

2 August 2018

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Education Amendment Bill (No 2)

1. We have considered whether the Education Amendment Bill (No 2) ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 19342/12.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends the Education Act 1989, Education Act 1964, and the Education (Update) Amendment Act 2017, including to:
 - a. ensure the Education Council of Aotearoa makes decisions with proper regard for government policy;
 - b. require, as a new criterion for private schools' registration, that they must provide a physically and emotionally safe place for their students;
 - c. repeal recently enacted provisions for communities of online learning; and
 - d. repeal current cohort entry provisions, and enable schools to adopt a cohort entry policy only for children five years and older.
4. We do not consider that the proposed new criterion requiring private schools to show they have a physically and emotionally safe place for students appears to limit the rights and freedoms contained in the Bill of Rights Act. The provision does not impose, attempt to change or prevent the pursuit of an individual's belief system, and does not prevent activities undertaken by individuals in pursuit of manifesting their religion or belief. We note that this provision should, in practice, be interpreted in a manner consistent with the Bill of Rights Act, including the freedoms of thought, conscience, opinion, religion, and expression.
5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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