



## **SUBMISSION**

**to the**

**EDUCATION COUNCIL**

**on**

**Consultation on possible changes to Education Council  
fees**

**May 2017**

## **About PPTA**

1. PPTA represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, and manual and technology teachers.
2. Under our constitution, all PPTA activity is guided by the following objectives:
  - (a) To advance the cause of education generally and of all phases of secondary and technical education in particular;
  - (b) To uphold and maintain the just claims of its members individually and collectively; and
  - (c) To affirm and advance Te Tiriti O Waitangi.
3. This submission is from the PPTA Executive, and is on behalf of all of our members. At the same time, we have encouraged our members to make individual submissions as well, because the fees increase will be of such significance to all teachers.
4. The submission generally follows the pattern of the submission template in the back of the consultation document.

## **General comment on the fees increases**

5. The consultation document makes it clear that the bulk of the cost the Council is seeking to recover through registration fees is to fund what the paper describes as its expanded “statutory remit”. PPTA has challenged, since the early days of the Teachers Council, the concept that the profession needs its registration body to “lead the profession”.
6. It is our view that the Education Council should have a narrow remit that is to have high quality and efficient systems for issuing (and in certain cases removing) practising certificates for teaching, and dealing with teachers whose behaviour or competence falls short of acceptable standards.
7. We accept that the Education Amendment Act 2015, which introduced the Education Council, did somewhat expand the brief that the Teachers Council had but, in fact, not significantly. The main difference for the Education Council is the brief to “enhance the status of teachers and education leaders”. Both the Teachers Council were, and the Education Council are, empowered to exercise “professional leadership”, to “encourage best teaching practice” and to “identify research priorities”.
8. The real difference is in how the two bodies have chosen to action the scope of their legislative powers in practice. Unlike its predecessor, the Education Council - made up entirely of Ministerial appointees, appears to have interpreted its “professional leadership” role as broadly as possible, and is embarked on what we regard as empire building. There is nothing in the legislation that says that the Education Council has to interpret these functions to the widest extent possible, but this is what appears to be proposed in this consultation document, as reflected in the excessive extension of the fees.

9. This approach is strongly opposed by PPTA members, and we are outraged that teachers are going to be required to have to pay for this through their fees.

10. In a letter to the Minister dated November 2014, the then President, Angela Roberts, warned that teachers were:

“... implacably opposed to the extra powers this undemocratic body will have to impose fees on teachers for a range of functions and activities that are unnecessary, or that duplicate work done by other bodies or that are more properly the financial responsibility of the employer.”

11. While we recognise that unlike the Teachers Council’s empowering legislation, the Education Council has the power, under 383(1)(f) to fix fees for “the provision of professional leadership”, we do not interpret this as meaning that the Council can fix fees for registration functions that cover the costs of other functions. But this is what appears to be happening.

12. In paragraph 14 of the consultation document,, the Council reveals that the interim government funding runs out in June 2019, at which point these fee increases are to come into force. The fees are:

“to support the Council to become self-sufficient in performing its statutory functions under the Education Act 1989, **including raising the status of teaching, leading the teaching profession**, and setting and maintaining high professional standards for teachers and education leaders”. (Our emphasis.)

Disturbingly, the Cabinet paper on the interim funding makes reference to Council discussions about charging registered teachers an additional “service fee” separate to the practising certificate fee to fund its “professional leadership” role. The Cabinet paper states “I do not consider the introduction of a new fee to its members by the Education Council at this time to be appropriate. The Education Council’s new professional leadership role relies on it developing the trust and confidence of their stakeholders and the profession.” (Our emphasis.)

13. PPTA’s submission on the Education Amendment Bill (No.2) in 2014 included the following: “... this Bill is dangerous in its lack of specificity in some areas”. One of those areas is the first three listed functions of the Council, which are far too broadly phrased and open to a wide range of possible interpretations.

14. This is a flaw in the legislation which leaves your proposed fee increase subject to legal challenge on the basis that teachers are being charged fees for which there is not a complete and transparent rationale. While a number of extra costs are specifically identified in the consultation paper, such as the new requirement to audit and moderate appraisals (currently done by ERO under contract to the Council) and a number of changes in the disciplinary area, it is when the paper turns to discussion of the “professional leadership” function that a lack of specificity becomes a particular problem.

15. The paper simply quotes the slight wording changes in the new legislation regarding raising the status of the profession (e.g. paragraph 48) as being a rationale for part of the fee increases, without saying what the Council intends to do specifically under this heading. Constant references to “an expanded statutory remit” are not sufficient to justify these very significant fee increases.
16. Paragraph 75 refers readers to the Education Council’s strategic plan *Our path to the future: Strategic plan 2016 to 2021* as if it provided further explanation of what the Council plans to do under this function. Consulting that document gives no clarity whatsoever. It uses phrases like “enable leadership for ongoing improvement, innovation and transformation that will open up new ways for the system to support and enhance learning” and “support and grow leaders and leadership across the profession”. This is by no means the level of specificity that should be provided to justify fee increases of this kind.
17. While PPTA recognises that the Teachers Council resisted enacting a fees increase at the end of its time despite a small fee increase to fund its core registration functions probably being necessary, these fee increases by the Education Council are of a different scale altogether. The increases being proposed, while appearing on the surface to be for registration and renewal of practising certificates and LATs, are clearly to cover this “professional leadership” role, and it is particularly for that reason that we strongly oppose them.
18. We do also find it extraordinary that the consultation paper contains so little argument for the particular fees and levels of fees being proposed. We would have expected the Council to provide much more detail about the costs involved in processing the various applications being charged for, rather than simply justifying the charges in relation to other registration bodies’ charges, e.g. the reference in paragraph 54.
19. We also found the consultation document extremely hard to follow and it does not meet the test set by the Regulations Review Committee for clarity with regard to the setting of fees. For example, see our comments below on the proposal to impose an extra charge for moving from provisional or STC to a full practising certificate.
20. We turn now to the particular items in the submission template provided.

***A separate fee for registration as a teacher (Q.3)***

21. While we accept that there will be processes associated with registration per se, the majority of teachers applying for registration for the first time will be those also seeking their first practising certificate. The processes required for them will not be significantly different processes from those required to determine whether to issue a first provisional practising certificate and the two could surely be combined for them and charged as being simply for the issue of a provisional practising certificate.
22. We would not object to a fee for registration that is not accompanied by an application for a practising certificate, on the other hand. For example, someone who has not been teaching for some time and therefore is not on the current Register, and does not intend

to return to teaching in the foreseeable future but wants to avail themselves of the new ability to be on the Register by dint of their teaching qualifications and previous experience in teaching, would probably not object to a small fee to cover the Council's costs in retrieving their records from the back register and ensuring that they still meet the Council's requirements to hold registration.

23. However, the paper is not clear about whether the fee in that case, for remaining on the Register without a current practising certificate, is one that will be charged every three years or as a one-off. It is hard to see any justification for it being charged more than once, given that there is no requirement for the applicant to prove that they are satisfactorily trained to teach (that being already on record), or that they meet the Practising Teacher Criteria or that they are of good character and fit to be a teacher (given that this is judged on the basis of their being no evidence to the contrary). The only thing that might need renewing sometimes is a police vet.
24. But to charge this fee separately, regardless of whether it is accompanied by an application for a practising certificate, means that the impact will largely fall on beginning teachers who are the least able to afford it, as they come out of at least four years of university study (in the case of a new secondary teacher). This fee of \$85 (GST inc.) would be charged in addition to the fee of \$510 for issuing a provisional practising certificate, leading to a total of \$595, a huge amount for a beginning teacher who is likely to have significant student loan debt and all the costs associated with finding and starting a new job, often in a different city and frequently in insecure work (e.g. relieving or fixed-term contract).
25. We also know that there are already significant supply issues for secondary teachers, which are going to hit crisis point in the next five years. Raising the barriers for a career as a secondary teacher in the public education service by imposing additional costs will make this situation worse.
26. We strongly object to this.

***Payment every year versus three-yearly (Q.4)***

27. The Teachers Council gave consideration at one stage to the idea of teachers being able to pay their fee annually but for the practising certificate to remain valid for three years (subject to the fee being paid). In the end, we believe that this was dismissed as introducing unnecessary complication by separating the payment from the renewal of the certificate.
28. This paper puts forward an even worse proposal, i.e. that the whole process of renewing a practising certificate might be done annually. There is no rationale provided for this, only an explanation that it would require renewal to be done online which may well make it easier at the end point for the teacher and professional leader, but would not remove the large extra workload required at the school level to annually make summative judgements as to whether to recommend renewal, rather than three-yearly.
29. This would also significantly change the focus of schools' appraisal systems, which should be largely focused on teacher development rather than on making summative

judgements. Currently a summative judgement only has to be made once every three years, for practising certificate renewal, or if the appraisal process throws up significant competency concerns.

30. It would appear that the Council has failed to consider the extensive discussions at the Secondary Teacher Workload Working Group, of which the Council was a member, about the administrative burdens being experienced by teachers and schools in terms of the processes for appraisal and renewal of practising certificates. While much of the “over-engineering” of these processes that was identified by that Working Group was caused by schools developing onerous systems in the mistaken belief that these are necessary, that does not mean that a sound process in a school for making a decision to recommend renewal of a practising certificate is completely without workload implications.
31. To expect schools to turn this part of their performance management systems into an annual process is absurd, and we strongly object to this proposal. While there might be small benefits for teachers in spreading the financial load, these would be greatly outweighed by the negative impacts of having to do this process annually.
32. Adding to the administrative workload of teachers does nothing to raise the status of the profession. It will instead add to the administrative workload of teachers, which we know from the Workload Working Group and Supply Working Group reports to be a key reason why teachers are leaving the profession, choosing other careers after graduating or feeling burnt out.
33. We also expect that there would be significant negative impacts for the Council’s registration division in having to process all renewals annually, and that this would be likely to result in a further increase in the fees at some later time.
34. We strongly object to this proposal.

***Fee for moving to a full practising certificate (Q.5 and 6)***

35. While this proposal is mentioned at paragraph 81, there is no justification or explanation provided whatsoever, simply a statement that this is “consistent with its fee-setting powers under section 364(1)(a) of the Act”. This is totally inadequate.
36. Furthermore, we struggled to even work out what was being proposed through the tables provided. In the Option 1 table, there is a fee of \$610 listed for each of moving to full from provisional or STC, and in the Option 2 table there is a \$270 fee for both. We finally worked out that the Council’s intention was that under Option 2, people moving to full would pay an extra \$100 compared with those maintaining a full practising certificate i.e. \$270, then in future years they would pay \$170 to maintain the full practising certificate. In the Option 1 table, this extra \$100 is reflected in the three-yearly fee for moving to a full practising certificate being \$610 rather than \$510 for maintenance of full, but spread across the three years.

37. It should not have been such a struggle for us to work out what the proposal actually was. This should have been explained far more clearly than paragraph 81 does.
38. We strongly oppose this extra charge because it is charging teachers through the fee for work that is done by them and their school, not the Council. The registration system operates on the basis of high levels of trust of schools to make these judgements, with a light auditing system operated by the Education Review Office on contract to the Education Council. In most cases, those judgements are accepted without challenge by the Council, and there is usually no more work in processing an application to move to full than an application for renewal of full. If the Council has evidence to the contrary, it has failed to provide that as a justification for this fee.
39. We can therefore see no justification for this extra charge except that the Council is looking for ways to charge extra fees in order to fund its nebulous “professional leadership” functions. This is dangerously at variance with the sort of fee-setting process that the Regulations Review Committee has said it expects to see.

***Increased fee for overseas and TTMRA teachers (Q.7 and 8)***

40. This is one of the few fee increases for which the consultation document contains a number of paragraphs of explanation. However, on further reading, that explanation is solely about relative charges compared to other registration bodies. This is simply not good enough. The paper should contain discussion of what the costs involved with these applications are, compared with other applications such as routine renewals of practising certificates.
41. We would also assume that there were different costs associated with processing applications from teachers who are registered under regimes covered by the Trans-Tasman Mutual Recognition Agreement and from teachers from other jurisdictions. This should be reflected in the fee being charged, but it is not. Once again, we can only conclude that this is using overseas teachers as a “cash cow” to fund the Council’s “professional leadership” aspirations.
42. Currently these people are charged an extra \$81.77 when they first apply for a practising certificate in New Zealand compared with a local teacher applying for or renewing a practising certificate. This increase of \$307.43, plus an extra \$85 to be placed on the Register, is an outrageous imposition. Sadly, because of poor workforce planning, we need these teachers in our system, and the Council should not be exploiting them in this way.
43. We strongly oppose this charge.

***Limited authority to teach (Q.9, 10 and 11)***

44. Why these are posed as three separate questions is unclear to us. Essentially, the Council is proposing \$170 per year for a Limited Authority to Teach, and the amount to be paid will vary depending on the term of the LAT.

45. The effect of this would be to make the cost of a three-year LAT the same as the cost of a three-yearly renewal of a practising certificate for a certificated teacher. We can accept that to approve an application for a LAT there does need to be investigation of character and fitness to teach, and assessment of skills and experience, and police vetting, however we would like to know a lot more about how the Council assesses the rather unclear test in the Act about “skills that are in short supply”. For example, does the Council access supply data at a regional level? In the case of secondary teaching, the Ministry of Education’s data on subject shortages would be very little use to determine “short supply” at a national level, let alone a regional level. Such information about the processes needing to be used would provide guidance as to the legitimacy of this increased fee. Without it, there is no clear basis for it.
46. As we have said about all of these increased charges, we do not consider that anywhere near sufficient justification has been provided for the level of the charge. We strongly oppose these fees for LAT applications.

***Inflation adjustment of fees (Q.12)***

47. Regular review of the fees per se is probably wise. However, the use of raw inflation data would not be a reliable indicator of increased costs in the case of these fees for very specific services. The Council simply must do much more detailed analysis of the costs involved in administering the registration system and charge fees accordingly, not feel that the fees can just be used as a way of forcing teachers to pay for whatever tasks the Council chooses to undertake under the highly non-specific wording of its first three functions.
48. We strongly disagree with arbitrary inflation-linking of the fees.

***Increasing the late fee (Q.13)***

49. PPTA did not oppose the imposition of a modest late fee of \$50 when it was introduced by the Teachers Council, however there is no argument provided here for increasing that fee. Has the cost of processing a late application doubled? Where is the evidence? There can be all sorts of reasons why applications are late, often not the fault of the teacher. A small payment to act as a disincentive to teachers to be late with their applications is probably justifiable but there is no argument here as to why it needs to be doubled. Teachers may already face significant financial disadvantages if their practising certificate is late and a decision pending because they are unable to teach – as was seen during the significant delays with the processing of Police vets in 2015-16.
50. We strongly disagree with the doubling of the late application fee.

***Incorporating costs for conduct and competence into the increased practising certificate fees (Q.14)***

51. The Council has the power to fix fees for “costs relating to the performance of disciplinary functions”, however it appears here that the Council has chosen to lay those



costs at the door of all teachers, when they are costs incurred by only a very tiny minority of teachers. This is possibly the most unjust part of this whole proposal to increase fees for all teachers.

52. PPTA accepts that the disciplinary processes of the Council could be argued to benefit teachers in terms of maintaining the status of the profession by ensuring that action can be taken against teachers whose behaviour or competence does fall short of the standards required. On the other hand, teachers themselves are by no means the only beneficiaries of the disciplinary processes. There is a huge public interest in maintaining the standards of the profession so that all students can experience safe and effective teaching and learning environments.
53. Furthermore, some of the changes in the Act which have increased the costs of the disciplinary functions, for example the change that means that all conduct which may constitute serious misconduct has to be referred to the Disciplinary Tribunal, were government decisions which we opposed as unnecessary. The Complaints Assessment Committees had been very effective at determining correctly what met that threshold of "serious misconduct" and referring those cases to the Disciplinary Tribunal. Now they have no role in making that determination, but must simply refer all possible cases of serious misconduct to the Disciplinary Tribunal. This is wasteful and teachers should not have to pay for such a low trust change for which there was no good rationale.
54. In the consultation document, the Council discusses disciplinary levies charged as part of practising certificate fees by other registration bodies. This appears to be being used as justification for raising teachers' practising certificate fees, however the document provides no evidence whatsoever as to the size of the disciplinary levy being included in these increased practising certificate fees. Instead, it is just being used as a general justification for raising the fees.
55. Unless we can see the detail of what portion of the teachers' practising certificate fee is intended to go towards disciplinary processes, and an acceptable justification for that, we strongly oppose the inclusion of disciplinary costs into the practising certificate fees.

### **Closing comments**

56. The more we have studied the consultation document, the more appalled we are at the poor quality of this consultation. It simply does not meet the tests of fair fee-setting regimes as established by successive decisions of the Regulation Review Committee, or the *Treasury's Guidelines for Setting Charges in the Public Sector* or the *Office of the Auditor General's Good Practice Guide: Charging fees for public sector goods and services*. The document claims in paragraph 25 that the latter two of these have been consulted. It is hard to see here.