

The Proposed New Zealand Education Council: A Commentary

*A vibrant teaching profession with the skills and capability relevant to the new millennium is vital to our future. We must ensure high quality initial teacher education and a profession committed to enhancing teaching and learning standards and practice. To this end, the Government is committed to establishing an Education Council to provide leadership in teaching in the early childhood education and compulsory school sectors.... The Council will provide a means of raising the public profile of the profession and of supporting the profession in taking greater responsibility for its own quality standards. It has the potential to raise the status of the profession and impact positively on the quality of teaching...I envisage that the majority of the Council will be teachers, and the final composition will be decided following this consultation. In this way teachers themselves will have responsibility for leading and shaping the overall direction and standards of their profession.... My vision is for an Education Council that will provide a new professional forum for teaching. It will play a major role in maintaining and developing the capability of the teaching profession. (Mallard, T. 2000. *Proposals for Establishing an Education Council: Consultation Document*. Wellington: Ministry of Education).*

In making a commitment to the establishment of an Education Council, the New Zealand government is indicating a belief that Government not only has a role in the provision of universal education, but also has a responsibility for the advancement of teaching as a profession. This mirrors an international trend for governments to set up teaching councils, with the avowed intention of improving teacher status and enhancing the quality of teaching and learning¹. There is a tension here, however, in the Government taking the initiative, while simultaneously suggesting that the Council will enable teachers themselves to assume greater responsibility for shaping the overall standards and direction for the profession. It is somewhat problematic to see how a government established body will be able to achieve its vision for a council, while at the same time ensuring that this is also a vision owned by teachers.

The purpose of this paper is to provide a brief background to the development of the New Zealand Education Council (NZEC), and then to discuss some of the issues that will need to be acknowledged and addressed if the Council is to be an effective professional body for teachers, Government and the wider community of interest.

BACKGROUND TO THE EDUCATION COUNCIL

In New Zealand there has been strong advocacy for a professional forum for teachers for the past decade. A teacher registration board was formed in 1989. The members of the board are all appointed by the Minister of Education and it is funded solely from teachers' fees. It has responsibility for teacher registration and deregistration and, through the registration authority, it has a mandate for the approval and reapproval of teacher education programmes. The decision of the National Government in 1992 to remove the requirement for teachers to be registered led to renewed calls for a teaching body as a focus for the profession. In 1994 Teaching Council Aotearoa was established. Its main purpose was 'to enable teachers themselves to take responsibility for the standing of the teaching profession'.² While this had the support of key education organisations,³ the reasons for joining another organisation as well as their teaching union did not appear to be compelling to teachers, and the Teaching Council Aotearoa collapsed in 1996.

1 For example Australia (Queensland), Canada (British Columbia, Ontario), England, Scotland, Wales and Ireland.

2 Mansell & Aikin, 1995, p.1.

3 Association of Staff in Tertiary Education (ASTE); Combined Early Childhood Union of Aotearoa (CECUA); Independent Schools Teachers' Association of New Zealand (ISTANZ); New Zealand Council for Teacher Education (NZCTE); New Zealand Educational Institute (NZEI); New Zealand Post Primary Teachers Association (NZPPTA); and Teacher Registration Board (TRB).

In 1997, under a National-led coalition Government, a Green Paper on teacher education took up the argument that teaching should operate 'like other professions' and proposed a professional body for teachers that would have legislative backing and Government support.⁴ While it was acknowledged that in most professions the establishment of a professional body is left to the profession itself, it was argued that:

Government's involvement in setting up a teaching professional body is considered necessary because of the compulsory nature of education and government's interest in the outcomes of education. In this context, it is vital that government is involved in the body that will undertake a leadership role in influencing teaching practice. Furthermore, past attempts by teaching organisations to set up a professional body have not been widely accepted by teachers, employers or the public... If the profession, at a later date, indicated willingness and an ability to take more ownership of its professional body and professional standards, the government could amend the nature of its relationship with the body.⁵

A similar commitment to a professional body for teachers was featured in the Labour Party's 1999 election manifesto. Labour proposed converting the Teacher Registration Board into an Education Council, which would be given greater disciplinary powers, provide professional leadership, recognise teacher education institutions and courses, and establish and enforce professional standards as well as a general code of ethics. Unlike the members of the Teacher Registration Board, it was proposed that the majority of Council members would be teachers, with some members being elected by teachers.

In May 2000 the Minister of Education, within the Labour-led coalition Government, set up a working group to provide advice on establishing the Education Council. A Consultative Document, *Proposals for establishing an Education Council*, was released in July 2000. A Ministry of Education analysis of the responses to this document indicated a high level of support for the proposed establishment of an Education Council. However, some of this support was conditional on the Council striking an acceptable balance between its professional and regulatory functions, and concerns were expressed about the relationship between the proposed Council and the Government.

The Educational Amendment Bill (No.2), detailing the legislation for the New Zealand Education Council, was tabled in Parliament in December 2000. Submissions are due in March 2001. The Bill has increased the level of anxiety among some teachers and employers, as there is a perception that the balance of Council activity may have moved from a primarily professional function towards a regulatory one. There is the view that some of the characteristics inherent in the nature of 'professionalism' could be potentially compromised by an emphasis on aspects such as power over admission and discipline of members, as opposed to aspects such as support for professional development and a focus on the nature of initial teacher education.

If the Education Council is indeed to operate as a 'professional' body, and undertake the roles commonly accepted as those of such a body, there are a number of key issues that will need to be addressed. These are discussed below under the following headings:

- What are some key roles of a professional body?
- Who is the professional body for?
- What will be the relationship of the professional body with Government?
- What is the relationship between the professional body and employers of teachers?
- In what way will the Council work in partnership with Maori?
- What is the relationship of the professional body with other approval bodies for teacher education?

⁴ Ministry of Education, 1997, p.6.

⁵ Ministry of Education, 1997, pp.26-27.

WHAT ARE SOME KEY ROLES OF A PROFESSIONAL BODY?

There are many definitions of a 'profession', but most contain the following elements:

- *A commitment to perform for the public good and for the good of individuals;*
- *the ability to make decisions about matters which form part of the field of the service being performed;*
- *the work performed is based on a systematic body of knowledge and research;*
- *there is a commitment to improve the service being performed through professional development;*
- *some form of comprehensive and agreed initial training is undertaken prior to commencement of practice;*
- *the members of the profession are governed by a code of ethics which is binding on members.*⁶

In addition, the literature on the professions suggests that one of their defining characteristics is having a representative body with powers over the admissions and discipline of members.⁷

The Education Council is to be a professional body for teachers, promoting teaching as a profession and raising the profile of teaching in the community. It has become all too apparent that:

*the professional standing of teachers and community perceptions about the quality of teaching are directly related. This standing will only be enhanced when the community has confidence in the quality and capacity of its teachers.*⁸

A body such as the Education Council would also be in a position to act as 'a strong voice for teachers on key educational issues, free of the sectorial sniping which has occurred in the past'.⁹ Providing an independent and influential voice for teachers and making it clear to the wider public that teachers are professionals with a great deal of skill and expertise are priorities for the General Teaching Council in England.¹⁰ The Council's chief executive thinks that:

*Teachers have a special role, a very important role: they are at the forefront of change, the front-line contact for future generations. And this ought to be recognised, there's been insufficient understanding of what's involved in being a teacher. Many teachers feel they work in a climate in which there's a sense that any person can become a teacher because everyone's been to school. In fact it's an all-graduate profession, with detailed training and high standards of qualification.*¹¹

It has been suggested that the current fragmentation of the teaching profession in England, for example, has left the profession ill-prepared for the future. A council may provide a forum for debate on a broader and deeper level than has been evident in recent years.¹² Perhaps even more importantly, there has been no organisation, either within the profession or among the controlling agencies, whose task it has been to think hard about the long term future of the profession as a whole. It is suggested that it has not just been the fragmentation of the profession that has limited debate:

*In England and Scotland the debate on the nature of teaching, the qualities of judgment and reflection, insight and skill, necessary for effective professional life has been conducted in a way that has left teachers marginalised.*¹³

A similar fragmentation and lack of trust has been evident in New Zealand. The educational reforms of the 1990s reduced the involvement of teachers and professional educators in the policy-making process.

⁶ Brock, 1999; Sayer, 1992, cited in Working Party, 2000.

⁷ Kirk, 2000, p.243.

⁸ Ramsey, 2000, p.149.

⁹ Barlow, 2000a, p.7.

¹⁰ It was established in September 2000.

¹¹ Currie, E. *TES*, 12 January 2001, p.30.

¹² Barber, 1995, pp.52-53.

¹³ Kirk, 2000, p.243.

It was argued that this would minimise ‘provider capture’ and constrain the opportunism of professionals. But conversely, it has been argued that professional accountability requires a high trust regimen and must be based on:

professional responsibility, with an underpinning conception of moral agency. It is maintained by internal motivations such as commitment, loyalty and sense of duty. It involves accountability to client beneficiaries and professional peers. In this form of accountability, the professional practitioner has the moral obligation to render an account to several different constituents, which may have different, or even conflicting interests. This will involve judgment and sometimes the resolution of an ethical dilemma through a process of reflection or deliberation. ...In this form of accountability, the educational practitioner cannot avoid the exercise of professional discretion, where this may even require refusal to conform with managerial expectations or directives.¹⁴

While there appears to be some optimism that the Education Council could promote this form of accountability, others view the proposal as an externally imposed, low-trust form of accountability. Sullivan argues that the government has no place establishing a professional body for teachers and that:

It is the democratic right of teachers to create their own professional body. In its day-to-day functioning and its representations on behalf of teachers, such a professional body may often disagree with government on educational issues because it represents a different perspective. It is in debate that issues are properly aired. A so-called professional organisation created under these circumstances would be nothing but a puppet of government.¹⁵

A similar position is taken by Humes, who argues that:

It is ironic that teachers should continue to press on with their pursuit of ‘full’ professional status just as there is growing public awareness of the dubious characteristics of some aspects of professionalism in law and medicine. But there is a further and, in some respects, more important reason for urging caution. The concept of professionalism is a very convenient management tool for controlling teachers and getting them to accept thoroughly anti-educational policies. Teachers are told that ‘real’ professionals do not take industrial action, that they respond in ‘positive’ and ‘constructive’ ways to policy proposals ...and that they behave with due regard to ‘proper procedures’ if they have grounds for concern. Contrast this with the view that the first duty of a professional is to speak out, honestly and fearlessly, on matters of public interest.¹⁶

Another critic of the proposed professional body thinks that it is likely to become another costly bureaucracy, and that in fact:

Some characteristics of teaching make professionalisation problematic including its diffuse role, its lack of clear and widely accepted knowledge base, and its domination by the teacher unions for whom the client is, understandably, the teacher and not the pupil. Heavy-handed managerial control of who can teach and how via a government-initiated professional body, seems likely to deprofessionalise with adverse effects on morale, status and teacher quality and supply.¹⁷

These arguments suggest that if the Education Council is to carry out its roles as a professional body, it will need to carefully consider how to establish and maintain a high trust accountability environment, so that policy decisions are made based upon genuine debate by teachers, the Government and the wider community of interest.

¹⁴ Codd, 1999, pp.51-52.

¹⁵ Sullivan, 1999, p.152.

¹⁶ Hume, 1994, p.56.

¹⁷ Education Forum, 2000, p.iii.

WHO IS THE PROFESSIONAL BODY FOR?

While the actual nature of teacher professionalism may be contentious, it is very clear that a key role for the Council will be to enhance the status of teachers as professional people. It is also apparent that this will require the Council to have disciplinary authority in areas such as professional misconduct and professional incompetence, as these are significant indicators of professional self-regulation.¹⁸ At issue here, however, is that the Council, while being led by teachers, will not be just *for* teachers.¹⁹ While the principle of the teacher majority is surely essential if the Council is to be professionally credible and able to win the confidence of teachers, it is an Education or Teaching Council rather than a Teachers' Council, so it is essential to have members who may not be teachers, but who have a key role to play in the educational service, as well as those who will be able to represent the wider public interest.²⁰ This means that the Council's primary function is for *professional standards* rather than *professional representation*. Preston, writing in relation to the now abandoned Australian Teaching Council,²¹ argued that the latter function is the role of the unions, which are essentially of the profession and for the profession. However, importantly, she indicates that this does not mean dividing the responsibilities into 'industrial' and 'professional':

*For teaching, perhaps more than many other professionals, it is practically impossible to separate the 'industrial' from the 'professional'. Teachers' conditions of work – class sizes, relief from face-to-face teaching, the organisation of teachers' time and opportunities for collaboration, the physical environment or schools, facilities and resources – and decisions about them are intrinsically both industrial and professional. So too are matters such as hours of work, access to professional development and study leave, deployment and promotion criteria and processes, and dealing with issues such as harassment, stress, victimisation and apparent incompetency or less than satisfactory work. Likewise, decision-making on curriculum and other educational matters from the school to the system and national levels, the wider social role of schooling and the teaching professional, all have industrial aspects intertwined with the professional. To seek to separate representative structures for the professional from the industrial is a recipe for chaos – or the disempowerment of teachers.*²²

While arguing for a collaboration between teacher unions and the Australian Teaching Council (ATC), she suggests that a Council:

*...must develop a distinct and useful function for itself. Within the broad area of professional standards one of the most obvious tasks before the Australian education community as a whole is the development of high quality collaborative teacher education. The ATC is well placed to play a pivotal role because of its basic membership structure, its national basis, and its mandate in the area of professional standards. It does, however, need to be clear about what it is doing, and ensure that advice, working and decision-making structures, as well as work programmes, are appropriate to its tasks. And it needs to be sure that stakeholders in schooling and the general community do not misconceive its role and activities.*²³

The initial Consultative Document did imply that the council was to be a professional body for practising teachers, and that its primary function was to provide professional leadership. The translation of the 'rhetoric' into draft legislation throws into relief the fact that the proposed body is intended as a professional standards body for the teaching profession *and* the wider community.

¹⁸ Kirk, 2000, p.238.

¹⁹ It is proposed that the NZEC will have 11 members. Four appointed by the Minister (this includes the Chair), four elected members including a representative from early childhood, primary, secondary sectors and a principal, and three members representing NZEI, PPTA and STA.

²⁰ Kirk, 2000, p.237.

²¹ This collapsed in 1996 due to the withdrawal of federal government support.

²² Preston, 1995, p.36.

²³ Preston, 1995, p.39.

It will be particularly important in the early days of the NZEC that it establishes, and clearly articulates, its roles, priorities and intended operational procedures. It will require strategic leadership to do this, when initially the only members of the council will be Ministerial appointees. The Educational Amendment Bill (No.2) requires elections to be held within 18 months. Much of the key policy work will need to be completed before this time. Even with the full complement of councillors, the awkward reality facing the Council is the need to be seen to have a decisive influence on Government decision-making, to be independent of Government, and to be working for the profession of teaching.

WHAT WILL BE THE RELATIONSHIP OF THE PROFESSIONAL BODY WITH GOVERNMENT?

The Educational Amendment Bill (No.2) proposes to establish the Education Council as an autonomous Crown Entity. It allows the Minister of Education to give direction to the Council regarding the Government's expectations, which the Council must give effect to. The ability of the Minister to 'direct' the Council has caused some disquiet. The Government's initial proposal in the Consultative Documents was that the Education Council be a 'crown entity accountable to the Minister of Education' (p.3). While the proposed designation of the Education Council as an 'autonomous Crown entity' means that the Government would have less direct influence than if the Council had been designated a 'Crown agent',²⁴ it does give the Government the potential to take a very directive stance. This occurred recently in Ontario, where the Ontario College of Teachers, a body similar to the proposed NZEC, was instructed by the government to devise tests that teachers would be required to take every three to five years to prove their competence. While the Ontario College is taking exception to the government's right to prescribe the tools that a self-regulatory profession must use to assess competency, it has also been argued that if it was a real professional body, with enough authority to fight back, such a directive stance by the government would not have been contemplated.²⁵ It should be noted, however, that while testing for beginning teachers will be introduced, the regular testing of practising teachers will not proceed.

The longest standing education council, the General Teaching Council of Scotland, does operate within strict ministerial control. It has managed to establish itself 'as a key member of the policy community: it comments authoritatively on educational developments in Scotland; and it jealously protects high standards of entry into the profession in initial teacher education, and in professional conduct'.²⁶ However, it has yet to earn the full confidence of the teaching profession. Humes suggests that teachers' scepticism may be due to the fact that they see the relationship between the Council and the Ministry officials as being too cosy, and that the Council is operating as a tamed management body which serves to give credibility to public policy by seeming to act as an independent forum, in which professional views are canvassed and represented.²⁷ The NZEC will not be an effective voice for the profession if it is not perceived to be autonomous and independent of Government.

WHAT IS THE RELATIONSHIP BETWEEN THE PROFESSIONAL BODY AND EMPLOYERS OF TEACHERS?

The proposed Education Council has a wider range of disciplinary measures available to it than the current Teacher Registration Board. It would handle cases of both professional misconduct and professional incompetence. The Bill gives the Council wide powers in relation to disciplinary and competency issues. These replicate powers already held by employers in the schools and early childhood centers, and by civil courts in relation to criminal offences. While there may need to be greater clarity on employers' responsibilities with regard to discipline, competency and reporting, there is the potential for wasteful duplication of processes and confusion over the actual responsibilities of teacher employers. Further:

Teachers who are already under close scrutiny by pupils, parents and the community will now become more accessible to those who are disaffected or who have a grizzle with their local school. The legislation establishing the council will

²⁴ This option, preferred by Treasury as it considered there were significant risks associated with the Council's decisions.

²⁵ Robertson, 2000; Sullivan, 2001.

²⁶ Kirk, 2000, p.242.

²⁷ Humes, 1994, p.53.

*have to address how it can be effective without becoming swamped with every minor complaint about teachers.*²⁸

While there seems to be some justification in concerns about the Bill appearing to have a greater focus on the regulatory rather than professional functions of the Council, a benevolent interpretation may be that legislation is required for 'regulation', and it is up to the Council to make decisions with regard to the 'professional' functions. However, the handling of disciplinary cases will be costly in terms of both time and money. It will be all too easy for the staff of the Council to be fully occupied dealing with disciplinary cases, and so lose sight of the important professional tasks. To achieve the balance of activities will require adept, confident and knowledgeable leadership at both governance and management levels of the Council.

WHAT IS THE PURPOSE OF A CODE OF ETHICS?

The Education Bill (No.2) outlines the procedures required for the preparation of a code of ethics for teachers. A Working Group, under the auspices of the Teacher Registration Board, has already completed discussion papers on a code of ethics for teachers. These papers propose that the code would provide a unifying set of principles and values for all the teaching sectors; a set of principles to guide the daily work of teachers; a more specific and comprehensive framework with which to effectively deal with complaints, misconduct, and disciplinary issues; and a vision of growth and development for individual teachers and the education sector.²⁹ In this way, the code is a statement of the profession and of its values and aspirations.

It is the Code of Ethics that should provide the principles for teacher 'standards' and thus for the qualities required for teacher registration. That is, the Code of Ethics is the 'quality' position, as 'standards' can be set at any level that those inside or outside education may choose.

*By quality we mean the diagnoses, processes and outcomes which as nearly as we can judge meet the needs and realise the best potential both of those learning and of society. These lie in the hands of teachers in the final and most important respect.*³⁰

Two important tasks for the new Education Council will be to complete the development of a Code of Ethics and rationalise the 'standards' required for teachers. Currently, there are a several versions of 'standards', so that:

*One of the difficulties the Teacher Registration Board has faced when trying to develop and promote best practice and encourage high teaching standards is competition from ERO and the Ministry over whose standards should dominate.*³¹

To complicate the issue different professional standards have been incorporated into the employment contracts of primary and secondary teachers. If the Council is to be credible and authoritative as the professional body for teaching, it will need to establish sole responsibility for professional standards, so that a shared view can be set in place about the critical elements of teachers' work.

IN WHAT WAY WILL THE PROFESSIONAL BODY WORK IN PARTNERSHIP WITH MÄORI?

The development and aspirations of a Code of Ethics need to reflect the partnership principles inherent in the Treaty of Waitangi. In addition, while the Education Bill puts in place a statutory requirement for a 'Māori-medium advisory group', it does not take account of the fact that more than 80% of Māori students are enrolled in mainstream schools, and Māori representation is needed on the Council itself. There is the possibility, of course, that one of the Ministerial appointees will represent Māori interests, and that one of the elected teachers may be able to undertake this role. However, there is no certainty

²⁸ Barlow, 2000a, p.7.

²⁹ Working Party, October 2000.

³⁰ Tomlinson, 1995, p.64.

³¹ Barlow, 2000b, p.1.

given within the current legislation. This may undermine the ability of the NZEC to speak for the whole profession.

WHAT IS THE RELATIONSHIP OF THE PROFESSIONAL BODY WITH OTHER APPROVAL BODIES FOR TEACHER EDUCATION?

The fragmentation of the sector is evident not only in the way that a number of agencies have seen it as their role to develop 'standards' for practising teachers, but also in the way teacher education programmes are accredited and approved.

Currently New Zealand is one of the few jurisdictions in the world where the teacher licensing authority is not the sole authority for setting of teacher education standards.³² In Scotland, for example, the General Teaching Council is responsible for accrediting all pre-service teacher education programmes. It also has the right to inspect courses, and is responsible for giving approval to teachers after a two-year probationary period.

While the Teacher Registration Board has taken a role through their authority for criteria for teacher registration, the Education Bill explicitly gives the Education Council this function, as well as that of approval of teacher education programmes, in conjunction with quality assurance agencies. It may seem desirable from a regulatory point of view for the Education Council to have the coordinating role for consensus on the accreditation and approval of teacher education programmes, but this is unlikely to occur. The tertiary sector institutions involved in teacher education argue that the current dual and complementary process of professional review (by the Teacher Registration Board) and academic approval (through the institutions' own peer review process) is standard and accepted practice for those tertiary qualifications that require both academic programme and professional review in those countries with which we compare ourselves, and in which our graduates might expect their qualifications to be recognised.³³

The role of the Education Council in teacher education is significant. It provides a focus for collaboration between teachers and teacher educators. Given the fragmented nature of the teacher education sector, this seems a particularly pressing need. The lack of representation from the teacher education community on the Education Council seems a lost opportunity.

SUMMARY

The New Zealand Education Council will need to:

- demonstrate its autonomy while working effectively with Government;
- achieve a balance between what might be viewed as regulatory and professional activities;
- establish some authority in the areas of teacher standards and the approval of pre-service teacher education programmes.

It has the potential to provide leadership within the teaching profession if it acts as a forum for communication between groups with responsibilities and interests in education. It will need to be seen to address the issues highlighted in this paper in a way that gives the sector confidence that it is prepared to establish a 'high trust' mode of operation. Most importantly, just as has been argued of the General Teaching Council of England, its success depends on it becoming the embodiment of teachers' aspirations for the improvement of the educational service.³⁴ Otherwise it will be just another centrally controlled regulatory body.

³² Barlow, 2000b.

³³ Alcorn, 2000.

³⁴ Kirk, 2000, p.245.

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