Submission Productivity Commission A Fair Chance For All

Associate Professor Ben Gray

Otago University Wellington

6/10/22

There is a group of people who suffer significant disadvantage that tend to be absent in most documents including this one…people who speak little English. Following are excerpts from a position paper that I wrote for Tū Ora PHO on interpreting for Primary Care. Similar arguments apply to access to an interpreter in every other facet of life. Without an ability to communicate engagement is difficult.

Diversity

The most recent data in relation to language that we have for the New Zealand population is from the 2018 census[1]. Increasing numbers of New Zealand residents are born overseas. The percentage has increased from 17% (1996) to 27.4% (2018) (Auckland 41.6%) . The Asian ethnic group is now 15% (Auckland 28%) of the population. The proportion of people from non-English-speaking backgrounds is also increasing; people of Chinese origin are the second-most common group of migrants after those of English origin, and Samoan, Mandarin and Hindi are the most widely spoken languages in New Zealand after English and Maori. New Zealand has three official languages; New Zealand Sign Language (for which there are 23,500 users) English and Māori.

How many need an interpreter?

We do not know how many New Zealanders need an interpreter to achieve satisfactory health care. The census tells us that 4.6% of the population do not speak English, of whom 2.2% are too young to speak, and 0.5% use New Zealand Sign Language. Many people will speak some English but still require an interpreter. 20% speak two or more languages of whom 4% speak Māori, so the maximum number in this group needing an interpreter is 16%. The number of people who might need an interpreter is between 89,000 and 751,000 people.

NZ 2018	Total	Born overseas	Speak a language not English or NZSL	Speak two languages	Speak two Languages and not Māori	Minimum needing an interpreter	5% needing interpreter	Maximum needing an interpreter
Per cent	100%	27.4%	1.9%	20%	16%	1.9%	5%	16%
total	4.699 M	1,27M	89,000	939,000	751,000	89,000	234,950	751,000

A similar calculation can be done for each of the regions. Unsurprisingly of the minimum needing an interpreter 69,000 of the 89,000 live in Auckland.

Auck 2018	Total	Born overseas	Speak a language not English or NZSL	Speak two or more languages	Speak two languages and not Maori	Minimum needing interpreter	Maximum needing interpreter
	100%	41.6%	4.4%	30%	27.6%	4.4%	27.6%
	1.572M	654,000	69,000	471,000	433,000	69,000	430,000

Nelson 2018	Total	Born overseas	Speak a language not English not NZSL	Speak two or more languages	Speak two languages and not Maori	Minimum needing interpreter	Maximum needing interpreter
	100%	23.9%	0.8%	12%	9.5%	0.8%	9.5%
	50,880	12,000	407	6,100	4,800	407	4,800

Wellington 2018	Total	Born overseas	Speak a language not English not NZSL	Speak two or more languages	Speak two languages and not Maori	Minimum needing interpreter	Maximum needing interpreter
	100%	27.1%	1.2%	20.8%	17.3%	1.2%	20.8%
	506,814	137,000	6,000	105,000	88,000	6,000	88,000

Waikato 2018	Total	Born overseas	Speak a language not English not NZSL	Speak two or more languages	Speak two languages and not Maori	Minimum needing interpreter	Maximum needing interpreter
	100%	19.8%	1.1%	15.9%	9.0%	1.1%	15.9%
	458,202	91,000	5,000	73,000	41,000	5,000	73,000

Australia asks different questions in their census that more accurately assess the need for interpreters. The number of Australians born overseas in 2016 is similar to New Zealand in the last census. It is clear that the 3.5% who speak another language and either no English or insufficient English, need an interpreter. The number will be higher than that considering that 6.4% have not stated an answer to these questions and there may be some who speak English well or very well who need an interpreter for complex consultations.

Australia (2016)	Total Population	Born overseas	Speak a Language other than English at home	Speaks another language and English well or very well	Speaks another language and English not well or not at all	Not stated
	100%	26.3%	22%	17.4%	3.5%	6.4%
	23,409,107		4,858,804	4,068,605	819,922	1,492,960

If we use the Australian estimates, then maybe around 5% of the NZ population need an interpreter or 234,000 people

Interpreter usage

Comprehensive data on the number of people using interpreters is not systematically collected nationally.

The three Auckland DHB's provide their own interpreters in primary and secondary care. the numbers of consultations that have interpreters in Auckland is reasonably comprehensive. The Nelson DHB also provides funding for primary and secondary care interpreting and provided me with their data.

For the rest of New Zealand excluding Auckland and Nelson, information on hospital usage data is provided by Ezispeak and for most DHB's from an Official Information Act request.

These are grossly inaccurate, back of the envelope calculations.

Summary Use of Interpreters

	Primary care total (18-19)	Total all requests	Min needing interp	Consult per person minimum	5% population interp	Consult per person 5%
CMDHB (18-19)	1193	51,056				
ADHB		92,776				
WDHB (21)		34,954				
Auckland Total		178,786	69,000	2.5		
Nelson	1,172	4,020	407	10		
Rest of NZ		69,133	20,000	3.5		
Total NZ		251,939	89,000	2.7	234,950	1

For its primary care figures Interpreting New Zealand was able to identify how many clients as well as how many consultations there had been. On average each client had four consultations a year in primary care. The highest user in Nelson had 69 interpreted consultations in a year, very likely a newly arrived refugee.

If we assume that 5% of the population requires an interpreter for a health consultation the average rate of interpreter use is one consultation per year across both Primary and Secondary care.

Conclusion

Even accepting all the uncertainty in the estimates, it is reasonable to assume that interpreter provision in New Zealand is inadequate, and that interpreter provision in Primary care is worse than in Secondary care because it is not consistently funded.

Social Inclusion

The Royal Commission of Inquiry into the terrorist attacks on the Christchurch Mosques on 15 March 2019[8] used this definition of Social Inclusion:

We use the definition developed by Professor Paul Spoonley, Robin Peace, Andrew Butcher and Damian O'Neill, which describes a socially cohesive society as one in which all individuals and groups have a sense of:

1. *belonging* – a sense of being part of the community, trust in others and respect for law and human rights;
2. *inclusion* – equity of opportunities and outcomes in work, income, education, health and housing;
3. *participation* – involvement in social and community activities and in political and civic life;
4. *recognition* – valuing diversity and respecting differences; and
5. *legitimacy* – confidence in public institutions.

For our purposes equal opportunity to health and being involved in social and community activities are relevant to access to interpreters. Adequate health care is not available to limited English proficient (LEP) people in New Zealand. This is particularly true in relation to Primary care because the structure of New Zealand health care system means that Primary care provides an important entry point for all health care.

A new Ministry for Ethnic Communities has been formed. Last year they conducted a series of consultation meetings around the country. One of the issues raised was Provision of Specified Language Support.

International Perspective.

Australia provided its first free telephone interpreting service for emergencies in 1973. It is now a world leader in providing interpreting and translating services. TIS National provides free interpreting services to all health services. Australia has also developed a comprehensive interpreter accrediting system, which has become the default accreditation for interpreters working in New Zealand. As part of the Language Assistance Programme at MBIE they are introducing a requirement for interpreters to be accredited that will be completed by 2024. Australia completed this transition from no interpreter to a comprehensive service many years ago. However despite that there are still significant problems for people to receive health care due to poor interpreter engagement in Primary Care in Australia[11]

Bischoff[12] describes the process that Switzerland went through from 1992 in 5 phases:

> *(1) Service initiation—the interpreter services were first used in a small service that cared for refugees and asylum seekers.*
>
> *(2) Growth and formalisation—due to the arrival of high numbers of Albanian-speaking asylum seekers, Albanian-speaking interpreters were provided to all departments of the Geneva University Hospitals. This helped roll out the use of interpreters among doctors and nurses.*

(3) Ensuring quality—the care for all patients, whether foreign-language speaking or not, became an issue and led to research into the quality of patient-provider communication.

(4) Institutionalisation—this phase dealt with challenges including the lack of interpreter financing regulation and the clarification of interpreter roles.

(5) Equity—healthcare interpreter services were put in an overall framework of equity standards.

Comparing New Zealand to this framework we are at phase 3 or 4. Failing to fund interpreting for Primary Care is a clear impediment to equitable healthcare for LEP patients.

Progress

We are making progress with the development of MBIE's Language Assistance Project that provides 24/7 interpreter services to the core public service. Within health it excluded all Primary Care, Pharmacy Care and midwifery care. Accessibility is one element but we know from the Australian experience that just having access to interpreters does not mean that they are used. Much more work needs to be done to ensure that interpreters are used when needed. There is a completely unaddressed issue of access to interpreters within the wider community. If a person does not speak English well they cannot engage a lawyer, an accountant, a panel beater, or a builder and be able to communicate fully with them unless they themselves pay for an interpreter.

Amendments to "Fair Chance for All"

Page 3:

Under the heading *Some groups are more likely to experience persistent disadvantage* include reference to people who have Limited English Proficiency.

The provision of interpreters is a particularly good example of siloed and fragmented government. A centrally funded and provided Language Assistance Programme that could be used by anyone with Limited English Proficiency would be a more effective and efficient way of providing this service. The current system is dependent on each government department having a budget for interpreting services and the consequent complex accounting system to determine how it is paid.

Page 17:

Under *Our vision of social inclusion brings together economic inclusion, social*

mobility and equity, mention of inability to speak English fluently as an important barrier to social inclusion should be made.

The focus on thriving is important. There is a wide literature about the extent to which refugees and refugee like migrants are highly motivated to engage in their new

communities with many examples of former refugees thriving. However this has often been achieve against the odds with insufficient support. If support were available the numbers who succeeded in thriving would be greater. (Jansen, A. and L. Grant (2015). Migrant Journeys: New Zealand taxi drivers tell their stories, Bridget Williams Books.)

Page 25 Section 3

Mention of LEP people as people who are left out should be included. In the section on poor information the poor data about how many require an interpreter to be socially included should be added.

Page 32:

Quote *People are disconnected culturally, socially, and linguistically from a base, this is what leads to all the symptomatic issues that are seen in society* is the only place in the report that I found that mentioned linguistic disadvantage.

Page 46

Causes of persistent disadvantage We do not have good data on the extent to which Limited English Proficiency leads to persistent disadvantage. Of course many new migrants will learn English. However the level of fluency is unlikely to reach full fluency and so this will impact on social inclusion. Some migrants particularly some refugees or from refugee like backgrounds may never learn English.

Page 67 and 68

Under institutional racism the provision of services to people who do not understand English without an interpreter is a clear example of institutional racism.

The Code of Patient Rights

Right 5 Right to effective communication

(1) Every consumer has the right to effective communication in a form, language, and manner that enables the consumer to understand the information provided. Where, this includes the right to a competent interpreter.

Merely requiring a “competent” interpreter is unacceptable. The clinician has little ability to judge the competence of a particular interpreter. At the least it should call for a trained interpreter, ideally a professional interpreter. The clause in this right “*necessary and reasonably practicable”* is the only time this clause appears in any of the Code of Rights. Section 3 of the code provides an overall qualification:

3. Provider compliance

(1) A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.

(2) The onus is on the provider to prove that it took reasonable actions.

(3) For the purposes of this clause, the circumstances means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.

In effect the clause on provision of an interpreter is therefore double qualified; within the clause and as a result of section 3.

Right 5 has very rarely been found to have been breached. If all the reported cases are searched with the term “interpreter” there are only six cases that mention a need for interpreter and in only one of those cases was a breach of Right 5 found (case 98HDC11100).

This is not to undermine the institutional racism against Māori which is profound but merely to point out that this does not apply just to Māori

Arguably the failure to include language assistance to LEP people in this report is an example of unconscious bias (that everyone speaks English) and therefore institutional racism.

Summary

This is an excellent report in its global approach to providing a fair chance for all. A group of people that are absent in the report are those who have Limited English Proficiency. The final report should include this group in examples and discussion of these issues.