



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

14 June 2002

Dear Colleague

GENERAL TEACHING COUNCIL FOR WALES

As you know, the General Teaching Council for Wales was established by the National Assembly for Wales in September 2000 as the self-regulatory professional body for teachers. Regulations relating to the Council's constitution, functions, registration of teachers, disciplinary functions and registration fee have all been introduced by the Assembly following consultation with you and a wide range of other organisations.

The Education Bill that is currently before Parliament makes provision for a number of additional responsibilities to be given to the Council. I am writing now to you again to seek your views on draft regulations that the Assembly would like to introduce by 1 April 2003, subject to the Bill receiving Royal Assent during the summer. I enclose *drafts* of:

1. The General Teaching Council for Wales (Removal of Controls) Order 2003

From 1 April 2002, the Council became in the main self-financing through the collection of registration fees from teachers. To tie in with the Council's growing independence, the Education Bill provides for an Order to be made to relax some of the administrative controls exercisable by the Assembly that have been placed on the Council. The proposed "General Teaching Council for Wales (Removal of Controls) Order" would remove:

- (i) the need for the Council to seek the Assembly's approval to form bodies corporate, or associated or other bodies, to enter into joint ventures, subscribe for shares and stock and borrow money;
- (i) the need for the Council to seek the Assembly's approval to determine remuneration and terms of conditions of staff, including pensions;



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- (i) the Assembly's power to determine salaries, fees, T&S and other allowances, pensions, and compensation to members;
- (i) the right for a representative of the Assembly to attend Council meetings.

Q. Do you agree with the list of items to be included in the Order to relax the controls currently placed on the Council?

2. The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

We propose to amend the General Teaching Council for Wales (Disciplinary Functions) 2001 to:

- (i) enable the Council to add conditions to a suspension order that will need to met before the teacher becomes eligible for re-registration.

A suspension order is one of four sanctions that the Council can currently impose on a teacher under its current discipline powers. At present, a suspension order is set for a specific period of time (but no more than 2 years), after which the teacher is eligible for re-registration with the Council. The Council is, however, keen to take a proactive role in the "rehabilitation" of teachers and the proposed regulations would allow the Council to set conditions to a suspension order that will need to be met before the teacher becomes eligible for registration. In this way, the Council will be able to require a teacher to undertake specific action during the suspension as a precondition to the Council's consideration of their application for re-registration. In the interest of fairness the regulations will also allow for a person suspended to apply to the Council to vary or set aside a condition.

The proposal to add conditions to a suspension order and to consider applications to vary the conditions, mirrors the Council's powers in respect of conditional registration orders;

- (i) amend the membership requirements of Professional Conduct and Competence Committees to remove the requirement for Council Members to sit on the Committees where cases involve a Council member. This will ensure the impartiality of any decisions taken in such cases.

Q. Do you agree that the Council should be able to add conditions to a suspension order and that the membership requirements of Professional Conduct and Competence Committees should be amended to remove the requirement for Council Members to sit on the Committee when cases involves a Council member?

3. The Education (Supply of Information) (Wales) Regulations 2003

These regulations will require the employers of teachers and supply agencies to report cases of misconduct to the National Assembly for Wales, and cases of incompetence to the Council. At present there is no requirement on supply agencies to report these cases.

The new regulations will replace the relevant provisions of the Council's current disciplinary regulations (the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001) in respect of employers reporting cases to the Council where teachers have been dismissed on grounds of serious professional incompetence, and the Restriction of Employment Regulations 1999, which currently require employers to report cases of unacceptable professional conduct to the Assembly. For the future therefore there will be just one set of regulations to cover all the information to be supplied by employers and supply agencies to both the Council and the Assembly. The information to be supplied by employers mirrors that currently required under legislation and the information required of supply agencies will be in line with that required by employers. As to the handling of cases, there will be no change to the existing procedures.

Q. Do you agree that (i) both the employers of teachers and supply agencies should be required to report cases of teacher misconduct to the Welsh Assembly Government and where a registered teacher is dismissed on the grounds of incompetence for the case to be reported to the General Teaching Council for Wales, and (ii) are you content with the list of information to be supplied by an employer (Part 1) and by supply agencies (Part 1)?

Responses

Could you please send in your response, **by 9 August 2002**, to:

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Further copies

Additional copies of the draft regulations can be obtained from Oriel Price at the address shown above and can be found on the Assembly's website at www.wales.gov.uk

If you would like to discuss the draft regulations in more detail, please feel free to contact me on 029 2082 6116 or Christine Chapple on 029 2082 60655.

Yours sincerely

Sue Lovell
Head of General Teaching Council for Wales Liaison Unit

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. (W.)

EDUCATION, WALES

The Education (Supply of Information) (Wales) Regulations 2003
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the employers of teachers and supply agencies to report cases of misconduct to the National Assembly for Wales (“the National Assembly”), and cases of incompetence to the General Teaching Council for Wales (“the Council”).

Employers must make a report to the National Assembly if they cease to use a person’s services on a ground related to that person’s misconduct or if they might have done so had that person not already ceased to provide his or her services. Where the ground relates to a registered teacher’s incompetence, the report must be made to the Council.

Agents must make a report to the National Assembly if they have arranged for a worker to carry out work on behalf of a local education authority, a governing body or a proprietor of an independent school and terminate those arrangements on a ground related to the worker’s misconduct, or might have done so had the worker not already terminated the arrangements or ceased to be available for work. Where the ground relates to a registered teacher’s incompetence, the report must be made to the Council.

The Schedule sets out the information to be provided in the reports.

STATUTORY INSTRUMENTS

2003 No. (W.)

EDUCATION, WALES

The Education (Supply of Information) (Wales) Regulations 2003

Made 2003

Coming into force [April] 2003

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 6, 15, 15A and 42(6) and (7) of, and Schedule 2 to, the Teaching and Higher Education Act 1998⁽¹⁾ and now vested in the National Assembly for Wales⁽²⁾, and after consulting the General Teaching Council for Wales in accordance with section 42(9) of the Act.

Name, commencement and application

1.—(1) These Regulations are called the Education (Supply of Information) (Wales) Regulations 2003 and shall come into force on [April 2003].

(2) These Regulations apply to Wales.

Revocation

2. Regulation 4 of the Education (Restriction of Employment) (Wales) Regulations 2000⁽³⁾ and regulation 28 of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001⁽⁴⁾ are revoked.

Interpretation

3. Except where the context otherwise requires, in these Regulations –

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;

“agent” (“*asiant*”) has the meaning given by section 15A(1) of the 1998 Act;

“arrangements” (“*arrangements*”) means arrangements of the kind referred to in section 15A(1) of the 1998 Act for a worker to carry out work in Wales;

(1) 1998 c.30. Section 15 is substituted and section 15A is inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c.). For the meaning of prescribed see section 43(1) of the 1998 Act.

(2) See section 204 of the Education Act 2002 and the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) S.I. 2000/2906 (W.186).

(4) S.I. 2001/1424 (W.99), amended by S.I. 2003/ .

“Committee” (“*Pwyllgor*”) means an Investigating Committee, a Professional Competence Committee or a Professional Conduct Committee established under the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;

“the Council” (“*y Cyngor*”) means the General Teaching Council for Wales;

“Investigating Committee” (“*Pwyllgor Ymchwilio*”) means a committee established under regulation 3(1) of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“relevant employer” (“*cyflogwr perthnasol*”) has the meaning given by section 138 of the Education Act 2002(5);

“registered teacher” (“*athro neu athrawes gofrestredig*”) 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;

“services” (“*gwasanaethau*”) means services provided to a relevant employer in Wales and includes professional and voluntary services; and

“worker” (“*gweithiwr*”) has the meaning given to it by section 15A(1) of the 1998 Act.

Employer’s reports

4. Where a relevant employer –

- (a) has ceased to use a person’s services on a ground relating to his or her misconduct; or
- (b) might have ceased to use a person’s services on a ground relating to his or her misconduct had he or she not ceased to provide those services,

the employer must report the facts of the case and provide all the information listed in Part I of the Schedule that is available to the employer in relation to such person to the National Assembly.

5.—(1) Where a relevant employer –

- (a) has ceased to use the services of a person who is a registered teacher on a ground relating to his or her professional incompetence; or
- (b) might have ceased to use the services of a person who is a registered teacher on a ground relating to his or her professional incompetence had he or she not ceased to provide those services,

the employer must report the facts of the case and provide all the information listed in Part I of the Schedule that is available to the employer in relation to such person to the Council.

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

Agent's reports

6. Where an agent –

- (a) has terminated arrangements on a ground relating to the worker's misconduct;
- (b) might have terminated arrangements on a ground relating to the worker's misconduct if the worker had not terminated them; or
- (c) might have refrained from making new arrangements for a worker on a ground relating to the worker's misconduct if the worker had not ceased to make himself or herself available for work,

the agent must report the facts of the case and provide all the information listed in Part II of the Schedule that is available to the agent in relation to the worker to the National Assembly.

7. —(1) Where an agent –

- (a) has terminated arrangements for a worker who is a registered teacher to carry out work on a ground relating to his or her professional incompetence;
- (b) might have terminated arrangements on a ground relating to his or her professional incompetence if the worker had not terminated them; or
- (c) might have refrained from making new arrangements for a worker who is a registered teacher on a ground relating to his or her professional incompetence if the worker had not ceased to make himself or herself available for work,

the agent must report the facts of the case and provide all the information listed in Part II of the Schedule that is available to the agent in relation to the registered teacher to the Council.

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

Date

The Presiding Officer of the National Assembly

(6)

SCHEDULE

PART 1

Information to be supplied by a relevant employer

1. Letter or notice to cease to use the person's services.
2. Statement of reasons for ceasing to use the person's services.
3. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.
4. Employer's records relating to the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, 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 person in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services, and the person's replies or representations in relation thereto.
6. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of the use of his or her services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his or her services.
7. Letter advising a person's intention to cease to provide services.

8. Any other document or information which the employer considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

PART II

Information to be supplied by an agent

1. Letter or notice terminating arrangements.
2. Statement of reasons for terminating the arrangements.
3. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
4. Any records relating to the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
5. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements, and the worker's replies or representations in relation thereto.
6. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself or herself available for work, have led the agent to refrain from making new arrangements.
7. Worker's letter terminating arrangements or ceasing to make himself or herself available for work.

8. Any other document or information which the agent considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. (W.)

EDUCATION, WALES

The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001 ('the 2001 Regulations'). The 2001 Regulations make provision with respect to the disciplinary 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.

Regulation 8 of the 2001 Regulations is amended so as to provide that the Committee dealing with a case against a Council Member must not include another Council Member and to provide for the quorum for a meeting of such a Committee.

The Education Act 2002 introduces a power for the General Teaching Council for Wales to attach conditions to any suspension orders it makes following disciplinary proceedings against a registered teacher. These Regulations amend the 2001 Regulations so as to require a suspension order to record any conditions to be complied with by a teacher, and to require a Committee to include in the notice of the disciplinary order served on a teacher an explanation of the right to apply to vary or revoke a condition, and how to do so. Provision is also made in relation to the method of application to vary or revoke conditions, and how such applications will be dealt with.

These Regulations also add a supply agency where relevant to those who are required to be served with a notice of a disciplinary order.

STATUTORY INSTRUMENTS

2002 No. (W.)

EDUCATION, WALES

The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

Made 2003

Coming into force [April 2003]

In exercise of the powers conferred on the Secretary of State by sections 6 and 42(6) of, and paragraph 9 of Schedule 1 and paragraph 4 Schedule 2 to, the Teaching and Higher Education Act 1998(7) and now vested in the National Assembly for Wales(8), and after consulting the General Teaching Council for Wales in accordance with section 42(9) of that Act, the National Assembly for Wales makes the following Regulations:

Name and commencement

1. These Regulations are called the General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003 and shall come into force on [April 2003].

2. The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001(9) are amended as follows.

3. Regulation 2 is amended by –

(a) inserting after the definition of “the 1998 Act” in paragraph (1) the following –

““agent” (“*asianf*”) has the meaning given by section 15A of the 1998 Act(10);” and

(b) substituting for the words “regulations 8 and 28” in paragraph (5) the words “regulation 8”.

4. Regulation 8 is amended by –

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- (a) 1998 c.30. Section 6 and Schedules 1 and 2 apply in relation to the General Teaching Council for Wales by virtue of sections 8 and 9 of the General Teaching Council for Wales Order 1998 (S.I. 1998/2911) with effect from 30th December 1998 in the case of Schedule 1, and 1st September 2000 in the case of the remaining provisions. Paragraph 4 of Schedule 2 is substituted by paragraph 12 of Schedule 12 to the Education Act 2002 (c.). 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) and section 204 of the Education Act 2002.
- (c) S.I. 2001/1424 (W. 99).
- (d) Section 15A was inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c.).

- (a) inserting the words “Subject to paragraph (1A)” at the beginning of paragraph (1);
- (b) inserting after paragraph (1) the following paragraph:

“(1A) A Committee dealing with a case against a person who is a member of the Council must include one or more lay members and one or more registered teacher members, but must not include a member of the Council.”;
- (c) inserting the words “Subject to paragraph (3A)” at the beginning of paragraph (3); and
- (d) inserting after paragraph (3) the following paragraph:

“(3A) The quorum for a meeting of a Committee dealing with a case against a person who is a member of the Council shall be three members, including one lay member and one registered teacher member.”.

5. Regulation 18 is amended by –

- (a) substituting for paragraph (3) the following paragraph –

“(3) A suspension order shall, in addition to the items referred to in paragraph (1), specify –

 - (a) any conditions to be complied with by the teacher before he or she can become eligible again for registration; and
 - (b) the period (not exceeding two years) at the end of which the teacher becomes eligible again for registration (subject to any conditions being complied with).”;
- (b) in paragraph (6), omitting the “and” at the end of sub-paragraph (a)(v) and inserting the following after it –

“(va) where the order is a suspension order which specifies conditions, an explanation of the person’s right to apply to vary or revoke a condition specified in the order and the method for making such an application, and”;
- (c) inserting in paragraph (6)(b) after the words “last employer” the words “and, where relevant, an agent”.

6. After regulation 21 there is inserted the following regulation –

“Application to vary or set aside a condition in a suspension order

21A.—(1) A person in relation to whom a suspension 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) must be made in writing and must specify the grounds on which the person seeks to have any condition specified in the order varied or revoked, and it must be accompanied by every document relied upon in support of the application.

(3) Where a suspension order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application must be determined by another Professional Conduct Committee

which must not include as a member any person who was a member of the Committee which made the order complained of.

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(11)**

Date

The Presiding Officer of the National Assembly

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. (W.)

EDUCATION, WALES

The General Teaching Council for Wales (Removal of Controls) Order 2003

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Teaching and Higher Education Act 1998 so as to remove controls on the General Teaching Council for Wales (“the Council”) exercisable by the National Assembly for Wales (“the National Assembly”).

The following controls are removed –

- The requirement for the consent of the National Assembly before the Council can exercise specified powers;
- The National Assembly’s power to determine Council members’ salaries, allowances, pensions and other payments;
- The requirement for the National Assembly’s approval in relation to Council employees’ remuneration, allowances, terms and conditions;
- The requirement for the National Assembly’s consent in relation to Council employees’ pensions or gratuities;
- The entitlement of representatives of the National Assembly or a representative of a designated body to participate in Council meetings.

STATUTORY INSTRUMENTS

2003 No. (W.)

EDUCATION, WALES

The General Teaching Council for Wales (Removal of Controls) Order 2003

Made 2003

Coming into force [April 2003]

In exercise of the powers conferred on the Secretary of State by paragraph 18 of Schedule 1 to the Teaching and Higher Education Act 1998(12) and now vested in the National Assembly for Wales(13), the National Assembly for Wales makes the following Order:

Name and commencement

1 This Order is called the General Teaching Council for Wales (Removal of Controls) Order 2003 and shall come into force on [April 2003].

Amendment of Schedule 1 to the Teaching and Higher Education Act 1998

2. For the purpose of removing or relaxing controls exercisable by the National Assembly for Wales, Schedule 1 to the Teaching and Higher Education Act 1998 is amended as follows –

- (a) paragraph 2(3) is omitted;
- (b) -
- (i) in paragraphs 4(1)(a), (3) and (4) for “the Secretary of State” there is substituted “they”;
- (ii) for paragraph 4(1)(b) there is substituted -
“shall, as regards any member in whose case they may determine pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as they may determine.”; and
- (iii) in paragraph 4(2) for the words “Secretary of State” in the first place they appear there is substituted “Council”, and for the words “the Secretary of State may direct the Council to make to that person a payment of such amount as the Secretary of State may determine”

(a) 1998 c.30. Paragraph 18 of Schedule 1 was inserted by the Education Act 2002 (c.), Schedule 12, paragraph 11. The relevant provisions apply in relation to the General Teaching Council for Wales by virtue of sections 8 and 9 of the Act and the General Teaching Council for Wales Order 1998 (S.I. 1998/2911).
(b) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 204 of the Education Act 2002.

there is substituted “the Council may make to that person a payment of such amount as they may determine”;

(c) paragraph 5(4) is omitted;

(d) in paragraph 6(1) and (3) the words “with the consent of the Secretary of State” are omitted in each place they appear; and

(e) paragraph 11(1) is omitted.

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

Date

The Presiding Officer of the National Assembly