

Privacy Commissioner's submission to the Justice Committee on the Electoral Amendment Bill [152-1]

1. I am pleased to provide a submission on the Electoral Amendment Bill (the Bill).
2. The Privacy Act 2020 is New Zealand's main privacy statute. One of the Privacy Commissioner's functions under the Privacy Act is to examine proposed legislation that may affect the privacy of individuals.
3. The Bill amends the political donations framework to increase public confidence in the funding of political parties and to maintain trust in new Zealand's electoral system. I am supportive of the intent of the Bill. My comments relate to clause 4(1) of the Bill which lowers the public disclosure threshold for donations and contributions to political parties from \$15000 to \$5000.

Clause 4(1): lowering the public disclosure threshold

4. Clause 4 of the Bill will amend section 210 of the Electoral Act 1993 ('the Act'). Section 210 requires party secretaries to file a party donation return that sets out donations exceeding \$15,000. The Bill will amend this threshold to \$5000. The name, address and amount of donation must be included in the return. The existing provision and its amendment override the information privacy principles of the Privacy Act (which govern the collection, use, retention and disclosure of personal information) by specifying what information must be collected and disclosed.
5. Lowering the threshold will result in more people's information being provided to the Electoral Commission, who then in turn publish the details online. The Bill does not change this existing practice, but the lowering of the threshold will mean that more people are affected.
6. The information that must be collected and disclosed about party donors includes the name, address and amount of donation. I understand that address information is collected and disclosed to ensure that the correct individual can be identified as the donor. I note that this is consistent with other provisions in the Act that require name and address to be published.
7. I understand the need for the Electoral Commission to be able to accurately identify political donors, however I suggest that consideration be afforded to whether there is an alternative mechanism to identify individuals without requiring the publication of an address. I am not aware of the purpose of publishing the address as a datapoint beyond ensuring that a particular individual can be differentiating from another sharing the same name. To that end it appears that publishing the address of a donor could be viewed as disproportionate to the risk of misuse. It may be that there is no other mechanism for which individuals can easily be uniquely identified for transparency purposes, but I have not seen the argument that consideration has been afforded to other options.
8. I also consider that publication of donor addresses is likely to impact those who are most at risk of being targeted for their donations. I note the recent work of this Committee on the Local Electoral (Advertising) Amendment Bill, where submitters on the Bill highlighted that women, Māori and candidates from ethnic and other diverse

communities experience an inequitable level of harm.¹ While I appreciate that there is a distinction between being an electoral candidate (and address information being published on physical billboards) and being an electoral donor, it is important that individuals from all communities can feel safe to contribute to political parties.

9. I also note that some other provisions which include the ability for address information to be publicly inspected (such as the Electoral Rolls themselves) include the ability for information to be suppressed from the Roll in certain circumstances.² I encourage the Committee to consider whether such a mechanism should be considered in this instance. For example, donor addresses could be withheld from being published where the donor is already on the unpublished electoral roll. This would align the donation regime with the Electoral Roll and mean that donors that are most at risk of having their address misused are protected.

Conclusion

10. I **recommend** that the Committee considers whether there is an alternative way to publicly uniquely identify donors and **recommend** that the Committee considers implementing a suppression mechanism for donors where publication of the address would be prejudicial to the personal safety of the donor or their family.
11. Finally, I note that Justice officials have engaged proactively with my Office to understand my Office's views on the potential privacy impacts of this Bill. I thank officials for their engagement to date.
12. I trust my comments are of use to the Committee. I do not seek to be heard on my submission but am happy to appear before the Committee if that would be of assistance.



Michael Webster
Privacy Commissioner

31 August 2022

¹ Local Electoral (Advertising) Amendment Bill, Report of the Justice Committee, June 2022

² S 115, Electoral Act 1993