

2007 Review of the Victorian Institute of Teaching

Submission of the Victorian Independent Education Union

1.0 Preamble

- 1.1** The Victorian Independent Education Union is pleased to have this opportunity to provide a submission to the Review of the Victorian Institute of Teaching.

VIEU represents teachers and other staff in Catholic and independent schools, including Primary Principals in Catholic schools, and has long been an advocate for the registration of teachers.

The VIEU submission provides comment on the appropriateness and effectiveness of the Institute in respect to its functions under the current Act. The submission also raises a number of matters that VIEU believes should be amended in respect to the current Act and VIT policies. In addition the submission includes comment on matters that are and have been the subject of discussions about future directions and proposed changes.

2.0 The appropriateness and effectiveness of the current functions of the Institute

2.1 Appropriateness of the current functions as outlined in section 2.6.3 of the Education and Training Reform Act

VIEU supports all of the current functions listed in the Act as being the appropriate functions to be performed by the Victorian Institute of Teaching.

2.2 Effectiveness of the Institute in respect to its legislative functions

VIEU wishes to make here a number of comments that relate to areas of concern with the effectiveness of some of the key functions of the institute. These include the requirement to:

- (i) Recognise and promote the profession of teaching and regulate members of the teaching profession.**

VIEU strongly supports the appropriateness of the function of promotion of the profession. However, one of the significant concerns of members of VIEU is that the Institute has failed over the first five years of its operation to promote the profession of teaching, particularly in the face of criticisms of the profession. Much of the Institute's operational activities have been about the transition of pre-existing teachers to the register of the Institute, the establishment of registration processes and disciplinary hearings, and the accreditation processes of teacher education pre-service courses. Even the establishment of Standards of Professional Practice and more recently work to develop a Code of Ethics and a Code of Conduct are understood by teachers and the general public as elements more closely related to control through registration and regulation, and not in a sense of promotion of professionalism of teachers.

The Institute's publications, public comment, and perception in the public arena and as reflected by the media, have failed to promote teaching as a learned, skilled, ethical and honourable profession.

Particularly over the last few years there have been numerous unsubstantiated allegations made in the media and political arenas which have been general attacks on the competence and values of teachers as professional educators. These criticisms, in turn, have acted to undermine public confidence in the profession and teachers' own morale. The Institute has been silent in response to these attacks.

This has been a highly unsatisfactory response, not just because it does not defend the profession, but also because it can also be argued that an attack on the ethical and professional behaviour and competence of teachers, is an attack on the integrity and credibility of the teacher regulatory body itself.

VIEU believes that the function of promotion should remain and be strengthened by standing as a function in its own right.

(ii) develop, establish and maintain standards of professional practice for entry into the profession and for continuing membership of the profession; and develop and maintain and promote a code of conduct for the teaching profession

VIEU does not take issue with the functions as outlined above. However, the overwhelming response of teachers to the Institute's carrying out of these functions is one of disinterest. This is an unfortunate and disappointing product of the lack of success of the Institute to take the members of the teaching profession with it in the development of these functions, and is related fundamentally to the perception by teachers that the Institute is not relevant to them and does not promote the professionalism of teaching in a positive way.

(iii) develop and maintain a Professional Learning Framework to support and promote the continuing education and professional development of teachers; and undertake and promote research about teaching and learning practices

VIEU believes that these two functions outlined in the Act are important functions, for both the support and maintenance of professionalism in teaching and to uphold the public interest aspect of the Institute's role.

However, both of these functions should have been undertaken from the initial establishment of the Institute, far more comprehensively and with much greater involvement of teachers. There is a high level of teacher criticism of the Institute's general low prioritising of these functions and the subsequent lack of work in this area.

VIEU does acknowledge that the Institute has run an extensive program for provisionally registered teachers and their mentors around the process of moving to full registration. Also much of the research commissioned by the institute has been done in relation to the provisionally registered teacher process, particularly induction, and also on standards. While valuable to the development of the provisionally registered teacher processes, its relevance to teachers more generally is not well understood and there is criticism that the Institute has focused over the five years only on issues relevant to a small, albeit important, section of the teaching profession.

The publication *iteach* has been the Institute's primary communication tool and also primary "resource" in respect to these two functions, and both teachers and principals do not regard this as an effective resource. The Institute needs to provide a more positive set of resources around professional issues, which can promote its standards and codes in ways that are practical and relevant. For example, teachers would benefit from monographs about specific teachers and the law issues, case studies on current pedagogical debates, and the like.

(iv) grant registration or permission to teach in Victorian schools;

VIEU wishes to make specific comment on a number of matters under this function. These include concerns with the permission to teach category, elements of the provisional registration process to move to full registration, and renewal of registration requirements. These are outlined further in this submission.

(v) investigate the conduct, competence and fitness to teach of registered teachers and impose sanction where appropriate

VIEU wishes to make specific comment in relation to this function, including concerns about notification of employers, and greater discretionary powers in relation to deregistration arising from previous criminal records. These are outlined further in this submission.

3.0 Definitions in the Education and Training Reform Act

3.1 Teacher

It may be desirable for the definition of *Teacher*, and subsequently the application of this whole section of the Act, to be amended to include Early Childhood Teachers.

This should not occur, however, before extensive consultation with stakeholders, particularly Early Childhood teachers, on this matter.

If Early Childhood teachers are to come into the Act in respect to the Victorian Institute of Teaching, this would require deemed registration arrangements for current teachers, similar to that which occurred for primary and secondary teachers when the Institute was established. There will be other issues requiring special consideration, such as the differences in qualifications, although Section 2.6.8 of the current Act should accommodate any differences.

4.0 Structure of the Council

4.1 The composition of the Council

VIEU remains very concerned about the insufficient representation on the Institute Council of practising teachers, and sees this as a continuing flaw in the composition of VIT and a critical element in the continuing lack of support generally from the profession for the Institute.

Of the 20 members of Council, there are only 10 elected members, of whom only 8 are practising teachers. The other 2 positions are elected principals. While VIEU acknowledges that 3 of the 8 Ministerial nominees are to be teachers, this important body has a minority of teacher representatives elected by teachers. It can not be acceptable to a profession that the body which regulates it does not have a significant majority of its governing body elected from its practising members, who are not employing authority representatives, nor those whose primary role is not teaching.

VIEU is calling for a change in the composition of the Council to ensure a significant majority of teachers.

4.2 Election by registered teachers

The Act currently specifies that the elected members of the Council are elected by registered teachers who are currently teaching in their respective electoral areas (e.g. primary state school).

While there are logistical challenges in the identification of both the current status of teaching and the appropriate electoral area of any registered teacher for the purpose of the entitlement to vote, VIEU strongly believes that this should remain the election procedure.

5.0 Disciplinary Hearings and De-Registration

5.1 Fitness to Teach, Serious Incompetence, Serious Misconduct

VIEU strongly supports the current Act in the way it is structured and written in terms of Fitness to Teach, Serious Misconduct, and Serious Incompetence.

VIEU does not support changes to the way in which these elements are currently defined and interpreted.

5.2 Amendments sought

However, VIEU calls for amendment to the current Act to allow:

- (i) right of review to VCAT on a decision to cancel a teacher's registration for a sexual offence;
- (ii) the capacity of the Institute to exercise discretion as to whether to conduct an inquiry when dealing with an indictable offence and thereby the Institute's capacity to exercise discretion as to whether to notify employers when such an offence is minor;
- (iii) cancellation of registration for a defined (that is limited) period. Currently all cancellation of registration is indefinite;
- (iv) that the name and place of employment of teachers subject to disciplinary proceedings pursuant to the Act are withheld from any publication until and unless the Institute determines to cancel their registration.

5.3 Procedural matters

VIEU would strongly oppose any change to:

- (i) give informal hearings the power to impose disciplinary determinations, such as fines and cautions. It should be noted that currently members subject to informal hearings cannot be represented at these hearings. To extend the power and capacity of the Institute in this context would represent both a denial of natural justice to teachers subject to the informal hearing process and a usurpation of functions, duties, and responsibilities currently the province of employers in the industry;
- (ii) allow panels to conclude that teachers are guilty of "misconduct". We strongly support the scope of the current Act, which limits its powers to serious breaches in professional behaviour, and allows for the Institute to investigate and take disciplinary action in respect to matters of "serious misconduct". VIEU believes that it is inappropriate and unnecessary for this scope to be changed;
- (iii) allow the Institute to convene health panels to assess alleged medical or psychological fitness. Disciplinary panels currently have the capacity to hear evidence and reach conclusions in respect of these matters to the extent that they are relevant to a determination as to fitness to teach, serious misconduct or serious incompetence. Physiological fitness for work is per se an employment matter. It is the subject of extensive regulation, principally in Victoria pursuant to the provisions of the Workplace Relations Act (Cth). In addition specific employer and employee responsibilities are the subject of regulation by industrial instruments. Any proposal to convene stand-alone health panels of the Institute represents an unwarranted and unjustifiable interference in the employer/employee relationship in the industry;

- (iv) give the Institute the power to initiate enquiries in the absence of a formal complaint having been made. The legislation already provides confidentiality and name suppression for complainants;
- (v) the current Act's definitions and intentions in respect to serious misconduct, serious incompetence and fitness to teach.

6.0 Registration Matters

6.1 Criminal records

VIEU believes that it is imperative to the fair and proper functioning of the Institute that there are changes to the Act to allow for greater discretion in the consideration of criminal history by the Institute in its determination of registration, and in addition, to allow access to VCAT in respect to decisions in this area.

6.2 Permission to Teach

VIEU has a number of concerns about the current Act and VIT policy in respect to the Permission to Teach category. The current Act and the subsequent Institute policy allow a person, who would not otherwise meet the criteria for full registration, to apply for and be granted permission to teach for 12 months, with the possibility of extension to 5 years. It is the individual person who seeks the permission to teach and the Act outlines the general requirements that such a person should have.

The Act allows in essence a lesser standard to apply to this person, irrespective of any proven necessity to deviate from the higher standard which is expected by the community, and which underpins the Act generally, that is, that a teacher must be registered.

Specifically, VIEU strongly supports the requirement for all teachers to be registered and for all schools to employ only registered teachers to teach. VIEU is concerned about the lesser standards applying in the granting of permission to teach than those that apply to any other category of registration. There are a number of areas where the Act should be strengthened. These relate to:

- (i) the lack of public transparency in the policy around the "circumstances" where Permission to Teach may be granted to a person for up to 5 years, particularly in areas of specialist teaching such as LOTE and VET etc;
- (ii) no requirement in the Act for an employer to show that all reasonable actions have been taken to fill a position with a registered teacher before there is an application for permission to teach from an individual person. This should require a formal application to be made by a school and should including the requirement for evidence of wide advertising;

- (iii) continuous, repeat granting of Permission to Teach to a person where the requirements, that are now in place for the renewal of registration for registered teachers, including professional development, are not imposed on persons teaching under Permission to Teach category;
- (iv) Casual teachers holding only 3 year trained status.

This category of Permission to Teach does require specific treatment. This group of teachers do hold a teaching qualification, and in most instances have taught for many years. Many of these teachers, because they have come from interstate or missed the deeming period that applied for other 3 year trained Victorian teachers in 2002, now do not meet the current qualifications policy of the Institute.

VIEU supports an amendment which would allow this group of teachers to continue to apply for Permission to Teach. In addition, the Institute should be empowered to allow such three year trained teachers to be able to apply for full registration by being able to supply evidence of equivalency of an additional year of training. This would entail evidence of extensive relevant teaching experience and professional development.

- (v) the need to review the Permission to Teach provisions as they apply to instrumental music teachers, choral teachers and sports coaches. It may be appropriate that these three groups are treated differently in respect to the 5 year limitation. This should be the subject of further review.

6.3 Provisional registration and requirements for full registration

There are a number of concerns that relate to the matter of provisional registration, including the duration of provisional registration and the associated issue of the process by which provisionally registered teachers apply to be fully registered.

- (i) VIEU has continuing concerns about the workload implications of the current requirements, particularly in the first year of employment. In addition it is clear that a large number of provisionally registered teachers have already demonstrated to the Institute that they require up to two years to satisfy the standards for full registration.

There needs to a full review of why there has been a large number requiring more than 12 months.

In addition, it may well be appropriate to amend the length of period for granting Provisional registration to up to 2 years and remove the requirement to “seek to extend” beyond the one year. Those provisionally registered teachers who wish to apply before the conclusion of two years, should be able make their application to do so.

- (ii) VIEU believes there should be no exemption allowable in an independent school for the school to dispense with having a panel consider a provisionally registered teacher's application for full registration.

6.4 Mutual recognition

VIEU is concerned that mutual recognition processes are not being fully implemented. Teachers from interstate who are registered with the relevant teacher registration body should be automatically registered with the Victorian Institute of Teaching (subject to a current Police Records Check). In addition, these teachers should not be required to pay a higher application fee than teachers applying from within in Victoria.

6.5 Renewal of registration

VIEU continues to have major concerns about the impact that the renewal of registration requirements will have on emergency teachers and part-time teachers (particularly those part-time teachers are employed for relatively low teaching loads).

VIEU calls for a study on the access to and quality of professional development available to these groups, including access to the broader professional learning school-based activities in the current renewal policy.

VIEU also calls for a comprehensive review to be undertaken in respect to the impact of the renewal requirements and process, following its full implementation.

6.6 Less than qualified teachers deemed registered in 2002

Under the deeming provisions of the Victorian Institute of Teaching Act 2001, the Institute deemed registered teachers who were currently working in the Victorian Department of Education and those teachers registered with the Registered Schools Board. VIEU supported this deeming as entirely appropriate.

A number of these deemed teachers do not have a four year qualification, but have many years of teaching experience and have undertaken extensive professional development over the course of their careers.

VIEU would be totally opposed to any move of the Institute to seek to set a sunset clause for the full registration of these teachers and a requirement to gain a fourth year teaching qualification. The Act should be amended, if necessary, to ensure that this group of teachers continues to be registered subject to meeting the general renewal requirements.

7.0 Appropriateness of the fee structures and operating costs

VIEU is concerned that the fees for general registration and for application for Victorian registration from interstate applicants have risen for 2006 and 2007 far in excess of CPI, and indeed far in excess of the government policy for an annual increase in regulatory fees by the Department of Treasury and Finance approved “CPI based index”, which was 2.25%, and now 2.5%.

VIEU is concerned that the Institute not increase fees rise by more that the CPI in any year.