

# Screening Regulatory Impact Analysis

## Teaching Council (Amendment) Bill 2015

### Section 1 - Summary of Regulatory Impact Analysis (RIA)

Department/Office:  Department of Education and Skills	Title of Legislation:  Teaching Council (Amendment) Bill 2015
Stage: Published Bill	Date: 21 January 2015
Related Publications: Explanatory Memo	
Available to view or download at: <a href="http://www.education.ie">www.education.ie</a>	
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<b>What Policy options are being pursued</b>  The policy aims are to – <ul style="list-style-type: none"> <li>put in place measures which will help improve the workability of the amended National Vetting Bureau Act 2012 (NVB Act) and ultimately help better achieve the Act's child protection aims in the schools sector.</li> <li>provide a clear statutory basis for the role of the Teaching Council in the forthcoming statutory arrangements for the vetting of registered teachers in the context of it acting as a conduit for schools and ETBs</li> <li>enable the Teaching Council to seek and obtain vetting disclosures in its own right as a registration body i.e. for initial registration, renewal of registration and where relevant in a Fitness to Teach inquiry and</li> <li>clarify and strengthen the statutory provisions relating to the Teaching Council's fitness to teach function prior to the commencement of these provisions</li> </ul>	
<b>What policy options have been considered?</b>  1. Do nothing  2. Introduce the amendments to the Teaching Council Act 2001 – 2012 necessary to achieve the policy aims above.	

**Preferred Option:** Option 2

OPTIONS			
	COSTS	BENEFITS	IMPACTS
1.	<ul style="list-style-type: none"><li>Additional costs may arise from impacts of disruption in the school system</li></ul>	<ul style="list-style-type: none"><li>No perceived benefits arising from this option</li></ul>	<ul style="list-style-type: none"><li>Risk of disruption in filling teaching vacancies in recognised schools</li><li>Qualified teachers unable to avail of employment opportunities in a timely manner</li><li>No workable mechanism to enable schools to meet the requirements of the NVB Act in relation to the employment of registered teachers</li><li>Lack of a clear statutory basis for the role of the Teaching Council in the arrangements for the vetting of registered teachers under the NVB Act.</li><li>No change to some of the existing wording regarding fitness to teach provisions may render this function ineffective except in the most extreme cases.</li></ul>
2.	<ul style="list-style-type: none"><li>Some initial costs arising from the adaptation of the Teaching Council's electronic register. It is expected that this will be offset by savings owing to associated administrative efficiencies</li></ul>	<ul style="list-style-type: none"><li>There is a clear statutory basis for the role of the Teaching Council in the arrangements for the vetting of registered teachers under the NVB Act</li><li>Workable arrangements for the schools</li></ul>	<ul style="list-style-type: none"><li>The amendments will contribute to the state's measures to protect children and vulnerable adults.</li><li>Reduced risk of disruption for recognised schools</li><li>Effective fitness to teach arrangements; once commenced, the Teaching Council can begin to conduct fitness to teach inquiries.</li></ul>

		<p>system to meet their obligations under the NVB Act.</p> <ul style="list-style-type: none"> <li>• Teaching Council's legislative framework for fitness to practice procedures and registration matters is clearer and more robust.</li> </ul>	
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## Section 2 - Statement of policy context and objective

A. In anticipation of the commencement of the National Vetting Bureau Act 2012 (NVB Act), the Department of Education and Skills has engaged in extensive preparatory work, including ongoing engagement with the Department of Justice and Equality and the Office of the Attorney General, in relation to its implementation in the education sector. In this regard, a key objective for the Department is to ensure that there are effective arrangements and procedures in place for child protection, particularly in the schools' sector. In that context, the Department needs to ensure that the Teaching Council which plays a key and vital role in the vetting arrangements for teachers will have the necessary statutory underpinning for this role when the NVB Act is commenced. The Teaching Council plays a critical role on two fronts:

### 1) Representing Schools and ETBs in the vetting arrangements

The Council's role is a key factor in the administrative workability of the current vetting arrangements for teachers. Under these existing vetting arrangements, the Teaching Council is the registered organisation that liaises with the Garda Central Vetting Unit (GCVU) for the vetting of teachers and acts as a conduit for the circa 3500 individual schools and Education and Training Boards (ETBs) that employ registered teachers. Teaching Council legislation does not currently explicitly empower the Council to undertake this role.

It is also considered necessary for the workability of the statutory vetting requirements of the NVB Act and to reduce the risk of disruption in schools to provide a statutory basis for the Teaching Council to have in place a streamlined (electronic) mechanism which will enable schools to easily access vetting disclosures in compliance with the NVB Act when employing registered teachers.

## **2) Child Protection and registration of teachers**

As licenser and regulator of teachers, the Teaching Council is a vital component of the state's overall child protection infrastructure for schools. This is by virtue of the Teaching Council's capacity to ensure that any person whom it deems unsuitable to teach will not be registered as a teacher and is thereby prevented from being paid in any employment as a teacher in a recognised school. In addition, the Teaching Council will, when its fitness to teach inquiry provisions are commenced, have the capacity to remove a teacher from the register where the person is unfit to teach.

- B. There is also a need to clarify and strengthen the Part 5 (fitness to teach) provisions of the Teaching Council Acts 2001 to 2012. A very important aspect of a professional regulatory system is its ability to inquire into the fitness to practice of its members. Part 5 of the Teaching Council Acts 2001 to 2012 sets out the arrangements for the Teaching Council's Fitness to Teach function. The powers under Part 5 will be a vitally important component in the state's child protection infrastructure. Aside from the child protection context, Part 5 provides a mechanism for the Council to inquire into, and make findings in relation to, other aspects of fitness to practice such as professional misconduct, poor professional performance and medical fitness.

This Part of the Act has not yet been commenced and it is essential that its provisions are as clear, fair and robust as possible when it becomes operational. In that context it is considered important that a number of amendments are made to improve and strengthen the fitness to teach structures and processes to be operated by the Council.

## **Section 3 - Identification and description of options**

### **3.1 Option 1 - Do nothing**

Doing nothing will result in the following;

- Risk of disruption in filling teaching vacancies in recognised schools
- Qualified teachers unable to avail of employment opportunities in a timely manner
- No workable mechanism to enable schools to meet the requirements of the NVB Act in relation to the employment of registered teachers.
- No change to some of the existing wording regarding fitness to teach provisions may render this function ineffective except in the most extreme cases.

### **3.2 Option 2 - Introduce amendments to the Teaching Council Act 2001 – 2012**

**This option entails amending the Teaching Council Act 2001, to provide for the following key elements:**

- Ensuring that there is no legal ambiguity in relation to the Teaching Council's role in the operation of the vetting arrangements for registered teachers including where it does so as a conduit for schools and ETBs.
- Providing a statutory basis for a centralised and accessible mechanism for school/ETB employers to receive disclosures for teachers via the electronic register and in compliance with the NVB Act.
- Making garda vetting an integral part of the Teaching Council's registration functions.
- Linking compliance with the statutory vetting arrangements with renewal of registration
- Enabling the Teaching Council to use the information in a vetting disclosure that is sought at renewal stage to determine whether a teacher is a fit and proper person to have his/her registration renewed
- Clarifying and improving the overall capacity of the Teaching Council to deal with complaints in relation to teachers including where a complaint indicates a risk of harm or potential harm to a child or vulnerable person by empowering it to seek a vetting disclosure in respect of the teacher concerned as part of a Fitness to Teach Inquiry.
- Enabling a Fitness to Teach Inquiry to be undertaken if the information in a vetting disclosure that has been received by the Council in its role as conduit for schools and ETBs, indicates a risk of harm or a potential risk of harm to a child or vulnerable adult.
- Strengthening and clarifying the legislative framework for the Council's fitness to teach function

It is intended that all registered teachers will be vetted under the new statutory vetting arrangements as soon as possible after the legislation is commenced with the initial priority being the cohort of teachers that were never vetted under the non-statutory arrangements. The number of teachers vetted under the non-statutory arrangements continues to steadily increase. There are circa 90,000 teachers on the Teaching Council register and almost 54,000 of them have been vetted. This represents about 60% of the teachers on the register. The forthcoming statutory vetting arrangements will include disclosure of "soft information" which is an important new aspect of the vetting arrangements. "Soft information" is referred to as "specified information" in the NVB Act and is information other than criminal convictions held by the Garda Síochána where such information leads to a bona-fide belief that a person poses a threat to children. Compliance with the statutory vetting requirements will be linked to renewal of registration. Where a teacher poses a risk to children, removal of that teacher from the Teaching Council register is considered the most effective way of achieving child protection across all recognised schools.

In the context of fitness to teach the Bill also makes provision for a number of other measures to ensure that where child protection concerns are at issue, the Teaching Council has the necessary capacity to act.

Aside from the child protection context, the Bill also provides a mechanism for the Council to inquire into, and make findings in relation to other general aspects of fitness to practice such as professional misconduct, poor professional performance and medical fitness. Part 5 provides for a range of sanctions to be available, following an inquiry, ranging from advice or admonishment, to measures for amelioration of practice such as accessing relevant support services, to suspension or removal from the register which might be appropriate in the most serious of cases.

This Teaching Council (Amendment) Bill includes the approved provisions aimed at strengthening the fitness to teach arrangements to ensure that the Council has appropriate powers to seek evidence and make decisions, in advance of the commencement of Part 5.

### **3.3 Conclusion**

The key policy objectives in the proposed amendments being brought forward are aimed at putting in place measures which will help improve the workability of the amended NVB Act, making garda vetting an integral part of teacher registration, clarifying and strengthening the Fitness to Teach provisions of the Teaching Council legislation, ensuring that a teacher who poses a risk to children is removed from the register and thereby precluded from teaching in any recognised school and ultimately to help better achieve the Act's child protection aims in the schools sector. Option 2 is the preferred and only option that can be considered in order to achieve these policy objectives. It is also the preferred option so as to ensure that the Council can operate effective and clear initial registration, renewal of registration and fitness to teach functions.

## **Section 4 - Analysis of the costs, benefits and impacts**

### **4.1 Option 1 - Do nothing**

#### **Costs**

Additional costs may also arise in relation to the impacts of disruption in the school system.

#### **Benefits**

There are no perceived benefits accruing under option 1.

#### **Impacts**

- Risk of disruption in filling teaching vacancies in recognised schools
- Qualified teachers unable to avail of employment opportunities in a timely manner
- No workable mechanism to enable schools to meet the requirements of the NVB Act in relation to the employment of registered teachers.

- Lack of a clear statutory basis for the role of the Teaching Council in the arrangements for the vetting of registered teachers under the NVB Act.
- No change to some of the existing wording regarding fitness to teach provisions may render this function ineffective except in the most extreme cases.

## 4.2 Option 2 - Introduce amendments to the Teaching Council Act 2001 – 2012

### Costs

- Some initial costs arising from the adaptation of the Teaching Council's electronic register.

### Benefits

- There is a clear legal basis for the Teaching Council to continue to act as a conduit for schools/ETBs in the vetting arrangements for registered teachers and to obtain disclosures, under the NVB Act, in its own right for registration and renewal of registration.
- Workable arrangements for the schools system to meet their obligations under the NVB Act.
- Teaching Council's legislative framework for fitness to practice procedures and registration matters is clearer and more robust.

### Impacts

- The amendments will contribute to the state's measures to protect children and vulnerable adults.
- Effective fitness to teach arrangements; once commenced, the Teaching Council can begin to conduct fitness to teach inquiries.

## National Impacts

### National Competitiveness

No impact.

### The Socially Excluded and Vulnerable Groups

The proposed provisions will impact positively on children and vulnerable adults by further enhancing the state's measures to protect children and vulnerable adults in the recognised schools sector.

### The Environment

No impact.

### Economic market, Consumers and Competition

No impact.

### The Rights of Citizens

The rights of teachers to their good name will be maintained under the proposals put forward. Registered teachers will be afforded fair procedures and due process under part 5 of the Teaching Council Act.

Records held electronically by the Teaching Council will not be accessible other than to an employer for the purposes of obtaining a disclosure under the NVB Act and in such circumstances only with the

consent and knowledge of the teacher in question. Data will be held in compliance with Data Protection Legislation.

The proposals endeavour to provide a safe and secure environment for students thus improving the experience of parents and students in relation to access to education.

There will be no impact on the employment rights legal framework.

#### **Disabilities**

No impact.

#### **Poverty**

No impact.

#### **Compliance Burdens on third parties**

Under option 2, the provision of a statutory basis for the Teaching Council to put in place a streamlined (electronic) mechanism enables schools/ETB's to easily access in compliance with the NVB Act vetting disclosures when employing registered teachers.

To ensure the Council has available to it all relevant and appropriate information to enable it to discharge its regulatory functions, the Bill strengthens and clarifies the Teaching Council's powers to seek information and evidence in relation to fitness to teach inquiries from schools and other relevant third parties. No significant compliance burden should arise; the cooperation of schools and other relevant third parties is important to ensure that informed decisions can be made in the interest of fair procedures and protecting standards of practice in the profession.

#### **North-South and East-West Relations**

No direct impact.

### **Section 5 - Consultation**

The Department has been involved in ongoing engagement with the Department of Justice & Equality and the Office of the Attorney General in relation to implementation of the NVB Act for the education sector so as to ensure that the twin objectives, both child protection and operational, can be met.

Extensive engagement with the Teaching Council on policy and operational matters has been ongoing prior to, and during, the drafting of the Bill.

### **Section 6 - Enforcement and Compliance**

The requirement for registered teachers to comply with the vetting arrangements (as part of registration with the Teaching Council) will enable any issue of non-compliance to be dealt with in the context of renewal of a person's registration.



## **Section 7 - Review**

The amendments proposed to the Teaching Council Act, once enacted, will be kept under review to ensure that it is meeting its objectives.

## **Section 8 - Publication**

The Regulatory Impact Analysis will be published on the Department's website

Department of Education and Skills

January 2015