

UPDATE OF THE EDUCATION ACT 1989 – SELECT COMMITTEE SUBMISSION

6 OCTOBER 2016

STRENGTHEN THE LEGAL FRAMEWORK FOR MANAGING TEACHER COMPETENCE ISSUES

The Education (Update) Amendment Bill proposes to establish a Competence Authority in the Education Council to speed up the competence complaint resolution process and to allow the governing council to focus on its strategic governance function.

The Education Council supports the overall proposal to establish a Competence Authority; however we have some concerns regarding the constitution of the Competence Authority as proposed in the Bill.

SUMMARY

The following table summarises our specific comments:

Bill Proposal	Comment
Competence Authority has the power to order cancellation of registration as a teacher, of practising certificates and of a limited authority to teach. <i>[Clauses 132, 134, 135]</i>	Agree
To establish a Competence Authority to consider reports and complaints about teacher competence and for the Education Council make rules providing for it. <i>[Clause 138]</i>	Agree
The Competence Authority must include at least 1 lay person. <i>[Clause 140]</i>	Disagree
The majority of members on the Competence Authority, and on every panel of the Competence Authority, must hold practising certificates. <i>[Clause 140]</i>	Agree

DISCUSSION

1. Competence Authority has the power to order cancellation

We are in favour of this proposal as it will significantly reduce the current operational burden on our governing board in having to consider competence cases that are referred to them each month (e.g. cases for cancellation). This will enable our governing board to focus on more appropriate issues of governance.

The number of competence cases has increased significantly over the last few years. With this increase, it is appropriate to have a specialised body to make decisions on teachers' competence. The increased number of cases has meant the Education Council has been detracted from its core work and a specialised body enables the Education Council to concentrate on governance matters.

Extending the Competence Authority's powers to cancellation of registration, practising certificates and limited authorities to teach is also consistent with the powers of our Disciplinary Tribunal, which makes decisions on teachers' conduct.

2. Education Council to make rules providing for the Competence Authority

The Competence Authority is currently established through the new Education Council Rules 2016. The feedback we received from consultation on the rules earlier in the year was in favour of the establishment of a Competence Authority, primarily as it would speed up the competence process for teachers under investigation.

3. Competence Authority must include at least 1 lay person

We disagree that the Competence Authority should consist of a lay member.

It is also not appropriate, in our view, to have people who are not teaching professionals determining whether teachers are professionally competent, because they will not have the knowledge or experience to make a judgement.

It is appropriate that our disciplinary bodies (the Complaints Assessment Committee and the Disciplinary Tribunal), which consider teachers' conduct, consist of lay people (non-teachers) - this is consistent with other professions.

However the competence investigation process and the Competence Authority are not disciplinary in nature. Our competence investigation process is generally rehabilitative in nature – not disciplinary. It is there to assess a teacher's professional competence against the set of specialised standards for which all registered and certificated teachers must meet (the *Practising Teacher Criteria*). As such, it is appropriate that only teachers with practising certificates are on the Competence Authority, as only these people are able to properly assess a teacher's competence.

4. Majority of Competence Authority members must hold practising certificates

We agree with this proposal. However for the reasons outlined above, our view is that *all* members of the Competence Authority should hold a current practising certificate.