

Impact Summary: Creating a pathway for teachers without recent teaching experience to return to teaching

Section 1: General information

Purpose
<p>The Ministry of Education is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to be taken by Cabinet on the proposal to enable the Teaching Council to have the flexibility to renew a practising certificate where an applicant has agreed to a refresh process to ensure their knowledge is up to date.</p>
Key Limitations or Constraints on Analysis
<p>There are no limitations or constraints on the analysis.</p>
Responsible Manager (signature and date):
 <p>Andrea Schöllmann Deputy Secretary Education System Policy Ministry of Education</p>

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Parts 31 and 32 of the Education Act 1989 (the Act) empower the Teaching Council to register teachers and to issue and renew practising certificates.

Section 361(6) of the Act stipulates that the Teaching Council may renew a practising certificate only if it is satisfied that the applicant has satisfactory recent teaching experience. Satisfactory recent teaching experience is defined in section 348 of the Act as either:

- An uninterrupted period of employment of 2 years, in the 5 years prior to the application for a renewed practising certificate; or
- A period shorter than 2 years approved by the Council, in the 5 years prior to the application for a renewed practising certificate.

While the Council can approve a period shorter than 2 years as “satisfactory recent teaching experience”, the Council may not approve *no* teaching experience in the 5 years prior to the application as “satisfactory recent teaching experience”.

The requirements for recent teaching experience ensure that teachers being re-certificated have current experience and knowledge, and have demonstrated their ability to meet the Standards for the Teaching Profession (the Standards).

However, the requirements as currently stipulated in the Act mean that teachers who have not taught in the last five years but who wish to return to teaching, cannot have their practising certificate renewed. The only option for these teachers to re-enter the profession is to wait for their current practising certificate to expire and apply for a new practising certificate. This involves being considered by the Council against the criteria for issuing a practising certificate, including whether they have completed a teaching qualification in the last six years.

The Council estimates that approximately 1,500 teachers in this circumstance have sought and been granted a renewed practising certificate between 2015 and 2018. The Council’s practice has been to issue a renewal for teachers in this situation, but this practice is not aligned with the requirements set out in the Act.

The requirements as set out in the Act mean that teachers who cannot demonstrate any recent teaching experience will incur additional delay in re-entering the profession. However, it is desirable for experienced teachers to be able to re-enter the teaching workforce after an extended break from teaching, as long as there is assurance of a high level of support and supervision so that they can bring their knowledge and practise up to date, and demonstrate their ability to meet the Standards.

2.2 Who is affected and how?

Currently, the Education Act 1989 (the Act) does not enable the Teaching Council to renew a teacher's practising certificate if the applicant cannot demonstrate any satisfactory recent teaching experience in the five years prior to the application. This affects the small group of registered teachers who wish to renew their practising certificate but cannot demonstrate recent teaching experience because, for example, they have been raising a family or travelling overseas.

The proposal for amendment poses no significant changes for those involved.

2.3 Are there any constraints on the scope for decision making?

There were no constraints in the analysis of the issue or in the development of options outlined below.

Section 3: Options identification

3.1 What options have been considered?

Three options have been considered in line with the objective of creating a pathway for teachers without recent teaching experience to return to teaching.

Option A

Option (A) is to continue with the status quo. The Council's practice has been to renew practising certificates for teachers without any recent teaching experience, provided they agree to a 'return to practice plan' or complete a Teacher Education Refresh Programme as set out in their registration policy. However, according to the Education Act 1989, the Council is not enabled to do this. Under option (A), the Council would have to cease their practice of renewing practising certificates for this group of teachers. The only way for these teachers to re-enter the profession would be to wait until their current practising certificate expires, and then start an application for a renewed practising certificate. This would involve applicants being assessed by the Council against the criteria for issuing a practising certificate, including whether they have completed a teaching qualification in the last six years.

Option B

Option (B) is to allow teachers who wish to return to teaching but who cannot demonstrate recent teaching experience to re-enter the profession by granting them a Limited Authority to Teach (LAT). Section 366 of the Act enables the Council to grant a LAT to any person who applies if it considers the applicant is of a suitable disposition to teach and, either has skills in short supply, or has skills and experience to advance the learning of students. Under option (B), the Council could grant a LAT to those qualified teachers who wish to re-enter the profession but who are unable to demonstrate recent teaching experience.

Option C

Option (C) is to amend the legislation to enable the Council to have the flexibility to renew a practising certificate where the applicant either has satisfactory recent teaching experience (as is provided for under section 361(6) of the Act) or has agreed to a refresh process to ensure their knowledge is up to date. This may take the form of a 'return to teaching pathway' including mentoring support and supervision by a fully certificated teacher in the school in which they intend to work, or a teacher education refresh where they have not taught for a considerable length of time. The requirements for the return to teaching pathway would be set in the Council's registration policy and all other requirements for renewing a practising certificate under section 361(6) of the Act would still apply.

3.2 Which of these options is the proposed approach?

The following criteria were used to assess the three options:

- Ensure the quality of teachers
- Provide a long term solution for re-entry into the profession which avoids unnecessary compliance costs

Option A

This option does not propose any changes to the legislation or significant changes to the Council's practice which means additional compliance costs would be avoided. However the Council would no longer be able to issue renewed practising certificates for this group of teachers. There would be a significant time burden for these teachers wishing to re-enter the profession as they must wait for their current practising certificate to expire and thereafter apply for a new practising certificate, which can take up to six weeks to process. This could become a barrier for teachers seeking to return to teaching and does not provide a long term solution for these teachers to re-enter the profession. Limiting employers' access to these qualified and registered teachers is also not desirable in circumstances where there is a shortage of qualified teachers.

Option B

This option involves significant additional compliance costs. LAT holders cannot be appointed to permanent teaching positions. Under option (B) teachers would be granted a LAT as an interim measure until their current practising certificate expires at which time they can apply for a new practising certificate. This means that both the Council and the teachers affected would have to go through two heavily administrative and costly tasks in order for these teachers to permanently re-enter the profession.

Option (B) also does not provide a long term solution for re-entry and does not support the maintenance of quality across the profession. While the wording of section 366 does not specifically prevent qualified teachers from being granted a LAT, section 365 of the Act makes it clear that the purpose of the LAT is "to enable those with specialist skills but not a teaching qualification to teach". We consider the legislative intent of the Limited Authority to Teach is that it is used solely to allow those without a formal teaching qualification to be temporarily employed in a teaching position. It would therefore be inappropriate for a registered and fully qualified teacher to be employed on a LAT and as a result paid the lower salary applicable to teachers holding a LAT. Furthermore those on a LAT are not required by the legislation to demonstrate they meet the Standards. Therefore, the use of the LAT in this situation could compromise the quality of teachers.

Option C

This option involves amending the legislation. Given that the alternatives create barriers for teachers seeking to return to the profession (Option A) or allow re-entry but risk the quality and status of registered teachers returning to the profession (Option B), we consider this is the best option.

Under this option, the quality of those re-entering the profession would be ensured through the conditions set by the Council for the teacher to bring their practice up to date, and applicants would still be required to meet all other requirements under section 361(6). Once a

practising certificate is renewed these teachers would be subject to the Standards and the Code, better maintaining quality throughout the process.

Granting the Council flexibility to set conditions for a teacher to bring their practice up to date when renewing their certification provides a stable pathway for teachers to return to teaching.

We propose to adopt option C

Following the above analysis we propose amending the legislation to reflect **Option (C)** to enable the Council to have the flexibility of renewing a practising certificate where the applicant either has satisfactory recent teaching experience or has agreed to a refresh process to ensure their knowledge is up to date.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties <i>(identify)</i>	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
--	---	---

Additional costs of proposed approach, compared to taking no action		
Regulated parties Teaching Council	The Teaching Council has already been operating in line with the proposed approach, so it is unlikely the Council would incur any significant additional cost.	Low
Regulated parties Teachers seeking renewed practising certificates	Teachers who wish to renew their practising certificate but who cannot demonstrate any recent teaching experience may be required to complete a Teacher Education Refresh (TER) programme or a return to teaching plan. The government fully subsidises the costs of a TER programme for people who are required by the Council to complete one. Teachers in this situation are already required to complete a TER programme or return to teaching plan, so there would be no change for them.	Low
Regulators Ministry of Education	No additional costs for the Ministry. Status quo continues.	Low
Wider government		
Other parties Employers of teachers	The 'return to teaching' plan requires mentoring and support from a fully certificated teacher. However, as stated above, placing a teacher on this plan when they cannot demonstrate recent teaching experience, has already been in practice. The proposed amendment poses no additional costs.	Low
Total Monetised Cost		
Non-monetised costs		Low

Expected benefits of proposed approach, compared to taking no action		
Regulated parties Teaching Council	The proposed amendment will enable the Council to renew practising certificates in line with their current policy.	High
Regulators Ministry of Education	The proposed amendment will remove a potential barrier for teachers who wish to return to the profession. This aligns with the Ministry's wider efforts to support the supply of teachers within the sector while ensuring the quality of teachers entering the profession is maintained.	Medium
Wider government		
Other parties Employers of teachers	Employers of teachers will benefit, as the proposed approach will support the supply of teachers.	Medium
Total Monetised Benefit		
Non-monetised benefits		Medium

4.2 What other impacts is this approach likely to have?
N/A

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

We have been working with the Teaching Council since it first approached the Ministry of Education regarding this issue. Since then our analysis and development of options have been undertaken in consultation with the Council.

The options were specifically aimed at enabling the Council to renew practising certificates for those teachers unable to demonstrate recent teaching experience, while ensuring the Council's function of ensuring teaching quality is not compromised.

The Council has recently undertaken a refresh of their registration policy, during which it consulted the profession and heard that current knowledge is important for safe, quality teaching. The new registration policy is consistent with our proposed approach.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

The amendments will be made through the forthcoming Education and Training Bill.

The Teaching Council is responsible for implementation. As this proposal does not make significant changes to the Council's current practice, we do not anticipate the need for significant preparation time or enforcement of the new arrangement. We expect the Council will publish their new registration policy which details the requirements of renewing practising certificates shortly.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The new arrangement does not propose any significant change to current practice so we do not consider there is a need for new monitoring processes.

7.2 When and how will the new arrangements be reviewed?

The new arrangement will be reviewed if it becomes apparent that the amendment is not achieving the desired outcome of providing a pathway for teachers to return to teaching while ensuring quality teaching within the profession. This could include concerns regarding the content of TER programmes or 'return to teaching' plans and whether they provide an adequate refresh of knowledge and practice. The Ministry and the Council have good lines of communications in place to discuss any concerns that may arise.