

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI A TARA ROHE**

[2025] NZERA 715  
3417065

BETWEEN PUBLIC SERVICE  
COMMISSIONER  
Applicant

AND NEW ZEALAND POST  
PRIMARY TEACHERS'  
ASSOCIATION  
Respondent

Member of Authority: Geoff O'Sullivan

Representatives: Bronwyn Heenan and Meg Vogel, counsel for the  
Applicant  
Tanya Kennedy, counsel for the Respondent

Investigation Meeting: On the papers

Submissions and other evidence received: Up to and including 31 October 2025

Determination: 07 November 2025

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] The Public Service Commissioner (PSC) seeks a reference to facilitation under s 50B of the Employment Relations Act 2000 (the Act). The PSC is engaged in bargaining with New Zealand Post Primary Teachers Association (PPTA) and to date they have been unable to conclude a collective agreement.

[2] Following the filing of the PSC's application for reference to facilitation the Authority held case management conference calls on 24 October and 31 October 2025. The PSC withdrew one of the grounds relied upon for facilitation but submits:

- (a) Bargaining between the parties has been unduly protracted and there have been extensive efforts (including attendance at pre-bargaining meetings, multiple days of bargaining, three formal offers, three short line outs and three days of mediation) which have failed to resolve the difficulties in concluding a collective agreement.
- (b) In the course of bargaining there have been protracted strikes. A full day strike occurred on 20 August 2025. There have been two series of partial strike actions which occurred during September and October 2025 in the form of rostering home certain year levels each day, which resulted in each of the five secondary school year groups missing a further two full days of learning.
- (c) PPTA has also announced a full day strike on 23 October 2025, a partial strike involving a ban on extracurricular activities on 29 October 2025 and a two-hour full strike on 5 November 2025. The full strike and partial strikes that have already occurred involved approximately 349 secondary schools, 21,000 secondary school teachers and 305,000 secondary school students. If the proposed strikes were to occur, it would be likely to affect the public interest substantially in that there will be significant disruption to students' access to education, their parents and caregivers, who will need to make alternative arrangements for care of their children, and the employers of those parents and caregivers who may not have the benefit of their work output for those days, for example, if annual leave was taken to look after the children.

[3] PPTA does not accept the grounds put forward in support of facilitation by the PSC but have said they do not oppose facilitation. In other words, essentially PPTA does not believe the statutory grounds have been made out.

### **Background**

[4] The Secretary for Education (Secretary) and PPTA are parties to the Secondary Teachers Collective Employment Agreement covering a period from 3 July 2022 to 2 July 2025 (STCA). The PSC is responsible for negotiating the collective agreements and has delegated to the Secretary the power to enter into collective agreements with the teaching workforce, so the Secretary will be the employer party to the STCA.

[5] Bargaining was initiated on 7 May 2025 and a BPA was entered into and signed on 19 June 2025.

[6] During the course of bargaining over the last six months PPTA and the PSC have been in negotiations.

[7] Bargaining meetings have taken place on 17 June 2025, 18 June 2025, 24 June 2025, 25 June 2025, 15 July 2025, 16 July 2025 and 5 September 2025. There have been other meetings described as short line outs between the parties, on 9 July 2025, 10 July 2025 and 16 September 2025.

[8] Other than those meetings, the parties have attended mediation in respect of bargaining on 15 August 2025, 19 August 2025 and 26 August 2025, but did not resolve outstanding bargaining issues.

[9] On 20 August 2025, PPTA took strike action which comprised a complete withdrawal of duties in New Zealand secondary schools.

[10] On 13 August 2025, PPTA notified of further rolling partial strikes to take place on 15 September 2025 and 18 September 2025. The partial strikes took the form of refusing to teach certain year levels each day.

[11] On 11 October 2025 the PSC and Secretary received a formal strike notice advising of partial strike action to take place on 14 October 2025. Secondary school teachers who were members of PPTA would not be performing any work or providing relief for teaching, instructing or supervising students in the Years 7 and 9 on that day.

[12] On 11 October 2025 PPTA confirmed that a series of partial strikes affecting different year groups would take place on 14 October 2025, 15 October 2025, 16 October 2025, 16 October 2025 and 17 October 2025.

[13] On 11 October 2025, PPTA advised of a national strike on 23 October 2025, a ban on extracurricular activity on 29 October 2025 and a two-hour strike on the afternoon of 5 November 2025.

[14] The PSC and PPTA have different views, especially in matters relating to background and context. It is fair to say that neither party necessarily accepts or agrees with statements made by the other and that includes, in this present case, statements made in affidavits. Accordingly, in considering the application for facilitation the focus

and analysis is on the state of the parties' bargaining and the consequences of the parties' inability to date of not yet agreeing to and entering into a new collective employment agreement.

### **The grounds relied on for facilitation**

[15] The reference to facilitation relies on s 50C(1), namely that bargaining has been unduly protracted and extensive efforts (including mediation) have failed to resolve the difficulties, precluding the parties from entering into a collective agreement; and s 50C(1)(c), namely that in the course of the bargaining there has been one or more strikes and these have been protracted; and s 50C(1)(d), namely that in the course of bargaining PPTA has proposed a strike and if a future strike was to occur it would be likely to affect the public interest substantially.

[16] Affidavits have been filed by Donna McGarvey, Alexander Chadwick (for the PSC) and Joanna Kate Brunskill (for PPTA). I have fully considered all information received relating to the statutory grounds the application for facilitation has relied on. I am guided by the Court's comments in *Service & Food Workers Union Nga Ringa Tota Inc v Sanford Limited*.<sup>1</sup> The Court noted that the assessment of whether bargaining has been unduly protracted and whether there have been extensive efforts to resolve the issues is not intended to be precise. It noted:

Whilst the Authority must ensure that the statutory grounds exist, it should not be astute to find reasons to refuse a reference to facilitation where a commonsense assessment of the overall position indicates its desirability in light of the statutory scheme for collective bargaining and collective agreements.

[17] The parties have not been in bargaining for very long in a temporal sense. Bargaining was initiated on 7 May 2025 and the BPA which in essence would signal the commencement of serious bargaining, was signed on 19 June 2025. It could be said this does not indicate unduly protracted bargaining. However, as the Court has noted, when a commonsense assessment of the factual situation is taken, a significant number of events have occurred. There have been seven separate bargaining meetings and three short line outs. There has been at least one full strike and four partial strikes. There have been three attempts at mediation, unsuccessfully. With that history it seems patently obvious with without some form of intervention further strikes and potentially

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<sup>1</sup> [2012] NZEmpC 168 at 42.

lockouts will occur. There is nothing to indicate that the parties are growing closer to concluding a collective agreement, rather, the evidence to date shows the opposite.

[18] There is strength in the PSC's submission that further strikes, especially full strikes, would be likely to affect the public interest substantially. This is on the ground that further strikes are likely to disrupt social interests, with the number of school children affected and the inability to attend school. Any disruption is likely to be widespread.

[19] In order to accept a reference of facilitation I must be satisfied that one statutory ground exists. Despite the short period that has passed, I am persuaded that the number of meetings already held between the parties, the number of mediations attended, and the number of times industrial action has been taken, lead me to conclude there is a need for facilitation. However, had I found that this ground had not been made out, it is likely I would have considered that a further strike was likely to affect the public interest substantially.

[20] As indicated above, there have been a significant number of in-person bargaining meetings, there have been attempts at mediation, there is considerable communication and correspondence between the parties and there have been several strikes and partial strikes, yet the impasse remains. Despite extensive efforts by the parties, they have failed to reach agreement. For the above reasons I find that the grounds set out in s 50C(1)(b) to be made out and it is appropriate that the parties now engage in facilitation and the reference to facilitation is accepted.

### **Next steps**

[21] The Authority will convene a case management conference with the parties to discuss arrangements for facilitation and in accordance with s 50D of the Act, the member of the Authority who facilitates the collective bargaining will not be the member who accepted the reference for facilitation.

### **Costs**

[22] There is no order for costs.

Geoff O'Sullivan  
Member of the Employment Relations Authority