

## **EDUCATION AND LIFELONG LEARNING COMMITTEE**

### **ASSEMBLY MINISTER'S REPORT TO THE EDUCATION AND LIFELONG LEARNING COMMITTEE ON 26 JUNE 2002.**

This report updates the Committee on the specific issues upon which it wished to be kept informed since my previous report of 22 May 2002. **Annex A** sets out my major engagements since the last report.

#### **1. Truancy**

The first meeting of the truancy task and finish group took place on 13<sup>th</sup> June. This was a fruitful meeting involving a wide range of experts and practitioners from all parts of Wales. The group involved head teachers, academics, the police, education social workers, Estyn, and representatives for youth policy and the careers service. The main purpose of the initial meeting was to define the role of the group and an approach to delivering a report during September of this year.

The **terms of reference** of the group were agreed as follows:

To develop actions relating to the recommendations produced at the 'Tackling Disaffection Together' conference.

Specifically:

- To explore the reasons for truancy and advise on current best practice on how it may be tackled and methods by which information may be shared.
- To consider the division of responsibility amongst all parties involved in tackling truancy and its consequences.
- To advise on the most cost-efficient methods of tackling truancy.
- To advise on clearer guidelines for schools on how to record and report absence.

The next meeting will take place on the 24th July and will attempt to closely define the current position and begin to take stock of best practice in Wales and further afield.

#### **2. Teachers Pay**

I made a written statement on teachers' pay on Friday 31 May 2002. As I said then, the Welsh Assembly Government has examined the hard evidence of

the provision for schools made by local authorities. We concluded that, in the light of identified pressures, a further £18.7 million should be made available to Local Education Authorities for 2002-03 as a special grant .

This very significant injection of funds should enable schools to meet all the pressures arising this year from the new pay arrangements. It will allow schools to be funded so that headteachers and governing bodies do not hold back staff from progressing under the new arrangements simply for financial reasons. LEAs should now ensure that schools are put in funds for this purpose.

We had originally proposed a two stage process, but decided in the light of the evidence provided that it was better to reach a position where all the necessary funds are provided immediately. A special grant report will be put before the Assembly for approval by Members before the end of the session.

In addition the WLGA has agreed to establish with the Minister for Local Government and Finance a working party to consider how in future the local government settlement should reflect the arrangements for teachers' pay.

### **3. Timetable on HE collaboration**

On 29 May, I issued the 2002-03 remit letter to the Higher Education Funding Council for Wales. The remit letter should be read in conjunction with "Reaching Higher" and picks out the Welsh Assembly Government's key objectives for the first year of the Strategy.

The key priority for the sector and HEFCW this year is to progress the collaboration agenda. I was clear in the Strategy, as was this Committee in its report, that if the sector is to have a strong and competitive future then increased collaboration and reconfiguration are prerequisites. Only when demonstrable progress has been made in this field will we be able to consider increasing support to mission based activities. In the current financial year, additional funding will be made available in support of widening access initiatives to those institutions who embrace the reconfiguration agenda.

I will shortly be writing to all vice chancellors setting out the timetable for bids for the additional collaboration funds which we have made available. I will be writing to HEFCW with guidance on the parameters of the scheme, I would then anticipate that HEFCW will issue a call for bids in August and announce successful bids in November. I hope to meet with all vice chancellors in the autumn to discuss their proposals for collaboration.

### **4. ALG Launch**

Earlier this month I launched the information campaign for the new Assembly Learning Grants at Coleg Gwent. I was assisted at the launch by many talented students from the Coleg and Jessica Garlick of Eurovision fame who

was herself a student who struggled to support herself during her further education studies.

It is important that the message about the grant reaches all students in further and higher education so that eligible learners can apply for support. I am pleased that the launch received excellent coverage in the media but this is only the start.

The information campaign "*Are You Up For It?*" will run throughout this month with a second phase mid-August to mid September. It consists of adverts being placed in newspapers throughout Wales, short TV and radio adverts on commercial stations in Wales, and a medium weight outdoor and bus (interior) campaign. In addition, posters and leaflets will be widely disseminated in public places throughout Wales e.g. post offices, libraries, leisure centres, community centres, job centres, schools, colleges and universities. Details of the scheme, including contacts, are also available on the National Assembly website at [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk). LEAs will be responsible for administering and publicising the grant although colleges and universities will also assist in the latter.

## **5. Tuscany and European Networks on Lifelong Learning**

In December, I reported that the First Minister and I had agreed to the Welsh Assembly Government joining the European Association of Regional Local Authorities for Lifelong Learning (EARLALL). This association established with the support of the European Commission, aims to provide a focus for European regional administrators to work together and share ideas in the field of lifelong learning. Other members of the Association are drawn from Tuscany, Livorno, Trento (Italy), Vastra Gotalands (Sweden), the Vejle County (Denmark), Sogn (Norway), Catalonia, the Balearic Islands, the Basque Country (Spain) the Rhineland and the Madonna District of Latvia. Five EARLALL meetings have been held since October. I have not yet been able to attend in person but have been represented by an official at each meeting. I hope to attend the next planned meeting in Denmark in the autumn and have also invited the President of the Association, Paulo Benesperi of Tuscany, to convene an EARLALL meeting in Cardiff next February.

EARLALL's first project, funded under the LEONARDO European programme, involves an evaluation of the scope for testing the transferability of past products of the LEONARDO programme in other countries. Here in Wales we will be valorising (i.e. testing the relevance of) strategic approaches towards "parity of esteem" between different learning routes that have developed elsewhere in Europe. The National Council-ELWa will be undertaking the groundwork on our behalf and the results will be used in developing the National Council's strategic planning and evaluation process. The work may also assist in developing our own policies on learning pathways for the 14 –19 age range. The outcome of the valorisation process will be discussed at a conference in Florence in December.

At President Benesperi's suggestion, the Association identified six aspects of lifelong learning on which different member regions might take a lead. Wales has agreed to lead on Adult Education. Lead regions will be expected to co-ordinate relations with the European Commission on behalf of the Association, establish a network for the exchange of information within the subject area between regions, and provide a stimulus for the development of new project proposals within that subject area.

## 6. Model United Nations

Last month, I made financial assistance available through the British Council to enable 15 6<sup>th</sup> form students from 5 schools in Wales to attend the John Peters Humphrey Model United Nations conference at St Thomas University, Fredericton, New Brunswick.

The schools, and the UN General Assembly countries which they represented were :

<u>SCHOOL</u>	<b>GENERAL ASSEMBLY MEMBER</b>
Eirias High School, Colwyn Bay	Bahamas
Treorchy Comprehensive School	Lebanon
Ysgol Friars, Bangor	Uganda
Ysgol Gyfun Gwynllyw, Pontypool	Spain
Ysgol Gyfun Gymunedol Penweddig, Aberystwyth	Nigeria

"Delegates" to the Model United Nations came from schools in New Brunswick, Nova Scotia, Prince Edward Island, Quebec, United States, Ecuador and Wales. Each delegation was expected to represent their allocated country's interests in debates on issues such as globalisation and interdependence, and humanitarian intervention in conflict situations.

The Model United Nations provides a valuable experience for the participants in the following ways :

- providing a basic understanding of the structure of the United Nations and of how the General Assembly and Security Council work.
- encouraging students to expand their way of thinking to the global scale. This includes an awareness of some of the most serious problems facing the global community, and of their effects on states and individuals.
- **assisting students in achieving a basic understanding of the nature of the global inter-state system - in particular, learning**

**that negotiation, co-operation and competition are central features of this system.**

- promoting the development of political judgement through their experience of engaging in negotiations and decision making in a political simulation.

Initial feedback from St Thomas University, and from the teacher who accompanied the students as group leader, is that the Welsh delegations made a very positive contribution to the proceedings.

## **7. Early Years and the development of the Foundation Phase**

I have appointed Mrs Shan Richards from Estyn to be my expert adviser on early years and in particular for the development of the Foundation Phase. I anticipate her Report being with me by the end of the year and for our proposals to be the subject of widespread consultation during next Spring.

As part of our development of the Foundation Phase, she accompanied me on my visit to Tuscany on 5-7 June when we visited a number of early years settings and discussed their approaches to their curriculum with them.

## **8. CCETs and CCET Guidance**

In my last report I mentioned that a draft of new CCET guidance was issued at the CCET conference in April and debated in the workshop sessions. The final guidance, shaped by these sessions was approved at last week's National Council meeting. The guidance covers:

- The role of the CCETs
- Their membership and operation
- The role of the National Council and its Regional Committees vis-à-vis CCETs
- CCET annual recommendations
- The support that the National Council will provide for CCETs during 2002-03

The guidance will be available on the National Council's website from the end of June at [www.elwa.org.uk](http://www.elwa.org.uk) I will attach a copy to my next Report to Committee.

## **9. FE pay**

The Association of Colleges (AoC) had made a 1.5 per cent offer which was rejected by the unions involved. NATFHE called a two day strike on 28 and 29 May in support of better pay. Other FE trades unions did not join the strike.

ELWa has responsibility for determining and allocating funding support to FE institutions from the public monies I have made available to it for post-16 education and training in Wales. Pay and conditions of all staff within FE institutions are a matter for individual governing bodies, as the employers to decide. The Council's provisional allocation to FE institutions for recurrent purposes in 2002/03 shows an increase of £8.38 million (4.1 per cent) over 2001/02. During the last 3 years some £57 millions of capital grant has been allocated to FEIs in Wales.

I have encouraged the FE trades unions, Fforwm and individual FE institutions to engage in constructive discussion with the aim of reaching fair, equitable and affordable pay awards.

### **10. Subordinate Legislation not required to be made by Statutory Instrument Under Standing Order 27 – Approval of Qualifications**

On 23 April I gave notice of my intention to approve a list of qualifications under section 99 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act - see

[http://assembly/subord/Subordinate%20Legislation/part\\_five.htm](http://assembly/subord/Subordinate%20Legislation/part_five.htm)

In accordance with Standing Order 27.4, Members were given 10 working days notice of the intention to make subordinate legislation and 5 working days notice to table a motion to express dissatisfaction with the proposal to make the subordinate legislation. No expressions of dissatisfaction were tabled and I approved the list of qualifications on 9 May.

The Presiding Officer has been notified, as required by Standing Order 30, that the subordinate legislation has been made. Under Standing Order 27.5 I am also required to report from time to time to this committee on the subordinate legislation made under Standing Order 27.

It is intended that the list of approved qualifications will be updated at regular intervals. Assembly Members will be notified, in accordance with Standing Order 27.4 when the next update is proposed.

### **11. ELWa – National Council: Control Environment**

Following on from my recent Statement, I attach at Annex B the Report submitted by Adam Peat to the Permanent Secretary, together with the texts of relevant correspondence between him and the Chair of the National Council.

### **12. General Teaching Council: Proposed Secondary Legislation**

The papers for today's meeting include a copy of a consultation letter (Annex C) that has been sent by officials to LEAs, teaching unions and a wide variety of interested bodies about proposed secondary legislation, relating to the General Teaching

Council for Wales, and the supply of information by employers of teachers and supply agencies in cases of teacher misconduct and incompetence.

The Education Bill that is currently before Parliament contains a number of provisions that impact on the Council. Of these there are a number of provisions that I would like to bring into force by 1 April 2003 and it is on three of these issues that I am currently consulting. Consultation is of course on the understanding that the introduction of the proposed regulations and Order will depend on the enactment of the Bill. The proposals are:

**(a) A new Order to relax certain ASPB type controls on the Council.**

This will remove:

- 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;
- the need for the GTCW to seek the Assembly's approval to determine remuneration and terms of conditions of staff, including pensions;
- the Assembly's power to determine salaries, fees, T&S and other allowances, pensions, and compensation to members;
- the right for a representative of the Assembly to attend Council meetings.

The Assembly will continue to work closely with the Council on a wide variety of subjects but the removal of these ASPB type controls will underline the Council's independence as an organisation and reduce the sponsorship requirements on the Assembly.

**(b) An amendment to the General Teaching Council for Wales (Disciplinary) Regulations which will :**

- **enable the Council to add conditions to a suspension order that will need to be 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 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 re-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 interests of fairness the regulations will allow a suspended teacher to apply to the GTCW to vary or set aside a condition.**

- 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 that any decisions in such cases are seen as fair and impartial and will prevent any implied criticism of the Council's treatment of its own members;
- provide for supply agencies to be added to the list of those to be provided with details of the disciplinary order;

**(c) New regulations which will require supply agencies to provide information to the Assembly when a teacher's employment is terminated on grounds of misconduct and to the General Teaching Council for Wales when a teacher's employment is terminated on the grounds of incompetence.**

These regulations will require both employers of teachers and supply agencies to report cases of unacceptable professional conduct to the National Assembly for Wales, and report cases of serious professional incompetence to the General Teaching Council for Wales. At present there is no statutory requirement for supply agencies to report such 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 GTCW 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.

### **13. WJEC A2 Mathematics**

"A question in the WJEC P3 Mathematics paper on June 14 included the word "general". The technique for producing a "general" solution to the question is not part of the P3 syllabus, it is covered in the P4 syllabus. However, P3 students would have been able to provide an answer to the question.

Clearly this is a matter for concern. However, the WJEC took immediate action when they identified the error. The WJEC identified the problem at 9.15am on Friday. The examination was due to start at 9.30am. WJEC contacted all 140 centres where the paper was being sat to advise them to give the candidates additional information to enable them to answer the question. Candidates were allowed additional time if required.

WJEC will also scrutinise all scripts to establish the extent that the error has affected candidates' marks. They will also take other evidence into account, including predicted grades, in determining the final grades to be awarded.

Measures have been put in place to ensure that candidates will not suffer. Now, it is important that lessons are learned from this incident. WJEC is, of course, looking at its procedures. The Qualifications, Curriculum and Assessment Authority for Wales (ACCAC), the examinations regulatory authority in Wales, has statutory responsibilities in this area and has embarked on an investigation. WJEC is preparing a report for ACCAC as part of that investigation. I will look to ensure that steps are taken to ensure that lessons are learned so that there can be no repeat of the incident.”

**Minister's Engagements from 22nd May – 25th June 2002**

**22<sup>nd</sup> May**

PRESENT - Investors in People Award to Cadle Primary School  
VISIT - Glyn Derw High School  
SPCH - Launching 'The Second Half'  
MTG - Ann Hemingway FSA  
MTG - Roger Williams HEFCW  
SPCH/PRESENT PRIZES - FFORWM Awards Ceremony/Dinner and preview  
Launch of new Corporate Identity

**23<sup>rd</sup> May**

VISIT - Gwent Outdoor Centres  
MTG - RhAG

**24<sup>th</sup> May**

SPCH - Wales Education Show 2002 Conference  
SPCH - (CILT Cymru) Introduce National Language Strategy  
VISIT- Help the Aged Stand  
SPCH - Launch OXFAM 'Global Citizenship: The handbook for Primary Teaching'

**25<sup>th</sup> May**

ATTEND - Welsh BAFTA'S

**27<sup>th</sup> May**

VISIT - Young people from RCT Youth Council  
SPCH - Launch of revised 'Youth Work Curriculum Statement for Wales'

**28<sup>th</sup> May**

INTERVIEW - BBC News on ALGs

**29<sup>th</sup> May**

VISIT - Monmouthshire County Council LEA  
SPCH - Open new ESTYN Offices  
MTG - Officers of Wales Exec Committee of Association for College Management

**30<sup>th</sup> May**

ATTEND - Youth Council Meeting in Brussels

**31<sup>st</sup> May**

ATTEND - Media Launch of cafe at Pop Factory  
SPCH/OPEN - Karten (Dyslexia Institute) CTEC Centre  
ATTEND - Launch of 'Let Paul Robeson Sing!' Exhibition

**3<sup>rd</sup> June**

MTG - Commissioner Viviane Reding  
ATTEND - Literature Medal Event, Urdd

ATTEND - Techniquest Launch of Math Cymru  
VISIT - Youth Policy Team Area at Urdd

**5<sup>th</sup> June**

VISIT – Tuscany re: Early Years Provision

**6<sup>th</sup> June**

VISIT – Tuscany re: Early Years Provision

**7<sup>th</sup> June**

VISIT – Tuscany re: Early Years Provision

**10<sup>th</sup> June**

MTG – Joint Teaching Unions

MTG/DINNER - Dr Von Ploetz re: National Modern Foreign Language Strategy 'Languages Count'

**11<sup>th</sup> June**

MTG - Colette Hume (new Education Brief at BBC)

**12<sup>th</sup> June**

SPCH - Launch of New Assembly Learning Grant

SPCH - Advisory Panel on Sustainable Development Meeting

SPCH - High Performance Working Conference Working Dinner

**13<sup>th</sup> June**

VISIT - Fire Damage at Groes Primary School

SPCH - UWIC School of Education Seminar

MTG - Quarterly June Bilateral with Enid Rowlands

**14<sup>th</sup> June**

ATTEND - Stakeholder Conference re: Post Inspection Action Plan

INTERVIEW/LAUNCH - Welsh 'Local Authority Passenger Transport Operational Procedures Guide'

**15<sup>th</sup> June**

SPCH/PRESENT - Certificates to participants in Modern Employment Skills Programme

**17<sup>th</sup> June**

SPCH - Headteachers in Newport School Improvers' Group

PRESENT - Awards at XL Wales Awards Ceremony

MTG - Catholic Bishops

PRESENT - RSPCA Wales Animal Friendly School Award

**18<sup>th</sup> June**

MEET - School Inspectors from the Lebanon

ATTEND - Launch of Welsh Refugee Council Photo Exhibition

ATTEND - Joint Medical Advisory Committee Dinner

**19<sup>th</sup> June**

OPENING ADDRESS - Cardiff Primary Heads Association Annual Conference

LAUNCH - Credit Union Training Programme

VISIT - Merthyr Tydfil County Borough Council LEA

SPCH - Launch Revised "Substance Misuse: Children and Young People" circular

**20<sup>th</sup> June**

ATTEND - DARE Graduation Ceremony

**23<sup>rd</sup> June**

PRESENT - Prizes at Kart Challenge West

**24<sup>th</sup> June**

VISIT - Pembrokeshire County Borough Council LEA

**25<sup>th</sup> June**

MEET - Chinese Delegation

SPCH - Early Years Practitioners Garden Party

Permanent Secretary

## THE CONTROL ENVIRONMENT WITHIN ELWA

1. On 20 May 2002, in the light of the independent report ("the Bentley Jennison report") commissioned by the National Council for Education and Training for Wales ("the National Council") on instances of non-compliance with proper procurement procedures within ELWa, you asked me to examine the current state of the control environment within ELWa and to report back to you urgently.

### Context

2. **ELWa is the collective "brand name" for two Assembly Sponsored Public Bodies (ASPB): the National Council and the Higher Education Funding Council for Wales (HEFCW). The two bodies, although formally independent of each other, have each appointed the same Chief Executive and employ a number of the same staff.**
3. The National Council was established under the Learning and Skills Act 2000 and became operational on 1 April 2001. It took over functions from five predecessor bodies: the Further Education Funding Council and the four Training and Enterprise Councils (TECs). It also took over from local authorities the responsibility for adult and continuing education and (from 1 April 2002) for the funding of school sixth forms. The National Council's mission is to rationalise and improve the entire spectrum of post-16 education and training in Wales (with the exception of higher education, which is the province of HEFCW).
4. Because of the urgency and importance of that mission, the National Council was brought into existence very quickly, with effectively no period of shadow running. It inherited five groups of staff at seven locations throughout Wales, five accounting systems, and five sets of operating procedures. It also inherited the forward plans and commitments of its predecessor bodies. It was imperative to ensure that funding and services to suppliers of education and training were not disrupted. The organisation's watchword during its first year of operation has been "business as usual".
5. In setting up the National Council, the decision was taken that it would be impracticable to rationalise accounting systems and operating procedures in time for 1 April 2001. The new organisation would initially maintain distinct accounting systems and operating procedures at each major location, and rationalise them as soon as practicable.
6. The initial remit letter from the Minister for Education and Life-long Learning to the National Council charged the Council to secure significant year-on-year savings in running costs from the merger of the five predecessor organisations. This requirement, together with the need to create a unified organisation with a staffing structure which is fit for purpose, has meant that

the Chief Executive has faced and continues to face a very considerable task of organisational development.

7. It is apparent that the first year of ELWa's existence has been a period of great pressure for the members of the National Council, for the Chief Executive and his management team, and for the staff. Much has been achieved - despite unpredictable in-year pressures such as the impact of foot-and-mouth on the Council's programmes - including the delivery of the great majority of the specific targets for 2001-2 with which the National Council was charged in its initial remit letter.
8. The discovery through the operation of ELWa's internal audit programme of instances of failure to comply with proper procurement procedures, and the Bentley Jennison report, cast a shadow over those achievements and might be symptomatic of general and continuing weaknesses in ELWa's procedures and control environment. You therefore asked me to conduct a rapid investigation as to whether that appeared to be the case.
9. I focussed on five areas: procurement; financial procedures; internal audit; the arrangements for the delegation of functions; and whether there was adequate financial and management information to enable the organisation to be effectively controlled. Each of these areas is dealt with in turn below.

#### Procurement

10. At its inception ELWa inherited five sets of procurement procedures of variable quality, with those inherited from FEFCW/HEFCW being the most comprehensive. No member of staff was inherited whose primary function was to give expert advice on procurement issues. The Chief Executive and Director of Finance recognised at an early stage that procurement was an area of potential weakness and decided to include the post of Procurement Manager in the staffing structure, reporting to the Head of Finance. While recruitment of a permanent post-holder was in train, the Head of Finance appointed a temporary Procurement Manager in August 2001.
11. In October 2001, a permanent appointment as Procurement Manager was made. The post-holder has a formal qualification in procurement and considerable experience of procurement in local government. On appointment she was immediately tasked with drawing up a unified set of procurement procedures to cover procurement both by the National Council and by HEFCW. In doing so, she benchmarked against the procurement practice of a number of public sector organisations, including the National Assembly for Wales. She did not however seek external validation of the finished product. The unified procedures were put into effect in January 2002 following approval by the Audit and Risk Committees of both ASPBs. The breaches of procurement procedure which have been discovered through internal audit took place prior to the unified procedures being put into effect (and in a number of cases before the appointment of a procurement officer).
12. A programme of staff training in the new procedures was instituted, commencing in January. Participation was initially on a voluntary basis, albeit that budget-holders were strongly encouraged to take part. After the discovery by internal audit of the irregularities which had taken place, training was made mandatory for staff at all levels having a role in procurement. The Procurement Manager has assured me that training since that point, and the

advice which she gives to staff, takes full account of the lessons to be learnt from those incidents e.g. the need to be aware at all times of the impact of VAT on quoted prices. The Procurement Manager is at pains to make herself available to staff on the telephone or face to face to deal with any queries about the right way to do things. If she herself is in any doubt, she consults the Procurement Unit at the National Assembly, who have confirmed to me that she is frequently in touch with them. Since the discovery of the irregularities she has been inundated with queries to the point that the Head of Finance has been obliged to appoint a temporary assistant for her. It seems reasonable to suppose that staff at all levels are desperately keen in the light of what has happened to avoid making any further mistakes in this area.

13. I considered the line management and reporting arrangements for the Procurement Manager. She reports to the Head of Finance who seems to me to have the appropriate professional background to manage the postholder and is in practice giving her good support. She told me that she finds senior management open and approachable: she would have no hesitation in taking a concern direct to the Accounting Officer should the need arise.
14. Since the procurement procedures issued in January had not been subject to validation, with the agreement of the Chief Executive I asked the National Assembly's Procurement Unit for an opinion on them. They have told me that the procedures for financial approval for awarding contracts are clear and that the material they contain conforms to good practice. They felt however that the procurement procedures should be more comprehensive in certain respects e.g. procedures and guidance for obtaining quotes from suppliers, the use of standard documents for informal tendering, guidance on conflicts of interest, advance payments, and separation of duties. I recommend therefore that ELWa should consult quickly with the Assembly's Procurement Unit, and that suitably amplified procedures should be brought for approval by the end of July 2002 to the Audit and Risk Committees of both the National Council and HEFCW. All staff should have any amendments fully drawn to their attention, and if necessary supplementary training should be arranged.
15. Following the internal audit report, an urgent and comprehensive review was carried out in February 2002 by executive directors and the finance function of ELWa of all contracts initiated since 1 April 2001. Remedial action is in hand in respect of cases where procedures had not been followed (none of which is in respect of HEFCW). A compliance review of the operation of the new procedures is scheduled for 10 June.
16. I conclude that the current control environment within ELWa as respects procurement is sound, and will be further improved if my recommendation at paragraph 14 above is accepted and acted upon.

#### Financial procedures

17. ELWa has from the outset been a strongly decentralised organisation, with senior management dispersed at different locations throughout Wales, operating a "virtual HQ" rather than a conventional one based at a single headquarters location. This has reflected the need for ELWa to be able to respond flexibly to the differing needs and requirements of different parts of Wales and the desire not to lose the local employment and career opportunities which the former TECs represented. The initial decision,

however, to have two centres of financial expertise within the organisation, one located at St Asaph and the other in Bedwas, proved to have practical disadvantages, and on 1 April 2002 the finance function was centralised at Bedwas. In view of the paramount need for the clear and consistent application of financial controls and procedures this was in my view a move which was highly beneficial to the control environment within ELWa.

18. As has been mentioned previously, ELWa inherited five sets of financial procedures and has been continuing to operate them in different locations, which has been increasingly unsatisfactory. Unified financial regulations have been in course of preparation for some time, and were scheduled to be brought to the National Council for approval in June 2002. The National Council however required them to be brought forward for consideration at its special meeting on 24 May, together with a formal scheme of delegation from the Council to the Chief Executive. At that meeting the National Council approved the financial regulations and the scheme of delegation as working documents. Its Audit and Risk Committee has been asked to consider at its next meeting whether there is a need for any fine-tuning of either document and to make any appropriate recommendations to the National Council. As matters stand, the financial regulations are applicable only to the National Council, but have been drafted such that they could be readily applicable to HEFCW also if approved by HEFCW for that purpose.
19. Since the National Council and HEFCW employ many of the same staff, it would clearly be practically convenient and facilitate good financial control if both bodies adopted the same financial regulations. I therefore recommend that the National Council and HEFCW consider adopting a common scheme.
20. The Head of Finance intends to supplement the financial regulations with more detailed financial procedures - in effect desk instructions - for staff engaged in payments and other finance work. Drafting of these has yet to begin. I recommend that a firm timetable for the introduction of these detailed financial procedures is established and agreed with the Accounting Officer and notified to the Audit and Risk Committees of both ASPBs.
21. Management intends to institute a programme of training for all staff on the definitive financial regulations once these have been adopted. I recommend that a firm programme should now be drawn up and the timetable agreed with the Accounting Officer and notified to the Audit and Risk Committees of both ASPBs.
22. I conclude that effective financial control within ELWa has progressed with the centralisation of the finance function and now the provisional approval of unified financial regulations. If my recommendations at paragraphs 19-21 are accepted and implemented, further progress will be made within a defined timescale.

#### Internal audit

23. An effective internal audit function is vital to the maintenance of a good control environment; not only can internal audit point out areas for improvement of the control framework, it can detect and thereby help to deter instances of non-compliance. The National Council and HEFCW each have an Audit and Risk Committee. The Head of Financial Accountability Division at the National Assembly attends each committee as an assessor. Both Audit and Risk

Committees approved a programme of internal audit inspection for 2001-02, prioritised according to assessed risk. Procurement was assessed to be an area of high risk and was accordingly prioritised as an area for inclusion in the 2001-2 internal audit programme. The instances of irregularity which have been brought to light were identified by the work planned under that programme.

24. The internal audit function is led by the Head of Risk Assurance whose line manager is the Director of Finance and Risk. This is an appropriate arrangement, equating to that in the National Assembly whereby the Head of Internal Audit reports to the Principal Finance Officer. The "Government Internal Audit Manual" requires that the lead officer responsible for internal audit should have direct and unfettered access to the Accounting Officer and to the National Council and HEFCW. I am satisfied that such is the case.
25. I conclude that ELWa has an active internal audit function, whose activities appear to be appropriately prioritised, resourced, and supervised.

### **Delegations of Functions**

26. Schedule 4 of the Learning and Skills Act 2000 empowers the National Council to delegate functions to the Chairman or to the Chief Executive, and the Chief Executive in turn to delegate to staff. At its meeting on 24 May 2002, the National Council approved standing Orders for the conduct of Council business; the list of matters reserved to the Council for decision; the scheme of delegation to the Chairman and to the Chief Executive, and the terms of reference for various of its Committees. The current arrangements appear to take full account of the requirements of the Management Statement and the Financial Memorandum, as do the current financial delegations to officers by the Chief Executive.
27. I conclude that the National Council has now clearly set out the conduct of future proceedings of the Board, the extent to which it has delegated its functions to the Chairman and to the Chief Executive, and the role of its Committees. It is for the National Council to consider to what extent, if any, actions and decisions taken by it or on its behalf might in practice be open to challenge due to any lack of clarity in the arrangements prior to 24 May 2002.

### **Financial and management information**

28. It is apparent that the extent of management and financial information available in the organisation has been a source of some concern and frustration to members of the National Council and its Accounting Officer over the past year.
29. The five different accounting systems inherited from predecessor bodies did not talk to one another, which has meant that although cash management has been satisfactory during 2001-02, the process of producing aggregate financial data has been slow and cumbersome. From 1 April 2002 a single new and more modern accounting system has been installed across all ELWa sites. There were initial teething troubles with the software, but now that the system has been debugged, the Head of Finance is confident of being able to produce, from June onwards, prompt analysis of financial data to virtually any format which may be required.

30. It appears that the management information systems inherited by the National Council were founded on an imperfect set of definitions and incompatible database arrangements. It took the executive until about July to realise the extent of the problems, when they put remedial work in hand which resulted in significant improvement. In relation to projects and initiatives supported from Europe the inadequacy of the management information did not become apparent until early in 2002; following which, a task force was set up to investigate deficiencies and take corrective action to secure management control. The problems with the databases now appear to have been dealt with, and development of the databases is being factored in to the design of the new funding system being led by the strategy and learning directorate.
31. Work is in hand to develop a system of key performance indicators [KPI] as required by the remit letter, which should lead to a more strategic focus on performance management. A paper on the proposed KPI system is likely to be put before the National Council for consideration in July. The Chief Executive has established a new performance board comprising National Council executive directors, which is currently chaired by the outgoing National Council Director of Operations and will be chaired permanently by the new post of Director of Knowledge and Performance Management. The executive performance board reviews performance against PIs on a monthly basis, and takes the lead in preparing management information for the National Council, which has just resolved to establish a finance and performance monitoring committee.
32. I conclude that the financial and performance information systems inherited by the National Council were less than satisfactory for the purposes of the new organisation, but that much progress has now been made, and the Council and its executive are firmly focussed on the need to achieve further improvement in management information - in particular to devise a system of KPIs and ensure that they are integral to the operation of the new funding system which is to be put into place for the academic year 2003-4.

## Conclusion

33. I conclude overall that **there are currently no evident weaknesses in the control environment within ELWa**, which has been improved significantly over the course of the last year, and which should continue to improve if management carry out actions already planned and the recommendations I have made above are accepted and acted upon. That is not say that nothing further can go wrong. ELWa faces continuing major operational and organisational challenges over the next couple of years, which will put pressure on management and staff. That is in itself a risk factor. The control framework in any organisation is only as good as the culture of compliance within it. It will be a continuing challenge for senior management to ensure that staff at all levels are fully aware of authorised corporate procedures and of the importance of adhering to them.

ADAM PEAT

31 May 2002

Enid Rowlands  
Chair  
ELWa-National Council  
Unit 6  
Richard Davies Street  
St Asaph Business Park  
St Asaph  
Denbighshire  
LL17 OLJ

12 June 2002

## **CONTROL ENVIRONMENT WITHIN ELWa-NATIONAL COUNCIL**

Following on from your letter to me of 17 May, I asked Adam Peat to examine urgently the current procurement procedures and financial control systems of ELWa-NC, and to report back to me. His Report is enclosed. It sets out his conclusions on the current state of the control environment within the National Council. It does not by its nature look at the events surrounding the award of the individual contracts referred to in the Bentley Jennison Report.

In summary, Adam has concluded that there are now no evident weaknesses in the present control environment. You and the Council as a whole will have every reason to take considerable assurance from this conclusion and the steps which the Council took on 24 May. In the light of what Adam has found, I am satisfied with the arrangements that now exist. I shall naturally be expecting an early indication of the action the Council is proposing to take in response to his various recommendations.

The critical need now is for the National Council to address the concerns about non-compliance and to satisfy itself that there is a sufficient culture of compliance within the Executive for the future.

As Principal Accounting Officer, I have my own concerns about these matters, and I shall be arranging to see Steve Martin shortly to seek my own assurances from him. I shall write to you further following that meeting.

I have asked Adam to stand ready to present his Report to the Council's Audit and Risk Committee, so that it can have the opportunity to assure itself at first-hand of the robustness of the conclusions he has reached.

I am sending a copy of this to Roger Williams.

I am writing separately today to Steve Martin enclosing a copy of Adam Peat's Report, together with this letter.

I shall be writing separately to the Auditor General enclosing a copy of the Reports from both Bentley Jennison, and Adam Peat.

**JON SHORTRIDGE**

21 June 2002

Sir Jon Shortridge  
Permanent Secretary  
National Assembly for Wales  
Cathay's Park  
Cardiff  
CF1 3NQ

Dear Jon

**Control Environment within National - ELWa**

Thank you for your letter of 12 June.

I note the contents of Adam Peat's report. I have made arrangements for it to be made available to all members of Council. Implementation of the actions recommended in the report will be monitored by the Audit and Risk Committee.

In addition, I can assure you that the National Council is continuing to address the concerns about non compliance which have been identified, and will make every effort to promote a culture of compliance within the Executive for the future. Naturally, I shall ensure that you are kept informed about this.

With kind regards

Yours sincerely

Enid Rowlands  
Chair

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;
- (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 be 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:**

**Oriel Price  
General Teaching Council for Wales Liaison Unit  
Welsh Assembly Government  
Cathays Park  
Cardiff  
CF10 3NQ**

**Telephone: 029 20801030  
Fax: 029 20826119  
Email: [gtcw.enquiries@wales.gsi.gov.uk](mailto:gtcw.enquiries@wales.gsi.gov.uk)**

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](http://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

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## STATUTORY INSTRUMENTS

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**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.

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<sup>(1)</sup> and now vested in the National Assembly for Wales<sup>(2)</sup>, 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<sup>(3)</sup> and regulation 28 of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001<sup>(4)</sup> 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;

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<sup>(1)</sup> 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.

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

<sup>(3)</sup> S.I. 2000/2906 (W.186).

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

“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;

“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<sup>(5)</sup>;

“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 –**

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<sup>(5)</sup> 2002 c. .

- (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

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(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

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## STATUTORY INSTRUMENTS

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**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.

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<sup>(7)</sup> and now vested in the National Assembly for Wales<sup>(8)</sup>, 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<sup>(9)</sup> 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<sup>(10)</sup>,” and

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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 30<sup>th</sup> December 1998 in the case of Schedule 1, and 1<sup>st</sup> 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. ).

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

4. Regulation 8 is amended by –

(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”; 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<sup>(11)</sup>

Date

The Presiding Officer of the National Assembly

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<sup>(11)</sup> 1998 c.38.

**NATIONAL ASSEMBLY FOR WALES**

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**STATUTORY INSTRUMENTS**

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**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.

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<sup>(12)</sup> and now vested in the National Assembly for Wales<sup>(13)</sup>, 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**

7. 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

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(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.

- (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” 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