

Education (National Education and Learning Priorities) Amendment Bill

Submission from the Office of the Children's Commissioner

13 April 2018

We support the Education (National Education and Learning Priorities) Amendment Bill

The Education (National Education and Learning Priorities) Amendment Bill (the Bill) aims to align the statement of National Education and Learning Priorities more closely with the New Zealand Curriculum and provide an aspirational vision for the future for young New Zealanders. Importantly, it adds a new explicit requirement that children be consulted in forming the statement of National Education and Learning Priorities.

The Office of the Children's Commissioner (OCC) supports this Bill passing into legislation because it enshrines in our law the right for children to have a say on the statement, which is consistent with Article 12 of the United Nations Convention on the Rights of the Child (the Children's Convention). Furthermore, the expectations of what the statement of National Education and Learning Priorities will comprise, more closely aligns with Article 29 of the Children's Convention, which concerns children's educational rights.

Hearing from, and incorporating the views of, children and young people deliver better and more robust decisions. These activities also confirm and develop their capacity to act independently, make their own choices and actively participate as New Zealand citizens. The voices of children and young people, reported in our recent "Education Matters to Me" report series, indicates what children think should be included in a good education system. We hope the voices shared in this submission provide weight to our recommendations about the proposed Bill. The quotes provided in this submission come from "Education Matters to Me" unless otherwise indicated.

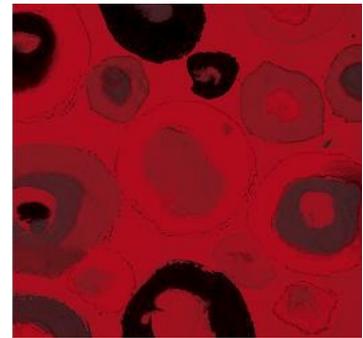
Our reasons for supporting each part of the bill and some suggestions with respect to its detail are addressed below.

Our Child-Centred Analysis of the Bill

We have assessed the potential impact on children of the bill based on our child-centred framework. We have summarised our analyses of the Bill's provisions in response to three key questions:

- Q1. What impact will the Bill have on children?**
- Q2. Will it result in differential impacts for different groups of children?**
- Q3. What do children say about education priorities?**

We have taken our combined analysis of the above three questions and balancing the evidence, particularly what children told us in our recent engagement on education, we respond to each of the provisions of the Bill in order below.



The Office of the Children's Commissioner represents **1.1 million** people in Aotearoa New Zealand under the age of 18, who make up 23 percent of the total population.

We advocate for their interests, ensure their rights are upheld, and help them have a say on issues that affect them.

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1. There is no need to include statements of the diversity of education provision

The Bill proposes to repeal Section 1A(2)(b): “the statement may include statements of the diversity of education provision”. The OCC supports the proposed repeal because that risks creating further inequities in the system.

We encourage more equitable education in New Zealand, noting that currently student outcomes are disproportionately affected by the socioeconomic status of the child and the cohort in the school, when compared with other OECD countries.

From the child’s perspective, key factors for a successful experience in education are: a great teacher; a supportive and involved family, and friends (page 8, “Education Matters to Me” insights report).

Diversity of education provision is unlikely to support equity. It is more important to support the factors that can mitigate the impact of poverty, or inequality, such as: the nature and quality of the teaching and leadership, the resources available in the community to assist children with special learning or social needs, the aspirations of family/whānau, and the learning environment (such as school buildings and grounds). Diversity in education provision is more likely to divert scarce education funding away from supporting these factors in the state education sector.

2. Education should develop children holistically and be equitable

The Bill proposes to replace Section 1A(3)(a) by removing the existing “focus on helping each child and young person to attain educational achievement to the best of his or her potential” and replace it with: “to provide learning experiences that support children and young people to reach their potential, and a system that aims to achieve equitable outcomes for all”.

The OCC supports the overall intent in the proposed amendment to subsection (3)(a). We have one drafting comment to make. We suggest that the phrase, “a system that aims to achieve equitable outcomes for all” is drafted as a separate paragraph, as it is a distinct and important point.

We agree with the broader view that an objective of education is to **develop children to their full potential**. We note the former wording “to attain educational achievement” can be read to mean *academic* achievement, which is too narrow a focus for an education system, particularly when children have told us they have holistic views of what achievement means to them.

Achievement is to me...

“Gaining knowledge about myself, others, and the world around me” (13 year old student)

“Knowing that you are more than capable to achieve the highest of your abilities” (15 year old student)

“Working to the best of my ability and also being confident about [whether] my life is going the right way” (14 year old student)

“Learn how to work” (13 year old student)

“Do well in sports” (14 year old student)

[These quotes are from: [What kids say about education and achievement](#), OCC, November 2016]

Considering that children have a range of views on what ‘achievement’ means to them, we agree that the objectives for the system should be “to provide learning experiences that support children and young people to reach their potential”.

We also support the new provision in Section 1A(3)(a) (which could be drafted as a separate paragraph) that says the objective is “**a system that aims to achieve equitable outcomes for all**”. While this is a system-centred idea, it is a very child-centred provision. It is likely to

differentially benefit the children for whom the system works least well currently. That is, the system will need to cater for all, rather than just the majority of children.

Article 23 of the Children's Convention refers to the rights for children with mental or physical disabilities to enjoy a full and satisfying life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community. Further, Article 1 states no child should experience discrimination for any reason including race or gender.

In our recent engagement with children and young people on the National Education and Learning Priorities, they had this to say about equitable outcomes for all:

"Treat everyone fairly" (Primary school student)

"Special learning for the people who actually need it" (Primary school student)

"Better relationships between teacher, parents and children" (Secondary school student)

"I would make ethnicity equal, no one should be higher or lower than any other. I come from a very diverse school, so I would make everyone feel recognised and that their identity matters. No group is greater but understanding each other's qualities by celebrating their culture. Help those who are failing, praise the high achievers and support the ones that are really struggling. Invest in my teachers so that they teach with passion, that it's not just about teaching but more than that, you change lives." (Secondary school student, Māori)

"What also puts me off are the teachers telling me to give up – saying I am not going to pass level three without even checking my credits. I sense stereotypes in my teacher's eyes and gestures and how they act towards me makes me feel like leaving." (Secondary school student, Samoan)

"I like that in my maths book that there are these things that help me – they use pictures and tell stories." (Primary school student with neurodisability, Pākehā)

Based on the voices of children and young people, we concluded that they have an innate sense of fairness and demand to be treated with respect and equality. Equitable outcomes require more than this – we need to overcome unconscious and structural biases in the system: for example ensuring aspirational expectations for *all* students, and enabling socioeconomically disadvantaged students to participate fully in education.

Having a system that aims for equitable outcomes would ensure greater effort to scale up special provisions for students who need it regardless of wealth or advocacy power of parents (e.g. diagnoses, speech therapy, psychological support, teacher training to overcome unconscious bias, and removal of cost barriers).

"I would completely change the education system to promote mental health, physical health and work health as New Zealand's mental health statistics are appalling." (Secondary school student)

3. Promoting development in each child of certain abilities and attributes

The OCC supports the proposed amendments of Section 1A (3)(b)(i) to (iv). The Bill's wording changes improve the provision of what the education system should develop in each child and young person. The proposed sub-paragraphs, for example for children and young people "to

become life-long learners”, and for their “contribution to building a strong and just New Zealand, socially, culturally, economically and environmentally” recognise that schools have a broader purpose than creating work readiness. Schools should instil a lifelong enjoyment of learning, which supports people to live full and satisfying lives.

Article 29 of the Children’s Convention illustrates components that demonstrate a good education system, including developing each child’s personality, talents and mental and physical abilities to their fullest potential. It provides that each child should learn respect for: human rights, the child’s parents, their cultural identity, the values of the country, other people as well as the natural environment, and prepares the child for responsible life in a free society. The OCC considers the amended sub-paragraphs better reflect Article 29 of the Children’s Convention by providing for children’s participation and contribution in society more broadly (socially, culturally, economically and environmentally).

4. Promoting an inclusive society where all people are valued and participate

The OCC particularly likes the replacement of Section 1A (3)(c)(i) to (iv). We like the new wording “to instil in each child an appreciation of the importance of an inclusive society”, by encouraging people to “value and support others to participate in ways that honour and value diversity”.

This amendment further supports the purpose of the Children’s Convention, to prepare children to live their lives, understanding the ideals of peace, dignity, tolerance, freedom, equality and solidarity (as stated in the preamble to the Children’s Convention). It places the onus on all in society to actively support one another.

We have some recommendations to strengthen these amendments.

We note that the Treaty of Waitangi and Te Tiriti o Waitangi are separate and different documents, and support the general view that Māori did not cede sovereignty through the treaty. We suggest the new provision be drafted to reflect this foundation at sub-paragraph (i). As a separate matter, we also note te reo Māori has an exclusive place in New Zealand culture, whereby responsibility of the survival of the mother-tongue of our tangata whenua lies with current generations of Pākehā, Māori and Tauīwi. We suggest this be separated (from the Treaty), and acknowledged as a very special and official language of Aotearoa.

We recommend the wording below for the replacement of Section 1A (3)(c)(i) to (iv). We hope this still reflects the policy intention of the proposed sub-paragraphs (i) to (iv) and reflects the points noted above. It will also correct repeated wording in (c) and sub-paragraph (i):

(3) The objectives of the system for education and learning that is provided for in the specified Parts 9 that is, early childhood and compulsory education are –

...

(c) to instil in each child and young person an appreciation of the importance of the following:

(i) The Treaty of Waitangi and Te Tiriti o Waitangi; and

(ii) An inclusive society where all people are valued and are supported to participate in ways that honour and value diversity; and

(iii) cultural knowledge, identity and the different official languages, especially te reo Māori.

5. Consultation must include children

We strongly support the insertion of subsection (4A), which stipulates that children must be consulted (alongside national representatives of other groups of people involved in education) before a Minister makes a statement of National Education and Learning Priorities. This amendment strengthens transparency and democracy, and including children in the list

supports Article 12 of the Children’s Convention, which provides that children have the right to express their views on matters that affect them, and that their views should be given due weight.

The value of this insertion is also borne out by our recent engagements with children and young people on their education, reported in “Education Matters to Me.” The strength, insightfulness and enthusiasm of their contributions demonstrate conclusively that engaging with children on their education and learning priorities needs to be enshrined in law.

We note that representative organisations of well-networked parents can provide useful information about diverse experiences of the education system, e.g. by children with disabilities. It is also very important to consult national representative organisations of those who will be involved in implementation of the statement of National Education and Learning Priorities (teachers, principals, school boards and early childhood services).

6. Defining any minor changes the Minister may make without consulting

We support the insertion of subsection (5A) to define minor changes that do not require consultation, because it further protects the democratic process and strengthens the assurance of public consultation on material changes to any statement of National Education and Learning Priorities that is in force.

We propose the insertion of a provision whereby the intention to make minor changes is notified on an internet site maintained by the Ministry of Education. Were the Committee to agree to this proposal, officials would need to advise on the appropriate timeframe for such notifications. The notification process would help to build a sense of trust and transparency in the education sector.

7. Making a statement of National Education and Learning Priorities a legislative instrument and a disallowable instrument

The OCC supports the proposed amendment to section 1A(6), which is intended to make the statement a legislative instrument and a disallowable instrument within the meaning of the Legislation Act 2012. We consider that this supports transparency and full consultation. Given that the National Education and Learning Priorities are intended to influence the direction of New Zealand children’s education, they are too important not to be scrutinised by the House of Representatives.

8. Conclusion

We understand the intent of this Bill is to ensure that when a Minister makes a statement of National Education and Learning Priorities there is full and democratic consultation and the resulting education priorities comprise what is needed to deliver aspirational educational goals for all children in New Zealand.

We believe the statement of National Education and Learning Priorities can be a strong lever to ensure the whole public education system will support all students to reach their potential. Six key insights emerged from the voices of children and young people in “Education Matters to Me”, which we hope the statement of National Education and Learning Priorities will address. The six key insights are explained fully in the Key Insights report and are, briefly:

1. Understand me in my whole world
2. People at school are racist towards me
3. Relationships mean everything to me
4. Teach me the way I learn best
5. I need to be comfortable before I can learn
6. It’s my life - let me have a say

The diverse nature, and distributed governance, of schools across New Zealand can sometimes be a barrier to consistent education provision. We support the National Education and Learning

Priorities as a route by which New Zealanders can be assured schools are aligning their education provision with priorities set by the central government for all children. We support the intention to create a more equitable system, that supports children to develop to their full potential, and that ensures children and young people have a say in the statement of National Education and Learning Priorities.

"I would make kohanga last all day."

[translated] (4 year old in kohanga reo, Māori)

"I love playing on the monkey bars, puzzles, reading, drawing circles, reading books, drawing, drawing houses; I love everything, I love it all; I am going to smile all my days and all my weeks."

(Child in early childhood education, NZ European)