



Te Kawa Mataaho

Public Service Commission

Tēnā koe Callum

Thank you for writing to Te Kawa Mataaho Public Service Commission (the Commission). I am replying in my capacity as Deputy Public Service Commissioner. You have raised concerns about the Plain Language Act Repeal Bill (the Repeal Bill) in terms of consistency with international obligations and the decision on consultation. I have considered your complaint independently of the team working on the Repeal Bill.

International obligations

You consider that the Repeal Bill is inconsistent with the UN Convention on the Rights of Persons with Disabilities (UNCRPD). The UNCRPD is an international human rights treaty the purpose of which is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. Countries who have agreed to the UNCRPD are obligated to take appropriate measures to give effect to the rights detailed in the convention as they relate to disabled people. The New Zealand Disability Strategy and the Accessibility Charter are the key tools to support implementation of the UNCRPD in New Zealand.

The purpose of the Plain Language Act (the Act) is to improve the effectiveness and accountability of public service agencies and to improve the accessibility of certain documents that they make available to the public, by providing for those documents to use plain language. While implementation of the Act could be seen as supporting some elements of the UNCRPD, it was not enacted for the purposes of meeting any specific international obligations nor is it one of the ways in which New Zealand specifically meets its obligations under the UNCRPD. Therefore, we remain of the view that the Repeal Bill is not inconsistent with New Zealand's international obligations.

It is important to highlight that the Repeal Bill does not change the importance of the use of plain language when public service agencies are communicating with the public. The intent of the Act can still be achieved through non-legislative mechanisms which is one of the reasons the Act is being repealed. Further, the repeal will not restrict agencies from communicating in plain language and continuing to promote the use of plain language.

Consultation

Your complaint also raised concerns about the Commission's consultation decision in relation to the Repeal Bill. You note that an advisor from Whaikaha Ministry for Disabled People (Whaikaha) reached out to the Commission by email on 3 April after the Repeal Bill was lodged. The response to this email was a phone call in which the Commission answered the questions raised and acknowledged the oversight in not consulting Whaikaha which was a consequence of a decision to target consultation.

It is also relevant to note that the repeal of the Plain Language Act in its entirety was a clear policy direction from the government of the day. In this case, the decision was made to consult only those agencies whose Ministers were represented on the Cabinet Business Committee that considered the Cabinet paper.

I have considered this matter and determined that it was appropriate for the Commission to conduct targeted agency consultation in this case. However, I consider it would have been appropriate to consult Whaikaha on this matter given the perceived impact of the Repeal Bill for disabled people. Further, I do not think the decision about which agencies to consult and why was appropriately documented in this instance. I have communicated this assessment internally and made it clear that going forward I expect consideration of whether to consult any population agencies to take place in all cases as well as better documentation of the rationale for consultation decisions.

I have also written to the Chief Executive of Whaikaha about this matter. I have advised that the Commission intends to write to all public service chief executives reiterating the importance of plain language use in the Public Service once the legislative process has concluded. I have committed to consulting with the Chief Executive of Whaikaha at that time to ensure the messaging appropriately reflects the ways public service agencies can engage with relevant work led by Whaikaha, such as the Accessibility Charter. A copy of my email to her is attached.

I hope my response reassures you that I have independently considered your concerns and taken them seriously. Thank you for taking the time to write to the Commission. If you agree, I intend to publish your complaint and my response on the Commission website to be transparent about how this matter has been considered. It is important people know that they can make such complaints to the Commission and that they will be considered appropriately.

Ngā mihi



Rebecca Kitteridge

Deputy Public Service Commissioner

From: [Rebecca Kitteridge](#)
To: [Paula Tesoriero](#)
Cc: [Radhika Patel-Cornish](#); [Sarai Mataqi](#)
Subject: Complaint about our handling of the Plain Language Act 2022 Repeal Bill
Date: Tuesday, 22 July 2025 5:43:50 pm
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Tēnā koe Paula,

I am writing because the Commission has received a complaint about our handling of the Plain Language Act 2022 Repeal Bill, including concerns about lack of consultation with Whaikaha.

After the Repeal Bill was lodged, we received a query from Whaikaha seeking further information on the analysis relating to a legislative approach versus other options, particularly the consideration of impacts on disabled people. I understand the relevant policy manager called in response to answer the questions. It was noted that the Repeal Bill reflects a clear policy direction from the government and that a decision had been made to only consult those agencies whose Ministers were represented on the Cabinet Business Committee that considered the Cabinet paper. It was acknowledged that a consequence of this consultation approach was an oversight in not consulting Whaikaha. While I understand this resolved the query at the time, I want to inform you of my assessment of this complaint. I have determined that it was appropriate for the Commission to conduct targeted agency consultation in this case. However, I consider it would have been appropriate to consult Whaikaha on this matter given the perceived impact of the Repeal Bill for disabled people. Further, I do not think the decision about which agencies to consult and why was appropriately documented in this instance.

To ensure our processes are robust, I have asked the Commission policy staff in all cases to ensure that they consider whether to consult any population agencies, and to document the rationale for consultation decisions going forward.

Further, I would like to reiterate that the Repeal Bill does not change the importance of plain language use in the Public Service. To this end, the Commission intends to write to all public service chief executives reiterating this message once the legislative process has concluded. We will consult with you at that time to ensure the messaging appropriately reflects the ways public service agencies can engage with relevant work led by Whaikaha, such as the Accessibility Charter.

Ngā mihi
Rebecca

Rebecca Kitteridge ([she/her](#))
Te Pou Turuki mō Te Kawa Mataaho | Deputy Public Service Commissioner
waea pūkoro: 9(2)(a) privacy | **īmēra:** Rebecca.Kitteridge@publicservice.govt.nz



Te Kawa Mataaho Public Service Commission
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Formal complaint about the Public Service Commission's administrative actions regarding the Plain Language Act Repeal Bill

Date: 16 June 2025

To: Sir Brian Roche, Public Service Commissioner

From: Callum McMenamin | 9(2)(a) privacy

Tēnā koe Sir Brian Roche,

I am making a formal complaint about administrative errors made by the Public Service Commission in its handling of the Plain Language Act Repeal Bill. I believe the Public Service Commission is breaching the United Nations Convention on the Rights of Persons with Disabilities.

Complaint part 1: failure to consult relevant agency and population group

1. The PSC failed to consult Whaikaha — Ministry of Disabled People in its Cabinet paper for the Plain Language Act Repeal Bill (“the Bill”), where plain language obviously impacts the rights of disabled people, specifically, those with learning/intellectual disabilities. The Cabinet paper for the Bill lists the agencies that were consulted in Paragraph 34, and Whaikaha is not present in the list.
2. Paragraph 28 of the Cabinet paper for the Bill, clearly indicates that PSC was aware that disabled people's rights may be impacted: *"Plain language has some overlap with accessibility, especially for those with language or learning difficulties"*.
3. When I asked PSC, via the OIA, for documents showing why PSC excluded Whaikaha from consultation, PSC refused the request, and provided an explanation claiming *"there was no intent to include or exclude any particular agency"* (OIA Ref: 2025-

0544). It seems unusual for agencies to be selected for consultation without any discernible “intent to include or exclude”.

4. PSC has failed to consult **the most relevant agency** in its handling of the Plain Language Act Repeal Bill. This failure has directly led to important human rights not being considered, including international obligations such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (Article 9). I believe Section 7.34 (inter-agency consultation) of the Cabinet Manual has therefore been breached.
5. The Public Service Commission failed to consult the primary impacted population group (disabled people) via representative organisations. Article 4(3) of the UNCRPD states “*In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.*” Therefore, PSC has breached the UNCRPD. A parliamentary select committee process is not “closely consulting” and “actively involving” disabled people to any greater degree than the general population.
6. **Complaint part 1 conclusion:** PSC failed in its duty to consult the most relevant agency regarding this repeal bill. PSC should have consulted Whaikaha, and it failed to do so, contravening Cabinet Manual s. 7.34, resulting in a failure to properly consider disabled people’s human rights, including the UNCRPD. PSC failed in its duty to comply with UNCRPD Article 4(3), by neglecting to consult and include disabled people in the policy development process. These failures have led to poor-quality lawmaking.

Complaint part 2: failure to identify human rights and UNCRPD implications

7. The PSC stated, in the Bill's Cabinet paper (paragraph 31): *"Repealing the Plain Language Act 2022 does not have implications for human rights."*
8. This statement is incorrect. I made an OIA request to PSC, asking what evidence PSC used to come to this conclusion, that no human rights are implicated (OIA Ref: 2025-0575). PSC refused my request on the grounds the information was already publicly available.
9. In PSC's response to my OIA, PSC pointed to the Ministry of Justice NZBORA consistency assessment of the Bill, and the Bill's Departmental Disclosure Statement.
10. However, I reviewed MoJ's NZBORA consistency assessment, and discovered that MoJ's assessment failed to identify disability rights implications. I then submitted an OIA to MoJ, asking for documents that show how they assessed disabled people's rights, and they refused my OIA request under legal professional privilege. I then complained to Justice, asking them to find ways to answer my question without breaching legal professional privilege, and they refused. Therefore, there is no available evidence that MoJ considered disabled people's rights. I have serious concerns that MoJ does not assess disability rights in its NZBORA assessments and is refusing to be transparent on whether it did, or did not, consider disability rights in this case.
11. The Departmental Disclosure Statement (question 3.1) shows that an error was made by PSC — question 3.1 asks "What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?". The answer PSC gives to this question, does not actually outline the steps taken to assess the Bill against international obligations — the answer PSC provided simply makes an assertion that "New Zealand has no specific international obligations relating to plain language". Therefore, PSC failed to properly answer question 3.1; the question does not ask agencies to assert that no obligations are relevant — it asks agencies to **outline the process followed to assess**

consistency with international obligations. PSC should have identified that the UNCRPD was relevant in this case, and failed to do so.

12. In an OIA response by PSC (Ref: PSCR 2025-0461) dated 19 May 2025, PSC states: *“There have been no internal communications between Commission employees regarding “the impact of the PLA’s repeal on disabled people””*. This constitutes a breach of Article 4(1)(c) of the UNCRPD, which requires States Parties to take into account the human rights of disabled people in all policies and programmes.
13. An OIA response from Whaikaha (Ref: 0303) indicates that Whaikaha contacted PSC, noting that PSC excluded Whaikaha from consultation — Whaikaha was clearly asking to see what disability rights analysis PSC had performed. Based on the OIA, it is not clear if PSC provided any substantive response to Whaikaha — it is possible that conversations happened on the phone and therefore no public record exists.
14. Legislation Guidelines Chapter 9 (Treaties and international obligations), and Chapter 7 (Discrimination and distinguishing between different groups) include requirements for new legislation, and it appears PSC has not met these requirements. Chapter 9 of the Legislation Guidelines states *“New Zealand must give full effect to a treaty, or it will risk breaching its international obligations. [...] Non-compliance places New Zealand’s international reputation at risk and exposes it to any applicable sanctions under the treaty.”*
15. **Complaint part 2 conclusion:** PSC failed in its duty to properly identify the human rights impacts of the Bill, particularly for disabled people. Even when directly contacted by Whaikaha, PSC appears to have failed to properly consult or consider the human rights of disabled people. PSC made factually incorrect statements in its Departmental Disclosure Statement, and the Bill’s Cabinet paper, which has misled Cabinet and Parliament. PSC has contravened UNCRPD Article 4(1)(c) and Article 4(3).

Proposed complaint resolution

Proposed resolution to complaint part 1: failure to consult relevant agency and population group

16. PSC could retrospectively formally consult Whaikaha on the Bill, even though the Bill is already progressing, and PSC could publish Whaikaha's response on the PSC website. This helps to rectify the injustice, by allowing the disability ministry to serve its core function — to provide accurate and correct disability policy advice.
17. PSC could retrospectively formally consult relevant disability representative organisations, such as People First NZ, and IHC — both represent the interests of people with learning disabilities. The response from such organisations could be published on the PSC website.
18. PSC could commit to make administrative/process changes, so relevant “population group” agencies and NGOs (like Ministry for Women, Pacific Peoples, Disabled People, People First NZ, IHC) are consulted in *all* future legislation handled by the PSC, where that population group is potentially impacted. Agencies like the Human Rights Commission could also be consulted, as s.7 Part 3 of the Legislation Guidelines outlines. This should prevent such policy failures from occurring in the future.

Proposed resolution to complaint part 2: failure to identify human rights and UNCRPD implications

19. PSC could send a letter to the Minister for the Public Service, outlining that paragraph 31 of the Cabinet paper for the Bill contained an error. The letter should specify that the human rights of disabled people are implicated in the repeal of the Plain Language Act; and that NZ Government's compliance with the UNCRPD (Article 9) is negatively impacted by the repeal — as Article 9 requires State Parties to implement minimum accessibility standards, and to implement monitoring systems (both dismantled by the repeal). PSC should also outline that Article 4(3) of the UNCRPD is being breached by the legislative process, as the Government is failing to closely involve and consult representative groups of disabled people in the policy development process.
20. If one does not already exist, PSC could commit to create, publish, and apply a “human rights assessment framework” for legislation, that contains a set of mandatory steps that minimise the risk of agencies failing to identify human rights impacts when generating Cabinet papers for new legislation, and Departmental Disclosure Statements. Such a framework might include a requirement for agencies to verify that MoJ NZBORA assessments contain evidence/checklists proving that disabled people's human rights were considered, before such assessments are relied on in Cabinet papers and Departmental Disclosure Statements.
21. PSC could publish a public statement to its website, acknowledging that there have been shortcomings in identifying where disabled people's human rights are impacted by the Plain Language Act Repeal Bill, including failures to meet the requirements of the UNCRPD. The statement could include a plan of positive steps that PSC is taking to ensure such shortcomings do not occur in future — it could be written in a way to guide other public service agencies to improve their human rights assessments when they are responsible for legislative changes.
22. PSC could commit to putting its policy analysts and policy managers through human rights training, including how different UN treaties apply in a New Zealand context, i.e. UNCRPD, the UN Convention on the Rights of the Child, etc.

I am happy to discuss any aspect of my complaint further either via email or on Teams, and I can assist with positive steps going forward. My goal here is to ensure that the Public Service has high human rights standards, especially when it comes to UN obligations. I believe my proposed resolutions will strengthen the integrity of the Public Service and improve its compliance with international human rights obligations.

The New Zealand Government is assessed by the United Nations and Independent Monitoring Mechanism (IMM) on its compliance with the UNCRPD — while repealing the Plain Language Act will cause obvious reputational damage for the New Zealand Government, such damage is only made worse if the government systematically denies that disabled people's rights are implicated in the repeal.

Ngā mihi,
Callum McMenamin