

Submission on proposal to strengthen the right to education

About the Teaching Council

The Teaching Council is the independent professional body for registered teachers from early childhood education through to primary and secondary schooling in English and Māori medium. There are currently around 136,000 registered teachers in New Zealand. The statutory purpose of the Council, set out in section 377 of the Education Act 1989 (the Act), is “to ensure safe and high-quality leadership, teaching and learning ... through raising the status of the profession”.

The Council acts in the interests of registered teachers to:

- enable and support leadership to teachers and direction for the profession
- establish and maintain criteria for teacher registration, standards for ongoing practice and criteria for the issue of practising certificates
- monitor and maintain the requirements relating to teacher conduct, competence and impairment
- establish and maintain the Code of Professional Responsibility for teachers.

Support for strengthening the right to education

New Zealand has ratified numerous treaties which recognise the right to education, including the International Covenant on Economic, Social and Cultural Rights (see article 13) and the Convention on the Rights of the Child (see article 28). These treaties place legally binding international obligations on New Zealand in relation to the right to education.

The right to education is also recognised in the iconic Universal Declaration of Human Rights (see article 26) which New Zealand helped to draft immediately following the Second World War.

In this context, the Teaching Council (the Council) strongly supports the Government’s commitment to strengthen the basic human right to access quality education in Aotearoa New Zealand.

Confirming these rights in legislation is important, but not enough. In our view, it is important that all New Zealanders understand what their rights are, how they can access those rights and what they can do when their rights are not being met. For most New Zealanders, the legislation itself will not achieve this.

We believe that the Teaching Council’s *Code of Professional Responsibility and Standards for the Teaching Profession* support this basic human right by supporting learners and their whānau to know about what they can expect in terms of quality teaching and learning.



Potential for proposed approach to narrow the consultation on rights

For the Government to meet its obligations and commitments, it needs to align legislation, policy, practice and resourcing so that it is well placed to deliver on them. The Council is concerned that the Ministry of Education is starting consultation with a proposed legislative solution in mind that addresses one element of the right to education and therefore the basis of consultation will be limited to specific proposed changes.

The human right to education is a right in itself, and a vehicle for realising other human rights. The core elements of the right to education include (as specified in international treaties):

- entitlement to free and compulsory primary education
- availability of different forms of secondary education
- access to higher education on non-discriminatory terms
- education directed to develop individuals to their fullest potential and to prepare them for responsible life in a free society, including development of respect for others and for human rights
- availability of accessible educational and vocational information
- measures developed by the State to ensure full participation in education
- availability of some form of basic education for those who may not have received or completed primary education
- protection and improvement of conditions for teachers
- respect for the right of parents/legal guardians to choose schools other than those established and funded by the State, and to ensure that the religious and moral education of their children conforms to their own convictions
- respect for academic freedom and institutional autonomy, including the freedom to express opinions about a workplace institution or system, fulfil functions without discrimination or fear of sanction, and participate in professional or representative academic bodies.

The current proposal to consider legislating the right to attendance has merit. However, there is also a need to consider how all the other elements are given effect. As the professional body for teachers the Council is particularly interested in how rights for the protection and improvement of conditions for teachers might be explicitly addressed, and how the right to education might be extended in New Zealand to incorporate elements of Early Childhood Education. The right to education should also be considered within the broader framing of human rights, including for example the rights of disabled people, the rights of the child and civil, political, economic, social and cultural rights, as set out in the Universal Declaration of Human Rights and other important international human rights instruments (see page 1).

Alternative approach

The Council is also concerned that the timing of the consultation preempts the final report recommendations from the Universal Periodic Review, due to be adopted this month by the United Nations Human Rights Council.



In addition, many of the elements of the right to education have implicitly arisen in the Government's Education Conversation and various consultations related to the Education Work Programme. The Education Conversation has shown that in practice our education system is not yet delivering the rights to all children and young people.

We propose that a "human rights lens" is considered across the Education Work Programme and an action plan specific to the human right to education is developed as an integrated part of the work programme.

Further, we suggest that attention is given to how the Government's commitments to Te Tiriti o Waitangi across the Education Work Programme will be realised and how they relate to commitments on human rights. We welcome the Government's intention to develop an action plan to give effect to the UN Declaration on the Rights of Indigenous Peoples. In our joint submission with Te Akatea to the United Nations, we proposed the action plan include:

- Explicit acknowledgement of the fact that racism is a societal problem and a reality for our tangata whenua, with corresponding actions for change.
- Recognition of Te Tiriti as our founding document and actions to ensure Māori are full partners in decision-making, and not just advisers.
- Acknowledgement of whānau, hapū and iwi as a critical part of our system and actions to realise this within our national systems and services

Our proposed approach would enable visible alignment between proposed legislative changes, proposed policy changes and implementation planning.

