

## Children and Young People Committee

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Meeting Venue:  
**Committee Room 1 – Senedd**

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Meeting date:  
**2 October 2013**

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Meeting time:  
**09:15**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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### Agenda

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**Private Pre-Meeting – 09.15 – 09.30**

#### **1 Introductions, apologies and substitutions**

#### **2 Education (Wales) Bill: Stage 1 – Evidence session – ATL Cymru, UCU, NAHT and ASCL (09.30 – 10.30) (Pages 1 - 18)**

CYP(4)-24-13 – Paper 1 – ATL Cymru

CYP(4)-24-13 – Paper 2 – UCU

CYP(4)-24-13 – Paper 3 – NAHT

CYP(4)-24-13 – Paper 4 – ASCL Cymru

Dr Philip Dixon, Director - ATL Cymru

Lisa Edwards, Political Liaison Officer - UCU

Anna Brychan, Director - NAHT Cymru

Robin Hughes, Secretary - ASCL Cymru

#### **3 Education (Wales) Bill: Stage 1 – Evidence session – GTCW (10.30 – 11.15) (Pages 19 - 50)**

CYP(4)-24-13 – Paper 5

Angela Jardine, Chair

Gary Brace, Chief Executive

#### **4 Education (Wales) Bill: Stage 1 – Evidence Session – Estyn (11.15 –**

**12.00)** (Pages 51 - 61)

CYP(4)-24-13 – Paper 6

Ann Keane, Chief Inspector

Meilyr Rowlands, Strategic Director

Jassa Scott, Assistant Director

**5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

Item 6

**6 Committee Forward work programme 12.00 – 12.15** (Pages 62 - 66)

CYP(4)-24-13 – Private paper 7

**7 Papers to note** (Pages 67 - 71)

CYP(4)-24-13 – Paper 8

Correspondence from the Deputy Minister for Social Services re scrutiny of the Social Services and Well-being (Wales) Bill

## Paper 1

### National Assembly for Wales

### Children and Young People Committee

### Education (Wales) Bill : Stage 1

### Response from : Association of Teachers and Lecturers (Cymru)

#### Introduction

The Association of Teachers and Lecturers (ATL) represents over 160,000 teachers, lecturers, head teachers, principals, and support staff across the UK in maintained and independent schools, further education colleges and sixth forms. It represents over 6,500 education staff in Wales.

ATL welcomes this opportunity to share the thinking of professionals from across schools and Further Education Colleges. Our evidence is based on consultation and discussion with our members who are drawn from across the workforce.

#### Overview of the Bill

##### Education Workforce Council

We are pleased that the Bill seeks to maintain and enhance the professional standing of educational staff by proposing the retention and extension of the General Teaching Council. We are convinced that the de-professionalization agenda being pursued by the Westminster government, shown *inter alia* by the abolition of the General Teaching Council for England, will eventually lead to lower standards, poorer achievement, and a worsening of the educational experience for youngsters. We see the work done by heads, teachers and support staff as an intellectual endeavour requiring professional judgment and training. It is far more than a craft.<sup>1</sup> Teaching is the key component in raising standards in the classroom as many international studies have shown.<sup>2</sup> We believe that a properly constituted education Council could play an invaluable role in enhancing and

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<sup>1</sup> See 'Teacher Professionalism' for ATL's view on the vital importance of seeing teaching as a profession - <http://www.atl.org.uk/policy-and-campaigns/policy-library/teacher-professionalism.asp>

<sup>2</sup> See, for instance, the McKinsey Reports - <http://www.shift-learning.co.uk/useful-links/153-mckinsey-report-2007-how-the-worlds-best-performing-school-systems-came-out-on-top.html>; and [http://www.mckinsey.com/client\\_service/social\\_sector/latest\\_thinking/worlds\\_most\\_improved\\_schools](http://www.mckinsey.com/client_service/social_sector/latest_thinking/worlds_most_improved_schools)

promoting the profession, raising standards, and improving the educational experience of youngsters.

We have always been a critical friend of the current General Teaching Council and welcomed its establishment in 2000. Although that body was not perfect we believe that it has done much to protect and advance the professional reputation and standing of teachers. We would now like to see the development of a truly independent body that would become over time an authoritative voice for all educational professionals in Wales. For this reason we welcome the provisions in the Bill that extend registration to Further Education staff and support staff. We believe these are part of a professionalization agenda which is to be applauded.

However, as it stands the Bill's provisions for the proposed Education Workforce Council are inadequate. At several points, as illustrated below, the proposed council is construed in such a way as to make it little more than a tool of government. The proposed body seems to be something that does things *to* teachers and support staff, rather than one that does something *for* them and *by* them. The focus of the new body seems almost exclusively focussed on discipline and regulation. The proposed appointments process suffers from an extreme democratic deficit. Unless the fundamental issues of purpose and ownership are addressed any new body will be hamstrung from the start. It will not command the respect of the profession it purports to promote and regulate. The proposed body as it stands will be appointed by the Minister, will make representations to the Minister only at the Minister's behest, and will engage in discussions with other stakeholders only with the Minister's permission. If it is to be credible the new body must be elected, at least in some part, and be able to express the concerns of the profession on its own initiative. We also think that to deny any element of democratic accountability and yet require as a condition of employment that staff pay to be registered with the new body infringes the fundamental principle of no taxation without representation.

### **Other provisions**

In the main members welcomed the Bill's provision for pupils with special education needs, and we very pleased to see that the Bill contains provisions for the standardisation of school term dates across Wales.

### **Detailed examination of the Bill**

(In this section we follow the structure of the Bill and the numbering is provided accordingly)

#### **Part 2. Education Workforce**

**2.(1)(b). Education Workforce Council.** The proposed renaming of the General Teaching Council for Wales to become the 'Education Workforce Council' is inadequate. Such a title is jejune and pedestrian. The title of the new body needs to establish both the professionalism of its members and also the essential role they play in teaching and learning. Doctors are registered with the General Medical Council and that the General Dental Council includes all dental professionals. We would suggest that the new body be called by some more appropriate title such the 'General Education Council' or 'Teaching Professions Wales'.

**3. Aims of the Council.** We would add in addition '(c) to promote the professional standing of teachers and support staff'.

**6. Directions. (1)**We believe the word 'must' is too strong in this context. We would suggest that it is changed to 'have due regard to'. This would ensure the independence of the new body

**7. Advice (1).** Conversely we believe that the use of 'may' is too weak and this construal of the relationship between the Council and the Minister too passive. We suggest that it is changed to 'The Council may provide the Welsh Ministers with advice on -'.

**(4).** We think this restriction is unnecessary. The Council should be able to decide to whom it should give advice on its own authority.

**12. Registration fees.** The failure to refund the registration fee in full created a great deal of resentment when it first occurred. The Government would be wise to proceed with caution when proposing an increase of the fee for all or any of those to be registered. It would be reckless to levy a fee while simultaneously denying any democratic representation to the workforce. We believe that as registration is a condition of employment then these fees should be met in full by employers as is the case with the fees payable by public sector employees to many other professional bodies. We are aware of the modelling contained as an Annex to the *Explanatory Notes* and are grateful for the explication of various possible solutions, but we think that the matters of principle that we have raised in regard to the new body need to be resolved first. We would expect full and meaningful consultation about the level of any proposed fee.

**14. School teachers and school learning support workers.** While we welcome the extension of registration to school support workers as befits their professional standing, care will need to be exercised in regard to definitions of which workers actually qualify as such. We cannot see why the definition given in regard to FE support workers at 16.2 could not *mutatis mutandis* be used for school support workers. However, we believe that

some sort of scoping exercise should be undertaken to determine the possible increase in the workload generated by the extension of the registration remit to FE and support staff before the requirement to register is rolled out.

**24. Code of Conduct and Practice.** We are not convinced that the Welsh Ministers are the appropriate persons to prepare and publish a code specifying the standards of professional conduct. It is provided at (4) that the Council will have powers to review that code in any case. We think it better that the current GTCW Code be appropriately modified after discussion with relevant stakeholders. This will give the profession greater ownership of the Code by which it is regulated.

**26. Disciplinary Functions. 3(c).** We welcome the inclusion of this clause which we hope will facilitate outcomes that are acceptable to both the Council and the member under investigation.

### **Part 3. Persons with learning difficulties**

Members were supportive of the sections of the Bill relating to the provision of special education by independent schools. Some believed that this new registration process would improve and standardise the quality of support on offer. We are supportive of the proposal that would see yearly visits by Estyn of such registered establishments.

Members were largely supportive of the changes outlined for changes to assessments for persons with learning difficulties. It was thought this would lead to more seamless delivery of services, better provision, and also ensure that those with ALN did not 'fall between the gaps'.

### **Part 4. Miscellaneous Provision**

There was universal welcome for this long overdue implementation of standardised term dates across Wales for all the reasons previously rehearsed. ATL Cymru has campaigned and worked for such a change for many years.<sup>3</sup> We believe that the new clauses outlined in **32B**, (at **49** in the Bill) giving the Minister the power to determine dates is essential. We are saddened that such a power is still necessary and that some local authorities even now are too concerned to protect their local fiefdoms than to consider the bigger picture and wider needs.

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<sup>3</sup> See our response to the consultation on School Term Dates. <http://www.atl.org.uk/Images/Reform-of-school-term-dates-120828.pdf>

## Schedule 1

**1.The Council.** We would add after (b) as point (c) 'is not a servant or agent of the Welsh Ministers'.

### **3. Membership.**

(1). We are prepared to accept that the Minister can set the parameters for the size of the body.

(2). This is completely unacceptable. One member described this power of appointment as the formation of a 'Yes Minister Club'. *All* others were opposed to this being the only route to membership and cited the loss of credibility of the new Body if this were to be enforced. We see no reason why the constitution of the General Teaching Council for Scotland should not serve as a model. The majority of its members are elected by the profession themselves and the rest appointed by key stakeholders. (We have appended an annex on the GTCS at the end of this evidence).

Dr. Philip Dixon

Director

The Association of Teachers and Lecturers

## **Annex: The General Teaching Council Scotland**

### **Introduction**

Established in 1965, GTC Scotland was the first such professional, regulatory body for teaching and teachers in the United Kingdom and one of the first teaching councils in the world. In April 2012 an Order conferred independent status on GTC Scotland, with enhanced powers and greater flexibility of operation. As a result GTC Scotland became the world's first independent professional, regulatory body for teaching. Under the Order the GTC Scotland's general functions are to:

- keep a register of teachers
- establish and review the standards of education and training appropriate to school teachers
- establish and review the standards of conduct and professional competence expected of a registered teacher
- investigate the fitness to teach of individuals who are, or are seeking to be, registered
- keep itself informed of the education and training of individuals undertaking courses for the education and training of teachers
- consider and make recommendations to Scottish Ministers about matters relating to teachers' education, training, career development and fitness to teach as well as the supply of teachers
- keep such registers of other individuals working in educational settings as it thinks fit
- maintain a scheme of Professional Update for teachers

### **The Council**

- GTC Scotland is governed by a Council made up of teachers, educationalists and lay members that makes decisions on matters of strategy and policy. The Council has a significant role to play in shaping the teaching profession of Scotland and maintaining and improving professional standards. It does this by developing and monitoring the strategic direction of, and policy for, GTC Scotland.

Council membership follows a rolling programme with election, nomination and appointments processes taking place every two years and half of the members stepping down at the end of each two year period. This is based on a four year term of office for Council members.

### **Structure**

The Council is made up of 37 individuals who fall into one of three categories:

19 elected registered teachers;

11 members nominated by educational stakeholders as follows:

- 3 by the Convention of Scottish Local Authorities (following consultation with the Association of Directors of Education in Scotland)



- 3 by Universities Scotland (following consultation with universities providing recognised teaching qualifications for individuals seeking registration as either teachers or further education lecturers)
- 1 by the governing bodies of the Further Education Colleges
- 1 by the Scottish Council of Independent Schools
- 1 by the Church of Scotland
- 1 by the Roman Catholic Church
- 1 by Parent Councils and Combined Parent Councils;

7 lay members appointed, following an open and fair selection process, by the independent Appointments Committee.

## **Paper 2**

### **National Assembly for Wales**

#### **Children and Young People Committee**

#### **Education (Wales) Bill : Stage 1**

#### **Response from : University and College Union Wales (UCU Wales)**

##### **Introduction**

1. The University and College Union (UCU Wales) represents more than 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across Wales.
2. UCU Wales is a politically autonomous but integral part of UCU, the largest post-school union in the world: a force working for educators and education that employers and the government cannot ignore.
3. UCU Wales was formed on 1<sup>st</sup> June 2006 by the amalgamation of two strong partners - the Association of University Teachers (AUT) and the National Association of Teachers in Further and Higher Education (NATFHE) who shared a long history of defending and advancing educators' employment and professional interests.
4. UCU Wales welcomes the opportunity to respond to the Education (Wales) Bill.

##### **Registration of the Education Workforce and the creation of the Education Workforce Council**

5. It is agreed that there has been a significant change to the education workforce in Wales, in the past ten years and that collaborative working practices have shifted the boundaries between education sectors. Barriers to co-operation and mobility of the education workforce need to be removed. It is appropriate, therefore, that FE lecturers and should be given the professional recognition and status afforded to their counterparts in schools.
6. The creation of a professional body that represents educational practitioners from across the educational workforce would help to enhance public perception of the roles and value of the wider workforce. Like many other professional bodies, it should seek to promote and maintain professional standards, agreed by practising professionals in that field. We would like to see reference to professionalism reflected in the title of the new body.

7. We welcome the proposal to create an Education Workforce Council, that supports and promotes the practices of the wider education workforce, and that the council should comprise of a majority of registered or recently registered practitioners. We would like to suggest that “recently” should be defined as within the last twelve months. It is agreed that professionalism, suitability, standards of conduct and training and development of the education workforce are important factors in achieving a high performing education system. However it is crucial that such standards are set by practising educational professionals, who have clear understanding and experience of educational principles.
8. With this principle in mind, we ask that the responsibility for appointing members of the Council should be delegated to practicing educational professionals and that members of the Council be voted into office by the Education Workforce.
9. The importance of the council being seen as a credible body for educational professionals is crucial in avoiding similar opposition to that levelled at the Institute for Learning (IfL) in England, which was criticised for having a narrow, managerialistic view of professionalism, which was distanced from the experience of teachers.<sup>1</sup> We would not wish to see any such difficulties transferred to the Education Workforce Council. This is an opportunity to create a professional body that will support and develop the skills and credibility of education professionals and so promote top quality teaching and learning standards in Wales.
10. In the event that members are to be appointed Welsh Ministers as outlined in Schedule 1 3(2), we would hope that Ministers will consult with the relevant teaching unions.
11. In recent years UCU members have experienced a shift in the definition of educational professionalism, from one of trust and autonomy in professional judgement, to one of the ability to meet targets and achieve outcomes. UCU would like to see the role of defining professional standards in education, returned to qualified and experienced educational practitioners. Whilst it is important that the Education Workforce Council enhances public confidence in the profession, it is unlikely that this will be achieved unless educational professionals themselves have confidence in their own professional body. Therefore we agree that the council must consist of a majority of practising education professionals. This will help to ensure that the Council, in its capacity to provide advice to its members, promote careers, produce codes of conduct and investigate professional conduct, will be able to do so with the benefit of having appropriate experience and understanding of professional issues in education at its core.
12. Although there has been an increase in the flexibility of the education workforce across the school and FE sectors, it is acknowledged that there

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<sup>1</sup> Initial submission from UCU to the Independent Review of Professionalism in the Further Education (FE) and Skills Sector. <http://www.ucu.org.uk/iflfee>

are still some distinctions, which for the purposes of this Bill require the creation of differing categories within the education workforce. However, in the interests of providing flexibility, there should perhaps be consideration for individual needs, as well as the workforce as a whole. For example, currently a teacher with QTS can transfer easily to become a lecturer employed by a Further Education Institution (FEI), if they so wish. The same cannot be said of a lecturer with comparable qualifications and experience, who wishes to take up employment as a teacher in a maintained school, without having to undertake further qualifications and training. This could perhaps be an area that the Education Workforce Council could address in the future.

13. With regard to fees for registration and membership with the Council, UCU Wales is not opposed to this in principle; it is a requirement of many other professions. However, where compulsory fees and registration are a requirement of those wishing to practise, care should be taken to ensure that it does not cause financial difficulties for members and that the body must provide a democratic and accountable service that supports and promotes the education profession.

14. UCU's preferred model would be similar to the Higher Education Academy whose mission is to:

"use our expertise and resources to support the higher education community in order to enhance the quality and impact of learning and teaching".<sup>2</sup>

The academy is a voluntary, non-fee paying organisation which promotes the sharing of good practice. It provides a framework for professional standards and a professional recognition service, as well as events and workshops to help advise and support educational professionals in HE, throughout their careers.

15. Professionalism is important to our members, who clearly demonstrate this through the commitment that they show to their students, despite increasing workloads and lack of resources, and the fact that many of them give up their free time to ensure that the best possible results can be achieved. We would like to see a body that fully supports and promotes professional recognition, provides appropriate guidance and opportunities for meaningful professional development, and supports a network of professional links for the sharing of good practice.

16. If fees are to be payable, they should be proportionate to salary. It is acknowledged that currently, teacher's fees to the GTCW are reimbursed in part, as set out in the School Teachers Pay and Conditions Document. If this arrangement is to continue, then in the interests of equality, similar arrangements should apply to all other categories of the education workforce. It would be inappropriate to compel registration to a professional body, set up in the interests of promoting the equality of professionalism across differing strands of the workforce, only to operate

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<sup>2</sup> <http://www.heacademy.ac.uk/about>

unfair practice against some members of that body, thorough differing fee subsidies.

17. Alternatively, consideration should be made that all or part of the registration fee is paid by the employer, demonstrating their commitment to educational professionalism and high quality teaching and learning.
18. UCU Wales would, however, be totally opposed to the payment of fees to a body, to which membership was compulsory in order to practice, if that body did not reflect the professional ethos of its members.

### **Appraisal of registered persons**

19. There is currently an agreed Performance Management and Review scheme in use in FE, which allows lecturers access to the upper pay scales. Incremental progression within grade is not subject to satisfactory appraisal, although incremental progression can be withheld if an individual is subject to a disciplinary procedure. In our opinion, the persons best placed to make decisions as to what constitutes appropriate appraisal of educational professionalism, are practicing educational professionals. If however, this were not the case, we would like to see the current arrangements for appraisal in FE, reflected in any future regulation that might be made and that relevant teaching unions are consulted on the regulation of the appraisal of registered persons.

### **Code of conduct and disciplinary functions of the Council**

20. It is accepted that professional bodies have disciplinary functions to deal with unprofessional conduct and professional incompetence in order to promote and maintain both professional and public confidence. However there are concerns that disciplinary action or inquiry should not be made public unless a decision is upheld to permanently bar an individual from registering with the Council. The consequences of negative publicity can be very damaging. This is particularly important considering that 55% of accusations against teachers in Wales between 2006 and 2011 were false, malicious or unfounded.<sup>3</sup> Whilst it is quite right to take the allegations of young people seriously, teachers also need to be protected. The increase in student charters and the rise of the student voice is enabling the wishes and concerns of young people to shape the future of their education, but it is not acceptable to ruin the professional reputations of those who are later exonerated
21. With regard to registration appeals and disciplinary orders, it would also seem an opportune moment to introduce the right of appeal to the Council in the first instance, rather than having to go straight to the High Court.
22. We are concerned that section 29 and 30 make reference to conditional registration orders and suspension orders "without limit of time". If orders are made that affect a registered persons professional standing, clear decisions need to be made about the length of time that the order

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<sup>3</sup> <http://www.bbc.co.uk/news/uk-wales-16927479>

remains in force. It is not acceptable to hold a person's professional status in question for an unlimited period of time.

23. In order to promote confidence in the new body, from those who will be required to register, care should be taken, regarding the provisions in the Bill for Welsh Ministers to make regulations about the nature of disciplinary hearings and the Code of Conduct . We have concerns that if Ministers have responsibility for drawing up the Code of Conduct, this may be regarded as contrary to the principles of having a professional body, made up of educational professionals, for the benefit of education professionals. We believe that the Council, as members of the respective education professions and having knowledge and experience of relevant professional ethics, should have the responsibility for this task.
24. Again, if it is considered more appropriate for Ministers to prepare and publish a code of conduct and to regulate the disciplinary functions of the Council, we would wish this to be carried out in full consultation with the relevant teaching unions.
25. It is noted that the aims of the Council are to:
- Contribute to the improvement of standards of teaching and the quality of learning in Wales; and
  - To maintain and improve standards of professional conduct amongst teachers and others in the education workforce who support teaching and learning.

The main proposals outlined in the Bill, for the functions of the Education Workforce Council focus around registration, conduct and discipline. We agree that professionalism and standards of conduct are pivotal to the success of the education workforce. The way that the majority of teachers and lecturers already conduct themselves on a daily basis, is testimony to that. However, we would like to see a more equal emphasis on the importance of providing a body that actively promotes and makes provision for the continuing professional development of its members, throughout their careers, in order to create a professional body that is supportive rather than punitive.

### **Information Duties**

26. It is accepted that the Council will need to maintain records about people that are required to register. We recognise that there is a need for certain bodies to have access to information held on the Register, however we have concerns about exactly who these bodies would be and the nature of the information that would be released. We would like to see further information regarding the powers that Welsh Ministers will have to require the Council to provide information to other persons and bodies, who such other persons or bodies might be and the nature of the information that may be required.

### **Assessment of post 16 SEN**

27. It is agreed that the status quo is not the way forward and that all children should be able to access education services that allow them to achieve their potential. Therefore the proposal to improve the links between schools and FEI's and to reduce bureaucracy is to be welcomed.
28. Changes to the assessment and appeals procedures will hopefully provide better access to appropriate learning pathways, to those with learning difficulties/disabilities. One of the consequences of this may be that there is an increase in the number of students with SEN who choose to take courses provided by FEI's, which may result in greater demands on financial and staffing resources. We would ask that the scope of the impact of such changes be fully explored and consideration be given to the need for staff development and teaching resources in Further Education to ensure that students with SEN/LLDD are able to access quality provision.

### **Harmonious term dates**

29. It should not be forgotten that staff in FEI's, particularly lecturing staff, are also subject to working within term dates and may well have childcare responsibilities of their own. Teaching commitments mean that annual leave cannot normally be taken during term times and therefore if term dates of the FEI differ to those of the school that the lecturer's children attend, taking annual leave to care for children, is not an option. Historically colleges have usually adopted the term dates of the local authority in which they are located and it is hoped that FEI's will be encouraged to continue this practice. In terms of the 14-19 agenda it is also desirable that Schools and FEI's have common term dates.

### **The appointment of HMCI and HMI**

30. We have no concerns over this section of the Bill. As education is devolved to Wales it would seem that the First Minister would better placed to make decisions about appropriate appointments.

## Paper 3

### National Assembly for Wales

### Children and Young People Committee

### Education (Wales) Bill : Stage 1

### Response from : NAHT Cymru

1. NAHT is an independent trade union and professional association representing more than 28,500 members in Wales, England and Northern Ireland. Members hold leadership positions in virtually every special school, 85 per cent of primary schools and more than 40 per cent of secondary schools, as well as many early years providers, independent schools, sixth form and FE colleges, outdoor education centres, pupil referral units, social services establishments and other educational settings.
2. Thank you for inviting us to submit evidence to the Children and Young People Committee on the Education (Wales) Bill. We look forward to discussing these matters further during our oral evidence session.
3. NAHT has always supported the existence of an **independent** professional body to represent and reflect the teaching profession in Wales.
4. The education workforce has changed and expanded markedly in the years since the GTCW was originally formed; we are pleased that the proposed Council recognises this. The proposed expansion in those required to register to the new Council to include FE teachers, and school and FE support staff will mean a far greater and more complex registration process. We think that this development should be carefully managed to make sure that each element is securely in place before moving on to the next.
5. In disciplinary cases, we believe that each sector of membership should be heard by their peers.
6. We are not persuaded that Welsh Ministers have a role in preparing and publishing a Code of Conduct **24(1)**. We do not believe it is the role of Government to draft a Code of Conduct for members of an independent professional body. This should be the responsibility of the Council itself in consultation with the profession it seeks to regulate and represent.
7. Clause **26.3(c)** is welcome.



8. We welcome the provisions in Part 3. The explanatory memorandum reflects members' own experience in navigating the complexities of the current system and agree that these must be resolved.
9. We have long argued that a standardisation of term dates is desirable and regret that legislation has proved necessary to effect this. Committee members may also like to be aware that NAHT has long argued that the current three-term school-year pattern should be revisited.
10. In order to command the respect of the professionals it seeks to regulate, the new body will need to be demonstrably independent. We are not persuaded that the membership of the Council as laid out in **Schedule 1** is at all helpful here.
11. We look forward to a further consultation on the detail of the fee arrangements. Member response to this is again likely to be coloured by their view of the emerging new body. Its independence, its credibility with the profession will in large part determine how members perceive the fee. Some school leaders have indicated that they would be prepared to pay a fee for membership of a professional body for which they could have respect; they would not be happy to pay if they doubted its independence and felt unrepresented by it. Being required to pay a registration fee as a condition of employment to a body perceived to be a quango would not be acceptable.

## **Paper 4**

### **National Assembly for Wales**

#### **Children and Young People Committee**

#### **Education (Wales) Bill : Stage 1**

#### **Response from : The Association of School and College Leaders – (ASCL) Cymru**

The Association of School and College Leaders (ASCL) represents over 17,000 heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of maintained and independent schools and colleges throughout the UK. ASCL Cymru represents school leaders in more than 90 per cent of the secondary schools in Wales.

##### In brief

ASCL Cymru welcomes the Bill, and believes a great deal of it makes good sense.

There are, however, some matters that would benefit from further discussion and clarification. These relate almost completely to the proposed Education Workforce Council.

Establishing a new Education Workforce Council is a significant undertaking. It is intended to have a broad footprint and has important functions to perform. How it sets about these functions, and who does it, are important questions. Resolving these matters satisfactorily will be key to gaining the confidence of teachers and others within its footprint.

It is essential that professionals in the education workforce have confidence in the institution. It is this confidence that will lend the Council the authority - not just the power - to lead on safeguarding professional standards.

Without having confidence in this new institution, professionals might also be forgiven for wondering what they get in return for their registration fee.

##### In detail

#### **Education Workforce Council**

Teachers would benefit from having a truly independent professional body, which had a clear focus on the core issues for any profession: establishing and maintaining standards, promoting peer-led disciplinary mechanisms that have integrity, and contributing positively to recruitment into the profession.

The Bill seeks to create a professional body which will include teachers but also other members of the education workforce - including support staff, FE teachers and FE support staff. It is essential that the body is seen as valuable to all that are meant to be engaged by it and those that are required

to pay for it. Again, it is imperative that the Council has a clear focus and sets about its core activities with purpose and clarity.

Paying for the new body is an issue that will need more discussion. It is unclear how the new categories of staff will be supported to pay their registration fee.

On disciplinary matters, there is a new provision to allow the Council to make a determination without a hearing if there is consent; this is a good thing as it secures an outcome without undue public speculation.

If the Council is to be truly representative of the profession or professions that it represents, the matter of selecting the Council members and the Chair of the Council so that all categories are represented is important.

Greatly expanding the number of staff that are covered by this new Council will increase funds (if registration fees get paid). But the number of disciplinary cases may increase greatly, too. Delay and spiralling costs are a worry.

The Bill will give Welsh Ministers the power to 'prepare and publish the first Code of Practice and Conduct' for those required to register the new body. Clearly, such a code is rightly a priority for the new Council. But it seems strange that it is not simply left as a key task for the Council to get on with in consultation with the profession, rather than having it rest with Welsh Government.

The Bill gives Welsh Ministers the function of appointing members to the Council. They would do this on the Nolan principles of public appointments. The power of appointment, used wisely, can accelerate change and ensure that there's a good fit between person and post. But it sits uncomfortably with the notion of a 'professional body' that is meant to be (or should be) 'of the profession and for the profession'. It might also create doubt about the status of the body in the minds of those that are meant to be paying their registration fees to support it.

An alternative to Ministerial control would be to follow the example being pursued for the Auditor General Service, where Board appointments are by the Assembly and not the Minister.

It is proposed that the Chair is appointed from among the Board, who are appointed by Welsh Ministers using the Nolan principles. There is a case for making the appointment of the Chair a specific appointment that conforms to the Nolan principles. It would avoid any danger that a group of interests within the Board conspire to secure a preferred Chair.

### **The registration and approval of independent schools in respect of SEN**

This appears sensible, as long as what is brought in is less cumbersome for all concerned than what is currently in place.

**Improve the assessment of ALN for post-16 learners.**

Again, this appears sensible, as long as it brings in an arrangement that is less complicated for all and delivers a better outcome for the learner.

**School term dates**

Harmonising school term dates across Wales will be welcomed by those in and outside of school.

**Appointment/removal of HMCI and HMI**

Giving the First Minister the responsibility to advise Her Majesty on this appointment, rather than the Secretary of State in London, is a good thing.

Robin Hughes

Ysgrifennydd ASCL Cymru Secretary

CYNGOR ADDYSGU CYFFREDINOL CYMRU  
GENERAL TEACHING COUNCIL FOR WALES

**SUBMISSION TO CHILDREN & YOUNG PEOPLE COMMITTEE**

**EDUCATION (WALES) BILL**

## PREFACE

### A Charter for Teaching Councils

This Charter has been drawn up by the associate Councils<sup>1</sup> that comprise the *International Forum for Teacher Regulatory Authorities*. Its purpose is to gather together the typical benefits, purposes and functions of teaching councils so that policy makers and those with an interest in promoting teacher professionalism and strengthening teacher accountability internationally can draw from the experience of existing councils to promote best practice globally and to assist in the establishment of new Councils.

#### **Purpose:**

Teaching Councils usually have three, allied, purposes:

- to improve standards of teaching and learning in their jurisdictions,
- to raise the standing of the teaching profession, and
- to assure the public of the conduct and competence of teachers

#### **Benefits:**

- Higher standards of teacher conduct and competence
- Improved learning outcomes for children and young people
- Higher levels of public trust and confidence in the teaching profession
- Improved self-esteem of teachers through association with a professional regulatory body
- Clear accountability for professional standards and conduct

#### **Functions:**

The functions carried out by teaching councils include:

- Maintaining a register of those qualified and fit to practise
- Advising on or establishing professional standards / competences for entry to the profession
- Ensuring that registered teachers meet the expected standards
- Setting standards for, advising on, and monitoring programmes of initial teacher education
- Setting standards for, advising on, monitoring or making provision for teachers' continuing professional development
- Commissioning, facilitating or undertaking research into effective practice

These functions are usually discharged by:

- Publishing a code of ethics / conduct / practice
- Investigating and adjudicating on the fitness to practise of individual teachers including their professional conduct and/or competence
- Drawing upon research and evidence to advise policy makers and service providers on effective policies to improve standards of teaching and learning
- Assessing the suitability of those who wish to train as teachers
- Maintaining a register which may include different categories of registration, according to practitioners' qualifications
- The accreditation of initial teacher education courses

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<sup>1</sup> 'Teaching Councils' is used consistently in this Charter to describe the functions and purposes of bodies that may have other titles, such as a Teacher Registration Board or a College of Teachers.

**Founding principles that distinguish Teaching Councils:**

- Teaching Councils work first and foremost for the common good and in the public interest
- Teaching Councils have an established statutory and legal basis
- Teaching Councils are independent of government direction
- Teaching Councils promote the teaching profession rather than the interests of individual teachers
- Teaching Councils promote professionally-led regulation

**The most effective Teaching Councils:**

- **Command the respect of the public and the profession**
- **Are the pivotal agency for governments on teaching quality**
- **Enhance teacher professionalism by raising standards of practice, and improving initial and continuing education**
- **Maintain and make public an accurate register of teachers' qualification status and fitness to practise**

## **Executive summary**

As the body being reconfigured to become the professional regulatory body for a wider group education practitioners, the GTCW is well-placed to offer advice on this Bill.

The key points in our submission are:

1. GTCW welcomes the extension of professionally-led regulation to Further Education teachers and to teaching support staff in schools and FE.
2. Teachers and support staff in independent schools should be required to register;
3. The Bill should enable Council to give advice of its own volition, to determine who it will advise and to publish its advice without prior Ministerial consent
4. The Council, not the Minister, should develop the first as well as subsequent Codes of Professional Conduct & Practice.
5. An independent process should be established for the appointment of Council members rather than members being appointed by Ministers.
6. The Bill should make explicit the Council's responsibilities for professional standards, accrediting initial training courses and quality assuring continuing professional development;
7. The word 'teaching' or 'professions' is omitted from the organisation's title. The title of the organisation '*Education Workforce Council*' does not convey the professionalism of existing teachers or the future widened group of education practitioners. A title such as '*The Teaching & Education Professions Council for Wales*' would be more appropriate.
8. The basis for professional standards casework should be redefined as 'fitness to practise', rather than 'unacceptable professional misconduct, serious professional incompetence or relevant criminal offence'.
9. The Council should be allowed to set its registration fee without the approval Ministers.
10. The Minister should not be involved in the approval of the pay scheme for the Council's employees. The Council, not the Minister, should be responsible for the appointment of its Chief Officer. These are internal matters for an independent, self-financing organisation.
11. A focused communication campaign with new registrant groups about the reconfigured body should begin well in advance of the reconfigured body coming into existence.

This submission covers further points including technical detail.



## **Background and role of the GTCW in the context of professional regulation**

1. The General Teaching Council for Wales is the statutory, self-regulating professional body for teachers in Wales. It seeks to raise the status of teaching by maintaining and promoting the highest standards of professional practice and conduct in the interests of teachers, pupils and the general public.

The Council aims to provide an independent, representative and authoritative voice for the teaching profession in Wales and seeks to provide robust advice to the Welsh Government and other organisations on teaching issues.

2. The Council came into being on 1 September 2000 following the passing of the Teaching & Higher Education Act by the government in Westminster in 1998. This followed a campaign of more than a decade by a range of individuals and organisations, including active involvement by the teacher unions.
3. The Act, for the first time gave the teaching profession certain responsibilities in the areas of professional regulation and advice through the establishment of separate GTCs in Wales and England. The Act also enabled the GTCW, at the request of Ministers, to carry out activities in the areas of continuing professional development and recruitment to the profession. There are currently some 38,000 teachers registered with the GTCW. Refinements to the responsibilities of the Council were made via the 2002 Education Act.

### *Developments in professional regulation in UK*

4. In recent years, the inability of some professions in the health sector to police themselves has led to their reform and of a more fundamental criticism of self-regulation. The Shipman case, for example, raised significant criticism of the GMC and led to its reform following Dame Janet Smith's report. Following this, there has been a general move away from 'self-regulation' and the majority of health regulators now have a majority of lay persons representing the patient' interest on their Boards. It is believed that this makes it more likely that the professional regulator will act in the interests of the public rather protecting the profession.
5. The Professional Standards Authority for Health and Social Care, the body which oversees statutory bodies that regulate health and social care professionals in the UK, published a paper '*Fit and proper? Governance in the public interest*' (2013) which summarises some of the general principles of public body governance. Chapter 6 of that document is reproduced at Annex A and may be considered relevant to the Committee's consideration.
6. The GTCW has avoided the criticisms made of the professional regulators in the health sector because of the robust and fair way that it has carried out its regulatory responsibilities and because the current legislation requires the Council *to act in the public interest* in pursuance of its aims. This is a fundamental principle in effective professionally-led regulation.

### *Developments in professional regulation in teaching*

7. In the United Kingdom, separate Teaching Councils exist in Wales, Scotland and Northern Ireland (the GTC England having been abolished). The GTC Scotland has recently become independent of government there and, in a recent consultation, the government in Northern Ireland has also signalled its intent that the GTCNI should become wholly independent of government. There is also a Teaching Council in Ireland.
8. In Europe, there is interest from the European Union in exploring the potential for developing teacher professionalism via extending professionally-led regulation beyond the existing Councils in the UK, Ireland, and Malta. Interest in establishing Teaching Councils has variously been expressed in Portugal, the Netherlands and Denmark.
9. Globally, Teaching Councils are largely a feature of the Commonwealth countries with Councils in existence in each of the Australian states, New Zealand, Ontario, South Africa and Nigeria. The Commonwealth Institute has agreed that the extension of professional regulation would be a beneficial move with the eventual aim of the mutual recognition of teacher

registration and qualifications and it has encouraged member states to work towards the establishment of Teaching Councils as a first step. These are in various stages of development in certain African, Caribbean and Far Eastern states.

10. The International Forum for Teacher Regulatory Authorities - which includes all the existing professionally-led Teaching Councils across the globe - has published '*A Charter of Teaching Councils*' (see Preface). This Charter draws together the typical benefits, purposes and functions of teaching councils so that policy makers can draw from the experience of existing councils to promote best practice globally and to assist in the establishment of new councils. **The GTCW believes this Charter is the benchmark against which to measure the Bill's proposals for the reconfigured Council.**

## Introduction

11. The General Teaching Council for Wales welcomes the Education (Wales) Bill. The Council has argued for extending professionally-led regulation to other education practitioners and sectors. In 2009, the Council argued the case for professionally-led regulation in Further Education from the perspective of ensuring consistency and coherence for 14-19 year olds (see Annex B). In response to the broadening of school staff, Council published a position paper (2010) on the case for extending professionally-led regulation to persons directly supporting teaching and in contact with pupils (see Annex C). The Council is, therefore, very pleased to see the Bill propose the extension of professionally-led regulation to school teaching assistants and Further Education teachers and support staff. However, the failure to include teachers and teaching assistants working in the independent schools sector is an important omission from the Bill.
12. There are also some areas in which the Bill falls short of the potential it has to further expand the professionalism of teachers and education practitioners. Notably, the Bill does not give the reconfigured Council ownership of professional standards, responsibility for approving the professional appropriateness of courses of initial training or the quality assurance of continuing professional development.
13. Unlike the two Welsh Government consultation documents which preceded the Bill which used the language of professionally-led regulation, in practice the Bill restricts the potential of the reconfigured professional body. For example, requiring the body to have Ministerial permission before it can offer advice and specifying that the profession's own Code of Conduct & Practice (previously conceived, devised and promoted by the GTCW) will be created by the Minister in the first instance, weakens professionalism and fetters the independence of the reconfigured Council.
14. These and other points are expanded in Section 1 of this submission. If these points can be addressed, the Council believes that the Bill has the potential to become good legislation.

## **1. GENERAL PRINCIPLES AND THE NEED FOR LEGISLATION**

### **(a) Omission of reference to ‘acting in the interests of the public’**

The Council notes a fundamental difference between the aims of the new body in paragraph 3 of the Bill and those of the existing GTCW in that the words “*in the interests of the public*” have been omitted. The Council considers this to be an important omission as a key underlying principle of professional registration and regulation is that bodies discharge their legislative responsibilities to *specifically safeguard the public and maintain public trust and confidence in a particular profession*. This is a unique and significant responsibility.

Indeed a number of regulators, such as the General Medical Council and the Nursing and Midwifery Council have been subject to high profile national scrutiny and criticism in the past for failing to protect the public. For example:

- the government’s inquiry into Harold Shipman which was concluded in 2005 and was chaired by Dame Janet Smith, stated in its conclusions that “*It is clear that its (the GMC) approach laid greater emphasis on the interests of the doctor than on ensuring the safety of patients*”;
- the Special report to the Minister of State for Health Services on the NMC in 2008 stated that “*there are serious weaknesses in the NMC’s governance and culture, in the conduct of its Council, in its ability to protect the interests of the public through the operation of fitness to practise processes and in its ability to retain the confidence of key stakeholders*”.

It will be extremely important that new registrants and their representative organisations understand that the new body’s role is to protect the public and are clear that the remit of the organisation is different to that of other bodies such as trade unions and associations, local authorities and employers. Confusion by teachers and representative organisations about the GTCW’s primary function and role was an early and recurring feature and was also one that dogged GTCE before its demise.

**The Council would request that the phrase “*in the interests of the public*” is added following the two aims of the Council in Section 3.**

### **(b) Defining new registrants**

The Council recognises that new legislation is necessary to extend registration and regulation to a wider group of education practitioners and notes that the Bill defines the groups to be registered in a broad fashion, namely

- school teachers and school learning support workers;
- Further education teachers and further education learning support workers.

In developing secondary legislation and defining categories of registration, the Council would encourage the Welsh Government not to specify particular “jobs” that should be subject to registration in Regulations. The Council has found that Welsh Government legislation has been at its most effective when it has been “enabling” rather than over-specific, for example, through Regulations, the GTCW was enabled to define the criteria for determining ‘suitability for registration’ in 2006. This has allowed the Council to respond quickly to issues as they arise. The Council, therefore recommends that flexibility is afforded to the reconstituted Council to define the categories of registration and provide guidance as to which roles will need to be registered in future.

**(c) Similar functions but increased government controls**

The regulatory, advisory and operational functions of the reconfigured Council are very similar to those of the GTCW, yet there are a number of clauses within the Bill which increase government control over its operation. Although, like the GTCW's status, the reconfigured body will remain an independent professional self-regulatory body funded by practitioners' registration fees, the increased government controls are the hallmarks of a WGSB. Examples include:

- Section 7 of the Bill stipulates that the new body may provide advice on relevant matters or any other matter relating to teaching and learning. However, the new body will only be able to provide such advice with prior Ministerial consent. Furthermore, the new body may not publish any such advice without Ministerial approval. (further details see 1f following);
- the first Code of Professional Conduct and Practice will be developed by the Minister rather than by the professions themselves through their registration body (further details see 1g following);
- the body will be required to comply with directions given by Welsh Ministers (further details see 4b following);
- Welsh Ministers will appoint all Council members, unlike the current arrangements where members are elected and appointed via the Public Appointments process following nomination or directly. A more common model amongst other bodies is for the body itself to appoint members based on an open and transparent selection process and a well-developed set of competencies for members (further details see 4c following);
- Welsh Ministers must approve the pay scheme for its employees and publish it in a form which Ministers may specify (further details see 4d following);
- Welsh Ministers may specify who is to appoint the Chief Officer, the procedure for his / her appointment and their remuneration, terms and conditions (further details see 4e following).

The Council believes that there would be advantages to the Welsh Government to keep a number of these matters at arm's length rather than having direct operational responsibility for them. Such an approach would also be more consistent with other professions where registration and regulation is professionally-led and demonstrate the government's trust in the wider teaching profession (see Preface 'Charter of Teaching Councils').

**(d) Welcome for the introduction of provisional registration**

The Council welcomes the intention in Sub-Section 9(5) of the Bill to realign existing teacher registration so that education practitioners will, in future, be provisionally registered until the time that they meet their respective Induction requirements. This approach is common in other professions and is one that the Council has long advocated. It will mean that only when a practitioner has evidenced that they are able to undertake their role to the required standard in a sustained and practical way (e.g. a teacher passing the Practising Teacher Standards) will they be recognised as a fully registered professional.

The Council wishes to highlight one practical matter which it would ask the Welsh Government to consider when developing secondary legislation on this matter. Induction was introduced in England in 1999 and in Wales in 2003. It will be necessary to clarify the registration status of persons who gained QTS prior to these dates.

**(e) Omission of the requirement to register for practitioners in independent schools**

The Council is concerned that the Bill places no requirement for teachers and support staff in independent schools to be registered. In other professions such as medicine, nursing or dentistry, it would be unthinkable for doctors, nurses, dentists or the staff that support them and who work in private practice not to be registered and subject to professional regulation.

Professional regulation requirements should apply irrespective of the practitioner's place of work.

Currently, a teacher can be dismissed following misconduct or incompetence in an independent school but can continue to teach both in the maintained sector or the independent sector without any referral to GTCW (unless the teacher has chosen to register voluntarily). This is clearly illogical, particularly when a teacher in the maintained sector could be subject to similar allegations, in which case their employer would be legally required to refer the matter to GTCW. The Council considers that **this loophole needs to be closed by the Bill requiring teachers and support staff in the Independent sector to also be regulated.**

**(f) Removal of ability of Council to advise of own volition**

Section 7 of the Bill specifies the areas in which the reconfigured Council may advise (and are very similar to the areas on which the GTCW may advise). The 1998 Act enables the GTCW to advise on the specified areas of its own volition and, additionally, Ministers may ask the GTCW for advice in other areas. However, the Bill states that the reconfigured Council cannot advise of its own volition (even in specified areas) or determine who it will advise without prior Ministerial (Section 7(4)); and it cannot publish its advice without prior consent (Section 7(7)). This appears to be an inappropriate level of control for an independent body.

As drafted, the Council would be prevented from using its insight and perspective independently. The reconstituted Council will not be a union, an inspectorate or government agency but an independent regulatory body. It will, like GTCW, be uniquely placed and equipped to speak on issues that impact on the wider education profession, based on evidence from research, the perspective provided from different phases and sectoral interests, and the coherence that a professional body brings. In other words, it provides: *'A clear professional voice, independent of government, but working with (them) to raise standards.'*<sup>2</sup>

By way of example, the ability to research and advise of its own volition resulted in significant advice on Welsh recruitment and retention issues to Ministers.

*Example:* Following GTCW's inception, it was largely taken for granted by teacher unions and others that, following reports in the UK press, teaching in Wales was suffering from a recruitment and retention crisis. In 2001 and 2002, GTCW undertook major quantitative and qualitative research to ascertain the situation in Wales, culminating in a major piece of advice to government, the *'Action Plan for Teacher Recruitment & Retention in Wales'* in 2003. This concluded that no such crisis existed in Wales but identified pressure points and issues to be addressed such as an oversupply of primary teachers. One of the many consequences of this was the commissioning by the Welsh Government of the Furlong Review of Initial Teacher Education and Training and its consequent decision to reduce training numbers.

Without the ability to advise independently it is highly unlikely that this issue would have come to light.

There is an acknowledged paucity of educational research in Wales about Wales,<sup>3</sup> and there is clearly a need and desire for arm's length advice as can be seen from the establishment of WISERD and the Public Policy Institute. The reconfigured Council would be able to add to this research base especially as it would have unique data sets through its Register.

It, therefore, appears counter-intuitive for the Bill to establish an independent body which is ideally placed to offer independent insights but hamstring it from doing so. The Bill in this area of advice would be better enabling rather than disabling. **Council requests that the wording**

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<sup>2</sup> DfEE 1997 Teaching: High status, High standards

<sup>3</sup> Daugherty, R. Davies, S. (2008). Capacity and quality in Education research in Wales. A stimulus report for the Strategic Forum for Research in Education, forum

**of Section 7 of the Bill be amended in line with the wording of Section 2 of the 1998 Act, allowing the body to advise of its own volition.**

**(g) First Professional Code to be developed by Minister**

Section 24 states that the first Code of Professional Conduct and Practice will be prepared by Welsh Ministers rather than the new body itself. This approach is different to that taken when the Code for registered teachers was developed by the professional body (GTCW). The 1998 Act required the Council to issue, revise and publish a Code. Similarly, the Council is not aware of any other profession where government has developed the Code rather than the professional body

We understand that it is argued that Ministers will need to develop a Code prior to the reconfiguration because new registrants will need to know the criteria (i.e. in a Code) against which they will be registering. Council disagrees for the following reasons:

- there are ways of defining registrants without the need for a Code e.g. Section 16 defines broadly the ‘services’ that learning support workers in FE will carry out and which will be the basis for Regulations relating to their employment and thus registration;
- following establishment of the new body, there will be a period of at least a year before the new groups of registrants could be registered thus giving ample time to fully develop and consult on a Code in conjunction with them and their representatives, thus creating a sense of ownership;
- there will need to be continuity for the 38,000 school teachers who will be the one group who will remain registered on 1 April 2015 and who currently have the GTCW’s *Code of Professional Conduct & Practice*.

Having had first-hand experience of consulting upon, developing and revising a Code for teachers, the Council emphasises that this task should not be underestimated as there will be a number of parties with a vested interest in the Code, including trade unions, employers, school governors, individual practitioners, higher education establishments and a host of other stakeholders such as religious and equalities groups.

Although the Minister has declared that he would establish a Task & Finish Group of stakeholders to develop the first Code, nevertheless, as mentioned in other parts of this document, the Welsh Government may find it advantageous to be more at arm’s length on this matter rather than being directly accountable for developing the Code.

**The Council requests that Sub-Sections 24(1) and (3) be reworded to require the reconfigured Council, rather than the Minister, to prepare and publish a Code consulting as appropriate.**

**(h) Need for new definition of ‘fitness to practise’**

Current legislation on GTCW requires that the Council investigates and hears allegations against registered teachers accused of unacceptable professional conduct, serious professional incompetence or a relevant criminal offence. In such cases, the Council needs to decide whether a teacher is guilty and if so whether a disciplinary order should be imposed which would have implications for their future practice as a teacher.

The Welsh Government, advised by the Council, previously consulted on a move to a “fitness to practice” approach.

The regulatory bodies operating in the field of healthcare have adopted fitness to practise models and in doing so, have moved from a compartmentalised approach, in which practitioners previously faced allegations solely under categories such as serious professional misconduct or conviction of a relevant offence, to a more holistic approach. This movement has been reflected in the consideration of a single issue, namely whether a practitioner's fitness to practise is impaired, albeit by reason of one or more of a list of factors. The list of factors applicable to the health regulatory bodies, although not identically worded across all regulators, include the following:

- misconduct
- deficient professional performance or lack of competence
- conviction or caution for a criminal offence
- adverse physical or mental health
- determination by another regulatory body
- inclusion in a barred list

The Bill continues to use the current separate definitions of 'unacceptable professional conduct', 'serious professional incompetence' and 'conviction of a relevant offence'. These are matters which correspond with the first three factors in the above list and which might be relied upon as a reason for concluding that an education practitioner's fitness to practise is impaired. We understand that Welsh Government lawyers have stated that a fitness to practise approach to disciplinary work could be provided for in Regulations. Council has taken its own legal advice and we are advised that they do not believe that the Bill establishes a fitness to practise model or lays a proper foundation for a fitness to practise model to be readily implemented by means of Regulations.

The only reference to 'fitness to practise' in the Bill is in Section 7 (2) (c). This provision is not directly concerned with the disciplinary function, but with advice that the Welsh Ministers may require the Council to provide. Sections 26 to 32 of the Bill, which deal with disciplinary functions, make no reference to fitness to practise or to impairment.

The GTCW's legal advice is as follows:

Section 26 (5) of the Bill envisages the making of a disciplinary order where it is determined that a person is guilty of unacceptable professional conduct, serious professional incompetence or a relevant criminal offence. In a fitness to practise model, a disciplinary order could only be made if a determination is reached that a person's fitness to practise is currently impaired by reason of misconduct, incompetence or conviction of a relevant offence. Section 26 can be contrasted with Section 13D of the Opticians Act 1989, which refers to an allegation that a registrant's fitness to practise is impaired and identifies the grounds on which impairment of fitness to practise can be found. The provisions relating to the fitness to practise of registered optometrists and dispensing opticians are, therefore, contained in the relevant primary legislation.

It is acknowledged that Section 28 of the Bill provides power to make regulations about or in connection with the Council's functions under Section 26 and that, under Section 28 (2) (a), this can include provision about the procedure to be adopted relating to any investigation or proceedings. However, the concept of impairment of fitness to practise is not simply an additional factor to be considered at a later stage of proceedings. Impairment of fitness to practise is fundamental to the proceedings themselves. For example, it is relevant when determining whether there is a case to answer which should be referred for hearing. In a fitness to practise model, the 'case to answer' test should be whether there is a real prospect of a finding of impairment of fitness to practise. This question is fundamentally different to whether there is a real prospect of a finding of unacceptable professional conduct. The concern here is that the application of the 'case to answer' test in 26(3) seems inextricably linked with the allegations of unacceptable professional conduct etc in Section 26(1). Our view is that amendment of Section 26 is required in order to introduce or facilitate the introduction of a fitness to practise model comparable to the models operated by health regulatory bodies.



In addition, Section 4 (1) (f) refers to one of the main functions of the Council as being to investigate unacceptable professional conduct, serious professional incompetence or a relevant offence and take appropriate action in accordance with section 26. The regulation-making power under Section 28 is limited to regulations about or in connection with the Council's functions under 26 and not with amending functions under Section 4. There is power to add functions under Section 5, but that power is to provide for additional functions rather than to amend those that are set out in Section 4. The view of the Council's solicitors is that amendment of Section 4 (1) (f) is likely to be required.

Finally, it is also worth noting that there is no reference in the Bill to the physical or mental health of the registrant and this would seem contrary to the holistic approach envisaged by the concept of fitness to practise.

**The Council would ask for Sections 26 and 4(1) (f) to be amended so as to enable the new Council to introduce a fitness to practise approach.**

(i) **Current GTCW professional standards casework – anticipated volume**

At present, the Council has approximately 38,000 registered teachers. It is anticipated that once each of the new groups within the wider education workforce has been registered, the total number of registrants will rise to over 70,000.

In National Assembly discussions to date, there has been some confusion amount the numbers of cases currently referred to the Council. To assist the Committee, Annex G contains some high level statistical information on the number of professional standards cases the Council currently investigates.

Given the registration of the wider education workforce, this number can be expected to increase proportionately. The Committee should also note that GTCW and most other regulators are seeing an increase in referrals annually.

(j) **Absence of clauses on professional standards, accrediting initial training and quality assuring CPD**

The introduction to both of the Welsh Government's consultation documents stated that, "*A key feature of many professions is that they register with a professional body that sets (GTCW's emphasis) and maintains professional standards and so retains public confidence*".

In its first consultation, the Welsh Government proposed "*...that wide functions should be added on a phased basis into the work of the new reconstituted registration body. These could include approval of initial training courses, requirements for continuing professional development and setting of professional standards.*"

Building on the responses to that first consultation, the former Education Minister, Leighton Andrews, said in plenary on 19 June 2012,

*"I also see this consultation as an opportunity to consider how we can improve the consistency of initial professional standards, training and continued professional development. The new body must be directly engaged with initial training organisations, just as in Ireland, where the respective body has a role in endorsing both teacher and further education training. These new functions would be phased in over time in line with an agreed delivery plan."*

The Welsh Government subsequently consulted on a role for the reconfigured body in the accreditation and professional endorsement of qualifications. That consultation proposed that the body be enabled to undertake work alongside other bodies that have a responsibility for ensuring the quality of professional development, as well as having an advisory role. The Welsh Government went on to say, "*We recognise the benefits that professional*

*endorsement/accreditation can bring in terms of ensuring that courses are relevant to employers and the workforce is equipped with the necessary skills and knowledge...*"

It is thus clear that the intention was for the Council to have active roles in these three areas:

- ownership of professional standards;
- responsibility for approving the professional appropriateness of courses of initial training; or
- the quality assurance of continuing professional development.

**Yet the Bill does not specify that the reconfigured body will have these responsibilities.**

The Bill proposes an advisory role only for the body in the fields of *'the training, career development and performance management of registered persons'* 7(2)(f) - and this role is limited by the requirement for Ministerial permission.

Instead, Section 5 ('Power to add functions') of the draft Bill enables Ministers to confer or impose additional functions 'as they consider appropriate', the Council believes that this is too imprecise and open to interpretation. Based on Council's prior experience, it is likely that the original intentions behind this will be forgotten and no progress will be made in the area. **It would be far better for the primary legislation to make explicit these functions and to enact them on a phased basis through secondary legislation.**

In keeping with other professional bodies including medicine, nursing, accountancy, engineering, it is appropriate for the wider education profession to exercise the functions in Para 5.

The case for professional or joint ownership of standards from QTS to leadership was set out in the first strand of the Council's advice on 'A Professional Development Framework for Teachers' developed at the request of the then Minister:  
[http://www.gtcw.org.uk/gtcw/images/stories/downloads/framework/Framework\\_advice\\_to Ass  
embly\\_July\\_2005.pdf](http://www.gtcw.org.uk/gtcw/images/stories/downloads/framework/Framework_advice_to_Assembly_July_2005.pdf) (See Chapter 9)

As for professional accreditation of initial training courses, the Welsh Government issues general 'Requirements for the provision of Initial Teacher Training courses' which cross-refer to courses preparing students to meet the QTS standards. These requirements do not set out the areas of content that all ITET courses should cover.

The Council has set out the case for the professional body accrediting initial teacher training courses and these same arguments apply to the accreditation of other initial training courses (Annex D). It is clear from the table at the end of that position paper, that the GTCW is unique amongst regulators in not having such course accreditation functions.

The Teaching Council for Ireland has powers to accredit teacher training courses as being professionally appropriate. Their procedure for doing this is at Annex E. It is similar in many ways to the system in operation in Scotland. It would be relatively easy for the reconfigured Council to devise such a system based on the Irish and Scottish systems and administered via the Council through independent experts drawn from the initial teacher education sector, Estyn and others. The HE sector itself is used to having professional bodies playing an active part in the approval of courses offered by universities on behalf of other professions such as nursing or engineering. The GTCW has effective and practical relationships with the ITE sector which would go a long way to helping the smooth introduction of such a system. Thus Council believes that it would be relatively straightforward, working with partners, to take on this function.

In 2007, the GTCW, also at the request of the then Minister (following GTCW's advice *Continuing Professional Development : An entitlement for all'* (2002), reported on ways of quality assuring CPD provision through a Code of Practice for Providers and the maintenance of an all-Wales list of available CPD. See fourth strand of the Council's advice on 'A Professional Development Framework for Teachers': [http://www.gtcw.org.uk/gtcw/images/stories/downloads/framework/Strand%203+4%20Advice\(E\).pdf](http://www.gtcw.org.uk/gtcw/images/stories/downloads/framework/Strand%203+4%20Advice(E).pdf) (See Part B)

(k) **Absence of a clause enabling the body to undertake activities in the field of continuing professional development**

The current functions of the GTCW as specified in the Teaching & Higher Education Act (Sub-section 9(2)) states that Ministers, "*may require the General Teaching Council for Wales to undertake (or join with any other persons or body in undertaking) activities designed to promote-*

- o *recruitment to the profession, or*
- o *continuing professional development of teachers."*

The 'Promotion of careers' is specified in Section 8 of the Bill, however, there is no reference in the Bill enabling the Council to undertake activities in the field of CPD.

This is an important clause as it is the current legal basis for the GTCW carrying out activities relating to the funding and administration of the Welsh Government's programmes for Induction, Early Professional Development and the Masters in Educational Practice. Between 2001 and 2009, it was also used as the basis for the GTCW administering a Welsh Government funding programme to support teachers' individual CPD needs. It could have been used more widely to enable the GTCW to undertake other CPD activity.

The view of Council's solicitors is that the continuation of this function would require either explicit provision in the Bill for it or the making of appropriate Regulations under Section 5 but this latter course would require consultation with bodies such as the GTCW. Our solicitors' view is that Government could not confidently rely on the provision in Paragraph 17 of Schedule 1 to authorise areas of operational activity such as supporting early career development of teachers.

**Council regards the absence of a clause enabling the reconfigured body to undertake activities in the field of CPD to be a major omission.** Without it, the Welsh Government may find that it cannot confidently ask the reconfigured Council to administer CPD programmes on its behalf on 1 April 2015 and consequently may be unable to maintain continuity of the Induction and MEP arrangements for school teachers across the transition from the GTCW to the reconfigured body.

The addition of of a clause in the Bill (similar to 9(2) of the 1998 Act) would resolve this and remove the need for secondary legislation in this area.

(l) **Power for Minister to direct the Council**

Section 6 states that Council must comply with general or specific directions given by Welsh Ministers, other than cases of individual applications and appeals relating to registration and specific disciplinary cases.

No such clause exists in the 1998 Act in respect of the GTCW. The limits of the GTCW's powers are specified in the Act. It would be acting *ultra vires* if it exceeded those powers. The Council considers it quite inappropriate for a Minister to have direction-making powers over an independent professional body. The working relationship between Ministers and the professional body ought to be one based on mutual trust and respect.

Professional regulation is not a political issue, and any decision on the Council's activities should be truly independent of government. There may be occasions where the independence of the body is beneficial, as this allows a distance from any potentially embarrassing or awkward actions.

GTCW reiterates that the reconfigured Council will not be an WGSB and will be funded by practitioners' registration fees.

### **Council argues for the removal of this clause.**

#### **(m) The proposed name of the organisation**

Sub section 2(1)(b) of the Bill proposes renaming the GTCW as the 'Education Workforce Council'.

The GTCW would have preferred its current name to be retained - the reconfiguration of its governance would have demonstrated that it was a reconstituted body with a wider scope and new responsibilities. (A few years ago, the General Dental Council moved from registering only dentists to registering all dental health professionals without a name change and there are similar examples of professional bodies with a wide range of registrants e.g. the Care Council for Wales and the Institute for Engineering and Technology.)

Nevertheless, Council can understand the desire of the government to rename the GTCW from the perspective of new registrants, particularly those in the FE sector.

However, in renaming the body, there are a number of significant factors which Council believes have not been given sufficient weight:

- The appropriateness of the name in describing the professional activity which the regulated groups carry out. The title, 'General *Teaching* Council for Wales' focuses on the professional activity - the GTCW is a *Teaching* Council and not a *Teachers* Council. The use of the word 'Workforce' places an inappropriate emphasis on the individual members of the profession rather than the professional activity which they carry out;
- Teaching *is* a profession. The one unifying factor is that the renamed body will be a regulator of all those involved in teaching or support of teaching, whatever the sector. We believe the proposed name will do nothing for the professional status of teaching and, by removing 'teaching' from the title of the organisation and replacing it with 'workforce', will undermine that status.
- The name should take into account the fact that school teachers will still be the largest single group registered with the reconfigured body (over half the new registrant population at 38,000). So it will be important to safeguard them against losing the identity of their established recognised professional body.

The Minister, Huw Lewis, said in his oral evidence to the Children & Young People Committee on 19 July 2013 that the proposed name of the Council describes what it does "on the tin". Council disagrees. The education workforce is much wider than the teachers and teaching support staff who will be regulated by the reconfigured body. The Bill does not propose to include those indirectly involved in support of education – caretakers, cooks, administrative and ancillary staff, for example. Furthermore, the Bill does not include Work Based Learning staff or youth workers.

Our understanding is that trade unions representing teaching assistants would largely prefer the word 'profession' in the name of the new organisation as it would help associate their members with enhanced professional status. There are already some trade union partnerships with 'Workforce' in the title e.g. 'Workforce Partnership Council' and we believe

naming the body 'Education Workforce Council' will cause some confusion. A case can also be made for incorporating 'Wales' into the reconfigured body's name.

There is also a very practical issue when proposing the name of the new body. The name must work when abbreviated and have available web domain names, including Welsh versions. In a web search, 'EWC' (which would be sure to be the abbreviation for the 'Education Workforce Council') shows numerous environmental waste-related references.

**We advocate that the word 'teaching' and/or 'professions' must be retained in the title of the renamed body.** Something like '**The Teaching and Education Professions Council for Wales**' might be an appropriate name which would help demonstrate the Council's widened scope whilst retaining some continuity for school teachers.

If other education practitioners were at some point to be included within professional regulation, the name of the organisation could be changed at that point. There are precedents for this (e.g. 'Curriculum Council for Wales' -> 'Curriculum and Assessment Authority for Wales' -> 'Qualifications, Curriculum & Assessment Authority for Wales').

(n) **Summary table comparing current powers of GTCW and the Bill's proposed powers for the reconfigured body**

<b><u>GTCW</u></b>	<b><u>Bill's proposals for reconfigured body</u></b>
aims are to act in the public interest	no reference to acting in the public interest
to undertake activities to promote the continuing professional development of teachers (at Ministerial request)	no responsibilities in this area
GTCW is an independent professional regulatory body with responsibilities limited by primary legislation.	must comply with any general or specific Ministerial direction (other than in individual registration and disciplinary cases)
can advise on specified teaching issues as Council thinks fit	cannot advise on specified teaching issues without prior Ministerial permission
can advise persons or bodies as Council determines	Minister's prior consent needed in relation to recipient of advice
can publish its advice	can only publish advice with consent of Minister
GTCW may fix the registration fees with approval of Minister	the amount of the fee and who will determine the fee could be decided by a third party other than the Council
GTCW authorised to issue and revise a Code of professional conduct and practice	Ministers must prepare and publish the first code of professional conduct and practice
GTCW is limited by the powers set out in the Act	Ministers are able to issue the Council with specific or general directions
Regulations enable Council members to be elected and by appointment	Regulations enable Council members to be appointed by Ministers
GTCW may appoint its Chief Officer, their remuneration and terms & conditions	Ministers may specify who is to appoint the Chief Officer, their appointment procedure, their remuneration, terms & conditions
GTCW may pay its employees remuneration as they determine	Minister must approve the pay scheme for its employees and publish it in a form which Ministers may specify

(o) **Proposed changes to wording of clauses**

Suggested additional changes to wording of certain clauses are at Annex H.

## **2. POTENTIAL BARRIERS TO IMPLEMENTATION**

### **a) The risk that the reconfigured Council will not receive wider professional ‘buy-in’**

Section 1 of this submission sets out the areas in which the GTCW believes the reconfigured Council's independence will be fettered. The more the Council's activities are controlled by the requirement for Ministerial approval or permission through Regulations, the less credible will be the Council's claim that it delivers professionally-led regulation.

This section will not repeat the detail of the argument set out in Section 1 of this submission but summarises the key points as:

- membership of the Council should visibly be seen to be ‘representative’ of the experience of wider group of education practitioners, including FE teachers, teaching support staff as well as teachers in schools. Appointment of all Council members by the Minister will not aid this perception of the body;
- the proposal that the first Professional Code of Conduct & Practice would be developed by the Minister, (albeit by a Task & Finish Group of stakeholders as the Minister has stated) runs the risk that the Code will be perceived as imposed upon the wider profession rather than developed by the professionals required to uphold it. The process of developing the first Code can be formative for the new body, facilitating an open dialogue with registrants, unions and stakeholders around issues of professional conduct and competence (as it was in 2000-01 for the newly established GTCW);
- the inability of the Council under the Bill's proposals to advise of its own volition without prior Ministerial approval will give the impression of a body that has been silenced in speaking about professional issues as it perceived them. The likelihood would be that permission would only be given to advise on the policy priorities of the government or Minister of the day – when the value of the Council is the broad professional overview and perspective that it brings to broad matters;
- controls over the income stream by the Minister (or any other body other than the Council) will not make the Council accountable to its fee-paying registrants but to the Welsh Government. This will strengthen the perception of the Council as a quango rather than as a professional body;
- Ministerial controls over the internal workings of the Council such as the pay scheme for the Council's employees and the appointment of the Council's Chief Officer will suggest to registrants that the body was not independent of government;
- School teachers would see a weakening of the potential for their reconfigured professional body to influence and shape matters by comparison with the current status and powers of the GTCW. School teachers will remain the largest single registrant group in the reconfigured Council and this could lead to a negative regard for it.

**This risk can be significantly reduced by reverting to the parameters applying to the GTCW as set out in the 1998 Act (as amended) and removing the extra Ministerial controls that are proposed within the draft Bill.**

b) **The risk of poor communication with new registrant groups prior to the reconstitution of the Council**

In September 2000, when the GTCW came into being, there had been no prior communication with teachers in schools about the Council or the benefits of professionally-led regulation. The existence of the Council was a surprise to the majority of teachers and this created a major challenge to establish the GTCW's credibility.

GTCW believes exactly the same challenge will be presented for the reconfigured body with new registrant groups **unless** there is a concerted campaign of communication with them. This is a job of work to be done *before* the Council is reconstituted.

Unlike in 2000, the existence of the GTCW means the organisation which will take on responsibility for a wider scope of registrants and functions is in place and active. Thus, there is potential for a communication campaign to be carried out by the body prior to its reconstitution.

GTCW, as part of its normal stakeholder engagement over the years, has held informal talks with a wide range of bodies including organisations who represent new registrant groups e.g. unions representing teaching assistants, FE employers through *Colegau Cymru*. Regular meetings with school headteachers have alerted them to the earlier Welsh Government's consultation proposals to widen registration to teaching assistants in their schools. Thus, representative organisations are aware of the detail of the Welsh Government's earlier consultations and the Bill's proposals.

However, at grass roots level amongst FE teachers and teaching support staff, knowledge and understanding of the proposed role and functions of what will be for them a new professional body is extremely low. New registrants will have basic questions which will need to be addressed, for example, the differences between a professional body and a trade union, queries about the registration fee or the relationship between employer and professional body disciplinary cases. Without early explanation of the responsibilities, functions and benefits of professionally-led regulation, it will be easy for the reconfigured body to be portrayed as a punitive body without a role in enhancing the professionalism of those it regulates. A communications campaign should involve face to face meetings with new registrants as well as engagement with representative organisations.

The difficulty of conveying the value of professional regulation should not be underestimated. The very nature of regulatory work means that registrants will not see personal immediate personal benefits as perhaps they might expect as an individual member of a teacher's association or union. The impact of professional regulation is much more long-term in nature for example, on professional self-confidence, status and public attitudes towards the profession. For example, professional standards casework - which sometimes leads to negative publicity for the tiny number of teachers concerned - is essentially a *positive* act of a mature profession which is prepared and able to represent the high standards to which the vast majority adhere (in the case of teachers, well over 99.9%) – but this can often be lost.

A focused communications campaign with new registrant groups is, therefore, recommended as soon as the legislation is enacted from April 2014. Prior to its reconfiguration, Welsh Government funding should be provided to enable the GTCW to carry this out. **A successful campaign will be essential for the reconfigured body to become established on a firm footing.** The Council advocates that the Children & Young People Committee conveys this important message to the Welsh Government with regard to the implementation of this Bill.



c) **The risk of the new body not being placed on a firm financial footing**

Section 3 of this submission sets out the risk of others determining the finances of the Council.

It goes without saying that any independent business is best placed to determine the income it needs to fund its activities.

The GTCW's experience has been a frustrating one because its income has been controlled via Ministerial veto over its registration fee yet it is the Council which holds statutory regulatory and advisory responsibilities with their consequent associated expenditure (a significant part of which is demand-led casework).

**The reconfigured Council must be trusted to set its own fees.** Only this way will the Council be able to budget properly and the body placed on a firm financial footing.

### **3. FINANCIAL IMPLICATIONS OF THE BILL**

This section deals with matters to do with the reconfigured Council's income from registration fees, covers the issue of employer reimbursement to registrants and those areas that are a public responsibility and which should be paid from the public purse. The key financial matters in the view of GTCW are as follows:

a) **Registration fees should be calculated from the cost of the Council's statutory activities not from decisions about the level of reimbursement to registrants**

The registration body must calculate the registration fees required based on a full and detailed budget for the planned programme of activities for a year, taking account of the number of anticipated fee-paying registrants.

This should not be confused with any subsidy paid by the employer to the registrants. Any reimbursement or part-reimbursement of fee to registrants is entirely a matter for the employer and should not be relevant to the Council calculating the level of income required to carry out its statutory regulatory and advisory activity.

The Explanatory Memorandum (EM) discusses the detail of the current subsidy of the fee by Welsh Government to registered teachers, but as explained above, this is a government decision related to teachers' pay and conditions.

The GTCW argues strongly that future financial decision-making in support of the reconfigured Council must note the distinct and separate activities of:

- the annual costing of activities producing the annual budget, and so the indicative fee income required;
- any subsidy to registrants (teachers in Wales currently are reimbursed £33 toward their current registration fee of £45). This is a matter for the employer and not for the registration body. NB Not all registrants are reimbursed their fees: teachers in Scotland are not reimbursed for their registration with the GTC Scotland and similarly, registrants in other professions e.g. nurses.

b) **The current GTCW fee is not a sound basis for future calculation of the fees of the reconfigured Council**

The Explanatory Memorandum uses the current £45 fee as the best estimate fee for the reconfigured Council, whilst noting that this should not be seen as the actual fee to be charged. GTCW argues that using this as a best estimate is flawed for the following reasons:

- The fee was set in 2008-09 and has been unchanged since that date. To maintain the fee at this level has only been possible because of the previous reserves position of the Council based on savings derived during its early years of operation. The Council has had to absorb increased expenditure since then, resulting primarily from a marked increase in the number of professional standards hearings. Expenditure in year has not been met by income in recent years. Significant cuts have been made to activity but the Council is now reliant on its General Reserve to balance its budget. This has only been considered to be an acceptable position because it is the final two years of operation of the current GTCW before it is reconfigured. Ministers, who approve the fee, have been alerted to this. However, the strategy now leaves the GTCW in a vulnerable and unsustainable position

A request to increase the fee would be unavoidable in 2015-16, and would be required by the reconfigured body to ensure financial viability and the building of a General Reserve to protect against financial uncertainties and give the new body a stable financial footing.

Without adequate income to cover expenditure and an adequate General Reserve balance as protection, the body could be severely criticised by the Wales Audit Office in terms of its failure

to operate as a “going concern”. This may jeopardise the audit opinion on the body’s Annual Accounts.

- It does not take into account the financial implications of the phased widening of registrant groups and addition of functions. The £45 fee is based on the current activities of the GTCW and does not take account of the new registration groups nor the new functions of the reconfigured Council. It is proposed that further functions for the body would be phased in over time. This reinforces the argument that it should be left to the Council to determine the registration fees so that it can respond to the timing of the phased addition of registrants (increased income) and the phased extension of functions (increased expenditure). To seek to plan fee levels for registrant groups at too early a stage without a clear timetable for the additional functions will not provide a sound financial basis.
- The reconfigured Council will wish to establish its own key principles for fee-setting As stated above, the fee level must be based on the planned activity and budget for the year. Council has established the following principles in its fee-setting to date:
  - each year should be cost-neutral with fee income covering the planned expenditure for the year including a contribution to specified reserves;
  - small incremental increases e.g. to keep in line with inflation annually would be preferred to larger less frequent increases. In the event, given Ministerial constraints this latter principle has never been able to be applied.
- There are wider influences in fee setting and uncertainties about future costs GTCW’s decisions not to request fee increases in recent years have been taken on the grounds of political and economic sensitivities and not on the grounds of financial budgeting or financial management. The current financial position of the Council is under great pressure and the absence of small annual fee increases has exacerbated this position. The reconfigured Council will inherit this position.

In calculating future fees, however, the reconfigured Council will be able to benefit from economies of scale e.g. modest increases in staff costs and other overheads. Direct costs, especially the costs of the expanded professional standards casework function are ‘demand-led’ and impossible to estimate for the new groups of registrants at this point.

**c) The registration fee scheme should be a matter for the reconfigured Council to determine**

Annex 2 (Economic Fee Model) of the EM contains three papers about the subsidisation of registration fees. Broadly, the papers put forward a method of employer reimbursement to registrant based on salary bands. Unfortunately, the paper then jumps to the assumption that the Council will have a registration fee collection scheme based on salary bands. As set out in a) above, the fee and any reimbursement are entirely different matters so any method decided by government for reimbursing registrants should not tie the Council to a particular scheme of fee collection.

A fee model based on salary bands is not an approach adopted by other regulators and would result in an over-complex fee structure which may be bureaucratic and expensive to administer. Issues that the reconfigured Council would face include:

- it would create significantly more work for local authorities, FE colleges and any other employer who was required to deduct a fee as the fee would differ from person to person. At present, all teachers pay the same fee and it is therefore easy to deduct. Such an approach would be unpopular amongst employers;

- GTCW's experience is that HR and payroll departments in LAs are often not kept fully informed about employment changes for teachers, leading to the potential for deduction of the wrong fee amount from salary and increased work to correct errors;
- decisions would be needed regarding new registrants especially NQTs as they would not know their salary,;
- anyone working on a supply basis, either through an agency or directly through a school, LA, FE college or other employer will not know their salary for the forthcoming year;
- a decision would be needed on the fee for voluntary registrants;
- there is potential for full-time registrants (who will, in turn, pay a higher fee) to argue that they are being discriminated against on equality grounds since registration is simply a 'licence to practise' which is needed regardless of whether a registrant is full time, part time or on supply;
- employment circumstances and salaries change mid-registration year.

GTCW also draws attention to some key principles which emphasise the universal nature of the current fee for teachers. These are considerations when considering setting a registration fee ('licence to practise') scheme rather than a membership fee scheme:

- there is no fee differential depending on the post held by the registrant. Currently, a headteacher and a NQT pay the same £45 for their 'licence' (and all are reimbursed £33);
- there is no differential between full-time and part-time staff, registration being per head;
- the registration fee is payable in full regardless of the date of registration. There is no discount for registering part-way through a registration year.

Notwithstanding our view that the Minister should not be involved in making provision for the fee – this being a matter for the reconfigured Council alone - the GTCW has not been approached by Welsh Government officials to discuss the implications of the proposed fee scheme based on salary bands.

**Council supports the adoption of a limited range of differential fees based on different registration categories *not* differential fees based on salary bands.** This acknowledges the salary potential of each category of registration and also, in due course as costs become clearer, the costs of regulating the particular group.

**d) The 'promotion of careers in registrable professions' is a public responsibility and should be funded by the public purse**

Section 8 of the Bill proposes that the reconfigured body would have a role in the promotion of careers in registrable professions. This would be a new activity for the reconfigured body. Under the 1998 Act, the GTCW could have been asked by Welsh Ministers to undertake work to promote recruitment to teaching but chose to contract the Training and Development Agency for Schools (formerly the TTA) to do this work in Wales.

The EM (para 303) refers to a £100,000 budget to fund this activity, but it is unclear how this will be funded, either via registration fee income or as a separate grant from Welsh Government.

GTCW emphasises that **the promotion of careers in registrable education professions is a public responsibility and must be funded directly by the public purse.** It would be inappropriate for registrants to be charged for this.

Assuming that the funding for this work is provided by government grant, **the proposed level of budget of £100,000 for this work is likely to be wholly inadequate.** In 2009-10 the Welsh Government paid £734,000 in grant as reimbursement of costs to the TDA for recruitment to school teaching alone. In previous years, that figure was in the region of £1

million. The reconfigured Council would be responsible for recruiting to teaching and teaching support staff in both schools and FE.

**e) The Welsh Government should provide funding to assist the reconfigured Council with start-up costs**

When the GTCW was set up in 2000, a phased approach was taken to funding moving the Council over the first three years from grant-in-aid to self-funding through registration fees.

The reconfigured body will not be starting from scratch but inheriting the systems, procedures and staff of the GTCW. Nevertheless, there will still be set-up costs which the Welsh Government should fund.

It would be wrong to expect school teachers' fees to fund the changes needed to extend registration to FE teachers and to support staff.

For example, the Register will need additional fields and modules relating to the new registrants. As mentioned in Section 2 of this submission, a communications campaign will be needed in advance of the Council's reconfiguration and in the first years of operation. There may be front-loaded HR and other corporate services work related to recruitment of any extra staff needed during the set-up years.

**The Welsh Government should consult with the GTCW to determine the set-up costs needed in the year prior to reconfiguration (2014-15) and the first years of operation (2015-16, 2016-17) and provide pump-priming funding for these.**

**f) Corrections to the financial assumptions in the EM**

Regulatory Impact Assessment, Chapter 8 'Costs and benefits'

Paragraph 292 refers to a budget of £400,000 for disciplinary work in 2013-14 (excluding staff costs). In fact, the total budget amounts to £528,750 (but including staff costs) which represents almost one third of the GTCW's total planned expenditure. This budget was based on handling an estimated 35 hearings in the year, but as this is a "demand-led" function, accurate planning is difficult. Even ahead of the half-year point, Council is already anticipating a significant increase in the planned number of hearings, and now anticipates 42 hearings will be dealt in 2013-14. This might increase costs by as much as £100,000 in the year.

Paragraph 302 refers to "fewer than 3 Induction appeals". GTCW has heard 5 Induction appeals.

Paragraph 307 (English version only) refers to a cost of £15,000 for an application for registration case. This appears to be a typographical error. The Welsh version of the Explanatory Memorandum is accurate, referring to £1,500 for an application for registration case.

Paragraph 309 It is too early to judge whether the estimated income of "around £2.7 million" is likely to cover planned activity of the new body. Phasing the registration of these groups will give the reconfigured Council the opportunity to understand and monitor its expenditure closely and calculate the registration fees needed at the time.

Economic Fee model, Paper 1

Page 1 bullet 3 states that after tax relief, teachers only pay £6. Local authorities confirm that they apply tax, NI and pension to the reimbursement. Approximately, the £45 fee after tax relief will be around £36, while the reimbursement after tax, NI and pension will be around £18,

meaning that teachers actually pay around £18 not £6. However, different teachers will pay different amount of tax, therefore in reality this calculation will vary from teacher to teacher.

Tables 1-3 We understand that the intention is for a full consultation on registration fees; however, the tables in this paper which calculate the potential contribution which a teacher should make towards the fee appear to have some small flaws, for example, the figures do not include the additional 6,000 registrants who pay a fee but do not receive a reimbursement, namely supply teachers and voluntary registrants. This will also apply to new registrant groups who will work through agencies or register voluntarily.

#### **4. APPROPRIATENESS OF THE POWERS IN THE BILL FOR WELSH MINISTERS TO MAKE SUBORDINATE LEGISLATION**

This section sets out those areas in which the Council considers that the proposed powers are inappropriate for secondary legislation. This section in places overlaps with some of the areas covered in Section 1 of this submission.

##### **a) Registration fees (Section 12)**

The GTCW through Regulations is authorised to charge a fee fixed by the Council with the approval of the Minister. As a point of principle, as an independent body funded by the fees of registered teachers – not a WGSB funded by grant-in-aid – the GTCW has always regarded it as inappropriate for government to approve the level of its registration fee. If the reconstituted Council was funded by government then it would be legitimate for government to control its activities.

The reconstituted Council is in the best position to know the costs of the statutory activities it has to carry out and the fee should therefore be determined by it. The Council would be accountable to registrants for setting the fee at an appropriate and acceptable level. The GTCW has shown restraint by not increasing the fee over the past five years and budgeting accordingly (even with the veto powers of the Minister). There is no reason to think that the Ministerially-appointed Council of the reconfigured body would take a less sensitive approach over the fee level.

It is worth noting that the GTC Scotland is able to set its registration fees without Ministerial approval. Professional bodies in other publicly funded areas are similarly free to set their fees in accordance with their activities and with the permission of their registrants.

In respect of appropriateness of the powers for Ministers to make secondary legislation, the Bill makes provision about fees. However, Sub-section 12(2)(b) of the Bill goes much further than the 1998 Act, stating that Regulations may make provision “*about the amount of the fees (and who is to determine the amount)*,”. This suggests that Regulations would be needed each time the fee was increased. The bracketed text suggests that the Minister or a third party not responsible for the activities of the Council might set the registration fee.

**Council supports the reconfigured body being authorised to charge and recover fees and requiring employers of registered persons to deduct fees and remit them to the reconfigured body. No other detail is necessary and it should be left to the body to determine the fee and organise the methods of collection. The proposals in Section 12 are at a level of detail that Ministers or officials need not be involved in. There is no need for secondary legislation in this area.**

##### **b) Ministers will appoint all Council members.**

###### *Size of the Council*

Ministers would be able by Order to specify the number of Council members (Schedule 1, Section 3(1)).

Currently the GTCW is constituted with 25 members - 12 elected, 13 appointed (4 directly by Welsh Ministers, and 9 by Ministers following nomination by specified organisations). The increase in number of registrants should *not* result in a larger Council. As previously mentioned the trend in professional regulatory governance (see Annex A) is for smaller Councils of about 12 members. **The size of the reconstituted body should be smaller than that of the GTCW but of a sufficient size to reflect the variety of sectors, experiences and contexts of its new wider group of registrants.**

Council agrees strongly with the Bill's proposal (Schedule 1, Section 3 (4)) that members should act as individuals and that members should not be 'representatives' of organisations. This is preferable to earmarking places for particular organisations or sectors. One would

anticipate that the Council would wish to establish on an 'as needs' basis, advisory panels and task & finish groups to ensure that organisational and stakeholder opinion fed into the Council's decision-making and to supplement its capacity.

#### Method of appointment of members

Schedule 1, Section 3(2) proposes that members are to be appointed by Welsh Ministers. The Bill does not specify whether this would be a combination of direct appointments or appointments following nomination. The Public Appointments process has been used to make these appointments to GTCW between 2000 and the present.

However, in the absence of an element of election to the reconfigured body, the GTCW is concerned that using the Welsh Government's Public Appointments process to appoint Council members, could lead to a *perception* that Council was an WGSB or 'quango', that the members were in hock to the Minister or government and were detached in their understanding of professional issues. For the credibility of the reconfigured Council amongst new registrant groups, it will be essential that Council members have a real understanding and experience of the issues the wider profession and the organisation face.

The use of independent panels to appoint members to public sector governance is an approach increasingly being taken. GTC Scotland (GTCS) has adopted this approach – it has established an Appointments Committee which is made up of registered teachers and lay members that is independent of GTCS. The Appointments Committee is responsible for overseeing the recruitment, selection and appointment of 7 lay members of its Council (and the registered teachers and lay members who serve on the Adjudicating Panels and on the independent Appeals Board).

The GTCS appointments process is designed to achieve four key outcomes:

- to attract the widest range of people with due regard to diversity and to promote and demonstrate equality of opportunity and treatment of all applicants at every stage;
- to enable the selection process to deliver a quality outcome;
- to demonstrate openness and transparency; and
- to be able to answer challenges to any appointment.

All appointments are governed by the overriding principle of selection based on merit and the Committee ensures that the abilities, experience and qualities of the appointees match the needs of the various GTCS functions.

Information about the GTCS process is at Annex F.

For the reasons above, **Council strongly advocates that members of the reconfigured body should not be appointed by Welsh Ministers – whether direct appointments or following nomination by specified organisations. Instead, the Bill should specify the establishment of an independent Appointments Committee, whose sole aim would be to ensure that the reconstituted Council is well served with appropriate members and, if needed, any subsequent relevant Council groups. The independent Appointments Committee's processes would need to be underpinned by the Nolan principles of transparency and openness. Such an approach would help ensure that the needs of the organisation are paramount and are reflected in the appointments made.**

In other respects, the details in the Bill relating to membership, for example, the election of a Chair from amongst Council's membership, parallel the Constitution Regulations of the GTCW. These work in practice and Council supports these.

#### Transition arrangements

To avoid a hiatus between the current GTCW and the reconfigured Council and to provide continuity of operation, GTCW proposes that, once the relevant legislation has been introduced, **a shadow Council should include members from the present Council of**



**GTCW. There will also need to be clarity regarding responsibility for decisions that will need to be made in 2014-15 relating to the first year of operation of the reconstituted body (2015-16).**

**c) Ministerial approval of remuneration scheme for Council employees**

Schedule 1 (Section 10) sets out that the Council must prepare a remuneration scheme for its employees and the remuneration/ allowances/expenses of Council members. However, in the Bill this is subject to approval by the Minister.

All reference to Ministerial approval of similar clauses was removed in 2002 when the GTCW became fully self-financing through the registration fees. To reinstate these powers of approval is not the characteristic of an independent organisation.

As the Explanatory Memorandum states, “*Subsection (1)(a) confirms that the GTCW and the Education Workforce Council are the same legal entity. This means, for example, that the contractual terms and conditions of its employees are unaffected by the changes.*” (Explanatory Notes, Annex 1, Para 16). Since inception, GTCW has chosen to analogue to Welsh Government civil service pay and grading systems. Further, GTCW employees have access to the Principal Civil Service Pension Scheme and Schedule 1, Section 11 enables this to continue.

It is not appropriate for the Bill to give the Minister powers to approve the pay of the Council’s employees. This is an internal matter for an independent, self-financing organisation. The Council is not a WGSB.

As for allowances to members, GTCW has always treated all members the same. A member’s employer receives a payment (at a supply teacher rate) to compensate for the absence of the member from their normal place of work on Council business. This applies whether the member is a teacher or in other employment. Self-employed members receive the same payment as compensation for loss of earnings. Members are not paid for their Council work. Members may only claim their travel and subsistence costs.

**The Minister’s approval of allowances and expenses to members of a Council which is self-financing is not an appropriate area for Ministerial or officials’ involvement. The Council is not a WGSB. GTCW recommends the replacement of Schedule 1, Section 10 with the text in Schedule 1 Sections 4 and 5 of the 1998 Act (as amended) which makes these the responsibility of the Council alone.**

**d) Appointment of Chief Officer**

Schedule 1, Section 9 states that Regulations may make provision for the appointment of a Chief Officer, including:

- specifying who is to appoint;
- the procedure for appointment;
- how the terms and conditions are to be determined.

In the case of the GTCW in 2000, provision was made for Ministers to make the first appointment of the Chief Officer because this predated the existence of a General Teaching Council for Wales. On establishment, the employment of the Chief Officer transferred to the GTCW.

The situation is different in respect of the reconfigured body. The GTCW is a legal entity which will continue in existence but be renamed and whose employees (including a Chief Officer) will take on the work of the reconfigured body (see Explanatory Memorandum, Explanatory Notes, Annex 1, Para 16)

The GTCW argues that, as an independent employer, it is for the reconfigured Council alone to appoint its Chief Officer and determine their terms and conditions. This is not a matter for Regulations.

**Schedule 1, Section 9(2) should be removed and replaced with a clause that states that the Council may appoint its Chief Officer.**

e) **Commentary on aspects of proposed subordinate legislation-making powers**  
(summarised in table following para 196 of Explanatory Memorandum)

<b>Section</b>	<b>Bill's proposed procedure</b>	<b>GTCW comment</b>
5 (1) power to add functions	negative	This could include additional significant powers and responsibilities e.g. accreditation of training, or functions that are not appropriate for a professional body. They should be debated in plenary and thus require <b>affirmative</b> procedure.
10 (6) Eligibility for registration	affirmative	This is a detailed professional matter which should be left to the Council to determine. The Bill should state that the Council can specify additional grounds for ineligibility thus removing need for further discussion.
12(1) registration fees	negative	The Bill should state that the Council will determine its registration fee (i.e. no Ministerial approval), thus removing need for any further subordinate legislation.
25(1) Code of conduct and practice: further provision	negative	It is not appropriate for Ministers to determine the Code through Regulations. The form and content of the Code should be left to the Council to determine. The 1998 Act does not make similar provision.
Schedule 1, 9(2) Chief Officer	negative	Ministers should not have Regulation-making powers to appoint the Chief Officer. The Bill should state that <u>the Council</u> may make decisions about appointment of the Chief Officer.

CYNGOR ADDYSGU CYFFREDINOL CYMRU  
GENERAL TEACHING COUNCIL FOR WALES

**SUBMISSION TO CHILDREN & YOUNG PEOPLE COMMITTEE**

**EDUCATION (WALES) BILL**

**ANNEXES**

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**Governance in professional regulation in the health sector**

(*'Fit and proper? Governance in the public interest'*, Chapter 6, Professional Standards Authority for Health and Social Care, <2013>)

**From representation to credibility**

- 6.1 We have already acknowledged that progress has been made in moving away from large, elected boards which aimed to be 'representative' of their profession. Boards are now much smaller; 12 members is common and half of the members are drawn from the public not the professions. In more than half the chair is currently not a professional member. These are very significant indicators of a change of focus and culture. However, it is taking a while for health professions to recognise that self-regulation is over. Too often in public discussion of regulation it is claimed that professions remain in charge of their own regulation. Of course it is essential that professions remain engaged and committed to their own regulation; professional regulation must retain the consent of those it regulates.
- 6.2 However, shared regulation has benefits for professions too in building credibility and reinforcing the independence of the regulator. A credible regulator is absolutely in the interests of the profession as well as of the public. Nevertheless, the time is right to break away from the idea that individual members of regulatory boards are representative of the interests of any particular group or constituency. The very presence of registrants, professional bodies or unions can give rise to a conflict of interest. Board members need to set aside their special interests and work together on the effective governance of the regulator.
- 6.3 In our advice to the Department of Health on board size and effectiveness, we argued that representativeness is no longer a valid concept for a board and it should be replaced with the idea of external credibility. Boards need to be credible through their performance and their mix of background, knowledge and skills of members, not because members individually are representatives of particular interests or constituencies. The composition of a board should seek to ensure credibility with as wide as possible a range of the organisation's stakeholders – for example in our sector the public, Parliament, and the regulated profession.
- 6.4 We are struck by how frequently it is put to us by professionals that senior office holders in professional regulatory organisations, whether executive or non-executive, should be registrants. This reveals a misunderstanding of the nature of the role and purpose of the organisation. The most successful regulators have shown that while clinical input is essential at various stages of the regulatory core functions, the job of regulating does not itself require clinical skills, training, or registration as a health or care professional. It requires people who have the relevant skills to undertake regulation and provide organisational management with dedication and competence whether they are health or care professionals or not. Openness in reporting performance and transparency of process will demonstrate fairness and build credibility.
- 6.5 Of course regulators must have the confidence of the professions they regulate. That should not require representation, but credibility in the way they engage with, listen to and acknowledge the views of stakeholders. In the 2008 report *Enhancing Confidence in Healthcare Professional Regulators*, to which we contributed, it was recommended that board members should be clear that their overriding purpose is the protection of patients and the public. No group should have guaranteed places on

the board. Members, including those who were also registrants, should not be considered to be representative in any way – board members should be appointed because of their knowledge, experience and judgement'. We continue to support this position.

## GTCW Position Paper

Regulation of the Wider School Workforce**1.0 Executive summary**

1. This document is the Council's position paper on the regulation of the wider school workforce.
2. Following the introduction of school workforce reform in 2003, the number and nature of staff being employed by schools to support the work of teachers has changed significantly. This pattern is likely to continue further given the Welsh Assembly Government's 'Transforming Education' agenda which will see increasing numbers of FE teachers in schools.
3. The Council advocates the introduction of **professionally-led regulation** for persons who are working **in support of teachers and have direct contact with pupils as part of the learning process**. The Council believes that this step needs to bring with it the following for support staff:
  - the development of national professional standards;
  - initial training and continuing professional development arrangements;
  - professional and / or academic recognition;
  - a standardized system of performance management;
  - professional regulation, through the establishment of a Register and fitness to practice arrangements, in order to safeguard pupils, parents and the general public.
4. In developing this position, the Council emphasizes that every class should have a qualified teacher in charge, except in exceptional circumstances where instructors may be employed. The Council does not support any initiative to diminish the professional role of the teacher or affect the quality of education delivered to pupils.

**2.0 The changing school environment****2.1 Changes over recent years**

5. Following the introduction of school workforce reform in 2003, schools have recruited a wide range of staff to meet the requirements of the national agreement. This has included teaching assistants, learning support assistants, cover supervisors, inclusion coordinators, pastoral leaders, behaviour mentors, bursars, data managers, I.T. managers, librarians, administrative staff and technicians. A summary and categorization of the range of support posts in schools has been produced by the TDA and is annexed to this document. These staff have an important role to play in supporting both pupils and teachers and in helping schools to run smoothly and efficiently.

6. The significant increase in the number of support staff working in maintained schools in Wales over this period is shown below:

Support staff in maintained schools (full-time equivalents)

	<b>2003-04</b>	<b>2008-09</b>
<b>Teaching Assistants</b>		
HLTAs	Not recorded	768.9
Teaching Assistants	2,860	10,990.6
Special needs support staff	2,219	2,359.7
Other	3,205	Not recorded
	<b>8,284</b>	<b>14,119.2</b>
<b>Administrative staff</b>	<b>2,774</b>	<b>3,459.5</b>
<b>Technicians</b>	<b>1,034</b>	<b>1,100.2</b>
<b>Other support staff</b>		
Nurses / matrons	70	41.0
Nursing / childcare staff	555	373.9
	<b>635</b>	<b>414.9</b>
<b>Total</b>	<b>12,717</b>	<b>19,093.8</b>

*Source: Welsh Assembly Government publication "Schools in Wales: General Statistics"*

7. The 2008-09 figure equates to well over half the number of registered teachers working in schools in Wales (including supply teachers).
8. However, despite the significant increase in support staff in Welsh schools, little consideration has been given to a range of related factors in relation to these persons in Wales, in particular:
- **the development of national professional standards** so as to bring clarity of role;
  - **initial training and continuing professional development arrangements;**
  - **professional and / or academic recognition for support staff;**
  - **a standardized system of performance management** for all school staff;
  - **the safeguarding of pupils, parents and the public.** At present, unlike teachers and most other professionals, the professional conduct or competence of support staff is not regulated by any central body, either in entering their profession or whilst established in their profession;

On the establishment of the new Vetting and Barring Scheme (VBS) under the ISA, conduct and criminal offences committed by a member of support staff working in a maintained school in Wales that do not involve "a risk of harm to children" are no longer considered by government. This represents a major loophole in Wales meaning that under current arrangements, two persons could be dismissed for identical allegations of unacceptable professional conduct or commit identical criminal offences. The registered teacher would be referred to GTCW, but the member of support staff would not be investigated by any



regulatory authority and so would be free to continue working elsewhere in the maintained sector;

9. Some work has been undertaken by the TDA in England on two of the areas above, namely:
  - National Occupational Standards for most support roles in schools. While the standards do not apply to all staff or all schools, individuals and schools should be able to identify those standards that apply to their situation and tailor them to meet their needs;
  - a career development framework for school support staff which maps staff roles against national training and qualifications.

## 2.2 The future

10. The profile of classrooms and staffrooms within our schools is likely to change even further in coming years. In particular:
  - an ever increasing number of pupils of compulsory or post-compulsory age (14-19 year olds) are being, or will be taught within FE settings or by FE teachers within school settings. This move to greater flexibility in learning settings designed to match the learner's curriculum with their desires, ambitions and aptitudes is a welcome one, but throws into sharp contrast a number of inconsistencies in the ways learners and teachers are treated in both sectors. In this regard, the Council has developed a position paper on *Coherence and Consistency in 14-19 Education – the case for professional-regulation in Further Education* in 2009;
  - the **Education (Specified Work and Registration) (Wales) Regulations 2004 (as amended)** set out details of the persons who may undertake the specified work of a teacher, that is teach. There are now broadly three groups that may carry out "specified work":
    - (i) Qualified Teachers
    - (ii) Other Teachers. These are persons who are not qualified teachers but who meet designated requirements, for example instructors and overseas trained teachers
    - (iii) Other Persons. These may carry out specified work providing that it is to assist or support the work of a teacher in group (i) or (ii), and providing they are subject to the direction and supervision of a teacher.
11. The Assembly is seeking to extend the persons who can undertake "specified work" to include trainee teachers and FE teachers in vocational areas.

## 3.0 Other professions

12. There are a number of professions where the wider workforce is regulated and as a result a number of the matters in paragraph 8 have been or are being addressed. For example, the Dental profession. The General Dental Council now registers and regulates the following groups involved in dental care:

- Dentists;
- Clinical dental technicians;
- Dental nurses;
- Dental technicians;
- Dental therapists;
- Orthodontic therapists;

#### 4.0 What is the Council proposing - the argument for change?

13. Given the large number of support staff currently employed in Wales, the Council believes that it would be appropriate and beneficial for some areas of the wider school workforce in Wales to be regulated.
14. In taking such a stance, there are a large number of issues that need to be addressed. These matters are explored below.

#### 4.1 What is the prime purpose of regulating the wider school workforce?

15. The Council believes that the benefits of extending regulation to the wider school workforce are to:
  - establish and provide clarification on what the requirements are to work in a particular role, including:
    - the qualifications required to enter a role and the ongoing training and continuing professional development available / required;
    - the national professional standards which underpin certain support roles. As with the national standards developed in England by the TDA, these would help individuals in their daily tasks and help establish the link between the aims and objectives of a school and what is required to achieve these, so they can support school improvement;
    - the professional conduct, competence and child protection requirements, both for entry to a particular profession and to continue to work within it.

Developing these on a national level would help to reduce **local inconsistencies which currently exist and foster professionalism**. It would also provide greater clarity and transparency to parents and the public as to who is contributing towards the education of children in Wales.

- provide clarification, both to persons working within particular professions and to the public of the inherent purpose and value of different support roles and how they fit into the delivery of education within our schools;

- acknowledge that increasing numbers of support staff are working in schools and that under Assembly Regulations many of these persons can undertake the “specified work” of a teacher, subject to certain provisions;
  - gain knock-on benefits to the education system in Wales through a rise in standards leading to pupil improvement;
  - improve staff recruitment and retention into support posts through improved structures and support.
16. However, a move to regulate the wider school workforce would not come without issues. The Council considers that the costs of extending regulation to the wider school workforce would include:
- potential difficulties in gaining wider support for the benefits of regulating the wider school workforce. In particular the view that charging a registration fee to low paid persons working within schools would be contentious;
  - the financial costs involved in establishing professional standards and developing qualifications / training for professions where such arrangements do not currently exist.

#### 4.2 Which groups within the wider workforce should be regulated?

17. As explained earlier, there are a wide range of support staff now employed in Welsh schools. These include staff who have a direct impact on pupil learning and achievements such as HLTAs and learning support assistants and staff who have an indirect impact on pupil achievement such as administrative staff or librarians.
18. Given the wide range of support staff now employed in schools in Wales, the question arises as to who should be regulated and who should not.
19. The Council advocates that only persons who are working **in support of teachers and have direct contact with pupils as part of the learning process** should be regulated. In making this distinction the Council emphasises that it is not proposing the removal of existing safeguarding requirements upon schools for support staff not covered by this category, notably those provided by the Independent Safeguarding Authority and the Criminal Records Bureau. Similarly, the Council is not advocating the removal of existing professional regulation for persons already regulated by their own professional body, for example a school nurse will need to be registered with the Nursing and Midwifery Council
20. With the above distinction in mind, the Council suggests that the following types of posts might / might not be fall within the realms of professional self-regulation:

##### Types of post which should be regulated

- Instructors and FE trained staff;
- HLTAs,
- Cover supervisors

- Teaching assistants;
- Learning support assistants
- Inclusion coordinators;
- Behaviour mentors.

Types of post which should not be regulated ( Note: some of these may already be subject to existing regulation)

- Administrative staff, including bursars, data managers, IT managers
- Librarians;
- School counselors;
- Technicians;
- Caretakers;
- Catering staff.

***Note: (i) The lists above are not exhaustive and the posts used are illustrative only (ii) see Annex for a broader range of support roles in schools***

#### **4.3 What would be the most appropriate, proportionate and effective form of regulation of the wider workforce - registration with a professional body or a form of national licensing?**

21. It is acknowledged that many support roles are poorly paid and / or are subject to some recruitment and retention challenges.
22. As such, establishing a form of regulation that is “proportionate”, rather than overly onerous or off-putting is considered to be a key point.
23. The Council suggests that a light touch form of regulation would be preferable. However, it is also noted that there are benefits of a more extensive form of regulation through a professional body. In particular, it would help to foster professionalism.

#### **4.4 Who might regulate the wider school workforce?**

24. One school of thought is that it would make economic and practical sense if the responsibilities of GTCW itself could be extended to cover the wider school workforce given that the Council already regulates teachers and has established systems and procedures in place. The teaching profession would as a result be involved in regulating those who have a role in maintaining its standards
25. Others may argue that the Council’s role concerns teachers and as such its role should not be extended to cover the wider school workforce. If such a development

was to take place, important discussions would be needed about how the Council membership would be constituted in the future.

26. Regardless of who is to regulate support staff, the Council believes that it is absolutely imperative that support staff have “**professionally led-regulation**” rather than being regulated by central government.
27. However, whatever is decided, the Council would emphasis that it does not support any initiative to undermine the professional role of the teacher or affect the quality of education delivered to pupils. As such, the Council believes that every class should have a qualified teacher in charge of the learning process (except in exceptional circumstances).

28. The table below is taken from the TDA website and illustrates the broad range of support roles now found across maintained schools.

<b>Support staff categories, roles and job titles</b>		
<b>Category</b>	<b>Job roles</b>	<b>Examples of job titles</b>
Administration	Exam officer	Examinations officer Examinations manager
	Finance	Bursar Finance officer Finance technician
	General administration	Administrator Clerical assistant Data manager Examination invigilator Office manager Receptionist School business manager Secretary/PA
Specialist and technical	ICT	ICT technician Network manager
	Librarian	Library assistant Librarian Information manager/assistant Resource manager/assistant
	Science/design and technology	Art and craft technician Design and technology technician Food technology technician Laboratory technician Science technician Textiles technician
Site staff	Premises staff	Cleaner Caretaker Premises supervisor/manager Site manager
	Catering staff	Assistant cook Catering assistant Catering manager Cook

Support staff categories, roles and job titles		
		Kitchen supervisor/assistant
Learning support	Cover supervision	Cover assistant Cover supervisor Cover manager
	Early years	Early years assistant Foundation stage assistant Nursery nurse
	Special needs	Learning support assistant Special needs assistant Teaching assistant special needs
	Sports coach	Sports coach Sports technician
	Teaching assistant/bilingual support	Teaching assistant Classroom assistant Learning support assistant Bilingual support assistant Higher level teaching assistant
Welfare/pupil support	Behaviour/guidance/support	Behaviour mentor Careers adviser Connexions personal adviser Education welfare officer Home-school liaison officer Learning mentor
	Care staff	Health care assistant School nurse Welfare assistant
	Midday supervisor/playworker	Extended school club worker/manager Lunchtime supervisor Midday supervisor Out-of-school care worker/manager Playworker

Source: TDA website [http://www.tda.gov.uk/support/cdf/planner\\_guidance/role\\_categories.aspx](http://www.tda.gov.uk/support/cdf/planner_guidance/role_categories.aspx)

## GTCW Position Paper

### **COHERENCE AND CONSISTENCY IN 14-19 EDUCATION** **- the case for professional self-regulation in Further Education**

#### **Executive Summary**

**This is a GTCW position paper advocating the case for professional self regulation in Further Education (FE) with the aim of bringing greater consistency and coherence to the education of 14-19 year olds across learning settings.**

#### **The issue**

- Under the Welsh Assembly Government's '*Transforming Education*' agenda, education and training providers are required to work in partnership in order to provide genuine choice of learning pathways to 14- 19 year olds across school and college settings.
- Parents and the public are entitled to the reassurance that, regardless of school or college setting, young people are taught by teachers who are regulated and aspire to the highest possible professional standards. This is a fundamental issue of equity in the quality of learning of all young people.
- The draft *Learning & Skills Measure*, amongst other things, will require schools to ensure vocational provision for pupils and this is likely to increase the number of FE teachers in schools. As it is, many FE teachers already teach the same group of 14-19 year olds as school teachers but they are not required to adhere to the same professional expectations nor do they have parity in professional development opportunities. There should be a common set of expectations and access to continuing professional development for FE teachers and school teachers.

#### **What the GTCW is advocating**

- There is a need for an overarching set of high level professional standards which apply to teachers in both school and FE settings. This would help ensure comparability of qualifications and transferability of employment between school and FE sectors.
- FE teachers would benefit from a strong, autonomous, respected and high profile professional body that can inspire the highest standards of conduct and competence, regulate the FE teaching profession, improve professional development opportunities and provide a voice and direction on teaching issues.
- A coherent and consistent approach to the professional recognition of teachers across learning settings could be achieved by the GTCW becoming the professional body for teachers in both school and FE settings. The GTCW does not advocate the regulation of the wider lifelong-learning sector at this stage.
- The GTCW advocates the need for urgent action in this area.



## **COHERENCE AND CONSISTENCY IN 14-19 EDUCATION** **- the case for professional self-regulation in Further Education**

### **A. Introduction**

1. The General Teaching Council for Wales (GTCW) is the statutory, self-regulating professional body for teachers in Wales. It seeks to raise the status of teaching by maintaining and promoting the highest standards of professional practice and conduct in the interests of teachers, pupils and the general public.

The Council aims to provide an independent, representative and authoritative voice for the teaching profession in Wales and seeks to provide robust advice to the Welsh Assembly Government and other organisations on teaching issues.

2. This is the Council's position paper on the case for the introduction of professional self-regulation in the Further Education (FE) sector, thereby contributing to the further professionalisation of teaching in FE.

### **B. The GTCW's role as a professional body for school teachers**

3. Under the 1998 Teaching and Higher Education Act (as amended by the Education Act, 2002), the GTCW has been established *"to contribute to improving the standards of teaching and quality of learning, and to maintain and improve standards of professional conduct amongst teachers in the interests of the public"*.
4. Council's functions are regulatory, advisory and operational.
5. Council's **regulatory functions** include establishing and maintaining a Register of Teachers; setting out professional standards in the forms of Codes of Conduct and Practice; and, maintaining those standards amongst members of the profession through investigating and, where appropriate, hearing cases involving allegations of professional misconduct or incompetence on the part of registered teachers.
6. Council's **advisory functions** involve advising the Assembly and other designated bodies on:
  - standards of teaching;
  - standards of conduct for teachers;
  - the role of the teaching profession;
  - the training, career development and performance management of teachers;
  - recruitment, retention and supply of teachers;
  - the standing of the teaching profession;
  - medical fitness to teach;
  - and, if required by the Assembly, any other matters relating to teaching;
7. Council's **operational functions** enable it, at the request of the Assembly, to engage in activities "designed to promote recruitment to the teaching profession or the continuing professional development of teachers". To date, Council has been asked by the Assembly to administer funding programmes to support teachers' professional development, including new teachers in their first three years of their careers. The Council also determines the award of qualified teacher status (QTS) based on the recommendations of Initial Teacher Education & Training institutions and issues

newly qualified teachers with their QTS certificates. For teachers who fail to meet the induction year standard after their first year of teaching and are aggrieved by the decision, the Council acts as the independent Appeals Body.

8. The Council has a key role in **raising the status** of the school teaching profession, and believes that in the eight years of its existence has played a considerable part, coupled with other approaches by the Assembly Government and others, in beginning to change perceptions after a period of negative publicity about the teaching profession in the 1980's and 1990's. Council's particular contribution to raising the status of teachers may be put down to the sum of the work described above – focusing on improving professional practice through an emphasis on continuing teacher education and training; demonstrating the ability to act as an independent self-regulating body; and publicising the positive contribution of teachers to society and the high standards and levels of commitment and qualification expected of teachers.

### **C. The need for a consistent approach to teachers of 14-19 year olds**

9. An ever increasing number of pupils of compulsory or post-compulsory school age (14-19 year olds) are being, or will be taught either in FE settings by FE teachers or by them in school settings. Conversely, some adult education takes place in school settings. This move to greater flexibility in learning settings designed to match the learner's curriculum with their desires, ambitions and aptitudes is a welcome one - but it throws into sharp contrast a number of inconsistencies in the ways that learners and teachers are treated across both sectors.
10. Under the 'Transforming Education' programme, schools and colleges in Wales are required to work together in partnership in order to deliver genuine choice to learners under *Learning Pathways 14-19*. The draft *Learning & Skills Measure* is a radical educational reform which requires new ways of working and planning the curriculum across institutional boundaries. These requirements strengthen the case for challenging a status quo where different policies and regulations apply to teachers in school and college settings. Parents do not differentiate between vocational and non-vocational courses in individual settings and will not understand why some rules and entitlements apply to schoolteachers but not FE teachers. There is a need for coherence and consistency in approach. This is already in place in some areas, for example the Ministerial decision in Wales that there should be parity for FE teachers with the main pay scale for schoolteachers, but not in other areas, for example, different arrangements exist for professional development, qualification and registration requirements and quality assurance. This situation in Wales compares poorly with the regulatory and developmental activities which have taken place in FE in England since September 2007.
11. The Welsh Assembly Government is also committed to a strategy for the development of the Children's and Young People's Workforce including the publication of a 'Common Core of Knowledge and Understanding'. The interface between schools and colleges is a particularly relevant one in the light of children and young people's educational experiences and an area in which there is an obvious opportunity for action.

## **D. What might a professional body contribute to the development of the FE workforce?**

12. Based on the experiences of the GTCW since its inception and those of other UK professional bodies in teaching or in other professions, we would suggest that a professional body in the FE sector could make a very strong contribution to the development of its workforce through:

- initial and continuing professional development;
- setting and maintaining standards of professional conduct and competence in the interests of the public and the profession.

13. We set out below some considerations supported by examples of the particular contributions that the GTCW has been able to make in relation to school teaching in these areas. We think this is a role that a professional body in FE would be able to play.

### **Initial and continuing professional development**

14. The first and most obvious statement to make is that professional expertise requires not only subject knowledge but also teaching competence. Clearly there are likely to be variations within the FE workforce given the diversity of FE provision. By way of illustration, there may be a gap between the teaching competence of a graduate lecturer with a recognised PCET qualification that meets the Wales and England standards and, for example, a non-graduate lecturer employed part-time by an institution for their particular trade or professional skills and experience. Indeed, the latter may not have had any formal preparation for teaching.

15. As the professional self-regulating body for teachers in schools, the Council fully endorses the desire to maintain and continue to raise standards of teaching in the FE sector. One obvious area, therefore, in which a professional body in FE would contribute is the promotion of improved professional practice. Improved professional practice should have the overall effect of providing an entitlement to better quality teaching to learners in FE settings wherever they may be in Wales. This is an opportunity to remove the 'accident of geography' factor from the learner's experience.

16. Individual FE colleges may require their own staff to gain an initial teaching qualification within certain timeframes, but a regulator of standards would be in the best position to specify the requirement expected for all lecturers across the FE sector. The potential role of a regulator is even more pertinent because of the independent incorporated status of FE colleges.

### **Teaching qualifications.**

17. Expertise about professional practice resides in large measure within any profession. It follows that a professional body is best placed to develop, maintain and own the standards which describe professional competence. This should apply both in relation to initial and further teaching qualifications.

### *Initial teaching qualifications*

18. In respect of initial teaching qualifications, in 2002 we stated that we would be particularly supportive of any moves to ensure that the then Stage 3 FE Qualification had an equivalence to QTS. Courses leading to that qualification included components which are also part of courses which lead to QTS (e.g. learning theory, educational psychology and management of programmes) and we felt that this should facilitate the consideration of its inter-relationship with QTS for teaching pupils of school age. We continue to desire the establishment of an equivalence between the two qualifications.
19. However it is frustrating that six years on, little direct progress has been made. This is despite the fact that the movement of learners and staff between schools and FE has increased and is likely to continue to do so. By way of example, teachers with PGCE(FE) qualifications may still only be employed by schools as 'instructors', whereas teachers with QTS for teaching pupils of school age, may teach in any school or college setting. Legislation is needed to tackle how best teachers with the PGCE(FE) qualification with suitable school experience or graduate lecturers who may teach a substantial part of their time in schools or who teach school pupils in FE settings may be given QTS. This would also have implications in the future for courses of Initial Teacher Education and Training which lead to a PGCE (FE) qualification being adjusted to take account of the new 14-19 contexts in which lecturers may be required to teach in schools.
20. The Deputy Minister for Skills has launched the 'Standards for Teachers, Tutors and Trainers in the Lifelong Learning Sector'. Council's view is that the attempt to encompass the diverse roles found within the lifelong learning sector inside a single framework does not reflect the complexity of the FE, WBL and community learning workforce. There is a need to differentiate the role of teachers from others involved with learning to avoid the potential dilution of standards for teachers.
21. More significantly, however, the standards fail to address issues around the fundamental issue of the equivalence with the existing Qualified Teacher Status for teachers in the school sector - although in LLUK's view, there is an 80% overlap with the QTS standards. The proposal to develop a framework that assumes a minimum of NQF Level 5, raises real concerns in terms of parity for teachers working with young people in different settings. This is of particular relevance within the context of shared delivery of teaching programmes within the *Learning Pathways*.
22. Council believes that a high level set of overarching professional standards should be developed which could be applied to teachers in school and FE settings and thus enable detailed discussions of equivalence between the QTS and the QTLS standards and the content of initial training programmes to take place.
23. However, professional regulation is a separate thing from the existence of teaching standards. It is a means by which the continued competence of an individual can be maintained via expectations of CPD and by dealing with serious professional misconduct or incompetence in a small minority of individual cases.
24. The GTCW would wish to see any regulatory body for FE teachers having direct powers over the professional standards, accreditation of the programmes of initial teacher education & training and the development of frameworks for CPD and career development. The GTCW also believes that it is right that as the professional body for teachers it should also have these powers in relation to school teachers.

### *Further teaching qualifications*

25. In relation to further teaching qualifications, developments in teaching in the school sector may be instructive. In 2003, the Welsh Assembly Government introduced a statutory induction year standard which set out the standards of professional competence that a NQT was required to meet after one year of teaching. In 2005, the National Professional Qualification for Headship (NPQH) became mandatory for all new headteachers in Wales. In September 2007, the Council began piloting a Chartered Teacher programme and qualification for highly skilled teachers in the middle of their careers and intends to mainstream this from 2010, subject to the outcomes of independent evaluation. In summary, schoolteachers in Wales will soon have a coherent and progressive framework of professional milestones/standards and qualifications ranging from QTS through Induction, Chartered Teacher and on to Headship for those who so aspire. This will assist teachers in planning their most appropriate next professional development step.
26. The coherence and progression of a career long professional development framework can be recommended to FE teachers also. Because of its focus on professional standards, a professional body is well placed to drive such an initiative forward. However, it would need to be recognised that with the greater diversity in the qualification levels of FE teachers, that there would continue to be a need for a range of levels and types of both initial and further teaching qualifications – albeit these could reside within the ambit of a single professional body.
27. The Council has developed and submitted key advice documents to the Welsh Assembly Government on a Professional Development Framework for Teachers in Wales, dealing with coherence and progression in career milestones and standards; professional development, recognition and accreditation; recording of and reflection on CPD; and, the quality of assurance of CPD provision. The issues addressed by the Council's advice on the Framework would be equally a firm basis for considering qualifications and CPD in the FE setting.

### Continuing professional development

28. Without a culture of professional development, a profession will remain static and lack the stimulus of the need for continuous reflection and improvement. The same principle must apply to the teaching profession. Teachers, of all professions ought to be at the forefront of learning themselves. Acquiring an initial teaching qualification can only be the beginning of the story.
29. In 2002, we set out the principles that we believed should underpin teachers' CPD, namely:
- a broad definition of CPD encompassing all formal and informal learning that developed teachers' practice;
  - teachers having an entitlement to and a responsibility for their own CPD;
  - career-long access to high quality CPD irrespective of geographic location in Wales;
  - funding for CPD should recognize the needs of government, schools and individual teachers;

- a close relationship with the performance management process through which CPD needs and provision could be discussed and agreed.
30. At the request of the Assembly, we have been seeking to make these principles a reality through our work on a Professional Development Framework (described above) and through close working with our partners.
31. Our experience in the school setting is that provision had long been made for teachers' CPD relating to government priorities and for school priorities but this did not always equate to teachers' personal, professional development needs. In 2001, we piloted and subsequently began administering an Assembly-funded programme designed to enable individual teachers to access funding for their own individual professional needs. Well over 25,000 CPD opportunities have been funded in the last 7 years with, by way of example, over 5500 teachers benefiting in 2007-08 from a £3m budget. This has had a very positive effect in enabling teachers to take control and responsibility for some of their CPD and in creating a growing self-confidence on the part of teachers about their own practice. An important part of this process has been the dissemination by teachers of their professional learning with other colleagues.
32. GTCW is aware that as autonomous, corporate institutions, the emphasis placed on the development of staff may vary from FE setting to setting. We would recommend the benefits of introducing a funding stream designed to support the individual professional needs of teachers. Our experience has been that individual teachers' professional learning can have a very positive 'bottom-up' impact on the institution as a learning community and on the confidence of the wider profession. However, such a funding stream would need to be administered by an independent body (such as a professional body) rather than colleges to ensure equality of treatment of individually identified teacher professional needs.

### **Setting and maintaining standards of conduct and competence**

33. The 'classic' work of a self-regulating professional body is to uphold high standards of professional conduct and competence and maintain the confidence of the general public. This is often seen in a negative light when certain individuals who do not meet professional standards are sanctioned or removed from the profession's register of practitioners. In reality, the professional standards work is a positive illustration of the high standards of a profession which is not prepared to accept a small number of individuals who may besmirch its reputation.
34. The GTCW's regulatory work has the following features. A professional body playing a similar role for teachers in FE would bring the same benefits.

#### **A Register**

35. Council holds a record of qualified teachers who have registered with it on an annual basis. It also holds records of all those who have teaching qualifications but have chosen not to register. All teachers in a state school in Wales must be registered with GTCW in order to teach.
36. Teachers pay an annual registration fee (currently £45). Council has one category of registration ('full registration') although it has argued that the Assembly Government should introduce a category of 'provisional registration' for teachers in their first year of teaching.

37. Registration gives a guarantee to parents, employers and others that teachers in state schools have the requisite qualification and do not have any barrings or disciplinary orders placed on them which would otherwise prevent them from teaching. Further, the GTCW has introduced a 'suitability for registration' criterion which now requires a first time registrant or re-registrant to have a Criminal Records Bureau (CRB) check prior to registration.
38. With regard to pupils of school age who may receive part of their education in FE settings or be taught by FE staff in school, there is an obvious need for consistency. The first and most obvious example is in the field of child protection. Leaving aside the issue of professional qualifications for the moment and in the context of the high profile that child protection matters currently have, there is a strong argument for a professional body to hold a Register of FE lecturers. This would be a minimalist approach with a focus on the suitability/conduct of any person, however qualified, to be employed as a teacher in an FE setting. Beyond this, given the range of teaching qualifications amongst the FE workforce, there may be a need to consider different categories of registration to reflect different teaching competences and qualifications.

#### Codes of Conduct and Practice

39. The GTCW has produced a '*Statement of Professional Values and Practice*' and supplemented this with a guide '*Professionalism in Practice*'. The Statement provides a set of principles to which teachers aspire and which should guide teachers' dealings with learners, colleagues, parents and other professionals. It also describes the expectations on teachers in terms of their commitment to their professional development. The '*Professionalism in Practice*' guidance document gives examples of situations which teachers should avoid. Together, they contain important principles for a profession that a professional body is best placed to express. The Council is currently reviewing these documents with a view to introducing a Code of Conduct and Practice which sets out the minimum standards for the regulation of the profession.

#### Dealing with unacceptable professional conduct and serious professional incompetence

40. Upholding standards of conduct and practice is a responsibility of a professional body. The GTCW investigates, and where appropriate, hears cases where a teacher has been dismissed or might have been dismissed by an employer for professional misconduct or incompetence or where a teacher has been found guilty of a relevant criminal offence. This is so that there is a means by which teachers found guilty of professional misconduct or professional incompetence are not passed on to another school setting or onto another pupil.
41. The same principle could be anticipated in operation by a professional body for FE teachers - perhaps with a common standard applying to the conduct of all staff, and, potentially, different standards of professional competence depending on the levels of qualification or category of registration for certain FE teachers.

#### **E. Need for Urgent Action**

42. As schools and colleges are required to work together in partnership and to establish outline proposals for 'learning partnerships', there is an urgent need to resolve the inconsistencies between the approach to the professionalisation of teaching between the school and FE sectors.

43. Whilst the professionalisation of school teachers in Wales is established, teachers in a FE setting do not benefit from a similar coherent approach to professionalisation. Teachers in the FE sector in England have benefited from the regulatory and developmental activities associated with professionalisation since September 2007 following the establishment of the Institute for Learning (IfL) as the professional body for FE.
44. Council believes that the arguments for introducing professional regulation in FE are very strong. A closely related question is, therefore, "Who should the professional body be?"
45. One option would be to extend the remit of England's *Institute for Learning* to Wales. On the one hand, it is an existing organisation for FE teaching, albeit with a comparatively short history as a professional body. However, post-devolution, it would be surprising if the Assembly Government took a route so radically different from the direction it has taken in establishing parallel bodies where there are England-based equivalents e.g. two separate Teaching Councils for England and Wales were established in 2000. There would be a danger of marginalization of the relatively small number of FE teachers in Wales within a primarily England-centric organisation which could fail to deliver the best solutions for teachers and learners in Wales. There are currently 9,600 FE teachers in Wales compared with 157,000 in England.
46. A second option would be for the Assembly Government to establish a Wales-only professional body for FE. It could address the FE professional issues unencumbered by other matters such as those facing schools. However, as argued in this position paper, separateness is not what is needed given the direction of travel set out in the *Learning Country: Vision into Action and the 'Transforming Education' plan*. There would be potential difficulties in establishing a separate professional body because of the rather small size of the FE sector in Wales and the consequent diseconomies of scale. For such a body to be viable, it would need to forge very close links with other bodies.
47. A third option is for the General Teaching Council for Wales's remit to be extended to include FE teachers. On the one hand, the Council is now established and has experience of the professional issues facing a teaching profession. It is a Wales organisation locked into the priorities and issues faced in our country. On the other hand, the present constitution, the composition of the governing Council and its remit is one for school teachers, and, without significant change would not be 'fit for purpose' as an organisation to advise and regulate the FE workforce. It is this third option that Ministers appear to be contemplating as set out in the Ministerial decision of March 2007 that "*work should begin to explore the legislative and delivery requirements needed to extend the current role of the General Teaching Council for Wales (GTCW) to act as the body responsible for the license to practise for teachers, tutors and trainers in the lifelong learning sector in Wales*".
48. Whilst the Council at this stage does not support the regulation of the wider lifelong learning sector, little tangible progress appears to have been made on the Ministerial decision and there appears to be no clear plan for implementation if the exploration supports the case for extending the GTCW's remit. This apparent 'wait and see' approach being adopted to developments in the FE sector in England does a disservice to FE teachers in Wales. Wales has a distinctive approach to *Learning Pathways 14-19* and a commitment to transforming education through schools and FE colleges to work in partnership. It should also have a distinctive approach in relation to professional regulation in the FE sector. It is assumed that in light of the



Ministerial decision that, as a minimum, an initial evaluation will have been undertaken by the Welsh Assembly Government in support of this option. Council would be pleased to see this evaluation and to engage further with policy discussions with the Minister and Assembly officials on the matter.

49. Any decision on regulating the FE workforce in Wales will require legislation and there would be lengthy lead times prior to eventual implementation. Similarly, the need to consult extensively and build a consensus around a preferred regulatory approach will inevitably take a considerable period of time, as it will need to involve many organisations, including employers and trades unions.
50. In the light of these very lengthy lead times there is a need for policy decisions to be made as soon as is practically possible. If the GTCW is considered by the Welsh Assembly Government to be the professional body for FE, then a Legislative Competence Order (LCO) will be required to enable the NAFW to introduce a Measure to define the new role and constitution of the GTCW.

## **F. Conclusion**

51. The Council believes that the establishment of a professional body for FE with independence and sufficient funding to back up its work programme would greatly assist in the professional development of the FE workforce. It would also bring other benefits in raising the status of FE teachers; giving greater assurances to learners and employers about quality; and, bring greater consistency and coherence at the school-college interface.
52. The Council calls for a full consultation with FE teachers on both the principle behind and the key functions of the professional body. It would be essential that *fforwm* and unions representing FE teachers form a central part of any communications / consultation strategy.

**GTCW Position paper on Accreditation of ITET**

**INITIAL TEACHER EDUCATION AND TRAINING (ITET) –  
THE ROLE OF THE GENERAL TEACHING COUNCIL FOR WALES  
(OCTOBER 2008)**

1. In accordance with the General Teaching Council for Wales' mission to contribute to improving standards of teaching and the quality of learning and to maintain and improve standards of professional conduct amongst teachers, the Council believes that as the autonomous professional body of teachers, it is the most appropriate body to own professional standards and to accredit programmes of initial teacher education in Wales. The Council believes that undertaking such a role would bring about a more coherent and rational system.

**Ownership of standards and accreditation of Initial Education Programmes by professional bodies**

2. An analysis of current approaches by a significant sample of professional and/or regulatory bodies is provided at Annex B. It is apparent from this comparison exercise that all bodies surveyed own the professional standards for initial qualification and undertake the role of assuring the appropriateness of initial education delivered on their behalf by the HE sector. The detail of the assurance process varies between the bodies and can be generally classified in two ways:
  - those who directly oversee the design and delivery of programmes of study that lead to their profession's required outcomes (this would include those within the medical professions that have well established legal powers to oversee the delivery of programmes by universities that date back to the mid-19<sup>th</sup> century);
  - those who offer the opportunity to HEIs to accredit their programmes to deliver 'dual currency' in terms of both the HEIs academic outcome and exemption from elements of the professional bodies various stages.
3. The process of accreditation of initial professional education is a logical extension of the ownership of the professional standards by the professional body.
4. Professional and/regulatory bodies appear to take quite different approaches to the mechanics of accreditation or approval, examples vary from 'light-touch' assessment of professional competence at the end of the programme through to visits to assess quality of teaching and resources available to learners. Some bodies will provide a model syllabus whilst others are more specific in what is to be covered within a programme.
5. By way of background information, there has been in recent times increasing pressure from HEIs and the Department of Innovation, Universities and Skills (DIUS) to minimise the regulatory burden upon institutions and to this end the Higher Education Regulatory Reform Group (HERRG) has been seeking a reduction in the duplication of quality assurance processes and any unnecessary 'interference' in the work of HEIs. Currently over 100 professional bodies either directly regulate HE provision or accredit provision. Members will need to be mindful of such 'light-touch' aspiration by UK government in shaping any potential

role for GTCW in ITET accreditation.

## **UK & Ireland: comparisons of ITET course accreditation and ownership of professional standards**

### **Scotland**

6. In Scotland the General Teaching Council for Scotland undertakes a central role in the accreditation of ITET courses and this reflects its long established presence within the Scottish educational system and its ownership of the professional standards. Recent proposals in Scotland will see GTCS take on a direct approval role for ITET programmes rather than using the previous mechanism of making recommendations for approval to the respective Minister.

### **Northern Ireland**

7. In Northern Ireland the GTCNI has recently acquired powers of accreditation of ITET courses alongside the Inspectorate on behalf of the Department for Education, but ownership of the professional standards remains with the Department and not GTCNI.

### **Republic Of Ireland**

8. The Teaching Council in the Republic of Ireland will have the power to accredit ITET. There are no national professional standards for 'QTS' in the way that there are in four countries of the UK.

### **England**

9. The Training and Development Agency for Schools (TDA) undertakes a similar role in England to that of the Higher Education Funding Council (HEFCW) in Wales in terms of the accreditation of ITET programmes and it employs the services of OFSTED to undertake the inspectorial role undertaken by Estyn. It is worth noting that such inspection based approaches are very unusual within quality assurance of HE provision. The GTCE has no direct role in the accreditation of ITET programmes (and does not have ownership of the associated professional standards of QTS) but does engage with the TDA in ensuring the appropriateness of initial education and the professional standards. Obviously the TDA has a very much more teacher and school workforce focussed core mission and associated expertise base and infrastructure when compared with a funding body such as HEFCW. HEFCW has no role in England in the accreditation of ITET courses.

### **Wales**

10. As noted in the previous paragraph, HEFCW has an overarching responsibility for accrediting ITET courses in Wales, with Estyn undertaking inspections of the courses on HEFCW's behalf. The key difference between the accreditation bodies for ITET in Wales and England (i.e. HEFCW and the TDA) is the TDA's core teacher education and recruitment mission, and associated expertise base and infrastructure. HEFCW does not have these skills and it is questionable what added value it brings to the accreditation of ITET courses.

## **The role of the Quality Assurance Agency for Higher Education (QAA)**

11. The mission of the QAA is to safeguard the public interest through sound standards of higher education qualifications and to inform and encourage continuous improvement in the management of the quality of higher education. They do this by working with higher education institutions to define academic standards and quality, and carry out and publish reviews against these standards.

12. The QAA was established in 1997 and is an independent body funded by subscriptions from UK universities and colleges of higher education, and through contracts with the main UK higher education funding bodies.
13. The QAA also lists professional, statutory, regulatory and other bodies that are recognised for the purpose of presenting information to QAA and asking it to investigate a possible cause for concern about an institution offering higher education programmes or awards. Whilst the GTCW does not have accreditation powers for ITET it is formally recognised as a body by QAA that can express cause for concerns in relation to HEI programmes in Wales. It does appear ironic that whilst the Council does not have positive powers to accredit ITET courses it does have the authority to request investigation of a programme giving cause for concern.

### **The argument for change**

14. The Council believes that a system whereby the professional body for teachers accredits initial teacher education and training would be more logical, rational and consistent not only with the roles of other professional bodies across the professions but also bring the GTCW more in line with most of the teaching councils in the UK, with exception of GTCE.
15. Accreditation of ITET should rest with a body that has the capability and knowledge to understand the current and future professional issues facing teachers.
16. Initial education programmes leading to professional status must clearly integrate with professional development frameworks for the profession and as such ITET has to be seen as the first stage in a coherent and progressive framework of on-going professional learning. The Council already acts as an accepted, respected and autonomous voice for teachers and teaching. The Council believes that it is its role to continue and extend this role in order to safeguard professional standards for teachers from their entry to the profession through to Chartered Teacher and headship.
17. Any process of accreditation must be proportionate and strive to maintain a 'light-touch' approach whilst ensuring high professional standards are maintained and that newly qualified teachers are appropriately prepared for the classroom.
18. A framework for accreditation will need to ensure that programmes of ITET are 'fit for purpose' in terms of being quality assured to meet the requirements of:
  - prospective teachers
  - the profession
  - employers – schools and LEAs
  - the Welsh Assembly Government
  - the public
19. The Welsh Assembly Government needs to take cognisance of the disparity of approach to the accreditation of initial teacher education and training when compared with almost all other significant professional and/or regulatory bodies.
20. Whilst the approach to ITET accreditation adopted in Wales broadly mirrors the structure of accreditation in England, it is peculiar in that it utilises a HE funding body to undertake the equivalent role of the TDA. Questions could be asked

about the appropriateness of HEFCW's role in accreditation on behalf of a profession it does not represent. This along with issues around the lack of role segregation in an apparently unique combination of funding and programme accreditation roles. **Logic would normally dictate that funding bodies focus on funding and professional bodies upon the professional relevance of provision.**

21. The current accreditation approach in Wales (and its associated inspection and compliance structure) has the potential weakness of not being enhancement driven to meet the needs of a rapidly changing profession.
22. Under the present system, the inevitable focus is upon existing standards and historical issues and these weaknesses are compounded by the related long legislative lead times required to bring about change. These systemic flaws result in a system that has the potential to produce approaches to programme accreditation that are based around the historical needs of the profession and compliance checking, rather than a more dynamic and pro-active approach to prepare aspiring teachers for current and emerging professional challenges.
23. As the autonomous professional body for teachers in Wales charged with upholding and maintaining standards in teaching, and, as an organisation committed to the professional development of teachers throughout their professional lives, the GTCW feels that it would be well placed to assure both the profession and the public that courses of initial teacher education are fit for purpose.
24. The GTCW already has strong working relationships with schools of education in Wales. The GTCW has a remit to advise the Welsh Assembly Government and other designated bodies on the training, career development and performance management of teachers. We are the only strategic, independent body which represents the profession of teaching and its associated professional issues. It is the Council's opinion that its role should include accreditation of initial teacher education courses, courses which are the foundation stone of a teacher's career, and which mark the start of a teacher's professional journey.

	Professional Body	Sector *	Owner of the Professional Standards (Yes/No)	Accreditor of Initial Education? (Yes/No)	Method of Accreditation (Direct Approval or Professional Exemption)	Web Link to Accreditation page
	1 Association of Chartered Certified Accountants (ACCA)	BM	Yes	Yes	Professional Exemption	<a href="http://www.acca.co.uk/learningproviders/exemptions/becomeaccredited">http://www.acca.co.uk/learningproviders/exemptions/becomeaccredited</a>
	2 Chartered Institute of Marketing (CIM)	BM	Yes	Yes	Professional Exemption	<a href="http://www.cim.co.uk/ProfessionalDevelopment/Qualifications/WhereToStudy.aspx">http://www.cim.co.uk/ProfessionalDevelopment/Qualifications/WhereToStudy.aspx</a>
	3 Chartered Institute of Public Relations	BM	Yes	Yes	Professional Exemption	<a href="http://www.cipr.co.uk/education/index_home.asp">http://www.cipr.co.uk/education/index_home.asp</a>
	4 Chartered Management Institute	BM	Yes	Yes	Professional Exemption	<a href="http://www.managers.org.uk/content_1.aspx?id=10.64&amp;id=10.7">http://www.managers.org.uk/content_1.aspx?id=10.64&amp;id=10.7</a>
	5 The Actuarial Profession	BM	Yes	Yes	Professional Exemption	<a href="http://www.actuaries.org.uk/students/tuition/actuarial_courses">http://www.actuaries.org.uk/students/tuition/actuarial_courses</a>
	6 The Chartered Institute of Management Accountants (CIMA)	BM	Yes	Yes	Professional Exemption	<a href="http://www.cimaglobal.com/cips/ide/xhg/SID-0AAMC544-FA20568/ive/root.xsl/1325.htm">http://www.cimaglobal.com/cips/ide/xhg/SID-0AAMC544-FA20568/ive/root.xsl/1325.htm</a>
	7 The Chartered Institute of Personnel and Development (CIPD)	BM	Yes	Yes	Professional Exemption	<a href="http://www.cipd.co.uk/training/">http://www.cipd.co.uk/training/</a>
	8 The Chartered Institute of Purchasing & Supply (CIPS)	BM	Yes	Yes	Professional Exemption	<a href="http://www.cips.org/studyqualify/howtostudy/prf.asp/">http://www.cips.org/studyqualify/howtostudy/prf.asp/</a>
	9 The Institute of Chartered Accountants in England & Wales (ICAEW)	BM	Yes	Yes	Professional Exemption	<a href="http://www.icaew.com/index.cfm?route=149779">http://www.icaew.com/index.cfm?route=149779</a>
	10 Chartered Institute of Environmental Health (CIEH)	H	Yes	Yes	Professional Exemption	<a href="http://www.cieh.org/careers.aspx?id=881">http://www.cieh.org/careers.aspx?id=881</a>
	11 Chartered Society of Physiotherapy (CSP)	H	Yes	Yes	Professional Exemption	<a href="http://www.csp.org.uk/director/careersandlearning/ukqualifyingprogrammes.cfm">http://www.csp.org.uk/director/careersandlearning/ukqualifyingprogrammes.cfm</a>
	12 General Medical Council (GMC)	H	Yes	Yes	Direct Approval	<a href="http://www.gmc-uk.org/education/undergraduate/undergraduate_qa.asp">http://www.gmc-uk.org/education/undergraduate/undergraduate_qa.asp</a>
	13 General Optical Council	H	Yes	Yes	Direct Approval	<a href="http://www.optical.org/en/our_work/Education/Approving_courses/">http://www.optical.org/en/our_work/Education/Approving_courses/</a>
	14 Institution of Occupational Safety and Health	H	Yes	Yes	Professional Exemption	<a href="http://www.iosh.co.uk/index.cfm?go=membership_gradiosh">http://www.iosh.co.uk/index.cfm?go=membership_gradiosh</a>
	15 Nursing & Midwifery Council (NMC)	H	Yes	Yes	Direct Approval	<a href="http://www.nmc-uk.org/laSection.aspx?SectionID=8">http://www.nmc-uk.org/laSection.aspx?SectionID=8</a>
	16 Postgraduate Medical Education and Training Board (PMETB)	H	Yes	Yes	Direct Approval	<a href="http://www.pmetb.org.uk/index.php?id=quality">http://www.pmetb.org.uk/index.php?id=quality</a>
	17 Royal College of Speech & Language Therapists	H	Yes	Yes	Professional Exemption	<a href="http://www.rcsl.org/about/its/courses">http://www.rcsl.org/about/its/courses</a>
	18 Royal Pharmaceutical Society of Great Britain (RPSGB)	H	Yes	Yes	Direct Approval	<a href="http://www.rpsgb.org.uk/acareer/inpharmacy/undergraduateeducation/#acc">http://www.rpsgb.org.uk/acareer/inpharmacy/undergraduateeducation/#acc</a>
	19 Society of Radiographers	H	Yes	Yes	Professional Exemption	<a href="http://www.sor.org/public/app.htm">http://www.sor.org/public/app.htm</a>
	20 The General Chiropractic Council	H	Yes	Yes	Professional Exemption	<a href="http://www.gcc-uk.org/page.cfm?page_id=25">http://www.gcc-uk.org/page.cfm?page_id=25</a>
	21 The General Dental Council (GDC)	H	Yes	Yes	Direct Approval	<a href="http://www.gdc-uk.org/Our+work/Education/Training+course+providers.to+become+a+dentist.htm">http://www.gdc-uk.org/Our+work/Education/Training+course+providers.to+become+a+dentist.htm</a>
	22 British Dietetic Association	H	Yes	Yes	Professional Exemption	<a href="http://www.bda.uk.com/edqualify.html">http://www.bda.uk.com/edqualify.html</a>
	23 The Bar Council / The Bar Standards Board (BSB)	LAW	Yes	Yes	Direct Approval	<a href="http://www.barstandardsboard.org.uk/qualifyingforthebar/aboutthevc/">http://www.barstandardsboard.org.uk/qualifyingforthebar/aboutthevc/</a>
	24 The Law Society of England and Wales / Solicitors Regulatory Authority (SRA)	LAW	Yes	Yes	Direct Approval	<a href="http://juniorlawyers.lawsociety.org.uk/node/26">http://juniorlawyers.lawsociety.org.uk/node/26</a>
	25 Chartered Institute of Library and Information Professionals	LL	Yes	Yes	Professional Exemption	<a href="http://www.cilip.org.uk/qualificationschartership/wheretostudy/">http://www.cilip.org.uk/qualificationschartership/wheretostudy/</a>
	26 Institute for Learning (IfL) / Standards Verification UK	LL	Unclear	Yes	Direct Approval	<a href="http://www.standardsverificationuk.org/2902.htm">http://www.standardsverificationuk.org/2902.htm</a>
	27 The Royal Institute of British Architects (RIBA)	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.architecture.com/EducationAndCareers/BecomingAnArchitect/SchoolsAndCourses/SchoolsAndCourses.aspx">http://www.architecture.com/EducationAndCareers/BecomingAnArchitect/SchoolsAndCourses/SchoolsAndCourses.aspx</a>
	28 Institution of Civil Engineers	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.ice.org.uk/joining/graduate1.asp">http://www.ice.org.uk/joining/graduate1.asp</a>
	29 Institution of Mechanical Engineers (ImechE)	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.imeche.org/profdev/pds/getmpdsorganisations/universities/uniaaccred.htm">http://www.imeche.org/profdev/pds/getmpdsorganisations/universities/uniaaccred.htm</a>
	30 Royal Town Planning Institute	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.rtpi.org.uk/education_and_careers/education/">http://www.rtpi.org.uk/education_and_careers/education/</a>
	31 The Institution of Engineering and Technology (IET)	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.theiet.org/careers/accreditation/academic/index.cfm">http://www.theiet.org/careers/accreditation/academic/index.cfm</a>
	32 The Royal Institution of Chartered Surveyors	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.ricscourses.org/Pages/Accreditation.aspx">http://www.ricscourses.org/Pages/Accreditation.aspx</a>
	33 The Royal Statistical Society (RSS)	STEMB	Yes	Yes	Professional Exemption	<a href="http://www.rss.org.uk/main.asp?page=1785">http://www.rss.org.uk/main.asp?page=1785</a>
	<i>Note - Sector Identifiers - BM = Business/Management, H= Health professions, LAW = Law, LL = Lifelong Learning, STEMB = Science, Technology, Engineering, Mathematics and Built Environment.</i>					
a	GTCE	Teachers	No	No	Not Applicable	
b	GTCS	Teachers	Yes	Yes	Direct Approval	
c	GTCNI	Teachers	No	Yes	Direct Approval	
d	GTC Rol	Teachers	Yes	Unclear	Direct Approval	
e	GTCW	Teachers	No	No	Not Applicable	
	Sources - Data obtained from a survey of organisations web sites in April 2008.					

# Initial Teacher Education: Criteria and Guidelines for Programme Providers

In accordance with Section 38 of the Teaching Council Act, 2001

August 2011



**The Teaching Council**  
*An Chomhairle Mhúinteoireachta*

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# Foreword

In December 2010, the Teaching Council established an Advisory Group on Initial Teacher Education. The group was tasked with advising the Council on the criteria and guidelines to be used by providers in reconceptualising programmes of initial teacher education at primary and post-primary level. The group met on seven occasions over the months from January to June 2011 where it debated and drafted a number of iterations, culminating in this document which was approved by the Council at its meeting on 13 June 2011.

The criteria and guidelines are based on the Council's Policy on the Continuum of Teacher Education and are integral to the Council's Strategy for the Review and Accreditation of Programmes of Initial Teacher Education. As such, they form the bridge between the Council's policy and the development and implementation of reconceptualised programmes of initial teacher education in Higher Education Institutions. They provide clarity for HEIs and enable them to ensure that their programmes meet the Council's accreditation requirements.

I would like to thank the members of the group, named below, for giving of their time so generously, for sharing their experience and expertise so willingly and for their unwavering attention to detail as they undertook this work. We are indebted to Carmel Kearns, Education Officer with the Teaching Council, who acted as Secretary to the Advisory Group throughout the process.

Le gach dea-ghuí



Áine Lawlor, CEO/Director  
Chair of the Advisory Group

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# Glossary

## Professional Portfolio

The term professional portfolio is used in this document to denote an instrument which is used by the student teacher to document his or her work, to support the process of reflection on his or her practice and to identify areas in which he/she may need support or guidance. The portfolio also facilitates students to become more conscious of the theories and assumptions that guide their practice, and provides a basis for collaborative dialogue about teaching.

## HEI

The term HEI or Higher Education Institution is used in this document to denote those colleges, universities and other third level bodies providing one or more programmes of initial teacher education.

## School Placement

The term school placement refers to that part of the programme which takes place in school settings and which is designed to give the student teacher an opportunity to apply educational theory in a variety of teaching situations and school contexts. It affords the student teacher opportunities to participate in school life in a way that is structured and supported. The Council is aware that the term “teaching practice” is the more widely used term in the Irish teacher education context. However, it considers the term “school placement” more accurately reflects the nature of the experience as one encompassing a range of teaching and non-teaching activities.

## HEI Placement Tutor

The term HEI Placement Tutor is used in this document to denote a person engaged by a programme provider to support and mentor student teachers and evaluate their practice, while they are engaged in the placement element of the programme. The Council is aware that, traditionally, the term “supervisor” may have been more widely-used. However, it considers that the term tutor is preferable, in that it more accurately reflects the nature of the role.

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# Introduction

The Teaching Council was established on a statutory basis in March 2006 as the professional standards body for teaching. It has significant powers with regard to teacher education as prescribed in the Teaching Council Act, 2001 ('the Act'). In exercising these powers, the Council works within the framework of its Policy on the Continuum of Teacher Education. The policy highlights the evolving and dynamic context for teaching and the increasingly complex role of teachers in Ireland today. In light of that, it states that

“...the time is now right for a thorough and fresh look at teacher education to ensure that tomorrow’s teachers are competent to meet the challenges that they face and are life-long learners, continually adapting over the course of their careers to enable them to support their students’ learning.”

It further states that innovation, integration and improvement should underpin all stages of the continuum.

In parallel with the development by the Council of its Policy on the Continuum of Teacher Education, the Minister for Education and Skills published a Draft National Plan to Improve Literacy and Numeracy in Schools in November 2010. In that plan, much emphasis was placed on teachers’ professional development and it was proposed that the duration of initial teacher education (ITE) programmes should be extended and the programme content reconceptualised. The publication of the draft national plan on literacy and numeracy was timely in that it provided added impetus to the Council’s work in developing its Policy on the Continuum of Teacher Education. It is also significant that the Council is now setting out, for the first time in the history of teacher education in the State, learning outcomes for all graduates of ITE programmes.

This document was drawn up to set out the criteria and guidelines which providers of programmes of ITE are required to observe. As such, they form the bridge between the Council’s policy and the development and implementation of reconceptualised programmes.

While recognising the inter-related nature of all aspects of programmes of teacher education, the criteria and guidelines are categorised under Inputs, Processes and Outcomes. All three dimensions have an important bearing on the quality of teacher education. The required Inputs and Outcomes are clearly elaborated in the document while the Processes are less prescriptive. The latter respects the HEIs’ freedom to develop the processes which best suit their individual situations.

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Under Section 38 of the Act, ITE programmes are subject to review and accreditation by the Teaching Council, for registration purposes. In that context, this is an important document for programme providers and for programme review panels. It will also be of interest to teachers and all who are involved in promoting high quality teaching in our schools.

The criteria and guidelines set out in this document refer to current models of primary and post-primary ITE. They will be subject to ongoing review and revision, as appropriate. It may happen that, at a future date, models of ITE linking primary, post-primary and further education will be developed and, if so, it will be necessary to formulate criteria and guidelines to reflect this.

The document is available for download from the Teacher Education pages of the Council's website, [www.teachingcouncil.ie](http://www.teachingcouncil.ie) and should be read in conjunction with the Council's Strategy for the Review and Professional Accreditation of Programmes of ITE and the accompanying Pro Forma for the submission of programme documentation.

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# Criteria & Guidelines

## 1 Inputs

### 1.1 Conceptual Framework

Programmes of ITE should be supported by a clearly-defined conceptual framework. The framework should be developed by providers and should be informed by research and by the Council's Policy on the Continuum of Teacher Education and its Code of Professional Conduct for Teachers.

The conceptual framework should identify the principles, beliefs and values about education, about teacher education and about teaching and learning in the particular teaching sector for which the programme is designed. It should begin with clearly identified theoretical statements and should provide a rationale for the model of ITE adopted by the provider. Clear linkages between the programme aims and the conceptual framework should be evident, as should the revisiting of key themes over the course of the programme.

### 1.2 The Programme

Programmes should have received academic accreditation. In addition, programmes should be the subject of ongoing internal review and quality assurance policies and procedures. The criteria guiding internal reviews should be compatible with those in this document.

External Examiners should be appointed to examine all aspects of programmes.

#### 1.2.1 Programme Aims

Programmes of ITE should be in compliance with the relevant requirements of the Teaching Council registration regulations. They should be underpinned by clearly-defined aims which are closely aligned with the programme's conceptual framework and are reflected in specific learning outcomes.

Programmes should equip newly qualified teachers with a set of competences to facilitate quality learning and cater for national priorities such as literacy, numeracy and inclusion.

Programmes should prepare student teachers for teaching, learning and assessment in their schools. This should include subject knowledge and pedagogy, school and classroom planning, classroom management and differentiated teaching.

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Programmes should prepare student teachers for entry to their professional role in the context of a collaborative, dynamic school environment, helping them to engage with colleagues, co-professionals and parents and understand their respective roles.

To summarise, programmes should ensure that tomorrow's teachers are competent to meet the challenges they will face and are prepared to be life-long learners, continually adapting over the course of their careers to enable them to support their students in achieving their full potential.

### *1.2.2 Programme Design*

The models of teaching, learning and assessment set out in the conceptual framework should be evident in the way in which the programme is structured. All areas of study should be relevant to students' future work as teachers, developing their understanding and experience of the complexity of teaching. Programmes should facilitate student teachers' personal development and their growth into their professional role, enabling them to become responsible, trustworthy, effective, reflective practitioners.

Programmes should be designed in a demonstrably integrated way, incorporating foundation studies, professional studies, school placement and, as appropriate, subject disciplines. Providers should plan for, and facilitate, this through collaborative, cross-disciplinary team processes. Specifically, foundation studies should be integrated into the programme in a way that is meaningful for student teachers and modules should explicitly focus on connections between methods courses and the social context of practice in classrooms and schools. There should be an appropriate balance between the various areas of study in terms of time and resources and the proportion of credits allocated to them. In this respect, the Council's requirements are set out in Table 1.

Table 2 sets out the areas of study required by the Council as mandatory elements of all programmes. Within the allocation of "Discretionary Time" HEIs will offer a range of optional courses, which will allow students to develop specialisms. This will require HEIs which currently devote a proportion of programme time to Arts subjects (known as "academic<sup>1</sup> electives"), as is the case with a number of primary concurrent programmes, to redesign programmes to ensure overall relevance to teacher education. In reconceptualising post-primary concurrent programmes, providers should take due cognisance of the relevant subject syllabi.

<sup>1</sup> The Council regards all areas of study in ITE as academic studies and believes the current practice of dividing and designating studies as being "academic" or "education" should be discontinued.



Programme design should allow for key concepts and topics to be revisited over the course of programmes in order to develop deeper understandings. It should also allow for a variety of student experiences that will contribute to students' personal and professional development.

Timetables should facilitate independent study by student teachers, and allow opportunities for individual and collective reflection.

Programmes should be designed to allow a variety of teaching, learning and assessment modes to be incorporated, as appropriate, into the area of study. Tutorials, small group work and experiential learning should be a central feature of all ITE programmes.

Table 1: ITE Programme Balance

	Primary Consecutive 2 years (60 weeks) + Extended Gaeltacht Placement	Primary Concurrent 4 years (120 weeks) + Extended Gaeltacht Placement	Post-primary Consecutive 2 years (60 weeks)	Post-primary Concurrent 4 years (120 weeks) + Extended Gaeltacht Placement where relevant
Subject Discipline(s)				50% <sup>2</sup>
Foundation Studies & Professional Studies	50%	55%	50%	25%
School Placement	40% (24 weeks)	25% (30 weeks)	40% (24 weeks or equivalent)	25% (30 weeks or equivalent)
Discretionary Time	10%	20%	10%	
Gaeltacht Placement	To be discussed	To be discussed	To be discussed	(3 months residency required in undergraduate programmes as part of The Teaching Council's subject specific criteria for registration purposes)

In designing programmes of teacher education, consideration needs to be given to the standard of Irish among both primary and post-primary teachers in regard to teaching Irish as a subject, using it as a means of communication in schools and using it as a medium of instruction. To this end, student teachers' confidence and competence in Irish needs to be catered for through a multi-faceted approach with a focus on oral Irish.

<sup>2</sup> It is recognised that this may be problematic in the case of certain programmes, e.g. Physical Education and Home Economics, and this will be addressed by the Council in consultation with the relevant programme providers

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Programmes should provide for an extended and reconceptualised Gaeltacht residency which will now form part of the overall programme and be under the direct jurisdiction of the teacher education providers. HEI staff should have an active involvement in the design, development and evaluation of the Gaeltacht course content to ensure it has a specific focus on language teaching and learning and is effectively integrated into the programme.

Consideration should also be given to standards of literacy and numeracy. Programme design should ensure that student teachers are afforded opportunities to enhance their own literacy and numeracy and their competence in promoting and assessing literacy and numeracy, as appropriate to their curricular/subject area(s).

### *1.2.3 Areas of Study*

Recognising that teacher education continues over the entire span of a teacher's career, the focus of ITE should be on providing student teachers with a set of high-level beginning competences to be built on through the continuum of teacher education. In this context, the importance of ITE in relation to school improvement and student learning is emphasised.

Programmes should focus on the personal development of the student teacher together with preparation for life in the classroom and for active engagement in teaching within a professional learning community. In this regard, programme components should draw upon the Teaching Council's Code of Professional Conduct.

The foundation studies, professional studies, the school placement and, as appropriate, the subject disciplines, should be carefully planned in light of changing understandings of the nature of learning and the theory-practice relationship. There should be an appropriate balance in the programme provision for these areas and their inter-relationship should be made explicit.

Student teachers on post-graduate programmes (consecutive model) of ITE for post-primary teachers will have undertaken their study of subject content knowledge at undergraduate stage. In the concurrent model of teacher education, the subject discipline components should:

- take due cognisance of the relevant syllabi and
- be integrated into the programme in a way that is meaningful for student teachers.

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Foundation studies should:

- include curriculum studies, the history and policy of education, philosophy of education, psychology of education, sociology of education
- through macro curriculum studies, develop students' understanding of, and capacity to critically engage with, curriculum aims, design, policy, reform, pedagogy and assessment
- enhance students' understanding of the Irish education system, locate it in context and enable students to think critically about it
- provide research-informed insights into student teachers' understanding of the practices of teaching, learning and assessment
- illuminate key dimensions of the professional context in which the thinking and actions of teachers are carried out
- provide the basis of a strong professional ethic in teaching.

Professional studies should:

- include subject pedagogies (methodologies) and curricular studies
- develop pedagogical content knowledge
- advance the communicative skills of student teachers
- ensure that teaching itself is understood and practised as a form of self-critical learning by student teachers, with ample opportunities for teamwork and enquiry-based initiatives with colleagues.

The school placement should provide opportunities for student teachers to:

- integrate theory and practice
- plan for, and undertake, class teaching, learning and assessment using a wide range of strategies
- develop classroom, organisational and behaviour management skills
- observe experienced teachers teaching and be involved in a wide range of school activities
- reflect critically on their practice
- receive and respond to feedback on their practice
- seek and receive advice and guidance in a supportive environment.

(Further details at 1.2.5)

Table 2: Mandatory Elements of Programmes of ITE

All ITE programmes should address the specific elements set out hereunder. The Council recognises that many of these areas of study may already be included in programmes of ITE either through the foundation studies or professional studies. By delineating them as mandatory elements of all programmes, the Council is ensuring that, in future, all student teachers will be required to undertake them.

- Early Childhood Education (Primary)/Adolescent Learning (Post-primary)
- Inclusive Education (Special Education, Multiculturalism, Disadvantage, etc.)
- Numeracy
- Literacy
- Gaeilge (Primary)
- The Teacher as Professional/Reflective Practitioner/Researcher
- Developing a Professional Portfolio
- Parents in Education - Co-operation and Collaboration
- The School as a Learning Community
- Preparation for School Placement
- Teaching, Learning and Assessment including School and Classroom Planning
- Differentiation
- Behaviour Management
- ICT in Teaching and Learning
- Legislation Relevant to School and Classroom
- The Teacher and External Agencies.

In all areas of study there should be provision for:

- the promotion of the love of learning, reflective practice and critical thinking
- the development of student teachers' understanding of schools as organisations
- the development of student teachers as researchers and lifelong learners
- students' personal and social development, having regard to teachers' pastoral role
- student teachers' literacy and numeracy and their competence in promoting and assessing literacy and numeracy as appropriate to their curricular/subject area(s).

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#### 1.2.4 Teaching, Learning and Assessment Strategies

The principles, beliefs and values about teaching, learning and assessment which are set out in the conceptual framework should be evident in the teaching, learning and assessment modes used in the programme. Systems should be in place to assess the development of the competences expected of graduating teachers which are set out in Section 3, Outcomes, in this document. They should be fair and consistent and should ensure that the graduating teacher will be capable of sustained classroom practice.

Time devoted to lectures, tutorials and independent learning should be apportioned so as to facilitate and promote subject content knowledge; subject pedagogical knowledge; pedagogy; literacy and numeracy in general and, specifically, as appropriate to the curriculum/syllabus; reflective practice; the use of ICT in teaching and learning; research and independent study, all of which are important components of student teachers' developing professional skills.

The use of assessment strategies for diagnostic and formative as well as summative purposes is important. There should be a realistic relationship between the learning opportunities and the assessment criteria which student teachers are expected to meet. Assessment processes and procedures should be coherent and should be integrated using a variety of assessment modes.

In order to graduate, students should be required to demonstrate an acceptable level of proficiency in literacy and numeracy. Assessment should gauge student teachers' literacy and numeracy, as appropriate to their subject/curricular areas. Grading criteria for all assessments should include reference to literacy and numeracy, as appropriate.

A student teacher is required to pass the school placement element of his/her teacher education programme, independently of other elements of the programme, to achieve the qualification being awarded. Students who fail the school placement should be offered teaching enrichment and mentoring support before being afforded one opportunity to repeat the placement<sup>3</sup>.

Staff responsible for assessment in any part of the programme should have, at a minimum, a qualification which is higher than that which the student is expected to attain. It is recognised that this may not always be feasible, particularly with regard to the assessment of the school placement. In such circumstances, appropriate staff development policies should be put in place to ensure that staff update their qualifications and enhance/expand their knowledge and expertise, as necessary.

<sup>3</sup> In exceptional circumstances, a second repeat attempt may be facilitated where a student wishes to return to a programme after some years have elapsed.

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### 1.2.5 School Placement

The school placement experience is integral to all ITE programmes. It should be central to student teacher development and not merely a means of assessing student teacher performance. It is also a valuable, and sometimes critical, experience in determining, through both self and external evaluation, the student teacher's suitability and capability to be a teacher. Due to its importance and relevance, a student teacher is required to pass the school placement element of his/her teacher education programme independently of any other element of the programme, to achieve the qualification being awarded.

The duration of the school placement must be in compliance with the Teaching Council's requirements as set out in Table 1. Required placement periods should take place only in schools that are recognised in accordance with Section 10 of the Education Act, 1998<sup>4</sup>. Extended periods of school placement should be scheduled for the second half of the programme with at least one of the later placements being for a minimum of 10 weeks in one school. In all placements, the duration should be sufficient for student teachers to get to know the pupils and the learning environment. It must also allow time for the student teacher to plan, teach and assess pupil learning, evaluate and review planning and reflect on his/her practice. The experience should include opportunities for systematic observation in the school, for collaborative work with school staff and for structured participation in school life.

The duration of the placement should also allow for the development of a more reflective, enquiry-oriented approach to the school placement and facilitate the development of the teacher as reflective practitioner. The design of programmes should allow for structured preparation for the school placement and collective de-briefing and reflection immediately after the placement.

New and innovative school placement models should be developed using a partnership approach, whereby HEIs and schools actively collaborate in the organisation of the school placement. Such models would be actively fostered by providers based on a written policy on partnership with schools and would involve:

- host schools being communities of good professional practice
- greater levels of responsibility being devolved to the profession for the provision of structured support for student teachers. Structured support should include mentoring, supervision and constructive feedback on practice. In that context, students should be afforded opportunities for critical analysis of the experience, as well as observation of, and conversations with, experienced teachers.

<sup>4</sup> Over and above the minimum periods prescribed by the Teaching Council in Table 1, providers may choose to arrange additional placements in other locations which are not recognised in accordance with Section 10 of the Education Act, 1998.

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- a whole school approach to supporting student teachers, under the guidance of principals as leaders of learning
  - an enhanced partnership between the HEI Placement Tutor and the Co-operating Teacher
  - facilitation by the HEI of Continuing Professional Development (CPD) for Co-operating Teachers and accreditation of same
  - facilitation by the HEI, where feasible, of CPD for other members of school staff, based on school needs
  - accommodation by the school of HEI personnel wishing to update their teaching experience
  - a minimum of two placement settings incorporating a variety of teaching situations, class levels and school contexts, as far as practicable and appropriate: different age groups of students; different sectors; various socio-economic and cultural environments; special educational needs; Gaelscoileanna/Gaelcholáistí; multi-class/mixed ability teaching situations and team teaching/co-teaching situations. In all of these contexts, the school placement should afford student teachers the opportunity to plan and implement lessons and receive constructive feedback
  - participation by student teachers in a school-based orientation programme at the beginning of the placement
  - a gradual increase in classroom responsibility for student teachers
  - opportunities for the student teacher to undertake a variety of non-teaching activities, to engage with parents and co-professionals and to observe a wide range of teaching approaches
  - the commencement of a professional portfolio by the student teacher which may include: class teaching and other school experiences; planning for teaching, learning and assessment; personal and professional reflections; recording of pupils'/students' work (written, video, audio taped, photographic, etc.); recording of professional conversations with the Co-operating Teacher, HEI Placement Tutor, fellow students, etc.
  - a requirement that all student teachers would be supported and assessed by two or more HEI Placement Tutors, at least one of whom shall have relevant curriculum/subject expertise

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- a requirement for all HEI Placement Tutors, full-time and occasional, to participate on an ongoing basis in programmes of staff development where practice and written guidelines are moderated so that a clear understanding is shared by all. This is necessary in the interests of facilitating the development of the student teacher, maintaining high standards of teaching and exercising an informed, fair and equitable approach to the awarding of grades.

### 1.3 The Duration and Nature of ITE Programmes

The Council, in co-operation with the Department of Education and Skills, is responsible for determining the duration and nature of programmes of teacher education. The Council endorses the particular strengths of both the concurrent and consecutive models for the primary and post-primary sectors and is of the view that a balance should be maintained by the State in the provision of both.

The duration and nature of ITE programmes should have regard to the professional and personal development needs of student teachers at this crucial foundation stage. It is also necessary to ensure that qualifications are recognised internationally. The duration of concurrent programmes will be a minimum of four years while post-graduate programmes of teacher education will be provided over two years, thereby facilitating the innovative reconceptualisation of current programmes. The additional time available will allow for: extended school placement periods; an increased emphasis on portfolio work; reflective practice and research/enquiry-based learning; tutorials and small group work and an increased emphasis on the key strategic priorities of literacy, numeracy and inclusion.

### 1.4 Student Intake

Minimum entry requirements, which are set down in consultation with the Minister for Education and Skills, should be adhered to so as to maintain high standards of entry to the profession. Such requirements include subject quotas to be set down by the Council in consultation with the Central Applications Office and the Post-graduate Applications Centre. Over the coming months, the Council will initiate a dialogue in relation to revised minimum entry requirements, based on the proposals which are set out in Table 3.



Table 3: Proposed Minimum Entry Requirements with effect from 2016/2017

Primary Teacher Education	Post-Primary Teacher Education
<p>Leaving Certificate levels:</p> <p>Maths: A1 Ordinary or C3 Higher</p> <p>English: B1 Higher</p> <p>Irish: B1 Higher</p>	<p>Post-graduate: Satisfy general and subject specific criteria, in undergraduate degree, set out by the Teaching Council</p> <p>Concurrent: Minimum Leaving Certificate level, or equivalent, in subject(s) being studied for teacher education purposes, to be set by HEIs</p>

In addition to the above, in cases where more than five years has elapsed since the applicant completed the Leaving Certificate examination, it is proposed that:

- all applicants will be required to demonstrate literacy and numeracy competence (English) by means of an ITE Admissions Test
- applicants for primary teaching and those who will be teaching Irish at post-primary level will be required to demonstrate competence in Gaeilge by means of an Irish language Admissions Test.

### 1.5 Staffing

Teacher educators have a unique role in the field of education, helping student teachers to build the foundations of their teaching career and, thus, contributing to the common good in our schools through teacher education.

Lecturers and other staff responsible for the student teachers' learning should be suitably qualified and experienced and engaged in contemporary discourse in their area. Staff should, normally, have significant experience of teaching in the relevant sector and be registered with the Teaching Council. They should be research active and take lead roles with regard to assimilating, conducting, publishing and supervising research. They should ensure the integration and application of theory in practice, in the field of teacher education.

Staff should have a qualification which is higher than that which the student is expected to attain. As stated previously at 1.2.4, it is recognised that this may not always be feasible. Appropriate staff development policies should be put in place to ensure that staff update their qualifications and/or enhance/expand their knowledge and expertise including that relating to reflective practice, research, curriculum development and professional development. They should contribute to the development of a learning community for teacher educators in their own HEI and through networking with teacher educators in other HEIs.

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Ideally, the majority of HEI Placement Tutors should be registered teachers who have current or recent experience as teachers in the relevant sector.

The ratio of students to academic staff should be a maximum of 15:1. This allows for small group work, for the modelling of effective teaching methodologies and for teaching the skills necessary for meaningful reflective practice.

Programmes should have adequate administrative staffing levels to support the efficient organisation and delivery of the programme.

### 1.6 Facilities

Appropriate facilities should be available to support research, teaching and learning.

These include:

- Lecture halls and resource rooms such as laboratories, music studios, ICT rooms, PE facilities, workshops for art and other practical subjects
- Access and accommodation for people with disabilities
- Teaching resources and equipment for all curricular areas
- Library facilities and resources to cater for student and staff needs
- ICT facilities including computer network access, technical services help-desk, access to the internet and availability of interactive whiteboard(s).

### 1.7 Student Support and Guidance Systems

There should be adequate provision for the personal and social development and pastoral care of student teachers. The role of the HEI Placement Tutor is central to this.

Opportunities should be provided for students to network with fellow students and with students of other programmes. In particular, provision should be made to facilitate and support club and student union activities.

Structures and procedures should be in place to facilitate staff/student interaction.

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Systems, procedures and resources should be in place to ensure that student needs are identified and supported. These should include counselling, welfare, chaplaincy, medical and career services. Counselling in the context of a student teacher's suitability to continue in the programme, i.e., suitability to be a teacher referred to in 1.2.5, is of vital importance. Ideally, it should be possible for a student teacher wishing to do so, to transfer to an alternative programme, where feasible, and to carry credits in so doing.

### 1.8 Communication and Decision-making Structures

Appropriate structures should be in place to facilitate the participation of staff and students in relevant deliberation and decision-making processes. The skill of decision-making is central to the role of a teacher.

The Education Department should be represented on the HEI's Academic Council and the Governing Body, or equivalent, and staff should participate in any relevant strategic partnerships.

### 1.9 Financial Resources

Programmes should be adequately resourced to ensure that programme aims are met.

Budgets should allow for, and reflect, the nature of a programme of teacher education which includes school placements and a range of facilities and equipment to support practical professional activities. (See, for example, 1.5 and 1.6 above for further details of the Council's requirements).

The budget for the Education Department, as a proportion of the overall budget for the HEI, should be in line with those of other professional programmes, where these exist. At a minimum, it should reflect the funding model used by the Higher Education Authority.

To ensure programme requirements are met, the Head of Education should play an active role in determining the budget for the programme and in ongoing monitoring of programme income and expenditure.

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## 2 Processes

The journey which student teachers undergo during programmes of ITE plays a vital and formative role in their development as teachers. The inputs and learning outcomes, respectively, can be compared with the starting point and end point of the journey, but it is the actual process of the journey which will ultimately define student teachers' experience of the programme and determine the teachers they become. While the Council respects the individuality of HEIs in deciding the processes to be used in their programmes, it sets out the following broad requirements:

### 2.1 Teaching, Learning and Assessment Approaches

Teaching, learning and assessment approaches should be consistent with the HEI's conceptual framework for the programme as well as the beliefs and values as expressed in the Teaching Council's Code of Professional Conduct for Teachers. There should be a focus on students' engagement and understanding with provision made for revisiting key concepts and themes over the course of the programme.

### 2.2 Engagement of Student Teachers with the Programme

Student teachers should actively engage with the programme and to facilitate this, providers should:

- integrate theory and practice in a way that is meaningful for student teachers
- achieve coherence between the HEI-based programme and school placements
- strike an appropriate balance between taught, facilitated and independent learning time
- promote reflection, discussion, simulation and analyses of cases and situations
- involve student teachers, through experiential learning, in activities similar to those they will use with their students
- model the active teaching methodologies they wish student teachers to emulate.

### 2.3 Engagement of Student Teachers with Staff and with Other Student Teachers

The culture of the HEI should promote and facilitate a process of engagement between student teachers and staff, between students on the programme and with students on other teacher education programmes within and across HEIs. In particular, cross-sectoral engagement between student teachers at primary and post-primary level should be encouraged.

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#### 2.4 Progression within the Programme

Appropriate progression stages should be built into programmes and be clearly specified.

#### 2.5 Personal and Social Development

Processes and systems should be in place for identifying and responding to the personal and social development needs of student teachers.

#### 2.6 Attitudes, Values and Professional Dispositions

Processes and systems should be in place to facilitate the development of the core values and professional commitments which are set out in the Teaching Council's Code of Professional Conduct for Teachers.

#### 2.7 Life-long Learning

Programmes of ITE should provide a sound basis for a process of life-long learning. In particular, they should introduce student teachers to the concept of the continuum of teacher education and develop student teachers' capacity to plan their learning path. In this context, students should recognise that they are building the foundation of their career in the programme of ITE and understand that this will be further developed during the post-qualification induction period and ongoing CPD. Student teachers should have opportunities to engage in research as the foundation of their practitioner-based enquiry stance in the future.

#### 2.8 Reflective Processes

Programmes should be mindful of, and challenge as appropriate, the attitudes and beliefs about teaching and learning which student teachers carry with them and which inform and guide their professional practice.

Programmes should prepare students to be reflective practitioners throughout their teaching career. This will require the use of tools such as student portfolios and profiling instruments, e.g., career entry development profiles or similar.

Student portfolios begun during the teacher education programme should provide the focus for personal and professional development during the newly qualified teacher's induction period. They should further provide the framework for the teacher's ongoing reflection and professional development.

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### 3 Outcomes

Programmes of initial teacher education should be designed and delivered so as to enable graduates to meet expected learning outcomes. The learning outcomes are directly related to the complex role of the teacher as referred to in the introduction to this document. They take cognisance of the fact that this is the beginning of a journey of life-long learning for the graduate teacher. The outcomes will be built on and will lead to engagement at a broader and deeper level as the teacher grows in confidence and experience.

Learning outcomes are evident through:

- formal structures which accommodate dialogue between the student and HEI personnel
- the HEI Placement Tutor's and Co-operating Teacher's observation and evaluation of the student teacher during the school placement experience
- the student teacher's presentation of projects and professional portfolios, and
- ongoing assessment of and for learning.

The learning outcomes, set out by the Council, encompass the standards of teaching, knowledge, skill and competence together with the values, attitudes and professional dispositions which are central to the practice of teaching. Their presentation in this document is aligned to the National Qualifications Framework. This has been done to facilitate the work of programme providers in identifying the correlation between the requirements for academic and professional accreditation.

## The Learning Outcomes for Graduates of Programmes of ITE

3.1 Knowledge-Breadth <sup>5</sup> Knowledge-Kind <sup>6</sup>	The graduate will demonstrate knowledge and understanding of:
Ethical Standards and Professional Behaviour	<ul style="list-style-type: none"> <li>— the unique role of the teacher as professional in providing for the holistic development of students, and the complex and intricate nature of teaching, as explicated in the Code of Professional Conduct for Teachers</li> <li>— the continuum of teacher education and the life-long learning journey of the teacher, recognising the stage he/she has reached on that journey.</li> </ul>
Education and the Education System	<ul style="list-style-type: none"> <li>— the nature and purposes of education and the social and policy contexts in which the aims of education are defined and implemented</li> <li>— the origins and development of the statutory and policy-making framework pertaining to education, his/her specific role and responsibilities emanating from that framework, together with the roles and responsibilities of all stakeholders, including parents</li> <li>— children's rights, including their right to a voice in various matters that relate to their lives</li> <li>— the sector in which he/she will be teaching and his/her professional responsibilities within it</li> <li>— other education sectors and factors which may impact on pupils' transition from one sector to another</li> <li>— school culture and how it impacts on teaching and learning and the implementation of curriculum policy</li> <li>— educational research and its contribution to teaching, learning and assessment.</li> </ul>
Key Principles of Planning, Teaching, Learning, Assessment, Reflection and Self-evaluation	<ul style="list-style-type: none"> <li>— current thinking on human development and learning</li> <li>— the theory, concepts and methods pertaining to effective teaching, learning and assessment, both summative and formative</li> <li>— the factors that promote and hinder effective learning, the impact of pupils' backgrounds and identities on learning and the need to provide for the holistic development of the learner, particularly through differentiated approaches</li> <li>— the role of teachers as educational leaders who contribute to creating and sustaining learning communities in their classrooms, in their schools and through their professional networks</li> <li>— pupils as active agents in their own learning</li> <li>— the interdependence of teacher learning and pupil learning</li> <li>— models of planning coherent, differentiated and integrated teaching programmes which are informed by ongoing reflection on professional practice.</li> </ul>

<sup>5</sup> Understanding of the theory, concepts and methods pertaining to a field (or fields) of learning. Knowledge outcomes are associated with facts and concepts; that is, they refer to knowledge of, or about, something. The more diverse, complex and varied the facts and concepts, the greater the breadth of knowledge and this is a matter of level. Breadth is distinguished from the number of different facts and concepts learned, which relates to volume.

<sup>6</sup> Detailed knowledge and understanding in one or more specialised areas, some of it at the current boundaries of the field(s). The representation of facts and concepts, including ideas, events or happenings, is cumulative. The more facts and concepts are layered on top of each other, and draw successively upon each other to construct meaning, the higher the level of learning. This process is typically associated with progressively greater abstraction from concrete phenomena into theory.

<p>Subject Knowledge and Curriculum Process and Content</p>	<ul style="list-style-type: none"> <li>— the dynamic processes by which curriculum is designed and implemented</li> <li>— current national curricula/syllabi in the relevant sector and an awareness of curriculum requirements in preceding and subsequent stages of learning</li> <li>— the subject matter, pedagogical content and related methodology of the relevant curricula/syllabi and guidelines</li> <li>— the role of language in teaching the curriculum/syllabus together with a particular focus on literacy and numeracy</li> <li>— cross-curricular links and themes including citizenship; creativity; inclusion and diversity; initiative and entrepreneurship; personal, social and health education; and ICT, as appropriate to the sector and stage of education, and how these are related to life experiences.</li> </ul>
<p>Communication and Relationship-building</p>	<ul style="list-style-type: none"> <li>— the importance of teacher-pupil relationships in the teaching/learning process</li> <li>— strategies for developing positive relationships and communicating effectively with pupils, parents, colleagues, the school principal, school management, co-professionals and the wider community</li> <li>— the roles of stakeholders and the importance of engagement and cooperation with them, contributing to the characteristic spirit of the school and developing a positive environment for teaching and learning.</li> </ul>



3.2 Know-How & Skill-Range <sup>7</sup> Know-How & Skill-Selectivity <sup>8</sup>	The graduate will be able to:
Analytical, Critical Thinking, Problem-solving, Reflection and Self-evaluation Skills	<ul style="list-style-type: none"> <li>— critically evaluate the attitudes and beliefs about teaching and learning which inform and guide his/her professional practice</li> <li>— engage in data gathering and critically analyse and evaluate relevant knowledge and research</li> <li>— think critically, analyse, and solve problems, as an individual and a member of a team</li> <li>— reflect critically on his/her practice on an ongoing basis so as to inform that practice.</li> </ul>
Planning, Teaching, Learning and Assessment Skills	<ul style="list-style-type: none"> <li>— set clear, challenging and achievable expectations for pupils</li> <li>— motivate, inspire, acknowledge and celebrate effort and success</li> <li>— apply knowledge of the individual potential of pupils, dispositions towards learning, varying backgrounds, identities, experiences and learning styles to planning for teaching, learning and assessment</li> <li>— use a range of strategies to support, monitor and assess pupils' approach to learning and their progress</li> <li>— engage with pupils in order to develop effective, creative and imaginative strategies that promote individual and shared learning</li> <li>— use technology, including multi-media resources, effectively to aid pupil learning</li> <li>— assess the achievement of curriculum objectives and adapt his/her teaching accordingly</li> <li>— apply his/her knowledge of pupils' holistic development to his/her teaching and promote social responsibility</li> <li>— contribute to effective school evaluation and planning.</li> </ul>
Classroom Management And Organisational Skills	<ul style="list-style-type: none"> <li>— create and maintain a safe, interactive and challenging environment using strategies that promote and maintain positive behaviour, in accordance with school policy</li> <li>— establish classroom management strategies that support differentiated learning in a way that respects the dignity of all pupils</li> <li>— use appropriate class management and organisation skills to cater for a range of classroom situations</li> <li>— access, develop and use a variety of curriculum resources</li> <li>— manage his/her time and work effectively and efficiently</li> </ul>
Communication and Relationship-building Skills	<ul style="list-style-type: none"> <li>— foster good relationships with and among pupils based on mutual respect and trust and meaningful interactions</li> <li>— communicate effectively with pupils, parents, colleagues, the school principal, school management, co-professionals and the wider community by using appropriate skills, styles and systems to suit the given situation and setting</li> <li>— enable children to resolve conflict</li> <li>— articulate and represent students' interests, as appropriate</li> </ul>

7 Demonstrate mastery of a complex and specialised area of skills and tools; use and modify advanced skills and tools to conduct closely guided research, professional or advanced technical activity. Skills, in both their execution and the demonstration of underpinning procedural knowledge, encompass the use of many different kinds of tool. 'Tool' refers to any device or process that facilitates individuals having some effect on their physical, informational or social environment. Tools include cognitive and social processes as well as physical implements. Tools, and the skills to use them, range from commonplace or familiar to novel or newly-invented. The sheer number of skills acquired is a matter of volume, rather than of level. The diversity of skills is a feature of this strand that contributes to differentiation in level. The completeness of the set of skills (and associated know-how) in respect of an area of activity is another feature that helps indicate the level.

8 Exercise appropriate judgement in a number of complex planning, design, technical and/or management functions related to products, services, operations or processes, including resourcing. The performance of tasks depends on the learner having an appropriate understanding of the environment in which the tasks are performed and being aware of his/her own ability and limitations, while at the same time being able to correctly judge the fit between the demands and ability. Whereas the range of know-how and skill refers to what a learner can do, selectivity (which might also be called procedural responsiveness) refers to the judgement that the learner exercises in carrying out procedures, through selecting from the range of know-how and skills available to him/her, in accordance with his/her appraisal of the demands of the task.

3.3 Competence-Context <sup>9</sup> Competence-Role <sup>10</sup>	The graduate will be able to:
Integration and Application of Knowledge Skills, Attitudes and Values in Complex and Unpredictable Educational Settings	<ul style="list-style-type: none"> <li>— integrate relevant principles and theories of education, in the context of the relevant curriculum/syllabus, using well-developed skills of enquiry, to inform his/her professional practice</li> <li>— conduct a systematic, holistic assessment of learner needs</li> <li>— implement a range of methodologies to achieve planned outcomes</li> <li>— evaluate learner progress towards those outcomes</li> <li>— review plans on the basis of evaluation data and in consultation with others, as appropriate</li> <li>— conduct and apply relevant research as appropriate to his/her teaching context, identifying, critically analysing and integrating new knowledge regarding curriculum, pedagogy and assessment into his/her practice</li> <li>— act as an advocate on behalf of learners, referring students for specialised educational support as required and participating in the provision of that support, as appropriate.</li> </ul>
3.4 Competence-Learning to Learn <sup>11</sup>	The graduate will:
The Teacher as Lifelong Learner	<ul style="list-style-type: none"> <li>— demonstrate a commitment to lifelong personal and professional development which is reflected in the approach taken to his/her work</li> <li>— maintain a professional portfolio</li> <li>— review the effectiveness of his/her own practice through continuous reflection on that practice</li> <li>— demonstrate a professional commitment to seeking, accepting and acting upon constructive advice</li> <li>— actively participate in professional learning communities which engage in group reflection, learning and practice</li> </ul>

<sup>9</sup> Use advanced skills to conduct research, or advanced technical or professional activity, accepting accountability for all related decision making; transfer and apply diagnostic and creative skills in a range of contexts. Human situations, whether occupational or general social and civic, supply the context within which knowledge and skill are deployed for practical purposes. Such situations range in complexity and hence in the demands they place upon the person acting in them. Highly defined and structured situations or contexts constrain the behaviour of the individual and require lower levels of learning. The range of responses required, and hence the extent to which a broader range or higher level of knowledge and skill have to be drawn upon also depends on how predictable the context is. Acting effectively and autonomously in complex, ill-defined and unpredictable situations or contexts requires higher levels of learning.

<sup>10</sup> Act effectively under guidance in a peer relationship with qualified practitioners; lead multiple, complex and heterogeneous groups. For many purposes, joining and functioning in various kinds of group is a key component in putting knowledge and skill to effective use. Joining a group successfully requires individuals to adopt appropriate roles within the group. This requires the application of social skills and an understanding of the tasks of the group. Higher levels of competence are associated with playing multiple roles as well as with roles requiring leadership, initiative and autonomy. Higher competence is also associated with participation in more complex and internally diverse groups.

<sup>11</sup> Learn to act in variable and unfamiliar contexts; learn to manage learning tasks independently, professionally and ethically. This strand encompasses the extent to which an individual can recognise and acknowledge the limitations of his/her current knowledge, skill and competence and plan to transcend these limitations through further learning. Learning to learn is the ability to observe and participate in new experiences and to extract and retain meaning from these experiences. While drawing on other aspects of knowledge, skill and competence, this sub-strand places an emphasis on the relationship of the learner to his/her own learning processes. This provides a basis for abstraction and generalisation that, in principle, facilitates regarding this as a separate sub-strand of competence.

3.5 Competence-Insight <sup>12</sup>	The graduate will:
Professional and Ethical Teaching	<ul style="list-style-type: none"> <li>— know and uphold the core values and professional commitments which are set out in the Code of Professional Conduct for Teachers</li> <li>— reflect on these values and commitments and the implications for his/her practice</li> <li>— contribute to the development of educational standards and guidelines</li> <li>— practise within the statutory framework pertaining to education, including child protection guidelines</li> <li>— share specialist knowledge in a collegial manner to support and enhance teaching and learning</li> <li>— demonstrate an understanding and consciousness of professional practice issues through the process of reflection on experience</li> <li>— uphold the reputation and standing of the teaching profession through their practice.</li> </ul>

<sup>12</sup> Express a comprehensive internalised, personal world view manifesting solidarity with others. Insight refers to ability to engage in increasingly complex understanding and consciousness, both internally and externally, through the process of reflection on experience. Insight involves the integration of the other strands of knowledge, skill and competence with the learner's attitudes, motivation, values, beliefs, cognitive style and personality. This integration is made clear in the learner's mode of interaction with social and cultural structures of his/her community and society, while also being an individual cognitive phenomenon. A learner's self-understanding develops through evaluating the feedback received from the general environment, particularly other people, and is essential to acting in the world in a manner that is increasingly autonomous.





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**The Teaching Council**  
*An Chomhairle Mhúinteoireachta*

**The General Teaching Council for Scotland**  
**Appointments Scheme 2011**

**1 Introduction**

**Purpose and Reference**

- 1.1 This Scheme is made by the General Teaching Council for Scotland (“GTC Scotland”) in accordance with its duty in terms of the Public Services Reform (General Teaching Council for Scotland) Order 2011 (as may be varied, updated, substituted or replaced from time to time) (the “Order”) to make an appointments scheme relating to the appointment of appointed members of its Council.

This Scheme is also made to apply when appointing non-Council members to GTC Scotland committees, panels and sub-committees (together referred to as the “Panels”) where the Council’s Committee Scheme requires it.

- 1.2 This Scheme may be referred to as The General Teaching Council for Scotland Appointments Scheme 2011 and will come into force on 4 April 2011.
- 1.3 This Scheme sets out the principles on which appointments will be made to ensure a fair, open and transparent appointments process which produces a quality outcome and commands public confidence. With this in mind, the Scheme is supported by detailed Appointments Process Guidelines which stipulate the procedures that must be followed when appointments are made.
- 1.4 This Scheme will be interpreted and applied in conjunction with the Order as well as GTC Scotland’s Code of Conduct and Membership Scheme (the “Membership Scheme”) and Committee Scheme.

**Responsibility and Membership of the Appointments Committee (AC)**

- 1.5 The AC is responsible for:
- (a) recruiting and overseeing the appointments falling within its remit.
  - (b) screening applications, interviewing, recommending for appointment or appointing, as appropriate, individuals to fill those appointments falling within its remit. The AC will have oversight of the entire appointment process.
  - (c) overseeing a fair and open recruitment process that meets the principles set out in paragraph 4 below.
- 1.6 The quorum of the AC will be 3 members, including a registrant and a lay member. Such a lay member must:
- meet the criteria set out at paragraphs 3.1(a) and 3.1(c) below; and
  - at the time of appointment, be independent of the Council with no previous or current link to the Council (including as a member or employee of the Council).

The lay member will, in addition to making decisions as part of the AC, fulfil the role of an independent scrutineer, similar or equivalent to that of an assessor appointed by the Office of the Commissioner for Public Appointments in Scotland (“OCPAS”)(or its replacement or equivalent). As such, the lay member will be required to provide a signed statement that the appointment round concerned conformed with this Scheme and the Appointments Process Guidelines.

The AC will be an independent committee and, subject to the terms of this Scheme and the Appointments Guidelines, may operate as it sees fit. The AC will be accountable to the Council for all appointments falling within its remit.

### **Appointment of the Appointments Committee**

- 1.8 In order to appoint the Appointments Committee, an Appointments Panel will be formed by the Council consisting of the Council Convener, the GTC Scotland Chief Executive and a lay member. The lay member will meet the criteria and fulfil the role described in paragraph 1.6 above. In the event of the absence or inability to act of the Council Convener or GTC Scotland Chief Executive, the Council may appoint a suitable deputy.
- 1.9 The Appointments Panel will appoint the Appointments Committee in accordance with the relevant provisions set out in this Scheme and the Appointments Guidelines. The AC will be appointed to seek to ensure that it is composed of an appropriately balanced, skilled membership that will deliver quality outcomes and be in a position to fairly and competently carry out appointments procedures. The term of office of each member appointed to the Appointments Committee, and the cap on the number of terms that may be served, will be determined and applied in accordance with the Membership Scheme.

## **2 Appointments and Term of Office**

### **Members of Council**

- 2.1 The number of members of the Council to be appointed is set down in the Order.
- 2.2 The term of office for each appointed member of Council, and the cap on the number of terms that may be served, will be determined and applied in accordance with the Order as well as the Membership Scheme.

### **(Non-Council) Members of Panels**

- 2.4 The number of non-Council members to be appointed to Panels will be determined by the Council with appropriate reference to its Committee Scheme.
- 2.5 The term of office for each appointed member of a Panel, and the cap on the number of terms that may be served, will be determined and applied in accordance with the Membership Scheme.

### **Interim Vacancies**

- 2.6 An interim vacancy will be created where an appointed member vacates or is removed from his/her seat on the Council or on any Panel before the applicable period of office has expired.
- 2.7 Steps will be taken to fill an interim vacancy by appointing a replacement member in accordance with this Scheme.

## **3 Applicant Eligibility**

### **Appointed Members of Council and Lay Members of Panels**

- 3.1 An individual may be considered as an applicant for an appointed member vacancy on the Council or any lay member vacancy on any Panel only if:
  - (a) in accordance with the terms of the Order, he/she is not, has not been and is not eligible to be a registrant and has not obtained a recognised teaching qualification;
  - (b) he/she is not a member of the AC;



- (c) where the appointment is to a Panel, will not be a member of Council at commencement of the term of office; and
- (d) he/she is not disqualified from being appointed in terms of the Membership Scheme.

#### **Registrant Members of Panels**

- 3.2 A registrant may be considered as an applicant for any registrant member vacancy on any Panel only if he/she:
- (a) has paid the GTC Scotland registration fee required in order to maintain his/her registration;
  - (b) is not a member of the AC;
  - (c) will not be a member of Council at commencement of the term of office; and
  - (d) is not disqualified from being appointed in terms of the Membership Scheme.

## **4 Appointments Process Principles**

- 4.1 The appointments process is designed to achieve four key outcomes:
- (a) to attract the widest range of people with due regard to diversity and to promote and demonstrate equality of opportunity and treatment of all applicants at every stage;
  - (b) to enable the selection process to deliver a quality outcome;
  - (c) to demonstrate openness and transparency; and
  - (d) to be able to answer challenges to any appointment.
- 4.2 These outcomes are underpinned by the 9 Principles of Public Life and the core Code of Practice principles of the Commission for Ethical Standards in Public Life in Scotland, or OCPAS, as set out below.

#### **Merit**

- 4.3 All appointments within the AC remit will be governed by the overriding principle of selection based on merit. The abilities, experience and qualities of the appointees should match the needs of the GTC Scotland function in question.

#### **Equality and Diversity**

- 4.4 The Appointments Process Guidelines will enable the development of systems and processes to encourage and attract the widest range of people to put themselves forward for consideration and to ensure applicants experience equality of opportunity and treatment according to their specific needs.

#### **Probity and Respect**

- 4.5 Those appointed for GTC Scotland functions within the remit of the AC will require to be of good character and conduct and to commit themselves to perform their duties ethically, honestly and with integrity and respect for others. These criteria will be included as key requirements in all appointments processes.

#### **Independent Scrutiny**

- 4.6 An independent lay member will be involved at each stage of the selection and appointments process and must confirm that this Scheme has been followed before an appointment can be made.

#### **Openness and Transparency**

- 4.7 The practices at every stage in an appointment round shall be open and transparent to ensure full confidence in the method of selection and appointment.

## **Proportionality**

- 4.8 The appointments procedures used by the AC will be appropriate for the nature of its role and its responsibilities.

## **5 Quality Assurance**

### **Reports to Council**

- 5.1 At the conclusion of each appointment round, the Appointment Committee concerned will report to the Council on the recruitment exercise.

### **Openness and Transparency**

- 5.2 All stages of the process, including relevant conversations, should be documented and the information be readily available for audit. However:
- (a) personal information about applicants and panel members must remain confidential to GTC Scotland, unless the individual concerned gives permission for its release;
  - (b) data protection legislation must be observed in relation to all recorded information.

### **Retention of Documents**

- 5.3 To facilitate the work of the AC, GTC Scotland staff should ensure a full and complete audit trail of records is readily available. All documentation, sift and interview evaluation forms should be held by GTC Scotland for safekeeping for at least two years.
- 5.4 Annually, one recruitment exercise will be selected by the Council for review to identify whether procedures and processes have worked as intended and if any revisions are required to be made.

## **6 Complaints**

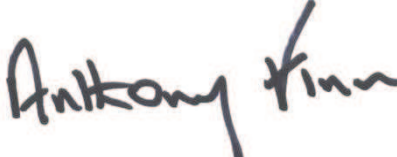
- 6.1 The Council will deal with complaints relating to the appointments process as required and in accordance with its published procedure.
- 6.2 Other than in exceptional circumstances, the Council will only deal with complaints relating to an appointment made within one year from the closing date for applications of the appointment concerned.
- 6.3 The Council will investigate complaints relating to non-selection or non-reappointment if such complaints provide evidence from one or more source that the selection process has breached this Scheme.



**D Drever**  
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**15 June 2011**



**A Finn**  
Chief Executive/Registrar

**GTCW professional standards casework – summary****Cases involving allegations of unacceptable professional conduct, serious professional incompetence and/or relevant offences concerning Registered Teachers****1. Disciplinary cases concluded by year since 2001 to date**

<b>Year</b>	<b>Number</b>
2001 to 2002	3
2002 to 2003	14
2003 to 2004	17
2004 to 2005	16
2005 to 2006	16
2006 to 2007	34
2007 to 2008, including 1 ISA bar	23
2008 to 2009	23
2009 to 2010	43
2010 to 2011	58
2011 to 2012, including 1 ISA bar	36
2012 to 2013, including 1 DBS bar	43
2013 to 2014 (to date)	16
<b>Total</b>	<b>342</b>

**2. Disciplinary cases concluded by year since 2001 to date by description**

<b>Description</b>	<b>Number</b>
<b>Criminal Offences</b>	<b>199</b>
<b>Allegations of unacceptable professional conduct – employer referral</b>	<b>76</b>
<b>Criminal offences &amp; allegations of unacceptable professional conduct</b>	<b>22</b>
<b>Allegations of unacceptable professional conduct – non-employer referral</b>	<b>34</b>
<b>Allegations of unacceptable professional conduct and serious professional incompetence – employer referral</b>	<b>2</b>
<b>Allegations of serious professional incompetence – employer referral</b>	<b>9</b>
<b>Total</b>	<b>342</b>

3. Outcomes of disciplinary cases concluded by year since June 2001 to date

Decisions	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014 (to date)
<b>Investigating Stage</b>													
No further action or No case to answer	3	14	14	12	9	23	13	12	28	29	10	15	8
<b>Hearing Stage</b>													
Facts not proved						1			2		2	1	1
Facts proved but did not amount to unacceptable professional conduct			1		1								
Facts proved and did amount to unacceptable professional conduct – no order						2							
Reprimand				1	4	4	2	3	4	16	10	5	1
Conditional Registration Order					1			6	2	1		3	1
Suspension Order (no conditions)			1	2			2	1	1	3	3	2	1
Suspension Order (conditions)						1			3	2	3	7	1
Prohibition Order			1	1	1	3	5	1	2	7	9	11	3
<b>Total</b>	<b>3</b>	<b>14</b>	<b>17</b>	<b>16</b>	<b>16</b>	<b>34</b>	<b>22</b>	<b>23</b>	<b>42</b>	<b>58</b>	<b>37</b>	<b>44</b>	<b>16</b>

**Cases involving applicants for teacher registration**

**1. Suitability referrals concluded by year since 2006 to date**

Year	Number
2006-2007	39
2007-2008	69
2008-2009	76
2009-2010	65
2010-2011	64
2011-2012	67
2012-2013	78
2013-2014 (to date)	29
<b>Total</b>	<b>487</b>

**2. Outcomes of suitability referrals concluded by year since June 2006 to date**

Decisions	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014 (to date)
<b>First stage</b>								
Application for registration granted on the grounds that the applicant is suitable to be a registered teacher	37	58	68	61	56	64	70	26
<b>Second stage</b>								
Application for registration granted on the grounds that the applicant is suitable to be a registered teacher	2	7	4	2	5	3	6	3
Application for registration refused on the grounds that the applicant is not suitable to be a registered teacher		4	3	2	3		2	
Application for registration granted following a refusal			1					
Application for registration refused following a refusal								
<b>Total</b>	<b>39</b>	<b>69</b>	<b>76</b>	<b>65</b>	<b>64</b>	<b>67</b>	<b>78</b>	<b>29</b>

**Cases where a teacher has failed to meet the Practising Teacher Standards and wishes to appeal against the decision**

**1. Outcomes of all Induction Appeals by year since 2003 to date**

Decisions	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014 (to date)
Appeal allowed											
Appeal dismissed		1	1	2							
Induction period extended										1 (1 term)	
A different period of extension substituted (where the appellant has appealed against a decision to have an Induction period extended)											
Appeals withdrawn					1		1	1			

### **Additional proposed amendments to detailed wording of certain clauses**

Sub Section 3(b) The Council suggests that it would be more appropriate to add professional practice to this aim so as to read “...and improve standards of professional conduct and practice amongst teachers and persons...” in keeping with the Council’s current Professional Code and disciplinary functions which cover practice and competence.

Sub Section 14(6) does not specifically refer to Foundation schools or similar. The Council has consulted its solicitors on this matter, who have advised as follows:

Section 14(6) defines ‘school’ as meaning a school maintained by a local authority in Wales and a special school not so maintained. So far as can be seen, the Bill does not define what a ‘maintained school’ is.

Section 98 of the School Standards and Organisation (Wales) Act 2013 (‘the 2013 Act’) defines “maintained school” as meaning ‘a school in Wales which is a community, foundation or voluntary school, a community special school or a maintained nursery school.’ The Bill will amend paragraph 8 of Schedule 4 to the 2013 Act, but that appears to be the only amendment to be made to the 2013 Act. On that basis, it would seem that the definition of maintained school in the 2013 Act will remain unaffected by the Bill.

However, this still leaves open the question as to whether a ‘school maintained by a local authority’ under the Bill has the same meaning as ‘a maintained school’ under the 2013 Act. Given that a foundation school receives funding from central government, but that this funding is administered via the local education authority, it is not clear whether the words ‘maintained by a local authority’ would embrace such an arrangement.

In conclusion, it is not clear to whether the definition in section 14(6) of the Bill is intended to include or exclude foundation schools. It would be preferable for this to be made clear by the Bill itself, possibly by reference to the definition in Section 98 of the 2013 Act.

Sub Section 27 (1) The Council has raised concerns with its solicitors that this clause could be interpreted to read that the new body would be *unable* to look at any conduct, competence or relevant offences that pre-date registration. If the Bill was to be interpreted in this way, it would be a fundamental change to the current legislation and offer a substantial loophole that could be exploited by members of the education workforce who are subject to allegations of misconduct, incompetence or relevant criminal offences.

In this regard, the examples below are relevant scenarios which the Council sees regularly:

- the Council often receives a referral for one recent offence but when it makes a Police check, finds that the teacher has a number of previous offences. In such circumstances, it is important for the Council to look at all the offences as they may indicate a pattern of behavior;
- the Council has had cases where the teacher commits further misdemeanours in a period after they have been dismissed by their employer and before the Council investigates / hears their case. In this period, it is common for such a teacher to no longer be registered, as they have been dismissed and find it difficult to get another teaching job. For example, we have had teachers who commit further criminal offences in such a

period or teachers who have applied for a job at another school and not declared their previous dismissal or criminal offences;

- occasionally, an employer / agent will employ a teacher who is unregistered e.g. a teacher is de-registered for a short period for not paying their annual registration fee.

The Council's solicitors have advised that the problems described above could be overcome as follows:

First, there would seem some merit in an amendment being made to Section 27(1) of the Bill by adopting the same formulation of words that were included in Regulation 2(5) of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001, substituting 'registered person' for 'registered teacher'. Second, there is a further issue arising from the change of name of the corporate body from GTCW to EWC. **As such, it would be appropriate to further amend Section 27(1) to read:**

**'Registered person' means:**

- (a) a person for the time being registered under this Act;**
- (b) a person who was registered under this Act or under section 3 of the 1998 Act at the time of alleged conduct or offence, or**
- (c) a person who has made an application to be registered under this Act or under section 3 of the 1998 Act'**

One of the benefits of this approach is that it would make it clear that there is jurisdiction if the conduct or offence had taken place at the time of registration under the Bill or under the 1998 Act. Another is that a person would be regarded as registered if they have ever made an application for registration under the Bill or under the 1998 Act.

The definition of registered person in Section 27(1) has to be read in conjunction with Section 26(1), which defines the Council's remit in relation to investigations. Section 26 (1) (a) and (b) adopt the same wording as in paragraph 1(1) of Schedule 2 to the 1998 Act save for the words 'registered person' being substituted for 'registered teacher'.

The following request for advice refers to the opinions obtained from Counsel by both GTCW and GTCE. A joint opinion was obtained by GTCE from Mr Clive Lewis and Philip Sales dated 21 June 2001 and an opinion was obtained by GTCW from Clive Lewis, dated 5 July 2003. In both cases, the opinion was sought about the jurisdiction to deal with pre-registration conduct.

In giving their opinions. Both counsel referred to the decision of the Court of Appeal in Lewis v The Prosthetists and Orthotists Board [2001] EWCA 837. That particular case was concerned with section 9 of the Professions Supplementary to Medicine Act 1960. The Court confirmed in that case that there was power to deal with an allegation of infamous conduct in a professional respect arising from pre-registration conduct. In reliance on the case of *Lewis*, both Counsel were of the opinion that paragraph 1(1) of Schedule 2 to the 1998 Act, covered both pre and post-registration conduct.

There was a concern that the use of the words 'at any time' in paragraph 1(1) (a) (ii) meant that a distinction was to be drawn between convictions on the one hand and unacceptable professional conduct and serious professional incompetence on the other. However, both Counsel concluded that *Lewis*



offered an explanation for this distinction and that 'at any time' could be seen as simply putting it beyond any doubt that convictions pre and post registration are within the Council's jurisdiction. In their joint opinion, they said that the wording did not imply that only pre-registration convictions (as distinct from pre-registration unacceptable professional conduct) could be considered.

It must follow from the above that these opinions remain valid and would apply to the wording in the Bill, subject to the suggested amendment to Section 27(1) in line with the wording in the 2001 Regulations. Of course, these are only legal opinions and not the determinations of a court. It ought to be possible to use a form of words in the Bill that expressly confirms that pre and post-registration convictions and conduct are within the jurisdiction of the new Council.

The opinion of Clive Lewis dated 5 July 2003 acknowledged that there was a potential ambiguity about the meaning of the words 'a person who has made an application to be registered'. On one view the words might refer to an application which has been made but not yet determined. Clive Lewis came to the view that there was a sound policy reason for interpreting the words literally as the 2001 Regulations were intended to ensure that GTCW had jurisdiction over people who had applied and shown a desire to become registered in addition to those actually registered or registered at the time of the conduct or offence. He concluded that there would be jurisdiction if a person had, for example, applied for registration but then withdrawn the application. He felt that the remit would be undermined if the GTCW had no jurisdiction in such circumstances. He concluded that there would be jurisdiction if an application for registration had been made, regardless of whether it had actually been determined. It is right to point out that this view was expressed at a point in time when GTCW's suitability remit had not been implemented and so it is not known if this factor would lead to a different opinion. In any event, it seems essential that any reference to an application for registration in the Bill covers applications to both GTCW and EWC.

Schedule 1, Sub Section 6(3)(e). This paragraph should not be restricted to teachers as Council membership would be open to other registered persons, namely support staff.

Schedule 1 Section 18 (1) It is suggested that the words "in relation to any grants made under paragraph 17" be added to clarify the limits of the Accounting Officer role.

# Agenda Item 4

## Paper 6

### National Assembly for Wales

### Children and Young People Committee

### Education (Wales) Bill : Stage 1

### Response from : Estyn

#### Introduction

Estyn welcomes the opportunity to contribute a response to the scrutiny of the Education (Wales) Bill by the NAFW Children and Young People's Committee. This paper outlines both our general and specific responses and is set out under the following headings:

- Education Workforce Council – registration and regulation of teachers and the wider workforce
- Reform of the registration and approval of independent schools in respect of special educational needs
- Post-16 assessment of educational and training needs and specialist further education
- School term dates
- The appointment of HM Chief Inspector and HM Inspectors of education and training in Wales

We try to cover, under the above headings, any barriers to the implementation of these provisions and whether the Bill takes account of them or where they are aspects that will need further attention in Codes and guidance to be published in association with the eventual Act when it becomes legislation.

#### **Education Workforce Council – registration and regulation of teachers and the wider workforce**

All learners and parents need to have confidence in a highly skilled and well-regulated education workforce. The proposed functions for the Education Workforce Council would enable them to promote high standards of professional conduct among a wider range of education professionals in Wales. Currently the GTCW registers school teachers and deals with issues related to professional conduct and analyses data related to workforce planning and contributes to CPD. We welcome the future council's involvement in these areas across a wider range of professionals, notably in the further education sector, with the potential for widening the range beyond that to include workers in WBL and the youth service. The introduction of this legislation should contribute to improving standards of professional conduct among the education workforce.

The registration of full-time staff in further education institutions would give parity of esteem with academic staff in schools and help to achieve equity for staff from all sectors who work in the 14-19 phase.

Staff in FE colleges have a wide range of qualifications, industrial and business experience and have often achieved standards set by professional but not teacher-education bodies. Some thought will need to be given, in developing the categories outlined in Schedule 2 of the Bill, to what qualifications FE teachers and support workers will need to hold in order to be fully registered. A system of 'equivalent qualifications' would need to be established. Opportunities to achieve the qualifications required would need to be offered, perhaps using continuous professional development (CPD) arrangements so that registration status would correspond to that required of school teachers and learning support workers. Many full-time teaching staff in further education have gained either a certificate in education or a post-graduate certificate in education. These programmes are often completed in-service by teachers new to FE teaching and, as such, they are undertaken on a part-time basis.

The registration of part-time or visiting teachers or learning support workers in FE institutions will need careful consideration. Many of these staff bring a wealth of professional expertise and specialist skills into FE institutions on a more occasional part-time basis. They are currently employed in a part-time capacity by FEIs often because they mainly work as lawyers, accountants, artists, designers or performers. In other words, they are professionals in other vocational areas whose main profession is not that of a teacher or support worker in FE and whose professional training and qualifications will not include teaching qualifications.

The registration process will also need to accommodate staff who might meet qualification requirements but choose to work part-time. Taking a phased approach to the registration of workers in FE, starting with full-time FE teachers, would be likely to make sense initially should these proposals become law.

### **Provision of advice by the Council**

The GTCW currently gathers a range of useful information related to education professionals. They would continue to provide advice to Welsh Government on issues of conduct, fitness to practise, categories of registration and other issues related to career development and performance in future as EWC. However, it would be problematic for the Council to provide detailed advice relating to 'improving the standards of teaching and the quality of learning' as there is nothing in the Bill that indicates that its staff will be in the position of having a source of primary evidence to support an evaluation standards of teaching and learning across Wales. However, the council would be in a position to pay appropriate attention to published

data, including Estyn reports on school inspections and thematic publications to support their work in promoting high standards of professional conduct.

## **Reform of the registration and approval of independent schools in respect of special educational needs**

### Introduction

Point 78 of the memorandum states that:

*'The Bill seeks to reform the way that independent schools register to admit learners with special educational needs (SEN) to reduce duplication and increase the information available about SEN provision in independent schools.'*

Specifically, the Bill repeals the needs to seek SEN consent to place a pupil with a statement in an independent school without approved status. It also removes the approved status and amends the registration status to include the types of special education needs for which a school is registered.

Estyn supports the broad thrust of the proposals in the Education (Wales) Bill 2013. The main responsibility of ensuring that a learner is appropriately placed in an independent school should, and does, rest with the local authority. It would be useful if supporting guidance could emphasise this. The consent system has the weakness of being used by local authorities as a safety net that allows them not to take this responsibility seriously enough. It is also helpful to local authorities to amend the registration of independent schools, so as to establish a clearer menu of options to enable local authorities to select the best school to meet the needs of individual learners.

Alongside this legislation, the Welsh Government needs to consider a number of further issues in relation to how the requirements of the Bill would operate in practice. These issues are set out below.

In general, it would be useful if supporting guidance were to explain the wider legislative changes that are intended to be introduced in due course. This would set the current proposals in the context of broader policy development in this area.

### **Terminology**

For example, the wording of the Bill is predicated on the status quo in relation to current arrangements for categorising pupils with SEN. It refers to pupils with statements (of special learning needs) and uses the word 'statements' on the face of the Bill when statements are likely to be replaced by Individual Development Plans (IDPs), as a result of the proposed ALN Statutory Reform.

The Bill and memorandum also refer to special educational needs (SEN)<sup>1</sup>. They do not take into consideration the policy intention to replace the term SEN with additional learning needs (ALN) or additional needs (AN). There is a lack of clarity currently regarding the meaning of these terms. This confusion is not helpful for schools, parents and carers, learners or local authorities.

### **Multi-agency working**

Similarly, there is very little mention in the Bill of multi-agency working in relation to SEN, despite the emphasis of Welsh Government on the need for education, social services, health and other agencies to work together to support learners with SEN. Proposals under 'ALN Statutory Reform' require multi-agency involvement in agreeing the individual development plans that are to replace statements of SEN.

One potential advantage of the IDPs is that agencies will carry out joint assessments. It is crucial, when assessing learners with complex needs, that all of their needs are considered. A placement needs to be appropriate in terms of health and care as well as special educational needs where relevant.

### **Equality of access**

There is considerable variation currently in local authority policies and practice in relation to 'statements of SEN'. In January 2013, the percentage of pupils with statements within local authorities ranged from 4.3% to 1.5%, with 2.9% of pupils across Wales having statements. Swansea and Newport currently have the highest percentage of statements (4.3% and 4.1%) while Torfaen and Bridgend have the lowest (1.6% and 1.5%). It is important to note that, during local authority inspections, Estyn have found that there is not necessarily a correlation between the percentage of statements and the quality of ALN services being provided.

Currently the three stages of support for pupils with SEN in maintained schools are:

- Statements of SEN
- School Action Plus
- School Action.

Roughly 20% of pupil cohorts receive support under one of these categories, depending on the severity of needs.

Over recent years, local authorities have sought to reduce the number of statements and to provide support for pupils at School Action Plus. The rate at which this has happened varies considerably from one authority to another. Some authorities have been involved in Welsh Government pilots to develop Independent Development Plans – intended to replace the current system under ALN Statutory Reform – but

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<sup>1</sup> Estyn has used SEN rather than ALN or AN for consistency throughout the document

there does not appear to be a correlation between those local authorities involved in these pilots and a reduction in statementing.

The proposals included in the Bill refer to pupils who have statements – see Part 3 43 (1) (e).

However, in local authorities where the percentage of statements is low, many pupils with significant ALN do not have statements. As such, different local authorities may still take decisions to fund provision in independent schools for pupils with similar needs, but a pupil who might have a statement in one local authority might not have one in another. Across all independent schools in Wales, 11.8% of pupils have SEN but not statements and 4.4% have a statement. How will Welsh Government ensure that safeguards are in place to ensure provision is equally appropriate for all publicly-funded learners with SEN?

It is possible that some mainstream independent schools may choose not to register to cater for any pupils with a statement. This may reduce the choice available to placing authorities.

### **Categorisation of SEN**

The Bill states the need for independent schools to state the category of SEN they plan to cater for. There are already issues regarding the use of PLASC SEN categories in mainstream schools, with schools not understanding the definitions well enough. There will need to be greater clarity about definitions if these are to be used to decide whether or not a school can be allowed to cater for particular SEN pupils. It will also be essential to make sure those schools and local authorities have a common understanding of these categories.

Categorising need is a difficult task. Learners do not fit neatly into boxes. Many will have more than one learning need. Every learner is different. A general label such as ‘autistic spectrum disorder’ for instance will not indicate the severity of the need in order to judge whether a school will be able to cater for pupils with ASD.

Within any disability/difficulty, there is a wide spectrum of need. Pupils with severe autism or social, emotional and behavioural difficulties are likely to require very specialist provision. While many independent schools cater well for pupils with, for example, Asperger syndrome or pupils with emotional difficulties who benefit from smaller settings, there is a danger that, in the new system, schools could accept pupils with severe difficulties whose needs cannot be met in a non-specialist setting.

### **Protection of vulnerable learners**

In addition to full inspections under S163 every 6 years, Estyn carries out annual monitoring inspections of all independent special schools. This work includes those independent schools newly registered since 2003 that do not have SEN approval but are known to cater wholly or mainly for pupils with special educational needs.

Currently Estyn also advises, on individual case-by-case basis, the applications to the Minister on 'SEN consents' and this provides a safety net to help to protect the most vulnerable learners to make sure that each placement matches individual needs. Estyn's annual monitoring process does not check the appropriateness of individual placements and cannot be a full proxy for the 'consents' system. Estyn has previously opposed proposals to abolish the system of individual SEN consent and we still hold the view that by removing SEN consent, there is a risk that pupils may be placed in schools that cannot meet their needs.

Point 84 of memorandum states that the process of individual SEN consent takes an average of 6 to 8 weeks. However, it is possible under the proposed system that a pupil could be incorrectly placed for up to 12 months before Estyn undertakes an annual monitoring visit.

Estyn's annual monitoring visits focus mainly on compliance with the Independent School Standards (Wales) 2003. These Standards do not place enough emphasis on the school's role in meeting all pupils' special needs (regardless of whether or not they are funded by a local authority). The current wording of the Standards is not robust enough to protect vulnerable learners, once SEN consent is removed.

Local authorities have a responsibility to ensure that the educational placements that they fund in independent schools are appropriate based on the needs of individual pupils. Estyn's inspections have found that, in general, local authorities do not monitor the quality of educational placements well enough. We have been critical of the quality of 'corporate parenting' in Wales. There will be a need to ensure that local authorities are held to account to ensure that provision matches the needs of individual pupils.

### **Manageability**

The current system whereby Estyn carries out registration visits and annual monitoring visits to independent special schools, as well as dealing with individual SEN consent requests, has been manageable. However, there are currently 34 mainstream independent schools and should a large number of these schools register to enrol pupils with SEN, we would be hard-pressed to carry out annual monitoring visits to them all. If there were a significant expansion of the need to undertake more annual monitoring visits we would probably need to transfer some resources from the S163 inspection cycle of independent schools. There is a limit to the transferability of resources however because it would be a matter of requiring more staffing resource with ALN expertise than we have available currently.

In addition, the system of annual monitoring is predicated on the registration status. There would need to be a system to ensure that information is collected about whether pupils with statements are actually currently enrolled at schools to ensure that they aren't monitored annually when it is unnecessary.

## **Abolition of requirement for approval of independent schools**

In Estyn's experience, placing authorities do not always take enough care to ensure that a school is able to meet a pupil's special educational needs. Therefore it is important that:

- an independent school's registration status should clearly determine the categories of SEN for which it caters;
- the definitions of SEN and requirements of a school are clear to all;
- schools are made more aware of the importance of that status and the need to apply for material change to widen or alter those categories;
- there is clear guidance for authorities, for example, concerning the requirements of Independent School Standards (Wales) Regulations 2003, to ensure they take appropriate care in placing pupils;
- authorities monitor placements effectively; and
- the Welsh Government is prepared to change the category of registration if a school does not make appropriate provision for pupils so that they are no longer registered to admit pupils with SEN or with particular categories of SEN.

## **Registration of independent schools**

The current registration application form for new independent schools does not require the school to provide enough detailed information. It asks the following questions:

Does the proposed school intend to admit pupils with special educational needs?

Does the proposed school intend to cater wholly or mainly for pupils with special educational needs?

For which type of learning difficulty will the proposed school cater?

Currently, proprietors are not always familiar enough with the different categories of additional needs to complete the form accurately.

During the first registration visit, Estyn is not able to inspect all of the standards as there are no pupils (the visit advises Welsh Government on suitability for registration). Estyn will therefore not be able at this point to judge whether the school is able to cater for specific groups. Currently, unless a school is seeking to register as an independent special school, approval to admit pupils with a statement of SEN would not be granted until the 2<sup>nd</sup> registration visit has taken place. The new arrangements should allow for this safeguard to continue.



Schools do not always understand that they must apply to Welsh Government to make a material change should they wish to alter the category of needs for which they initially registered.

To ensure that the system is effective:

- the registration application form should require specific and relevant detail about the categories of need for which the school intends to provide; and
- there will need to be detailed guidance on how to complete the form, including clear guidance regarding the categories of SEN;
- the Welsh Government should consider how the severity of need catered for will be captured as part of the registration process;
- the Independent School Standards should be strengthened to allow Welsh Government to judge whether schools are able to cater for the needs of pupils with SEN;
- the Welsh Government must ensure that Estyn has up-to-date information about each school's SEN registration and about the enrolment of pupils with SEN at those schools, to ensure that appropriate inspection and annual monitoring work can be planned;
- a school would need to apply for material change if it intended to accept a wider range of pupils with SEN; and
- a school would need to demonstrate that they have staff with the necessary expertise to support and manage provision for pupils with particular categories of learning difficulties or special needs.

## **Post-16 assessment of educational and training needs and specialist further education**

### **Persons with learning difficulties: assessment of post-16 educational and training needs**

Estyn is in support of the general principles in the proposed legislation. In particular, Estyn strongly supports the proposal to delegate the responsibility for assessing the needs and securing suitable provision for Post-16 learners with LLDD to local authorities, with responsibility for securing specialist provision or provision, including boarding accommodation, falling to local authorities. This change will allow local authorities to plan for progression and continuity of provision across the 16-year transition.

Many of the issues that are raised below will be capable of being addressed in the proposed new Code of Practice.

### **Status quo/terminology**

The assumption here again is that statementing will continue – see 40A (1) (a). This part of the Bill also refers to 'persons with learning difficulties', a term that might also be replaced by ALN Statutory Reform.

## **Equality of access**

The points made in the section above on equality of access also apply here. The Bill only places a duty on local authorities to assess the needs of learners with statements. What about those with significant needs who are being supported at School Action Plus, or for whom a statement has been already been replaced by an IDP?

## **Education and training needs (ETN) assessments**

There is a lack of clarity about the proposed changes in terms of what this new assessment or the resulting report will look like and how it will link in with current arrangements such as transition reviews or proposed new arrangements such as IDPs. It is therefore difficult to comment on some aspects of the Bill. This lack of clarity does mean that there is potential for duplication between different processes.

## **Implications of changes in funding**

The delegation of responsibilities proposed in the Bill will be accompanied by delegation of funding from Welsh Government to local authorities. It is not yet clear what this will mean in practice and on what formula these funds will be delegated. This makes it more difficult to identify how effective the proposed system will be in comparison to the current arrangements. Changes in funding mechanisms mean that local authorities will assess needs as well as make provision for all learners from their budgets. Is there a risk that, in the light of financial pressures, they will seek cheaper options rather than those that best meet the needs of the learners?

Current funding arrangements between FEIs, LAs and Independent Specialist Colleges for learners with SEN are confusing. FE colleges currently receive funding through the supplementary grant to support them in making their courses generally more accessible and through exceptional funding in relation to specific learners. This means that sometimes one provider receives funding to support learners on a course with another provider even though that provider has suitable support provision available through funding that is supplementary to the main course funding. The preferred option is that Welsh Government will continue to fund FEIs in this way. It is not clear enough whether there will be any tensions between this funding stream and the funding delegated to local authorities to secure provision identified in the ETN assessments that could impact on what provision is secured for an individual.

There are potential capacity and capability considerations for local authorities in implementing these requirements.

## **Local, regional and partnership working**

As noted above, The Bill refers to local authorities, but does not take into consideration the recent development of consortia. Although consortia are not

currently responsible for ALN, this could change in the future. The Bill seeks to ensure better liaison between schools, local authorities, FE colleges and specialist providers. No mention is made of private training providers.

The Bill currently only considers the assessment process. It does not consider whether these changes have any implications for ensuring better strategic planning, locally and regionally, to ensure appropriate specialist provision is available. There is also a need to clarify the role of 14-19 partnerships – locally and regionally - in mapping and commissioning specialist provision and support. There is a risk that local authorities will work in isolation and not with consortia partners.

### **Implications for Estyn**

Estyn currently inspects independent specialist colleges in Wales and also joins Ofsted to inspect independent specialist colleges in England where there are 10 or more Welsh learners. If the Bill's proposals are implemented it is not clear how Estyn will identify in which independent specialist colleges Welsh learners are accessing their education. It is possible that the provision in the Bill for the Welsh Government to request copies of ETN assessment reports from local authorities may provide this information.

### **Persons with learning difficulties: discretionary assessments of post-16 educational and training needs**

The number of statements issued is falling and there are different thresholds across Wales for statementing so that more pupils have provision made without recourse to statement. As a result, in some local authorities, pupils with significant SEN do not have a statement. It is not clear how the proposed new arrangement will ensure that there is equality of access to post-16 specialist provision and support in relation to their needs.

As already noted above, it is not clear that proposed changes to current arrangements for statementing been taken into consideration. In the interim, it is unclear as to whether this section potentially includes all pupils currently with individual education plans (in use now for learners with SEN) or 'individual development plans'.

Local authorities may prefer not to undertake discretionary assessments for learners whose learning difficulties were not identified during statutory schooling. Will this mean that more parents put pressure on local authorities to provide a statement, whereas there has been a move towards reducing the number of statements? How will equity be assured?

It is not clear enough how a learner in and FEI or WBL provider who is identified as having significant learning difficulties which have not been identified during stator schooling would get access to an ET assessment.

## **Subject matter of mandatory and discretionary assessments of post-16 educational and training needs**

Assessments of education and training needs need to be holistic and developmental to include, for example, independent living skills; and, where appropriate, labour market information. It is not clear whether the naming of providers in the assessment of ETNs override the admissions procedures of FEIs.

### **Assessments of post-16 educational and training needs: appeals**

Estyn agrees that it is valuable to include an appeals process but has no particular comments in relation to this section.

### **Post-16 education and training for persons with learning difficulties: code of practice**

Estyn agrees with the proposal to issue a Code of Practice. It is likely that many of the issues raised as part of this response could potentially be dealt with in more detail within a Code of Practice.

### **School term dates**

There are clear advantages to harmonising the dates of school terms across Wales for parents and carers who have to arrange care for children who attend schools or settings with different school term dates.

### **The appointment of HM Chief Inspector and HM Inspectors of education and training in Wales**

This is a technical adjustment with which we agree.

Document is Restricted

# Agenda Item 7

Paper 3 - Order to Note

Gwenda Thomas AC / AM

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol

Deputy Minister for Social Services



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref LFGT/0897/13

Ann Jones AM  
Chair,  
Children and Young People Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

25 September 2013

Dear Ann,

I am writing to place on record my thanks to the Committee for its contribution to the scrutiny of the Social Services and Well-being (Wales) Bill.

I also wanted to provide you with two letters which I have recently sent to David Rees AM and David Melding AM in their roles as Chairs of the Health and Social Care and Constitutional and Legislative Affairs Committees respectively. These letters set out the recommendations in response to which I am minded to bring forward amendments to the Bill.

I would also like to take this opportunity to share with you a table which sets out a summary of the categories of amendments I am proposing to table on behalf of the Government during Stage 2. I wanted to do this ahead of the any process formally starting in October so you had as much time as possible to consider the potential impact of these changes.

I hope you will agree the amendments set out in the attached documents are a clear representation of my commitment to listening to the Committees and to stakeholders. I look forward to debating the matters contained within the Committees reports further on 8 October.

Yours sincerely

**Gwenda Thomas AC / AM**

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol

Deputy Minister for Social Services



Ein cyf/Our ref LF/GT/0897/13

David Rees AM  
Chair of the Health and Social Care Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

25 September 2013

Dear David,

I am writing to place on record my thanks for the Committee's detailed and thoughtful scrutiny of the Social Services and Well-Being (Wales) Bill which I have read with great interest. You will have seen from your evidence gathering, the extensive interests that those working in social care have and you will have appreciated their commitment to and their passion for what they do. I was delighted that you took evidence from such a wide range of stakeholders and I am sure that doing this greatly assisted your understanding of how important this legislation is and what this Government wishes to achieve with it.

I understand that my Private Office has been in touch to arrange a meeting to discuss the report further ahead of the plenary debate on 8 October but ahead of this I wanted to share with the Committee my responses to a number of the recommendations made for which I am minded to table amendments. These are as follows:

- Independent Advocacy, which I made a written statement on and for which you indicate your support (Recommendation 28);
- placing a duty on local authorities to promote Direct Payments (Recommendations 31 and 32);
- changing the legislative procedure to super-affirmative in relation to any decision to merge children's and adults regional safeguarding boards in section 117 of the Bill (Recommendation 37);
- adding reference to the probation service as a statutory Safeguarding Board Partner (Recommendation 39) in so far as is possible within the legislative competence of the National Assembly;
- provisions to strengthen arrangements for co-operation and partnership working (Recommendation 50); and
- the inclusion of 'aids and adaptations' within section 20(2) (Recommendation 59).

As you will be aware, there were some further calls for amendments, such as the delegation of assessment (Recommendation 10). In these cases, whilst we support the intention of the recommendations on analysis, we have concluded that provision is adequate to achieve the intentions set out by the Committee

I would also like to take this opportunity to share with you a table which sets out a summary of the categories of amendments I am proposing to table on behalf of the Government during Stage 2. I

wanted to do this ahead of the process formally starting in October so you had as much time as possible to consider the potential impact of these changes.

I hope you will agree that both the amendments above and those included in the table attached are a clear representation of my commitment to listening to the Committee and to stakeholders.

I am copying this letter and table of my responses to your recommendations to the Chair of the Constitutional and Legislative Affairs Committee.

Yours sincerely

A handwritten signature in cursive script that reads "Gwenda".

**Gwenda Thomas AC / AM**

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol  
Deputy Minister for Social Services





Ein cyf/Our ref LF/GT/0897/13

David Melding AM  
Chair  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

25 September 2013

Dear David,

I am writing to place on record my thanks to the Committee for its comprehensive consideration of this Bill. Your scrutiny is essential if we are to make this legislation a success and I understand my Private Office has been in touch to arrange a meeting to discuss the report further ahead of the plenary debate on 8 October.

Ahead of this, I wanted to share with the Committee my responses to a number of the recommendations made and for which I am minded to table amendments. These are as follows:

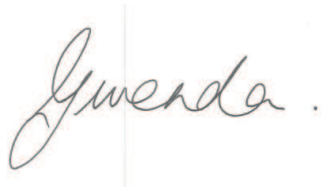
- Procedural changes from the Negative to Affirmative legislative procedure relating to the following sections:
  - 3(6) – Meaning of ‘disabled’
  - 7(3) – Definitions of ‘social enterprises, co-operatives and third sector organisations’
  - 9(3) – Definitions of ‘blind, deaf, and both blind and deaf’
  - 23 – Duty to meet care and support needs of a child
  - 26 – Duty to meet care and support needs of an adult carer
  - 27 – Duty to meet care and support needs of a child carer
  - 105(9) – Adult Protection and Support Orders
  - 112(4) – Functions and procedures of Safeguarding Boards
- A change in procedure from Affirmative to Super-Affirmative for Section 117, which relates to the power to merge Adults and Children’s Safeguarding Boards.

I would also like to take this opportunity to share with you a table which sets out a summary of the categories of amendments I am proposing to table on behalf of the Government during Stage 2. I wanted to do this ahead of the process formally starting in October so you had as much time as possible to consider the potential impact of these changes.

I hope you will agree that both the amendments above and those included in the table attached are a clear representation of my commitment to listening to the Committee and to stakeholders.

I am copying this letter and table of my responses to your recommendations to the Chair of the Health and Social Care Committee.

Yours sincerely

A handwritten signature in cursive script that reads "Gwenda". The signature is written in black ink on a white background. A vertical line is drawn through the signature, likely for scanning or archival purposes.

**Gwenda Thomas AC / AM**

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol  
Deputy Minister for Social Services