

ELL 3-00(p5) to note

EDUCATION AND LIFELONG LEARNING COMMITTEE

General Teaching Council for Wales (Disciplinary Functions)

Regulations 2001

Purpose

1. The purpose of this paper is to:

provide Committee Members with the opportunity to note the proposed regulations covering the disciplinary functions of the General Teaching Council for Wales

Background

2. In January this year the then Assembly Secretary for pre-16 Education and the First Secretary agreed to the introduction of regulations and an Order by the National Assembly for Wales to deal with the detailed administrative functions of the General Teaching Council for Wales. Regulations and an Order have already been made covering the registration of teachers by the Council and the maintenance of information on teachers not covered by the register. Further regulations were also agreed by the Assembly on 21 November to make it a legal requirement for teachers to be registered if they wish to teach in the maintained school sector. The next stage therefore is the introduction of regulations covering the disciplinary functions of the Council including, as a final sanction, the removal of a teacher from the register by the Council.

3. The Welsh Office issued a consultation paper on the administrative functions in April 1999 and in general consultees were supportive of the principles outlined. As the consultation process took place pre Assembly, however, the pre-16 education subject committee was given the opportunity to discuss the legislative proposals on 11 October this year. At this time the members asked that they be given the opportunity to see the regulations when drafted, and it was agreed that the draft would be provided for the committee as a paper to note. If Members wish to make any comment they are asked to feed back through the Clerk.

The Proposed Regulations

4. The regulations provide a framework for the Council as it considers cases of teachers who have failed to uphold the high standards expected of members of the teaching profession. The regulations enable the Council to establish Investigating Committees to consider allegations of unacceptable professional conduct or serious professional incompetence. Where there is a case to answer, a Conduct or Competence Committee will hear the case. If it concludes a teacher is guilty of misconduct or incompetence, it can strike him or her off the register or apply a range of lesser sanctions.

5. The regulations now proposed are as far as possible permissive in that they enable the General Teaching Council for Wales to decide for itself the best way to handle what are largely procedural matters related to the membership and proceedings of the disciplinary committees. Only where the Teaching and Higher

Education Act 1998 or natural justice requires (e.g. to ensure that people have the opportunity of appearing before, being represented at, and making oral representations to a hearing, or to ensure the right of appeal against disciplinary orders) have the regulations been made prescriptive. A summary of the draft regulations is at Annex A with the full text at Annex B.

Consultation

6. The need for, and scope of the compulsory registration regulations was trailed in the Welsh Office consultation on the administrative arrangements of the Council in April 1999. In general, consultees were supportive of the principles outlined.

The way forward is now to consult on the text of the regulations, and I am proposing that we go out for an 8 week consultation period to ensure that all interested parties have the opportunity to respond fully.

Action

7. The Committee is asked to note the draft regulations, and offer any comments, through the Clerk, by 25 January 2001.

Ms Jane Davidson

Minister for Education and Lifelong Learning

November 2000

Contact Point

Sue Lovell, Head of Branch, Teaching and Leadership Division 2

ANNEX A

SUMMARY OF DRAFT DISCIPLINARY REGULATIONS

Regulation 1 gives the citation and commencement details.

Regulation 2 provides definitions.

Regulation 3 requires the Council to establish one or more Investigating Committee to investigate cases where it is alleged that a teacher is guilty of unacceptable professional conduct or serious professional incompetence, or has been convicted of a relevant offence. The committee(s) will also decide whether there is a case to answer.

Regulation 4 allows the Investigating Committee(s) to delegate its functions to investigate and decide discipline cases to officials of the General Teaching Council for Wales. This is intended to cover cases that are trivial or vexatious so that they can be concluded without further reference to the Investigating Committee. The Council will need to determine which cases or categories of cases can be delegated. Regulation 4 also states that procedures to be followed by the Investigating Committee in relation to the case must also apply to officials (e.g. publishing a decision at the request of the teacher that there is no case to answer).

Regulation 5 requires the Council to establish one or more Professional Conduct Committee to determine cases referred by the Investigating Committee(s) where it is alleged that a teacher is guilty of unacceptable professional conduct or has been convicted of a relevant criminal offence.

Regulation 6 requires the Council to establish one or more Professional Competence Committee, to determine cases referred to it by the Investigating Committee(s) where it is alleged that a teacher is guilty of serious professional incompetence.

Regulation 7 allows all the committees to take into account any failure of a teacher to comply with the Council's Code of Practice, (when published) in taking any disciplinary proceedings.

Regulation 8 requires all committees to include at least 1 lay member, 1 registered teacher and 1 Council member and must have a minimum of 3 members to be quorate. Members of a committee that investigated a case are not permitted to be members of the committee that determines a case. The Council is able to make other provisions relating to the membership and procedures of the committees. The Council may decide whether the committees can co-opt non-Council members onto their committees.

Regulation 9 restricts the functions of the committees to considering only misconduct cases referred to them by DfEE and only referrals of incompetence cases by employers.

Regulation 10 sets out the procedures to be followed by the Investigating Committee(s) where it decides to carry out an investigation. This includes informing the teacher of the allegations against them and allowing them the opportunity to make representations. The Investigating Committee may decide whether or not to investigate a case and can discontinue a case at any time. If it finds a case not proven it must, at the request of the teacher, publish a statement to that effect. The Council may make additional procedures, as it thinks necessary.

Regulation 11 sets out the procedures to be followed by the Conduct and Performance Committees when hearing and determining a case or when determining a case without a hearing. A committee can decide to discontinue a case at any time. If it finds a case not proved it must, at the request of the teacher, publish a statement to that effect. It provides for the Committee to make a disciplinary order where it has found the

teacher guilty of unacceptable misconduct or serious professional incompetence.

Regulation 12 entitles teachers against whom proceedings are being taken, to attend and make oral representations and/or be represented by anyone of their choosing.

Regulation 13 allows the Conduct and Competence Committees to summon witnesses to hearings and require them to give evidence, produce documents or other material in their possession.

Regulation 14 requires the Conduct or Competence Committee(s) to announce its determination of the outcome of a hearing in public. It also requires that a hearing takes place in public except where it is necessary to exclude the public in the interests of justice; the teacher requests that the hearing be in private (and this is not contrary to the public interest); where it is necessary to protect the interests of children; or when the committee considers it necessary to deliberate in private.

Regulation 15 enables a committee to administer oaths or affirmations by any witnesses.

Regulation 16 allows the Council to make other provisions about the procedures to be followed by the Conduct and Competence Committees.

Regulation 17 allows the Conduct and Competence Committees to refer cases to each other or back to the Investigating Committee.

Regulation 18 requires disciplinary orders to record the decision of the committee and makes provision about what information should be included in the different types of orders. It also provides that the order will be sent to any relevant employer and to the National Assembly.

Regulation 19 requires the Council to publish information about disciplinary orders on its website. The information includes the name of the teacher, the type of order, the date of effect and the nature of the conviction or conduct that lead to the order being made.

Regulation 20 enables a teacher against whom a conditional registration order is made to apply to the Conduct or Competence Committees to vary or revoke the conditions. The application must be in writing and include all documents used to support the case and the application will be considered by a different Committee to that which considered the case in the first instance.

Regulation 21 enables the Conduct and Competence Committees to make a suspension or prohibition order against a teacher that failed to comply with any condition of a conditional registration order.

Regulation 22 enables a person who is subject to a prohibition order to be able to apply to Council, after a period of 2 years for re-registration. Any application will be considered by a different committee to that which considered the case in the first instance.

Regulation 23 enables the Committees to review orders where the conviction on which an order was based was subsequently quashed in Court or where evidence not previously considered would have caused them to change their decision.

Regulation 24 gives any person aggrieved by a disciplinary order a right of appeal to the High Court within 28 days from the date the order is served.

Regulation 25 means that disciplinary orders made by the Council for England shall also apply in Wales as they would in England.

Regulation 26 sets out the arrangements for serving notices and other documents on teachers who are subject to disciplinary procedures. Arrangements for sending personally, by post or electronically are provided for, as is a definition of when an order is served. We may need to review references to posted orders to comply with provisions in the recent Postal Services Act and will research this during the consultation period.

Regulation 27 requires the Council to publish its rules of procedure and other documents on the website and in such other manner as they see fit. It also provides that where the Investigating, Conduct or Competence Committees must publish their decision that a teacher has no case to answer they must do so on the Council's Internet site and in any other manner they wish.

Regulation 28 requires teachers' employers, where they dismiss someone for incompetence or where they would or could have dismissed them had they not resigned, to provide the Council with all the relevant documentary evidence that lead to the dismissal as set out in the regulations.

Schedule 1 lists all the information to be provided by employers as a result of regulation 28. The information is similar to that which the Assembly requests from employers when they dismiss someone on the ground of misconduct.

ANNEX B

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2001 No.

[Welsh translation awaited]

EDUCATION, WALES

**The General Teaching Council for Wales
(Disciplinary Functions) Regulations 2001**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision with respect to the functions of the General Teaching Council for Wales, a body corporate established under the Teaching and Higher Education Act 1998 with the aims of contributing to improving the standards of teaching and the quality of learning and maintaining and improving the standards of professional conduct amongst teachers in the public interest.

Part II makes provision for committees of the Council to exercise the disciplinary powers conferred on the Council by the 1998 Act in relation to registered teachers and persons applying to the Council for registration. It provides for the establishment of one or more of each of the following types of committee –

(a) Investigating Committees, which will investigate, and determine whether to pursue proceedings against, registered teachers where it is alleged that the teacher is guilty of unacceptable professional conduct or serious professional incompetence, or has been convicted (at any time) of a relevant offence, or it appears to them that a registered teacher may be so guilty or had been so convicted;

(b) Professional Conduct Committees which will hear professional disciplinary proceedings concerning unacceptable professional conduct and relevant offences and have power to make, and hear applications in relation to, disciplinary orders (prohibition orders, suspension orders, conditional registration orders or reprimands); and

(c) Professional Competence Committees which will hear professional disciplinary proceedings concerning serious professional incompetence, and have power to make, and hear applications in relation to, disciplinary orders.

Part II also makes provision about the constitution of those Committees (regulation 8), and for the Council to make further provision about constitutional matters. Regulation 10 to 16 make provision about the proceedings of Committees, including hearings, and enables the Council to make further provision about proceedings. Under regulation 9, an Investigating Committee's functions are restricted in cases concerning unacceptable professional conduct and relevant offences to dealing with only those cases referred to it by the Secretary of State, and in cases concerning serious professional incompetence to dealing with only those cases referred to it by an employer under regulation 28. . Regulations 18 to 23 make provision about disciplinary orders. Regulation 24 provides against whom a disciplinary order has been made with a right of appeal to the High Court.

Part III requires certain employers of registered teachers to provide the Council with information listed in the Schedule where they dismiss a registered teacher on the grounds of incompetence or where they would have dismissed the teacher or considered dismissal on such grounds had he or she not resigned first.

STATUTORY INSTRUMENTS

2001 No.

EDUCATION, WALES

The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001

Made . . . 2001

Coming into force . . 2001

Arrangement of Regulations

1. Citation and commencement
2. Interpretation
3. Establishment of Investigating Committees
4. Delegation of Investigating Committees' disciplinary functions
5. Establishment of Professional Conduct Committees
6. Establishment of Professional Competence Committees
7. Use of the Code of Practice in disciplinary matters
8. Membership and procedure of Committees
9. Exclusion or restriction of Committees' powers
10. Proceedings of Investigating Committees
11. Proceedings of Professional Conduct Committees and Professional Competence Committees
12. Entitlement to appear and be represented at hearings
13. Attendance of witnesses
14. Requirement for hearings to be held in public
15. Administration of Oaths and affirmations
16. Other provisions about Professional Conduct Committees' and Professional Competence Committees' procedure
17. Referring cases to other Committees
18. Disciplinary orders
19. Publication of disciplinary orders
20. Application to vary or set aside a condition in a

conditional registration order

21. Consequences of failure to comply with a conditional registration order
22. Prohibition orders
23. Review of disciplinary orders
24. Appeals
25. Disciplinary orders made by the General Teaching Council for Wales
26. Service of notices and orders
27. Publication and provision of copies of documents
28. Provision of information by employers to the Council

SCHEDULE Information to be supplied by a registered teacher's employer to the Council

In exercise of the powers conferred on the Secretary of State by sections 5(2)(a) and (3), 6, 15 and 42(6) and (7) of, and paragraph 9 of Schedule 1 and Schedule 2 to, the Teaching and Higher Education Act 1998(a) and now vested in the National Assembly for Wales(b), the National Assembly for Wales makes the following Regulations:

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001 and shall come into force on 2001.

Interpretation

2.-(1) In these Regulations, unless the context otherwise requires-

"the 1998 Act" means the Teaching and Higher Education Act 1998;

"Code of Practice" means the code of practice authorised to be issued under regulation 13 of the General Teaching Council for Wales (Functions) Regulations 2000(c);

"the Council" means the General Teaching Council for Wales;

"disciplinary order" in relation to a teacher in England or Wales means "a reprimand", "a conditional registration order", "a suspension order" or "a prohibition order" within the meaning of Schedule 2 to the 1998 Act;

"disciplinary proceedings" in relation to a teacher in England or Wales means disciplinary proceedings under Schedule 2 to the 1998 Act;

"employer" means a person who employs a registered teacher to work as a teacher, and includes a person who engages (or makes arrangements for the engagement of) a registered teacher to provide his services as a teacher otherwise than under a contract of employment, and "employed" shall be construed accordingly;

"independent school" has the same meaning as in section 463 of the Education Act 1996(d);

"institution within the further education sector" has the meaning given to it by section 91(3) of the Further and Higher Education Act 1992(e);

"institution within the higher education sector" has the meaning given to it by section 91(5) of the Further and Higher Education Act 1992;

"Investigating Committee" means a committee established under regulation 3(1);

"the National Assembly" means the National Assembly for Wales;

"Professional Competence Committee" means a committee established under regulation 6(1);

"Professional Conduct Committee" means a committee established under regulation 5(1);

"the Register" means the register of teachers which the Council are required to establish and maintain in accordance with section 3 of the 1998 Act and the General Teaching Council for Wales (Functions) Regulations 2000 and "registration" means registration on the Register;

"relevant offence" has the same meaning as in Schedule 2 to the 1998 Act;

"school maintained by a local education authority" has the same meaning as in section 142(1) of the School Standards and Framework Act 1998**(f)**;

"special school" has the same meaning as in section 337(1) of the Education Act 1996**(g)**; and

"unacceptable professional conduct" has the same meaning as in Schedule 2 to the 1998 Act.

(2) (a) In regulations 7, 8 and 9 "Committee" means an Investigating Committee, a Professional Conduct Committee or a Professional Competence Committee; and

(b) in regulations 11 to 15, 18 and 23 and paragraph 8 of the Schedule "Committee" means a Professional Conduct Committee or a Professional Competence Committee.

(3) In regulations 11 to 15 "hearing" means the hearing by a Professional Conduct Committee or a Professional Competence Committee of disciplinary proceedings against a registered teacher, or a hearing under regulation 20, 21 or 22.

(4) In regulations 8 and 28 "registered teacher" means a person for the time being registered under section 3 of the 1998 Act, and in the remaining provisions of these Regulations it means -

(a) a person for the time being registered under section 3 of the 1998 Act;

(b) a person who was registered under section 3 of the 1998 Act at the time of any alleged conduct or offence on his or her part; or

(c) a person who has made an application to be registered under section 3 of the 1998 Act;

(5) Any reference in these Regulations to-

(a) the Schedule is a reference to the Schedule to these Regulations;

(b) a numbered regulation, is a reference to the regulation bearing that number in these Regulations;

(c) a numbered paragraph is a reference to the paragraph bearing that

number in the regulation or Schedule in which the reference appears; and

(d) a numbered subparagraph is a reference to the subparagraph bearing that number in the paragraph in which the reference appears.

PART II

DISCIPLINARY FUNCTIONS OF THE COUNCIL

Establishment of Investigating Committees

3.-(1) The Council shall establish one or more committees to be known as Investigating Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of an Investigating Committee are -

(a) to carry out such investigations as they see fit in cases where -

(i) it is alleged that a registered teacher is guilty of

unacceptable professional conduct or serious professional incompetence, or has been convicted (at any time) of a relevant offence, or

(ii) it appears to them that a registered teacher may be so guilty or have been so convicted; and

(b) to decide in the light of their investigations whether-

- i. a registered teacher has a case to answer in relation to unacceptable professional conduct or conviction of a relevant offence, and the case should be referred for determination by a Professional Conduct Committee,
- ii. a registered teacher has a case to answer in relation to serious professional incompetence, and the case should be referred for determination by a Professional Competence Committee,
- iii. a registered teacher has a case to answer both in relation to unacceptable professional conduct or conviction of a relevant offence and in relation to serious professional incompetence, and the case should be referred for determination by either a Professional Conduct Committee or a Professional Competence Committee, as they consider appropriate,
- iv. a registered teacher has no case to answer and the case against him or her should be discontinued, or
- v. the case against a registered teacher should be discontinued on other grounds.

Delegation of Investigating Committees' disciplinary functions

4. – (1) An Investigating Committee may delegate to an employee of the Council the functions of -

(a) deciding whether to investigate, and investigating, allegations of a particular character or description, or particular allegations –

- i. against a registered teacher, or
- ii. that a registered teacher has been convicted of a relevant offence;

(b) deciding whether a registered teacher has a case to answer in relation to a matter the employee investigated under sub-paragraph (a);

(c) discontinuing a case against a registered teacher where the employee has decided under paragraph (b) that there is no case to answer.

(2) These Regulations shall apply to the exercise of a function by an employee of the Council as they would apply to the exercise of that function by an Investigating Committee.

Establishment of Professional Conduct Committees

5.-(1) The Council shall establish one or more committees to be known as Professional Conduct Committees for the purposes of carrying out the functions referred to in paragraph (2).

2. (2) The functions of a Professional Conduct Committee are –

(a) to determine cases referred to them by an Investigating Committee where it appeared to the Investigating Committee that the registered teacher has a

case to answer in relation to unacceptable professional conduct or conviction of a relevant offence;

- a. where a Professional Conduct Committee find a teacher guilty of unacceptable professional conduct or to have been convicted of a relevant offence, to consider whether to make a disciplinary order in relation to that teacher and if they consider that such an order should be made, to make such an order; and

(c) to determine applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 or 23.

Establishment of Professional Competence Committees

6.(1) The Council shall establish one or more committees to be known as Professional Competence Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of a Professional Competence Committee are –

(a) to determine cases referred to them by an Investigating Committee where it appeared to the Investigating Committee that the registered teacher has a case to answer in relation to serious professional incompetence;

(b) where a Professional Competence Committee find a teacher guilty of serious professional incompetence, to consider whether to make a disciplinary order in relation to that teacher and, if they consider that such an order

should be made, to make such an order; and

(c) to determine applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 or 23.

Use of the Code of Practice in disciplinary matters

7. A Committee may take into account any failure by a registered teacher to comply with the Code of Practice in any disciplinary proceedings against that teacher.

Membership and procedure of Committees

8.-(1) The Council must include on a Committee –

- a. one or more lay members;
- b. one or more registered teacher members; and
- c. if none of the lay members or registered teacher members is a Council member, one or more Council members.

(2) A person who by virtue of regulation 5(2) of the General Teaching Council for Wales (Constitution) Regulations 1999(h) is not eligible to be a member of the Council or to vote in an election for elected members of the Council shall not be eligible to be a member of a Committee.

(3) A lay member who becomes a registered teacher or who takes up a post or engagement as a teacher shall cease to be regarded as a lay member, and a registered teacher member who ceases to be a registered teacher or who ceases to hold a post or engagement as a teacher shall cease to be regarded as a registered teacher member.

(4) The quorum for a meeting of a Committee shall be three members, including one lay member, one registered teacher member and if no lay member or registered teacher member present is a Council member, one Council member.

(5) A person who is a member of the Investigating Committee investigating a case shall not be appointed as a member of the Professional Conduct Committee or Professional Competence Committee which determine that case.

(6) Subject to paragraphs (1) to (5) and regulations 20 and 22, the Council may make such provision as they see fit as to-

(a) the membership of a Committee;

(b) the terms on which a Committee's members are to hold and vacate office; and

(c) the procedure of a Committee.

(7) In this regulation –

a. "lay member" means a member of the Committee who –

(i) is not a registered teacher, and

(ii) has not been employed, or engaged to provide services otherwise than under a contract of employment, as a teacher within the period of 5 years ending with the date of that person's appointment to the Committee;

b. "registered teacher member" means a member of the Committee who is –

(i) a registered teacher, and

(ii) employed, or engaged to provide services otherwise than under a contract of employment, as a teacher on the date of that person's appointment to the Committee; and

(c) "Council member" means a member of the Committee who is a member of the Council.

Exclusion or restriction of Committees' powers

9. [An Investigating Committee's functions under regulation 3(2) are restricted –

(a) in the case of allegations that a registered teacher is guilty of unacceptable professional conduct or has been convicted of a relevant offence, to those allegations referred to the Council by the Secretary of State under the Education (Restriction of Employment) Regulations 2000 on the grounds that no issue arises concerning the safety and welfare of persons under the age of 19, and

(b) in the case of allegations that a registered teacher is guilty of serious professional incompetence, to those allegations where information has been provided to the Council by a registered teacher's employer under regulation 28.]

Proceedings of Investigating Committees

10.- (1) Where an Investigating Committee decide to carry out an investigation in relation to a registered teacher, they shall at such stage in the investigation as they consider appropriate

(a) inform the teacher of the nature of the allegation or case against him or her;

(b) afford the teacher an opportunity to submit evidence and make representations; and

(c) consider such evidence and representations and any other evidence and material available to them.

(2) An Investigating Committee may decide to discontinue an investigation at any time before a case is referred for determination by a Professional Conduct Committee or a Professional Competence Committee.

(3) When their investigation is complete the Investigating Committee shall take one of the following steps-

(a) refer the case for determination by a Professional Conduct Committee;

(b) refer the case for determination by a Professional Competence Committee;

(c) discontinue the case.

(4) Where an Investigating Committee decide to discontinue an investigation or a case they shall inform the registered teacher concerned, and when they do so they shall at the same time inform him if they decided that he had no case to answer.

(5) Where an Investigating Committee decide that a registered teacher has no case to answer, they shall at his or her request publish a statement to that effect.

(6) The Council may make such other provision as to the procedure to be followed by an Investigating Committee in connection with their investigations and other proceedings as they see fit, and may from time to time revise any rules of procedure made under this paragraph.

11.- (1) A Committee shall determine cases against registered teachers referred to them by an Investigating Committee in accordance with paragraphs (2) to (6), regulations 12 to 15 and rules made by the Council under regulation 16.

(2) Except as provided in paragraph (3), a Committee shall determine all cases, applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 following a hearing.

(3) A Committee may determine a case, application under regulation 20 or 22 or matter arising in relation to a disciplinary order under regulation 21 without a hearing at the written request of the registered teacher against whom disciplinary proceedings are being taken or against whom the disciplinary order was made unless it appears to them necessary in the interests of justice or the public interest to hold a public hearing.

(4) A Committee may decide at any time after a case is referred to them by an Investigating Committee to discontinue that case, and if they decide to discontinue a case they shall inform the teacher concerned and when they do so they shall at the same time inform the teacher if they decided that the case against him or her was not proved.

(5) Where they do not find the case against a registered teacher proved, a Committee shall at the teacher's request publish a statement to that effect.

(6) Where they find a registered teacher-

(a) to have been guilty of unacceptable professional conduct or serious professional incompetence; or

(b) to have been convicted (at any time) of a relevant offence,

a Committee may make a disciplinary order in relation to the teacher in accordance with regulation 18.

Entitlement to appear and be represented at hearings

12. A registered teacher is entitled to appear and make oral representations and to be represented, by any person or persons whom he or she desires, at any hearing of a Committee at which his or her case is considered.

Attendance of witnesses

13. A Committee may require any person to attend and give evidence or to produce documents or other material evidence at any hearing.

Requirement for hearings to be held in public

14. - (1) A Committee shall announce their determination of the outcome of all hearings in public and subject to paragraphs (2) and (3) all hearings of a Committee shall take place in public.

(2) A Committee may deliberate in private at anytime and for any purpose during or after a hearing.

(3) A Committee may exclude the public [(including the press)] from a hearing or any part of a hearing -

(a) where it appears to them necessary in the interests of justice to exclude the public;

(b) where the registered teacher against whom disciplinary proceedings are being taken makes a written request that the hearing should be in private, and the Committee do not consider it to be contrary to the public interest to hold the hearing in

private; or

(c) where it is necessary to protect the interests of children.

Administration of Oaths and affirmations

15. A Committee may require any witness at a hearing to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

Other provisions about Professional Conduct Committees' and Professional Competence Committees' procedure

16. The Council may make such other provision as to the procedure to be followed by a Professional Conduct Committee or a Professional Competence Committee in connection with their determinations and other proceedings as they see fit, and may from time to time revise any rules of procedure made under this paragraph.

Referring cases to other Committees

17.-(1) A Professional Conduct Committee may refer a case to a Professional Competence Committee, and a Professional Competence Committee may refer a case to a Professional Conduct Committee.

(2) A Professional Conduct Committee or a Professional Competence Committee may refer a case to an Investigating Committee.

Disciplinary orders

18.-(1) A disciplinary order shall record the decision of the Committee, the date on which the order is made, and the date on which the order takes effect.

(2) A conditional registration order shall in addition to the items referred to in paragraph (1) specify all the

conditions relevant to his or her employment as a teacher with which the registered teacher is required to comply, and in relation to each such condition, either the period for which it has effect, or that it has effect without limit of time (as the case may be).

(3) A suspension order shall in addition to the items referred to in paragraph (1) specify the period (not exceeding two years) at the end of which the registered teacher again becomes eligible for registration.

(4) A prohibition order shall in addition to the items referred to in paragraph (1) specify the period (which shall not be less than two years beginning with the date on which the order takes effect) before the end of which no application may be made for a determination that the registered teacher is eligible for registration.

(5) Except where a Committee otherwise decide, a disciplinary order shall take effect on the date on which notice of it is served on the person in relation to whom it is made.

(6) A Committee shall _

(a) serve a notice of the disciplinary order on the person in relation to whom it is made containing the following information:

- i. the text of the order,
- ii. a description of the effect of the order,
- iii. the Committee's reasons for making the order,
- iv. notification of the person's right to appeal to the High Court against the order and the time period for making such an appeal,
- v. where the order is a conditional registration order, an explanation of the steps a committee are empowered to take should the person fail to comply with a condition specified in it, and an explanation of his or her right to apply to vary or revoke a condition specified in the order and the method for making such an application, and

vi. where the order is a prohibition order, an

explanation of the person's right to apply for a determination that he or she is eligible for registration and the method for making such an application;

- b. serve notice of the order on his or her present [or last] employer; and
- c. send a copy of the order to the National Assembly [and to the Department for Education and Employment].

(7) Where following the **determination** of a case by a Committee they decide not to make a disciplinary order in relation to a **registered** teacher, the Committee shall notify the teacher of their decision and when they do so they shall at the same time inform him or her if they decided that the case against him or her was not proved.

(8) Where they do not find the case against a registered teacher proved, a Committee shall at the teacher's request publish a statement to that effect.

Publication of disciplinary orders

19.(1) The Council shall publish the information set out in paragraph (3) in relation to a suspension order or a prohibition order on a web-site they maintain on the internet for a period of three months starting on the date on which the order takes effect.

(2) The Council may, if they so wish, publish the information set out in paragraph (3) –

- a. in relation to a prohibition order or suspension order, in such other manner as they see fit;
- b. in relation to a reprimand or a conditional registration order, in such manner as they see fit.

(3) The information to be published is-

- (a) the name of the person against whom the order is

made and the name of the school at which the person was last employed;

(b) the type of disciplinary order;

(c) the date on which the disciplinary order was made and takes effect;

(d) whether the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence or to have been convicted of a relevant offence;

(e) where the person was found to have been convicted of a relevant offence, the nature and date of the conviction in question; and

(f) where the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence, an indication of the nature of the conduct which led to the making of the order.

Application to vary or set aside a condition in a conditional registration order

20. - (1) A registered teacher in relation to whom a conditional registration order has been made may apply to the Council for variation or revocation of any condition specified in the order.

(2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the registered teacher seeks to have any condition specified in the order varied or revoked, and it shall be accompanied by every document relied upon in support of the application.

(3) Where a conditional registration order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application shall be determined by another Professional Conduct Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

(4) Where a conditional registration order in respect of which an application is made under paragraph (1) was made by a Professional Competence Committee, the application shall be determined by another Professional Competence Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

Consequences of failure to comply with a conditional registration order

21. Where a Professional Conduct Committee or a Professional Competence Committee are satisfied that a registered teacher against whom a conditional registration order has been made has failed to comply with any condition of it, they may make a suspension or prohibition order in relation to the teacher.

Prohibition orders

22. - (1) A person in relation to whom a prohibition order has been made may apply to the Council for a determination that he or she is eligible for registration.

(2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the person seeks the determination, and it shall be accompanied by every document relied upon in support of the application.

(3) Where a prohibition order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application shall be **determined** by another Professional Conduct Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

(4) Where a prohibition order in respect of which an application is made under paragraph (1) was made by a Professional Competence Committee, the application shall be **determined** by another Professional Competence Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

Review of disciplinary orders

23. A Committee may of their own motion at any time revoke a disciplinary order made by them where-

(a) the only or main reason for making the order was that the person in relation to whom the order was made had been convicted of a relevant offence, and after the date the order was made the conviction in question was quashed; or

(b) after the order was made the Committee obtain evidence not considered by them before they made the order, and they are satisfied that had they been aware of that evidence before they made the order they would not have made it.

Appeals

24. Any person aggrieved by a disciplinary order made **in relation to him or her** shall have the right to appeal against the order to the High Court within 28 days from the date on which notice of the order is served on him **or her**.

Disciplinary orders made by the General Teaching Council for England

25. A disciplinary order made by the General Teaching Council for England shall apply in relation to Wales as it applies in relation to England.

Service of notices and orders

26.-(1) Anything required to be served on a person for the purposes of disciplinary proceedings may be-

(a) delivered to that person personally; or

(b) sent to that person by post to the address recorded on the Register, or left at that address; or

(c) where that person requests in writing that documents be served on him or her by such method, sent to him or her by facsimile or electronic mail or similar means which are capable of producing a document containing the text of the communication, in which case the document shall be regarded as sent when it is received by that person in a legible form.

(2) For the purposes of regulations 18(5) and 24 notice of a disciplinary order shall be taken to have been served on the person in relation to whom it was made-

(a) where it was delivered to that person personally, on the day of delivery;

(b) where it was sent to that person to the address

recorded on the Register by a postal service which seeks to deliver documents by post no later than the next working day in all or the majority of cases, or left at that address, on the second day after the day on which it was sent or left;

(c) where it was sent to that person by a postal service other than one which seeks to deliver documents by post no later than the next working day in all or the majority of cases address recorded on the Register, on the fourth day after the day on which it was sent; or

(d) where that person requests in writing that documents be served on him or her by such method, and where it was sent to that person by facsimile or electronic mail or similar means which are capable of producing a document containing the text of the communication, on the second day after the day on which it was transmitted.

Publication and provision of copies of documents

27.- (1) The Council shall publish –

- a. on a website maintained by them on the internet; and
- b. in such other manner as they see fit,

any rules of procedure made under regulations 10(6) or 16 and any provision made under regulation 8(7), and shall at the request of any registered teacher provide him or her with a copy of such rules or provision free of

charge.

(2) The Council shall publish any statement they are required to publish under regulation 10(5), 11(5) or 18(8) on a website maintained by them on the internet, and if they so wish they may publish the statement in such other manner as they see fit.

PART III

PROVISION OF INFORMATION BY EMPLOYERS

Provision of information by employers to the Council

28.-(1) This regulation applies to a registered teacher employed-

(a) as a teacher at-

- i. a school maintained by a local education authority,
- ii. a special school not maintained by a local education authority,
- iii. an institution providing further or higher education or both which is maintained by a local education authority or is an institution within the further education sector, or
- iv. an institution within the higher education sector in receipt of financial support under section 65 of the Further and Higher Education Act 1992(i);

(b) by a local education authority as a teacher otherwise than at a school or institution falling within sub-

paragraph (a);

(c) by a local education authority or by the governing body of a school or institution falling within sub-paragraph (a) in work otherwise than as a teacher which brings him or her regularly into contact with persons who have not attained the age of nineteen years; and

(d) by the proprietor of an independent school or at such school as a teacher or in other work which brings him or her regularly into contact with persons who have not attained the age of nineteen years.

(2) The employer of a registered teacher to whom this regulation applies shall in the circumstances specified in paragraph (3) provide the Council with all the information listed in the Schedule that is available to the employer in relation to such teacher.

(3) The circumstance specified in this paragraph are that-

(a) the employer dismissed the teacher on the grounds of incompetence; or

(b) the teacher resigned in circumstances where the employer would have dismissed or considered dismissing the teacher, had he or she not resigned, on such grounds.

(4) The Council shall make all information provided to them under this regulation available to an Investigating Committee.

(5) In this regulation, "employer" includes a former employer.

Signed on behalf of the National Assembly under section 66(1) of the Government of Wales Act 1998(j).

2000 The
Presiding
Officer of the
National
Assembly

SCHEDULE

Regulation 28

Information to be supplied by a registered teacher's employer to the Council

1. Letter or notice terminating a registered teacher's employment.
2. Statement of reasons for dismissal.
3. Employer's records relating to the dismissal or any contemplated dismissal, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.
4. Employer's records relating to conduct which eventually led to a registered teacher's dismissal or would but for the teacher's resignation have led the employer to dismiss or consider dismissing him or her,

including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.

5. Employer's letters, warnings or notices issued to a registered teacher in relation to the teacher's dismissal or contemplated dismissal, or the conduct which eventually led to the teacher's dismissal or would but for his or her resignation have led the employer to dismiss or consider dismissing the teacher and the teacher's replies or representations in relation thereto.

6. Any other statements, representations and evidence submitted by a registered teacher to the employer in relation to the teacher's dismissal or contemplated dismissal, or the conduct which eventually led to the teacher's dismissal or would but for his or her resignation have led the employer to dismiss or consider dismissing the teacher.

7. Letter of resignation.

8. Any other document or information which the employer considers is relevant to an Investigating Committee's investigation or proceedings being taken by a Committee against a registered teacher .

ENDNOTES

(a) 1998 c.30 Sections 5 and 6 and Schedules 1 and 2 apply in relation to the General Teaching Council for Wales by virtue of sections 8 and 9 and the General Teaching Council for Wales Order 1998 (S.I. 1998/2911) with effect from 1998, in the case of and Schedule 1, and 1st September 2000 in the case of the remaining provisions. Section 15 is amended by section 5 (4) of the Protection of Children Act 1999 (c.14). For the meaning of "prescribed" and "regulations" see section 43(1).

(b) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(c) S.I. 2000/1979 (W. 140)

(d) 1996 c. 36; section 463 is amended by paragraphs 57 and 124 of Schedule 30 and by Schedule 31 to the School Standards and Framework Act 1998.

(e) 1992 c.13.

(f) 1998 c.31.

(g) 1996 c.36; section 337(1) is amended by paragraph 80 of Schedule 30 to the School Standards and Framework Act 1998.

(h) S.I. 1999/1619 amended by S.I. 1999/3185 (W.43).

(i) 1992 c.13; section 65 was amended by the Disability Discrimination Act 1995 (c.50) and the Teaching and Higher Education Act 1998.

(j) 1998 c. 38

