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Social Services and Community Select Committee
Parliament Buildings
Wellington

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Matatū. Tū Mataora.
Stand tall. Shape the future.

Responding to Abuse in Care Legislation Amendment Bill

Introduction

1. About Matatū Aotearoa | Teaching Council of New Zealand

Matatū Aotearoa | Teaching Council of New Zealand (the Council) is the independent professional body for teachers | kaiako from early childhood education through to primary and secondary schooling in English and Māori medium and settings of other languages. The statutory purpose of the Council is “to ensure safe and high-quality leadership, teaching and learning ... through raising the status of the profession”¹.

The Council’s role is to create and uphold the standards of conduct and competence of the teaching profession. Teachers include registered teachers in early childhood education services and schools | kura, as well as holders of limited authorities to teach (LATs) which give schools | kura the flexibility to employ people with specific technical skills into teaching roles.

The Council has statutory obligations to (among other things):

- establish and maintain:
 - criteria for teacher registration
 - standards for ongoing practice and criteria for the issue of practising certificates
 - a code of conduct for teachers
- monitor and enforce the requirements related to mandatory reporting of conduct and competence matters
- set criteria for the reporting of serious misconduct
- perform disciplinary functions related to teacher misconduct and convictions
- co-ordinate a system providing for the vetting by the Police of all teachers.

As of 2 December 2024, there were over 112,600 teachers with current practicing certificates and just over 2,600 people with a Limited Authority to Teach (LAT). In the financial year 2023/24, over 6,000 applications were processed to register new teachers.

2. Process

The Council acknowledges this submission will become public information.

3. Oral submission

The Council does not wish to speak to this submission.

¹ s478 of the Education and Training Act 2020.

General comment on the Amendment Bill

We **support** the proposed changes to the Children's Act 2014 that:

- extend existing workforce restrictions on core children's workers - including teachers | kaiako - to include convictions for overseas offences equivalent to specified New Zealand offences, and
- include offences against children and young people under the Prostitution Reform Act 2003 in the list of specified offences.

These changes align with our legislated responsibility to ensure that teachers | kaiako undergo Police vets as part of their registration and ongoing certification requirements. We also have responsibility for undertaking Police vets when authorising a person to hold a Limited Authority to Teach (LAT).

Our current Police vetting process already requires the provision of overseas Police vets obtained from the national police service of the issuing country, for any country that an applicant has lived in for 12 months or more in the 10 years before they make an application to the Council to teach in New Zealand. All offences listed in an overseas Police vet are reviewed to assess if the applicant poses a risk to the safety of learners.

Infrequently, in some cases an applicant may come from a jurisdiction where it is not practically possible to get a Police clearance certificate, for example someone may have refugee status. In these situations our policies allow us to consider a statutory declaration instead.

We **recommend** some consequential changes are made to Schedule 3 of the Education and Training Act 2020 to provide consistency of wording across legislation and to provide clarity about equivalent specified offences committed overseas in relation to teachers.

The appendix provides comment on the proposed amendments in the Bill and recommends further consequential changes to the Education and Training Act 2020.

Comment on potential future legislative changes

The Teaching Council continues to grow its body of investigative experience and decision-making relating to historical cases of abuse. As we work through such cases it is possible we may identify gaps in the current legislation that do not provide the level of confidence sought to allow us to have alleged offenders investigated and/or subjected to appropriate sanctions. We are alert to these possibilities and will, as necessary, seek legislative change to provide the desired level of confidence.

Appendix: Matatū Aotearoa | Teaching Council New Zealand clause-by-clause comments on the Responding to Abuse in Care Legislation Amendment Bill

<p>Proposed amendment</p> <p>(Bill proposed changes shown in red text)</p> <p>(Teaching Council recommended changes shown in blue text)</p>	<p>Comment</p>
<p>Children’s Act 2014</p> <p>Clause 4 - replaces section 28(1) to (3)</p> <p>28 Core worker convicted of specified offence not to be employed or engaged</p> <p>(1) This section applies to a person who—</p> <p>(a) has been convicted of a specified offence; and</p> <p>(b) does not hold an exemption granted under section 35.</p> <p>(2) On and after the date on which this Part comes into force, a specified organisation must not employ or engage a person to whom this section applies as a core worker.</p> <p>(3) On and after the date that is 1 year after the date on which this Part comes into force, a specified organisation must not continue to employ or engage a person to whom this section applies as a core worker, regardless of when that worker commenced employment or was engaged, except as provided in this section.</p> <p>(1) This section applies to a person who—</p> <p>(a) has been convicted of—</p> <p>(i) a specified offence; or</p> <p>(ii) an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence; and</p> <p>(b) does not hold an exemption granted under section 35 in respect of the offence.</p> <p>(2) A specified organisation must not employ or engage a person to whom this section applies as a core worker.</p> <p>(3) A specified organisation must not continue to employ or engage a person to whom this section applies as a core worker, regardless of when that worker commenced employment or was engaged, except as provided in this section.</p>	<p>We support this proposed amendment to extend existing workforce restrictions on core children’s workers to include convictions for overseas offences equivalent to specified New Zealand offences.</p> <p>We recommend incorporating these changes into the Education and Training Act 2020 to ensure consistency of wording across legislation and to provide clarity about equivalent specified offences committed overseas in relation to teachers – please see proposed “Consequential changes” below.</p>
<p>Clause 5 – inserts new sections 28A to 28D</p> <p>Relates to a determination by a specified organisation that <i>new section 28(1)(a)(ii)</i> applies to a person who is seeking to be employed or engaged, or is currently employed or engaged, by the specified organisation as a core worker (a determination).</p> <p>Clause 6 – inserts new section 33(1)(da)</p> <p>Provides for regulations to be made prescribing the process for a review of a determination that <i>new section 28(1)(a)(ii)</i> applies to a person.</p> <p>Clause 7 – replaces 35(1)</p> <p>Provides that the chief executive may also grant an exemption to a person who has been convicted of an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence.</p>	<p>We support these proposed amendments to implement the changes introduced by clause 4 and to provide affected people with the opportunity to seek review and appeal of decisions made about whether offences for which they have overseas convictions are</p>

<p>Proposed amendment</p> <p>(Bill proposed changes shown in red text)</p> <p>(Teaching Council recommended changes shown in blue text)</p>	<p>Comment</p>
<p>Clause 8 – updates section 36(1)(b) Relates to applications for exemptions under section 35, to reflect <i>new section 35(1)</i>.</p> <p>Clause 9 – inserts new Part 2 into Schedule 1AA</p> <p>3 Interpretation In this Part,— amendment Act means the Responding to Abuse in Care Legislation Amendment Act 2024 commencement means the date on which Part 1 of the amendment Act comes into force.</p> <p>4 Application of section 28(3) A specified organisation must not continue to employ or engage a person as a core worker under section 28(3) if,— (a) until the date that is 6 months after commencement, section 28(1) as it read immediately before commencement applies to the person: (b) on and after the date that is 6 months after commencement, section 28(1) as replaced by the amendment Act applies to the person.</p>	<p>equivalent to specified offences.</p> <p>We support this proposed amendment to allow time for existing core workers affected by the introduction of the three new offences to the list of specified offences to seek reviews and exemptions.</p>
<p>Clause 10 – amends Schedule 2 by inserting new 1A</p> <p>1A An offence against any of the following sections of the Prostitution Reform Act 2003 is a specified offence for the purpose of Part 3:</p> <ul style="list-style-type: none"> a) section 20 (assisting person under 18 years in providing commercial sexual services): b) section 21 (receiving earning from commercial sexual services provided by person under 18 years): c) section 22 (contracting for commercial sexual services from, or being client of, person under 18 years). 	<p>We support the proposed insertion of the three new offences against children and young people under the Prostitution Reform Act 2003 in the list of specified offences.</p>

Recommended Consequential Changes (Teaching Council recommended changes shown in blue text)	
<p>Education and Training Act 2020</p> <p><u>Clause 2(e) - Schedule 3 - Teacher registration, practising certificates, and other matters</u></p> <p>2 Registration of applicants as teachers The Teaching Council must register an applicant under clause 1 if satisfied that the applicant—</p> <p>(e) either—</p> <p>(i) has not been convicted of a specified offence in New Zealand, or an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence as defined in section 23(1) of the Children’s Act 2014; or</p> <p>(ii) has been granted an exemption under section 35 of the Children’s Act 2014 in respect of every conviction for a specified offence in New Zealand, or an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence as defined in section 23(1) of that Act.</p>	<p>We recommend incorporating the change proposed under clause 4 which replaces section 28(1) to (3) of the Children’s Act 2014 into the Education and Training Act 2020 to ensure consistency of wording across legislation and to provide clarity about equivalent specified offences committed overseas in relation to teachers.</p> <p>We recommend this change takes effect as the same date clause 4 of the Bill comes into force.</p>
<p><u>Clause 16(3) - Schedule 3 - Teacher registration, practising certificates, and other matters</u></p> <p>16 Limited authority to teach (3) In this clause, suitable disposition, in relation to an applicant, means the applicant—</p> <p>(a) is of good character and fit to hold a limited authority to teach; and</p> <p>(b) either—</p> <p>(i) has not been convicted of a specified offence in New Zealand, or an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence as defined in section 23(1) of the Children’s Act 2014; or</p> <p>(ii) has been granted an exemption under section 35 of the Children’s Act 2014 in respect of every conviction for a specified offence in New Zealand, or an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence as defined in <u>section 23(1) of that Act</u>.</p>	<p>We recommend incorporating the change proposed under clause 4 which replaces section 28(1) to (3) of the Children’s Act 2014 into the Education and Training Act 2020 to ensure consistency of wording across legislation and to provide clarity about equivalent specified offences committed overseas in relation to teachers.</p> <p>We recommend this change takes effect as the same date clause 4 of the Bill comes into force.</p>