foremost by those who have it as their primary language. It must also be available to the broader population in order to build an appreciation and knowledge of the language. Both needs are heightened in the case of official languages. History tells of the disabling impacts when deaf people were denied and prevented from using sign language. These included stigmatisation, poor rates of educational and employment participation, social alienation and isolation.

In international and domestic law, the New Zealand Government has obligations to maintain and protect NZSL. The focus of this chapter is on how this is implemented and how it might be better achieved. It sets out relevant international and domestic law provisions along with current initiatives addressing how NZSL can be maintained and promoted. Options for improvement are also considered including models operating in other countries where sign language is formally recognised.

4.1.1 Lessons from te reo Māori

This chapter often draws on the Waitangi Tribunal’s observations and proposals made in Ko Aotearoa tēnei about te reo Māori, given similarities in the issues and
treatment of te reo Māori and NZSL. Both languages have official language status. The cornerstone for protecting both te reo and NZSL is ensuring that each language can be accessed, transmitted and learnt within families and through education. As highlighted by the Waitangi Tribunal’s findings, “It is literally true that the survival of te reo depends on [children]”.

There are concerns about the maintenance of NZSL, as there are about te reo Māori. Modern threats to the survival of sign languages, in New Zealand and elsewhere, centre on factors that either reduce the size of the deaf population and/or the signing population. As noted in chapter 1, these include declining numbers at the deaf schools and fewer opportunities to be immersed in sign language. There is also inadequate resourcing to support deaf children and their families to learn and use sign language. Other factors include those infant cochlear implant programmes that discourage the use of sign language, and biotechnologies that select against deafness.

For indigenous peoples across the world, the protection and maintenance of language is vital to identity and wellbeing. The ability to access and speak te reo Māori is regarded as central to Māori identity.
Te reo Māori is a taonga. It is the platform upon which mātauranga Māori stands, and the means by which Māori culture and identity are expressed. Without it, that identity – indeed the very existence of Māori as a distinct people – would be compromised.192

Similarly, access to NZSL is pivotal to deaf people’s ability to learn, communicate and participate in society. Internationally, access to sign language has been shown to be a strong predictor of health and wellbeing for deaf people.193

The next section considers what international and domestic standards require for NZSL to be adequately maintained and promoted.

4.2 What is required

4.2.1 International obligations

As noted in the introductory chapter, Article 21 of the Disability Convention sets out the measures required to respect, protect and promote disabled people’s right to freedom of expression and opinion. Countries are required to progressively realise these rights to the maximum extent possible given their available resources. These rights include the freedom to seek, receive and impart information on an equal basis with others.194

Article 21 explicitly mentions countries’ responsibilities around “recognising and promoting the use of sign languages”.195 This requirement is informed by the general obligations in the Disability Convention, including the importance of closely consulting with and actively involving disabled people in this work.196

In addition, recognition and promotion of sign language are clearly linked to the issues raised in previous chapters of this report. The Disability Convention provisions recognise the significant role that education plays in transmitting and maintaining sign language.197 Similarly, the Disability Convention sets out governments’ responsibilities to facilitate the use of sign languages in official interactions and enable deaf people to access public information and facilities.198

In addition the Disability Convention requires states to “recognise and support Deaf people’s cultural and linguistic identity”.199

4.2.2 Domestic obligations

The New Zealand Sign Language Act 2006

Great hopes were held for the NZSL Act, particularly by the deaf community. It was the culmination of more than 20 years of activism by them. During its passage through Parliament it was described as a “milestone for the deaf communities” and measure of “immense significance”.200 It
was heralded as “an important component of the attitudinal change needed to bridge the divide that can limit people’s ability to participate fully in society” and as a measure of benefit to all.

As people, as a community, and as a nation, we all benefit from recognising, understanding, and supporting New Zealand Sign Language as being core to the culture of the Deaf community.\(^{201}\)

The importance of promoting NZSL was clearly signalled in the NZSL Act. As already noted, section 9 sets out the principles that government agencies must be guided by “so far as reasonably practicable” when exercising their functions and powers. Two of these specifically mention the promotion of NZSL.\(^{202}\)

The Act was reviewed during 2010 and 2011 under a requirement in section 11 that the Minister report on its operation and whether any amendments to its scope and contents were necessary or desirable.\(^{203}\) Submissions to the review indicated that many of the hopes and expectations that the deaf community had for the Act had not been realised. While the review made a number of recommendations, it did not recommend any changes to the legislation.

The NZSL Act did not create enforceable rights other than a right to use NZSL in legal proceedings. However, debate during the passage of the Act indicated that it was intended to effect substantive change and improvement. In 2011, the review concluded that “while the NZSL Act is not functioning as well as it might, this may be the result of poor practice rather than being attributable to the NZSL Act itself”.\(^{204}\) Arguably, the threshold requiring government departments to be guided by the Act’s principles only “so far as reasonably practicable” weakened the legislation’s effectiveness.

**New Zealand Bill of Rights Act 1990**

As noted in the introductory chapter, section 20 of the NZ Bill of Rights Act (NZBORA) encompasses the rights of linguistic minorities to use their language. This is framed as a negative right. For deaf people, this means they shall not be denied the right to use sign language within the deaf community. There is a positive obligation on the state to avoid known threats to this right. However, on its own, this NZBORA provision does not impose a duty to promote minority languages, including NZSL.

**4.3 What is provided**

The key government agencies with various responsibilities for aspects of language policy include the Ministry of Education, the Tertiary Education Commission, Te Puni Kökiri, the Māori Language Commission, the Ministry of Pacific Island Affairs, the
Office of Ethnic Affairs, the Ministry for Culture and Heritage, the Ministry of Social Development, and the Ministry of Business, Innovation and Employment. The Human Rights Commission facilitates a language policy network, Te Waka Reo.\textsuperscript{205}

Several of these government agencies have been involved in some NZSL promotion and maintenance activities. These include:

\begin{enumerate}
  \item The Ministry of Education funded the development of resources for Year 7 and 8 students to learn introductory NZSL in schools.\textsuperscript{206}
  \item The Tertiary Education Commission part funded the development of an online NZSL dictionary by the Deaf Studies Research Unit of Victoria University.
  \item The Ministry of Social Development provided a one-off small fund to Deaf Aotearoa NZ to support NZSL Week through its Making a Difference Fund.
  \item A limited number of government agencies provide some information in NZSL on their websites\textsuperscript{207} or in DVD format. But most do not, as some submitters to the NZSL Act Review noted.\textsuperscript{208}
  \item NZSL has been included in national language policy discussions, initially in a 1992 discussion document commissioned by the Ministry of Education that proposed a national languages policy.\textsuperscript{209} More recently the Human Rights Commission has promoted the need for a national languages policy. The recommendations of both were supported and amplified in a 2013 position paper by the Royal Society of New Zealand.\textsuperscript{210}
\end{enumerate}

Currently the main sources of NZSL support and learning are provided by the two Deaf Education Centres, the NZSL Teachers Association, Deaf Aotearoa NZ, Auckland University of Technology, Victoria University's Deaf Studies Research Unit (DSRU), the NZ Federation of Deaf Children and many individual deaf NZSL tutors working in local community adult education providers.

DANZ undertakes a public communication role about NZSL and the deaf community. It maintains positive links with the DECs, the NZ Federation of Deaf Children and key government departments. DANZ organises the annual NZSL Week, which is mostly funded by charities. It also provides other year-round NZSL promotion activities such as deaf awareness and NZSL courses.

The NZSL Teachers’ Association is a voluntary organisation of NZSL tutors who teach NZSL in adult education night classes and private settings. It provides professional development and registration of NZSL tutors.
It also develops and distributes resources for the learning and teaching of NZSL.

Auckland University of Technology is the site of New Zealand’s only NZSL interpreter training programme, providing a bachelor degree in NZSL Interpreting. It also offers papers towards a certificate in NZSL and Deaf Studies.

The DSRU is housed in the School of Applied Language Studies at Victoria University and undertakes NZSL research and language documentation. It produced the first NZSL dictionary in 1997 and the online NZSL dictionary in 2012. The unit publishes many other research publications on NZSL and the deaf community. Victoria University provides a certificate course for deaf people on how to teach their language. It also offers NZSL courses that can be credited to undergraduate degrees, supervises postgraduate research and teaches occasional postgraduate courses.

In 2012, Te Taura Whiri i te Reo Māori (the Māori Language Commission) funded the addition of Te Reo Māori translation to the online Dictionary of NZSL in partnership with DSRU and DANZ.

The New Zealand Federation of Deaf Children is a voluntary organisation for parents of deaf children. It provides some NZSL resources to parents and families and has a mentoring programme and regional branches that organise local networks and activities.

### 4.4 What is needed: A strategy to promote and protect NZSL

The NZSL Act has been criticised for not strengthening any of the “promotion-orientated rights and mechanisms usually associated with language planning”. Currently, most of the responsibility for protecting and promoting NZSL falls on the non-government sector where funding is precarious. In some cases NZSL is provided by organisations or individuals with minimal resourcing and no formal standards of competence.

As yet there has been no overarching strategy developed by Government to ensure the protection and promotion of NZSL. DANZ criticised the 2011 findings of the NZSL Act Review for ignoring the need for a NZSL language strategy. Such a strategy would link all activities related to Deaf culture and use of NZSL across all government departments.

With no sign language strategy in place each [government] department does its own thing so there is no consistency or linkages, plus decisions are made by hearing non-NZSL users.

There have also been calls for an overarching national language strategy, including by the Royal Society of New Zealand in its 2013 paper on Languages.
The paper considered the status and issues relating to maintenance and protection of diverse languages in New Zealand. It proposed that a unitary national framework be established to cover all languages. This framework should ensure sufficient recognition of NZ’s biculturalism and linguistically diverse makeup.

There are advantages of an overarching unitary language strategy which covers both the official languages and other language groups. These include improved coordination and more efficient and strategic use of resources. The strategy could build on what has been learnt from the development and trajectory of the Māori language strategy. This includes concerns raised by the Waitangi Tribunal that “neither the Treaty nor the importance of the language were paramount “in the design of the Māori language strategy.”

In Ko Aotearoa tēnei, the Tribunal helpfully spelt out what it considered was necessary for an effective language strategy. These are that it:

- has an overarching and aspirational vision owned by both the community and government
- is sufficiently resourced – in the Tribunal’s words, “Mā te huruhuru, te manu ka rere” (“Birds can fly only with feathers”)
- prioritises the rights of the language users
d increases the linguistic and cultural competency and responsiveness of the broader community

e reflects wise policy.

The Tribunal emphasised the vital role of education in language revival. It was highly critical of what it saw as the education system's failure to meet the actual and projected language needs and demands of tamariki and whānau.

4.4.1 Partnership

The Tribunal emphasised the importance of partnership. Te reo Māori cannot be made secure by either Māori or government efforts alone. The future of both te reo Māori and NZSL is dependent on partnership – “the ability of both sides to co-operate, participate, and contribute.” The Crown is obliged to act in partnership with Māori under the Treaty of Waitangi and “share a substantial measure of responsibility and control with its Treaty partner”.

Thus the Tribunal clearly envisaged partnership as not simply a process, but as the means to realise Treaty obligations. It contrasted such a partnership with the Crown’s development of the current Māori Language Strategy. While Māori were consulted they were not involved in decision-making and the Tribunal considered the strategy lacked ambition and specific targets.

Partnership with the deaf community would give real effect to the Government’s obligations under the Disability Convention and the NZSL Act. There appears to be strong support amongst the deaf community for working in partnership with the Government. Most recently, this was expressed at a March 2013 public forum for government and deaf community stakeholders. This was held to discuss the official recognition of NZSL that took place in Wellington prior to the Deaf View 3 conference.

4.5 Models of language maintenance and promotion

Partnership requires that the Government accepts its responsibilities in relation to both te reo Māori and NZSL as New Zealand’s official languages. This requires the Government to be willing to share responsibility and control with the communities that use and maintain these languages.

For NZSL, it involves deaf people having a voice and being given a lead role in improving their status in New Zealand society. As the Waitangi Tribunal emphasised, sharing responsibility and control means communities have meaningful input into key decisions about their language. It also requires research expertise and logistical and financial support.
To date, the obligation on government agencies to partner or at least to actively engage with the deaf community about maintaining and promoting NZSL has been inconsistently met. The quality of advice and guidance provided to government services is also inconsistent. There is no monitoring of when and if government agencies consult with representatives of the deaf community on matters relating to NZSL or with whom they consult.

The Commission proposes that this could be improved with the establishment of a formalised partnership mechanism. Models operating in other contexts for this type of purpose are considered in the following sections.

As described in the introduction to this report, different approaches to recognising, maintaining and promoting sign language have developed around the world. These include countries that have created an entity with custodial responsibilities for maintaining and promoting the language. Some of these models are considered here, including the approach used in New Zealand for te reo Māori.

4.5.1 Te Taura Whiri i te Reo Māori (Māori Language Commission)

The Māori Language Act 1987 established Te Taura Whiri i te Reo Māori (the Māori Language Commission, also known as Te Taura Whiri). Its role is to promote the use of te reo Māori as a living language and as an ordinary means of communication. The functions of Te Taura Whiri include to:

a. advise on measures to give effect to Māori language as an official language of New Zealand
b. promote the Māori language
c. administer competency standards for interpreters in legal proceedings
d. report to the Minister on matters relating to the Māori language.

Te Taura Whiri has a Board of five Commissioners, appointed by the Minister of Māori Affairs. Commissioners are appointed because of their Māori language sector experience, expertise, leadership, and ability to revitalise the Māori language. The Board appoints a single employee, the Chief Executive/Tumuaki, for a set term of three years. All of the operations of Te Taura Whiri are managed by the Tumuaki. Te Taura Whiri is largely funded by the Government, and in the 2011/2012 financial year received $3.2 million from the Crown.

The Waitangi Tribunal recommended a new approach to partnership. This included expanding the role and powers of Te Taura Whiri so that it would:
a take the lead role in the Crown’s responsibility for Māori language revival with equal representation from the Government and Māori on its board

b have powers to require public sector agencies to produce Māori language plans

c set targets for training of te reo teachers and approve education curricula for te reo

d hold public sector agencies accountable for their responsibilities towards te reo.

This greater role for Te Taura Whiri better reflects the original intentions of the Māori Language Act.

4.5.2 Sign language protection in Flanders, Belgium

Reviews of sign language protection measures have identified Flemish Sign Language (VGT) as one of the more effective examples of implementation following legal recognition of a signed language. It provides a useful comparison with the NZSL Act, given the close timing of each country’s recognition (both in April 2006), and similar socio-historical circumstances. These include relatively small national populations and a welfare state. There is also a tradition of oralist deaf education that resulted in educational and attitudinal barriers for sign language users in society. About 6000 deaf people in Flanders use VGT as their first or preferred language, compared to about 4000 signing deaf people in New Zealand.

The 2006 decree recognising VGT:

a recognised VGT as the first or preferred language of the deaf community in Flanders

b established an advisory board, a committee of experts to advise the government about policies related to Flemish Sign Language

c established a centre of excellence to support research on VGT.

The advisory board has monitoring and advisory functions. It offers advice, responds to requests from government, and can participate in government working groups.

It has a maximum of 15 members. Potential members may be drawn from six categories including deaf associations, deaf schools, VGT teachers/tutors, VGT research linguists, parents of deaf children and interpreters. Not all of these categories are required to be represented nor numerically balanced. The only stipulation is that half or more members must be deaf VGT users.
Members of the advisory board participate in an individual capacity rather than representing organisational affiliations. However, most members work in organisations that support their board role by considering meetings as part of their paid employment. Officials from other government ministries or agencies are invited to attend meetings when appropriate.\textsuperscript{222}

Appointments to the advisory board are managed by the Ministry of Culture which provides meeting administration and secretariat functions. The advisory board has an operational budget of €20,000 (Euros) per annum, to cover monthly half-day meetings, attendance fees (€42 per member per meeting), travel, interpreters, an annual report, public outreach and a website.

In addition the government allocates €37,000 annually to fund projects that promote VGT in the community. The advisory board calls for project applications, sometimes with a specific theme such as deaf children. It makes recommendations to the Minister about which projects to fund. The advisory board has the discretion to recommend allocating funds to one major project or to split them between several applicants. On the completion of projects the advisory board evaluates them and reports to the Minister.

Since the advisory board was established, expert information about VGT, including all relevant advice to government, is now more centralised. It is publically available on the advisory board’s website and translated into VGT. The advisory board plays a watchdog role. It alerts government agencies to relevant court decisions (for example around access to VGT in education) and the implications for government agencies.

The decree also created a budget for a contestable fund that enables organisations to operate as centres of excellence in research on VGT for a four-year period. To date, this funding has been provided to the Flemish Sign Language Centre in the

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image.jpg}
\caption{Jeremy Borland (left) is interpreting the briefings at the Civil Defence headquarters into NZSL for television viewers. Pictured with Christchurch Mayor Bob Parker. © NZ Herald/S Ivey.}
\end{figure}
Linguistics Department of the University of Antwerp. The size of the budget allocation is determined by the government of the day. In 2012, this was at a rate of €85,000 per annum. The functions of a VGT centre of excellence are aligned with four goals in the decree relating to promotion and development of VGT. The VGT Centre is governed by a board consisting solely of deaf members, including Deaf Association representatives.

One criticism of the Belgium model is that the decree recognising VGT did not include early childhood and education in the advisory board’s mandate. As a result, its work has had little impact on the use of VGT in these two key sites of language maintenance and promotion.

4.5.3 Sign language in Turkey

Turkish Sign Language (TİD) was recognised in the 2005 Disability Act (no. 5378) which aims to improve education and communication for sign language users. The legislation supports the use of TİD in deaf education and the training of Turkish Sign Language interpreters.

Under the legislation, monitoring of the protection and development of TİD was assigned to the Turkish Language Association (Türk Dil Kurumu – TDK). This association has a much broader mandate as its primary goal is protecting the Turkish Language and producing Turkish dictionaries. TDK duly established the Turkish Sign Language Scientific Approval Committee (Türk İşaret Dili Bilim ve Onay Kurulu – TİDBO). The committee members are four academics, one representative from the Turkish Language Association, two from the Turkish Deaf Federation and four people from various government departments.

This structure for monitoring, protecting and developing Turkish Sign Language has been criticised by Turkish deaf linguist Okan Kubus for its lack of deaf expertise and leadership. The two deaf representatives on this committee are heavily outnumbered by a majority of non-deaf members who have no direct experience with Turkish Sign Language and the deaf community. The committee also operates within a medical paradigm, rather than a linguistic one. This is in contrast to the legislative intent to empower the TİD community. Kubus’s assessment is that the committee has not achieved any practical advances in the situation of the TİD community since it was established.

4.6 Options to improve maintenance and promotion of NZSL

New Zealand has a stated commitment to maintain and promote NZSL in its domestic legislation and international treaty commitments. But, as outlined
above, implementation has been limited and ad hoc.

Like te reo Māori, the bedrock of language maintenance and promotion for NZSL is a strategy that prioritises access to language in families and education for children and whānau. As others have shown, it is timely to develop a national language strategy and policy that prioritises maintaining and promoting both of New Zealand’s official languages. It is important that a strategy for NZSL is based on a clear vision and:

a. recognises the right to language as a human right, including the Government’s obligations under the Disability Convention

b. prioritises access to NZSL from early years and through schooling

c. reflects and is informed by participation of, and consultation with, deaf people

d. prioritises an increase in trilingual interpreters

e. is sufficiently resourced

f. promotes understanding and use of NZSL to hearing communities.

Such a NZSL Strategy should be based on a partnership between the Government and the deaf community. However, the NZSL Act does not establish any entity to facilitate this partnership and to lead, advise on, and monitor the use and promotion of NZSL. This contrasts with those overseas jurisdictions which confer formal recognition on sign language and with domestic provisions for te reo under the Māori Language Act.

In 2005, the Justice and Electoral Select Committee considered submissions on the NZSL bill and recommended that “serious consideration” be given to establishing an advisory group that could:

a. monitor the effects of the legislation against its stated purposes

b. provide a focus for contact between government and the community

c. look at new areas in which work could be done.  

This recommendation has not been implemented. Given the inconsistent approach by the Government agencies to NZSL, the Commission suggests that this recommendation be reconsidered. Options for delivering on these functions and achieving partnership between the Government and the deaf community are briefly considered below and conclude with the Commission’s preferred option of establishing an NZSL Statutory Board.
**Option A: NZSL Commission**

An NZSL Commission, similar in function to Te Taura Whiri i te Reo Māori could be established. Te Taura Whiri, like the Human Rights Commission, is an autonomous Crown entity.

An NZSL Commission could provide a permanent space for deaf leadership on strategic NZSL issues. It could also be a partnership between the Government and NZSL users by having government agency representatives on its board.

However, establishment of an NZSL Commission would involve significant cost. This seems untenable in the current fiscal climate. Another disadvantage of this option is that it would require legislative change.

**Option B: University-based institute**

An NZSL custodial body could be established at one of the New Zealand universities. This would most logically build on work currently being undertaken by DSRU at Victoria University of Wellington or through AUT’s Deaf Studies and NZSL interpreting courses. However it is far from certain that either university would be in a position to adopt this role.

Language maintenance and development activities such as teaching, documentation and research, fit well within an academic environment. On the other hand, language promotion is qualitatively different, much broader, and arguably requires a non-academic home. It might be difficult to maintain a strong community – government partnership within a university context. An advocacy role also potentially conflicts with a university’s mandate for independent critical scholarship.

**Option C: Statutory board**

A statutory board, similar to the Belgium model, is another option. Statutory boards are independent bodies established by statute to carry out specific functions.

This option would require legislative change and some costs, though less than an NZSL Commission. Some of the advantages of a statutory board are that it could:

a. model a strong and formal partnership between government agencies and the deaf community, particularly given its independent role

b. have a greater degree of permanence than an expert advisory group, and therefore be in a position to develop a longer-term NZSL strategy for the promotion and maintenance of NZSL

c. ensure greater transparency and accountability in the provision of NZSL advice and guidance through a formal appointment process for board members representing the deaf community, other NZSL users and other key stakeholders.
The functions of the statutory board would be to provide advice and guidance to government agencies about NZSL and monitor progress in making the language more accessible. It would have a strategic role and lead the development of an NZSL strategy in the broader context of a national language strategy.

The Commission also supports the bringing together of community and government representatives to progress a broader national languages strategy for Aotearoa New Zealand. It would be appropriate for an NZSL Statutory Board to represent NZSL users in such work.

The Ministry of Education plays a key role in enabling not only access to NZSL but also its maintenance and promotion. Therefore, the Commission’s strongly preferred option is that the Ministry is the agency charged with leading the development of a NZSL Statutory Board.

The Commission acknowledges the role of other government agencies in the promotion and maintenance of NZSL. Therefore it recommends that decisions about a lead agency are made by the Ministerial Committee on Disability Issues.

**Option D: Expert advisory group**

An expert group on NZSL would provide a measure of independence, is relatively inexpensive and easily established without the need for legislation or regulation. Conversely its very informality may give it a relatively lower profile than a statutory body and may not provide a strong sense of permanence and commitment to its role.

For these reasons, in the interim the Commission recommends establishing an Expert Advisory Group on NZSL. It will also take further work and consultation to establish a Statutory Board. Its role would be to develop options for establishing an NZSL Statutory Board and to provide that advice to the Ministerial Committee on Disability Issues. The Commission considers that the Office for Disability Issues is best placed to progress this recommendation.

**Terms of reference and appointment process**

The terms of reference and appointment process for both the statutory board and expert advisory group should be transparent. These should be based on demonstrated skills and experience around maintaining and promoting NZSL. Both groups would comprise representatives of organisations that have a clear and specific focus on advancing the interests of the deaf community and the status of NZSL. Members would include other recognised experts who have demonstrated experience in developing, promoting and protecting NZSL.

The Statutory Board and Expert Advisory Group should each include a majority of members who are deaf NZSL users.
Recommendations

That the Ministerial Committee on Disability Issues:

14 progresses options for establishing an NZSL Statutory Board in 2014/15 to oversee the promotion and maintenance of NZSL, in consultation with the proposed interim Expert Advisory Group on NZSL.

That the Office for Disability Issues, in consultation with deaf community stakeholders and other NZSL users:

15 establishes an interim Expert Advisory Group on NZSL, with a majority of deaf NZSL users as members, by 31 December 2013, for the purposes of advising the Ministerial Committee on Disability Issues on options for establishing an NZSL Statutory Board that would:

a develop a strategy for the promotion and maintenance of NZSL

b advise, guide and monitor government agencies’ use and promotion of NZSL

c provide NZSL expertise into a national languages strategy.
The Human Rights Commission will inquire into:

1. The right to education for deaf people for users and potential users of NZSL, from diagnosis through to lifetime learning with reference to:
   i. inclusion in education at all levels via NZSL
   ii. the availability of NZSL and the promotion of the linguistic identity of the deaf community.

(related to Article 24 of the Disability Convention)

2. The rights of deaf people to access communication, information and services, and the right to freedom of expression and opinion, through the provision of professional NZSL interpreter services and other NZSL services and resources.

(related to Articles 9, 19, 21, 27 of the Disability Convention)

3. The promotion and maintenance of NZSL as an official language of New Zealand with reference to:
   i. the use and development of NZSL as outlined in international human rights standards (documents)
   ii. ensuring that opportunities to learn NZSL are widely available in New Zealand.

4. The Commission will consider, as a result of the Inquiry, whether to make recommendations on:
   i. changes to legislation, regulations, policies, practices and procedures
   ii. the value of developing national frameworks, mechanisms, standards, guidelines or codes of practice to give effect to NZSL as an official language of New Zealand
   iii. a timetabled approach with clear benchmarks for the implementation of the recommendations from the Inquiry.
Appendix 2

NZSL interpreter support available through the Ministry of Health’s contract with Deaf Aotearoa NZ

The following list provides examples of the interpreter services which can be provided through iSign to support deaf people’s access to health and disability support and life skills. Additional interpreter services may be provided where Deaf Aotearoa considers that a deaf person would benefit from support from an interpreter to access such services.

Health services
Counselling and rehabilitation (if not funded by DHB or courts), for example:
- Alcohol
- Drug
- Marriage
- Trauma.

Disability support services
For example:
- Adapting house environment (fire alarms, health and safety)
- Hearing dog meeting/introduction
- Assessment and service co-ordination
- Meetings/AGMs for deafblind people
- Residential services and rest homes (if not funded by DHB).

Life skills
For example:
- Budget advice
- Citizen’s Advice Bureau
- Driver licensing/testing
- Parenting support services.

Mental health services
Private medical treatment (if not funded by DHB), for example:
- Audiology
- Chiropractor
- Complementary medicine
- Dentist
- Medical specialist
- GP and nurse appointments
- Home nursing service (such as palliative care provided through a hospice)
- Midwife
- Optometry
- Physiotherapy
- Private hospital appointments
- Speech therapy
- Radiology.
## Appendix 3

### List of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Meaning</th>
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<tbody>
<tr>
<td>ACC</td>
<td>Accident Compensation Corporation</td>
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<tr>
<td>AODC</td>
<td>Advisor on Deaf Children</td>
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<tr>
<td>AUT</td>
<td>Auckland University of Technology</td>
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<tr>
<td>BLENZ</td>
<td>Blind and Low Vision Network</td>
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<tr>
<td>DANZ</td>
<td>Deaf Aotearoa NZ</td>
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<tr>
<td>DEANZ</td>
<td>Deaf Education Aotearoa NZ</td>
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<tr>
<td>DEC</td>
<td>Deaf education centre</td>
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<tr>
<td>DHB</td>
<td>District health board</td>
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<td>DPO</td>
<td>Deaf people’s organisations</td>
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<td>DSRU</td>
<td>Deaf Studies Research Unit (at Victoria University)</td>
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<tr>
<td>DVD</td>
<td>Digital video disc</td>
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<tr>
<td>EFTS</td>
<td>Equivalent fulltime student</td>
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<td>ENT</td>
<td>Ear, nose and throat</td>
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<tr>
<td>FTE</td>
<td>Fulltime equivalent</td>
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<tr>
<td>HDCA</td>
<td>Health and Disability Consumer Advocacy</td>
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<td>HRA</td>
<td>The Human Rights Act 1993</td>
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<td>HRC</td>
<td>The Human Rights Commission</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>KDEC</td>
<td>Kelston Deaf Education Centre</td>
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<tr>
<td>LED</td>
<td>Language and Education</td>
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<tr>
<td>MBIE</td>
<td>Ministry of Business, Innovation and Employment</td>
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<tr>
<td>MLA</td>
<td>Māori Language Act 1987</td>
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<tr>
<td>MMP</td>
<td>Mixed member proportional</td>
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<td>MSD</td>
<td>Ministry of Social Development</td>
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<td>NEG</td>
<td>National education goals</td>
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<td>NGO</td>
<td>Non-government organisation</td>
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<tr>
<td>NZBORA</td>
<td>New Zealand Bill of Rights Act 1990</td>
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<tr>
<td>NZDS</td>
<td>New Zealand Disability Strategy</td>
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<tr>
<td>Abbreviation</td>
<td>Meaning</td>
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<tr>
<td>NZFDC</td>
<td>New Zealand Federation for Deaf Children</td>
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<tr>
<td>NZSL</td>
<td>New Zealand Sign Language</td>
</tr>
<tr>
<td>NZSTI</td>
<td>New Zealand Society of Translators and Interpreters</td>
</tr>
<tr>
<td>ODI</td>
<td>Office for Disability Issues</td>
</tr>
<tr>
<td>OPF</td>
<td>Operating policy framework</td>
</tr>
<tr>
<td>ORS</td>
<td>Ongoing Resourcing Scheme</td>
</tr>
<tr>
<td>RTD</td>
<td>Resource Teacher: Deaf</td>
</tr>
<tr>
<td>s plus a number</td>
<td>Section of legislation (eg, s20 of the NZBOR)</td>
</tr>
<tr>
<td>SLIANZ</td>
<td>Sign Language Interpreters Association of New Zealand</td>
</tr>
<tr>
<td>TDK</td>
<td>Türk Dil Kurumu (Turkish Language Association)</td>
</tr>
<tr>
<td>Te Taura Whiri</td>
<td>Te Taura Whiri i te Reo Māori (The Māori Language Commission)</td>
</tr>
<tr>
<td>The Commission</td>
<td>The Human Rights Commission</td>
</tr>
<tr>
<td>The Disability Convention</td>
<td>The United Nations Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>The Inquiry</td>
<td>The New Zealand Sign Language Inquiry</td>
</tr>
<tr>
<td>TİD</td>
<td>Türk Sign Language</td>
</tr>
<tr>
<td>TİDBO</td>
<td>Türk İşaret Dili Bilim ve Onay Kurulu (Turkish Sign Language Scientific Approval Committee)</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UNCRPD or CRPD</td>
<td>The United Nations Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>UNDRIP</td>
<td>The United Nations Declaration on the Rights of Indigenous Peoples</td>
</tr>
<tr>
<td>UNHRC</td>
<td>United Nations Human Rights Committee</td>
</tr>
<tr>
<td>UNHSEIP</td>
<td>Universal Newborn Hearing Screening and Early Intervention Programme</td>
</tr>
<tr>
<td>VGT</td>
<td>Flemish Sign Language</td>
</tr>
<tr>
<td>VRI</td>
<td>Video remote interpreting</td>
</tr>
<tr>
<td>VUW</td>
<td>Victoria University of Wellington</td>
</tr>
</tbody>
</table>
The original whakatauki was first coined in 1987 for Māori Language Week by Timoti Karetu at the request of Hera White at Wintec, Hamilton who was wanting a phrase to encapsulate the idea of the value of language hence this whakataukī and its widespread use today. Over time there has been different versions and different translations but the translation we are using here is “My language, my awakening.”


7 “Prelingually deaf” refers to people who were born deaf or who become deaf before spoken language was well established. It usually refers to people with a severe or profound level of hearing loss.


11 E.D. Faingold, “Language rights and language justice in the constitutions of the world” in Language Problems and Language Planning, 28, no. 1, 11-24; and J.G. Turi, “Language and law in the era of globalisation” in V.G. Lerda (ed.), Which ‘global village?’: societies, cultures, and


15 McKee, (2007),140.


18 New Zealand Sign Language Bill (123-1) (explanatory note) at 1.


21 McKee (2011), 284.

22 Waitangi Tribunal (1986) paragraph 4.2.8.

23 It reads “Whereas in the Treaty of Waitangi the Crown confirmed and guaranteed to the Māori people, among other things, all their taonga: And whereas the Māori language is one such taonga.”


27 Ibid, 169.

28 Article 19 of UNDRIP and articles 3(c) and 4(3) of the UNCRPD and section 9(1)(c) of the NZSL Act.

29 World Federation of the Deaf submission, Recognition of sign language as an official language in the Constitution and/or special legislation and International Disability Alliance’s Forum for the Convention on the Rights of Persons with Disabilities Contributions to the Office of the United Nations High Commissioner for Human Rights’ thematic study to enhance awareness and understanding of the CRPD, focusing on legal measures key for the ratification and effective implementation of the Convention, 31.

30 UNCRPD, Article 2.

31 UNCRPD, Article 9(e).

32 UNCRPD, Article 21(b).

33 UNCRPD, Article 21(b), 21(e).


37 Office of the Minister for Disability Issues “New Zealand Sign Language Bill” policy proposal to the Cabinet Social Development Committee, (2003), paragraph 3.

38 Sections 21(1)(f) and (g) of the Human Rights Act 1993.

39 Section 21(1)(h) of the Human Rights Act 1993.

40 Over this 13 year period the Commission received a total of 55,745 complaints and enquiries.

41 These are likely to be conservative estimates of the total number of complaints and enquiries from deaf people and/or relating to NZSL. This is because not all records contain information about the nature of the disability discussed.


47 Marschark and Hauser, 39.


49 Marschark and Hauser, 54; Wheatley and Pabsch.


51 ibid.

52 McKee (2011), 277.

53 McKee (2007),133.

54 McKee (2011), 287.


56 ibid., 7; Marschark and Hauser, 15, 33 & 37 and Deaf Aotearoa New Zealand (2010), 32.

57 Marschark and Hauser (2012), 37.

58 Ministry of Education, Progress on the Aggregation of Sensory Resources project and early thinking on achievement targets. (2011) Internal Memorandum.

59 Kelston Deaf Education Centre services the northern half of the North Island and Van Asch Deaf Education Centre services the lower North Island and the South Island.
60 Fitzgerald & Associates for the Ministry of Education, *Scoping Support for New Zealand Sign Language Users Accessing the Curriculum Part II*, (Ministry of Education, 2010), 4. These figures are based on population estimates of severe and profound deafness, i.e. children who will have limited access to spoken language and who could benefit from accessing a fully visual language.

61 Wheatley and Pabsch, 18.


64 National Education Goal 2, 4 and 7.


69 Eligibility for entry into GSE Early Intervention services is for babies that have “bilateral moderate or greater sensori-neural or long term conductive hearing loss”. Ministry of Education, *Newborn Hearing Screening Early Intervention Programme Resource Folder*, (2008), 9.

70 Ministry of Education (2008), 2, 6 and 22.

71 Ministry of Education feedback to the Office for Disability Issues to inform the review of NZSL Act, 31 January 2010.

72 Summary of information supplied by the Ministry of Education to the Inquiry, 6.

73 New Zealand Federation for Deaf Children provides information kits to families that include supporting information from the Ministry of Education.

74 Ministry of Education (2013), 84.


76 Easterbrooks and Baker, 6. and Fitzgerald and Associates, 6.


79 The DVD *Sign with your Baby: New Zealand Sign Language for babies and toddlers* was produced by Handmade Productions Aotearoa with a grant from the Ministry of Education.

80 Wilson (2011), 16-17. With the exception of three AODCs who are Deaf and fluent NZSL users, the AODC proficiency levels in NZSL are insufficient to provide NZSL teaching and learning support to children and families.


83 Marschark and Hauser, 15, 37, 40 and 43.

84 Humphries et al, 16.

85 UNCRPD, Article 25(d).


McKee (2007), 140.


“Ibid.,8.”


Deaf units are established within a regular school by either the DECs or the school itself.

The degree of deafness is measured and categorised in descending order of severity, as: mild – moderate – severe – profound.

The fund holder is the DEC for their enrolled students. For other students, the Ministry of Education is typically the fund holder though, in a few cases, a specialist service provider may have this role.


Ibid., 77.

Ibid., 75.


Deaf Education Aotearoa New Zealand (2010), 8.

This taskforce targets whole-school improvement through development of inclusive practices and the Ministry has developed initial resources to support this.


Ministry of Education Feedback to inform the Office for Disability Issues’ review of the NZSL Act, 31 January 2010


Ministry of Education, “Improved achievement.”

The new board includes six parent representatives, one staff, two principals and two student representatives. It is able to co-opt up to four other members to help ensure a balance of Deaf community and Māori representatives.
A New Era in the Right to Sign

113 Ministry of Education, *Progress on the Aggregation of Sensory Resources project and early thinking on achievement targets*, (Internal Memorandum, 2011).


118 Reffel and McKee, 3.


120 McKee (2007), 133.


122 Full NZSL access to the curriculum through a professional NZSL interpreter could cost between $45,000 and $50,000 per annum which is substantially more than the ORS allocated funding of $10,561 (high needs) and $18,209 (very high needs) per annum.

123 McKee and Smith.


126 Ibid.


128 Ibid., 30.


131 Ibid.


134 In this report the phrase ‘NZ interpreter services and resources’ is used to encompass NZSL interpreters and NZSL translations, such as video-clips.


137 Deaf Aotearoa New Zealand (2010), 6.


139 Office for Disability Issues (2011); Deaf Aotearoa New Zealand (2010) and submissions to this Inquiry.

140 Office for Disability Issues (2011).

141 Deaf Aotearoa New Zealand (2010), 25.

142 Ibid.
UNCRPD, Article 9 (1).

UNCRPD Article 9 (2)(e) explicitly mentions sign language interpreters while articles 9(b), (f) and (g) require information to be accessible including new information and communication technologies.

UNCRPD Article 21.


The remaining seven complaints or enquiries were about access to NZSL generally.

Deaf Aotearoa NZ (2010), 19.


Ibid., section 2.2.7d, 12.

Right 5 – the Right to Effective Communication.


iSign is a not for profit organisation with charitable status.

Specialist Services (Interpreter Services) service specification, used for the Ministry of Health’s contract with Deaf Aotearoa.


Information supplied by the Ministry of Health about their interpreter services contract with Deaf Aotearoa NZ.

Paragraph 40.


Similarly, another health sector agency gave examples of where they have agreed to pay interpreter fees so that a Deaf person could attend an event that was not covered by any funding source, even though the matter was unrelated to their specific service.

For example, Ministry of Health Access to NZSL Interpreters Policy. (Internal document supplied by the Ministry to this Inquiry, 2006).


Ministry of Social Development (2008), 17, paragraph 2.2.2. Additional information supplied by Workbridge May 2013.

Ibid., paragraph 9.4

Ibid., paragraph 1.22

Data supplied by Workbridge, May 2013. These figures divide the total amount of Training Support funding used by Deaf people for interpreters in a given year by the number of Deaf people making those applications.

Data supplied by Workbridge, May 2013. These figures divide the total amount of Job Support funding used by Deaf people for interpreters, in a given year, by the number of Deaf people making those applications.


Deaf Aotearoa NZ (2010), 24.


Office for Disability Issues (2011) paragraph 60.

Ibid., paragraph 127.

Accessible online at: http://www.seeflow.co.nz/direct.


In contrast, government agencies that have signed up to Seeflow Direct provide an accessible way that deaf people can use NZSL to provide feedback on that agency’s services.

Office for Disability Issues (2011) paragraph 122.


However, as ODI’s advice notes, public events organised by government agencies should provide NZSL interpreters.

Deaf Aotearoa NZ 2010.


McKee (2011), 278.


The UN Declaration on the Rights of Indigenous Peoples highlights the historic injustices of colonisation including its impact on the decline of indigenous languages. As a result, there is a responsibility on governments to protect indigenous peoples’ language rights.


Communication is expressly defined in the Disability Convention as including languages both spoken and signed (Article 2).

UNCRPD, Article 21(b) and 21(e).

UNCRPD, Article 4(3).

UNCRPD, Articles 24(3)(b) and (c). Further discussion of these requirements can be found in the education chapter of this report.

UNCRPD, Articles 9(2)(e) and 21(b).

UNCRPD, Article 30(4).

Subsections 9(a) and (b).


The Royal Society of New Zealand (2013), 4.

Chapter 2 of this report outlines the Ministry of Education’s pivotal role in enabling students’ access to education through NZSL and deaf parents’ access to interpreter services. These help them contribute to and participate in their child’s core educational activities. Chapter 3 describes how government agencies, including crown entities such as DHBs, provide access to NZSL interpreter and translation services.

Those that provide some NZSL information on their websites include the Electoral Commission, the Ministry of Health, the Health and Disability Commissioner’s Office, the Human Rights Commission, Statistics New Zealand and the Ministry of Civil Defence and Emergency Management. The Ministry of Social Development also provides some NZSL information, including Work and Income, Child, Youth and Family and the Office for Disability Issues.


The Royal Society of New Zealand (2013).

Reffel and McKee 2009, 15.


The Royal Society of New Zealand (2013).


Ibid.


Deaf Aotearoa New Zealand (6 October 2011).


Waitangi Tribunal (2011a) and the Waitangi Tribunal website. Accessed 16 April 2013.

Reagan, (2010); V. Krausneker, The Protection and promotion of sign languages and the rights of their users in Council of Europe member states: needs analysis, (Strasbourg: Council of Europe, 2008.)

H. Heyerick, Personal Communication: interview between Rachel McKee and Isabelle Heyerick, Executive Coordinator of Vlaams Gebarentaal Centrum / Flemish Sign Language Centre and member of the Advisory Board on VGT, 16 August 2012.

New Zealand House of Representatives, New Zealand Sign Language Bill As Reported from the Justice and Electoral Select Committee: Commentary, (Wellington, 2005), 5.