

Appendix 3: Discussion document: Strengthening Teaching Council processes

Have your say on three proposals to strengthen and clarify Teaching Council of Aotearoa New Zealand (the Council) processes:

- streamlining teacher disciplinary processes run by the Council
- ensuring that teacher registration requirements are enforced by the Council
- clarifying how the Council is to consider the recent teaching experience of professional leaders in tertiary settings.

Proposed changes to streamline the disciplinary process for teachers

The Education and Training Act 2020 (the Act) empowers the Teaching Council of Aotearoa New Zealand (the Council) to manage disciplinary processes for teacher conduct. The Council has told us that matters of teacher conduct are currently taking too long to reach a disciplinary outcome and this is denying timely resolution for all those involved. A significant number of low-level conduct cases are being dealt with through a disciplinary process that was intended to deal only with the most serious cases. We are proposing to streamline the disciplinary processes to allow the Complaints Assessment Committee (CAC) of the Council to resolve a greater proportion of matters.

Current situation

Concerns about teachers' conduct and competence are usually brought to the Council via mandatory reports from employers, criminal convictions, or complaints made to the teacher's employer or directly to the Council.

The Triage Committee

Concerns are initially considered by the Council's Triage Committee. The Triage Committee decides whether to take no action, or to refer the concern to either the teacher's employer, a Professional Practice Evaluator (to consider competence matters), the Governing Board (if immediate action is needed), or the CAC.

The Complaints Assessment Committee (CAC)

The CAC considers conduct matters that may require a disciplinary response.¹ Where the CAC considers there may possibly have been serious misconduct, it must refer the matter to the Disciplinary Tribunal (DT).² The CAC may also refer any other case to the DT that it decides to.

If the CAC considers that a case amounts to misconduct (but not serious misconduct) it may impose a range of sanctions but only with the agreement of the teacher and the person who

¹ A CAC panel generally contains one lay member and three registered teachers. An investigator is appointed on behalf of the CAC who produces a report and the teacher being investigated is given the opportunity to respond to this report and meet with the CAC before a decision is made.

² Refer s 497(5) of the Act.

made the complaint or mandatory report.³ When there is no agreement, the CAC may refer the matter to the DT.

The requirement for the CAC to refer certain cases to the DT together with the requirement for the CAC to reach agreement with parties, means that the CAC exercises its powers to impose a sanction in relatively few cases.

The Disciplinary Tribunal (DT)

The DT is a quasi-judicial body independent of the Council. It has the power to call witnesses, hear evidence, and to unilaterally impose sanctions.⁴ The DT can impose all the sanctions available to the CAC as well as cancelling a teacher's registration, practising certificate or LAT, and imposing a fine of up to \$3,000. The CAC prosecutes the teacher before the DT. The teacher and the CAC can appeal DT decisions to the District Court.

The Council appoints the members of the CAC and the DT and funds their activities. Further detail about the Council's disciplinary processes are available on the [Council's website](#).

Problems to consider

Problem 1 – too many matters are being referred to the DT that could be appropriately resolved by the CAC

The current “may possibly constitute serious misconduct” threshold for when the CAC must refer a case to the DT was introduced in 2015.

The definition of serious misconduct is broad. It requires conduct to meet one of three high-level categories in [the Act](#):

- may negatively affect the wellbeing of a student, or
- reflects poorly on a person's fitness to teach, or
- conduct that may bring the profession into disrepute.

In addition, conduct must meet the requirement for reporting serious misconduct set out in the [Council's rules](#). The reporting requirement centres on whether there has been a ‘serious breach’ of the Teaching Council's Code of Professional Responsibility and sets out specific examples of conduct that are a serious breach. While described as ‘serious misconduct’, the breadth of this definition results in it capturing more than conduct of a truly serious nature.

The policy intention behind the current settings was for the DT to deal with all cases of serious misconduct. This was in response to concerns that the CAC was failing to refer too many cases that were of a serious nature. A finding of serious misconduct is now the most common

³ With such agreement, the CAC can censure the teacher, impose conditions on a teacher's practising certificate or limited authority to teach (LAT), annotate the register, direct the Council to impose conditions on subsequent practising certificates, or suspend a practising certificate or LAT for a fixed period or until specific conditions are met.

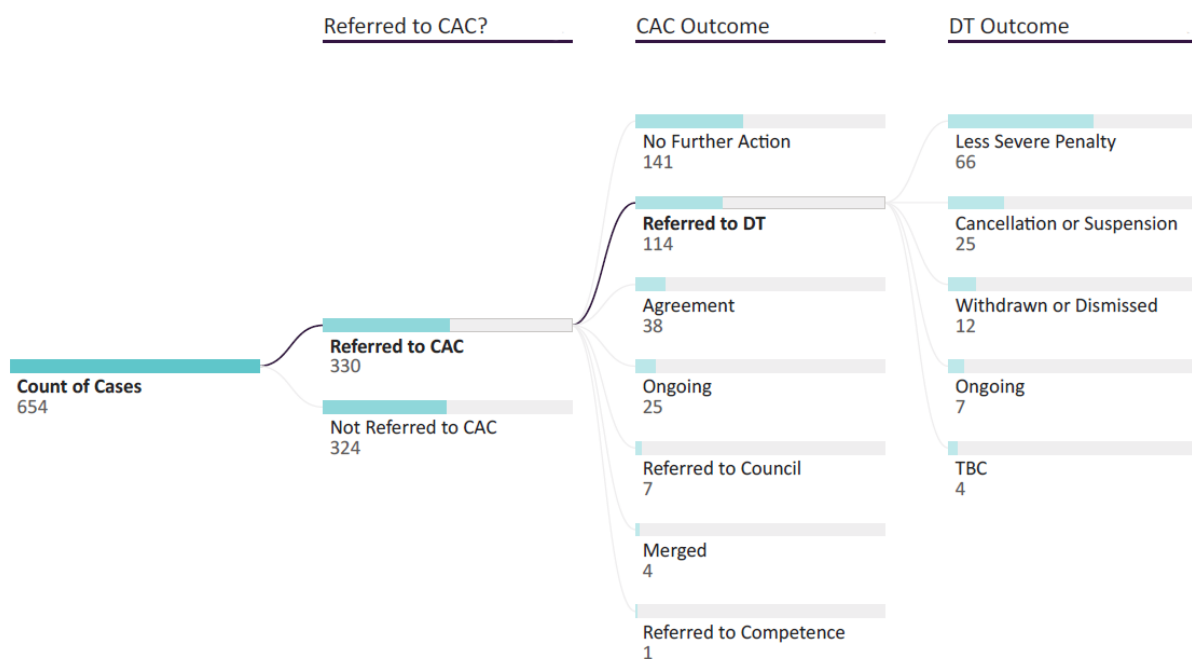
⁴ Cases are usually heard by a three-person panel (chaired by a lawyer) and the CAC is the prosecuting body (represented by its lawyer).

finding made by the DT. The DT makes the lesser finding of misconduct rather than serious misconduct in fewer than 10% of cases.

While a finding of serious misconduct is common, cases where the conduct is so serious that a teacher is restricted from practising are less common. The DT imposes a sanction that falls short of suspension or cancellation of a teacher’s practising certificate or registration over two thirds of the time. Conditions, censure and annotation of the register are by far the most common penalties imposed. All of these less severe penalties are available to the CAC.

The following diagram shows outcomes for cases received by the Council in 2018. It shows that 66 cases referred to the DT attracted penalties falling short of cancellation or suspension, and 12 cases were either withdrawn or dismissed. Meanwhile, the CAC reached agreement on a penalty (with the teacher and complainant) on 38 cases. 25 cases with the CAC are still ongoing. While the total number of cases referred to the DT in 2019 and 2020 is less than 2018, the proportions of cases being resolved at different parts of the disciplinary process are comparable.

Diagram: Outcomes for matters received by the Council in 2018



We believe some of the lower-end cases resolved by the DT are more appropriately dealt with by a lower disciplinary body. Those cases typically resulting in less severe penalties could be resolved by the CAC, in terms of the sanction imposed, if it was within the jurisdiction of the CAC to handle them.

There are two main advantages of having the CAC resolve more cases. Firstly, it avoids duplication of process. After the CAC has considered whether a case should be referred to the DT, the CAC must then lay a charge before the DT in its role as the prosecutor. Secondly, the CAC can resolve cases through a less resource intensive process. The CAC currently considers most cases on the papers, this has the potential to be less costly and faster than a

quasi-judicial process. Drawn out timeframes for resolution can also extend and intensify an already stressful process for teachers and other parties involved.

Question:

Do you agree that too many cases are being referred to the DT?

Problem 2 - the requirement that the CAC reach agreement before imposing a sanction for misconduct is contributing to delays in the regime

Currently the CAC must have the agreement of the person who engaged in misconduct and the person who raised concerns before imposing sanctions. If agreement is not reached but the CAC believes that a certain sanction is appropriate, the only way to have that sanction imposed is to refer the case to the DT which has the power to do so.

The Council estimates that only a few cases (approximately four in the last two years) are being referred to the DT from the CAC for this reason. However, the Council is concerned that excessive amounts of CAC time and resources are going into trying to reach agreement between the parties. In 2019, it took the CAC an average of 9 months to resolve a case. Further, due to the low threshold for referral to the DT, currently there are relatively few cases in which the CAC has jurisdiction to attempt a resolution by agreement. It is anticipated that this number would increase with an appropriate adjustment to the point at which matters are referred to the DT.

Questions

Q.1. Do you agree that the requirement for the CAC to reach agreement with parties before setting a sanction is a barrier to timely resolution?

Q.2. Are there any other barriers to timely resolution?

Options and Analysis

Options relating to changing the mandatory threshold for cases to be referred from the CAC to the DT

The objectives of the proposed changes are to ensure that:

- *All serious cases are dealt with by the DT.* This is to ensure that the public interest (including the safety of children) is protected and the level of scrutiny is proportionate to the seriousness of the matter.
- *Only serious cases are dealt with by the DT.* We want to avoid unnecessary duplication of process. Because the DT is more time and resource intensive, we suggest it should be reserved for the most serious cases.
- *Consistent and transparent application of the legislation.* Any changes should be easy for the relevant disciplinary bodies to apply and be transparent to the public.

Questions:

Q.1. Do you agree with these objectives? Why?

Q.2. Are there any other objectives that should be included?

We assess four options, including the status quo, against these objectives below.

An additional option we considered was to tighten the definition of serious misconduct. We have rejected this option because:

- a) We were unable to arrive at a revised definition that tightens the scope of serious misconduct and still captures all the conduct that might be of a serious nature and warrant referral to the DT.
- b) Because employers are required to report to the Council where they have “reason to believe that the teacher has engaged in serious misconduct” (s491 of the Act), changing the definition of serious misconduct would also change the mandatory reporting criteria. It is important that the mandatory reporting criteria casts a wide net so that the Council is made aware of all the conduct that may require a disciplinary response. Moreover, employers are already familiar with the mandatory reporting criteria. While these problems could be mitigated by introducing separate definitions for the referral threshold and mandatory reporting, it could be confusing to have two similar definitions playing different roles.
- c) Amending the definition of serious misconduct would make the case law that has developed around the current definition of serious misconduct less applicable.

	<i>All serious cases are dealt with by the DT</i>	<i>Only serious cases are dealt with by the DT</i>	<i>There is consistent and transparent application of the rules</i>
(1) Retain current referral threshold: whether a case “may possibly constitute serious misconduct.	<p style="text-align: center;">+</p> <p>Provides the greatest certainty that all cases meeting the legal definition of serious misconduct are dealt with by the DT. The DT is currently making a finding of serious misconduct, rather than misconduct, over 90% of the time.</p>	<p style="text-align: center;">-</p> <p>Fewer than one third of cases before the DT currently result in suspension or cancellation. This suggests the current definition of serious misconduct is capturing a lot of cases that are not the most serious cases (those that lead to suspension or cancellation of a teacher’s right to practice).</p>	<p style="text-align: center;">○</p> <p>We have heard from the Council that the “may possibly” wording in the Act can be confusing for CAC panels. However, the CAC has the benefit of being able to apply the definition of serious misconduct to the facts.</p>
(2) Referral threshold is based on serious misconduct being likely to have occurred.	<p style="text-align: center;">+</p> <p>The vast majority of cases meeting the legal definition of serious misconduct will likely still be referred to the DT.</p>	<p style="text-align: center;">○</p> <p>Only likely to reduce the number of ‘misconduct’ findings made by the DT which make up less than 10% of DT findings. The current definition of serious misconduct may not be a good indicator of a case’s true seriousness given serious misconduct is often found but serious penalties are only imposed less than a third of the time.</p>	<p style="text-align: center;">○</p> <p>Could be confusing for the CAC to use a threshold that is so similar to the current threshold.</p>
(3) Referral threshold is based on whether the DT may need to consider suspension or cancellation as a starting point. Starting point penalty is the penalty considered before mitigating factors are accounted for.	<p style="text-align: center;">+</p> <p>Serious cases would be determined by whether they may attract suspension or cancellation as a starting point. This would mean that in addition to the cases actually leading to suspension or cancellation, the DT will also be referred some cases that result in less serious sanctions.</p>	<p style="text-align: center;">+</p> <p>The DT would be referred all matters that the CAC determines are serious enough for the DT to consider (as a starting point) if the teacher should be restricted from continuing to practice. While some cases which result in less severe penalties will still be considered by the DT, there are likely to be fewer such cases than captured by the current threshold.</p>	<p style="text-align: center;">○</p> <p>This option introduces a degree of discretion to the CAC they do not currently have. It requires the CAC to assess the starting point penalty rather than applying a definitional standard to the facts.</p>

<p>(4) Referral is based on CAC discretion</p>	<p style="text-align: center;">○</p> <p>Risks replicating the situation where the CAC was perceived to be holding onto too many serious cases rather than referring them to the DT.</p>	<p style="text-align: center;">+</p> <p>Incentives to reduce delays would likely help to reduce the number of less serious cases being referred to the DT.</p>	<p style="text-align: center;">-</p> <p>This option does not include a prescribed standard for when a case should be referred. While the Council could issue guidelines to support consistent treatment of cases, we lose a degree of public accountability that would be achieved with a legislated referral threshold.</p>
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We consider that Option 3 (referral is based on whether the DT may need to consider suspension or cancellation as a starting point) is the strongest option.

Option 3 will likely have the effect of reducing the number of less serious cases being referred to the DT. This is because we think the kind of sanction that a matter may attract is likely to be a better predictor of a case's true seriousness than can be achieved through a legislated definition of serious misconduct. Option 3 also retains transparency around which cases are required to be referred to the DT which we lose if there is no mandatory referral threshold.

Questions

Q.1. Do you agree that option 3 performs the strongest against the objectives above? If not, why not?

Q.2. Are there any other options that we should have considered?

Q.3. Can you think of a way to tighten the definition of serious misconduct so that it captures all and only the most serious cases of misconduct?

Options relating to changing the CAC's powers to resolve cases

The objectives of these proposed changes are to:

- *Uphold principles of natural justice.* The regime should be fair to teachers and initiators. This includes having a right to appeal where a teacher's rights are affected.
- *Ensure timely resolution.* Cases should be able to be resolved in a timely manner for the sake of all parties involved.
- *Protect the public interest.* If the referral threshold is raised, and the CAC is dealing with a higher number of more serious cases, it is important that an outcome that gives consideration to the public interest can be reached.
- *Provide for flexible resolution of cases.* Legislation should allow the CAC to resolve less serious matters using restorative practices where it sees fit.

Options analysis table - changing the CAC's powers to resolve cases

Criteria

		Supporting timely resolution	Uphold principles of natural justice	Protecting the public interest	Flexibility
Options	(1) Retain requirement to reach agreement	-	+	○	-
		Cases will continue to take a long time to resolve and there will continue to be cases where agreement cannot be reached. This problem will only worsen if the threshold for referral of cases to the DT is raised, as one of the change options in the previous section would do.	Requirement to reach agreement supports natural justice in the absence of an appeal.	Because the CAC need to reach agreement, it may be influenced to reduce a penalty in order to resolve a case.	Currently, the CAC can either resolve a case with agreement from the teacher and initiator, or it can refer the case to the DT.
	(2) Require the CAC to take reasonable steps to reach agreement before imposing a penalty	○	+	○	○
		The ability to impose a penalty would help the CAC resolve a matter where agreement cannot be reached, or it is taking too long to be reached. However, an appeal right would need to be included which could draw out a case.	An appeal right would be introduced for cases where the CAC has imposed a penalty.	Complainants would lose a degree of influence over the outcome that they have under the current provisions.	The CAC is already required by the Council's rules to take reasonable steps to reach agreement. But where this cannot be reached, the CAC must refer the case to the DT. This option provides some more flexibility as CAC would be able to impose a sanction rather than needing to refer the case to the DT.

<p><i>(3) Give the CAC power to impose a penalty without agreement, and provide for other ways that the CAC can resolve a case including by agreement or mediation</i></p>	<p style="text-align: center;">○</p> <p>Would enable the CAC to resolve certain cases more quickly where other methods are inappropriate or not successful. However, an appeal right would need to be included.</p>	<p style="text-align: center;">+</p> <p>An appeal right would be introduced for cases where the CAC has imposed a penalty.</p>	<p style="text-align: center;">○</p> <p>Where a sanction is imposed, complainants would lose a degree of influence over the outcome that they have under the current provisions.</p>	<p style="text-align: center;">+</p> <p>This option would allow the CAC to tailor the way it resolves a case to the circumstances. For example, the CAC could resolve some cases by mediation.</p>
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We consider that Option 3 (give the CAC power to impose a penalty without agreement and provide for other ways that the CAC can resolve a case including by agreement or mediation) is the strongest option.

This option will help the CAC resolve more cases faster and stop a few cases going to the DT that don't really need to go there. Rather than requiring the CAC to attempt agreement before imposing a penalty, Option 3 introduces a degree of flexibility which could better support the use of restorative practices.

Under all the options we identify above, the requirement for CAC panels to have a lay member would remain. This goes some way towards protecting the public interest.

Questions

Q.1. Do you agree that option 3 is the best for achieving the objectives above?

Q.2. Are there any other options that we should have considered?

Options relating to appeal

Removing the requirement for the CAC to reach agreement with the teacher and the complainant means an appeal right would be needed in cases where the CAC imposes a penalty. The most natural place to appeal is the DT, which has the relevant professional knowledge. At a minimum, a teacher should have a right to appeal if a CAC decision adversely affects them. Any part of a CAC decision should be open to appeal with several restrictions.

We do not consider it appropriate to be able to appeal a CAC decision to take no further action or refer a case on to another body such as the DT. Currently, the Triage Committee of the Council can decide to take no further action on a case and there is no right of appeal to this (although it can be judicially reviewed). It would not make sense to create a right of appeal of such a decision at a later stage. Also, the CAC should feel free to refer a case to another body it deems is more appropriate to resolve the case without the fear that this decision can be appealed.

We think there are two options to consider with respect to who can appeal a CAC decision. Option 1 is that any party adversely affected by a CAC decision can appeal. This would protect the interests of teachers as well as initiators who may be dissatisfied with the CAC's decision. This may be important as initiators will be losing a measure of influence over the CAC outcome that they have currently, if the provision that the CAC must reach agreement is removed. A second option is to limit appeal to the teacher. This option would likely lead to fewer appeals than Option 1 but does less to protect the interests of the initiators to the complaint.

Questions

Q.1. Does the requirement to include an appeal right support the objective to ensure timely resolution?

Q.2. Which of these two options for appeal do you agree with and why?

Minor and consequential changes

While the CAC can theoretically suspend a practising certificate under section 497(3)(c) of the Act, it does not happen in practice as suspension is reserved for only the most serious cases. Cases that attract suspension are almost certainly captured by the current definition of serious misconduct and so are referred to the DT. Therefore, it is inappropriate and potentially confusing for the CAC to retain this power.

Currently, the CAC can only attempt to resolve matters that are misconduct and not serious misconduct. Should any option to raise the referral threshold progress, the CAC will need to be able to deal with some matters that the DT may previously have found to meet the legal definition of 'serious misconduct'. Following such a change, the restriction on the CAC against making findings of serious misconduct should be removed.

Questions

Q.1. Do you agree that it is inappropriate for the CAC to retain the power to suspend practising certificates? If not, why not?

Q.2. If the CAC is going to be resolving more serious cases do you think it should be required to publish a summary of cases?

Proposed change to clarify the Teaching Council's role in enforcing certification requirements.

Summary

We are proposing a law change to make it clear that the Teaching Council of Aotearoa New Zealand (the Council) can prosecute the relatively small number of cases where teachers and employers are in breach of registration requirements. It is important for the quality of teaching and the safety of children that certification requirements are enforced and seen to be enforced

There is nothing to stop the Council from taking such prosecutions at present. The Council has told us, however, that the absence of an explicit function to prosecute breaches of teacher certification requirements is a barrier to it taking such prosecutions. For the avoidance of doubt, we propose that this function be made explicit.

The Teaching Council of Aotearoa New Zealand supports this proposal.

Background

It is currently illegal for a teacher without a practising certificate or a limited authority to teach to be employed as a teacher at a school or early learning service for more than 20 half-days in any calendar year ([s93\(3\) and \(4\)](#)).

The Education and Training Act 2020 ([s662](#)) sets out offences relating to false representations. A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if they:

- use the words 'registered teacher' or any word or initials likely to make any other person believe they are a registered teacher when they are not;
- teach when they hold neither a practising certificate nor a limited authority to teach.

Under s662 of the Act, a person also commits an offence, and is liable on conviction to a fine not exceeding \$5,000, if they appoint any person to a position or continue to employ a person in a position knowing the person is not registered as a teacher, or knowing the person does not hold a current practising certificate or a current limited authority to teach.

As the professional body for teaching, it is a natural function of the Teaching Council to take prosecutions where it considers people have breached s662.

The change - making the Council's prosecution function explicit

We are proposing to make it clear that the Teaching Council has a function of prosecuting people who are in breach of practising certificate requirements. This is a natural extension of the Council's current functions that involve managing registration/certification and upholding professional standards. This is also a natural extension of the Council's current practices which include notifying teachers that they are not certified.

These changes would be consistent with other statutory professional bodies. For example, the legislation governing lawyers, veterinarians, and electricians includes the ability to prosecute as an explicit function of the governing body.

Questions

Q.1. Are there any other options that we should have considered?

Q.2. Do you agree with the proposed change to make it explicit that the Teaching Council can prosecute teachers who are practising without practising certificates? If so why; if not why not?

Proposed change to clarify the grounds on which professional leaders in tertiary education organisations can have their practising certificates renewed using their recent teaching experience.

Introduction

We are seeking your views on a change to make it clear that the Teaching Council must use its discretion when considering the recent teaching experience of

professional leaders (and other registered teachers) in tertiary settings for the purposes of renewing these peoples' practising certificates.

The proposed change is supported by the Teaching Council of Aotearoa New Zealand.

Background

[Schedule 3, clause 10](#) of the Education and Training Act 2020 specifies when the Council can issue and renew practising certificates. When a registered teacher applies to renew their practising certificate using their recent teaching experience, the Teaching Council must determine whether the applicant satisfies one of two clauses:

- a. a person has been in a teaching position or teaching positions for a period of 2 years in the past 5 years.
- b. a person has been employed in a position for a period of 2 years in the past 5 years that in the Teaching Council's opinion was equivalent to a teaching position in an educational institution in New Zealand.⁵

Most teachers can have their teaching experience considered under clause a. because the [definition of teaching position](#) includes teachers and professional leaders in registered schools and early learning services. This reflects the fact that the primary focus of the teacher registration framework is the regulation of the schooling and early childhood sectors.

The Council can individually assess applications from teachers working outside schooling and early childhood settings under clause b. This applies to teachers working in tertiary settings, for example, people involved in initial teacher education.

However, the Act is not clear about what clause applies to professional leaders in tertiary settings. This is because the definition of teaching position includes reference to professional leaders in "other educational institutions" which covered tertiary education institutions in the previous Education Act 1989. This phrase is an unintended carry over from the previous Act. It was never intended that professional leaders in tertiary education organisations would be treated differently to teachers in tertiary education organisations in respect of the teaching experience test they must meet to renew their teacher certification. There is no rationale for treating teachers differently to professional leaders in tertiary institutions.

The change - the Council should exercise its discretion when considering the recent teaching experience of people in TEOs. (Option 3 below)

Removing the reference to "other educational institutions" in the definition of teaching position will make it clear that the Teaching Council must exercise its discretion (under b. above) when considering the recent teaching experience all registered teachers, including professional leaders, in tertiary education organisations.

The proposed change is intended to clarify that the primary focus of teacher registration is the regulation of the schooling and early childhood sectors. The

⁵ Refer Schedule 3, clause 10(6)(a) of the Act. Note that the requirements for renewing a practising certificate are different from issuing a first certificate which is covered by Schedule 3, clause 10(2). Certificates can also be renewed via a refresh process established by the Council under Schedule 3, clause 10(6)(b).

proposed change also provides consistency for how recent teaching experience of teachers and professional leaders outside schools and early childhood services is assessed by the Council.

Who will be affected by this change?

Most professional leaders and other registered teachers in tertiary education organisations (TEOs), for example those working in initial teacher education, who choose to hold a practising certificate will be able to have their recent teaching experience considered under schedule 3 clause 10(9)(b). Any additional evidence they may need to provide is likely to be minimal. If the Council is not satisfied that an applicant's employment is equivalent to being in a teaching position in a school or early childhood service, the applicant may be able to renew their certificate via a refresh process.

Questions

Q.1. Do you agree with the proposed change? If not, why not?

Q.2. How might these changes affect you?

Options analysis

	Benefits	Disadvantages/risks
1. Status quo		The current Act is not clear which test applies to professional leaders in tertiary settings. In addition, there is no rationale for treating teachers and professional leaders in tertiary settings differently.
2. Experience of people in TEOs should be considered under a.	Provides more certainty for people working in tertiary settings, particularly in initial teacher education, that they are able to renew their practising certificate using their employment experience.	Teaching in a tertiary setting is diverse and not necessarily equivalent to teaching in a school or early learning service. A blanket inclusion of employment in tertiary settings for the purposes of recognizing recent teaching experience does not recognize this difference.
3. Experience of people in TEOs should be considered under b. (preferred option)	Holding a practising certificate is primarily a way of showing that a registered teacher has the skills to practise in a school or early childhood	May mean less certainty for some teachers working in tertiary settings, particularly those who are not working in initial teacher education, that

	<p>service. If a registered teacher wants to use their recent experience as a way of demonstrating they have such skills but they have not been working in a school or early childhood service, then it makes sense that the Council should determine whether their recent employment required them to exercise the relevant skills.</p>	<p>they are able to renew their practising certificate using their employment experience.</p>
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How to have your say

We are seeking your views on changes to the Teaching Council's functions. You can email your submissions to legislation.consultation@education.govt.nz or write to:

Education Consultation
Ministry of Education
PO Box 1666
Wellington 6140
New Zealand

Submissions close on 16 June 2021 and will inform advice to the Minister on final policy proposals that would be submitted to Cabinet.

Purpose of feedback

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about possible changes to the Teaching Council functions.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters' names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.