

Regulatory Impact Statement

Options for creating a new professional body for teaching

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Education. It provides an analysis of options to establish a new professional body for teaching.

In 2011, Cabinet agreed to commission a review of the Teachers Council to ensure that it set and enforced clear standards for entry, progression and professional accountability, had the full support of the profession, and was clearly differentiated from government and industrial advocacy organisations [SOC Min (11) 20/3].

Quality teaching is identified as a key influence on high quality outcomes for diverse students. The evidence reveals that up to 59% of variance in student performance is attributable to differences between teachers and classes, while up to almost 21%, but generally less, is attributable to school level variables.

This Regulatory Impact Statement sets out to document the process undertaken by the Ministry to meet the Government's objectives, including: the options considered, the rationale for selecting each preferred option, and the implications for the proposed way forward. This includes an analysis of the regulatory impacts of the preferred option.

The Ministry considers this document to be a fair representation of the analysis of available options to improve the regulatory framework for teaching.

Ben O'Meara Group Manager Schooling Policy

[Signature]

[Date]

Introduction

This Regulatory Impact Statement analyses two issues. The first relates to the regulation of teaching, and considers possible changes to improve the structure, governance and functions of a professional body, or associated entity, for the regulation of teaching.

The second relates to proposed changes to improve the professional standards for teachers, and considers possible options to improve the registration and practise of teachers. Both of these changes are likely to impact on teachers and principals or managers in schools and ECE centres across New Zealand.

Other minor changes are also proposed as part of this package of reforms. These are not assessed as having a significant regulatory impact on the current arrangements and do not form part of this analysis.

Status quo and Problem Definition

Status quo for the regulation of teaching

The New Zealand Teachers Council is an Autonomous Crown Entity (ACE) and acts as the professional and regulatory body for registered teachers working in early childhood centres, schools and other education institutions in New Zealand. It represents teachers working in both English and Māori settings.

The New Zealand Teachers Council (NZTC) was established by an amendment to the Education Act (1989), following the disestablishment of the Teacher Registration Board.

Its purpose (as defined in Section 139AA of the Education Act 1989) is to provide professional leadership in teaching, enhance the professional status of teachers in schools and early childhood education, and contribute to a safe and high quality teaching and learning environment.

Currently the NZTC is governed by a body of 11 individuals, elected or appointed from different education sectors. Members are responsible for ensuring the Council's legislative functions are carried out effectively and efficiently, in the interests of the teaching profession and public.

Currently 4 members are appointed by the Minister, 4 members are elected (each of whom must be a registered teacher holding a current practising certificate), including:

- 1 teacher representing the early childhood sector, elected by teachers from that sector;
- 1 teacher representing the primary sector, elected by teachers from that sector;
- 1 teacher representing the secondary sector, elected by teachers from that sector;
- 1 principal, elected by principals,

In addition, 1 person is appointed by the Minister on the nomination of the New Zealand Educational Institute, 1 person is appointed by the Minister on the nomination of the New Zealand Post Primary Teachers' Association, and 1 person is

appointed by the Minister on the nomination of the New Zealand School Trustees Association.

The Governing Council is supported by an organisation of about 50 employees led by a director, working to implement functions and strategic direction across four main areas: Teacher Education, Registration, Teacher Practice (Conduct and Competence) and Council Services and Operations.

The NZTC regulates some 99,000 registered teachers across the schooling and early childhood sectors. Most of these (70%) are fully registered with the remaining 30% some way towards full registration. The Council operates on a budget of around \$7.3 million funded through fees of \$220.80 every three years, to maintain a practising certificate, and a government grant of \$178,000 per annum.

The Ministry of Education currently monitors the New Zealand Teachers Council per the monitoring role set out in section 27A of the Crown Entities Act (2004). This activity involves providing the Minister of Education with an ongoing assessment of the performance of the New Zealand Teachers Council, its organisational health and capability, financial management, and long-term viability. The basis for this assessment is ongoing engagement with the board, senior management and staff of the New Zealand Teachers Council, analysis of reporting documents (such as quarterly and Annual Reports), and identification and analysis of emerging issues. The Ministry also advises the Minister of Education on the New Zealand Teachers Council's strategic direction setting and, as appropriate, supports the Minister to participate in this process.

Status quo for standards governing the registration and practise of teachers

The NZTC registers teachers and issue practising certificates. In New Zealand there are three categories of teacher registration: provisional, subject to confirmation and full. The different categories of registration show how recently a teacher has met the Registered Teacher Criteria, or whether they are yet to meet them.

Provisionally registered teachers are usually newly qualified teachers who don't yet have enough teaching experience to meet all of the Registered Teacher Criteria. They need to complete a broad-based programme of induction and mentoring over two years to gain full registration.

Teachers who are registered subject to confirmation are experienced teachers who have previously met all of the Registered Teacher Criteria, but have not been able to be assessed as meeting them recently. This is usually because they haven't had enough recent teaching experience in an approved setting, or their teaching has been too part-time or casual for a meaningful assessment to have been made by their professional leader. Some teachers who apply for registration for the first time may be able to be registered subject to confirmation.

To become a fully registered teacher in New Zealand, applicants complete an initial teacher education qualification, and progress to provisional registration and a two-year induction and mentoring period. On completion of the induction period, with enough recent teaching experience and also meeting the Registered Teacher Criteria The Registered Teacher Criteria are set out in Appendix A.

Assessment against the Registered Teacher Criteria is conducted by teachers who supervised the applicant's programme of induction and mentoring. Supervisory

teachers have held full registration for the entire period of the programme. The recommendation of the supervisory teacher is then endorsed by a professional leader”, normally the principal of a school, senior teacher of a kindergarten association, or centre manager/owner licensee of an early childhood education centre.

Teachers must also meet specific requirements in the Education Act 1989 to be issued with registration and a practising certificate.

Once a Teacher’s application for registration is approved they are issued with a practising certificate that is current for three years. A current practising certificate is mandatory for teachers in primary schools, secondary schools, free kindergartens and in many positions in early childhood education services.

A fully registered teacher must renew their registration and practising certificate every three years. The criteria to maintain full registration are:

- good character and fit to be a teacher
- has completed satisfactory professional development within the last three years
- has completed satisfactory recent teaching service
- has been meaningfully assessed against and have met the Registered Teacher Criteria.

Teachers who currently hold full registration but have not met the requirements to maintain full registration, may reapply for a practising certificate under the “subject to confirmation” registration category.

Problems with the regulation of teachers

In 2010 the Education Workforce Advisory Group recommended substantial changes throughout the schooling system to improve the status of the teaching profession. These included strengthening professional leadership across teaching by refocusing the New Zealand teachers Council as the professional body for the teacher profession with responsibility for setting clear requirements for:

- Entry to the profession
- Continuing professional development within the profession
- Ethical accountability of teachers

Following recommendations from the Education Workforce Advisory Group, the Cabinet Social Policy Committee agreed that the role, functions, capacity, capability and effectiveness of the NZTC would be reviewed.

After a period of consultation and meetings with the NZTC and key education stakeholders, The NZTC Review Committee (the Committee) reported that the status quo is not an option. In particular,

- The requirement for the Council’s governors to be involved in operational matters inhibits their ability to exercise proper strategic governance.
- If the NZTC were to retain its statutory leadership role, then it would have to lift its performance in such areas as promoting effective teaching practice;

leading and promoting public discussion; and raising the status and quality of informed debate on education issues.

- The Education Act does not currently define an appropriate and deliverable professional leadership expectation for the Teachers Council, although such a role is central to the Council's statutory purpose as set out in Part 10 s 139AA.

These shortcomings contributed to the conclusion that, as currently structured, governed and positioned, the Council cannot effectively set and enforce standards for entry, progression and professional accountability with the full support of the teaching profession.

Problems regarding standards governing the registration and practise of teachers

There are a number of problems that have been highlighted with the current registration and right to practice processes, including that practising certificates lack value and status. This is likely to be as a result of:

- Lack of clarity about the differences between registration and practicing certificates. Registration operates in parallel with practising certificates, but has no additional assessment criteria, benefits or purpose.
- Registration and practising certificates expiring on different timelines which compounds the meaningless distinction between registration and practising certificates.
- Variability in the interpretation and application of the standards due to the differences in the application of assessment by supervisory teachers.

There appear to be different expectations and aspirations between the Council and the education workforce around teacher registration and practising certificates. The difference between registration and practising certificates is not well understood by the sector. However, from the perspective of teachers and professional leaders, the two processes are closely linked. Unlike other professions, there are no additional requirements to be registered; over and above those receive a practising certificate.

The NZTC estimates that between 1,000 and 2,000 teachers at any one time are practising in schools without a current practising certificate. It invests a reasonable amount of resource in seeking compliance from teachers who have not renewed their practising certificates.

Objectives

Objectives for the regulation of teachers

The Government's objective is to ensure that New Zealand's teachers and education leaders are sufficiently equipped to provide safe and high quality teaching and learning. The Government has sought specialist advice on this objective from two different groups of independent experts (the Education Workforce Advisory Group and the NZTC Review Committee).

Based on the independent reviews, the Ministry recommends the following core features (for a high quality professional body for teaching):

- The body should reflect the public interest in teaching, and determine what constitutes best professional teaching practice.
- It should lead debate on teaching practice and the status of the profession.
- It should secure the support of the sector for the delivery of professional leadership functions.

Objectives for improving standards governing the registration and practise of teachers

The registration of teachers is a form of occupational regulation. The purpose of occupation-based regulatory regimes is to protect the public from harm. The Ministry's recommended features of professional standards for teaching include:

- A clear distinction between registration and practicing certificates
- A consistent interpretation and application of the standards applied to the issuing of registration and practising certificates
- A regime which is both practical and not burdensome to administer

Options and impact analysis

A summary of all the options presented in this RIS is contained in the summary tables following the regulatory impact analysis.

Options and Impact Analysis for the regulation of teachers

Making no change to current arrangements was considered, but this would clearly not address the shortcomings identified by the Review Committee regarding the current operation of the NZTC. Therefore, a range of possible changes were considered, ranging from minor changes to the current body through to establishing an entirely new body.

The distributional impacts of all of the options considered are the same (occupational regulation is paid for by the members of an occupation), and, as with other occupations, a uniform charge for registration and/or practicing certificates is proposed, and considered separately.

Option One: Ministry of Education to support the New Zealand Teachers Council to improve outcomes

Under option one:

- The NZTC would remain as an ACE.
- The composition of the NZTC Governing Council would remain unchanged.
- The Minister of Education would address each of the major findings of the Ministerial Advisory Group in the annual *Letter of Expectations*, and propose that the NZTC incorporate these in its next *Statement of Intent*.

- The Ministry of Education would offer ongoing support to the NZTC and, over-time, transfer to the NZTC some of the functions that are currently associated with the profession of teaching and sector leadership, including:
 - the resource and contracting arrangements for ongoing professional leadership and development (PLD) for teachers and principals
 - workforce analysis and planning
 - the facilitation of key sector fora.
- Further changes would be made as an amendment to the Education Act (1989) to add new functions to the NZTC linked to the function of professional leadership.
- The NZTC would retain the other functions currently described under legislation, including those governing the regulation of teachers.

Assessment against options

Objective	Assessment
Secure the full support of the sector necessary to undertake professional leadership functions.	Under this option it is unlikely that the professional body would secure and retain a greater level of sector support, due to the degree of Ministerial oversight under the Crown Entities Act. The profession may view additional Ministry collaboration with the council as further compromising the Council's independence.
Reflect the public interest in teaching, and determine what constitutes best professional teaching practice.	Because this option would not create a greater degree of independence from Government, it would not provide strong support for the profession to develop an independent view about best practice teaching. This option would, however, enable the Government to continue to express the public interest through letters of expectation and the SOI process.
Lead debate on teaching practice and the status of the profession	Reviews have concluded that the NZTC has struggled to give effect to this function due to a perceived lack of independence from Government. This would be unlikely to change under this option.

Impacts

The consultation process has revealed that this option is unlikely to secure the full support of the profession, as the independence of the NZTC, and its ability to advocate for the profession would be influenced by Ministerial oversight under the Crown Entities Act. The development of an independent voice and leadership capability could be significantly strained by the perception of non-independence, and retaining the existing organisational governance would further signal little change in the current operation of the NZTC, which has been identified as an issue during the independent reviews and consultation process.

This option would allow for a high level of continuity for the profession as part of a gradual improvement in the operation of the New Zealand Teachers Council. The transfer of functions associated with professional leadership, from the Ministry of Education, to the NZTC would clearly demonstrate the government's expectation that the NZTC would be more active in its role to further professional leadership. The transfer could be managed gradually to ensure that the NZTC has the capacity to undertake these functions.

As the Council currently possesses rule-making powers, it could independently make changes to its operation and processes to embrace these new functions, while continuing to operate the functions that relate to the regulation of teachers.

Option one would involve some increases in registration/practicing certificate fees, to reflect a greater NZTC role with the support of the Ministry. However, these fees

would be unlikely to rise as much as for options 3 and 4. In addition to these fee increases, there would be a need for additional Government expenditure to extend the Ministry's role in supporting the council

This option would not address the identified policy problems. It would not clarify the roles of governance vis-a-vis operational matters, and would therefore continue to inhibit the board's ability to exercise proper strategic governance.

The retention of the current statutory leadership role within the same governance model as the current council would also limit the council's ability to lift its performance in such areas as promoting effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues.

Option Two: Ministry of Education assumes the role of the New Zealand Teachers Council

Under option two:

- The NZTC would be disestablished and the regulatory functions it currently undertakes would instead be undertaken by the Ministry of Education through the development of a teacher regulation business unit.
- The governance of this business unit would fall under the established leadership structure of the Ministry of Education, with the Secretary of Education ultimately responsible for all matters related to:
 - entry to the teaching profession
 - continuing professional development within the profession
 - ethical accountability of teachers.
- Further changes would amend the Education Act (1989) to specify new functions for the Ministry of Education, including:
 - Setting and maintaining criteria for teacher registration
 - establishing and maintaining standards for qualifications that lead to teacher registration
 - conducting, in conjunction with quality assurance agencies, approvals of teacher education programmes
 - establishing and maintaining standards for ongoing practice in a range of teaching and leadership roles, including verification of competence
 - establishing and monitoring ethical requirements for the education profession
 - undertaking disciplinary action as required.

Assessment against the objectives

Objective	Assessment
Secure the full support of the sector necessary to undertake professional leadership functions.	It is unlikely that the Ministry would secure the support of the profession, because the changes would bring professional leadership closer to Government, and to government policy. This option would also signal a lack of trust in the profession to lead its own development.
Reflect the public interest in teaching, and determine what constitutes best professional teaching practice.	While the Ministry, as a Government agency, could reflect the public interest, the lack of an independent governance board would be likely to limit its ability to do so in a way that adequately reflected the profession of teaching or the interests of consumers (parents and care givers). The Ministry would also struggle to develop a profession lead and independent view of teaching best practice without developing more complex systems to build on the experiences of teachers and principals in schools.
Lead debate on teaching practice and the status of the profession	The Ministry would be in a weaker position than an independent professional body to lead professional debates about teaching practice. This is because the Ministry has a range of roles, including the negotiation of collective employment contracts with teachers and education leaders, that would be likely to be seen as compromising its ability to represent the views of teachers and education leaders.

Impacts

The Ministry of Education would be responsible for the ongoing regulatory functions relating to teacher registration, standards and the approval of initial teacher education programmes. Under this option the Ministry would also convene disciplinary panels, made up of teaching practitioners, to deliver disciplinary functions currently undertaken by the NZTC.

This option would be unlikely to secure the support of the profession, as it would reduce independent leadership of the teaching profession, and bring occupational regulation closer to Government. The development of sector-driven leadership capability would not be possible under this arrangement, and leadership of the teaching profession would reflect the current division identified by the Review Committee between the influence of the Ministry of Education and of education trade unions.

This option would be likely to have a low impact on the Council and on the teaching workforce, as there would be little short-term change to current processes. The transition of regulatory functions would be likely to lead to changed processes and the need to publicise new arrangements. Bringing the occupational regulation of teachers into the Ministry would increase the Ministry's expenditure, but, because this expenditure would be funded through registration/practicing certificate charges, it would not increase the overall cost of the regime.

This option would not address the identified policy problems. It would be likely to worsen the blurring of governance vis-a-vis operational matters, and would restrict the sector's ability to exercise proper strategic governance.

The placement of a statutory professional leadership role within the Ministry of Education would also limit the performance of that role in such areas as promoting effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues.

Option Three: Establish a new professional body for education as a bespoke Statutory Body.

Under option three:

- The NZTC would be disestablished and a new bespoke Statutory Body established as a professional body for education.
- The governance of this body would be set out as part of the new legislation, this would include:
 - a governing body of nine members
 - that the majority be selected through open nominations to create a pool of candidates, and the remainder be selected directly
 - all appointments be made by the Minister of Education
 - all members to be selected based on clear and transparent criteria (which the Minister of Education would be obliged to make available when making appointments)
 - the minimum criteria applied to candidates for appointment would include:
 - i. knowledge of education
 - ii. leadership, governance and financial skills
 - iii. understanding of the partnership principles under the Treaty of Waitangi
- Further changes would amend the Education Act (1989) to set out new functions for the statutory body to:
 - a. provide leadership and direction for the education profession in schools and early childhood education
 - b. enhance the status of teachers and education leaders
 - c. define best practice in teaching and leadership, and foster the education profession's continued development in light of research, and evidence and changes in society and technology
 - d. set and maintain criteria for teacher registration
 - e. establish and maintain standards for qualifications that lead to teacher registration
 - f. to conduct, in conjunction with quality assurance agencies, approvals of teacher education programmes on basis of standards referred to in d.
 - g. establish and maintain standards for ongoing practice in a range of teaching and leadership roles, including verification of competence
 - h. establish and monitor ethical requirements for the education profession
 - i. undertake disciplinary action as required, including reporting on serious misconduct and for reporting on competence issues
 - j. carry out the functions under Part 10 relating to teacher registration.

Assessment against the objectives

Objective	Assessment
Secure the full support of the sector necessary to undertake professional leadership functions.	It is likely that the independent nature of the body would secure and retain sector support, due to its greater independence.
Reflect the public interest in teaching, and determine what constitutes best professional teaching practice.	The lesser degree of Ministerial oversight of a statutory body means that the body has a greater opportunity to place the interests of the profession over the interests of the public. However, the specification of a clear legislative purpose and functions, and the appointment of skilled and experienced board members who understand the public interest, would mitigate this risk. Due to its independence, the body would be well placed to develop a professional lead understanding and expectations regarding best teaching and education leadership practice.
Lead debate on teaching practice and the status of the profession	The independent body would be in a strong position to lead a professional and community debate on teaching and education leadership and on the status of the profession. This is because it could lead this debate in a way that was sector driven.

Impacts

Establishing a statutory body would create a body clearly differentiated from government and industrial advocacy organisations and more likely to secure the support of the profession. A new, more independent body, invested with a refreshed purpose and governing board is more likely to be successful in establishing a clear role in the leadership of teaching.

The key distinction between the form options is that the ACE (the current form of the NZTC) provides a set of governance and accountability arrangements through the Crown Entities Act that confer a range of Ministerial oversight powers.

A bespoke statutory entity has a set of governance and accountability arrangements defined specifically for the entity and Ministerial powers are more commonly focused on the appointment of the governance board of the entity.

The ACE provides more certainty around the ability for Ministers to achieve Government objectives and priorities for the teaching profession through the entity while the bespoke statutory entity provides the opportunity for more buy-in and a stronger independent voice for the teaching profession.

Amendments to legislation to ensure there are clear standards for entry, progression and professional accountability are more likely to be supported by the profession if the body responsible for their administration is an independent statutory body that is not bound by government policy.

There is a risk that a statutory body may not always take into account the wider public interest, with less influence available to the Government to express that public interest. This risk can be mitigated by the careful selection of the governing board, and ensuring that the duties of board members to understand and remain mindful of the public interest are clearly set out.

This option would be likely to have a significant impact on both the Council and the teaching workforce, and may lead to higher costs, to reflect the need to strengthen the occupational regulatory standards for teachers. These costs reflect the need to strengthen the regime to address the identified problems and achieve the objectives. Similar fees for other professions that have a more robust standard setting system, such as the Nurses Council, are \$110 annually, compared to the current \$71 per year for teaching.

This option would address the identified policy problems. It would clarify the roles of governance vis-a-vis operational matters through the clear specification of skills and experience requirements for board members. Combined with the body's independence, this would enhance the board's ability to exercise proper strategic governance.

The creation of a statutory professional leadership role within a clearer governance model would enhance the council's ability to lift its performance in such areas as promoting effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues.

Option Four: Establish a new professional body as an Autonomous Crown Entity

Under option four:

- The NZTC would be disestablished and a new ACE established as a professional body for education.
- The governance of this body would be set out as part of the new legislation, this would include:
 - a governing body of nine members
 - that a minority of members be elected through an electoral college or open franchise
 - the majority be appointed directly by the Minister of Education
 - Other governance processes to be consistent with those set out under the Crown Entities Act (2004).
- This option would continue a mixed Governance model.
- Further changes would amend the Education Act (1989) to set out new functions for the ACE to:
 - a. provide leadership and direction for the education profession in schools and early childhood education
 - b. enhance the status of teachers and education leaders
 - c. define best practice in teaching and leadership, and foster the education profession's continued development in light of research, and evidence and changes in society and technology
 - d. set and maintain criteria for teacher registration
 - e. establish and maintain standards for qualifications that lead to teach registration
 - f. to conduct, in conjunction with quality assurance agencies, approvals of teacher education programmes on the basis of standards referred to in d.
 - g. establish and maintain standards for ongoing practice in a range of teaching and leadership roles, including verification of competence

- h. establish and monitor ethical requirements for the education profession
- i. undertake disciplinary action as required, including reporting on serious misconduct and for reporting on competence issues
- j. carry out the functions under Part 10 relating to teacher registration.

Assessment against the objectives

Objective	Assessment
Secure the full support of the sector necessary to undertake professional leadership functions.	Under this option it is unlikely that the body could secure and retain greater sector support, due to the continuation of Crown Entity Act Ministerial oversight.
Reflect the public interest in teaching, and determine what constitutes best professional teaching practice.	Under this option the Minister would continue to express the public interest through the steering instruments under the Crown Entities Act. However, the Crown Entity model would not enhance the ability of the body to develop a professional lead independent view of best practice teaching.
Lead debate on teaching practice and the status of the profession	The continuation of a Crown Entity form with a mixed governance model would be likely to continue the experience of the NZTC, which has struggled to give effect to strong professional debate and leadership due to concerns about its lack of independence from Government.

Impacts

The consultation process has revealed that the NZTC does not have the full support of the profession, due to an ACE being subject to Ministerial oversight through the Crown Entities Act. The different accountabilities between an ACE and statutory body which underpin this assessment are set out under option three. Therefore, it is likely a new ACE, would suffer from the same problem, as there would be a prevailing assumption that the new body would be no more differentiated from government than its predecessor. Creating a new ACE would allow the body to take on a refreshed purpose; however, it could have difficulty in establishing a clear role in the leadership of teaching without the support of the sector.

As part of the amendments to primary legislation to establish the new body it would be possible to make changes to ensure there are clear standards for entry, progression and professional accountability. Making these changes as part of establishing an ACE would allow for the new body to have regard to government policy in a similar way as currently exists, such as a letter of expectations from the Minister of Education and a Statement of Intent which reflects this content.

This option would be likely to have a significant impact on both the Council and the teaching workforce, and may lead to higher costs, to reflect the need to strengthen the occupational regulatory standards for teachers. These costs reflect the need to strengthen the regime to address the identified problems and achieve the objectives. Similar fees for other professions that have a more robust standard setting system, such as the Nurses Council, are \$110 annually, compared to the current \$71 per year for teaching.

This option would partially address the identified policy problems. It could clarify the roles of governance vis-a-vis operational matters, and would therefore enhance the board's ability to exercise proper strategic governance.

The retention of the current statutory leadership role within the same governance model as the current council would, however, limit the council's ability to lift its performance in such areas as promoting effective teaching practice; leading and

promoting public discussion; and raising the status and quality of informed debate on education issues.

Options and Impact Analysis for improving standards governing the registration and practise of teachers

Option One: Status Quo

Under option one:

- No changes would be made to the current arrangements
- Registration and practising certificates would remain linked
- No changes would be made to the standards associated with teaching

Assessment against the objectives

Objective	Assessment
A clear distinction between the differences between registration and practicing certificates	The Review of the NZTC concluded that currently there is a lack of clarity about the differences between registration and practicing certificates
A consistent interpretation and application of the standards applied to the issue of registration and practising certificates	At present, there is no standard method of assessment of standards by supervising teachers and there is no independent method of auditing or verifying registration applications.
A regime which is both practical, rigorous and not burdensome to administer	The current regime is not practical or efficient – registration and practice are administered separately but are not distinct in practice.

Impacts

If the current process remains it is likely that the confusion reported as part of the consultation about the distinction between registration and practising certificates will persist. In addition, it is likely that inconsistent interpretation and application of the standards related to registration renewal, as reported during the consultation, will continue to undermine the status of the profession.

Option Two: Lifetime registration and an annual practising certificate

Under option two:

- Registration would be issued for life, once a teacher has completed initial teacher education and been vetted
- Practising certificates would be issued for a one-year period and while the current appraisal by a supervising teacher would remain, a random sample of 10% of all applications would be audited by the regulator and interpedently verified.

Assessment against the objectives

Objective	Assessment
A clear distinction between the differences between registration and practicing certificates	Registration and practise would be separated and a current practising certificate would be required to be employed in a teaching position.
A consistent interpretation and application of the standards applied to the issue of registration and practising certificates	External validation and audit processes applied by the regulator to those seeking renewal of practising standards would ensure a degree of consistency.
A regime which is both practical, rigorous and not burdensome to administer	An annual practising certificate would require a high level of processing and compliance and be burdensome to administer

Impacts

There would be some additional cost to the new body in developing new processes and other frameworks, such as a performance management framework and the operation of a moderation programme.

An annual registration process would likely involve a significant additional quantities of processing and compliance given the large number of teachers and the need for each registration application to be assessed and endorsed by a senior teacher and education leader. This additional use of staff resources is likely to have an impact on school costs.

An annual registration process is also likely generate additional costs for the regulator relating to vetting processes. Under this option it is likely that these additional costs would flow on to teachers seeking registration and could see membership fees increase by as much as 300%.

An enhanced and externally moderated registration system would have a significant impact on teachers, both in terms of some additional personal compliance, but also in terms of enhancing the status of the profession, through an externally moderated assessment to ensure that teachers who receive practising certificates are meeting the required standards.

Option Three: Lifetime registration and three-yearly practising certificate

Under option three:

- Registration would be issued for life, once a teacher has completed initial teacher education and been vetted
- Practising certificates would be issued for a three-year period and while the current appraisal by a supervising teacher would remain, a random sample of 10% of all applications would be audited by the regulator and interpedently verified.

Assessment against the objectives

Objective	Assessment
A clear distinction between registration and practising certificates	Registration and practise would be separated and a current practising certificate would be required to be employed in a teaching position.
A consistent interpretation and application of the standards applied to the issue of registration and practising certificates	External validation and audit processes applied by the regulator to those seeking renewal of practising standards would ensure a degree of consistency.
A regime which is both practical, rigorous and not burdensome to administer	While a three-yearly practising certificate would require some compliance, as the processing would be spread over 3 years, the administration of such a regime, even with greater external moderation, would continue to be manageable.

Impacts

There would be some additional cost to the new body in developing new processes and other frameworks, such as a performance management framework and the operation of a moderation programme.

A three yearly registration process would likely involve some additional processing and compliance given the large number of teachers, however the costs relating to third-party vetting processes would be similar to the current regime. Under this option it is likely that some additional cost would flow on to teachers seeking registration with membership fees increasing to some degree.

An enhanced and externally moderated registration system would have a significant impact on teachers, both in terms of some additional personal compliance, but also in terms of enhancing the status of the profession, through an externally moderated assessment to ensure that teachers who receive practising certificates are meeting the required standards.

Summary of analysis of options

The tables below provide a summary of the extent to which each of the options meet the objectives of a new professional body for education. Note that tick ratings indicate that achieving the objective would be extremely likely under this option, while a cross indicates that achieving the objective would be unlikely.

Summary of analysis for options the regulation of teachers

Objective	Option 1: MoE to support the NZTC	Option 2: MoE to assume NZTC functions	Option 3: Establish a new bespoke statutory body	Option 4: Establish a new ACE
Be owned by its members, and enjoy the full support of the sector in undertaking professional leadership functions.	X	X	√	X
Be the voice and face of teaching in New Zealand through increasing its profile on issues relating to the profession of teaching.	X	X	√	X
Reflect the public interest in teaching, and determine what constitutes best professional teaching practice.	√	√	X	√
Lead debate on teaching practice and the status of the profession	X	√	√	√

Summary of analysis of options for improving standards governing the registration and practise of teachers

Objective	Option 1: Status Quo	Option 2: Lifetime registration and annual; practising certificate	Option 3: Lifetime registration and three-yearly practising certificate
A clear distinction between registration and practicing certificates	X	√	√
A consistent interpretation and application of the standards applied to the issue of registration and practising certificates	X	√	√
A regime which is both practical, rigorous and not	X	X	√

Consultation

Consultation on options the regulation of teachers

There have been two main phases of public consultation as part of the review of the NZTC. The first process was undertaken by the Review Committee, who consulted on all aspects of the NZTC between April and August 2012.

The Review Committee sought the views of all those identified by Cabinet. Written submissions were invited, along with direct discussions and advice from stakeholders. 177 written submissions were received. The Review Committee also met with a number of education sector organisations or agencies - including the Post Primary Teachers' Association, the New Zealand Educational Institute and the Teachers Council—on several occasions.

Focus group discussions were held with primary and secondary school principals from both state and private sectors from Auckland through to the West Coast, and school trustees from schools with a wide range of deciles. Those the Review Committee talked to included: the principal, senior staff and teachers, including three beginning teachers, of a primary school in the Wellington region; teacher trainees; teacher educators; union representatives; representatives of the Auckland Pasifika community; and senior Māori educators.

The second phase of consultation was conducted by the Ministerial Advisory Group (MAG) between May and July 2013 following the publication of a discussion paper which outlines a series of proposals for the introduction of a new professional body for education. Over an eight week period, the MAG had 90 face-to-face engagements with schools, special education, early childhood education services, initial teacher education providers, Māori medium centres and schools across 19 locations.

A total of 890 written submissions were received as part of this consultation process, and the final report of the MAG includes an analysis of the overall balance of submissions, as well as the submissions of key education peak bodies. The main findings of the MAG are:

- There is a reasonably widespread view that, notwithstanding good work that has been done over the past decade, the Teachers Council has struggled to meet the challenge of acting as a voice for teachers, to promote teaching as a profession and enhance the standing of teachers in our communities
- They found strong support for a new professional body that sits at arm's length from government. The name of the body should include a reference to 'teach' or 'teaching'. It was generally accepted that the new body should have some level of accountability to both the profession and to the Government
- The sector strongly endorsed the need for the governing board of the new body to include a significant number of people with teaching experience
- The sector also opposed fee increases and would want to see improved value for money before accepting any increase.

On balance, the consultation process revealed the sector to be supportive of a new professional body with a high degree of independence from government. This

sentiment was also reflected by the majority of peak body submissions and all the trade unions, who highlighted the need for the body to strongly reflect the membership of the profession.

Consultation on options for improving standards governing the registration and practise of teachers

As part of the consultation the Ministerial Advisory Group reported that there was a call for more robust, transparent processes and, in particular, for more consistency between schools in relation to how appraisals and attestations were carried out. Some submitters called for external appraisal or moderation across the whole of the sector.

Submitters noted a grey area between full competence and failure to meet the criteria required, as did attendees at the face-to-face engagements. There was a view expressed that principals were pressured by the NZTC to sign off teachers and expected to manage any failure to reach the required standard.

Another view noted that any failure to sign off a teacher meant that, by default, principals were obliged to commence a non-competence process. A potential alternative process could allow the professional leader to delay signing off a teacher. This would allow the professional leader to work with the teacher to meet the standards, without having to embark on the competence process. This could provide a more constructive way forward.

There was also criticism of a process that required a Chair of a Board of Trustees to attest that he or she had observed that a principal had met the teaching requirement. Few Board Chairs would have the opportunity or capability to make this assessment.

The Ministerial Advisory Group concluded that there is also a general acceptance of the concept of separation between registration and practise. Face-to-face engagements offered support in particular for the notion of registration as membership of the profession for those who currently hold a 'subject to confirmation' authorisation. This change alone would remove some criticism of current arrangements.

Conclusions and Recommendations

Financial considerations

As part of Budget 2013, Vote Education set aside a total of \$37.528 million over four years to achieve the package of initiatives which form the Quality Teaching Agenda. Setting up a new professional body, as set out under either option 3 or 4 is anticipated to have the following costs:

Activity	Estimated Cost (m)
Sector engagement, establishment board, and ensuring business continuity.	\$1.26
Ongoing implementation of new body	\$2.0 over 2 years

Additional resources will enable the new body to engage in a range of activities to, for example:

- engage with the sector over its new role and promote 'brand awareness'
- establish new advisory committee structures
- develop policies on standards and criteria to support a new career structure for teachers and school leaders

- enhance its research capacity and provision of facilities such as a research clearing-house to inform and support discussion about quality practice
- strengthen its quality assurance of initial teacher education, entry to the profession and ongoing teacher competence
- manage any increase in workload of the disciplinary tribunal resulting from changes to mandatory escalation of serious misconduct cases.

The establishment of a new statutory body, or a new ACE, as set out under options 3 and 4 will incur costs which cannot reasonably be expected to be borne entirely by the members of the profession. Option 2 would be likely to incur some additional costs, in order to manage the transition of regulatory functions to central government, but the Ministry of Education could partially offset some of the associated costs by merging data and processing functions. Option 1 would initially require some additional funding, which could be met through the professional body increasing membership fees. The new functions would involve a transfer of allocation from Vote Education to the new body once appropriate auditing and processing arrangements were in place.

Conclusion on options concerning the regulation of teachers

Option one would not lead to a significant change in the operation of the current council and is unlikely to result in increased performance in such areas as promoting effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues. Changes to the Education Act (1989) may improve the NZTCs governance, but the representative governance model is likely to hamper other improvements in enforcing standards for entry, progression and professional accountability. Option one is also unlikely to gain the support of the education profession,

Option two could deliver change in the operation of the current council although it is unlikely that there would be a short-term improvement in performance in such areas as promoting effective teaching practice; leading and promoting public discussion due to the perception of the sector that the government is seeking to dictate, rather than administer the profession of teaching. Similarly a contested relationship with the sector may hamper the Ministry's ability to implement other improvements in standards for entry, progression and professional accountability.

Option three sets out a strong governance model that is likely to promote effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues. The clear, independent nature of a statutory body is likely to allow for strong professional leadership, to secure sector support and to enable sector lead improvements in standards for entry, progression and professional accountability

Option four could generate a significant change in the operation of the current council, but is unlikely to result in increased performance in such areas as promoting effective teaching practice; leading and promoting public discussion; and raising the status and quality of informed debate on education issues. Changes to the Education Act 1989 would improve the new ACEs ability to exercise proper strategic governance, but the representative governance model may hamper other improvements.

Option four is less likely to gain the support of the education profession than option three.

The analysis of options reveals that options 3 and 4 are the most likely to deliver an outcome most closely aligned with the objectives. The clear difference between options 3 and 4 is that option 4, an ACE has a much stronger focus on Government policy, due to the governing legislation and accountability arrangements. For the same reasons, option 3 has a much greater likelihood of securing sector support, as greater separation from government is likely to be recognised by the education sector as increased independence.

Given the contested nature of leadership within the sector, and considering the feedback from the consultation led by the MAG, sector support will be a critical element of the success of a new professional body. Accordingly, option 3; disestablishing the NZTC and establishing a new bespoke statutory body, is assessed to have the greatest chance of meeting the specified objectives and addressing the identified policy problems.

Conclusion on options for improving standards governing the registration and practise of teachers

Option one would not lead to a significant change in the clarity about the differences between registration and practicing certificates and the current complexity and uneven application of standards in the registration of teachers. This is likely to continue a variable registration and practise regime.

Option two would result in a clear distinction between registration and practicing certificates and provide a framework allowing the consistent interpretation and application of the standards applied to the issuing of registration and practising certificates.

Option three equally creates a clear distinction between registration and practicing certificates and also provides a framework allowing the consistent interpretation and application of the standards applied to the issue of registration and practising certificates. The major difference between options two and three is the frequency in the issuing of practising certificates, with an increased frequency of issuing practising certificates likely to be more expensive for the profession and more burdensome to administer.

Accordingly, option 3; Lifetime registration and three-yearly practising certificates, is assessed to best meet the specified objectives and address the identified policy problems.

Implementation

The new professional body is intended to be operational from 1 July, 2014. It is expected that the Minister of Education will appoint an Establishment Board for the new professional body. The Establishment Board will ensure the new entity can take over functions of the Council and begin new business as soon as the Bill is enacted in mid 2014, including appointing an interim Chief Executive.

A similar transition process has been employed in the establishment of Education NZ, Financial Markets Authority and new Health and Safety body and strikes a balance between managing continuity and allowing the interim Establishment Board to shape the new professional body.

Following decisions in September 2013, the Ministry of Education will progress a range of policy and design work, with the NZTC and the Establishment Board, where appropriate, on initial teacher education and external moderation and assessment processes for practicing certificate renewal.

The implementation of a new teacher registration and certification regime will depend on the preferred form of the new regulator. This would form a part of the programme of work for the new regulator, and it is likely that the regulator would engage in additional consultation about the specific details of a new registration and certification regime, and implement this in a staggered manner to ensure a consistency for teachers, principals, schools and ECE centres.

Monitoring, evaluation and review

It is proposed that the new professional body will be reviewed within three years of its establishment (operational date). The Minister will 1) define the terms of reference for the review (or delegate an independent person or agency to do so) and 2) appoint a suitable person or organisation to conduct a review. On completion of a review, the person or agency responsible for the review will prepare a report, to be published at the Minister's discretion. It is not proposed at this stage that the review period will be set out in the legislation.

The Minister of Education would also have the authority to require the new Council to supply any statistical information relating to the discharge of the functions of the body or of any of its committees.

The Minister of Education would also have the authority to commission, if necessary, an independent audit of the conduct of the professional body's regulatory (including disciplinary) functions. An audit could be initiated by a majority of board members. It would be undertaken to ensure compliance with the legislative requirements for regulation of the teaching workforce and operation of the disciplinary function of the new body.

Appendix A – Registered Teacher Criteria

Criteria for Fully registered teachers:	
Criteria	Key Indicators
1. establish and maintain effective professional relationships focused on the learning and well-being of ākonga	i. engage in ethical, respectful, positive and collaborative professional relationships with: <ul style="list-style-type: none"> • ākonga • teaching colleagues, support staff and other professionals • whānau and other carers of ākonga • agencies, groups and individuals in the community
2. demonstrate commitment to promoting the well-being of all ākonga	i. take all reasonable steps to provide and maintain a teaching and learning environment that is physically, socially, culturally and emotionally safe ii. acknowledge and respect the languages, heritages and cultures of all ākonga iii. comply with relevant regulatory and statutory requirements
3. demonstrate commitment to bicultural partnership in Aotearoa New Zealand	i. demonstrate respect for the heritages, languages and cultures of both partners to the Treaty of Waitangi
4. demonstrate commitment to ongoing professional learning and development of personal professional practice	i. identify professional learning goals in consultation with colleagues ii. participate responsively in professional learning opportunities within the learning community iii. initiate learning opportunities to advance personal professional knowledge and skills
5. show leadership that contributes to effective teaching and learning	i. actively contribute to the professional learning community ii. undertake areas of responsibility effectively

Professional knowledge in practice

Fully registered teachers make use of their professional knowledge and understanding to build a stimulating, challenging and supportive learning environment that promotes learning and success for all ākonga.

Fully registered teachers:

Fully registered teachers:	
Criteria	Key Indicators
6. conceptualise, plan and implement an appropriate learning programme	<p>i. articulate clearly the aims of their teaching, give sound professional reasons for adopting these aims, and implement them in their practice</p> <p>ii. through their planning and teaching, demonstrate their knowledge and understanding of relevant content, disciplines and curriculum documents</p>
7. promote a collaborative, inclusive and supportive learning environment	<p>i. demonstrate effective management of the learning setting which incorporates successful strategies to engage and motivate ākonga</p> <p>ii. foster trust, respect and cooperation with and among ākonga</p>
8. demonstrate in practice their knowledge and understanding of how ākonga learn	<p>i. enable ākonga to make connections between their prior experiences and learning and their current learning activities</p> <p>ii. provide opportunities and support for ākonga to engage with, practise and apply new learning to different contexts</p> <p>iii. encourage ākonga to take responsibility for their own learning and behaviour</p> <p>iv. assist ākonga to think critically about information and ideas and to reflect on their learning</p>
9. respond effectively to the diverse language and cultural experiences, and the varied strengths, interests and needs of individuals and groups of ākonga	<p>i. demonstrate knowledge and understanding of social and cultural influences on learning, by working effectively in the bicultural and multicultural contexts of learning in Aotearoa New Zealand</p> <p>ii. select teaching approaches, resources, technologies and learning and assessment activities that are inclusive and effective for diverse ākonga</p> <p>iii. modify teaching approaches to address the needs of individuals and groups of ākonga</p>
10. work effectively within the bicultural context of Aotearoa New Zealand	<p>i. practise and develop the relevant use of te reo Māori me ngā tikanga-a-iwi in context</p> <p>ii. specifically and effectively address the educational aspirations of ākonga Māori,</p>

Fully registered teachers:	
	displaying high expectations for their learning
11. analyse and appropriately use assessment information, which has been gathered formally and informally	<p>i. analyse assessment information to identify progress and ongoing learning needs of ākonga</p> <p>ii. use assessment information to give regular and ongoing feedback to guide and support further learning</p> <p>iii. analyse assessment information to reflect on and evaluate the effectiveness of the teaching</p> <p>iv. communicate assessment and achievement information to relevant members of the learning community</p> <p>v. foster involvement of whānau in the collection and use of information about the learning of ākonga</p>
12. use critical inquiry and problem-solving effectively in their professional practice	<p>i. systematically and critically engage with evidence and professional literature to reflect on and refine practice</p> <p>ii. respond professionally to feedback from members of their learning community</p> <p>iii. critically examine their own beliefs, including cultural beliefs, and how they impact on their professional practice and the achievement of ākonga</p>