

## **Accessibility Legislation Proposed - Radio New Zealand 07/10/2021**

### **Kathryn Ryan:**

New legislation that would require accessibility barriers to be removed could be on the way, if an accessibility advocacy group has its way. Accessibility legislation is something increasingly appearing in countries around the world and work is underway to introduce something similar here. Currently disabled people in New Zealand have no effective way to report barriers to their participation fully in society or to get them removed and there's no one agency to identify and deal with non-compliance. The Access Alliance is a consortium of 20,000 people, businesses and organisations advocating for the establishment of accessibility legislation in New Zealand. Independent researchers have now created a blueprint for how the legislation could work which is now being put to the Minister for Disability Issues, Carmel Sepuloni. They've proposed a legislative framework that includes an Act, a regulator, a tribunal, accessibility standards, and a way to notify the regulator of barriers. Warren Forster is a barrister and researcher and the co-author of the report and someone who has a track record of getting things done. Warren welcome back.

### **Warren Forster:**

Morena Kathryn and listeners, thank you for having us this morning.

### **Kathryn Ryan:**

Chrissie Cowan is Chair of Access Alliance and Chief Executive of Kāpō Māori Aotearoa, a Hastings based organisation supporting the blind. Ngā mihi Chrissie. Welcome.

### **Chrissie Cowan:**

Tēnā koe Kathryn

### **Kathryn Ryan:**

Lovely to have you both with us. Chrissie, could you take us through the story, the process that you've been through and where you've got to?

**Chrissie Cowan:**

Thank you, Kathryn. Yeah, the Access Alliance came about through a meeting in 2016, late 2016, of a group of disability advocates, disabled lead organisations and providers and the common goal was looking at a way of improving accessibility for the disabled community. From there we started a campaign called Access Matters. And at that time, we had ten groups and through the Access Matters campaign, we were able to present Minister Sepuloni with a petition.

And during 2018, we were informing and advising ministry officials around providing research, data. Building a case, you know, for the introduction of accessibility legislation and a new system. At the end of 2018, Minister Sepuloni actually announced the commitment to introducing accessibility legislation and she's still very much committed to that kaupapa.

Through that we we've worked with the Ministry of Social Development policy officials on what this legislation could look like and the system. So we've come to now the spot of the preparation and completion of a report for cabinet to consider and Warren in his colleagues as co-authors last year, came to the Access Alliance with the draft report. And so we were very pleased to contribute. So the disability community, key stakeholders, Government officials had the opportunity to feed into the report that Warren, Tom and Curtis have published now.

So yeah, that's our journey in a nutshell. So what's accrued there, the key point is we started with ten organisations, national organisations, and we now have moved forward and developed and have become a movement of over 20,000 people organisations, representing a cross section of Aotearoa society. So yeah, that's what's also evolved is that really, you know, the fact that access barriers, all people experience access barriers in their lifetime. So having groups that have come onboard from other communities is key, including carers, seniors, parents with multiple birth children. It has been very exciting, again, proving that the community wants to see innovative change around access.

**Kathryn Ryan:**

Chrissie, remind us of the scale and scope of challenges, whether it is public buildings, whether it is getting into apartment buildings, whether it is being able to go for a swim at the pool, whether it is employment related. What is it that this could really make a difference to?

**Chrissie Cowan:**

Well, actually access barriers are around every part, or every sector and every part of a person's life. So yeah, people normally when they think of access, they think of buildings, but it is much more than that, Kathryn. It's about public transport, entertainment, but it's also about banking, it's about digital engagement, it's about information. It's about even technology that is being developed today. It's so much wider, you know, banking, how does banking ensure their services are accessible? So when you look at it's simple things as like, I recall talking with someone who was a mum who had twins and trying to navigate pavements and doorways, you know. So yeah, it's much, much more than just the things that we hear about buildings etc. If a person was to sit down and look at their day you know, everybody in some way has some barrier they have to navigate through the day but of course for disabled people that is three times or triple the challenge for them. It could be just simply as an example finding the QR code on a business in a doorway - that's a challenge you know. There's a barrier because some put the QR codes up high, wheelchair users can't access it.

**Kathryn Ryan:**

Also banking and other services. This is an issue as well?

**Chrissie Cowan:**

Yes, that's right. And you know, business as well has been very positive and responsive. You know, and we acknowledge their enthusiasm. And like they say they are open to working with Government on standards because they need, they want clarity, they want to better understand. So banking also you know, even going in and just purchasing an item, being able to access the scan, you know where you can scan it in, the paywave you know, knowing where it is and touching it.

It's really simple things that we may not even think about in our lives because we do it so often.

**Kathryn Ryan:**

I think it's interesting that business is actually seeking the clarity, the guidance. And we're talking about how many people, Chrissie? Is it a quarter of New Zealanders who will experience or are experiencing disability and as you mentioned, we've got an ageing population which brings with it its own, you know, increasing limitations over time and disability over time, we're talking about a very significant proportion of New Zealanders?

**Chrissie Cowan:**

Oh absolutely Kathryn. One in four New Zealanders have some form of disability. Yeah, that itself is really you know, it is near a million people. I mean, if you were to include seniors and carers there, that's another key group, you know, we it's quite a substantial proportion of Aotearoa society when you look at it.

**Kathryn Ryan:**

Now making me stay with us please Chrissie Cowan, who was the chair of the Access Alliance and also chief executive of Chief executive of Kāpō Māori Aotearoa, a Hastings based organisation supporting the blind.

20,000 people, businesses and organisations are now affiliated to the Access Alliance. Well, let's bring in our guest again, Warren Forster, a barrister and researcher and co-author of this report.

So Warren, tell me what your contribution has been here please?

**Warren Forster:**

Kia ora Kathryn, and thank you Chrissie for explaining that. So I can't take all the credit for this. This is a piece of work I did with Tom Barraclough and Curtis Barnes. Probably about four years ago at a conference the idea came up at a Disability Matters Conference in Otago about getting involved to take this idea of removing barriers and trying to turn it into a model of legislation. So with the great help from the New Zealand Law Foundation, we started this work. And that's taken a bit longer than we expected. But we now have a model and the idea that we

have is that there are disabling experiences, which are these negative experiences that prevent disabled people and others from full and effective participation in society on equal basis with others. That's the idea of disabling experiences. Now, some of these are caused by barriers. Some of them are caused by discrimination and other things. But we tried to find a model of legislation that would allow us to identify barriers and a system for doing that, and then remove these barriers and a system for doing that. And that's really why we put our thinking caps on, we looked at all the different ideas that were kicking around. And we thought, how can we design a piece of legislation that will start now and continue into the future, to identify and remove these barriers that people experience, it really puts that experience that people have at the front and centre, and allows for the innovation, and allows for a new way of thinking about how we can start some of this work, and then embed it as we go and generate real change?

**Kathryn Ryan:**

So what does the framework look like? You haven't given full draft legislation, proposed legislation to the government, but have you given the outlines of a framework?

**Warren Forster:**

Absolutely, we've given the outline of the framework. So about two years ago, we put out a discussion paper, we said, you can treat the existing system and make, for example, the Human Rights Commission's job, or the Ministry of Social Development's job, so that's one option. And then the second option is what we call this framework, this legislative model which is what we've recommended and design the key elements of, and the third option is what we call more of a contained code. Now an ACC system is an example of that, where you spent five to seven years developing every little bit that you can think of, and then put it into a piece of legislation. And we thought about that, that's similar to some of the models overseas that have designed sort of five barrier, five standards over 10 years that they're very prescriptive. And where we got to was, we need to be able to move and innovate, not wait sort of five-ten years before we start addressing some of the stuff. So we thought, if we can have a legislative framework that has a notifications process where people can notify a regulator, we have a regulator whose job it is to actually take all this information and identify these barriers, and

then start working with everyone involved in this to how we overcome them. Now we can do a lot of work through what we call non-enforceable. We don't think we need to start with everything being "you got to do this today". Because a lot of it, we haven't figured out how to do. Some we have, some we haven't. So we've designed a system that starts with non-enforceable, and then that can become enforceable at certain points in time. And then we have a way to actually then go and enforce it. But the idea is that the heavy lifting or 95% of the work really in the system will be done through working out what the barriers are, and working out how to overcome this. And that's going to take time, but it's going to take collaboration and cooperation, of 1000s of New Zealanders who have an actual lived experience and interest in removing these barriers. But what we're trying to say is, how do we design a system that will do that effectively, that will start now and continue into the future. And that's what we've designed.

**Kathryn Ryan:**

So there's an act, a regulator, a tribunal, there are accessibility standards and there's a way to notify the regulator of barriers, and a way for individuals to do that. The next thing is how to bring this in without it being buried in red tape. And are you talking Warren, about beginning with non-enforceable standards so that businesses and organisations and city council's and employers and everyone else involved, the banks can get themselves organised before this becomes enforceable? Is that the plan?

**Warren Forster:**

Absolutely. That's the plan. Because if we make something tomorrow that says do this tomorrow, and no one's figured out how to do it, it's not going to work. And if we wait until we figured all that out, then it's probably going to take five or ten years. And what we're saying is, let's start by trying to get consensus on what we know what are the barriers? How do they affect people? How can we design them away, and at the moment, people are experiencing the same barriers, whether they live in Bluff, or whether they live in Kaitia. People are experienced those same things, whether they're accessing an online service, in their home, or at their work, or they're trying to find employment. So all of these barriers cut across so many different places. And rather than get everyone who's involved in this to reinvent the wheel,

what we need is a system that will actually enable that and overtime will allow us to move forward and create change that we can generating in the next few years, and we hope that that will then continue. But as we do one thing in one place, new barriers will emerge. So we need a way to understand that, and then to address those. So if you can imagine rather than getting, however many, 30 district councils or city councils across the country to do their thing individually, let's systematise that, let's put disabled people in the centre, let's understand how we can design these away. Let's check this stuff actually works before we turn it into an enforceable legislative system with regulation. So that the whole idea is that that it gives us a pathway to go from where we are now with barriers all over the place, to a future where we can actually start removing these, and a framework that will allow that to become enforceable when those points are reached. And it could be that nothing happens. So we have to make it enforceable to get it moving. Or it could be that, you know, the last 10% of that needs to be done is dragged on board with an enforceability system.

**Kathryn Ryan:**

Chrissie alluded to it, I think I'm curious if you're hearing it as well, that actually a lot of organisations would appreciate the guidance, they just don't see what they don't see. And what we know is the story has been people with disabilities constantly having to advocate and take that responsibility on themselves. As this process gets underway, do you believe a lot of organisations that are going to be part of these solutions will welcome the information?

**Warren Forster:**

Absolutely. People are calling out for it. I met with some councils last year, and they said, "Tell us what we can do?". And I said, well, I'm not the one to tell you, we need a system that disabled people can be at the centre, and this is the same thing with businesses, the same thing with government. A lot of New Zealand wants to do the right thing. Barriers don't provide a benefit for anyone. They don't provide a benefit for business, they don't provide a benefit for governments, they produce negative experiences. And these things leak out the side, they pop up in the media, they put people in individual fights without carrying the burden of making change. And what we want to do is enable people to feed into this knowledge base and to find what the solutions might be, and enable a space where we can work out how to address this.

And once we've learned that, we need to adopt that. And there's a really straightforward way to do that using what we are calling non-enforceable standards. So we did this in the dispute resolution sector, we worked on a set of standards with a Government Centre for dispute Resolution, and they were launched at the end of last year and the consensus based on that here's a whole lot of things that we can do to make real change. And once we've done that everyone can actually say "okay, well, how am I doing?" And then they can say, "Well, here's all the bits that I haven't addressed yet and let's work together collaboratively rather than everyone reinvent the wheel. How can we get people working collaboratively in order to overcome these barriers and then roll out the solutions that we're designing?"

**Kathryn Ryan:**

Kia ora Warren Forster, Chrissie, back to you ngā mihi.

It's been a very long hīkoi to this point, and a lot of frustrations along the way for a lot of people. How optimistic are you that this will proceed in proceed with some level of urgency?

**Chrissie Cowan:**

The Access Alliance, we are really optimistic it will proceed, and we know that Minister Sepuloni is still very clear about her wish to have accessibility introduced as legislation. The publishing of Warren and Tom and Curtis' report, will assist not only us but the Minister and the community to understand what the system or you know, the design of a potential system and give us and options to work on it because what this report does is give a vision to all of us of what we are wanting and that's about putting the communities at the centre of it and you know, it's about integrating a people-centred, people-directed system.

So, we have got to the point where the Minister is currently discussing options with her cabinet colleagues and from there we will look at what we will move forward to, as I say this report that Warren and his colleagues have published gives us the opportunity to look at what options that we can agree on with government and with further consultation with the disability community around that system.

Kia ora ngā mihi nui korua Chrissy and Warren.