

MINUTES OF THE COUNCIL MEETING
Tuesday, 6 October 2009 at 9.30am

PRESENT: Gail Mortimer (Chair), Christine Green, (Vice-Chair), John Adams, Andrew Baxter, Paul Bird, Sarah Bowie, Janis Butler, Liz Carter, Philip Cole, Andy Connell, Chris Cook, Fergus Crow, Lisa Copeland, Clare Craig, Sam Crooks, Julie Davies, Janet Draper, Eric Gledhill, Barbara Hibbert, Jill Hill, Max Hyde, Derek Johns, Sheba Joseph, Aaron King, Caroline Kolek, Becky Kroese, Tony Lewis, David Lowe, Mick Lyons, Pete McAleer, Andy McKinnon, Nasreen Majid, Stephanie Mason, Aamer Naeem, Tony Neal, Sue Netherton, Adam Nichols, Alex Parker, Annette Pateman, Carl Philips, Elizabeth Purnell, Sarah Reed, Muriel Robinson, Gill Stainthorpe, Oona Stannard, Colin Surrey, Sally Townsend, Tom Trust, Stephen Viner, David Whitewright, Geoff Whitty and Jason Whyborn.

Plus Observers Toni Fazaeli (Institute for Learning) Joan McVittie – NCSL, Anthony Finn (GTC Scotland), David Storrie (Alumni Associations)

Apologies for absence were received from Gussie Andersen, Flora Barton, Peter Butler, Robert Gordon, Zubair Khan, Anne Madden, Rajinder Mann, John Rimmer, Alice Robinson, Ralph Ullmann and Sarah Conboy (DCSF)

1. Welcome

The Chair welcomed the new Members plus observers to the meeting; and publicly thanked her predecessor Judy Moorhouse, and former Vice Chair of Council, Sarah Bowie. She referred to the recent joint letter in the name of the Chair and Vice Chair of Council and the new lay out for the Council meeting on which she requested feedback from Members.

2. Declarations of Interest

There were no declarations of interest at the meeting.

3. Minutes of previous Meeting – 1st July 2009 and Matters Arising

In response to concern raised by a Member regarding the approved process for elections to Committees, Council noted that the procedure for constituting Committees for the 2011-13 period will be reviewed by the Council nearer the time and the points noted. The issue of release of Members for Council duties was raised and would continue to be reviewed.

The minutes of the previous meeting were approved as an accurate record.

4. Decision Tracking

The standard paper from the Council Secretary was noted

5. Chair and Vice Chair Business

The diary of the Chair and Vice Chair engagements since the July Council meeting was circulated in advance of the meeting as well as feedback from the Council's representative on the Board of the Training and Development Agency for information.

The Chair congratulated the Chairs of Committees and Committee Members elected in the current Committee process.

6. Chief Executive Report to Council

The schedule of the Chief Executive's engagements since the July Council meeting were noted.

The Chief Executive highlighted the publication of the Remit Review and drew Members' attention to the recently circulated press release regarding the Maurice Smith review into racism in schools and particularly at the arrangements to safeguard children and young people from indoctrination and discrimination. He added that GTC Officers will be contributing to the enquiry so that no Member is placed in a prejudicial position with regard to hearings. In this respect the Registrar reiterated, for the benefit of new Members, the legal advice that had been given to Council on discussing matters relating to membership of lawful political parties having regard to the Member adjudication role on Council.

He referred to a successful visit to various schools in Cornwall, accompanied by Tom Trust, an internal visit from a Chinese delegation and to the draft Global Charter for Teaching Councils to be produced by an international forum including Teaching Councils. The Chief Executive placed on record his appreciation of the work carried out by the Council Secretary and Francesca Chittenden in respect of the Elections, Nominations and Public Appointment processes that had been successfully undertaken over the last 20 months and also the support by Carly Crawford in the Chair and Vice Chair of Council induction. He mentioned his termly programme of meetings with key stakeholders, many of these linked to the announcement around Licence to Practise and the White Paper, some of these involved the new Chair and Vice Chair.

Questions of the Chief Executive centred on the school visits programme and the involvement of Members, staffing resources in the Legal and Professional Standards area and its impact on delivering the casework strategy upon which the Registrar provided clarification, reporting that referral levels from the Independent Safeguarding Authority had increased.

7. Who Adjudicates? (Ref 01/09-10)

This paper informed Members of the external context of regulation, highlighting the changing landscape of the regulatory sector and where the GTC were positioned in respect of this. The paper also gave background to this issue, including that Council has been aware of the risks associated with the current governance structure since 2005. The paper informed Council of the principles that lay behind the separation of adjudication from the other work of the Council and sought agreement that work on long term measures for achieving the separation be progressed alongside the Corporate Governance strand of the Teaching in 2012 programme.

Andrew Baxter (Lead Member for the Who Adjudicates project) presented the paper and, for the benefit of new Council Members, gave the background to the project in terms of the GTCs current governance structure and practice in relation to other regulatory bodies, various White Papers and developments in Better Regulation. He referred to the risk of the Council's current model being challenged in the courts and developments in the Health Regulatory field. He also referred back to the Audit Commission report in 2005 which identified a weakness in terms of the GTC's combined functions.

The nub of the concern is a view that if the functions of professional leadership, standard setting, investigation and adjudication are combined there is a risk of undermining public confidence in the independence of the regulators making decisions despite some internal safeguards being in place. The Executive Committee recommended that Council agree the separation of adjudication from other functions in principle and commission further work including some interim arrangements within the existing governance structure. The Executive Committee was of the view that it was time for Council to develop its own thinking rather than having external changes imposed on it and for the Council to develop its own options for change within the developing legal framework. The Council should establish the principle that the function of adjudication and everything else the Council does should be separated and short and long term work to achieve this should be developed.

The Council had a lengthy debate on the proposed recommendation to separate the functions. In response to a Member question as to why this issue was not raised in the remit review the Chief Executive stated that review looked no further than how the five educational organisations were discharging their functions against their statutory requirements not how they were undertaken. An observation was made that there was no suggestion that the current model had lost high trust or confidence and sought clarification as to the extent of the public pressure. In response the Chief Executive stated there was strong affirmation of trust and confidence in the way the GTC manages the regulatory business but there are questions of all regulators as to whether they are demonstrably capable of acting in the public interest within their current arrangements.

Members in support of the recommendation believed the Council needed to be proactive in progressing this work to avoid possible external imposition in the future and to maintain the initiative and avoid a dilution of important principles. A Member raised the importance of canvassing the views of the Additional Committee Members to inform this process.

Further discussion centred on the nature of possible legal challenge, on any conflict between public policy making and adjudication and the issue of elected Members' conflict of interest. The appendix from the Council Solicitor set out the difficulties the Council were facing. The Registrar explained the areas of possible challenge and the perceptions of potential conflict of interest and that the challenge could be against another regulator's practice. In terms of the public policy formulation the Registrar referred to the Clementi review of the legal profession which identified potential conflict of interests.

Reference was made to school structures in dealing with disciplinary matters and the Council's role as a professional regulator if separation was agreed and Council noted they were two distinct matters. The Chief Executive reiterated the importance as the regulatory body for the teaching profession that it be acknowledged there is self regulation and a strong argument for the teaching profession to retain the right to lead this function and it was a question of how. The paper was not challenging professionally led regulation. In response to a Member question the Registrar stated that interim governance changes could for example relate to the Executive Committee withdrawing from casework but that plans needed to be worked out.

Some Members argued that this matter should be deferred to further explore the principle of the separation and the implications and to make a more informed decision around models. Others argued that this matter had been alive since the Audit Commission Review in 2005 and it was time to progress matters.

The recommendation was put to vote and carried by a substantial majority.

Council

noted the principles (as set out in section 4.2 of the paper) which have emerged from the recent reviews of regulators

formally agreed in principle for a separation of the adjudication function from the other work of the Council and that this be progressed alongside the Corporate Governance strand of the *Teaching in 2012* programme

agreed that the Executive Committee commissions the ‘Who Adjudicates’ project board to come forward in January 2010 with proposals for introducing interim changes in terms of separating adjudication from the other work of the Council within the current governance structure

8. Summary of Work of Committees (Ref 02/09-10)

The Chair of the Audit Committee presented feedback from the Committee’s meeting which included a significant induction session.

The Chair of Council presented the report from the Executive Committee and specifically addressed the various recommendations within the paper. Council noted that the proposed Lead Member role would facilitate greater involvement of Council Members and utilisation of Member skills; the addition of a Lead Member for equality and diversity was welcomed.

The Chair of Council explained the rationale for the various options for Member engagement with different strands of the Council’s work and that the afternoon evidence session was an example of this in action. In response to a Member question as to the absence of policy groups within the paper, the Chief Executive stated that the practical rationale was the work of Council and staff being focused on the three year ‘Teaching in 2012’ programmes where there were significant public policy dimensions and to the level of resources available to progress this. The Director of Policy added that the proposed options presented were an inclusive and efficient model for involving Council Members in all strands of the Council’s public and educational policy work including those in the regulatory domain. She informed Council that the Policy and Research Committee at its meeting on 13th October would look at the notion of Lead Members for their portfolio of ‘business as usual’ policy work and the Committee would continue to seek Member perspectives and evidence.

In terms of the Council’s representation on various outside bodies a Member raised the issue of the College of Teachers receiving reciprocal observer status on the Council and the Chief Executive undertook to look at this alongside his discussions with the Specialist Schools and Academies trust and report back. Council also noted that the Chief Executive was undertaking work on preparing guidance on the expectations of Members representing the Council as observers and the purpose of inviting observers to GTC meetings. This will be reported to the November Executive Committee and will include the position of the DCSF.

The Council then debated the key sections of the response to the Education White Paper agreed by the Executive Committee in September and broadly welcomed the high quality response. Discussion centred on the need to consider partnership with Further Education bodies because of the policy priorities for 14-19 and QLTS issues, including as a tool for further dialogue with the DCSF; future work on accountability (with particular reference to paragraphs 14 & 38) and the need to be mindful of the pursuit of existing Accountability

mechanisms as well as future mechanisms which required equal priority. In response to a Member question regarding the absence within the response of reference to groups such as centrally employed teachers, the Director of Policy stated that consideration was not given within particular cohorts or groups of teachers but moving forward this would be given attention by Policy and Research Committee.

The Council noted the reference to Licence to Practise within the paper and how this then tied into other accountability mechanisms. Reference to the pupil and parent guarantee concept was raised and the notion that multiple accountabilities could conflict needed more thought in the White Paper.

The Council's response to the school report card consultation, the role of school improvement partners, the recruitment of future head teachers and the work of Ofsted were raised as specific issues. In respect of the latter concerns were expressed at the increased use of raw exam data and the current definition of school leaders as system leaders was mentioned. The Head of Policy Development stated that the response regarding the school report card was available for all Members and that the piloting of the report card would give further opportunity for follow up on the issues raised in the paper and at the meeting. In respect of Licence to Practise initial concerns raised at the meeting included its relationship to performance management and accountability. The Chief Executive stated that Council would take a position once the Government proposals were fully known and this position would include detail of equality and diversity implications and professional development access with particular reference to qualified teachers currently not practising.

In respect of the other areas of the Executive Committee's report a Member questioned the level of Executive Committee scrutiny of the management accounts. The Director of Corporate Services outlined the Committee's process including key performance indicators. The Member referred to specific consideration of performance against key indicators by the Executive Committee in respect of regulatory work and not meeting targets against the 2009/10 casework strategy. He asked the Registrar a series of questions in respect of progress against this strategy, in terms of numbers of hearings being completed and budget underspend. In response the Registrar provided various statistics, with the changing number of referrals a wider perspective of the current strategy needed to be undertaken. He provided assurance that the strategy was regularly discussed with the Teacher Unions, Employers and other Stakeholders as well as internally in terms of scrutiny and consideration by the Registration and Regulation Committee. He assured Council that the question of budgeting would be considered later in the month. The Registrar referred to the impact of the ISA, capacity within staffing resources and that timescales for hearings had been reducing. A Member commented that any key performance indicators indicated as red should be specifically drawn to the Council's attention, with the reasons for the assessment.

Council:

agreed that the following Lead Member roles be established for two years at the November Executive Committee along the lines set out in section 2.2 (a) of the paper:

Corporate Governance 2012 Communications, (incorporating the 2012 engagement programme) Equality and Diversity, Who Adjudicates, Licence to Practise (formerly active registration) Networks Transformation

endorsed the options for Member engagement with the different strands of the Council's work as set out in section 2.2 (b-e) of the paper

agreed the proposed Council Member representation on the following outside bodies as set out in section 2.4 of the paper:-

Chair of Council on the Board of the NCSL, Vice Chair of Council on the College of Teachers, Tony Neal on the Board of the Training and Development Agency.

gave further consideration as recorded in the minutes to the direction of travel of the GTC'S accountability policy thinking up to date as set out in section 2.5 of the paper in the context of the response to the White Paper agreed by the Executive Committee, particularly in relation to the overarching comments (paragraphs 10-15) and the accountability sections (paragraphs 38-53). This is in advance of the Policy and Research Committee considering the detail of the accountability work going forward in October

Council noted that a progress report on Casework strategy would be submitted to November meeting of the Registration Committee with report back to the Executive Committee in November.

9. Members Responsibilities – Data Protection & information Assurance (Ref 03/09-10)

The Executive Committee had discussed and approved the issues in the paper, the content of which was recommended to Council by the Committee.

The Director of Corporate Services introduced the paper that addressed the personal responsibilities of each Council Member for the safeguarding of information they handle in connection with the discharge of their Council responsibilities

The Director of Corporate Services highlighted the key areas in the paper and the specific recommendations from the Executive Committee that provided greater detail compatible with the requirements of the Cabinet Office Security Office policy framework. Concern was expressed by some Members as to the recommendation regarding the non use of publicly available computers for Council duties and the Director explained this recommendation is best practice. A Member raised the question of password protected computers but it was noted that this could be breached. It was proposed that a separate GTC email address might be required and this could be looked at by the Data Governance Manager. Further discussion centred on the use of shared work addresses, the use of blackberries and the difficulties Members might face in having a number of email addresses that might work against carrying out their Member duties if a further separate GTC address was provided.

The recommendations in the paper were put to the vote and defeated.

Council did not approve the new Member Data Protection and Information Assurance Responsibilities at Appendix One; and referred the matter back to the Executive Committee in the light of issues raised at the meeting.

10. GTC performance Management process (Ref 04/09-10)

The Director of Corporate Services introduced the paper which informed Council of developments to the GTC's performance management arrangements, and summarised progress to date in 2009-10 in the implementation of plans and projects, based upon a paper submitted to the Executive Committee in September. A much fuller report would be submitted to Executive Committee in November.

Council:

noted the changes made to the GTC's corporate planning and performance management systems, outlined in paragraph 4.6 of the paper;

noted the progress achieved to date in implementing operational plans and 2012 projects, summarised in paragraph 4.9;

noted the following changes to the Professionalism 2012 Project approved by the Executive Committee:

the Accountability work to move into Operational Plans without a 2012 project board structure and to report to Policy and Research Committee (PRC);

the Code 'embedding' or business change project will continue to report to the Code Board and through to Executive Committee;

the pedagogy work will be delivered through the networks and governed through the PRC;

initiation of planned tranche 2 projects such as entry to the profession to go on hold;

the Active Registration project to become for the period coterminous with the Licence to Practise Programme. The latter programme preparation to be reported directly to Executive Committee.

11. Financial Monitoring (Ref 05/09-10)

The Director of Corporate Services introduced the paper and highlighted the key areas of the high level summary of the financial position as at 31st July 2009 and an explanation of the overall variances to date.

The paper was noted.

12. GTC Representation on the Institute for Learning Advisory Council (Ref 06/09-10)

The Chief Executive introduced the paper which sought Council's agreement as to whether the GTC should seek a stakeholder place on the new Institute for Learning (IfL) Advisory Council. New IfL governance arrangements will be in place by 2010.

The Chief Executive introduced this paper and further clarification on the proposal was set out by Tony Fazaeli the Chief Executive of the IfL.

Council agreed the proposal in section 4.2 of the paper for the GTC to submit an expression of interest in taking on a stakeholder place on the IfL Advisory Council.

13. Any Other Urgent Business

None at this meeting.

14. Date of Next Meeting

26th January 2010 – Woburn House, London.

The meeting ended at 12.50pm.

Gail Mortimer
CHAIR