

CHAPTER 13

TEACHERS AND PROFESSIONAL ETHICS

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Discussion questions

- 1 Why is teaching often referred to as a profession?
- 2 What implications does being professional have for the work of teachers?
- 3 Why are teachers expected to be ethical? What does this mean?
- 4 To what extent does a teacher's code of ethics offer guidance on how to deal with ethical problems?
- 5 How should a teacher go about analysing and solving an ethical problem?

INTRODUCTION

Professional teachers are expected to practise in an ethical manner. New Zealand children are legally required to be formally educated between the ages of six and 16 years, and although some are home schooled, most attend publicly funded schools. They are taught by professional teachers who also teach children in a variety of early childhood education institutions before the years of compulsory education and beyond the age of 16 in secondary schools and tertiary institutions. This chapter will consider why teaching is often described as a profession and what that requires of teachers, the ethical obligations they have and the nature and functions of teacher codes. Finally, some ethical problems will be explored to demonstrate ethical problem solving.

TEACHERS IN SCHOOLS AND OTHER TEACHERS

The term 'professional teacher' is used here recognising that teaching is an activity which is widely practised in the community. Those who practise trades and crafts teach necessary skills to apprentices, coaches teach athletes to improve their

performance, ministers of religion teach members of their congregations and parents teach their children language, concepts and skills. When I purchase a new piece of software for my computer, my first reaction is to find someone who can teach me how to use it. Similarly, from quite an early age, children teach one another.

Many of these teaching activities are informal; there is no formal control over what is taught, how it is taught, or even the intentions of the teaching. Consequently, everything that may be taught is not necessarily good or socially desirable and sometimes people teach others without even intending to do so. Yet teaching is usually regarded as an intentional act of helping someone to learn something. It is a widely practised craft and as a result anyone who engages in it may legitimately be regarded as a teacher.

Among this wide assortment of people who teach, professional teachers, or teachers in schools as Goodlad (1990) refers to them, are distinguished by the fact that they are publicly accredited to teach and fulfil public, rather than private, teaching functions. They have been educated for the purpose and in this country many are registered with the New Zealand Teachers Council (NZTC). Those who teach in primary or secondary schools must be registered. To become registered, a teacher must have completed approved preservice studies, including supervised teaching experience and two years of provisional registration when their practice continues to be closely supervised. Following registration, a teacher's practising certificate is reviewed and renewed every three years, subject to statements of professional competence from the teacher's professional peers.

Early childhood workers, some of whom prefer not to be referred to as teachers, qualify for teacher registration in a similar fashion and some early childhood institutions, such as New Zealand free kindergartens, employ only registered teachers. However, by 2012, all regulated staff (teachers counted for regulatory purposes) in every early childhood centre must be appropriately qualified and registered. As steps towards this, since 2005 when every centre was required to have one registered teacher, progressive target increases have been applied. Teacher registration is not mandatory in tertiary education; some teachers are registered, but many are not.

TEACHING VERSUS PARENTING

The differences between the functions of parents and teachers are matters many professional teachers must face at some stage of their teaching careers. Katz (1980) drew attention to the distinction when she compared the functions of mothering and teaching in early childhood education. For the purpose of this analysis, I will refer to parenting, rather than mothering, because the roles described by Katz are also applicable to fathers and are not limited to the early years.

Katz represents the roles of parents as diffuse and characterised by high degrees of attachment, irrationality and spontaneity. The term 'irrational' is used

to describe the instinctive bond between parents and their children and suggests that in essence, parents are their children's most important advocates. It is the basis of a well-known dictum, 'Somebody has got crazy about that kid' (Bronfenbrenner, 1979, p.4) which highlights not only the irrationality of the bond, but also the individual focus of parental attachment. In contrast, the roles of teachers are represented as more specifically focused, requiring greater detachment, rationality and intentionality. The analysis also suggests that teachers are expected to facilitate learning by all their students, not just some, regardless of whether or not they like them as individuals, indeed, one of the greatest challenges to professionalism in teaching occurs when a teacher is required to teach someone whom he or she may not like very much. The professional teacher is expected to set aside personal feelings and get on with the public job they are employed to do.

Role Dimension	Parenting	Teaching
1. Scope of function	Diffuse and limitless	Specific and limited
2. Intensity of effect	High	Low
3. Attachment	Optimum attachment	Optimum detachment
4. Rationality	Optimum irrationality	Optimum rationality
5. Spontaneity	Optimum spontaneity	Optimum intentionality
6. Partiality	Partial	Impartial
7. Scope of responsibility	Individual	Whole group

(Katz, 1980, p.49)

Figure 13.1: Distinctions between parenting and teaching

The fact that parents and teachers fulfil different roles towards those they teach does not imply that one is right and the other wrong, nor that one is more worthy than the other. Each makes an important contribution to the development of well-rounded, rational and independent people. Young people benefit from experiencing both sets of roles that are, in this sense, complementary. But parents who became teachers need to think clearly about how their treatment of pupils should compare with that of their own

children. An obvious example concerns differences in the extent to which displays of affection are appropriate, and the forms of affection that are acceptable from a parent and a teacher. The issue is especially relevant when teachers in rural schools end up teaching their own children, a situation that can create problems because of the need to treat one another differently at school. Not only must parents who become teachers think about their relationship with their pupils, but teachers who become parents must also make an adjustment, which is probably easier when their children are very young. If Katz's analysis is accepted, teachers going home to children of a similar age to those they teach at school, must make adjustment if they are to display the optimum attachment, irrationality, spontaneity and partiality that is required of competent parents in contrast to the optimum detachment, rationality, intentionality and impartiality expected of professional teachers.

Teaching As Work Versus Teaching As A Professional Activity

Professional teaching may be regarded in two ways, as work and as profession. Each view provides useful insights. The idea that teaching is work, like any other jobs, emphasises the function of teachers as employees who are paid to deploy their knowledge and skill to achieve outcomes specified by their employers (the board of trustees of their school which is responsible to the Minister of Education for the school's governance). This highlights a number of features of the current employment conditions of **New Zealand** teachers. Since the advent of the *Tomorrow's Schools* reforms in 1988, the requirements of teacher's work have been specified in increasing detail by the "Ministry of Education" through school charters, the **National Education Guidelines** and the national curriculum statement (Ministry of Education, 2006). Nevertheless, the prevailing view of teaching as work emphasises the contractual nature of teacher employment.

Overall, the prevailing view of teaching as work emphasises the contractual nature of teacher employment. There are some very desirable features of contracts which make clear the obligations of both parties. May (1975) notes that regarding the relationship between professional and client as a contract removes gratuity from the relationship so that the teacher is seen to fulfil an obligation rather than to dispense charity. This strengthens the hands of learners and their parents, who are the teachers' primary clients, by spelling out what may be expected of the teachers, thereby making them more accountable.

However, there are also shortcomings. A contract details the minimum required of each party and there is always a danger that it will encourage what May (1975) refers to as minimalism – focusing on whether the minimum service has been provided rather than maximising the benefits for clients. May also claims that contractual relationships tend to place the parties to the contract in competition with one another, as in commercial situations where both contractor and client set out to maximise benefits to themselves at the expense of benefits to the other party. That is the basis of the marketplace injunction, *caveat emptor* (let the buyer beware). If one party fails to meet its obligations, litigation becomes the way to obtain retribution. May's view is that contract medicine in the USA encourages medical practitioners to focus on their own interests rather than those of their patients, resulting in both under-prescribing to reduce costs and over-prescribing to protect against possible litigation. Similarly, it has been argued that a contractual approach to the provision of legal services in New Zealand runs the danger of encouraging lawyers to look after their own interests first, at the expense of those of their clients (Malloy, 1998). In the case of education in schools, it is hardly surprising that the marketisation of schooling and the associated emphasis on individual rights has resulted in the development of what Rishworth (1999, p. 4) calls 'education law', which was relatively unknown in this country 20 years ago.

Contractual relationships, which may be appropriate in the marketplace, have serious shortcomings when applied to the activities of helping professions such as medicine, nursing, the law and teaching because in these activities practitioners are expected to give priority to their clients. May (1975) suggests that the professional relationship between doctor and patient should take the form of a covenant, rather than a contract, because a covenant emphasises *giving* to the common enterprise by both parties, rather than taking from it. This attitude, termed *tuisim* (literally you-ism) by Wicksteed (1933) is an ideal characteristic of all the helping professions, including teaching (Downie, 1990).

PROFESSIONAL RESPONSIBILITY

Like the members of other helping professions, professional teachers fulfil responsibilities to vulnerable clients. Soder (1990), an American writer on the topic, observes that the compulsory nature of primary and secondary schooling

Schooling increases the ethical responsibility of professional teachers because in the main, parents do not have the opportunity to choose who will teach their children (Soder, 1990). He points out that the law requires parents to send their children to school regardless of the school, and that all parents must take part in equality of surrender:

“Equality of surrender, I would argue, should imply equality of treatment. That is to say children should not be subjected to differential response because of differences in social class, ethnicity, gender, or other factors over which children have no control. It has long been recognized that there is, in fact, inequality of treatment (and inequality of outcomes, for that matter). But the existence of inequality does not justify inequality. Equality of surrender must imply equality of treatment. Therefore, those responsible for the treatment of children in schools have a moral obligation to ensure equality of treatment. (p. 73)”

Soder points out that by nature children are defenceless. They are, by tradition, taught to distrust. However, in complying with the law and sending their children to school, parents are turning their children over to virtual strangers. In doing so, parents expect the state to keep the children from harm.

Soder identifies the vulnerability of school students which places professional teachers in positions of power, born of their superior knowledge, skill and status, compared with their pupils. This creates a burden of responsibility that may be easily abused. It involves keeping children safe (free from physical and mental harm) and ensuring that they receive reasonable equality of opportunity regardless of their social class, ethnicity, gender, or other factors over which children have no control. This clearly signals that the ethical obligations of professional teachers include how their students are managed, as well as the content of the school curriculum and how it is implemented. The achievement of such outcomes requires teachers to assume responsibility for their own continuing professional development to keep up to date. While Soder does not say as much, it can be argued that it follows from what he says.

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Soder concludes that because of their vulnerability, children must be protected from harm. This places the professional teacher squarely in a position of trusteeship, and the ethical standards of professional teachers are the self-imposed rules of that trusteeship. Sometimes it is said that this is also a requirement of the legal doctrine, *in loco parentis*, which expects a teacher to exercise a standard of care towards students that might be expected of a prudent parent with a very large family. While this may be a useful metaphor for teacher-student relationships, it is a legal requirement with application to only a limited range of specific, optional school activities such as field and sports trips where parents explicitly give permission for participation by their children (Hall & Manins, 2001).

There is a further need for teachers to be ethical. It stems from what was referred to earlier as the central purpose of schooling. Schools are expected to promote learning which includes the development of an appreciation of and commitment to values that are prized by the wider community, and which promote moral development. This is not easy in a pluralistic society such as ours, because of conflicting public expectations. Nevertheless, it is widely expected that teachers will teach their charges to behave morally. Achieving that is helped by treating pupils ethically and exposing them to ethical practice so they are gradually inducted into ethical thinking and behaviour. Much has been made of inconsistencies in school experience where values that are advocated in lessons are not observed in the school's own practices. If teachers have integrity, they will 'practise what they preach'. What they say is what they do. In the 1960s, scholars such as Philip Jackson (1968) and John Holt (1964) talked of the 'hidden curriculum', pointing out this apparent lack of integrity (at least from the student's point of view, if the teacher is unaware of what is happening) and the resulting undermining of curriculum effectiveness.

Covaleskie and Howley (1994) note that there are two grounds on which any professional may be impeached: a lack of the necessary knowledge and skills to be competent; and a breach of the ethical obligations of the profession. Each is necessary in a professional teacher, and one cannot compensate for the lack of the other.

There are currently four requirements for registration as a professional teacher by the New Zealand Teacher Registration Board, (1991). The applicant must be: '(a) of good character; (b) fit to be a teacher;

(c) appropriately qualified; and (d) likely to be a satisfactory teacher' (p. 12). These criteria clearly cover the twin requirements highlighted by Covaleskie and Howley. Not only must each criterion be fulfilled in order to qualify for provisional registration, but the judgement is reviewed after two years when the teacher becomes eligible for full registration. Registration is reviewed every three years when practising certificates must be renewed.

Professions as communities of practice

In order to function as a profession, teachers form communities of practitioners who collectively assume responsibility for their own standards of practice, creating what Lave and Wenger (1991) call 'communities of practice'. They note how communities of practitioners in many cultures were traditional social structures that accumulated, retained and transmitted the essential knowledge, skills and values associated with occupations such as trades and crafts, and helping occupations such as medicine and midwifery. In England the communities of practitioners were known as guilds. Scholars such as Strike (1993) continue to apply the term 'guild' to the helping professions:

A profession is a guild of practitioners ... who are ceded significant control over their practice because they possess and are masters of a knowledge base that is sufficiently esoteric such that other forms of social control ... are less efficient. (p. 257)

The term has appeal because in traditional guilds, the teaching and induction of novices into the practice was conducted by skilled practitioners who were regarded as masters of the knowledge base and decided when an individual was ready to be recognised as a practitioner. That continues to be true of professions such as medicine, nursing, law and teaching. Although contemporary practice has moved away from apprenticeship approaches to professional preparation, many features of the induction by guilds have been retained, even in university-based programmes where a high proportion of those who teach the programme are expected to be professionally qualified and experienced. The programmes, which are approved by professional bodies such as the New Zealand Teachers Council (NZTC), include on-the-job experience under the supervision of registered practitioners. Novices master the practice and wider knowledge upon which it is based, together with the values and ethical practices required by the profession. Eventually, it is the profession that admits those who are qualified to full membership via bodies like the NZTC.

Membership of the community of practitioners confers status on individual practitioners and lends them potential collegial advice and support. In fact, a number of commentators such as Hoyle (1982), Hirst (1982), and Hoyle and John (1995) note how the professionalisation of teaching, with the emphasis upon longer and more comprehensive pre-service education, and the associated improvement in the status of teacher qualifications has resulted in benefits for teachers as well as their students. While many teachers argue that this is not reflected in their salaries, there is considerable evidence that on the whole teachers are well regarded by the community. Nevertheless, some academics question whether the professionalisation of teaching benefits students as much as it benefits teachers. For example, Bredekamp and Willer (1993) acknowledge potential benefits such as the development of a shared knowledge base, the achievement of greater professional consistency and an increased emphasis on ethical conduct. However, they also note the potential for improved teacher qualifications and a more professional image to increase the distance between practitioners and their client families, to increase

costs and to increase the development of hierarchical systems, all of which tend to militate against participation by less advantaged sectors of the community.

Membership of a community of practice constrains the practitioner ethically for reasons discussed earlier. Soltis (1986), an American academic, spells out some of these constraints:

When one becomes a member of a profession, he or she joins an historical community of practice with a *telos*, a general purpose, that one must be committed to in order to be a professional. In medicine, the general purpose is to promote health, and in education it is to promote learning. The clients ... put their trust in the professional's honest commitment to the purpose. There is thus built into the form of the practice itself a moral obligation on the part of the practitioners. To breach that obligation is to act unprofessionally. (p. 4)

At the heart of Soltis' argument is that being professional requires a personal commitment to the *telos* or purpose of the professional activity, which involves moral or ethical purpose. Membership of what I have described as a community of practice binds the individual practitioner to the standards of the profession.

A distinction may be drawn between the development of 'professionalism' by teachers, regarded as benefiting the practitioner, and 'professionalism', a term coined to refer to professional activity aimed at benefiting students (Hoyle, 1975). Using the latter concept, Hoyle argues that the practice of individual teachers may be placed on a continuum between 'restricted professionalism' and 'extended professionalism'. As Figure 13.2 shows, major differences between the two ends of the continuum reflect

Skills derived from experience.	Skills derived from mediation between experience and theory.
<i>point of view</i> Perspectives limited to the immediate in time and place.	Perspectives embracing the broader social context of education.
Classroom events perceived in isolation.	Classroom events perceived in relation to school policies and goals.
<i>thoughtful</i> Introspective with regard to methods.	Methods compared with those of colleagues and with reports of practice.
Value placed on autonomy.	Value placed on professional collaboration.
Limited involvement in non-teaching professional activities.	High involvement in non-teaching professional activities (especially teachers' centres, subject associations, research).
Infrequent reading of professional literature.	Regular reading of professional literature.
Involvement in in-service work limited and confined to practical courses.	Involvement in in-service work considerable and includes courses of a theoretical nature.
Teaching seen as an intuitive activity.	Teaching seen as a rational activity.

(Hoyle, 1975, p. 318)

Figure 13.2: Restricted and extended models of professionalism

the extent to which (a) practice is based upon intuition rather than rationality, (b) practice draws upon a researched theoretical knowledge base, (c) the practitioner sees his or her professional activities in a wide social context, and (d) the practice is distinguished by a high level of professional collaboration and collegiality.

When discussing this model, Hoyle is at pains to point out that the distinction is not between incompetent and competent teachers; some restricted professionals may be technically very competent. However, extended professionalism is more likely to lead to continuing professional development. Hoyle also concedes that in some ways the restricted professional has greater autonomy because his or her practice is less fettered by collaborative collegial decisions. Nevertheless, he considers this to be offset by the fact that the extended professional is more likely to have a greater influence upon school and wider professional policies through collaborative participation in school decision making and professional activities. Although Hoyle's concept of extended professionalism is now 30 years old, there has been a revival of interest in it in recent years with writers such as Evans (1997) and Sachs (1997) clearly implying that extended professionals are more fully professional teachers and that extended professionalism is the basis for greater public confidence in teacher professionalism. Elsewhere, Sachs (2000) advocates what she calls 'activist professionalism'. For teachers, this means 'reinventing their professional identity and redefining themselves as teachers within their own schools and the wider education community' (p. 92). Such options require collective professional decision making, professional awareness and critical thinking, and strong professional commitment – all defining characteristics of extended professionalism.

Codes of ethics

Most professions have a code of ethics or a code of practice. In New Zealand, each association of professional teachers has its own code of ethics which publicly codifies (sets down systematically in writing) a set of standards by which members are expected to conduct their professional affairs. It is important to emphasise that these codes are imposed by communities of practitioners upon their own members. Sometimes particular sanctions are stipulated as prudent measures to satisfy public opinion, rather than because the practitioners collectively think the restrictions are especially desirable. In other words, the profession may decide that if it does not act, then another authority (such as the government) might impose the constraint as a legal or regulatory requirement. Codes of ethics are different from employment codes or codes of conduct which are usually formulated by employers as conditions of employment and are frequently more specific in their injunctions than codes of ethics. Usually, such codes tell practitioners what to do rather than providing broad bases for professional decision making.

In 2004, the NZTC published a code of ethics which applies to all registered teachers (New Zealand Teachers Council, 2004a). Many teachers were members of either the New Zealand Educational Institute (NZEI) or the Post Primary Teachers' Association (PPTA) and subject to the codes of ethics of those bodies. Because a number of teachers were not members, the government required the NZTC to establish a code which would apply to *all* registered teachers, regardless of whether or not they were members of a professional organisation. Section 139 of the Education Act 1989 empowered the Council, the majority of whose members are teachers, to develop and apply a code of ethics. The resulting code was developed in consultation with members of the profession and is effectively an umbrella statement, broadly consistent with the previously existing codes. The *Code of Ethics for Registered Teachers* spells out some general ethical principles governing professional practice and the ethical commitment

of teachers to the interests of: (a) learners; (b) parents/guardians and family/whānau of learners; (c) society; and (c) the teaching profession.

A code of ethics is both a statement of aspiration (what the profession aspires to be) and a 'bottom line' statement that may be used to judge the behaviour of teachers (Brock, 1998). The achievement of a balance between these aspirational and regulatory functions is important. It is worth noting that the Disciplinary Tribunal Decisions on the NZTC website (New Zealand Teachers Council, 2004b) suggest that the regulatory functions of the NZTC appear to be based more on its separate sets of rules for reports and complaints than on its Code of Ethics, although the two are clearly interrelated. Nevertheless, it still remains possible for a New Zealand registered teacher to be called to account by the Council for a serious breach of its Code of Ethics.

The code of ethics of any profession may be regarded differently by individual members. For example 'enlightened self-interest' is one attitude that is manifested by professionals who observe the rules simply because to do otherwise might result in trouble for them (Fullinwider, 1995). In such cases, compliance with the code occurs under sufferance, which contrasts with the attitude of others who regard the code more positively, making it their own in the belief that it will enhance their practice. The latter, more enlightened attitude toward a code may be easier to achieve when practitioners recognise that every code attempts to apply very general, widely accepted ethical principles to a particular area of professional practice. The New Zealand Code, for example, is based upon four ethical principles which are spelled out in a preliminary paragraph (New Zealand Teacher Registration Board, 2004a). They are:

<i>Autonomy</i>	Treat people with rights that are to be honoured and defended.
<i>Justice</i>	Share power and prevent the abuse of power.
<i>Responsible care</i>	Do good and minimise harm to others.
<i>Truth</i>	Be honest with others and self.

Professional virtue

Implicit in professional codes of ethics is a further expectation that those who subscribe to the code will also show *dispositions*, based on particular *virtues*, which help make them dependable to their clients and colleagues. The term 'virtues' may seem pretty old-fashioned, but it makes a lot of sense and according to May (1980) includes *integrity* which requires each professional to be truthful and dependable, 'mak[ing] possible the fiduciary bond between professional and client' (p. 409); *veracity*, which makes possible the enabling act of sharing knowledge and truth; and *fidelity*, which requires the professional to be true to the best interests of his or her client. Also included are *public-spiritedness* and, less predictably, *humility*, which May regards as 'essential to renewal ... [because] no teacher stays alive if he or she does not remain a student' (p. 410). The virtue of humility is particularly significant because it stresses the need for the teaching practitioner to continue to learn and is a necessary antidote to the arrogance of any suggestion that any qualified teacher is 'fully trained' and does not need to continue to study to improve his or her practice and remain up to date. It seems clear that these virtues apply, or ought to apply, to teachers as much as to doctors, nurses, lawyers or other members of helping professions. A New Zealand ethicist, Hicks, adds *honour* as another principle which summarises these expected dispositions; that is, be honest, show integrity, remain faithful to the professional purpose and continue to learn.

Thus, the professional behaviour of teachers is expected to be guided by a set of principles, and, in their dealings with clients, they are expected to display a set of predispositions which make them ethically trustworthy. However, it must be emphasised that it is not enough for them to apply those principles and/or display the virtues selectively. Professional teachers are obliged to practise ethically.

An ethic of care

In recent years, there has been a growing interest in the application to teaching of what is referred to as an 'ethic of care'. The Education Act 1989 refers to 'a duty of care' expected of teachers, particularly the professional obligation to attend to the physical safety and wellbeing of students at school. However, the ethic of care to which I now refer stems from feminist thinking and goes beyond the actions of a prudent parent with a very large family to focus upon the relationships of teachers with their students as individuals. This ethic of care focuses upon the development of empathetic interrelationships between teachers and their students (Manning, 1999; Noddings, 1992, 2000). Earlier, I noted Katz's (1980) observation about necessary differences between the roles of parents and teachers. This suggests that the duty of care of teachers should be thought of as *ethical care*, which is appropriate for professionals fulfilling public, rather than private roles. Noddings (1986) relates ethical care (care based upon ethical principles) to specific principles such as fidelity towards individuals, which supports this contention. The inclusion of *responsible care* as a principle underlying the *Code of Ethics for Registered Teachers* is an attempt to acknowledge this. The development of individual relationships with clients is both the focus of the ethic of care and a fundamental aspiration of practitioners in all the helping professions. It has been suggested that care is a value that is necessary for the good life, although it is not one that should trump other values (Strike, 1999).

Ethical decision making

The proclamation of a code of ethics by a professional group indicates that its members are expected to give priority to the collective code in the conduct of their professional duties, thus overriding what Kipnis (1987) refers to as personal values and private moralities. This is the basis of this chapter's earlier emphasis upon professional teaching involving public, rather than private duties, and the suggestion that sometimes this requires teachers to set aside personal preferences and personal moral points of view. Codes of ethics provide guidance relevant to this process.

While codes of ethics provide useful guidelines to practitioners, they seldom provide clear answers about what to do. One reason is that such codes usually remind practitioners of their ethical obligations to different parties whose interests may conflict. The *Code of Ethics for Registered Teachers*, for example, says that teachers have obligations to various groups but offers little explicit guidance about whose interests should be accorded priority when a conflict of interest occurs. Sometimes conflict occurs between competing values underpinning the code. For example, it is common for fairness to some pupils (justice) to be achieved in particular situations at the expense of the autonomy of other individuals. Thus, codes of ethics sometimes help identify ethical problems but offer conflicting guidance on how to deal with them. This leaves the practitioner to take account of the circumstances and arrive at the most justifiable solution. Sometimes the conflict may be between two desirable courses of action, under circumstances where one rules out the other. Consequently, many ethical problems for teachers do not

have 'right' answers. They remain problematic because what is ethically acceptable (and what is not) is greatly influenced by such factors as whose interests and which ethical principles should be given priority. As a result, under some circumstances different practitioners may come to different conclusions about the appropriate course of action. What is most important is for the practitioner to arrive at an ethically defensible, rather than an arbitrary, course of action.

It is worth noting that the ideas that form the basis of ethical decision making derive from at least three distinctly different types of theory. The first centres on the virtues that may be expected of any practitioner. Reference has already been made to some of these virtues. A virtues-based approach to ethical decision making would answer the question 'What would the virtuous teacher do?' Of course, the answer will depend upon which particular virtues are considered to be of greatest importance. Virtue theory is frequently associated with the Greek philosopher, Aristotle, who regarded the cultivation of virtue and wisdom as the basis for all ethical behaviour. Contemporary theorists such as MacIntyre (1981) continue the tradition, noting that in present-day contexts particular sets of virtues tend to be associated with certain social groups in society at large, such as professional associations.

A second basis for ethical decisions involves assessment of the likely consequences of any course of action. The most desirable course of action is that which is likely to lead to the most desirable consequences, an approach, usually known as *consequentialism*, and associated with 19th century utilitarian philosophers such as Bentham who argued that we should aim to achieve 'the greatest good for the greatest number'. Of course, such an approach still requires definition of what will be the good that is the object of such a judgement. Should it be pleasure, for example, or happiness?

The third basis for ethical decision making is associated with the 18th century German philosopher, Immanuel Kant, who argued that ethical decisions should be based upon universal rules or what he called 'categorical imperatives'. At the heart of this point of view is the principle of equal respect for persons. This means that we should treat other people as ends rather than means, and regard them as free, rational and responsible moral agents who are of equal value to ourselves. This leads to the familiar dictum of the Golden Rule, 'Do unto others as you would have them do unto you'. This school of thought is referred to by contemporary writers such as Strike and Soltis (1998) and Haynes (1998) as *non-consequentialist*.

Thus, it is possible to approach ethical decision making from the point of view of the virtues that the moral agent might be expected to display, the consequences of the action, or the rules that should apply in all circumstances (see Haynes, 1998; Preston, 1996; and Strike & Soltis, 1998 for further discussion). In practice, each approach has shortcomings as well as strengths and it is common for decision makers to use a combination of these points of view. Consider the predicament faced by Euphemia who teaches in a school with a no-nonsense policy of reporting all cases of fighting to the parents of the students involved.

While on playground duty, she discovers one of her students, Henry, engaged in a fight with an older boy. The school policy is clear: she must report the matter to the principal and each boy's parents will be informed. However, she knows that Henry lives with constant violence at home and she believes that if the school reports the matter to his parents, he is likely to be thrashed by his father, as happened a year ago when he was away from school for several days following a similar report. Euphemia decides that the likely consequences of her reporting the incident will be unreasonably harsh. As a result, she chooses not to report the matter to the principal.

Euphemia's predicament illustrates the complexity of much ethical decision making. In an ideal world, she would gladly implement the school policy which she helped formulate as a staff member. She agrees that the most just solution would be to observe the policy and report the incident, and she would prefer to do that. However, in the case of Henry, it is her view that the course of action that is probably fairest from the point of view of the school population at large is likely to be unfair to Henry to a degree that she has chosen to give priority to his wellbeing. She has weighed the consequentialist and non-consequentialist considerations to arrive at a considered course of action that runs the risk of possible adverse consequences for her, should her principal become aware of it. Nevertheless, she is willing to justify her chosen course of action. Her approach to ethical decision making is clearly eclectic.

Ethical case analysis

One way by which teachers may cultivate both ethical awareness and improved ethical thinking abilities is to explore specific ethical problems, preferably in discussion with other teachers. The intention is to answer the question: 'What ought we to do, all things considered?' Think about this account of a classroom conversation:

The staff of Kepai School are sitting in the staffroom at morning tea time, chatting. Besides the five teachers, the group includes Abigail who is a fairly regular parent helper in Rupert McFall's room.

Following a lull in the conversation, Ann Browne says, "I've been doing running records this morning. I tested Willy Fink just before the break. I can't believe how bad his reading is. He completely lacks any kind of word attack. I reckon he's reading at about three years below his age group."

"I taught Lenny, his sister, a couple of years ago," replies Rupert. "Her level of attainment wasn't much better."

Humphrey, who is also present, can see Abigail's ears flapping. He knows that this is a pretty regular kind of staffroom conversation, and there are often parent-helpers present.

He knows about the Privacy of Information Act which was discussed at a staff meeting some time ago.

The incident leaves Humphrey feeling uncomfortable. But, precisely what is the problem? Who does it affect? What courses of action are open to him? What should he do?

This simple, everyday incident confronts Humphrey with an ethical problem that is worth thinking about carefully. Before reading on, examine the incident and think about why it may pose an ethical problem. Talk with someone else about it and try to answer the questions posed above. What ought Humphrey to do, all things considered?

The incident involves two problems. The first, which teachers often identify when they discuss this incident, is that Abigail, who is not a registered teacher and is not bound by the professional code of the teachers, has heard comments about two children from a family of low achievers, and they think that she should be asked to not divulge what she heard to anyone else. They claim that she has been an

unintended witness to a professionally privileged conversation. Something must be done to contain some unfortunate statements. However, those statements should not have been made in the staffroom in the first place, regardless of whether Abigail, or any other non-teacher, was present. The reason for saying this is that while getting it off her chest may make Ann Browne feel better, it does little that might be regarded as good for Willy Fink, and will probably simply strengthen prejudice and labelling of Willy's family, especially in the light of the discussion that follows. Any benefit for Ann Browne will be achieved at the expense of potential harm to the Finks. It might even be argued that their autonomy is diminished by the events, together with the likely consequences, especially if this is not an isolated incident. Soder's statements, cited earlier, about the obligations of teachers towards vulnerable children (Soder, 1990, p. 73) suggests that this sort of undisciplined and purposeless staffroom discussion is ethically unacceptable.

Of course, what is going on in this scenario may also be in breach of the New Zealand Privacy Act 1993 (Walsh, 1997). Humphrey knows that, and he may choose to use the Act as an excuse to intervene. However, while teachers must observe the law, it seems to me that this particular law simply backs up some ethical injunctions on professional teachers for whom it should be unnecessary. Teachers who take their ethical obligation seriously, should not need a Privacy Act. Humphrey needs to do two things. He should try to contain the damage done. For example, he might say, 'Is this the appropriate place to discuss these matters?' A parent like Abigail would be more assured by another teacher questioning the professional propriety of such comments than by a request not to repeat them outside. The latter appears to suggest that such comments are acceptable, providing they are heard only by teachers. Humphrey also needs to try to do something to stop this sort of public discussion of professionally privileged information in the staffroom, perhaps by raising the matter at a staff meeting or discussing the matter with a more senior colleague.

The example, and this fleeting analysis of it, highlights the fact that being ethical not only adjures individual practitioners to abide by their code, but also to accept some responsibility for ensuring that other practitioners observe its requirements. Obligations such as these are the basis of Soltis' statement, cited earlier, that 'One is not a free individual when one accepts membership in a profession' (Soltis, 1986, p. 4).

May (1980) points out that it is easy for professionals to regard the maintenance of cordial ongoing professional relationships, which are undoubtedly important for effective practice, as being placed at risk if a practitioner appears to challenge the professional judgements and practices of peers. This may lead them to fail to regulate unsatisfactory standards of practice by their colleagues. Thus, in the instance under discussion, it would be easy for Humphrey to choose not to address the issue on the grounds that it might upset one or more of the other teachers, who may take his remarks personally. If Humphrey fails to take the matter up for such reasons, he would effectively be treating the maintenance of cordial professional relationships between staff members as more important than the educational interests of the Fink children. Undoubtedly, he needs to be careful about how the issue is broached; but it still needs to be dealt with if he is to fulfil his ethical responsibilities. Equally, the other teachers need to be reasonable about accepting remarks that may appear critical of their behaviour; theirs is also a professional obligation. In other words, being prepared to talk honestly (but with tact) about shortcomings that they see in other practices around them, is both ethically desirable for teachers and likely to contribute to their ongoing professional development.

Reflection

9 *What does this incident teach about ethical decision making?*

Review the process. What have you learned that helps you to make sense of your experience and will help you to make better decisions in the future?

Work through Humphrey's problem systematically by answering each of these questions. In the process, subject the suggested course of action to critical scrutiny by testing other possibilities. For an example of an ethical analysis of a teaching problem based on the use of this process see Hall and Bishop (2001). For in-depth discussion of specific ethical issues in teaching, see Snook (2003).

Strategies

When using these questions to explore and hopefully solve an ethical problem, there are helpful techniques to use. Most of these were suggested to early childhood educators in America by Kenneth Kipnis (1987), when their national association, the NAEYC, developed a code of ethics that later became the basis of the New Zealand and Australian early childhood codes.

- *Distinguish clearly between personal values and preferences and professional obligations.* In effect, as discussed earlier, this involves being clear about the limits of private beliefs when fulfilling public roles. This kind of reconciliation is not always easy.
- *Test the appropriateness of any proposed course of action by asking the question: What would happen if everyone did that?* For example, a single lie that may appear rather innocuous assumes a different significance if lying is generally accepted. If consistency across the profession is an important ideal, then this technique of generalisation becomes important. In a sense, it represents a search for general rules of conduct.
- *Vary the variables.* This is another way of generalising. It involves asking: 'What if the student was an adult?' Sometimes teachers are tempted to adopt courses of action with children that would not even be considered for adults. For example, the blanket searching of children's bags or desks for stolen objects, without any reason to suspect specific children, would be ethically and legally unacceptable were the subjects of the search adults. Similarly, it is useful to consider how the case might be seen if the subject was of a different gender, ethnic group, or social class.
- *Restate the problem in terms of what teachers owe to their students, to their students' parents, to the profession and to themselves.* Such questions provide alternative perspectives on ethical problems stated in terms of professional obligation. One advantage is that problems are seen as professional, rather than individual practitioner problems. Another way to restate is to ask: 'What would happen in an ideal world?' or 'What would the virtuous teacher do?'
- *Nurture disagreement.* It is sometimes considered that disagreement hinders effective ethical decision making. Kipnis (1987) points out, however, that 'those who disagree can nearly always teach us something new or remind us of something forgotten' (p. 30). He argues that enlightenment often lies at the end of disagreement so that careful attention to conflicting positions is frequently richly rewarded. However, it must be noted that Kipnis assumes the presence of a general will to resolve disagreement and achieve some kind of consensus by at least agreeing on the main issues in the debate. In other words, disagreement provides a starting point, rather than an end.

General comments

There are several important points to be made about this process. The first is that there is seldom one correct answer to this kind of problem. Different defensible courses of action may be supported by different professionals who may give priority to different stakeholders, or to different competing values. In the case of Euphemia's dilemma, discussed earlier, another teacher may have argued that the school policy was more important than the likely consequences for the student. However, this does not mean that every solution is equally acceptable. If teachers do a public job, then the clients of teachers should expect ethical decisions not to be based on the private taste or morality of the teacher. Decisions should stand up to scrutiny in the light of publicly acknowledged criteria such as client autonomy, justice, responsible care, truth, and being honourable – but recognise that in some circumstances these principles may pull against one another.

Second, some of the examples discussed illustrate how easily ethically questionable practices may be embedded in the culture of a school. Loose talk about students in the classroom, for example, may be a norm in some schools. However, that does not justify it. If such practice is unethical, then something needs to be done about it.

Third, junior members of staff need to think carefully about the possible consequences of their actions before being openly critical of more senior colleagues. It always pays to 'look before you leap'. Sometimes, alternative courses of action may be possible.

Consider the need for Anita to take account of her own status in this case:

When she saw Isabella, her tutor teacher and syndicate leader, punch a troublesome boy in the back when he failed to respond to a command, Anita did not know what to do. She lacked the confidence and the authority to confront her superior about the matter. Had someone else been involved, she would have discussed the matter with Isabella as her tutor teacher who had become a reliable professional friend. Loyalty suggested that she should turn a blind eye to the incident. However, she was horrified by the strength of the blow and felt obliged to do something about it. After all, Isabella was in a much better position to look after herself than the boy. She thought about it overnight. Next morning, she arrived at school early and went to see Boris, her principal, who was also an early starter. She told him how helpful Isabella was to her, and how grateful she was for Isabella's help, but she felt that someone in authority should know what she had seen in case it was a part of a pattern of behaviour that required attention. However, she explained that she did not wish to spoil her working relationship with Isabella. Boris listened quietly and then re-assured her that she had done the right thing. He acknowledged the vulnerability of Anita's position while Isabella was her professional superior and indicated that he would look into the matter. He said that Anita would not be involved unless formal proceedings occurred, and that was unlikely.

The scenario illustrates the feeling of powerlessness that is common among beginning teachers when they consider themselves surrounded by infinitely more competent and experienced peers. Usually they are at pains to develop collegial relationships with other teachers whose cooperation is necessary for their professional development. This could be placed at risk if Anita is perceived to be a 'tell-tale'. She

showed good judgement by thinking and talking with a trusted, more senior colleague before taking any drastic action. That is to be commended. At the same time, of course, Boris must be fair to Isabella, as well as to Anita. Natural justice demands that Isabella has the right to be made aware of the accusation if the school intends to do anything about it, and at that stage she also has the right to know who has accused her. This appears to have been in Boris' mind when he indicated that Anita would be involved only if formal proceedings occurred. He may have been thinking about the provisions of the Protected Disclosures Act 2000 which may be used to protect *whistle-blowers* in public institutions. However, whether or not it is acceptable under the principles of natural justice for Boris to conduct a preliminary inquiry without advising Isabella of the fact remains a moot point.

Finally, ethical decision making might be considered to require a lengthy analysis before every decision, but, often an instant decision is required. It is more common for teachers to feel uneasy or to have doubts *after* the event, as in the case of Humphrey who was uncomfortable about loose talk about students in the staffroom. This suggests that it is more realistic to regard the process described in this chapter as useful mainly for retrospective, reflective activity.

Critical reflection is widely regarded as necessary for members of helping professions to continually hone and improve their practice. One inference of Hoyle's (1975) distinction between restricted and extended professionalism, discussed earlier, is that becoming a more extended professional requires and helps a teacher to become increasingly critically reflective. It is my view that professional teachers are ethically obliged to be reflective about their work; that is demanded by the virtues expected of them. The latter part of this chapter also suggests that the critical reflection of teachers should include thinking about ethical aspects of teaching practice. This is likely to be most effective when reflection is a part of the professional culture of the school, and when teachers reflect collaboratively. The literature reveals a growing interest in the development of *ethical schools* where ethical consideration occupies an important place in the school culture because it is considered to enhance school effectiveness, and collective reflection about ethical matters is openly encouraged (see, for example, Forster, 1998).

Conclusion

This chapter has distinguished between professional teachers in schools and other members of the community who teach. Teachers work publicly rather than privately and are required to be publicly accountable for their actions. Teachers are entrusted with the care of pupils who are vulnerable because of their relative youth and inexperience, and are legally required to attend school. Public expectations include technical competence, good character, and ethical conduct. Professional associations, or communities of teaching practitioners, educate beginning teachers, help select and admit new members and set standards of ethical behaviour. The ethical responsibilities of teachers suggest that the relationship between teachers and their students is a covenant focused on the good of students rather than a commercial-style contract.

Codes of ethics provide teachers with helpful guidance, but seldom tell practitioners what to do in specific situations. A set of questions was posed to explore ethical problems. Answering these questions requires the practitioner to take account of *all* the circumstances surrounding the problem. The key issues in solving such problems usually centre upon whose interests and which values or principles are considered most important in the particular instance. As a result, it is not uncommon for different practitioners to arrive at different courses of action.