Regulatory Standards Bill

Submission from VOYCE – Whakarongo Mai

June 2025

VOYCE
WHAKARONGO MAI

About VOYCE - Whakarongo Mai

We are VOYCE - Whakarongo Mai, which stands for Voice Of the Young and Care Experienced - Listen to me. We are an independent non-governmental organisation that was co-designed by tamariki and rangatahi with care experience. **We exist to amplify the voices of tamariki and rangatahi** through individual and systemic advocacy and ensure they are at the centre of all conversations and decisions being made about their lives.

We believe that it is only in working together (with young people, government, the philanthropic and nongovernment sectors) that the vision of **building a community of positive, confident and capable care experienced young people will be realised.**

We are guided by our five pou in all that we do:

1. WHAKAMANA (empowerment): We advocate alongside of and with care experienced tamariki and rangatahi, in relation to their goals and concerns
2. TŪHONO (connection): We connect care experienced tamariki and rangatahi with each other through activities and local networks
3. WHAKATAIRANGA (amplification): We promote the collective voice of care experienced tamariki and rangatahi so that they can influence the wider system
4. WHAIPŪKENGA (skills development): We equip and enable care experienced tamariki and rangatahi for their future
5. RANGATIRATANGA (leadership development): We build leadership among care experienced tamariki and rangatahi

For more information, please contact: ImpactandInsightsTeam@voyce.org.nz

He mihi

Whakaronga mai ki te iwi nei, **Whakarongo mai ki te marea nei.**	*Listen to the people,* *Listen to the many*
Whakarongo mai ki ngā kupu e kōkirikiri nei, e whakapātari nei.	*Listen to the challenges within the many submissions.*
Ko te marea o VOYCE - Whakarongo Mai tēnei e tau ana e.	*This is the submission from VOYCE – Whakarongo Mai submission.*
Mā te wairua o ngā tupuna e ārahi nei	*May the spirit of the ancestors guide us*
Kāti, Ka rere te reo o mihi ki a rātou kei tua o te arai, E moe ra!	*We acknowledge those who have gone beyond the veil, rest in peace!*
Ki ngā waihotanga ake ki te ao kikokiko nei	*And we who live in the present*
Tihei Mauri ora.	*Behold the breath of life.*
“Aukatingia te aranga ake o te pira RSB"	“Stop the emergence of the RSB”
Heoi, kotahi anake te whakatau, me mutu wawe mai te pira RSB	And so, there is only one outcome and that is to move swiftly to stop the RSB
He mea patu i te tūāpapa o Aotearoa, he mea waihanga hei takahi i te mana o Te Tiriti o Waitangi. Ko ōna mātapono he mea whakaiti i ngā pāpori katoa!	The bill that impacts the foundation of Aotearoa, the bill that tramples on the mana of Te Tiriti o Waitangi, the bill with principles that be little all that is important to society.
Otira, E hia kē mano tāngata e whakahē ai, e amuamau ai me mutu iaianei! Anei tā mātou e aue nei! anei tā te hunga atawhai e hāmama nei, anei tā te kotahitanga o whakaaro e hau mai nei.	The voices, submissions of thousands of people are saying the same thing. Stop now! We at VOYCE - Whakarongo Mai join as one with the many in opposition of the bill.
No reira whakatatatata mai, whakapiripiri mai, whakahonore mai ki te whakatau	In conclusion we gather together, we join together and honour the call to
“Aukatingia te aranga ake o te pira RSB”	“Stop the emergence of the bill RSB”

Our Promises

Our VOYCE – Whakarongo Mai 6 Promises reflect basic expectations from care experienced tamariki and rangatahi. Te Tiriti provides a foundation on which the 6 Promises can be realised. This Bill undermines the very foundations on which these promises are built. These 6 promises are for all Tamariki and Rangatahi in state care in Aotearoa.

1. E kī taurangi ana au kia whakahōnore a Aotearoa i tōna haepapa, ā mātua nei, kia whakarato ki a koe
   I promise to take care of you and make sure you have the things you need

2. E kī taurangi ana au kia noho mātāmua te pūmautanga i roto i tō oranga
   I promise to make sure you have safety and stability in your life

3. E kī taurangi ana au kia whakarato i te tautoko ki a koe e whai ai koe, e whai wāhi ai hoki koe ki ō whāinga me ō wawata mātauranga
   I promise to help you with your education goals and dreams

4. E kī taurangi ana au kia whai wāhi koe ki ngā ratonga hauora e tika ana mōu i te wā e tika ana
   I promise to support you with healthcare when you need it

5. E kī taurangi ana au kia mātua whai wāhi atu koe ki ngā whakatau e pā ana ki a koe kei noho ana koe ki ngā pūnaha tiaki
   I promise to listen and include you when decisions are made about you

6. E kī taurangi ana au kia whanake i tō tuakiri, kia mōhio ki tō whakapapa, kia whakatipu hoki i tō mana Motuhake
   I promise to help you feel confident in who you are, and learn about your whakapapa, culture and language

These promises arise from our children's basic human rights. Human rights that every tamaiti and rangatahi in Aotearoa should be able to enjoy, and which the State as a parent has an obligation to uphold for children in their care.

These promises are enshrined in legislation via the Oranga Tamariki Act 1989 and Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018. And yet, monitoring of Oranga Tamariki continues to highlight that they are still falling woefully short of their own basic standards and are failing to keep the promises that have been made to our tamariki.

Our general position

"Our tamariki and mokopuna deserve laws that protect them, not a Bill that seeks to erase Te Tiriti O Waitangi, exclude the voices of tangata whenua, and put corporate gain ahead of their future. This Bill must be abandoned." Cameron McKay, Kairaranga Taiohi Atawhai, VOYCE – Whakarongo Mai.

This Bill, if successful could negatively impact on new and existing laws making it more difficult to provide the specific services and supports needed by children and young people in care.

There is already sufficient processes and practices in place to ensure the quality of legislation. What is proposed by the Regulatory Standards Bill (RSB) is unnecessary.

Put the lives and futures of tamariki and rangatahi atawhai ahead of unnecessary legislative change.

VOYCE – Whakarongo Mai believes any Bill seeking to improve the legislative process must include reference to and principles related to Te Tiriti o Waitangi.

VOYCE – Whakarongo Mai wants to see this Bill abandoned in its entirety.

VOYCE – Whakarongo Mai does not support the rule of law principle as it is stated in the Bill.

VOYCE – Whakarongo Mai does not support the exclusion of the public harm principle.

VOYCE – Whakarongo Mai does not support the taking of property principle as it is stated in the Bill.

VOYCE – Whakarongo Mai does not support the good law-making principle as it is stated in the Bill.

VOYCE - Whakarongo Mai strongly opposes this Bill.

Our submission

Under the Regulatory Standards Bill (RSB), if enacted, every piece of legislation will be subject to additional review. This will impact all parts of the government system and therefore directly impact on those in the care system, those we advocate for.

The principles of the bill serve as an ideological measuring stick that do not reflect the dominant values of the population.

This is a Bill that has been rejected by parliament three separate times and is seen by its own Ministry as unnecessary and not the preferred option for regulatory practice. Passing a Bill that the democratic and parliamentary process does not support, is not best practice and does not follow the rule of law. As Professor Jane Kelsey has noted "This means that coalition commitments take precedence over the best practice regulatory processes now in place."[1]

This is a Bill that prioritises business and corporates over environment and community wellbeing. Opening the door for large corporates to sue the government for limiting their ability to do business and make profits if limited due to environmental or health and social wellbeing actions. Similar to actions already happening in Australia – see https://e-tangata.co.nz/uncategorised/how-the-regulatory-standards-bill-gives-companies-more-rights-than-the-public/ for examples of how this is playing out in Australia.

A bill seeking to improve transparency should be open in its decision and rationale to go against public and Ministry advice and not include any reference or principle specific to Te Tiriti, the foundational document of Aotearoa New Zealand.

Te Tiriti is the fundamental constitutional document that defines the partnership between Māori and the Crown. It is a document that shapes legislation, and it is the role of Parliament to uphold and implement the articles of Te Tiriti. As Jodhi Warwick-Ponga notes "Failing to embed Tiriti principles or tikanga in the RSB signals an unwillingness to share constitutional space – further alienating iwi and hapū from the lawmaking process".[2]

Jodhi Warwick-Pong goes on to quote Moana Jackson who has previously argued that the absence of Te Tiriti in legislation "is not a gap in the law, it is part of the law's design" — one that maintains the dominance of colonial systems and sidelines Māori rights and responsibilities."[3]

[1] https://e-tangata.co.nz/comment-and-analysis/proposed-bill-an-ideological-project-that-must-be-stopped/
[2] https://e-tangata.co.nz/comment-and-analysis/a-bill-of-a-different-magnitude/
[3] https://e-tangata.co.nz/comment-and-analysis/a-bill-of-a-different-magnitude/

VOYCE – Whakarongo Mai believes any Bill seeking to improve the legislative process must include reference to and principles related to Te Tiriti o Waitangi.

Why this Bill is not needed

There are already legislative guidelines for Parliament such as the Legislation Design and Advisory Committee (LDAC), which provide guidelines and advise on legislative design. The LDAC have said in a submission on the discussion document that they have ""misgivings about the capacity of this bill to offer improvement" and it might have "significant unintended consequences". [4]

Law professor Adrew Geddis has said "There already are a range of 'best practice' lawmaking guides and practices within government, such as the LDAC's 'Legislation Guidelines', Regulatory Impact Statements, and departmental disclosure statements under the Legislation Act 2019."[5]

Part 4 of the Legislation Act 2019, which is due to come into force in 2026 has been developed with the purpose of ensuring better parliamentary and public scrutiny of Government-initiated legislation and promoting good administrative practices for the development of legislation. Treasury is in the process of specifying the requirements of this, prior to the legislation coming into force. This Bill cuts across this. It is the preference of the Minister's own Ministry that instead of this Bill parliament use Part 4 of the Legislation Act to set the standards for regulatory quality.[6]

The existing system does not need fixing. This is evidenced by the fact that New Zealand rates in the top 2% among all countries in the world for regulatory quality.[7]

Similar pieces of legislation have been introduced into the House three times before, and each time have failed to become law.

Of the almost 23,000 public submissions made in early 2025 on the discussion document of the proposed Bill. Of these, 88% opposed the Bill, 12 % did not have a clear position. Only 76 of the 22,821 submitters supported or partially supported the Bill. Among the top concerns found by the ministry's analysis of the feedback were that the bill would "attempt to solve a problem that doesn't exist"; "result in duplication and increase complexity in

[4] https://www.rnz.co.nz/news/political/563636/the-regulatory-standards-bill-what-is-it-what-does-it-propose-and-what-s-next
[5] https://www.rnz.co.nz/news/political/563636/the-regulatory-standards-bill-what-is-it-what-does-it-propose-and-what-s-next
[6] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
[7] https://www.worldbank.org/en/publication/worldwide-governance-indicators/interactive-data-access

lawmaking"; and "undermine future Parliaments and democracy".[8,9] Despite this, the Bill has proceeded with a very similar approach to that which was set out in the discussion document.

During public consultation, when asked for their views on whether there are issues with the regulatory quality in NZ, most submitters considered there were no, or only minor issues, and current mechanisms are a better way to address any issues. Agency consultation identified concerns that components of the proposed Bill would duplicate, or add complexity, to existing Regulatory Management Systems. [10]

To go ahead with another attempt of introducing this Bill and on the back of such clear opposition is a waste of taxpayer money and parliamentary process.

VOYCE – Whakarongo Mai wants to see this Bill abandoned in its entirety.

What the Bill leaves out.

What has been left out of this Bill provides the clearest picture of the intention of the priorities and focus of this Bill. As already mentioned, nowhere does the Bill reference or include Te Tiriti o Waitangi/The Treaty of Waitangi. There is total disregard for the principles and articles of te Tiriti o Waitangi, the Bill ignores Māori rights and interests, and discounts most of the core values underpinning modern welfare states.[11]

The agency consultation undertaken as part of the Ministry for Regulations Regulatory Impact Statement (RIS) noted that there was particular concern at "the lack of recognition of rights and interests of iwi, hapū and Māori due to there being no specific reference to the Treaty/te Tiriti, or its constitutional importance".[12]

The Crown has acknowledged that there has not been targeted consultation with Māori as part of the policy development. As noted in the Waitangi Tribunal report, the Crown decided against targeted consultation with Māori despite official advice and the significant concerns raised by those representing Māori during the public consultation process.[13] The Waitangi Tribunal found the Crowns process to be a violation of the Crown's Treaty obligations and a breach of the principles of partnership and active protection.

[8] https://www.rnz.co.nz/news/political/563636/the-regulatory-standards-bill-what-is-it-what-does-it-propose-and-what-s-next
[9] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
[10] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
[11] https://www.phcc.org.nz/briefing/regulatory-standards-bill-threatens-public-interest-public-health-and-maori-rights
[12] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
[13] https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_230792542/RS%20Bill%20W.pdf

Officials' advice to Cabinet notes "there is a risk that including a set of principles in primary legislation without an express reference to the Treaty/te Tiriti creates uncertainty for decision-makers, given the perceived inconsistency with existing guidance or advice."[14]

In addition to the absence of any reference to Te Tiriti, the proposed principles do not include many of the aspects of regulatory quality covered in the Legislation Guidelines. Such as human rights and the environment. See below for further discussion on the proposed principles.

Proposed principles

The Bill proposes a very narrow set of principles which are completely out of step with the broader shared values of many New Zealanders. From the perspective of the Public Health Communications Centre, many of the proposed principles are seriously flawed and are open to strong constitutional, legal, administrative, and ethical objections. [15]

Professor Jonathan Boston's submission on the discussion document raised concern that the proposed principles did not include many principles that are relevant to good law making including the principles of Te Tiriti o Waitangi, the public harm principle (more on that later), principles of distributive justice (meeting the basic needs of all people), protecting the environment, and protecting future generations amongst others.[16]

The Ministry, who supports a different option to the Bill in the RIS, also sees the principles of the Bill as selective in that they do not cover all aspects of good legislative design and lawmaking, with some being novel and not aligned with generally accepted legal values and concepts in NZ legislation. [17] The RIS points out that the proposed principles "do not reflect the wider scope of the expectations or principles set out in the *Government Expectations for Good Regulatory Practice* ....in addition, the wording of some of the principles depart significantly from established expressions of those principles in the *Legislation Guidelines* or elsewhere (e.g., the Bill of Rights Act 1990)."[18]

Four of the proposed principles are of particular concern and this is outlined below.

[14] https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_230792542/RS%20Bill%20W.pdf
[15] https://www.phcc.org.nz/briefing/regulatory-standards-bill-threatens-public-interest-public-health-and-maori-rights
[16] https://melanienelson.substack.com/p/regulatory-bill-emeritus-professor
[17] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
[18] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf

Rule of Law principle

This principle states that "every person is equal before the law". However, many laws are not designed to treat people equally. This allows reasonable and justifiable grounds to make decisions based on individuals distinct situation and need.[19]

As the Waitangi Tribunal Report presents, Professor Geddis and Lord Bingham have indicated that there are often good reasons to justify differential treatment under the law. For Māori - "New Zealand's long history of colonisation, which has led to numerous well-evidenced areas of inequality for Māori, is one such justification of differential treatment under law."[20]

This principle also suggests limiting the ability of public servants and local authorities to exercise discretion in specific contexts. This has the potential to take away the ability to provide targeted support for disadvantaged groups.

Children in care are disproportionately Māori, these changes could significantly impact how laws are designed and interpreted. Negatively impacting on the ability of services and supports to respond and provide targeted services to those most in need.

VOYCE – Whakarongo Mai does not support the rule of law principle as it is stated in the Bill.

Liberties principle - Public vs private harm

As noted in a briefing on the Bill by the Public Health Communications Centre,[21] the RSB's "liberties principle" only provides for the 'private harm principle' where the only ground for diminishing "a person's liberty, personal security, freedom or choice or action, or rights to own, use, and dispose of property", is to protect the "liberty, freedom or right of another person".

The Bill leaves out any reference to the 'public harm principle' which justifies constraining liberty to protect the broader public interest in areas such as public health, community wellbeing, safety and the environment. This is inconsistent with good legislation and significantly reduces the means of government to minimise public harm or safeguard the environment.

VOYCE – Whakarongo Mai does not support the exclusion of the public harm principle.

[19] https://www.phcc.org.nz/briefing/regulatory-standards-bill-threatens-public-interest-public-health-and-maori-rights
[20] https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_230792542/RS%20Bill%20W.pdf
[21] https://www.phcc.org.nz/briefing/regulatory-standards-bill-threatens-public-interest-public-health-and-maori-rights

Taking of property principle

The RSB introduces a "taking of property" principle. Concerns have been raised that the Bill would allow commercial interests of large industries to seek compensation from public money for any future legislation that may cause them to lose money.[22] Giving companies more rights than the public.[23, 24]

As noted by Ryan Ward, "The bill may very well open the door for corporations to force Māori to pay for their own exploitation and the erasure of their Indigenous rights and lands."[25]

The focus on property rights inconsistent with other rights the Government has a responsibility to fill.

UNICEF's submission on the discussion document notes that a focus on property rights may preclude the Government from realising its obligations to New Zealand's children under the United Nations Convention on the Rights of the Child (the UNCRC)[26].

Failure to protect children and their communities from environmental and climate hazards is seen by the UN Committee on the Rights of the Child as an urgent and systematic threat to children's rights. Safeguarding these rights today and into the future means both recognising the hazards that children face and understanding their impact.[27]

We support the concerns raised by UNICEF in their submission as part of the consultation process that there is a risk with this Bill that "positive environmental policies that intend to safeguard children's futures but that would disadvantage business interests, will be either quashed or the Government will be required to compensate them for their losses."

VOYCE – Whakarongo Mai does not support the taking of property principle as it is stated in the Bill.

Good law-making principle

The principle of good law-making includes a stated importance of evaluating existing legislation and common law. Effectively allowing the principles of the proposed Bill to be applied retrospectively. This would require considerable time and cost, add a layer of unnecessary complexity and potentially result in unjustified and negatively impacting changes to existing laws, polies and practices.

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[22] https://www.rnz.co.nz/news/political/563983/experts-warn-regulatory-standards-bill-threatens-future-public-health-laws

[23] https://e-tangata.co.nz/uncategorised/how-the-regulatory-standards-bill-gives-companies-more-rights-than-the-public/

[24] https://www.rnz.co.nz/news/political/538931/the-regulatory-standards-bill-what-you-need-to-know

[25] https://e-tangata.co.nz/uncategorised/how-the-regulatory-standards-bill-gives-companies-more-rights-than-the-public/

[26] UNICEF Aotearoa *Submission on the Regulatory Standards Bill consultation* 13 January 2025 Unpublished

[27] https://www.unicef.org/media/165156/file/SOWC-2024-full-report-EN.pdf

VOYCE – Whakarongo Mai does not support the good law-making principle as it is stated in the Bill.

VOYCE does not support this Bill

This Bill aims to reduce a perceived amount of unnecessary and poor-quality regulation by increasing transparency and making it clearer where legislation does not meet standards.

It is the view of VOYCE – Whakarongo Mai that this Bill does not achieve what it is aiming to do and is not needed. The Bill has the potential to significantly impact on how laws are made and enforced in New Zealand. The principles of the RSB raise concerns about the balance between private property rights, public good, and Māori rights, as well as the role of government in regulation.

As stated earlier there are already sufficient 'best practice' lawmaking guides and practices within government that ensure legislation meets the necessary standards and quality. The Regulatory Ministry's own Regulatory Impact Statement on the Bill states "that the specific legislative changes sought … are unlikely to be the most efficient approach to pursuing the stated objectives."[28]

VOYCE – Whakarongo Mai is concerned at the negative impact this Bill could have on how laws are interpreted and ultimately on the services and supports being provided to children and young people in care.

Stop putting party policies and coalition agreements ahead of the lives and futures of tamariki and rangatahi.

VOYCE - Whakarongo Mai strongly opposes this Bill.

[28] https://www.regulation.govt.nz/assets/RIS-Documents/Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf