



18 December 2024

Hon. David Seymour
Leader of ACT

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Cc: Greg Fleming
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Proposed changes to Policing Act ripe for abuse

Good afternoon,

1. The Free Speech Union is a registered trade union with a mission to fight for, protect, and expand New Zealanders' rights to freedom of speech, conscience, and intellectual inquiry. We believe that freedom of speech is not only a legal principle, but a social good that allows for people in modern liberal democracies to peacefully, freely advocate for the causes they care about without risking unjust retribution.
2. We write regarding the Member's Bill Greg Fleming has placed in the ballot, and concerns we hold with respect to the 'Policing (Cost Recovery for Special Policing Services) Amendment Bill' ("the Bill"), and its intent to broaden the scope of Part 4A of the Policing Act in relation to cost recovery. The purpose of the proposed amendment is to allow the Police to recover the costs of special policing services which is defined as follows:
 - (2) ...**special policing service** –
 - (a) means a service that –
 - (i) constitutes policing; and
 - (ii) is provided at an event that is provided by another person (A) on a commercial basis; and
 - (iii) is of direct benefit to A (even though provision of the service may also be of indirect benefit to the public as a whole); but
 - (b) does not include –
 - (i) the response of the Police to calls for service relating to potential offending;
 - (ii) the conduct of criminal investigations;
 - (iii) the prosecution of criminal offences.
3. We wish to express our concern at the risk this Bill could have unintended consequences, especially on the speech rights of New Zealanders. We urge you not to support the adoption of this legislation as a Government Bill (which we understand the National Party intends to attempt, with the support of the Minister of Police), and to call on you to lead your Caucus to oppose this legislation as a Member's Bill.

4. Since announcing the Bill to expand services Police can charge for, Mr Fleming has repeatedly made several incorrect statements regarding its proposed application and effect, namely:
 - a. *It would only apply to large events and not 'small provocative events'*. There is nothing in the legislation that exists, or that is proposed, that requires a minimum event scale or attendance. Explicit reference is made to 'sporting, cultural, religious, or entertainment event, conference, meeting, convention, or exhibition' which casts a very wide net.
 - b. *Police can already require events to pay for Police services.* Part 4A of the Policing Act allows the Police to recover costs where the service is provided only on the request of an individual or organisation. There is no ability for Police to compel individuals or organisations to pay for their services.
 - c. *A similar law change in the United Kingdom is not open for abuse and weaponisation.* Police in the United Kingdom are able to and do charge for hundreds of events that are not strictly commercial in nature, for example, Police charged the Bristol International Balloon Fiesta (a free event arranged by a not-for-profit organisation) over NZD\$36,000 for their attendance at the event even though there was no indication police presence was required. For educational institutions, dissident groups and NGOs, Police have discretion to charge anywhere between 0-75% of the full commercial rates. We would be deeply concerned if this Government felt the United Kingdom serves as an appropriate example of leadership when it comes to free speech. The United Kingdom is a cautionary tale for New Zealand on matters of free speech.
5. Exemption waivers are broadly defined in the legislation however, if Part 4A is expanded, the Police would have significant power to effectively penalise groups and organisations for hosting events that require their attendance, even if the event is held on privately owned property. As far as we can tell at this stage, there appears to have been little thought given to the potential abuse by 'bad-faith actors', either within Police or more broadly, who could use these regulations to impose security costs on events as a way to hinder their expression.
6. Charging for Police services at events could easily lead to prejudicial assessments being made of certain groups and their stances on issues. This poses a huge risk to free speech and our democracy, where actions like this are already occurring, but for requirements for private security. The role of the Police to ensure public order and safety is just as important at these events as anywhere else in the community.
7. We invite you to comment on the following:
 - a. Whether you are supportive of expanding Part 4A of the Policing Act to include the ability for Police to charge for their attendance at events.

b. If so, what safeguards you propose to ensure that the regulations are not weaponised, used to impose unrealistic/unnecessary security costs on events in order to suppress expression.

8. We look forward to your response.

Yours faithfully,

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