



LEGISLATION FOR THE NEW ZEALAND POLICE VETTING SERVICE

Submission from the Education Council of Aotearoa New Zealand

The Education Council

The Education Council of Aotearoa New Zealand (the Education Council) is the independent professional body for teachers from early childhood education through to primary and secondary schooling in English and Māori medium schools and centres.

There are currently around 101,000 practising teachers in New Zealand.

The statutory purpose of the Education Council set out in section 377 of the Education Act 1989 (the Act) is “to ensure safe and high-quality leadership, teaching and learning ... through raising the status of the profession”.

We act in the interests of teachers to:

- enable and support leadership to teachers and direction for the education profession, including teacher education and continued professional and leadership development
- establish and maintain criteria for teacher registration, standards for ongoing practice and criteria for the issue of practising certificates
- monitor and maintain the requirements relating to teacher conduct, competence and impairment
- establish and maintain the Code of Professional Responsibility for teachers.

Why we are responding to this consultation

The Education Council is fully supportive of the Police Vetting service and its important role in protecting children, young people and other vulnerable members of society. We firmly believe that the safety of all learners in all education settings is of paramount importance.

Our reasons for using the Police Vetting service are to assess whether a person is of good character and fit to be a teacher, and then as an ongoing requirement for renewal of a practising certificate. We are required by legislation to obtain a police vet for every person wishing to register as a teacher. The legislation also requires that every person wishing to renew their practising certificate or be issued with a Limited Authority to Teach has undergone a satisfactory police vet within the past three years. The Education Council is an Approved Agency for the purposes of police vetting.

It is right and appropriate that teachers are subject to the Police Vetting Service. Teachers make up a significant proportion of the workforce for children and young people. Importantly, employers do not have to police vet teachers with current practising certificates as part of the requirements of the Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015. This means employers rely on the Education Council to assess any information received from the Police Vetting service and decide

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Our Code of Professional Responsibility and Standards for the Teaching Profession capture the responsibility and trust placed on teachers by learners, their families and the community. Once a teacher has registered and has received their practising certificate they agree to work to our Code and Standards. This includes committing to work in the best interests of learners by promoting their wellbeing and protecting them from harm, and to engage in ethical and professional relationships with learners that respect professional boundaries.

The behaviour of the vast majority of teachers is beyond reproach and de-registration for serious misconduct is exceptionally rare. As a profession, teachers take their responsibilities to the safety and wellbeing of their learners very seriously. The Education Council acts in a clear and transparent manner towards serious misconduct, including publishing our disciplinary tribunal decisions on our website.

We support greater clarity

We support the aim to provide greater clarity and certainty about the purpose and functions of the Police Vetting Service. We recognise that the amount of police information is growing significantly. We support the need for more comprehensive guidelines and procedures, including the types of information that should be released in vetting.

We will not provide answers to every question. We will instead focus on the areas which stand to have the greatest implications for our functions. We support all efforts to ensure the Police Vetting Service can continue its important work within clear legal bounds and in a way that provides the highest possible guarantees to public safety.

We would really like to work closely with Police if, following this consultation, Police decide to develop legislation or to make other significant changes to the Police Vetting Service. Please contact Allie Jarratt, Lead Policy Analyst in the first instance: allie.jarratt@educationcouncil.org.nz.

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Responses to specific proposals

Should specified professional organisations in New Zealand who use the Police Vetting Service be legally obligated to disclose to the Police Vetting Service when members are de-registered?

Whether a person has been the subject of disciplinary action by a professional body for conduct involving children or young people may be a helpful factor in assessing a person's suitability to work as a children's worker. At present, a potential employer would only hold this information if they looked at the relevant registers or obtained agreement from the applicant to contact any professional body they have belonged to. This question seems to be directed at making Police the agency that would ensure this type of information was available in all cases where a person was being Police vetted for the purposes of a child safety check under the Vulnerable Children Act 2014 (VCA).

On that basis, having a system where Police collates information about deregistration has some appeal. However, the Education Council requires more detail on this proposal.

We agree with the intention to enhance the safety of children and young people by seeking to capture all pertinent information about vetting subjects, and that informing the Police Vetting Service of de-registration may be valuable in some circumstances. These circumstances are de-registration due to serious misconduct such as sexual misconduct or physical assault. We agree that this could provide the Police Vetting Service with important information should the deregistered person seek other employment



with children, young people or vulnerable adults.

There are other circumstances that may lead to de-registration but are not based on concerns for the safety of learners in the sense intended by the VCA. These include concerns such as individual teaching competence, serious misconduct of a different nature (such as dishonesty or repeated drink driving) and impairment. It is unclear whether Police Vetting Service should be notified of deregistration in these circumstances.

We also consider that there must be clear understanding about how much detail is released. Although we may support disclosure of the fact that a member has been deregistered in certain circumstances, the public value in releasing a wider range of details is not clear. For example, it may not be appropriate to release the full details behind the de-registration, but a summary may be appropriate.

Consideration is also needed on the impact on name suppression in some cases. While release of suppressed information to Police under a legal requirement would not be a breach of any order, there would need to be clarity about how the Police Vetting Service then dealt with that information, particularly as suppression is often granted to protect a child or young person.

We believe that this proposal requires more work to clearly articulate the circumstances under which a legal obligation would arise and how sharing this information will best protect children and young people.

Further, it should be considered whether an alternative solution would be to require any prospective employer to check the register of relevant bodies such as teachers, nurses and social workers to see whether the applicant has been the subject of disciplinary action. This was a recommendation from the Coroner following an inquest into the death of a student (See McLelland [2017] NZCorC 25 (2 June 2017).)¹

Question: what should be the extent of reciprocal information-sharing between the vetting requester and Police?

As detailed in response to the previous question, the Education Council fully supports the intention to increase protection and safety of children and young people. We do however have significant concerns with this proposal as currently defined. We strongly suggest that Police articulate a clear, explicit purpose behind this proposal and a statement of the perceived value of this requirement.

The currently proposal is for sharing of “any information relevant to the vetting subject’s risk.” We believe there must be a more thorough analysis of the types of information considered “relevant to the vetting subject’s risk.” This analysis should contain the types of information that would be excluded. We are not in favour of providing any unsubstantiated or untested information. It also raises the issue of whether in providing information to the Police Vetting Service there is an expectation that the information may be used for other purposes such as criminal prosecution.

We would be happy to continue to work with Police on this matter.

Cost and process implications

We are satisfied with our current arrangements with the Police Vetting Service. We have found that current arrangements enable police vetting to be carried out in an efficient, timely manner. This in turn assists us to issue or renew practising certificates with confidence and without unreasonable delays for teachers. The teaching workforce take their responsibilities to learners and communities very seriously, and only a very low proportion of Police vets on teachers return information. This is much lower than the population as a whole.

We believe that this proposal requires more work to clearly articulate the circumstances under which a legal obligation would arise and how sharing this information will best protect children and young people.

¹ I recommend that the Vulnerable Children (Requirements for Safety Checks of Children’s Workers) Regulations 2015 be amended to require an entity undertaking a safety check assess any disciplinary information held by professional organisations, licensing authorities, or registration authorities to which the person being checked previously belonged.



Our current high priority service arrangement with Police for vetting is essential. It means we can carry out our legislative requirements around vetting as it ensures vetting remains affordable. Due to this, we support a cost model that works, not as a distributed model, but as a user pays. We need to work more closely with Police on this matter and as stated above, please feel welcome to contact Allie Jarratt in the first instance.

We note that some proposals in the consultation document, including potential changes to the consent process and ongoing monitoring, could impact on efficiency and timeliness. We would appreciate working closely with Police to understand any implications for cost, timeliness and the actions required to mitigate these.

The Education Council fully supports the Police Vetting Service and we believe it is a public good. We therefore support arrangements around no charges for charitable organisations to remain in place.

