

## Legal costs associated with PPTA judicial review proceedings

On 9 November 2020, the New Zealand Post Primary Teachers' Association (PPTA) filed for judicial review of the Teaching Council's decisions in May 2020 to change the certification period and fees for teacher registration / certification from 1 February 2021 and the lawfulness of the Teaching Council's decision to accept the governments invitation to establish the Leadership Centre.

In a judicial review proceeding a judge is asked to review the actions or decisions of an administrative body to see whether they acted within the powers given to them by the law. The Teaching Council chose to defend the proceedings because they involved important points of law that had never previously been tested in a court of law, and it maintains public liability insurance for such purposes.

On 30 June 2021, the High Court declared that the Council's changes to the certification period and charging a single bundled fee for all of its statutory functions, was unlawful and upheld five of the six grounds for review brought by the PPTA.

The Court also did not consider that there was any failure on the part of the Council to provide sufficient information and options on the level of fees proposed, acknowledged that any potential cost savings realised through reduced services would be minimal and that the only source of income that was going to permit the Council to deliver its statutory functions was a substantial fee increase.

The Council engaged external legal advisors who are recognised experts in public law to support its defence of the PPTA judicial review proceedings and were charged hourly rates for legal services equivalent to the agreed all-of-government legal services rates. The net legal costs incurred by the Council were \$336,134.14. This total includes \$68,831.34 that the Council paid to PPTA in costs and disbursements.

The Teaching Council accepts the ruling of the court and has communicated the outcome to teachers and reset fees and periods of certification to those in place prior to 1 February 2021. Council has sufficient cash reserves in place to ensure it can continue to carry out all of its important statutory functions over the next 12 months, while it seeks law reform.