

Report: Occupational regulation of teachers – Advice on functions and role of the Teaching Council

To:	Hon Erica Stanford, Minister of Education		
Cc:	Choose an item.		
Date:	11/04/2025	Deadline:	14/04/2025
Security Level:	Sensitive	Priority:	High
From:	Jennifer Fraser, General Manager, Schooling Policy	Phone:	+6444395359
Drafter:	Ruth Cameron	METIS No:	1346036

Why are we sending this to you?

- At our Education System Reform meeting on 7 April 2025, you requested further advice on what a retained Teaching Council could look like.

What action do we need, by when?

- We are seeking your agreement to the roles of the Ministry of Education (MoE), Education Review Office (ERO) and the Teaching Council (the Council) in relation to occupational regulation by 14 April to support final policy decisions for your ERB.

Key facts, issues and questions

- You have signalled your preference to shift all standard setting functions from the Council to MoE and to shift ITE approval and ongoing QA functions to ERO.
- A Council could undertake competence and conduct, and keep a register of teachers. Additionally, it could carry out registration/certification approvals, which would otherwise need to shift to ERO. ERO do not feel this role aligns well with their role and functions.
- We do not recommend that the Council retains a professional leadership role.
- Under either functional scope, we recommend governance changes including a much smaller and fit-for-purpose Council and a stronger ability for you to remove members.
- You may still wish to consider a change to a Crown agent model to increase accountability oversight, particularly if the Council delivers registration and certification.
- You will likely want to consider a name change to better reflect a narrowed scope of functions.

Alignment with Government priorities

1. This report delivers on your priority four: Developing the workforce of the future, including leadership development pathways.

Background

2. We recently provided you with a report that outlined options for how you could split or align key occupational regulation functions across the system (METIS 1344350 refers). You agreed to a split model between MoE and an occupational regulator (option 1). In practice this would mean shifting all standard setting functions from the Council to MoE.
3. We then met with you on 7 April to discuss your vision for education system reform. In support of this meeting, we provided a high-level overview of the remaining occupational regulatory functions that are left once you take out standard setting. We suggested a split in other functions between ERO and a Teaching Registration Authority (TRA), which would replace the Teaching Council and could be a Crown agent or departmental agency (METIS 1345692 refers).
4. At this meeting you asked officials for further advice on what it would look like to retain a Teaching Council. This report does this by re-confirming your preferences for standard setting and ITE and then considering the remaining functions and the possible role of the Teaching Council.

Confirming decisions on standard setting and ITE

5. We have previously discussed with you the broad functional building blocks of the occupational regulation system split into three categories:
 - **Policy and standard setting** – In occupational regulation this captures the Teaching Standards, ITE Programme Standards and the Code of Conduct.
 - **Assurance** – This is used as a broad term to capture activities that provide confidence that organisations and individuals adhere to specific regulatory requirements. In occupational regulation this covers ITE approvals and ongoing monitoring and review, registration/certification approval and competence/conduct. While it is an administrative activity, we also introduce the function of maintaining a register of teachers in this report.
 - **Support services** – In occupational regulation this refers to professional leadership, advocacy, developing best practice and supporting the development of education leaders.
6. These functions are broken down in more detail at Annex 1 including the relevant section of the legislation and what we understand the Council does operationally¹. We are seeking to confirm any functional split decisions based on this table to ensure absolute clarity on what is shifting.

We seek to confirm standard setting will shift from the Council to MoE

7. In previous reports we indicated that all standard setting (orange rows at Annex 1) will shift from the Council to MoE. This is a substantial step that will centralise all standard setting and policy functions across the education system. It will support alignment with Government priorities, including in curriculum and assessment, as well as with the latest education research on what works. This is one of your key reform objectives, as agreed in METIS 1344037.

¹ This is our best understanding without being able to engage directly with the Council.

8. We expect significant sector push-back on this decision, as was the case when we consulted on lifting ITE standard setting functions into MoE last year. Stakeholders' key concerns were around losing a voice and politicisation of standard setting. Stakeholders are likely to also be concerned about the impact on the standing of teaching as an occupation and an attractiveness as a career.

We seek to confirm ITE functions will shift from the Council to ERO

9. At our meeting on 7 April, you indicated your preference is to transfer ITE approval and ongoing monitoring and review to ERO. We consider this will:
- ensure these functions are closely aligned to the standard setting function in MoE but with a healthy separation between the standard setter and the assurer (which is a consistent principle you are trying to achieve across all your system reforms); and
 - align with ERO's existing role and skills in monitoring and compliance with the aim of lifting education provision, including teaching practice, and ultimately improving education outcomes for students.
10. For ERO to deliver these functions successfully, a stronger legislative framework for ITE programme QA² (monitoring, compliance and enforcement) will be required and this will be one of our next key pieces of advice to you.
11. Based on consultation on your previously proposed 'lift and shift' we understand the tertiary sector is likely to push-back significantly on this proposal and substantial capability and relationship building will be required with the tertiary sector.
12. Additionally, as previously outlined, one of the downsides of a split model is that three agencies will need to build related and similar knowledge bases and functionality. They will need to work closely together with strong information and knowledge sharing to ensure a coordinated service offering is provided to teachers. We will work with ERO to develop a plan to address these risks.

You have asked for advice on retaining the Teaching Council

You could retain a Council to only undertake conduct and competence and to keep a register of teachers

13. You could retain a Council with a narrowed set of functions. At a minimum we recommend this would include competence and conduct. These are core occupational regulation functions at the heart of protecting children from harm and from the impact of poor-quality teaching. In practice, as outlined at Annex 1, this means:
- operating the Competency Authority Panel, Complaints Assessment Committee and Disciplinary Tribunal (these are functions where independence from government is appropriate); and
 - managing the interaction between school level performance management of teachers and principals and the escalation of that to more serious interventions.
14. As part of this option we also suggest the Council retains responsibility for the administrative task of keeping a register of teachers as they will have the power to remove a name from the register through the competence/conduct role.
15. These are functions that are paramount to deliver effectively and also are the most suited to an arms-length body as they have an impact on individual teachers' livelihoods. Isolating the functions would signal your value on getting the basics of occupational regulation and the right to safety of children right. This narrow focus is similar to the English model where

² Note QA will be of programmes not of providers. NZQA and CUAP will continue to accredit ITE providers and monitor and review provider effectiveness.

they have isolated their conduct and register functions into the TRA whose sole focus is on child safety (though the TRA is an executive agency within the Department for Education).

16. However, it could defeat the intent of retaining a professional-led body that gives the profession a sense of ownership over their representative body, given a very small number of teachers will ever actually need to interact with this form of professional body.

You could make the Council's role more substantial by adding registration and certification approval

17. Registration and certification approval is more than just the final administrative task of keeping the register. The regulator must ensure regulated parties are suitably qualified to undertake particular activities³, in this case to meet the standards and requirements for registration and certification that will be set out by MoE.
18. The substantive nature of this function and its interaction with standard setting is outlined at Annex 2. Examples of how this impacts a teacher across a career journey include:
- considering the Professional Growth Cycle as the process by which the Council currently determines if a teacher meets the standards vs more hands-on methods such as appraisal; and
 - overseeing the gateway from beginning teacher to fully certified teacher (i.e. MoE could prescribe the need for an external assessment, but it would be the Council who would either operate or procure this assessment).
19. The Council will be able to set the rules and the process but will not have the tools to quality assure the process (i.e. they do not have a presence in every school or ECE service). There is a potential for the Council to work with ERO to provide quality assurance over the teacher registration/certification process, as they did previously when the then Education Council had a service agreement with ERO to audit the school teacher appraisal processes.
20. 9(2)(f)(iv)
21. It also would be administratively efficient to locate the actual approval of registration and certification with the organisation keeping the register.
22. However, alignment with the standard setter will be critical to performing registration and certification effectively. You may wish to have more oversight over the delivery of these functions given your focus on teacher quality and interest in reforming processes such as teacher and principal appraisal.
23. To ensure consistency across your system reform to separate standard setting from licencing/certifications and monitoring functions, your only other option for this function is to shift it to ERO. However, we note that ERO do not feel the role of teacher registration and certification approval aligns well with their other assurance functions.

We wouldn't leave any professional enhancement functions with the Council

24. We do not recommend retaining any of the other professional enhancement functions with the Council (blue rows at Annex 1) for several reasons:
- In practice, these functions are closely tied to supporting standard setting and would move to MoE – it goes against best practice regulatory design principles to have the enforcer also be the support agency.

³ As per the Ministry of Regulation's definition of delivery of licencing and approval function.

⁴ 9(2)(f)(iv)

- Stakeholders such as the PPTA have long-held the view that the Council should have a narrow set of functions focused on registering and de-registering teachers and investigating misconduct. Professional leadership and advocacy is a crowded field and including it in a Council without standard setting would result in a confused identity, taking away its focus on its core functions.

25. 9(2)(f)(iv)

We recommend governance changes to better match a narrowed set of functions

26. You are progressing changes to the Council's governance through an amendment to ETAB2 which would rebalance the Council's membership towards minister appointments but would leave the overall size of the Council unchanged. You are also considering some technical changes to improve continuity and administrative efficiency (see METIS 1343904).
27. As noted through this work, the Council is already large (13 members) and the sector representation requirements for elected members don't always bring in the right skills in essential areas such as governance, finance and use of digital technology.
28. With a much narrower function focus we would recommend a smaller Council with targeted skills in areas of effective governance e.g. you could have no more than seven members on the Council. Seven members would give you three sector representatives (across ECE, primary and secondary) and four Minister appointed members)⁵. You could even consider going smaller than this if you thought representation across each sector was no longer critical with the change in focus of the Council.
29. This would support both a more efficient and effective Council though will face stakeholder pushback as it reduces sector voice and buy-in compared to the current model.
30. You may also wish to consider stronger accountability measures, such as your ability to remove the Chair and Deputy Chair and Council members, i.e. more in-line with the Crown Entities Act for a Crown agent rather than the high bar of just cause you have now (and even then you can only remove a Chair or Deputy Chair title, they would still sit on the Council as a member until the next election).
31. If you agree to retain the Council with these governance changes, we will provide more detailed advice on these options.

Changes to the Council's entity form could better support your priorities

32. Given the sector is likely to push back significantly on moving standard setting to MoE, and their loss in representation and voice on a smaller and majority ministerially appointed board, you may wish to consider changing the entity form of the Council from its current status as an independent body corporate established in legislation.
33. A Crown agent model would support:
 - Increased accountability as the Council's performance would be closely monitored by MoE.
 - Greater oversight as the Council would be required to give effect to Government policy rather than have regard to it. Examples of where this might be relevant include:
 - 9(2)(g)(i)

⁵ This would put the Council more on-par with other like organisations in terms of size. The Law Society and Social Workers Registration Boards have 7 members. The Nursing Council and Dental Council have 10 and NZQA must have at least 8 but no more than 10.

9(2)(g)(i)

o 9(2)(g)(i)

34. If you prioritise government oversight and accountability, particularly if you include registration and certification delivery within their scope, we think a Crown agent would be a more appropriate model than the status quo.

You still may wish to change the Council's name to reflect its narrowed scope

35. Even if you leave the Council in its current form, as an independent professional body, you would likely want to consider a name change given the Teaching Council of Aotearoa New Zealand will be associated with the previous Council and its broad set of functions. We will provide further advice on this once you confirm your decisions on function and form.

Other considerations – legislative requirement to consult

36. As indicated in Annex 1, the Council currently has a requirement to consult the Minister before making any changes to the criteria for teacher registration and setting standards for qualifications (ITE Programme Standards). You are progressing changes through ETAB2 that will extend this to cover setting standards for ongoing practice (Teaching Standards) and criteria for the issuing of practicing certificates of different kinds.
37. These consultation requirements will no longer be relevant when these functions are lifted and shifted to the Secretary for Education.
38. We know from our engagement on the previous lift and shift consultation that the sector will be concerned about losing their voice in standard setting and the potential politisation of these functions. To mitigate this risk, you could consider including a public consultation requirement for the Secretary for Education for any major changes. Alternatively, you could stay silent on consultation and determine this on a case-by-case basis (more flexibility).
39. We are seeking your direction on this in this report to enable us to prepare further advice on how consultation could be included if you are interested in this.

Risks

40. As noted throughout this report, stakeholders are unlikely to react favourably to the transfer of standard setting functions to MoE and ITE functions to ERO. Although teachers have not shown a strong commitment to their professional body to date (and continuously complain about the fees), this pushback will be happening in the context of bargaining process underway and will need to be carefully managed.

Financial Implications

41. All reform options have financial implications that we will provide further advice on. We note that building new implementation functions in MoE and ERO will have sizable fiscal impacts (both transitional and ongoing operating costs).
42. 9(2)(f)(iv)

Next Steps

43. Following your meeting with senior ministers on 8 April, we understand that ERE must be ready for introduction by 31 October and that occupational regulation decisions are a priority for this Bill. This will require policy decisions in June.
44. We will be seeking to discuss this report with you at agency on 11 April. We will then follow-up with more detailed advice on either:
 - Teaching Council governance; or
 - Crown agent governance and implementation.
45. We are also preparing a more detailed report on options to strengthen the ITE ongoing monitoring and review function once it moves to ERO e.g. additional powers.

Annexes

The following are annexed to this paper:

- Annex 1: Detailed breakdown of Teaching Council functions and proposed shifts
- Annex 2: Future state: Function split across a teacher training and career pathway

Recommended Actions

The Ministry of Education recommends you:

- a. **note** the detailed breakdown of the Teaching Council's legislative functions and their operational implications at Annex 1 and Annex 2.

Noted

- b. **agree** to transfer all standard setting functions from the Teaching Council to the Ministry of Education.

Agree / Disagree

- c. **agree** to transfer ITE approval and ongoing monitoring and review functions from the Teaching Council to the Education Review Office.

Agree / Disagree

- d. **note** that we will provide a subsequent report on how to strengthen the ITE ongoing monitoring and review function e.g. additional powers for the Education Review Office.

Noted

- e. **agree** the Teaching Council will undertake the following functions as outlined in detail at Annex 1:

- i. competence and conduct and keep the register of teachers.

Agree / Disagree

AND

- ii. registration and certification approvals (including ensuring teachers and principals meet the standards and requirements set out by MoE).

Agree / Disagree

OR

- iii. registration and certification will transfer to the Education Review Office (not recommended by ERO).

Agree / Disagree

- f. **note** we do not recommend the Teaching Council retains any professional development and enhancement functions.

Noted

- g. **Agree to either:**

- i. Retain the Teaching Council and substantially reduce the size of the Council, with the balance in favour of ministerial appointments, and increase your powers to remove Council members where appropriate;

Agree / Disagree

OR

- ii. Replace the Teaching Council with a Crown agent with fit-for-purpose governance.

Agree / Disagree

- h. **note** that we will provide you with more advice on governance options for your chosen option to enable the development of a final policy decisions Cabinet paper.

Noted

- i. **note** that we will come back to you with advice on a name change to better reflect the functional scope option you have chosen.

Noted

- j. **note** the current requirement to consult with the Minister on any changes to professional and ITE standards will no longer be relevant when the function moves to the Secretary for Education. *Secbr need to be involved / Min consulted*

Noted

- k. **indicate** if you would like advice on a requirement for the Secretary for Education to consult publicly on any changes to professional and ITE standards, if you do not request advice on this matter, we will leave it as no consultation required.

Agree / Disagree

Proactive Release:

- l. **agree** that the Ministry of Education release this paper once Government has made final decisions on occupational regulation reform, with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree / Disagree

Paul Aitken

Paul Aitken
Senior Policy Manager
Te Pou Kaupapahere

10 / 04 / 2025

Erica Stanford

Hon Erica Stanford
Minister of Education

11/4/25

Annex 1: Report 1346036 Detailed breakdown of Teaching Council functions and proposed shifts

Function	Current relevant leg framing (to lift and shift)	What this means in practice (current state)	ERB1 proposed shift	What this means in practice (future state)
Setting standards for the profession	<p>479(1)(j) to establish and maintain—</p> <ul style="list-style-type: none"> i. standards for ongoing practice; and ii. criteria for the issue of practising certificates of different kinds <p>479(1)(k) to establish and maintain a code of conduct for teachers under section 485</p> <p>479(1)(e) to establish and maintain any criteria for teacher registration under Schedule 3 that the Teaching Council considers necessary or desirable</p> <p>479(1)(f) to review, at any time, the criteria for teacher registration established under paragraph (e) and, after consulting the Minister,—</p> <ul style="list-style-type: none"> i. vary, delete, or replace 1 or more of the criteria; or ii. add 1 or more criteria; or iii. delete all of the criteria and substitute new criteria 	<ul style="list-style-type: none"> Develop tools, resources, guidelines and support to help teachers understand the standards and how to use them to increase teacher capability e.g. <ul style="list-style-type: none"> Cultural competency resources. Code and standards in practice resources. Running webinars, events and podcasts. Taking all responsible steps to ensure those bound by the code are aware of it. Develop tools and guidelines to support capability and practice in certain areas e.g. <ul style="list-style-type: none"> inclusive education capability framework guidelines and requirements for schools hiring beginning teachers. 	<ul style="list-style-type: none"> Lift and shift all functions to the Secretary for Education. Either replace consultation with Minister requirement with a public consultation requirement or remove. 	<ul style="list-style-type: none"> Strengthening standards and requirements for certification will be a key area for future operational change e.g. <ul style="list-style-type: none"> Setting consistent performance metrics. Setting clearer requirements (possibly an assessment) to move from provisional to full certification. Ministry may provide support directly to teachers to meet requirements e.g. through an Education Service Agency or fund schools/providers to enable them to support their teachers.
Setting standards for qualifications (e.g. ITE Programme Requirements Policy)	<p>479(1)(g) to establish and maintain standards for qualifications that lead to teacher registration</p> <p>479(1)(h) to review, at any time, the standards for qualifications established under paragraph (g) and, after consulting the Minister,—</p> <ul style="list-style-type: none"> i. vary, delete, or replace 1 or more of the standards; or ii. add 1 or more standards; or iii. delete all of the standards and substitute new standards 	<ul style="list-style-type: none"> Set tools, resources, guidelines and support to ITE providers to understand the standards e.g.: <ul style="list-style-type: none"> Webinars and symposia on the standards and curriculum developments. Run the ITE advisory group. 	<ul style="list-style-type: none"> Lift and shift all functions to the Secretary for Education. Either replace consultation with Minister requirement with a public consultation requirement or remove. 	<ul style="list-style-type: none"> Strengthening the standards will be a key area for operational, including focusing on alignment with curriculum and assessment priorities, entry and exit requirements. Ministry may directly support providers to meet the standards or provide funding (through TEC) for significant shifts.
Registration and certification (keep the records and assure standards have been met)	<p>479(1)(d) to carry out the functions under Schedule 3 relating to teacher registration.</p> <p>Schedule 3 – Teacher registration, practicing certificates and other matters. All subject to meeting standards above plus includes:</p> <ul style="list-style-type: none"> Who can register as a teacher. Determining good character and fitness to teach. Appeals against decisions. Cancellation of registration. Keeping a register of registered teachers and list of LAT holders. 	<ul style="list-style-type: none"> Determining an appropriate process to satisfy itself that a teacher meets the standards and requirements set by MoE (currently Professional Growth Cycle process, previously appraisal). Approving and issuing registration/certification requests based on this process (including for overseas trained teachers). Administrative task of keeping the register of registered teachers and LAT holders. 	<ul style="list-style-type: none"> Option 1: All retained with Teaching Council. Option 2: to split the function: <ul style="list-style-type: none"> Teaching Council only retains a register of teachers. ERO undertakes registration and certification approvals (ERO does not believe this function aligns with their other assurance role). 	<ul style="list-style-type: none"> The Teaching Council will need to determine the future of the Professional Growth Cycle process vs appraisal. If the function sits with the Council, ERO could provide an external quality assurance role as they did previously when the then Education Council had a service agreement with ERO to audit the school teacher appraisal process.
Approval of ITE qualifications	<p>479(1)(i) to conduct, in conjunction with quality assurance agencies, approvals of teacher education programmes</p>	<ul style="list-style-type: none"> Setting an appropriate process for approval/reapproval/review following changes to the ITE standards e.g. what constitutes technical changes, when is a full reapproval process required and over what timeframe do providers have to comply etc. Tools, resources, guidelines on the process of obtaining ITE approval. Maintaining records of approved ITE programmes and providers. 	<ul style="list-style-type: none"> Lift and adjust function to ERO – i.e. to make the ability to remove approval clear. 	<ul style="list-style-type: none"> Strengthened ITE programme standards will support a strengthened ITE programme approval function. Powers to remove programme approval will also be clearer, supported by clear operational guidance on what steps will lead to ultimate programme approval revocation.
Quality assurance and ongoing monitoring of ITE	<p>Not a currently specified function separate to approvals.</p>	<ul style="list-style-type: none"> While not a legislated function, operationally the Council sets out its monitoring role through the ITE Programme Approval, Monitoring and Review Requirements Policy. 	<ul style="list-style-type: none"> Proposed to define function to sit with ERO with appropriate levers and powers to perform effectively. 	<ul style="list-style-type: none"> Powers will reflect like agencies with monitoring and review functions e.g. access to information and entering premises.

				<ul style="list-style-type: none"> ERO will develop its own ITE Programme Approval, Monitoring and Review Policy to be clear on its framework and requirements for providers. Will result in transparent reporting on programme effectiveness. While this will need to be operationally developed with ERO, we expect a greater focus on outcome indicators and the ability to revoke programme approval on the basis of consistently poor programme performance.
Competence and conduct	479(1)(l) to monitor and enforce the requirements relating to mandatory reporting in this subpart and Schedule 3	<ul style="list-style-type: none"> Set out all necessary legislative rules, guidelines and information relating to all discipline, compliance and competence functions and the processes to comply. Operate the Competency Authority Panel, Complaints Assessment Committee and Disciplinary Tribunal (independent panels). 	Proposed to retain with Teaching Council.	No proposed changes
	479(1)(m) to perform the disciplinary functions in this subpart relating to teacher misconduct and reports of teacher convictions			
	479(1)(n) to set the criteria for reporting serious misconduct and for reporting on competence issues			
	479(1)(o) to perform the functions in this subpart relating to teacher competence			
	479(1) (p) to co-ordinate a system providing for the vetting by the Police of all teachers			
	479(1)(pa) to prosecute, as the Teaching Council considers appropriate, breaches of the requirements of this Act relating to teacher registration, practising certificates, and limited authorities to teach			
	489-493 mandatory reporting			
	494-504A disciplinary functions			
	505 – 517 review of competence			
Professional leadership, professional advocacy, developing best practice and research*	479(1)(a) to provide direction for teachers	<p>These functions are met through a variety of ways including through the delivery of other functions including delivering strong standard setting and discipline. Additionally, it includes:</p> <ul style="list-style-type: none"> Being a strong professional voice and advocacy body. Supporting and commissioning research. News bulletins and information releases. 	<ul style="list-style-type: none"> Remove from the Teaching Council's functions. Reframe as part of Secretary for Education's functions. 	<ul style="list-style-type: none"> In practice, advocacy for the profession will continue to sit across teacher representative groups. The Ministry will play a role in providing direction and enhancing the status of teachers through its role in setting standards and supporting teachers to meet them. Education research is being considered separately as a system-wide function.
	479(1)(b) to enhance the status of teachers			
	479(1)(c) to identify and disseminate best practice in teaching and foster the teaching profession's continued development in light of research and evidence of changes in society and technology			
Supporting development of education leaders	479(2) <ol style="list-style-type: none"> to provide leadership to the education profession to enhance the status of education leaders to identify and disseminate best practice in education leadership. 	<ul style="list-style-type: none"> Operation of Rauhuia Leadership space. 	<ul style="list-style-type: none"> Remove from the Teaching Council's functions. No defined legislative role required but operationally merge with MoE's existing leadership functions. 	9(2)(f)(iv) <div></div>

Annex 2: Future state: Function split across a teacher training and career pathway

This slide demonstrates the alignment between standard setting and registration and certification and the points where approval is currently required or could be required in the future

