



Dealing with possibly offensive personalised plates

Subject to legal privilege

Out of scope [redacted], Regulatory Legal Team

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Requiring surrender of offensive personalised plates

Scope of this guidance

The Registrar of Motor Vehicles - which is the Director of Land Transport¹ - has the power to order the surrender of a personalised plates if:²

- Waka Kotahi has received a complaint about the plates; and
- the Director (or their delegates) considers the plates “are likely to cause offence or confusion”. The same test applies to refusing to issue a personalised plate in the first place (without the need to have received a complaint).³

This guidance deals with how Waka Kotahi should consider offensiveness and whether to require the surrender of a personalised plate.

In particular, this guidance does not cover:

- plates that could cause confusion; or
- not issuing, or recalling, three letter combinations in the series of ordinary plates.

The header and footer of a plate are important context

The test is whether the plate as a whole is likely to cause offence. The 6-character combination may be inoffensive on its own, but can become offensive when read with the header and footer text that can be printed on the plate.

The reverse also applies: a 6-character combination that could be interpreted to have an offensive meaning could be given further context by the header and footer, to reduce the chance of people being offended. However, when taking this approach we must remember that you have to be close to a plate to read the header and footer, and so some more clearly recognisable and highly offensive combinations might not be ‘saved’ by the header and footer, e.g. KKK.

Reasons plates can be offensive

Offensive words

Some swear words or derivations of swear words can be considered offensive. A potentially helpful reference point is whether the language would be able to be used in general television or radio broadcasting, such as 6:00pm news, where children can be listening (as opposed to language that can be used in ‘adults only’ or ‘mature audience’ rated programmes). The Broadcasting Standards Authority keeps a list of offensive words.⁴

Words like crap, bullshit and bugger can appear in television and radio programs without breaching the broadcasting standards of good taste and decency.

However, those words might still be likely to cause offence in the context of a number plate, where a person has no choice whether or not to watch/listen, and may see the number plate in everyday life.

A test of whether the language could be used in children's television programming is probably too restrictive. Children may not be able to read or understand the offensiveness of some more common

¹ Appointment of Director as Registrar of Motor Vehicles - LTA Part 17 (in force 1 April 2021).pdf

[Internal link](#)

² Land Transport Act 1998, s 265(1)(b).

³ Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, r 34(3)(c).

⁴ https://www.bsa.govt.nz/assets/Uploads/a6bcf1f488/Final_Report_-_Language_That_May_Offend_in_Broadcasting_2018.pdf

curse words if they appeared on a number plate, even though they could not be spoken on children's television programmes.

Obscenity

There have been many examples of number plates that refer to sexual activity, genitalia or other obscene material. These can be considered offensive on a similar basis to swear words. Many references to genitalia can be reasonably seen as a reference to sexual activity. However, we still need to consider the offensiveness of each plate. Some plates that are a play on words or innuendo have been allowed.

References to anatomy other than genitalia is unlikely to be offensive in and of itself, such as uterus or breast.

References to sexuality in a positive sense are generally not offensive, e.g. 'gay', but references to sexuality can be denigrating and therefore offensive, e.g. 'faggot'. This is offensive because it denigrates, not because of any obscenity. (In these cases, the right to be free from discrimination on the grounds of sexual orientation is also relevant.)

Denigration and promoting violence

Number plates may also be offensive because they denigrate a particular group in society, such as particular ethnicities, religions or sexualities. These plates might not reach the level of "hate speech", as some definitions of hate speech limit it to speech that promotes violence or ill treatment towards those groups. But plates that denigrate a particular group, or reference a group/movement that denigrates other groups, are still usually offensive, e.g. KKK.

Plates that promote violence are also usually offensive.

Denigrating words can also include slut and hoe. However, the same words may also be used in a 'reclaimed' or empowering sense, so context may be relevant.

The Broadcasting Standards Authority's list of offensive words also includes words used to denigrate others.⁵

References to subject matter or groups that are offensive

Plates can also refer or allude to a subject matter that people complain is offensive. Sometimes this is not the intention of the plate owner but is a reasonable inference made by another person seeing the plate. In particular, some complaints have suggested that plates refer to white supremacy or Nazism, when that was not the plate owner's intention.

The plate owner's intention is not the legal test of offensiveness, but can become relevant when considering freedom of expression and the overall judgment on whether to require a plate to be surrendered, which is discussed further below.

Plates that reference groups/movements that promote violence are usually offensive, e.g. ISIS.

The "likely to cause offence" test

Reasonable person standard

Different people have different levels of sensitivity or tolerance. A useful test is whether a reasonable person is more likely than not to find the plate is offensive.

The reasonable person does not need to themselves be personally offended; they simply need to agree that the plate is offensive. For example, a plate that says 'faggot' may not personally offend a heterosexual person (though it may, if they are more sensitive to bigotry generally), but that person would still find it offensive because it is a word used to denigrate LGBTQIA+ groups.

⁵ https://www.bsa.govt.nz/assets/Uploads/a6bcf1f488/Final_Report_-_Language_That_May_Offend_in_Broadcasting_2018.pdf

We can assume the reasonable person does have the knowledge or information needed to judge offensiveness. This is useful when dealing with plates that:

- are in languages other than English; or
- refer to groups/movements or subject matter that may not be widely known.

You can't choose to not see a plate

A key consideration is that a plate can be seen in public at any time during everyday life. A person generally cannot choose whether these words come into their field of vision. This means standards of offensiveness should be closer to those for billboard advertising than for material in magazines, radio or television.

Should the Director order the surrender of the plates?

If:

- Waka Kotahi has received a complaint about a set of plates; and
- the Director (or their delegates) considers the plates “are likely to cause offence or confusion”, then the Director may require the plates be surrendered. There are other matters we should consider before making that final judgment.

NZBORA considerations

We should consider the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 (NZBORA).

In particular, “Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form” (section 14).

The importance of people being able to express themselves can be greater when there are other right and freedoms in play, such as:

- the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference (section 13);
- the right to manifest a person's religion or belief in worship, observance, practice, or teaching, either individually or in community with others, and either in public or in private (section 15);
- the rights of persons who belong to an ethnic, religious, or linguistic minority in New Zealand to not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority (section 20); and
- freedom from discrimination on specified grounds, including religious belief, ethical belief, ethnic or national origins and sexual orientation (section 19).

This means that, for example, plates promoting [s 9\(2\)\(g\)\(i\)](#) might be allowed even though a reasonable person may find the alleged activities at [s 9\(2\)\(g\)\(i\)](#)

These rights and freedoms are also relevant when a person's expression of their cultural identity might be seen as offensive. [s 9\(2\)\(a\)](#). The complainant read this as a reference to the Aryan Brotherhood and Nazism. Waka Kotahi suggested the header and footer of the plate could be amended [s 9\(2\)\(a\)](#) or something else to help observers to not get the wrong impression.

A similar issue arose with a person with the name [s 9\(2\)\(a\)](#) having their name printed on a plate.

Can we ask the registered person to edit the plate instead?

When ordering a person to surrender a plate, Waka Kotahi is infringing on the person's right to freedom of expression. We can do so, but NZBORA requires that a right “be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”. This is often

referred to as a 'reasonable limitation' or 'justified limitation' on a right. A key consideration within this test is proportionality. In this context, proportionality means we do only what is needed to remove the likelihood of offense.

Applying that to plates:

- If a plate is highly offensive, e.g. KKK, then requiring surrender will usually be a proportionate response and will be a justified limitation.
- In cases where editing a plate or providing further context in the header and footer could adequately address the risk of a reasonable person taking offense, then Waka Kotahi should see if a compromise can be reached with the plate owner rather than surrendering the plate. In these cases we should consider whether it is appropriate to charge the person for the cost of replacement plates.

Some further examples

A number plate referred to s9(2)(a) This example illustrates the following:

- Generally we should not infringe on the right to freedom of expression of political groups/movements, even if many people may strongly disagree, or say they are 'offended', by that group's views.
- However, if the views of a political group/movement extend to promoting violence or denigration of groups, then denying the freedom of expression will often be a 'justified limitation'

s9(2)(a), it was a listed terrorist entity for its promotion of violence.

Not issuing personalised plates in the first place

The Director can decline to issue a personalised plate in the first place if the Director "considers it is likely to cause offence or confusion".⁶ The same guidance above applies (but there does not need to be a complaint from the public).

Setting out your reasoning

It is useful for our reasoning to spell out why words have an offensive meaning. This can seem like stating the obvious, but helps ensure our reasoning is as robust as possible. Reasoning could follow this basic structure, which you can add to and modify:

- The plate is "XXX" which is to be read as the word/words "YYY"
- "YYY" means/implies/alludes to ...
- This can be considered offensive because ...
- I consider it is "likely to cause offense" because ...
- This means the Director may order the plate to be surrendered.
- I have considered other factors of whether the Director should order the surrender the plate, as follows:
 - I have considered the New Zealand Bill of Rights Act 1990 (NZBORA) and the right to freedom of expression. I consider revoking the plate is a justified limitation (in terms of section 5) because ...
 - I have also considered ...
- Accordingly, my decision is ...

⁶ Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, r 34(3)(c).