

Sharyn Leonard

From: Colin Trotter
Sent: Friday, 2 February 2018 9:41 AM
To: Sophie Richardson
Cc: Michael Harrison
Subject: FW: CabNet: Recent Activities
Attachments: 2017 BDMRR Bill 296-1.obr

Follow Up Flag: Follow up
Flag Status: Completed

FYI – we responded to DIA when it consulted with us on the petition. We said we had no comment but intended to submit on the Bill. There's a tangential privacy angle but its really more human rights and someone's ability to identify with a particular gender.

From: Colin Trotter
Sent: Friday, 2 February 2018 9:16 a.m.
To: Michael Harrison
Subject: RE: CabNet: Recent Activities

The report outcome and recommendations are as expected based on the papers we have seen previously. The Minister recommends that the Cabinet LEG committee note

- The HRC supports the petition
- DIA note the existing Legislation is complaint with human rights
- The Government Administration committee suggests officials should review BDMRR section 28 with the view to amending it to the request approach of the petitioner
-

(39(2)(f)(iv) OIA 1982

It looks like this change is likely to go through based primarily based on the advice from the HRC.

From: Michael Harrison
Sent: Thursday, 1 February 2018 10:54 a.m.
To: Colin Trotter
Subject: FW: CabNet: Recent Activities

Hi Colin

I note the petition below has a Govt response on that DIA thing around changing gender – can you check it out?

Cheers

Michael

Michael Harrison

Team Manager Policy and Technology



Office of the Privacy Commissioner Te Mana Matapono Matatapu

PO Box 10094 | Wellington 6143 | New Zealand

Level 8 | 109 Featherston Street | Wellington

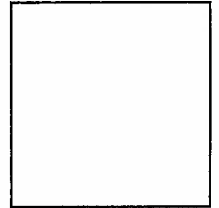
E michael.harrison@privacy.org.nz | E policy team inbox: policy@privacy.org.nz

T +64 4 474 7590 | DDI +64 4 494 7082 | privacy.org.nz

Privacy is about protecting personal information, yours and others'. To find out how, and to stay informed, [subscribe](#) to our newsletter or follow us online.  

Caution: If you have received this message in error please notify the sender immediately and delete this message along with any attachments. Please treat the contents of this message as private and confidential. Thank you.

From: CabNet@dpmc.govt.nz [mailto:CabNet@dpmc.govt.nz]
Sent: Thursday, 1 February 2018 10:01 a.m.
To: Michael Harrison
Subject: CabNet: Recent Activities



Recent activities

Thursday, 1 February 2018 10:01:18 AM NZDT

1/02/2018 9:21:31 AM

Jason Hewett lodged Government response to Report of Government Administration Committee on Petition 2014/86 of Allyson Hamblett for the LEG meeting of Thursday 8 February 2018

1/02/2018 9:13:48 AM

Christina Connolly lodged State Sector and Crown Entities Reform Bill Approval for Introduction for the LEG meeting of Thursday 8 February 2018

Please do not reply to this email. It is system generated and used only to deliver CabNet communications. Please contact your CabNet Organisation Administrator if you have any queries about the information contained within this communication.

The information contained in this email message is for the attention of the intended recipient only and is not necessarily the official view or communication of the Department of the Prime Minister and Cabinet. If you are not the intended recipient you must not disclose, copy or distribute this message or the information in it. If you have received this message in error, please destroy the email and notify the sender immediately.

Sharyn Leonard

From: Colin Trotter
Sent: Tuesday, 9 January 2018 8:35 AM
To: 'Cathy Nijman'
Subject: RE: Petition 2014/86 of Allyson Hamblett - draft Government response (BDMRR Bill)

Hi Cathy

Thanks for consulting with us. We have no comment at this stage. We expect that we will be submitting on the Bill in due course.

Regards

Colin

From: Cathy Nijman [mailto:Cathy.Nijman@dia.govt.nz]
Sent: Monday, 11 December 2017 2:16 p.m.
To: 'Adam Dubas (MoJ)'; 'Charles Ngaki (IRD)'; 'Christine Fowler (MoH)'; 'Colette Lyons (MoH)'; Desiree Brown; 'Georgie Handley (MoJ)'; Stuart Jones; 'Sally Luke (MoH)'; Colin Trotter; Nick.Kokay@justice.govt.nz; richard.schmidt@dpmc.govt.nz; Gopika.Gnanakumar@treasury.govt.nz
Cc: Jeff Montgomery; Briget Ridden; Kelly Bonner; Russell Cooke; Victoria Scott; Bevan Johns; Lindy Siegert; Lisa Ramanui
Subject: Petition 2014/86 of Allyson Hamblett - draft Government response (BDMRR Bill)

Hi all,

The Petition addresses the process/es by which transgender individuals can change the nominated sex on official documentation (specifically: birth certificates and citizenship certificates). The Government Administration Committee issued its report on 11 August 2017, the day after the Births, Deaths, Marriages, and Relationships Registration Bill was introduced. The Bill had its first reading completed 5 December 2017, and has been referred to the Governance and Administration Committee.

The Bill replaces the Births, Deaths, Marriages, and Relationships Registration Act 1995. As the Committee's principal recommendation would require a change to the existing law (ss 28–29 of the 1995 Act; cls 66–70 of the Bill), DIA is consulting agencies consulted prior to the Bill's introduction. The Government response must be presented by 15 February 2018. Could you please let me have any comments (nil reply, too, please) by **Monday 15 January 2018**.

Kind regards.

Cathy N.

Cathy Nijman | Senior Policy Analyst | Policy Group
The Department of Internal Affairs Te Tari Taiwhenua
Direct Dial: +64 4 495 7279 | Extn: 5279 |
147 Lambton Quay | PO Box 805, Wellington 6140, New Zealand | www.dia.govt.nz



Sharyn Leonard

From: Michael Harrison
Sent: Monday, 8 January 2018 3:51 PM
To: Colin Trotter
Subject: RE: Comment for DIA - Petition of Allyson Hamblett

Hi Colin

Thanks for the memo – sorry I didn't get to it until now. I support your proposed course of action.

Cheers

Michael

Michael Harrison

Team Manager Policy and Technology

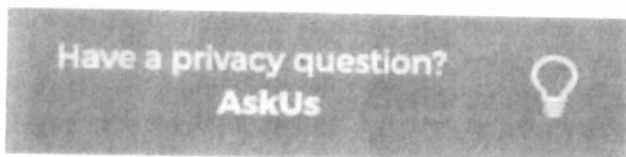
Office of the Privacy Commissioner Te Mana Matapono Matatapu



PO Box 10094 | Wellington 6143 | New Zealand

Level 8 | 109 Featherston Street | Wellington

E michael.harrison@privacy.org.nz | E policy team inbox: policy@privacy.org.nz

T +64 4 474 7590 | DDI +64 4 494 7082 | privacy.org.nz



Privacy is about protecting personal information, yours and others'. To find out how, and to stay informed, [subscribe](#) to our newsletter or follow us online.  

Caution: If you have received this message in error please notify the sender immediately and delete this message along with any attachments. Please treat the contents of this message as private and confidential. Thank you.

From: Colin Trotter
Sent: Monday, 8 January 2018 12:27 p.m.
To: Michael Harrison
Subject: FW: Comment for DIA - Petition of Allyson Hamblett

Hi Michael

This is a follow up to an email I sent to you on your last day, last year.

DIA contacted us on December 11, requesting a response by **15 January**. Attached is a briefing note for you. I recommend that we thank DIA for consulting with us and advise that we have no comment at this stage but signal that we will be submitting on the Bill in due course.

Original email request also attached.

Colin

From: Colin Trotter
Sent: Friday, 15 December 2017 11:33 a.m.
To: Michael Harrison
Subject: Comment for DIA - Petition of Allyson Hamblett

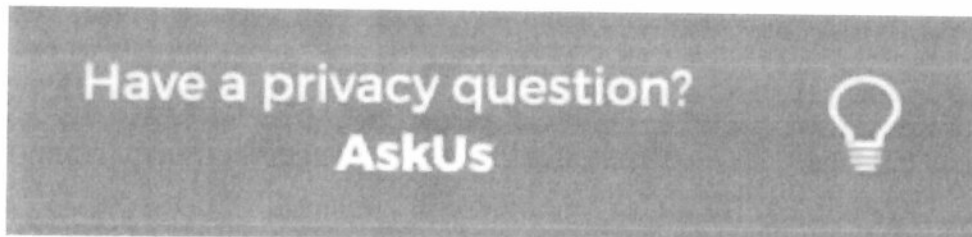
Michael,



I've done a little memo summarising the petition and recommended next steps. I spoke to Cathy at DIA and she is not expecting that we would have any concerns, and wasn't expecting any comment from us. She also advised me that submissions are now open.

https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_74854/births-deaths-marriages-and-relationships-registration

Colin Trotter | Policy Adviser

Office of the Privacy Commissioner Te Mana Matapono Matatapu
PO Box 10094, The Terrace, Wellington 6143
Level 8, 109 Featherston Street, Wellington, New Zealand
T +64 4 494 7087 DDI
E colin.trotter@privacy.org.nz – for on-going work
E policy@privacy.org.nz - for new work
www.privacy.org.nz



Privacy is about protecting personal information, yours and others'. To find out how, and to stay informed, [subscribe](#) to our newsletter or follow us online.  

Caution: If you have received this message in error please notify the sender immediately and delete this message along with any attachments. Please treat the contents of this message as private and confidential. Thank you.

Memorandum

To : Michael Harrison
cc :
From : Colin Trotter
Date : 15 December 2017
Subject : **Briefing memo - Government response to Petition of Allyson Hamblett**

DIA is consulting agencies consulted prior to the Bill's introduction, seeking comments (including nil comments) because the Government Administration Committee (that considered the petition) principal recommendation would require a change to the existing law (sections 28–29 of the Births, Deaths, Marriages, and Relationships Registration Act 1995; clauses 66–70 of the Bill).

Background

Petition 2014/86 of Allyson Hamblett called on the Minister of Internal Affairs to enable adults with intersex conditions and trans and other gender diverse adults to change the sex details on any official documentation to male, female or indeterminate based solely on the individual's self-identification, without any requirement for medical treatment and without the need to resort to a court process.”

Section 28 of the Births, Deaths, Marriages, and Relationships Registration Act 1995 enables an eligible adult to apply to the Family Court for a declaration to change the sex that appears on their birth certificate. The Family Court considers applications on a case-by-case basis. The Family Court follows the approach adopted in *Re Michael*. That is, there is no minimum threshold for medical treatment, and no requirement for an applicant to undergo some (or any) surgery before seeking a declaration.

Advice provided to the Committee by DIA (which is consistent with Ministry of Justice advice) is that provisions in the Act are consistent with the Bill of Rights Act 1990. The Ministry of Justice consider the Family Court is best placed to consider the evidence tendered in support of an application, as well as interpreting the requirements of the process in a rights-consistent manner.

The Committee presented its report (on the petition) to the House the day after the Births, Deaths, Marriages, and Relationships Registration Bill was introduced. The Bill had its first reading completed 5 December 2017, and has been referred to the Governance and Administration Committee.

The Committee supported Ms Hamblett's call (as does the Human Rights Commission) for a change to the 1995 Act to enable an individual to change the sex on their birth certificate through an administrative process based on self-determination. The Committee also supported Ms Hamblett's call for an equivalent process in the Citizenship Act 1977 so a citizen by grant (mostly those born overseas) can obtain a new citizenship certificate with amended personal details.

The draft Cabinet paper notes that the upcoming select committee hearings and submissions on the Bill provide a timely opportunity to fully test the impact of the current law (carried over in the Bill) on transgender individuals.

Privacy Considerations and next steps

The petition seeks to modify the procedure about updating the sex details on official documentation. The proposed changes would involve amending the mechanism by which changes can be made. The proposals to not raise particular privacy issues, they are more directly founded on issues of human rights.

Submissions on the Births, Deaths, Marriages, and Relationships Registration Bill are now being accepted with a closing date of 02 Mar 2018. It is our intention to submit on this Bill.

Recommendation

I recommend that we thank DIA for consulting with us and advise that we have no comment at this stage but signal that we will be submitting on the Bill in due course.

Sharyn Leonard

From: Michael Harrison
Sent: Tuesday, 12 December 2017 1:25 PM
To: Colin Trotter
Subject: RE: Petition 2014/86 of Allyson Hamblett - draft Government response (BDMRR Bill)

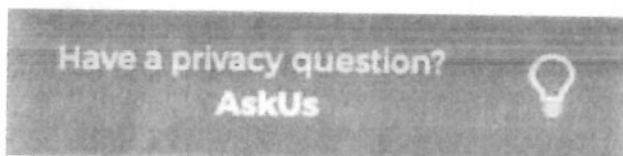
Ok thanks, if you can create a file for that (or put it in with the BDMR Bill work if that looks like the vehicle for any change) that would be great. Lets get our comment prepared in time to meet their deadline – I'm not sure if there will be much involved?



Michael

Michael Harrison

Team Manager Policy and Technology

Office of the Privacy Commissioner Te Mana Matapono Matatapu
PO Box 10094 | Wellington 6143 | New Zealand
Level 8 | 109 Featherston Street | Wellington
E michael.harrison@privacy.org.nz | E policy team inbox: policy@privacy.org.nz
T +64 4 474 7590 | DDI +64 4 494 7082 | privacy.org.nz



Privacy is about protecting personal information, yours and others'. To find out how, and to stay informed, [subscribe](#) to our newsletter or follow us online.  

Caution: If you have received this message in error please notify the sender immediately and delete this message along with any attachments. Please treat the contents of this message as private and confidential. Thank you.

From: Colin Trotter
Sent: Monday, 11 December 2017 2:25 p.m.
To: Michael Harrison
Subject: FW: Petition 2014/86 of Allyson Hamblett - draft Government response (BDMRR Bill)

This just in.

From: Cathy Nijman [<mailto:Cathy.Nijman@dia.govt.nz>]
Sent: Monday, 11 December 2017 2:16 p.m.
To: 'Adam Dubas (MoJ)'; 'Charles Ngaki (IRD)'; 'Christine Fowler (MoH)'; 'Colette Lyons (MoH)'; Desiree Brown; 'Georgie Handley (MoJ)'; Stuart Jones; 'Sally Luke (MoH)'; Colin Trotter; Nick.Kokay@justice.govt.nz; richard.schmidt@dpmc.govt.nz; Gopika.Gnanakumar@treasury.govt.nz
Cc: Jeff Montgomery; Briget Ridden; Kelly Bonner; Russell Cooke; Victoria Scott; Bevan Johns; Lindy Siegert; Lisa Ramanui
Subject: Petition 2014/86 of Allyson Hamblett - draft Government response (BDMRR Bill)

Hi all,

The Petition addresses the process/es by which transgender individuals can change the nominated sex on official documentation (specifically: birth certificates and citizenship certificates). The Government Administration Committee issued its [report](#) on 11 August 2017, the day after the [Births, Deaths, Marriages, and Relationships Registration Bill](#) was introduced. The Bill had its first reading completed 5 December 2017, and has been referred to the Governance and Administration Committee.

The Bill replaces the Births, Deaths, Marriages, and Relationships Registration Act 1995. As the Committee's principal recommendation would require a change to the existing law (ss 28–29 of the 1995 Act; cls 66–70 of the Bill), DIA is consulting agencies consulted prior to the Bill's introduction. The Government response must be presented by 15 February 2018. Could you please let me have any comments (nil reply, too, please) by **Monday 15 January 2018**.

Kind regards.

Cathy N.

Cathy Nijman | Senior Policy Analyst | Policy Group

The Department of Internal Affairs Te Tari Taiwhenua

Direct Dial: +64 4 495 7279 | Extn: 5279 |

147 Lambton Quay | PO Box 805, Wellington 6140, New Zealand | www.dia.govt.nz



Te Tari Taiwhenua
Internal Affairs