New Zealand Law Society
Te Kāhui Ture o Aotearoa

Education and Training Amendment Bill (No 2)

Submission of the New Zealand Law Society Te Kāhui Ture o Aotearoa

11 June 2025

1 Introduction

1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Education and Training Amendment Bill (No 2) (**Bill**), which seeks to amend the Education and Training Act 2020 (**ET Act**).[1]

1.2 This submission has been prepared with input from the Law Society's Human Rights and Privacy Committee and Public Law Committee.[2] It addresses:

(a) Tertiary institutions' responsibilities in relation to freedom of expression; and

(b) Three matters in the Bill affecting schools, namely:

(i) the objectives of school boards;

(ii) attendance management plans; and

(iii) Teaching Council disciplinary and competence processes.

1.3 The Law Society **wishes to be heard** on this submission.

2 Proposed new freedom of expression requirements for tertiary institutions

General comments

2.1 In clauses 11–13 of the Bill, proposed new sections 281A, 281B and 306(4)(h) would require university councils to:

(a) develop and adopt a statement on the university's approach to freedom of expression;

(b) establish and maintain a complaints procedure relating to academic freedom and freedom of expression; and

(c) report annually on the nature and number of such complaints.

2.2 The Law Society agrees with the view of the Ministry of Education in the Regulatory Impact Statement (**RIS**) that there is no compelling case for these new requirements.[3] There is limited evidence that freedom of expression issues are arising in the university sector, and none suggesting they are unable to be resolved in the absence of the proposed requirement. In the RIS, describing the status quo option of placing no further legislative requirements on universities to set a freedom of speech statement or policy, the Ministry states:[4]

> It is expected that universities will continue to consider issues of freedom of speech of their own volition and uphold their statutory responsibilities to protect academic freedom, and most universities will produce some kind of variation on a freedom of speech statement or policy. The right to freedom of expression is

1 Explanatory Note of the Bill.

2 For more information about these committees, see the Law Society's website: https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/.

3 Ministry of Education *Regulatory Impact Statement: Strengthening Freedom of Speech in New Zealand's Universities* (2 December 2024).

4 At [44]–[50].

> robustly protected in New Zealand under the [New Zealand Bill of Rights Act 1990] and the [Human Rights Act 1993].
>
> …
>
> Ultimately, we do not see a clear case for legislative change to strengthen protections upon freedom of speech, given the limited availability of robust evidence on this issue and our uncertainty regarding risks and unintended consequences in this space.

2.3 Universities are autonomous institutions within the Act and ought properly to be left to perform their functions according to law. Relevantly, that law includes section 14 of the New Zealand Bill of Rights Act 1990 (**Bill of Rights Act**), being the right to freedom of expression. Government must observe section 14 when enacting legislation that affects universities, and universities, too, must observe it when exercising their statutory powers. Relevant law also includes section 267 of the ET Act, in which Parliament expressed its intention that that Act be read consistently with academic freedom.

2.4 A statement on freedom of expression, containing the features in proposed section 281A(2), would at best simply affirm what is already accepted to be the case under existing legislation. But it may also introduce needless complexity when it comes to working out the interaction between councils' statements on freedom of expression, and the overriding requirements of freedom of expression and academic freedom.

2.5 Nor is there a demonstrated need for a statutory complaints procedure with annual reporting. Such requirements would also be incongruous when regard is had to the structure of the Crown Entities Act 2004, and the carefully defined scope of tertiary institutions' reporting requirements in that Act (which relate to financial management).

2.6 If, contrary to this submission, there were to be legislation on this matter, then it should be limited to a statutory requirement that universities must have policies on freedom of expression and academic freedom. Proposed section 281A(2) should not be enacted, and there should not be both a policy and a statement.

2.7 These submissions are developed more fully below, beginning with background as to the present legal position.

Academic freedom

2.8 The ET Act recognises "academic freedom" in section 267. The predecessor to that section was inserted into the Education Act 1989 in 1990, as section 161. Reforms had been made to university governance through the 1989 Act, and section 161 was designed to affirm to the university sector that the reforms of 1989 were not intended to come at the cost of academic freedom. A definition of academic freedom was included.

2.9 Section 161 became section 267 in the ET Act, and now reads (after minor amendment in 2020):

> It is the intention of Parliament in enacting the provisions of this Act relating to universities and wānanga that academic freedom and the autonomy of those institutions are preserved and enhanced.

2.10 Importantly, section 267 recognises that academic freedom exists in the nature of tertiary institutions. Parliament did not create academic freedom. The point of the section was to record Parliament's affirmation that it did not intend to restrict that freedom; it sought only to preserve and enhance it.

The Bill of Rights Act

2.11 The Bill of Rights Act was enacted later that year. It affirmed rights for all, not just those in universities. Relevantly, these included the rights to freedom of thought, conscience, religion and belief (in section 13) and freedom of expression (in section 14). By section 3(a) these rights can be invoked against the legislative, executive and judicial branches of government, and by section 3(b), against persons or bodies when they are performing a "public function" that is "conferred or imposed ... by or pursuant to law".

2.12 When Parliament legislates, it is required to respect the relevant rights of universities, including freedom of expression. Universities themselves wield statutory powers relating to the award of degrees and attendant matters of discipline, and are bound by section 3(b) to observe the Bill of Rights Act when performing these "public functions". (It is less clear that university staff employment is an act in performance of a public function. But even so, given the nature of academic freedom that is affirmed in the ET Act, universities need to — and do in fact — recognise the freedom of expression that is a component of academic freedom.)

2.13 Against that background, the fundamental point is that freedom of expression is intrinsically a matter of central importance to universities. The fact that each university either has or is in the process of developing a freedom of expression policy reflects that.[5]

There is no need for these proposed amendments

2.14 The key question is whether anything is gained by the proposed reform which would impose legal *obligations* on councils as to the three matters in proposed sections 281A, 281B and 306(4)(h) (that is, to adopt a statement, a complaints procedure, and report annually on complaints).

2.15 The *Legislation Guidelines*, which have been endorsed by Cabinet, counsel against unnecessary legislation. They ask (underlining added for emphasis):[6]

> **Is legislation the most appropriate way to achieve the policy objective?**
>
> *Legislation should only be made when it is necessary and is the most appropriate means of achieving the policy objective.*
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> Unnecessary legislation should be avoided because it involves significant costs.[7]
>
> Those costs take various forms, including:
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> - the costs of enacting the legislation itself, including its preparation (drafting, consulting, and reviewing); the process through the House (including House

5 RIS at 6.
6 Legislation Design and Advisory Committee *Legislation Guidelines* (2021 ed, September 2021) at ch 2.3.
7 Cabinet Office *Cabinet Manual 2017* at 7.23.

sitting time and the costs of the select committee process); and the publication of the legislation;

- the costs of complying with the legislation (including learning about it and adjusting processes); and
- the costs in administering, implementing, and enforcing it.

There is also a range of indirect costs of legislation. For example, new legislation can add size and complexity to the statute book resulting in costs to accessibility. It can also make the policy inflexible because amendments when circumstances change will require new legislation.

These costs should be considered in every proposal for legislation to ensure that the benefit of a legislative solution outweighs the costs. Particular caution should be taken when:

- the policy can be implemented equally well by non-legislative means;
- obligations are proposed without consequences or an intention that they will be enforced;
- obligations already in the common law or other statutes are proposed to be included in new legislation for an educative purpose; or
- legislation will provide a power to do something that can be achieved without legislation, for example providing a power for the Crown to acquire shares.

2.16 The proposed changes here particularly implicate the third "educative purpose" bullet point immediately above. The proposed requirements are not truly legislative at all or, if so, are legislative only in the trivial sense that the law if enacted would require a statement from councils. But the substance of the statement itself would be, and in the end *must* be, consistent with the requirements of section 14 of the Bill of Rights Act and section 267 of the ET Act (that is, the existing law).[8] The proposed features of the required statement in new section 281A(2) support this point.

The proposed features of statements required under new section 281A(2)

2.17 We make the following additional comments about the proposed features of statements that would be required under new section 281A(2):

Subsection (a): "universities should recognise that freedom of expression is critical to maintaining academic freedom"

2.18 This is unnecessary. It was Parliament that affirmed academic freedom in 1990, for the reassurance of universities. Universities themselves need no reminder of what their mission is, and what is in the ET Act.

8 We note the Regulatory Standards Bill 2025 (155-1) would, if enacted, impose the same strictures via clause 8(i) to (k).

Subsection (b): "universities should actively foster an environment where ideas can be challenged, controversial issues can be discussed, and diverse opinions can be expressed, in a respectful manner consistent with any statute made by the university"

2.19 This is effectively to say that universities should perform their mission, while noting that this may require rational and proportionate limits imposed by a university statute. That can be read as an allusion, and a legitimate one, to section 5 of the Bill of Rights Act and the idea of "reasonable limits" on rights. It is also, however, possible to read it as an *invitation* to limit expression by passing university statutes — and hence counter to the expectation underlying the proposed changes — although the courts would assuredly read subsection (b) to contemplate only such statutes as are consistent with the Bill of Rights Act.

2.20 Ultimately there is no new law in subsection (b), and so a statement to this effect is unnecessary. The effective definition of a university in section 268(2)(d) of the ET Act already recognises that universities have all the following characteristics:

(a) they are primarily concerned with more advanced learning, the principal aim being to develop intellectual independence;

(b) their research and teaching are closely interdependent and most of their teaching is done by people who are active in advancing knowledge;

(c) they meet international standards of research and teaching;

(d) they are a repository of knowledge and expertise;

(e) they accept a role as critic and conscience of society; and

(f) they have a wide diversity of teaching and research, especially at a higher level, that maintains, advances, disseminates, and assists the application of knowledge, develops intellectual independence, and promotes community learning.

Subsection (c): "universities policies and procedures relating to freedom of expression should be clear, consistently applied, and focused on fostering genuine debate rather than restricting it"

2.21 This proposed feature is laudable, and universities can be expected to seek this in their policies. However, in the legislative materials for this Bill, it is not contended they are *not* already doing this. We also note it is unusual for legislation to impose such obvious requirements: the last phrases of this subsection essentially describe what *unreasonable* limits on freedom of expression would look like. This is the sort of legislative statement that is, in principle, unnecessary.

Subsection (d): "universities should not take positions on matters that do not directly concern their role or functions"

2.22 There are important definitional questions here as to what a *university* is, and what a *position* is. For example, the University of Auckland, which is constituted by The University of Auckland Act 1961, provides in section 3(2):

> The University shall consist of the Council, the professors emeriti, the professors, lecturers, junior lecturers, Registrar, and librarian of the University for the time being in office, the graduates and undergraduates of the University, the graduates of the University of New Zealand whose names are for the time being on the register of the Court of Convocation of the University of Auckland, and such other persons and classes of persons as the Council may from time to time determine.

2.23 It is not clear how a body so comprised takes a "position". On the other hand, what is clear is that under section 268(2)(d) of the ET Act, a university will engage in:

(a) teaching through its academic staff (supported by professional staff), operating within degree structures ultimately prescribed by councils; and

(b) research disseminated by employed academic staff and enrolled students by way of publications.

2.24 The content of courses will reflect academic choices, which in turn reflect needs as adjudged by faculties and ultimately legislated for by councils in university statutes. In addition, the councils have specific statutory duties, including acknowledging the principles of the Treaty of Waitangi and ensuring the greatest possible participation so as to maximise the educational potential of the communities they serve. These are the ways in which a university acts.

2.25 In all of this, it is hard to know what taking a "position on matters that do not directly concern their role and functions" is intended to mean in relation to universities. If a council were to resolve that the university held a view on a matter that was completely unrelated to its function, that would be unusual, to say the least. And if a vice-chancellor or indeed any employee expressed a view on a matter, it is unclear if it would be taken as that of the university unless adopted as such by its council.

2.26 There does not seem, in fact, to be a history of university councils 'taking positions' unrelated to university functions. None is suggested in the RIS. If there were such a history, and if it were demonstrably problematic such that it rose to a level where remedial legislation was required, then a much clearer way of doing so would be called for than is proposed here.

2.27 Subsection (d) also poses potential conflict with the freedom of expression guaranteed to all, and with the academic freedom required to be honoured in universities (which embrace the entire university community, as set out in the statutory definitions of each university). But because the actual intended reach of the proposal in subsection (d) is so unclear, and because the proposal is not tethered to any statement as to why it is required, it is difficult to say much about subsection (d) other than its lack of precision and potential for unintended consequences.

2.28 The Law Society also notes that the Ministry of Justice's Bill of Rights Act advice concludes that subsection (d) is not a *complete* prohibition on the university's taking of positions, and the subsection is saved from inconsistency with section 14 of the Bill of Rights Act for this reason.[9] The Ministry's point is that a university *itself* has freedom of

[9] Ministry of Justice *Consistency with the New Zealand Bill of Rights Act 1990: Education and Training Amendment Bill (No 2)* (20 March 2025) at [20]–[21].

expression under the Bill of Rights Act, and that this might be unreasonably limited by a blanket requirement that no "position" ever be taken.[10] The Ministry points to the fact that the phrase "should not take positions" leaves room for *actually* taking positions in those cases where reading the phrase otherwise would unjustifiably limit a university's freedom of expression.[11]

2.29 Nevertheless, in the Law Society's view proposed subsection (d) ought to be excised — even if, despite their superfluity, the balance of the section 281A(2) features were retained.

Subsection (e): "universities should not limit the freedom of expression of staff or students, except where the exercise of free expression is likely to be unlawful or to disrupt the ordinary activities of the university"

2.30 This subsection reflects existing requirements of the law and is for that reason redundant. The policy itself can make this point. There does not need to be a requirement for a statement *about* the policy.

2.31 One obvious potential consequence, presumably unintended, is that the phrase "disrupt the ordinary activities of the university" may be taken to affirmatively *authorise* expression-limiting actions premised on disruption, when it might otherwise have been said that a measure of disruption in relation to an event ought to be tolerated (or dealt with in other ways than restricting expression). For this reason, paragraph (e) with its new statutory concepts such as "disruption" and "ordinary activities" adds complication and expense to cases in which the Bill of Rights Act is invoked.

Subsections (f) and (g): "universities should seek to uphold their role as critic and conscience of society by providing a platform for invited speakers of diverse viewpoints", and "universities should not deny the use for university premises by an invited speaker because of that speaker's ideas or opinions"

2.32 These are reminders that one particular way in which the critic and conscience role may be discharged, and freedom of expression furthered, is through issuing invitations to speakers (and not cancelling them). Again, these propositions need no law requiring there be a council statement about them. While contested cases about cancelling speakers' events may have occurred,[12] the principles by which they must be resolved are clear enough without the need for such a statement, and the courts are equipped to do so.[13]

2.33 Further, as phrased, these two proposed features of a required statement could be read as absolute requirements, and not subject to the qualifications implied in subsections (b) and (e) (that is, that rights may be limited consistently with any university statute and where expression is unlawful or disruptive of ordinary activities).

10 At [20].
11 At [20].
12 RIS at 8.
13 See for example *Moncrief-Spittle v Regional Facilities Auckland Ltd* [2022] NZSC 138, [2022] 1 NZLR 459. It is relevant to note that the event triggering this high-profile case, involving cancellation of a venue hire agreement by Regional Facilities Auckland (which had been booked to host speakers Lauren Southern and Stefan Molyneux), was not university-hosted.

If there is to be an amendment

2.34 Recognising the Coalition Agreement commitment to some such law,[14] the Law Society is of the view that the appropriate law would be one requiring university councils to have academic freedom and freedom of expression *policies,* but not seeking to prescribe their content (given that existing law already speaks to this). The issues surrounding freedom of expression should be left to councils to navigate in their own way, within the bounds of the law. This would remove our concerns about duplicating the existing imperatives for freedom of expression and academic freedom. It would also remove the potential for a possibly complex interplay between the required features of a statement (if they were to be imposed) on the one hand, and section 5 of the Bill of Rights Act on the other.

2.35 For an example of that potential complexity, which can be avoided if section 281A(2) is not enacted, the stipulation in subsection (e) might be read as either a lower or higher threshold for speech restrictions than the one set out in section 5 of the Bill of Rights Act. Either way, this makes for complexity in understanding and arguing about how the law relates to the statements proposed in the Bill.

2.36 Simply requiring policies (if they do not already exist) removes needless complexity. The relevant standard, ultimately, is the Bill of Rights Act.

Conclusion

2.37 The principles of good legislation ought to remain constant. As relevant here, these principles counsel against legislation that:

(a) has not been shown to be necessary;

(b) may generate needless complexity and unintended consequences; and

(c) appears to have been conceived for an "educative purpose".[15]

2.38 The Law Society recommends that:

(a) proposed section 281A(2) is not enacted; and

(b) if there is legislation on this matter, it is confined (as above) to a statutory requirement that universities must have policies.

3 Clause 8: objectives of school boards

3.1 Clause 8 of the Bill proposes to replace section 127 of the ET Act. It amends school boards' objectives to introduce a "paramount objective" of ensuring that every student attains their highest possible standard in educational achievement. This is a change from the present requirement that boards meet four equal "primary" objectives: achievement, safety, inclusion, and giving effect to Te Tiriti o Waitangi.[16] Under the proposed clause 8, the previous list of things that the school was to do to "meet the primary objectives" in subsection (2) have also been combined with safety, inclusion, and giving effect to Te Tiriti o Waitangi as "supporting objectives".

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14 *Coalition Agreement between the National Party and the ACT Party: 54th Parliament* at 8.
15 Above n 6 at 16.
16 Education and Training Act 2020, s 127.

Subordination of "supporting objectives" to the paramount objective and uncertainty about how supporting and paramount objectives interrelate

3.2 New section 127(3) proposes definitions for the terms "paramount objective" and "supporting objectives":

> **paramount objective** means the highest-priority objective
>
> **supporting objective** means an objective that is essential and supports the paramount objective

3.3 The legislation presumes that the supporting objectives will lead to the paramount objective and, by implication, that the purpose of the supporting objectives is higher educational achievement for students.

3.4 This connection makes sense in relation to proposed subs (2)(b), being:

> to ensure that the school uses good quality assessment and aromatawai information to monitor and evaluate students' progress and achievement, including any assessment or aromatawai specified in a foundation curriculum policy statement.

3.5 However, in the Law Society's view, other "supporting" objectives (that is, the original primary objectives) have independent merit, in particular subsections (2)(c), (2)(d) and (2)(e). They are better seen as objectives in their own right, rather than only supporting the goal of educational achievement. For example, giving effect to Te Tiriti o Waitangi has an independent benefit for students of Aotearoa New Zealand schools, not necessarily measured in or confined to educational "achievement". Similarly, providing an environment that is "inclusive" also has benefits that may — but will not necessarily — lead to higher academic results overall. Given the different benefits of these objectives that are not measured in numerical terms, the Law Society would regard it as more logical that they remain as independent rather than "supporting" objectives.

3.6 Related to the above point, the way the paramount and supporting objectives interrelate is unclear. The legislation appears to presume that the paramount and supporting objectives can all be met and that the supporting objectives will lead to the paramount objective. However, given the elevation of educational achievement as "paramount", it appears a policy decision has been made to subordinate the supporting objectives to this paramount objective.

3.7 There is a tension between these propositions. Because the "supporting objectives" are also classified as "essential", it is unclear how the section will operate in practice where supporting objectives may not lead to the paramount objective. For example, particularly in a small school, catering for students with differing needs may not support the highest academic achievement possible of all students in a class, although there are other benefits to inclusion in this way. This tension arises from a presumption that the "supporting objectives" will lead to higher academic achievement for all students (see above). However, there may be circumstances where that is not the case, although "supporting objectives" may have other benefits that do not directly correlate to higher marked grades. This is a confusing position for school boards.

3.8 Other legislation does refer to "paramount" considerations or objectives: for example, section 4 of the Care of Children Act 2004 (child's welfare and best interests the first and

paramount consideration); section 6 of the Corrections Act 2004 (maintenance of public safety is the paramount consideration); and sections 18, 36, 97A and 98A of the Protection of Personal and Property Rights Act 1998 (**PPPRA**). The Law Society is not aware of any other example of legislation which also has "supporting objectives" that are defined as "essential and supports the paramount objective" and are also provided for in mandatory terms. Section 18(4) of the PPPRA provides a list of things the welfare guardian "shall" do, without limiting the generality of the paramount consideration in section 18(3). These things are limited by applying "to the greatest extent possible", or "so far as may be practicable". Similarly, section 6 of the Corrections Act provides either that matters other than the paramount consideration must be "considered in decisions" or apply insofar as practicable.

3.9 In the Law Society's view, the legislation should either:

(a) provide that the original "primary objectives" carry equal weight, as originally provided for in the Act (noted above as the preferred option); or

(b) if the policy decision is that the supporting objectives be subordinate to the paramount objective, squarely confront this in the legislation so that the section is workable. This could be done by a combination of:

(i) introducing qualifiers such as "insofar as practicable" into some of the matters in subs (2), like section 18 of the PPPRA or section 6 of the Corrections Act;[17]

(ii) making some of the matters mandatory relevant considerations (for example, that the Board shall "have regard to" or "shall consider"); and/or

(iii) for some of the subs (2) matters, stating that they apply "to the extent that objective is not inconsistent with the primary objective".

Mixing aspirational and functional requirements

3.10 Proposed new section 127 combines "objectives" (in other words, working towards a goal) and obligations (in other words, compliance with existing laws). This is a change from existing section 127. It is not clear from the RIS or DDS why these matters have been combined.

3.11 In the Law Society's view, it is preferable to retain a separation between the "objectives", and what boards must do to give effect to the objectives, as per the existing legislation. This would be more navigable for school boards and accord more naturally with the meaning of an "objective". For example, giving effect to legal obligations is something a school board must do in meeting objectives but is not properly classified as an "objective" in its own right. Reconsidering the drafting approach would be desirable, to ensure this distinction is preserved.

17 Not all matters will be suitable for qualifiers in this way — for example, the obligation that the school comply with its obligations under legislation, or under a community learning agreement (proposed subs (2)(h) and (i)).

Reference to section 36(2) not required

3.12 Proposed section 127(2)(a) raises a further small drafting matter. This paragraph, stating the first "supporting objective", refers expressly to section 36(2). In the Law Society's view, doing so is not necessary given the existing obligation in the section that boards comply with obligations in the Act and other legislation. The Law Society recommends removing the section 36(2) reference from proposed section 127(2)(a).

4 Clause 9: attendance management plans

4.1 Proposed section 137A(2)(b) envisages prescriptive requirements in new regulations (as yet undrafted) as to the contents of attendance management plans. Proposed section 638(2)(g) provides that regulations may prescribe the "required content of attendance management plans". It is difficult to comment on whether the regulations are appropriate without seeing them; however, there are grounds for concern that if requirements for attendance management plans are too prescriptive, this would limit schools' ability to respond to their own circumstances, and broaden the scope of how section 638 is used. Existing regulations under that section all set relatively broad and consistent frameworks rather than detailing how a school manages its daily operations.[18]

5 Clause 26: Teaching Council disciplinary and competence processes

5.1 Proposed regulations (clause 26, amending Schedule 3) allow the Teaching Council to annotate the register following:

(a) a voluntary deregistration under clause 7 of Schedule 3;[19]

(b) a conviction of a teacher in the circumstances described in proposed clause 8(5);[20] or

(c) an agreement between a teacher and the Teaching Council (due to a report or complaint that is about or involves the teacher's possible serious misconduct) that the teacher will not teach until the agreement is ended.[21]

5.2 In the Law Society's view, for several reasons, these changes are not desirable:

(a) Annotating the register with an agreement between a teacher and the Teaching Council (due to a report or complaint that is about or involves the teacher's possible serious misconduct) that the teacher will not teach until the agreement is ended curtails natural justice. There are also parallels with the right to be presumed innocent in a criminal context. Although the Schedule allows correction of the annotation as soon as possible once the matter is resolved, this may not occur due to administrative issues or human error. More fundamentally, if there is no issue as to serious misconduct, a teacher should not be prejudiced while that process is underway.

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18 Education (School Boards) Regulations 2020; Education (When State Schools Must Be Open) Regulations 2022; Education (When State Schools Must Be Open and Closed) Regulations 2024; Education (School Attendance) Regulations 2024.

19 Clause 26(2), amending clause 8(3) of Schedule 3 by inserting new para (e).

20 Clause 26(2) and (3), inserting new clauses 8(3)(f) and 8(5).

21 Clause 26(2), amending clause 8(3) of Schedule 3 by inserting new para (g).

(b) As to clause 26(5) (conviction under the Children's Act 2014), that Act already contains provision for the protection of children. The publication of a conviction on the register is a blunt tool that cuts across both existing processes in that legislation, and fitness to teach criteria in the ET Act.

(c) It is unclear why voluntary deregistration under the existing clause 7 of Schedule 3 is relevant or needs to be publicly recorded.

5.3 The Law Society recommends removing proposed new paras (e), (f) and (g) from clause 26(2).

6 Summary of recommendations

6.1 If the Bill proceeds, the Law Society recommends it should be amended by:

(a) Deleting proposed section 281A(2);

(b) Confining legislation (if any) on the issues addressed by that proposed section to a statutory requirement that universities must have policies;

(c) Amending clause 8 (if retained) so that it is workable, for example by:

(i) introducing qualifiers such as "insofar as practicable" into some of the matters in subs (2), like section 18 of the PPPRA or section 6 of the Corrections Act; and/or

(ii) making some of the matters mandatory relevant considerations (for example, that the Board shall "have regard to" or "shall consider"); and/or

(iii) for some of the subs (2) matters, stating that they apply "to the extent that objective is not inconsistent with the primary objective";

(d) Reverting to differentiating clearly in section 127 between "objectives" and "obligations";

(e) Deleting from proposed section 127(2)(a) the reference to section 36(2);

(f) Deleting proposed new paras (e), (f) and (g) from clause 26(2), and consequentially revising any other parts of the clause as required.

Nāku noa, nā

David Campbell
Vice-President