

30 September 2009

S09.30

Submission to the Education and Science Select Committee on the Education (Polytechnics) Amendment Bill (70-1)

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 50 nationally organised societies and national members. It has 26 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

Education, especially for women, has been one of the major concerns of NCWNZ since the Council's inception in 1896. In the short time available for consultation, NCWNZ canvassed its Education Standing Committee and nationwide membership for their responses to the issues raised. Responses came from a number of NCWNZ members, who have been honoured to be elected to serve on tertiary education councils – notably polytechnic and university councils. These members have come from both academic and community work backgrounds, have diverse skills and bring a consumers' perspective, which is useful for the development of polytechnic institutions. The submission has also been reviewed by a member of the NCWNZ Board and the Parliamentary Watch Committee.

General Comments

We understand that the main purpose of the Bill is to reduce the size of polytechnic councils, primarily because the 'sector faces particular educational and financial challenges, which are likely to be exacerbated by an increasingly constrained funding environment'¹. This view was generally not supported by members, who agreed with the statement in The Education Review Vol 14 No. 29 July 31, 2009, page 4; from the review conducted by Meredith Edwards in 2003, which concluded that 'size was not as important as effective practices, principles of operation and sound relationships'. The review found that the quality and composition of council membership are of the utmost importance.

Several respondents felt very strongly about this issue, especially because historically government appointments to Boards have been predominantly male and drawn from the business sector in which women are not so widely represented. NCWNZ has recent policy:

5.3.9.1 That NCWNZ urge the government to ensure that gender impact assessments be undertaken before planning changes to the tertiary education sector, to secure women from disadvantage (2001).

This Bill makes a gender balance practically impossible to ensure.

¹ Explanatory note, Page 1 General Policy Statement

Specific Comments

Clause 15 New Part 15A inserted

“Part 15A Special provisions relating to polytechnics”

NCWNZ supports the intervention framework (with extra types of interventions possible) as it looks useful, and better than the current limited range of interventions. It seems to provide a sensible procedure, focusing on the Chief Executive of the Tertiary Education Commission (TEC), who will be empowered to require a polytechnic to obtain specialist help if the institution or education performance of students is at risk.

The Council has to engage the recommended person or organisation and meet reasonable fees and expenses. The TEC may also require the Council to come up with a draft performance improvement plan. If the viability of the institution is at risk, the Minister may appoint a Crown Manager. There were strong recommendations from the NCWNZ members that, although accountability should be a requirement, under no circumstances should autonomy and academic freedom be sacrificed.

Clause 16 New headings and sections 222AA to 222AP inserted

“Section 222AA Constitution of polytechnic councils”

NCWNZ has little objection to reducing the number of members of Councils from the current minimum of 12 and maximum of 20. However, we are of the view that eight is too small a number to allow for adequate community representation. The range of representation needs to take account of the diversity of stakeholders. The Bill proposes that the Minister would appoint 50% of the members; one would be *nominated* by the academic Board (not appointed); one would be appointed by the students' association; one by people in the community or by bodies operating in the community; and the CEO would fill the eighth place. These eight people are to have all the necessary skills between them (“222AC: Subsection (3)”). This gives the government a standing majority at all times. A ‘top-heavy’ council of people appointed by government can also lead to possible changes after each election. These ministerial appointees can also feel obligated to follow government thinking and there is concern that they may not speak up if and when policies are poor.

The four members appointed by the Minister may also be members of other Polytechnic Boards (“222AB”), creating potential conflicts of interest. Polytechnics are expected by the government to be managed and governed like businesses. Many matters considered by their Councils are often commercially sensitive. Two of the other four are employees of the Board (CEO and Academic Board representative) and therefore also face a potential conflict of interest. In law and in fact, the CEO is an employee of the council, and attends council meetings to report and advise Council members on the work of the institution. The CEO may also be sometimes asked to withdraw for part of the meeting if a conflict of interest could arise from their presence. This means that the Bill as it stands provides for a council of *seven* members, with the CEO automatically in attendance.

NCWNZ is strongly of the view that four Ministerial appointments out of a council of eight, including a chairperson and deputy chairperson appointed by the Minister, provides an unequal partnership between the Crown and the community especially when the possibility of a chairperson's casting vote is taken into account and, further, that a council member may be an elected or appointed member of another polytechnic council.

It is recommended that the Minister or council have the power to co-opt members to address any gaps/needs in relevant knowledge, skills or experience of the members.

For these reasons we strongly urge that the council membership be enlarged to ten, and include three members nominated by members of the community served by the polytechnic, and appointed by the Council.

“222AC Matters to be considered when appointments are made”

Section 222AC sub-section (1) states

It is desirable in principle -

(a) that a polytechnic council should include Maori; and

(b) that, so far as is possible, a polytechnic council should reflect the ethnic and socio-economic diversity of the community it serves.

Sub-section (2) then requires the Minister to “have regard to the principles in subsection 1 when appointing members of a polytechnic council”, but requires the Minister to appoint people with enough experience of governance.

This section replaces **Section 171 (4)** in the **Education Act 1989** which has been repealed with regard to polytechnics. The repealed section 171 (4) states:

It is desirable that the council of an institution should reflect so far as is reasonably practicable: -

(a) the ethnic and socio-economic diversity of the communities served by the institution; and

(b) the fact that approximately half the population of New Zealand is male and half the population is female.

NCWNZ is most concerned that in the revised Section the desirability to reflect the community has been considerably eroded. As the Bill stands, there is now room for only one community representative. What community could be so minimally represented? Consideration must also be given to the fact that people on councils must have knowledge of the particular institution and region it serves, and should not be appointed from ‘afar’. The Bill considers this “desirable in principle” rather than “as is reasonably practicable”, and over-riding this factor is a requirement for sufficient governance experience. The need to consider gender representation has been removed, though there is now explicit reference to Maori but not Pacifica.

We strongly believe that with the suggested composition of a council of eight members it will be virtually impossible to ensure adequate representation of women, Maori, in some areas Pacific peoples, and also the socio-economic diversity of the community. This is especially so where a polytechnic serves a widespread region or particularly diverse catchment area.

“222AD Term of office”

The terms of office are set at 4 years for the Minister’s appointees (2a), one year for the academic board (2b) and student representatives (2c); and two to four years for the community nominee (2d). Inevitably the Ministerial appointees will thus have the benefit of experience that will reduce the impact (and job satisfaction) of the other council members. As everyone who has sat on committees knows, it takes several meetings to really come up to speed with the range of issues, and in our view this structure seriously disadvantages three of the members. The CEO, too, will be very much beholden to the Ministerial appointees. Some members were concerned that these restrictions could cause the most able CEOs to take their skills and experience elsewhere.

It is recommended that the student member and member nominated by a polytechnic’s academic board be appointed for a two year term and that the council members have staggered tenure over periods of at least three years.

“222AF Chairperson and deputy chairperson”

The Chair and Deputy-Chair are to be appointed by the Minister. The chairperson may not be the student member, nor an employee of the CEO, thereby effectively barring the academic board member from that office.

Clause 16 New headings and sections 222AA to 222AP inserted

“Combination of polytechnic councils”

This could be advantageous for small Polytechnics and lower operating costs. NCWNZ approves the conditions outlined for this to occur.

“222AK Constitution of combined councils”

This section is extremely confusing and we recommend that changes be made so that the intent is clear. It states that if two institutions recommend that they combine, they would have a combined council, but each is expected to retain its individual status and identity, *and its assets*, and there would still be two CEOs. This fudges the issue as to what is being combined, and the structure of the Council is unclear: the Bill states that there must be ‘at least one member elected by students enrolled at the polytechnics concerned’ (2b) and so on, without spelling out whether the Council would be enlarged (except by presumably having two CEOs in attendance). As it stands, this proposal effectively disenfranchises the community and student bodies.

“222 AP Polytechnic councils may establish combined academic boards”

The idea behind the provision for two or more polytechnic councils to establish a combined academic board is to ‘facilitate collaboration between polytechnics, and improve administrative efficiency’². We believe this could simply be a cost saving exercise without due regard for the high quality programmes, valuable learning, research and education performance of the polytechnics concerned.

Clause 17 Enabling school students to attend tertiary high school at Manakau Institute of Technology

NCWNZ has policy:

5.5.12 - That NCWNZ supports the provision of on-going free education of 16 – 19 year old New Zealand students according to the Education Act 1989, not just in state secondary schools, but also in approved tertiary institutions, in apprenticeships or in other approved forms of training. (2008).

We therefore support this amendment in principle with the proviso that the trial applies only to secondary school students 16 years or older who are at risk of not achieving formal qualifications.

NCWNZ believes that there are already options available to secondary schools for disengaged 15 year olds such as the Secondary Tertiary Alignment Resource (STAR), Gateway and the Youth Apprenticeship Scheme and that schools provide greater daily pastoral care and career guidance than can be given at an Institute of Technology and Polytechnic (ITP). The provision of this alternate pathway may provide the incentive for students below the age of 16 to become motivated and focused and remain at school so that they can gain entry into the proposed ITP programmes and gain meaningful industry-recognised qualifications.

² Explanatory note, page 2 Miscellaneous amendments)

Conclusion

It is our recommendation that the size of the council be increased by two members, which still keeps it small and focused, but not at the expense of gender and ethnic balance and adequate community representation. We support in principle Clause 17.

NCWNZ members thank the Select Committee for the opportunity to make comments on this Bill.

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