



# Indicative Sanctions Guidance

This guidance is effective from 25 March 2008.

This guidance has been developed by the GTC for use by its Professional Conduct and Competence Committees when hearing committees are considering what sanction, if any, to impose on a registered teacher following a finding of:

- **unacceptable professional conduct**
- **serious professional incompetence, or**
- **conviction or a relevant criminal conviction**

## **1.1 Introduction: purpose of the guidance**

This guidance has been developed by the GTC for use by its Professional Conduct and Professional Competence Committees (“hearing committees”). The guidance is for use when hearing committees are considering what sanction, if any, to impose on a registered teacher following a finding of:

- Unacceptable Professional Conduct
- Serious Professional Incompetence, or
- Conviction of a Relevant Criminal Offence.

It outlines the decision-making process and factors to be considered and draws on an analysis of past cases. Previous decisions of hearing committees are available to GTC Members through the Record of Decisions, which is available on the Members’ extranet.

Hearing Committee members are obliged to exercise their own judgement in making decisions since they are acting in a judicial capacity, within a framework set out by the Council. This guidance is a ‘living document’, which will be updated and revised as the need arises.

## **1.2 Considering the application of a sanction**

If a teacher has been found to be guilty of Unacceptable Professional Conduct/Serious Professional Incompetence or Conviction of a Relevant Criminal Offence, the Committee must decide if a sanction needs to be applied with respect to the teacher’s registration. The interests of the public, the profession and the teacher need to be weighed in this decision.

The Council’s Disciplinary Rules do not require the Committee to impose a sanction in every case where Unacceptable Professional Conduct/Serious Professional Incompetence/Conviction of a Relevant Offence are found. It is thus open to a Committee to conclude a case without a Reprimand, the lowest level of sanction. But as with their other decisions the Committee would need to be satisfied that it is sufficient in the public interest to do so and to make clear their reasons.

Where a disciplinary sanction is appropriate, a number of options are available to the Committee. Sanctions should be considered in the following order:

- (a) Reprimand
- (b) Conditional Registration Order
- (c) Suspension

(d) Prohibition

A Suspension Order may also specify any conditions with which the registered teacher must comply before he or she becomes eligible again for registration.

### **1.3 The Purpose of sanctions**

The primary purpose of sanctions is not to be punitive, but to protect the interests of the public, although they may have a punitive effect.

#### *Definition of The Public Interest*

There is clear judicial authority that the public interest includes:

- (a) The protection of members of the public.
- (b) The maintenance of public confidence in the profession.
- (c) Declaring and upholding proper standards of conduct and competence.

The public interest may also be served by applying conditions relating to the teacher's return to work if he or she lacks certain skills, competencies or knowledge.

#### *Proportionality*

In deciding what sanctions to impose the Committee should apply the principle of proportionality, weighing the interests of the public (as above) against those of the teacher. In addition they will need to consider any mitigation in relation to the seriousness of the behaviour in question.

The extent to which mitigation should influence judgement on a finding of Unacceptable Professional Conduct/Serious Professional Incompetence/Conviction of a Relevant Offence and then on sanction, is dependent on the individual circumstances in the case and is at the discretion of the Committee. Paragraphs 1.20 – 1.21 contain further information on considering mitigation, references and testimonials and apologies, which are relevant in this area.

The paragraphs below outline each sanction, stating the philosophy behind them and some broad criteria as to their use.

Note: in all cases, it is essential that committees give clear reasons for their decisions. It is also desirable for the committee to express an opinion about the teacher's behaviour as part of their decision.

#### **1.4 General considerations relating to Reprimands**

Where the Committee decide that it is not sufficient to conclude a case with no sanction, a Reprimand is the lowest sanction that can be applied. A Reprimand may be appropriate where the offence is at the lower end of the spectrum in order to mark the fact that the behaviour was unacceptable and must not happen again. A Reprimand allows continues registration and remains on the register for a two year period. Like all disciplinary orders, a Reprimand is disclosed to an employer enquiring about the teacher's registration status.

#### **1.5 General considerations relating to Conditional Registration Orders**

A Conditional Registration Order allows a teacher to maintain their status as a registered teacher subject to meeting certain conditions over a prescribed timescale. This timescale may be for a specific period or without limit of time. Conditions may apply to cases of Unacceptable Professional Conduct and Serious Professional Incompetence and Conviction of a Relevant Offence and may involve expenditure on the part of the person.

In specifying conditions within Conditional Registration Orders, it is vital that the committee specifies clearly what the teacher must do to comply with the order and that conditions are such that the Council may determine whether or not the conditions have been complied with. Under the Council's Rules, it is the responsibility of the Registrar to make the initial decision about whether conditions appear to have been complied with and to decide whether the matter should be referred for a further hearing. For this reason, hearing committees should apply conditions which meet SMART criteria: in other words, which are specific, measurable, achievable, realistic and time defined.

Before imposing conditions involving retraining or other development, the Committee should satisfy itself that:

- (a) The problem is amenable to improvement through the means specified;
- (b) The objectives of the conditions are clear, such that the Registrar and any future Committee who examine the matter will be readily able to determine whether the objectives in applying the conditions have been achieved.

The Council will monitor whether a teacher complies with the conditions within a Conditional Registration Order and may take steps to suspend or prohibit a teacher where conditions are not complied with (**See Part 5**). Teachers may apply to the Council for a variation or revocation of any condition in an Order (**See Part 4**).

Conditions may be wide-ranging and may, for instance, specify that:

- The teacher may not be employed to teach in certain phases or to teach certain subjects
- The teacher may be excluded from certain activities e.g. outdoor education activities or school trips
- The teacher may be excluded from any involvement with school/college finances
- The teacher may be required to undertake counselling for drug/alcohol abuse
- The teacher may only be employed as a registered teacher subject to undertaking certain retraining or updating

The Council's policy is to monitor compliance with conditions annually for the first 5 years of any order and thereafter biennially. Because compliance with conditions is a responsibility placed upon the teacher as a part of their professional response to shortcomings, it is also the Council's policy that, wherever possible, the onus should be placed upon the teacher to provide the relevant information to the Council proactively in the first instance.

Examples of Conditional Registration Orders are contained within the Record of Decisions available on the Members' extranet.

### **1.6 Further guidance on conditions relating to Serious Professional Incompetence**

The Council is developing arrangements whereby teachers found guilty of serious professional incompetence may be referred to appropriate training providers for quality assured training based on the standards for QTS, Induction, or, in the case of head teachers, the National Standards for Head teachers. Pending these arrangements, the following good practice is recommended:

- (a) The committee should decide whether continued employment should be subject to retraining or updating or whether retraining and updating may be undertaken on the job (See Note 1 below)
- (b) In all cases, the committee should specify as closely as possible the standards upon which the training should be based (See Note 2 below)
- (c) Given the variety of training providers and the way in which training provision operates in the education sector, it will usually not be feasible or desirable for the committee to specify a specific training provider in an Order. The committee may therefore place the onus upon the teacher to provide details of a specific course and provider for the Registrar's prior approval

Notes:

1. Examples are

“This Condition can be removed upon you submitting satisfactory evidence to the Registrar that you have successfully completed a re-entry or refresher course based upon the National Standards leading to QTS”.

or

“This Condition requires that you successfully complete a programme of mentoring and supervision under (for instance) a School Centred Initial Teacher Training Programme (SCITT) or Graduate Teaching Training (GTP) Programme.

2. Relevant standards are conveniently set out in the Teachers’ Standards Framework published by the DfES. The most relevant standards are likely to be the standards for QTS, Induction, Subject Leader, SENCO and Head teacher.

**1.7 Further guidance on conditions relating to Unacceptable Professional Conduct**

Conditions relating to Unacceptable Professional Conduct can take a wide variety of forms. Some instances which may be helpful are set out below:

- Producing a report from a qualified medical practitioner/ psychiatrist that demonstrates fitness
- Exclusion from a management post (or the position of Head teacher) within a school
- Exclusion from involvement with school finances
- Provision of reports (by the Head teacher of an employing school) of satisfactory conduct (at given intervals)
- Reports relating to compliance with the school’s policy relating to the use of ICT (at given intervals)
- Compliance with a court order (e.g. for the repayment of monies)
- Compliance with the procedures for reporting sickness absence

**1.8 General considerations relating to Suspension Orders (up to 2 years)**

Suspension can be used to send out a signal to the teacher, the profession and the public about what is regarded as unacceptable behaviour or serious incompetence. Suspension from the register has a punitive effect, in that it prevents the teacher from practising (and therefore from earning a living as a

teacher in maintained schools and non-maintained special schools) during the period of suspension.

- 1.9** Suspension is likely to be appropriate for misconduct or incompetence that is serious, but not so serious as to justify prohibition (for example where there may have been acknowledgement of fault and where the Committee is satisfied that the behaviour or incident is unlikely to be repeated). The length of the suspension may be up to 2 years and is a matter for the Committee's discretion, depending on the gravity of the particular case.
- 1.10** There may be cases where conditional registration is not sufficient to serve the public interest, but where there is evidence that the teacher has the potential to be rehabilitated if prepared to undergo retraining/development. In such cases the Committee may wish to impose a period of suspension, and to add conditions in terms of retraining or other action. The Committee must be satisfied that the problem is subject to improvement as set out at paragraph 1.5 above. Suspended teachers whose suspension is subject to conditions remain ineligible for registration where they fail to comply with those conditions.

#### **1.11 General considerations relating to Prohibition Orders**

Prohibition from the register is appropriate where this is the only means of protecting pupils and maintaining public confidence in the teaching profession. However, Committees should not feel it necessary to prohibit a teacher in order to satisfy public demand for blame and punishment.

- 1.12** A teacher who has been prohibited from teaching is prohibited without limit of time. Such prohibition is subject to application from the teacher for the restoration of their eligibility to register according to a timescale determined by the committee. Under the Teaching and Higher Education Act, this timescale shall not be less than two years. If, at this point, such an application is made, a further hearing committee will need to be satisfied that the teacher's character, competence and any other relevant factors, are now sufficiently acceptable to restore the teacher's eligibility to register.
- 1.13** Whether Prohibition is appropriate will depend on the particular facts of each case. GTC hearing committees have made Prohibition Orders in relation to:
- (a) deliberate actions to undermine the school and colleagues
  - (b) possession of prohibited firearms
  - (c) manslaughter
  - (d) dishonesty
  - (e) theft

(f) fraud

These Prohibition Orders have applied a range of timescales to any restoration application, from the minimum of two years to an order without limit of time. The effect of a Prohibition Order without limit of time is that the teacher may never apply for the restoration of their eligibility to register. In these circumstances it is particularly important that the Committee explains clearly the reasons for its decision.

**1.14** Prohibited teachers may apply for the restoration of their eligibility to register at a hearing, whereas the eligibility to register of suspended teachers is automatically restored following the period of suspension. Prohibited teachers who do not apply for the restoration of their eligibility to register remain ineligible for registration.

**1.15 Reprimand – relevant factors in applying this sanction**

***This sanction may be considered where most of the following factors are present (this list is not exhaustive):***

- Evidence that behaviour would not have seriously affected pupils
- Insight into failings
- Isolated incident which was not deliberate
- Genuine expression of regret/apologies
- Acting under duress
- Previous good history
- No repetition of behaviour since incident
- Rehabilitative/corrective steps taken
- Relevant and appropriate references and testimonials

The committee should consider whether it is sufficient to conclude the case with the reasons for the finding of unacceptable professional conduct alone or with the addition of a Reprimand. *If no, then consider imposing conditions on the teacher's registration. Note: the committee should note that a Conditional Registration Order means that the teacher remains in registration during the period of the order. Where the committee consider that conditions are appropriate but that the protection of the public, including pupils, is better served by the teacher not remaining in registration during the period to which the conditions apply, they should consider imposing a Suspension Order with*

*conditions. The effect of this is that the teacher is suspended from the register for the period of the Suspension Order and subject to meeting the conditions specified. If the conditions are not met by the end of the stipulated period, the suspension will continue until such time as they are.*

#### **1.16 Conditional Registration Orders (with or without limit of time) – relevant factors in applying this sanction**

***This sanction may be appropriate when most or all of the following factors are apparent (this list is not exhaustive):***

- Not fundamentally incompatible with continuing to be a registered teacher
- No evidence of harmful deep-seated personality or attitudinal problems
- Committee satisfied teacher has insight and does not pose a significant risk of repeating behaviour
- Identifiable areas of practice in need of retraining
- Potential and willingness to respond positively to retraining
- Pupils will not be seriously disadvantaged/affected either directly or - indirectly as a result of conditional registration itself
- The conditions will protect pupils during the period they are in force
- It is possible to formulate appropriate and practical conditions to impose on registration

*The committee should consider whether it is sufficient to conclude the case with conditions imposed on registration? If no, then consider suspending the teacher from the register.*

#### **1.17 Suspension Orders (up to 2 years) – relevant factors in applying this sanction**

***This sanction may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):***

- A serious instance of unacceptable conduct but where a lesser sanction is not sufficient

- Not fundamentally incompatible with continuing to be a registered teacher
- No evidence of harmful deep-seated personality or attitudinal problems
- Committee satisfied teacher has insight and does not pose a significant risk of repeating behaviour

The committee should consider whether it is sufficient to conclude the case with suspension? *If no, then consider the teacher must be prohibited.*

### **1.18 Prohibition Orders – relevant factors in applying this sanction**

***This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered teacher and involves any of the following (this list is not exhaustive):***

- Serious departure from the Code of Conduct
- Seriously affecting the education and/or well being of pupils, either deliberately or through incompetence and particularly where there is a continuing risk
- Abuse of position/trust (particularly involving vulnerable pupils) or violation of the rights of pupils.
- Dishonesty (especially where persistent and covered up)
- Persistent lack of insight into seriousness of actions or consequences
- Evidence of harmful deep-seated personality or attitudinal problems

## **Supplementary guidance**

### **1.19 Further guidance on considering conviction cases**

Convictions refer to a determination by a criminal court in the British Islands, or a finding by an overseas court of an offence, which, if committed in England and Wales, would constitute a criminal offence. A conviction itself gives the Committee jurisdiction even if the criminal offence did not involve misconduct in the course of teaching.

If the conviction is admitted, then the Committee is bound to accept the fact that the teacher has been convicted as conclusive evidence that they were guilty of that offence. In such cases the proceedings are concerned only to establish the gravity of the offence and to take due account of any mitigating circumstances.

In a conviction-related hearing, the presenting officer will be invited to adduce evidence as to the circumstances leading up to the conviction, character and previous history of the teacher. The teacher will then have the opportunity to address the Committee by way of mitigation and present any evidence in respect of this.

The purpose of a hearing in relation to a conviction is not to punish the teacher a second time for the offences of which he or she was convicted, but to protect the pupils who might be taught by the teacher and to maintain the high standards and good reputation of the profession. The Committee's role is therefore to balance the nature and gravity of the offences and their bearing on the teacher's fitness to practise against the need for the imposition of a sanction and its consequences upon the ability of the teacher to practise his or her profession.

**A schedule of criminal offences, defining offences and identifying maximum sentences is attached at Part 2 Section 2 of this guidance.**

### **1.20 Mitigation**

In any case before them, the Committee will need to have due regard to any evidence presented by way of mitigation by or on behalf of the teacher. This could include evidence of a previously unblemished career, time lapsed since the incident/s, any apologies to the complainant/person in question or efforts to avoid such behaviour reoccurring. Mitigation could also relate to the circumstances leading up to the incident/s in question as well as the character and previous history of the teacher.

### **1.21 Guidance on considering references and testimonials**

Often the teacher will present references and testimonials as to his or her standing in the community or profession. As with other mitigating or aggravating

factors these will need to be weighed appropriately against the nature of the incident. The quantity, quality and spread of references and testimonials will vary from case to case and this will not necessarily depend on the standing of a teacher. There may be cultural reasons for not requesting them and the Committee should also be aware of this. In addition, acquiring references and testimonials may pose a difficulty for newly arrived overseas qualified teachers.

Finally, references and testimonials will have been provided in advance of the hearing and therefore may not stand as an accurate portrait in light of the facts found proven. The Committee will need to consider all such factors when looking at references and testimonials.

### **1.22 Guidance on expressions of regret and apology**

The expectation that a teacher will be able to stand back and accept that with hindsight, they should have behaved differently, and that it is expected that he or she will take steps to prevent a recurrence - is an important factor in a hearing. But the Committee should be aware that there may be cultural differences in the way that insight is expressed, for example, how an apology or expression of regret is framed and delivered and the process of communication.

The main consideration for the Committee therefore, is to be satisfied of the protection of pupils and that the teacher has recognised that steps need to be taken, and not the form in which this may be expressed.