

# **THE GENERAL TEACHING COUNCIL FOR ENGLAND**

## **DISCIPLINARY PROCEDURE RULES 2008**

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The General Teaching Council for England, in the exercise of the powers conferred upon it by Regulations 8(5), 10(6), 16 and 27 of the General Teaching Council for England (Disciplinary Functions) Regulations 2001(a) and all other powers enabling it in that behalf under Schedules 1 and 2 to the Teaching and Higher Education Act

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(a) S.I. 2001/1268, as amended.

1998(a), hereby makes the following Rules which were approved by the Registration and Regulation Committee on 18 June 2008.

## PART I

### Introduction

#### Citation interpretation and commencement

1.— (1) These Rules may be cited as the General Teaching Council’s Disciplinary Procedure Rules 2006 and shall come into force on 1 September 2008.

(2) In these Rules, unless the context otherwise requires –

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

“Additional Committee Member” means a Member of a Committee appointed by the Council to sit on a Committee, convened in accordance with Part II, Part III and Part IV of these Rules, as a Registered Teacher Member or Lay Member and who is not a Member of the Council;

“Agent” means a person who makes an arrangement (whether or not under a contract of service or for services or otherwise) with a Worker who is a Registered Teacher to carry out work at the request of, or with the consent of, an Employer; and

“current Agent” and “former Agent” shall be construed accordingly;

“Allegation” means an allegation that a Registered Teacher may be guilty of Unacceptable Professional Conduct, Serious Professional Incompetence, or has been convicted at any time of a Relevant Offence;

“Arrangement” means any arrangement (whether or not under a contract of service or for services or otherwise) made by an Agent with a Worker who is a Registered Teacher to carry out work at the request of, or with the consent of, an Employer;

“Authority” means a local authority;

“Child” means a person aged under 18;

“Code of Conduct” means a code of practice laying down standards of professional conduct expected of Registered Teachers issued under section 5 of the Act and Regulation 13 of the General Teaching Council for England (Registration of Teachers) Regulations 2000 (b);

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(a) 1998 c.30, as amended.

(b) S.I. 2000/2176, as amended

“a Committee” means:

- (a) In Part II of these Rules, an Investigating Committee; and
- (b) In Part III and Part IV of these Rules, a Professional Conduct Committee or a Professional Competence Committee,

and shall consist of 3 or 5 Members.

“the Council” means the General Teaching Council for England;

“Disciplinary Order” means a Reprimand, a Conditional Registration Order, a Suspension Order (with or without conditions) or a Prohibition Order within the meaning of paragraph 2(3) of Schedule 2 to the Act;

“Employer” means –

- (a) a person who employs a Registered Teacher at –
  - (i) a school maintained by an Authority,
  - (ii) a special school not maintained by an Authority, or
  - (iii) an institution providing further education, which is maintained by an Authority;
- (b) an Authority;
- (c) a person exercising a function relating to the provision of education on behalf of an Authority;
- (d) the proprietor of a school (including an independent school);
- (e) the governing body of a further education institution;
- (f) an Authority which employs a Registered Teacher to work as a Teacher otherwise than at a school or institution falling within sub-paragraph (a);
- (g) an Authority or the governing body of a school or institution falling within sub-paragraph (a) which employs a Registered Teacher in work otherwise than as a Teacher which brings them into regular contact with persons who have not attained the age of 18 years; or
- (h) a person who employs a Registered Teacher at an independent school, or the proprietor of an independent school who employs a Registered Teacher to work as a Teacher or in work otherwise than as a Teacher which brings them into regular contact with persons who have not attained the age of 18 years; and “current Employer”, “former Employer” and “employed” shall be construed accordingly;

“facts of the case” means the particulars of the Allegation of Unacceptable Professional Conduct, Serious Professional Incompetence or Conviction for a Relevant Offence, as the case may be;

“Lay Member” means a person who is neither a Registered Teacher nor a person who has been employed or engaged to provide their services otherwise than under a contract of employment as a Teacher within the last 5 years;

“Member” means a Member of the Council or an Additional Committee Member appointed to a Committee;

“month” means a calendar month;

“Officer of the Council” means an employee of the Council or any person duly authorised to act on behalf of the Chief Officer or the Registrar;

“Presenting Officer” means the person appointed by the Council to present a case before a Professional Conduct Committee or a Professional Competence Committee;

“previous Employer” means an Employer of a Registered Teacher extant at the time the Allegation relates;

“Register” means the register of teachers established and maintained by the Council under section 3 of the Act;

“Registered Teacher” means –

(a) a person for the time being registered under section 3 of the Act;

(b) a person who was registered under section 3 of the Act at the time of any alleged conduct or offence on his or her part; or

(c) a person who has made an application to be Registered under section 3 of the Act;

“Registered Teacher Member” means a Member of a Committee who is a Registered Teacher and employed, or engaged to provide their services otherwise than under a contract of employment, as a Teacher on the date of their appointment to the Committee,

“Registrar” means the person appointed for the time being by the Council to act, under the supervision of the Chief Officer, as the Registrar having the responsibility of maintaining the Register established by the Council under section 3 of the Act, and any person duly authorised to act on the Registrar’s behalf;

“the Regulations” means the General Teaching Council for England (Disciplinary Functions) Regulations 2001(a);

“Relevant Issue” means issues concerning the safety and welfare of persons under the age of 18;

“Relevant Offence” means a conviction for a criminal offence, other than one having no material relevance to a person’s fitness to be a Registered Teacher, committed in England or Wales, or which if committed elsewhere would have constituted a conviction in the United Kingdom, within the meaning of paragraph 8(1) of Schedule 2 to the Act;

“Serious Professional Incompetence” means demonstrating a level of competence which falls seriously short of that expected of a Registered Teacher taking into account the relevant circumstances;

“Teacher” means a person who holds Qualified Teacher Status;

“Unacceptable Professional Conduct” means conduct which falls short of the standard expected of a Registered Teacher within the meaning of paragraph 8(1) of Schedule 2 to the Act and is behaviour which involves a breach of the standards of propriety expected of the profession;

“Vulnerable Witness” means a person whose quality of evidence is likely to be adversely affected at a hearing, including witnesses whose evidence might be so affected by reason of any mental or physical impairment and who require special consideration in accordance with Rule 35. This may include:

- (a) any witness with a mental disorder;
- (b) any witness who is significantly impaired in relation to intelligence and social functioning;
- (c) any witness with physical disabilities who requires assistance to give evidence;
- (d) any witness, where the allegation against the Registered Teacher is of a sexual nature and the witness was the alleged victim;
- (e) any witness who complains of intimidation.

“week” means a calendar week;

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(a) S.I. 2001/1268, as amended .

“Worker” means a Registered Teacher who has entered into an Arrangement (whether or not under a contract of service or for services or otherwise) with an Agent to carry out work at the request of, or with the consent of, an Employer.

(3) In these Rules, unless the contrary intention appears, words in the singular include the plural and, words in the plural include the singular.

(4) In these Rules, unless the contrary intention appears, references to -

(a) numbered sub-paragraphs and paragraphs are references to the Rule in which they appear; and

(b) numbered Rules are references to the Rules set out in these Rules.

## PART II

### Investigating Committee

#### Preliminary

2.—(1) Subject to this Rule and Rule 7 an Investigating Committee shall investigate all cases –

- (a) referred to the Council in which it is alleged that a Registered Teacher –
  - (i) is guilty of Unacceptable Professional Conduct,
  - (ii) is guilty of Serious Professional Incompetence, or
  - (iii) has been convicted at any time of a Relevant Offence.
- (b) where it appears to the Council that a Registered Teacher may –
  - (i) be guilty of Unacceptable Professional Conduct,
  - (ii) be guilty of Serious Professional Incompetence, or
  - (iii) have been convicted of a Relevant Offence.

(2) An Investigating Committee shall not investigate a case referred to the Council -

- (a) where the referral is made against a person who is not a Registered Teacher as defined in Rule 1;
- (b) where it is alleged that a Registered Teacher is guilty of Serious Professional Incompetence or it appears to the Committee that a Registered Teacher may be so guilty but information has not been provided by an Employer to the Council pursuant to Regulation 29 of the Regulations in relation to that Registered Teacher; or
- (c) which relates to a Teacher registered solely with another General Teaching Council.

(3) Before making a reference of a case to an Investigating Committee in pursuance of paragraph (1), the Registrar shall determine –

- (i) whether the case falls within paragraph (2) (a) to (c) and, if not
- (ii) whether the information received by the Council amounts to an Allegation, as defined in Rule 1(2), which should be referred to an Investigating Committee.

(4) For the purposes of establishing whether any information received is capable of amounting to an Allegation, the Registrar may make such preliminary enquiries as he or she considers necessary in the circumstances, including seeking further information or clarification from the provider of the information, the Registered Teacher and/or the Registered Teacher's Employer.

(5) Subject to paragraph (7), where the information received by the Council does not amount to an Allegation, the Registrar shall take no further action in respect of the case.

(6) Where the Registrar determines that the case falls within paragraph 2 (a) to (c) or that the information received does not amount to an Allegation, the Registrar shall inform the provider of the information that no further action will be taken. The Registrar may also notify the Registered Teacher and/or the Registered Teacher's Employer of the decision that no further action will be taken.

(7) Where the Council receives further information, relating to a matter in respect of which the Registrar has previously determined to take no further action pursuant to paragraph (5), and the additional information, together with the information previously received, is capable of amounting to an Allegation, the Registrar may refer an Allegation, based on both the previous information in respect of which no further action was taken and the further information received, to the Investigating Committee. The Investigating Committee shall then make a decision in accordance with Rule 12(1) based on all the information received by the Council.

### **Notices**

**3.—** (1) Where the Registrar determines that an Allegation should be referred to an Investigating Committee, the Registrar shall send a Notice of Investigation to the Registered Teacher in accordance with Regulation 26 of the Regulations.

(2) The Notice of Investigation shall –

(a) set out the matters referred to the Council which amount to an Allegation, enclosing, subject to paragraph (3), copies of relevant documentation in its possession including details of any relevant criminal convictions obtained from a relevant police force;

(b) inform the Registered Teacher of the date the Investigating Committee is to meet to consider the case and of the identity of the Members of that Committee;

(c) invite the Registered Teacher to make written representations regarding the matters referred to in sub-paragraph (a) and (b) and provide, normally within 4 Weeks from receipt of the Notice of Investigation, any evidence which the Registered Teacher wishes to provide; and

(d) have annexed to it a copy of these Rules.

(3) Where the Council receives documents or other physical evidence and it is not appropriate or practicable for that evidence to be copied or sent to the Registered Teacher, the Council shall, at least 4 Weeks prior to the meeting of the Investigating Committee which will consider the case, provide the Registered Teacher or his or her representative with –

(a) a description of the evidence relied upon;

(b) an explanation of the reason why a copy of the evidence cannot be served in accordance with paragraph (2); and

(c) details of the arrangements that may be made for inspection of that evidence by the Registered Teacher and/or their representative.

(4) The Registrar shall send a copy of the Notice of Investigation to the Employer or Agent who made the referral and to any current Employer or Agent known to the Council.

(5) In this Rule, “relevant police force” means the police force or police authority which is conducting or has conducted an Investigation in relation to the Registered Teacher in respect of whom the Investigating Committee is conducting an Investigation.

## **Constitution**

4.—(1) An Investigating Committee shall be constituted by the Council from:

- (a) Members of the Council;
- (b) Additional Committee Members.

(2) An Investigating Committee shall have a majority of Members who are Teachers, at least one of whom shall be a Council Member, one of whom shall be a Registered Teacher Member, and one of whom shall be a Lay Member.

(3) Where a Member of the Council has been appointed to an Investigating Committee immediately before the expiration of their tenure of office, the Investigating Committee Member shall continue to be treated as if they were a Member of the Council for the duration of that Investigating Committee.

## **The Chair**

5.—(1) An Investigating Committee shall elect one of its Members to act as the Chair.

(2) In the absence of the elected Chair under paragraph (1), the Committee shall elect another of its Members to act as the Chair.

## **Members of the Committee**

6.—(1) The Council shall not appoint any person to an Investigating Committee who has been appointed a Member of a Professional Conduct Committee, a Professional Competence Committee or an Induction Appeals Committee in relation to an Allegation in respect of which the Investigating Committee is constituted and, where such a person is appointed by the Council, that person shall be disqualified from sitting as a Member of the Investigating Committee in the consideration of the case.

(2) Subject to paragraph (3), where any Member of an Investigating Committee –

(a) is a relative of, or

(b) is, or has been, a friend of, or

(c) has worked with, or

(d) is aware that a conflict of interest arises in connection with, the Registered Teacher in relation to whom the Committee is considering a matter, the Member shall make a declaration accordingly and disqualify themselves from sitting as a Member in that case.

(3) In pursuance of paragraph (2), a Committee Member's membership of a teachers' trade union or professional association shall not constitute a conflict of interest for the purposes of this Rule.

### **Referral to Other Bodies**

7.—(1) An Investigating Committee shall, in accordance with Regulation 9 (3) of the Regulations (a), refer to the Secretary of State for Children, Schools and Families for his or her consideration –

(a) any document in a case before the Committee which the Council has received relating to a Relevant Issue concerning a Registered Teacher; or

(b) any Allegation or such part of any severable Allegation and all relevant documents or copies of such documents where it appears to the Committee that a Relevant Issue, is, or forms part of, the Allegation; and

the Committee shall cease consideration of the case or, as the case may be, such part of the case which raises a Relevant Issue until such time as the Secretary of State has completed his or her consideration.

(2) Where a case has been referred to an Investigating Committee which should have been referred to the Secretary of State or to another Committee or other body,

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(a) Regulation 9 was amended by S.I. 2003/1186.

it shall, at any stage, be referred to the Secretary of State or the other Committee or other body as the case may be, and the Registrar shall notify the parties accordingly.

### **Meetings**

**8.—**(1) A duly constituted Investigating Committee shall be convened by the Registrar to investigate a case at such time and place as the Registrar considers appropriate by sending appropriate notices to the Members of the Committee.

(2) Officers of the Council –

(a) may be in attendance at all meetings of an Investigating Committee; but

(b) shall not participate in the making of the decision of an Investigating Committee.

(3) The meetings of an Investigating Committee shall be held in private.

### **Proceedings**

**9.—**(1) Subject to paragraphs (2) to (5) and to Rule 10, the Chair shall, at his or her discretion, determine the procedure.

(2) An Investigating Committee may at any stage –

(a) require further enquiries to be conducted by an Officer of the Council, or

(b) require, pursuant to Regulation 13A of the Regulations an Employer or Agent to give evidence or to produce documents or material evidence that the Committee considers relevant to the carrying out of an Investigation,

and, subject to Rule 3(3), any statements and documents so obtained shall be copied to the Registered Teacher who will be allowed an opportunity to comment upon the new evidence, documents or material before the Committee makes a decision.

(3) An Investigating Committee may at any stage adjourn consideration of a case.

(4) An Officer of the Council requested by an Investigating Committee to undertake Investigations under paragraph (2)(a) shall present the results of any such investigations in writing to the Committee.

(5) An Investigating Committee shall consider the available evidence, documents or material including any representations and written evidence submitted by the Registered Teacher.

### **Voting and decision making**

**10.**—(1) Any decision of an Investigating Committee shall be made by a vote of the Members of the Committee.

(2) Any question put to the vote of an Investigating Committee shall be put in the form of a motion.

(3) No Member in attendance at a meeting of an Investigating Committee may abstain from voting when any question is put to the vote.

(4) Where a question is put to a vote, the Chair shall –

(a) call on the Members to vote for or against the motion; and

(b) declare that the motion has been carried or not carried, as the case may be.

### **Code of Conduct**

**11.** An Investigating Committee may, in investigating an Allegation, take into account a Registered Teacher's apparent failure to comply with the Code of Conduct laying down the standards expected of Registered Teachers.

## **Decision**

**12.—(1)** An Investigating Committee shall –

- (a) decide that there is no case for the Registered Teacher to answer, or
- (b) decide that there is a case to answer and refer the case to a Professional Conduct Committee or a Professional Competence Committee, as the case may be, or
- (c) decide that the case should be discontinued on other grounds; but such other grounds shall not include any defect or deficiency in any procedure required to be observed by an Employer or any other person under the Registered Teacher's terms of employment or contract,

and the Committee shall give reasons for its decision.

(2) The Registered Teacher and the Registered Teacher's previous or any current Employer, as the case may be, shall be informed in writing of the Investigating Committee's decision within 2 Weeks of it reaching that decision. Where the Investigating Committee has decided to refer the case to a Professional Conduct Committee or a Professional Competence Committee the Registered Teacher shall be sent a Notice of Referral in accordance with Rule 13.

## **PART III**

### **Determination of Cases without a Hearing**

#### **Notice of Referral**

**13.—**(1) Where a case has been referred to a Professional Conduct Committee or a Professional Competence Committee by an Investigating Committee, the Registrar shall send to the Registered Teacher a Notice of Referral in accordance with Regulation 26 of the Regulations

(2) The Notice of Referral shall inform the Registered Teacher that the Allegation against them has been referred to a Professional Conduct Committee or Professional Competence Committee (as the case may be) and shall:

- (a) specify the Allegation and the particulars of the Allegation against the Registered Teacher;
- (b) subject to Rules 3(3) and 29(5), enclose any documents which have not previously been seen by the Registered Teacher; and
- (c) provide details of the requirements under Rule 14.

#### **Response to Notice of Referral**

**14.—**(1) The Registered Teacher shall, within 3 Weeks of the date of the letter accompanying the Notice of Referral, provide the Council with written responses to the following:

- (a) whether the Registered Teacher admits the alleged facts and, if so;
- (b) whether the Allegation of Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence, as the case may be, is admitted.

(2) If the Registered Teacher admits the matters specified in paragraph (1) then the Registered Teacher may request that the Allegation be considered without a hearing.

- (3) If the Registered Teacher does not:
  - (a) request that the allegation be considered without a hearing; or
  - (b) does not admit the matters specified in paragraph (1); or
  - (c) does not respond to the Notice of Referral then the case shall be considered at a hearing.

### **Form of proceedings**

**15.—**(1) Where the Registered Teacher requests that the Allegation be considered without a hearing in accordance with Rule 14, the Presenting Officer shall contact the Registered Teacher or the Registered Teacher's representative and shall seek to agree a statement of facts with the Registered Teacher or the Registered Teacher's representative.

(2) The Registered Teacher or the Registered Teacher's representative shall, within 21 days of a request from the Presenting Officer under paragraph (1) respond to that request and provide, in addition to the agreed statement of facts referred to in paragraph (1), the following to the Presenting Officer:

- (a) any representations they wish to make about the case, including mitigating factors and representations on sanction; and
- (b) the reasons why they consider the case should be disposed of without a hearing.

(3) The Presenting Officer will remit the case to the Registrar for consideration, and shall provide to the Registrar:

- (a) the agreed statement of facts or confirmation that a statement of facts has not been agreed;
- (b) representations made by the Registered Teacher for submission to the Registrar (if applicable);
- (c) representations made by the Presenting Officer as to the suitability of the case being disposed of without a hearing.

### **Registrar's decision**

**16.—(1)**The Registrar shall decide whether the Allegation may be considered without a hearing and will in reaching this decision have regard to:

- (a) the interests of justice; and
- (b) the public interest.

(2) Where:

- (a) the Registered Teacher has requested that the Allegation be considered without a hearing; and
- (b) the Registered Teacher or the Registered Teacher's representative and the Presenting Officer have agreed a statement of facts; and
- (c) the Registrar concludes that the Allegation shall be considered without a hearing;

the Allegation shall be considered in a meeting of the Committee and the procedure in Rules 17 and 18 shall be followed.

(3) Where:

- (a) the Registered Teacher has not made a request that the Allegation be considered without a hearing; or
- (b) the Registered Teacher has requested that the Allegation be considered without a hearing but the Presenting Officer has been unable to agree a statement of facts with the Registered Teacher or the Registered Teacher's representative; or
- (c) the Registrar concludes that the Allegation shall be considered at a hearing;

the Allegation shall be considered in a hearing and the procedures set out in Rules 19 to 39 shall be followed.

### **Allegations to be considered in a meeting**

**17.—(1)** Where the Registrar concludes that the Allegation shall be considered without a hearing, the Registered Teacher and the Presenting Officer shall be informed of the Registrar's decision and the case shall be

considered at a meeting of a Professional Conduct Committee or a Professional Competence Committee.

(2) The Registered Teacher and the Presenting Officer shall be informed of the date the Committee is to meet to consider the case and of the identity of the Members of that Committee.

(3) The Registrar shall inform the Employer or Agent who made the referral, and any current Employer or Agent known to the Council, of the matters provided for in paragraphs (1) and (2).

(3) The Committee shall meet in private and be advised by a Legal Adviser.

(4) The procedure at a meeting of the Committee shall be determined at the discretion of the Chair.

(5) The Committee may adjourn the proceedings at any stage.

(6) If at any stage of the meeting the Committee concludes that, in the public interest and/or in the interests of justice the Allegation should be considered at a hearing it shall order that the Allegation be considered at a hearing. Thereafter the procedure set down in Rules 19 to 39 shall apply.

### **Decision**

**18.—** (1) The Committee, in making its decision shall:

(a) be satisfied as to the facts of the case;

(b) determine whether it is satisfied that those facts amount to Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence;

(c) if the facts amount to Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence –

- (i) consider the previous history and character of the Registered Teacher and any mitigating circumstances;
  - (ii) consider any previous Disciplinary Order imposed by the Council or other relevant body;
  - (iii) determine whether to make a Disciplinary Order against the Registered Teacher; and, if so
  - (iv) specify the terms of any Disciplinary Order.
- (2) The determination of the Committee that a person has or has not been found guilty of Unacceptable Professional Conduct or Serious Professional Incompetence or has been convicted of a Relevant Offence and the determination as to whether to make a Disciplinary Order against the Registered Teacher, together with the terms of such an order, shall be given in public.
- (3) The Committee may give the reasons for any or all its determinations, or for specifying the terms of any Disciplinary Order, in public.
- (4) notification of the decision of the Committee shall be in accordance with Rule 40 (1) and (2).
- (5) publication of the decision of the Committee shall be in accordance with Rule 56 and Regulation 19 of the Regulations.

## PART IV

### Professional Conduct and Competence Committees

#### Constitution

**19.**—(1) A Professional Conduct Committee shall be constituted by the Council from:

- (a) Members of the Council;
- (b) Additional Committee Members,

for the duration of a case referred to it by an Investigating Committee under Regulation 3(2), or a Professional Competence Committee under Regulation 17(1) of the Regulations, in order to determine an Allegation that a Registered Teacher is guilty of Unacceptable Professional Conduct and/or has been convicted of a Relevant Offence, or Allegations that a Registered Teacher is guilty of Unacceptable Professional Conduct and/or has been convicted of a Relevant Offence and is also guilty of Serious Professional Incompetence.

(2) A Professional Competence Committee shall be constituted by the Council from:

- (a) Members of the Council;
- (b) Additional Committee Members.

for the duration of a case referred to it by an Investigating Committee under Regulation 3(2), or a Professional Conduct Committee under Regulation 17 (1), of the Regulations in order to determine an Allegation that a Registered Teacher is guilty of Serious Professional Incompetence or Allegations that a Registered Teacher is guilty of Serious Professional Incompetence and Unacceptable Professional Conduct and/or has been convicted of a Relevant Offence.

(3) A Committee shall have a majority of Members who are Teachers, at least one of whom shall be a Council Member, one of whom shall be a Registered Teacher Member and one of whom shall be a Lay Member.

(4) Where a Committee Member—

- (a) dies,
- (b) resigns, or
- (c) is unable to remain a Member,

in the course of the Committee's hearing of a case, the Chair shall, after consulting with the other Members of the Committee, appoint, in that person's place, such other Member as the Chair considers fit, who has not participated in the consideration of the case; but the replacement Member shall not sit until they are fully acquainted with all the documents previously before the Committee, including a record of the proceedings.

(5) Where a Committee Member's tenure of office as a Member of the Council expires during the course of the Committee's hearing of a case, the Committee Member shall, subject to paragraph (4), continue to be treated as if they were a Member of the Council until the Committee has finally determined the case.

### **The Chair**

**20.—**(1) A Professional Conduct and Professional Competence Committee shall elect one of its Members to act as the Chair.

(2) In the absence of the elected Chair under paragraph (1), the Committee shall elect another of its Members to act as the Chair.

### **Members of the Committee**

**21.—**(1) The Council shall not appoint any person to a Professional Conduct Committee who has been appointed a Member of an Investigating Committee, a Professional Competence Committee or an Induction Appeals Committee in relation to an Allegation in respect of which the Professional Conduct Committee is constituted and, where such a person is appointed by the Council, that person shall be disqualified from sitting as a Member of the Professional Conduct Committee hearing the case.

(2) The Council shall not appoint any person to a Professional Competence Committee who has been appointed a Member of an Investigating Committee, a Professional Conduct Committee or an Induction Appeals Committee in relation to an Allegation in respect of which the Professional Competence Committee is constituted and, where such a person is appointed by the Council, that person shall be disqualified from sitting as a Member of the Professional Competence Committee hearing the case.

(3) Subject to paragraph (5), where any Member of a Committee –

(a) is a relative of, or

(b) is, or has been, a friend of, or

(c) has worked with, or

(d) is aware that a conflict of interest arises in connection with, the Registered Teacher in relation to whom the Committee is sitting, that Member shall make a declaration accordingly and disqualify themselves from sitting as a Member in relation to that case.

(4) Where there is a real possibility that any Member of a Committee might reasonably be perceived to have a conflict of interest in connection with their consideration of a case, that Member shall, once they are, or have been made aware of, the possible conflict of interest, make a declaration accordingly and invite representations from the parties as to the appropriateness of the member continuing to sit in relation to that case. The Committee, acting upon legal advice, shall then determine whether it is appropriate for that member to continue to sit.

(5) In accordance with paragraph (3), a Committee Member's membership of a teachers' trade union or professional association shall not constitute a conflict of interest for the purposes of this Rule.

### **Hearings**

**22.—**(1) A duly constituted Committee shall be convened by the Registrar to hear a case at such time and place as the Registrar considers appropriate by sending appropriate notices to the Members.

(2) Officers of the Council –

- (a) may be in attendance at all meetings of a Committee; but
- (b) shall not participate in the making of the decision of a Committee.

### **Voting and decision-making**

**23.—**(1) Any decision of a Committee shall be made by a vote of the Members of the Committee.

(2) Any question put to the vote of a Committee shall be put in the form of a motion.

(3) No Member in attendance at a meeting of a Committee may abstain from voting when any question is put to a vote.

(4) Where a question is put to a vote, the Chair shall –

- (a) call on the Members to vote for or against the motion; and
- (b) declare that the motion has been carried or not carried, as the case may be.

### **Notice of Proceedings**

**24.—**(1) Where a case has been referred to a Professional Conduct Committee or a Professional Competence Committee by an Investigating Committee or by a Professional Competence Committee or Professional Conduct Committee respectively, and the Registrar has not made a decision that it shall proceed in accordance with Rule 16(2)(c), the Registrar shall send to the Registered Teacher a Notice of Proceedings in accordance with Regulation 26 of the Regulations, giving the Registered Teacher, at least, 8 Weeks' notice of the hearing of the case, or such other period of notice agreed by the Registered Teacher.

(2) The Notice of Proceedings shall –

- (a) specify the place and the address where the Committee hearing is to take place and the identity of the Members of the Committee;
- (b) specify the time and date of the hearing, which shall not be less than 8 Weeks or such other period agreed under paragraph (1), after the day the notice was sent to the Registered Teacher;
- (c) specify the Allegation(s) and the particulars of the Allegation(s) against the Registered Teacher;
- (d) identify the witnesses, if any, the Presenting Officer proposes to call to give evidence at the hearing and enclose any witness statements which may be available and/or documents the Presenting Officer intends to rely on;
- (e) subject to Rule 3(3) and 29(5), have annexed to it any documents which have not previously been sent to the Registered Teacher; and
- (f) set out the requirements of Rules 25 and 29 (1) and (2).

(3) The Registrar shall send a copy of the Notice of Proceedings as provided for by paragraph (2) to the Employer or Agent of the Registered Teacher, as the case may be, at the time the matter being considered arose, and to any current Employer or Agent, as the case may be if known to the Council.

### **Response to Notice of Proceedings**

**25.—**(1) The Registered Teacher shall, within 3 weeks of the date of the letter accompanying the Notice of Proceedings, provide the Council with written responses to the following enquiries, namely whether the Registered Teacher:

- (a) has or knows of any reason as to why the hearing, or part of it, shall not be held in public;
- (b) intends to appear in person or to be represented at the hearing and if so, the name and address of their representative;
- (c) admits the alleged facts and, if so, whether the Allegation of Unacceptable Professional Conduct, Serious Professional Incompetence, or conviction of a Relevant Offence, as the case may be, is admitted;
- (d) intends to call witnesses, and if so, provide their names and, if the number of such witnesses exceeds 2, the Registered Teacher shall state the exceptional circumstance for which claims for expenses may be made pursuant to Rule 34 (8); and

(e) knows of any reason why the Registered Teacher believes that a conflict of interest may arise in relation to any Member of the Committee and if so, the reason.

### **Representations to the Committee**

**26.**—(1) The Chief Officer shall appoint a Presenting Officer to present a case before a Committee; and such a person may be an Officer of the Council or an external lawyer.

(2) The Registered Teacher against whom an Allegation is made may appear in person or be represented by any person of their choice, including a legal representative.

### **Standard and Burden of Proof**

**27.** — (1) The Standard of Proof is that applicable to civil proceedings, namely the balance of probabilities.

(2) The Burden of proof as to proving the facts of the case shall remain with the Presenting Officer.

(3) Paragraph (2) shall not apply to any application made by the Registered Teacher pursuant to Rule 43 (Application to vary or revoke a condition specified in a Conditional Registration Order or Suspension Order) and Rule 46 (Eligibility for Registration following a Prohibition Order).

### **Rules of Evidence**

**28.** — (1) The Committee may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case before it, whether or not such evidence would be admissible in a Court of Law.

(2) Evidence not disclosed in accordance with Rule 29 shall be admitted only with the permission of the Committee at the hearing.

## **Service and inspection of documents**

29. —(1) Subject to paragraphs (2) and (3), where the Presenting Officer or the Registered Teacher wish to rely upon any document, including a witness statement, which was not annexed to or enclosed with the Notice of Proceedings under Rule 24 (2)(d) or (e), they shall submit to the Council and the other party to the proceedings, a copy of the document concerned at least 4 Weeks prior to the hearing.

(2) The Presenting Officer and the Registered Teacher or his or her representative shall, whenever possible, agree a bundle of relevant documents and, if agreement is reached, then the Presenting Officer shall forward a copy of the agreed bundle to the Council at least 2 weeks prior to the hearing. Where such a bundle is received by the Council, a copy shall be sent by the Council to the Members, the Legal Adviser and the parties, 7 days prior to the hearing.

(3) Where there is a dispute between the Presenting Officer and the Registered Teacher in relation to the relevance and/or admissibility of documents, then:-

(a) a bundle of the disputed documents shall be prepared by the party who seeks to rely on them and such disputed documents shall be served on the other party, and the Legal Adviser (via the Council), 14 days prior to the hearing; and

b) at the commencement of the substantive hearing (or case management hearing, if there is one) an application shall be made to the Committee for a determination as to the relevance and/or admissibility of the disputed documents pursuant to Rule 28.

(4) If the Presenting Officer is unable to obtain from the Registered Teacher or his or her representative a response that enables the Presenting Officer to prepare an agreed bundle of documents for the hearing, then the Presenting Officer shall prepare a bundle of relevant documents and forward it to the Council 14 days prior to the hearing. Where such a bundle is received by the Council, a copy shall be sent by the Council to the Members, the Legal Adviser and the Registered Teacher 7 days prior to the hearing.

(5) Where either the Registered Teacher or his or her representative or the Presenting Officer wishes to rely at the hearing upon documents or other physical evidence and it is not appropriate or practicable for that evidence to be copied or sent by post, the party in possession of the documents or other physical evidence shall, at least 4 Weeks prior to the hearing of the case, communicate with the Council and the other party to the proceedings, setting out:

- (a) a description of the evidence relied upon,
- (b) an explanation of why it is not appropriate or practicable for the documents or other evidence to be served in accordance with paragraph (1), and
- (c) details of the arrangements that may be made for inspection of that evidence by the other party;

and the Council shall make appropriate arrangements for the documents or other physical evidence to be collected and brought to the Council's offices.

(6) If either the Registered Teacher or his or her representative or the Presenting Officer wish to inspect the originals of any documents served in accordance with paragraph (1), (3)(a), (4) or (5) the Council shall make suitable arrangements for the inspection of the evidence to take place at least 7 days before the date of the hearing.

(7) If the Registered Teacher or his or her representative or the Presenting Officer wish to rely at the hearing upon any document not served in accordance with this Rule, then that document may only be admitted at the discretion of the Committee.

(8) The Committee may after hearing any representations and, if it shall be in the interests of a fair hearing, waive or amend the periods of time set out in this Rule for the disclosure of documents.

### **Absence of the Registered Teacher at a hearing**

**30.**—(1) Where a Registered Teacher against whom an Allegation is made does not attend and is not represented at a Committee hearing the Chair shall—

- (a) request evidence that the Notice of Proceedings has been sent to the Registered Teacher in compliance with Rule 24 (1) ; and
- (b) enquire whether any reasons for the Registered Teacher's absence have been communicated to the Council or Presenting Officer.

(2) Where the Committee is not satisfied that Rule 24 (1) has been complied with the Committee shall adjourn the hearing.

(3) Where the Committee is satisfied that Rule 24 (1) has been complied with, then, after taking into consideration any representations by the Presenting Officer and any written submissions made by or on behalf of the Registered Teacher and taking advice from the Legal Adviser, the Committee may:

- (a) proceed with the hearing in the absence of the Registered Teacher; or
- (b) adjourn the hearing

(4) Where paragraph (2) or (3) (b) applies and the Committee adjourns the hearing to another date, the next Committee convened to hear the case may consist of Members other than those who determined to adjourn the case.

### **Postponements and Adjournments**

**31.** — (1) Before the first day of a substantive hearing for which a Notice of Proceedings has been served on the Registered Teacher in accordance with these Rules then the Registrar may, of his or her own motion or upon the application of a party to the proceedings, postpone the hearing until such time and date as he or she thinks fit.

(2) Where a substantive hearing has commenced and is then adjourned to another date in accordance with Rule 33 (6)(i), the Committee considering the matter may, prior to the adjourned date, whether of their own motion or upon

the application of a party to the proceedings, adjourn that hearing until such time and date as they think fit.

(3) No hearing shall be postponed or adjourned under paragraphs (1) or (2) unless both parties have been given a reasonable opportunity to make representations on the matter to the Registrar or Committee respectively.

(4) Notice of a decision in relation to the postponement or adjournment of a hearing in accordance with paragraphs (1) or (2) shall be served upon the Registered Teacher and shall include reasons for the decision.

(5) Where a hearing has been postponed or adjourned the Registrar shall, as soon as is practicable, notify the parties of the time, date and place at which the hearing is to take place or to resume.

### **Case Management**

**32.** — (1) The Registered Teacher or Presenting Officer may, at any time, after the issue of the Notice of Proceedings, but no less than 21 days before the first day of the substantive hearing, make an application in writing to the Registrar for the giving of pre-hearing directions as to the management of the case. The Registered Teacher and Presenting Officer shall attempt to agree such directions prior to any application being made to the Registrar.

(2) If the Registered Teacher and Presenting Officer are in agreement as to the directions that should be applied for, then an agreed form of directions in writing, signed by both the Registered Teacher or his or her representative and the Presenting Officer shall be submitted to the Registrar. If the Registrar, in his or her absolute discretion, decides that the agreed directions will assist in the just and expeditious disposal of the case, then the Registrar shall make such directions, as requested and agreed between the parties.

(3) If the Registered Teacher and Presenting Officer are unable to agree directions then the Registrar, upon considering an application for the giving of pre-hearing directions, may:

- a) refuse the application, or
- b) refer the application to a Committee for a hearing as to the giving of pre-hearing directions.

(4) The Committee for the purposes of hearing an application under paragraph (1) shall be:

- (a) a Committee Member (who shall be a Registered Teacher Member or a Lay Member) and who, where appropriate and if possible, but it shall not be a requirement, shall be a Member of the Committee which hears the substantive case; and
- b) advised by a Legal Adviser, who if possible, but it shall not be a requirement, shall be the Legal Adviser who advises the Committee that hears the substantive case.

(5) A Committee constituted under paragraph (4) shall be convened by the Registrar to hear an application for directions. The Registrar shall decide, after hearing representations from both parties, whether the directions hearing shall be conducted by telephone or by video conferencing or by way of oral hearing. If the application for directions is to be conducted by telephone or video conferencing, then the Registrar shall make the arrangements and send an appropriate notice to the Registered Teacher and to the Presenting Officer at least one week prior to the appointed day. If the application for directions is to be considered at an oral hearing, then the Registrar shall decide such time and place as the Registrar considers appropriate and shall send an appropriate notice to the Registered Teacher and to the Presenting Officer at least one week prior to the appointed day.

(6) 3 days prior to the appointed hearing convened under paragraph (5) (whether that hearing be by telephone or video conferencing or oral hearing), the Registered Teacher and Presenting Officer shall send to the Registrar, the Legal Adviser and to the other party any proposed direction(s) that they intend to seek from the Committee together with any relevant supporting documents.

(7) The procedure at the case management hearing shall be determined at the sole discretion of the Committee.

(8) The Committee shall invite each party to make representations as to the directions sought and shall give an opportunity for the other party to respond. The Legal Adviser shall give his or her advice as to the directions sought and provide an opportunity for both parties to comment on the legal advice provided to the Committee.

(9) The Committee shall determine the directions to be given and shall give written reasons for so doing.

(10) Directions issued by the Committee may include, but are not limited to, such of the following as the Committee considers appropriate, having regard to the nature of the Allegation(s) any representations made by the parties and all other material factors:

- a) that each party disclose to the other -
  - i) any relevant documentary evidence in their possession relating to the Allegation; and
  - ii) details of the witnesses, on whom they intend to rely and signed witness statements setting out the substance of their evidence.
- b) that each party provide an estimate as to the likely length of the hearing.
- c) that the Registered Teacher indicate, so far as is practical -
  - i) whether the Allegation is admitted;
  - ii) which facts are admitted and which facts remain in dispute;
  - iii) whether witness evidence is admitted and which witnesses are required for questioning;
  - iv) whether any preliminary legal arguments are to be made.
- d) where the Allegation(s) is admitted a direction that the parties produce a statement of agreed facts.
- e) a direction that a particular witness should be treated as a Vulnerable Witness and directions as to how the evidence of such a witness should be obtained or presented to the Committee at the hearing.
- f) a direction for a joint hearing in accordance with Rule 51.

g) time limits for compliance with any directions issued.

(11) Within a period of 7 days, beginning with the date of the case management hearing the Council shall serve on the parties a record of the directions issued.

(12) Where a party fails to comply with the directions issued at a case management hearing a Committee may draw such inference as it considers appropriate in relation to the admissibility of evidence or any other relevant matter.

(13) At the request of the Presenting Officer or Registered Teacher the Committee constituted to hear the Allegation(s) may at any time after the commencement of the substantive hearing give directions for the management of the case, as it sees fit.

### **Procedure at substantive hearings**

**33.**—(1) Subject to paragraphs (2) to (10) and Rule 23 the procedure at the hearing of a Committee shall be determined at the discretion of the Chair who shall direct the parties to adopt an investigative rather than an adversarial approach.

(2) The Chair shall introduce the Members of the Committee present and confirm the identity of the Registered Teacher against whom the Allegation is made.

(3) The Chair shall read the Allegation against the Registered Teacher, or shall ask the Legal Adviser to read them, and the Chair shall ask the Registered Teacher whether the facts of the Allegation are admitted and, if so, whether the Registered Teacher admits Unacceptable Professional Conduct or Serious Professional Incompetence or that they have been convicted of a Relevant Offence, as the case may be.

(4) Where the Registered Teacher indicates that they admit the facts of the Allegation, the Chair will ask the parties whether they have agreed a statement of facts for the Committee to consider and if so:

(a) the Presenting Officer will be invited to read out the agreed statement of facts; and

(b) the Presenting Officer and the Registered Teacher shall be permitted to make representations to the Committee and may adduce evidence on the question of whether the facts that have been admitted amount to Unacceptable Professional Conduct or Serious Professional Incompetence or conviction of a Relevant Offence, as the case may be; and

(c) the Committee shall, having taken advice from the Legal Adviser, proceed to determine whether they are satisfied that the facts that have been agreed by the parties amount to Unacceptable Professional Conduct, Serious Professional Incompetence or a conviction of a Relevant Offence, as the case may, regardless of whether an admission to that effect is made by the Registered Teacher.

(5) Where the facts are not admitted or where some material facts remain disputed –

(a) the Presenting Officer shall be permitted to make an opening statement about the Allegation and the Registered Teacher shall have the opportunity to reply either in person or through their representative;

(b) the Presenting Officer and the Registered Teacher may present relevant written evidence relating to the facts alleged and whether those facts amount to Unacceptable Professional Conduct or Serious Professional Incompetence or conviction of a Relevant Offence, and may call witnesses; and

(c) the Committee may allow the Presenting Officer and the Registered Teacher or his or her representative an opportunity to sum up.

(6) The Committee may, subject to the requirement of fairness, after hearing representations from both parties, and at any stage of the proceedings:

(a) adjourn the case on such terms as the Committee think appropriate;

(b) discontinue the proceedings pursuant to Regulation 11(4) of the Regulations;

(c) determine whether sufficient evidence has been adduced to find the facts proved or support a finding of Unacceptable Professional

Conduct, Serious Professional Incompetence or conviction of a Relevant Offence as alleged in the Notice of Proceedings.

- (7) The Committee may determine, at any time, to deliberate in private.
- (8) Subject to the requirements of a fair hearing, and in the interests of justice, the Committee may amend an Allegation or the particulars of an Allegation, at any stage prior to making its findings of fact.
- (9) Before amending an Allegation or the particulars of an Allegation in accordance with paragraph (8), the Committee shall first consider any representations by the Presenting Officer and by or on behalf of the Registered Teacher, and take advice from the Legal Adviser.

### **Witnesses**

- 34.**—(1) Witnesses must take the oath or affirm before giving evidence.
- (2) Unless the Committee directs otherwise, a witness statement which contains a statement of truth and which is signed by the witness, will be read by the witness.
  - (3) Where a statement is not read, the Committee may direct that a copy of the statement or such part or parts as the Committee directs should be made available to the public.
  - (4) The Registered Teacher or his or her representative, the Presenting Officer and the Members of the Committee may, subject to Rule 35 and as permitted by the Chair, question any witness.
  - (5) Except as may be determined by the Committee, witnesses may not be present at the hearing until they have completed giving evidence and been formally released by the Chair.
  - (6) Witnesses may be recalled at the discretion of the Committee.

(7) The Committee may require any person to attend and give evidence or to produce documents or other material evidence at the hearing.

(8) The Council may make payment of -

(a) reasonable expenses, and

(b) reasonable costs of employing a replacement Registered Teacher,

in relation to witnesses called by a Registered Teacher and/or the Presenting Officer, the number of witnesses for each party not to exceed 2, or such other number as the Council may consider, in exceptional circumstances, as appropriate.

### **Children and Vulnerable Witnesses**

**35.**—(1) A Child or a Vulnerable Witness shall only give evidence where, after considering representations by or on behalf of the Registered Teacher and the Presenting Officer, it is determined by a Committee that the welfare of the Child or Vulnerable Witness will not be prejudiced by so doing.

(2) If the Committee determines that the Child or Vulnerable Witness should be permitted to give evidence, then the Committee that hears the case shall adopt such measures as they consider necessary to safeguard the interests of the Child or Vulnerable Witness, which may include, but shall not be limited to:

(a) the use of a video link;

(b) the use of pre-recorded evidence as the evidence in chief of the witness;

(c) the use of interpreters (including signers and translators);

(d) the hearing of evidence by the Committee in private; or

(e) the attendance of an 'appropriate adult'.

### **Functions of the Committee at hearings**

**36.**—(1) In pursuance of Regulation 5(2) of the Regulations (functions), this Rule applies in accordance with the provisions of the following paragraphs.

(2) In considering a case referred to a Committee by an Investigating Committee, the Committee shall not decline jurisdiction to hear or determine the case by reason only of any defect or deficiency in any procedure which may, or otherwise, be required to be observed –

- (a) prior to the making of an Allegation to the Council, under any requirement otherwise than under the Rules of the Council or the provisions of the Act or the Regulations; or
- (b) by an Employer, Agent or any other person under the Registered Teacher's terms of employment or contract.

(3) In considering whether to make a Disciplinary Order in relation to a Registered Teacher whom the Committee has found guilty of Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence, the Committee may take into account any Disciplinary Order(s) made in relation to the Registered Teacher.

### **Relevant Issue**

**37.—**(1) Where a Relevant Issue arises in the course of a Committee's consideration of a case referred to it by an Investigating Committee, the Committee shall –

- (a) refer, in accordance with Regulation 9(4) of the Regulations (a), the Allegation, or if the Relevant Issue forms part of a wholly separate Allegation, that Allegation and all relevant documents or copies of documents to the Secretary of State for his or her consideration; and
- (b) adjourn the proceedings in respect of the Relevant Issue to such time as the Secretary of State has completed his or her consideration.

### **Code of Conduct**

**38.** A Committee may, in considering an Allegation of Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence take into account, in accordance with Regulation 7 of the

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(a) Regulation 9 was amended by S.I. 2003/1186.

Regulations, a Registered Teacher's failure to comply with the Code of Conduct laying down the standards expected of Registered Teachers.

### **Decision**

**39.—**(1) The Committee, in making its decision in accordance with Rule 23 shall –

- (a) be satisfied as to the Facts of the Case;
- (b) determine whether it is satisfied that those facts amount to Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence;
- (c) if the facts amount to Unacceptable Professional Conduct, Serious Professional Incompetence or conviction of a Relevant Offence -
  - (i) consider the previous history and character of the Registered Teacher;
  - (ii) consider any mitigating circumstances;
  - (iii) consider any previous Disciplinary Order imposed by the Council or other relevant body;
  - (iv) determine whether to make a Disciplinary Order against the Registered Teacher and consider any relevant submissions from the parties, and
  - (v) specify the terms of any Disciplinary Order.

(2) The determination of the Committee that a person has or has not been found guilty of Unacceptable Professional Conduct or Serious Professional Incompetence or has been convicted of a Relevant Offence, and the determination as to whether to make a Disciplinary Order against the Registered Teacher, together with the terms of such an order, shall be given in public.

(3) The Committee may give the reasons for any or all its determinations, or for specifying the terms of any Disciplinary Order, in public.

### **Notification of decision**

**40.**—(1) In addition to the service of notice of Disciplinary Order (if any) under Regulation 18(6) of the Regulations, the Committee shall require its written decision to be sent to the Registered Teacher, his or her Employer or previous Employer, where known, as the case may be, and the Department for Children, Schools and Families within a period of 2 Weeks from the day the decision was given in public.

(2) The written decision shall include –

- (a) the Allegation(s);
- (b) a summary of the evidence;
- (c) the findings of fact; and
- (d) the reasons of the Committee.

### **Reference to another Committee**

**41.**—(1) A Committee hearing a case may in exceptional circumstances, before its final decision, refer the case –

- (a) where it appears that there has been a breach of Rule 19 or a breach of natural justice, to a differently constituted relevant Committee; or
- (b) where appropriate, to a Professional Conduct Committee or a Professional Competence Committee or an Investigating Committee.

(2) Where a Committee refers a case to another Committee the Registrar shall inform the Registered Teacher and any person who has an interest in the case.

### **Adjournment and resumption of hearing**

**42.**—(1) Where a Committee adjourns the hearing of a case for a period which exceeds three Months, prior to the resumption of the hearing, the Registrar shall send to the Registered Teacher –

- (a) a notice of resumption of proceedings specifying the date of the hearing which shall not be less than one Month from the date the notice was given;
- and,
- (b) a note or transcript of the evidence of the adjourned hearing.

**Application to vary or revoke a condition specified in a Conditional Registration Order or Suspension Order**

**43.**—(1) A Registered Teacher in relation to whom a Conditional Registration Order or Suspension Order has been made may apply to the Council for a variation or revocation of any condition specified in the Disciplinary Order by submitting a written application which –

- (a) specifies the condition or conditions concerned;
- (b) specifies whether the Registered Teacher is seeking variation or revocation of the condition or conditions and, in the case of variation, the terms of the variation applied for;
- (c) specifies the grounds of the application; and
- (d) is accompanied by every document relied upon in support of the application.

(2) On receipt of the application the Registrar shall refer the application to a Committee, which shall:

- (a) be appointed in accordance with Rule 19 and consist of persons who were not Members of the Committee which made the Order complained of; and
- (b) unless the Registered Teacher otherwise requests, when the application shall be considered in a meeting, conduct a hearing.

(3) The Registrar shall send to the Registered Teacher a Notice of Hearing or Meeting of a Committee in accordance with Regulation 26 of the Regulations which shall –

- (a) specify the place and the address where the Committee hearing or meeting is to take place and the identity of the Members of the Committee;
- (b) specify the time and date of the hearing; and

(c) have annexed to it a copy of the Committee's decision at the hearing when the Conditional Registration Order or Suspension Order was made.

(4) In considering the application the Committee will apply these Rules and, in particular, Rules 17 (Allegations to considered in a meeting), 20 (The Chair), 21 (Members of the Committee), 22 (Hearings), 23 (Voting and decision-making), 26 (Representations to the Committee), 30 (Absence of the Registered Teacher at a hearing), 33 (1), (2), (6) and (7) (Procedure at hearings), 40 (1) (Notification of decision) and 42 (Adjournment and resumption of hearing).

(5) A decision to vary or revoke a condition shall be given in public.

(6) If the application to vary or revoke a condition specified in a Disciplinary Order is refused, no further application to vary or revoke a condition specified in that Order may be made within 12 calendar months of the date on which the original application was determined or within such other time limit as the Committee shall determine.

### **Compliance with Conditional Registration Orders or Suspension Orders**

**44.**—(1) Where a Committee has made a Conditional Registration Order or a Suspension Order in relation to a Registered Teacher, the Committee may require the Registrar, from time to time, to request from –

(a) the Registered Teacher in respect of whom the Disciplinary Order is made;

(b) any person who is, at the time the request is made –

(i) an Employer employing the Registered Teacher in the capacity of a Registered Teacher, or

(ii) an Agent with whom the Registered Teacher has made an Arrangement,

such reasonable information as will enable the Council to determine whether the conditions of the Disciplinary Order have been, or continue to be, complied with.

(2) Where –

(a) the Registrar receives the information requested in accordance with paragraph (1) and he or she is of the opinion that the conditions have not been complied with, or

(b) the Registered Teacher fails to comply with a reasonable request made in accordance with paragraph (1),

the Registrar may refer the matter to a Committee, constituted in accordance with Rule 19 of persons who were not Members of the Committee which made the Order, who shall make a determination as to whether the Registered Teacher has failed to comply with the conditions.

(3) The Committee shall not make a Disciplinary Order under Regulation 21 of the Regulations without a hearing in accordance with these Rules.

(4) The Registrar shall send to the Registered Teacher a Notice of Hearing in accordance with Regulation 26 of the Regulations which shall –

(a) specify the place and the address where the Committee hearing is to take place and the identity of the Members of the Committee;

(b) specify the time and date of the hearing, which shall not be less than 8 Weeks after the day the notice was sent to the Registered Teacher;

(c) have annexed to it a note of the evidence given at the hearing when the Conditional Registration or Suspension Order was made together with a record of the decision made; and

(d) specify the Allegation in terms of paragraph 2(a) or (b).

(5) In considering the application the Committee will apply these Rules and, in particular, Rules 20 (The Chair), 21 (Members of the Committee), 22 (Hearings), 23 (Voting and decision-making), 26 (Representation to the Committee), 30 (Absence of the Registered Teacher at a hearing), 33 (1), (2), (6) and (7) (Procedure at hearings), 40 (1) (Notification of decision) and 42 (Adjournment and resumption of hearing).

(6) The decision of the Committee shall be given in public.

## **Prohibition Orders**

**45.—**(1) Where a Committee has made a Prohibition Order in respect of a Registered Teacher, the Committee shall require the Registrar to refer the case and copies of all relevant documents or copies of the documents to the Secretary of State for Children, Schools and Families, in accordance with Regulation 9 (3) of the Regulations (a), for the Secretary of State to consider the further exercise of his or her own powers.

## **Eligibility for Registration following a Prohibition Order**

**46.—**(1) Where a person makes an application to the Council for a determination that they are eligible for registration under Regulation 22 of the Regulations (eligibility for registration following a Prohibition Order), a Committee shall –

- (a) be appointed in accordance with Rule 19 consisting of persons who were not Members of the Committee which made the Prohibition Order, to determine whether the Applicant is eligible for registration; and
- (b) unless the Applicant otherwise requests, when the application shall be considered in a meeting, conduct a hearing.

(2) The Registrar shall send to the Applicant a Notice of Hearing or Meeting of a Committee in accordance with Regulation 26 of the Regulations which shall –

- (a) specify the place and the address where the Committee hearing is to take place and the identity of the Members of the Committee;
- (b) specify the time and date of the hearing; and
- (c) have annexed to it a copy of the Committee's decision at the hearing when the Prohibition Order was made

(3) In considering the application the Committee will apply these Rules and, in particular, Rules 17 (Allegations to considered in a meeting), 20 (The Chair), 21 (Members of the Committee), 22 (Hearings), 23 (Voting and decision-making), 26 (Representations to the Committee), 30 (Absence of the Registered Teacher at a hearing), 33 (1), (2), (6) and (7) (Procedure at

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(a) Regulation 9 was amended by S.I. 2003/1186.

hearings), 40 ( 1 ) (Notification of decision) and 42 (Adjournment and resumption of hearing).

(4) The Committee, in making its decision, shall –

(a) satisfy itself as to the facts or the particulars supporting the application;

and

(b) determine whether or not it is satisfied that the Applicant –

(i) has been of good character since the Prohibition Order was made;

(ii) has demonstrated their willingness, and the ability to, maintain in the future the standards of conduct expected of Registered Teachers; and

(iii) has demonstrated that they are a suitable person to be re-admitted to the Register.

(5) If the Committee is satisfied in relation to the matters set out in (4)(b), it may determine that the Applicant is eligible for registration.

(6) If the application for a determination that the Applicant is eligible for registration is refused, no further application for a determination that they are eligible for registration may be made within 12 calendar months of the date on which the original application was determined or within such other time limit as the Committee shall determine.

## **PART V**

### **Miscellany**

#### **Convening of Committee meetings**

**47.—(1)** The Registrar shall convene the meetings of a Investigating Committee, a Professional Conduct Committee and a Professional Competence Committee on behalf of the Council in accordance with the provision of these Rules.

(2) Where, prior to the first day of a substantive hearing before a Professional Conduct Committee or a Professional Competence Committee the Registered Teacher against whom an Allegation is made, or the Presenting Officer submits to the Council further evidence or information, which in the view of the Registrar may have caused the Investigating Committee to consider such further evidence or information as relevant to the determination of the referral, then in those circumstances the Registrar may refer the case to an Investigating Committee for re-consideration pursuant to Rule 12(1).

#### **Public or private hearing**

**48.—(1)** A Professional Conduct Committee or Professional Competence Committee may exclude the public from a hearing or part of a hearing

- (a) where it appears to the Committee necessary in the interests of justice to exclude the public;
- (b) where the Registered Teacher makes a written request that the hearing should be in private and the Committee do not consider it to be contrary to the public interest to hold the hearing in private; and
- (c) where it is necessary to protect the interests of Children or Vulnerable Witnesses.

(2) Where an application is made for the hearing to be in private, the Committee shall hear the application in private, but shall announce the decision in public.

(3) The outcome of the hearing shall be announced in public.

(4) A Professional Conduct Committee or Professional Competence Committee may if it considers it to be in the interests of justice make an Order that:

a) The name and identity of a school shall not be disclosed during the hearing or at all;

b) The name and identity of a witness, either referred to in the hearing papers or present before the Committee to give oral evidence shall not be disclosed during the hearing or at all.

### **Legal Adviser to the Committees**

**49.**—(1) The Council shall make available to any Committee constituted under these Rules a Legal Adviser.

(2) Where a Committee requires and is given legal advice, the Committee or Legal Adviser, shall—

(a) in the case of a Professional Conduct Committee or a Professional Competence Committee, declare, in public, the nature of the advice it sought and received; and

(b) in the case of an Investigating Committee, make a declaration in relation to the nature of the advice it sought and received in the decision notice given under Rule 12(2); and

(3) The Legal Adviser shall not be a person who has previously addressed the Committee in a case in relation to which the Committee seeks advice in any capacity other than as a Legal Adviser.

### **Witness summons**

**50.**—(1) Where a Committee under Rule 9 (2) (b) or Rule 34 (7) requires the attendance of, or the production of a material document or evidence by, a witness who refuses, or intentionally fails, to attend or to produce a material, document or evidence, the Registrar shall instruct an officer of the Council to obtain a witness summons by way of a court order, or a court order for the production of the document.

(2) Where a Presenting Officer or a Registered Teacher against whom an Allegation is made requires the Council to secure the attendance of, or the production of a material document or evidence by, a witness who refuses to attend or to produce a material document or evidence before a hearing of a Professional Conduct Committee or a Professional Competence Committee, they may make an application to the Registrar who, if satisfied that the attendance of the witness or the production of the document or evidence is crucial to the determination of the case, may allow the Presenting Officer or Registered Teacher to apply to the appropriate court for a witness summons, or a court order for the production of the document.

### **Joint hearings**

**51.**—(1) Unless the Professional Conduct Committee or Professional Competence Committee determines that there is a real risk of undue prejudice to the fairness of proceedings, a Professional Conduct Committee or a Professional Competence Committee may consider an Allegation against two or more Registered Teachers at the same hearing where –

(a) the Allegation against each Registered Teacher arises out of the same circumstances; and/or

(b) prior to a Committee being convened, in the opinion of the Registrar a joint hearing is necessary; and/or

(c) where a Committee has been convened, in the opinion of that Committee a joint hearing is necessary.

### **Time Limits**

**52.**—In these Rules, unless the contrary intention appears, time limits specified in these Rules may be extended during any period of school Christmas, Easter and Summer holidays unless the Registered Teacher against whom an Allegation is made requests otherwise in writing.

### **General waiver**

**53.**—(1) Where there is an agreement between the registered teacher or his or her representative and the Presenting Officer, any requirement of these rules, save for those matters subject to the Regulations, may be waived or varied.

(2) Such waiver or variation may include, but shall not be limited to:

- (a) the method of service of all documents and notices; and
- (b) the time limits for service of notices, documents and evidence,

provided that such waiver or variation is not contrary to the interests of justice.

### **Review of Disciplinary Orders**

**54.**—(1) A Committee may of their own motion at any time revoke a Disciplinary Order made by them where –

- (a) the only or main reason for making the Order was that the Registered Teacher in relation to whom the Order was made had been convicted of a Relevant Offence, and after the date the Order was made, the conviction in question was quashed; or
- (b) after the Order was made the Committee, having obtained evidence not considered by them before they made the Order, are satisfied that, had they been aware of that evidence before they made the Order they would not have made it.

### **Appeals**

**55.—**(1) Where a Registered Teacher is aggrieved by a Disciplinary Order made in relation to them by a Professional Conduct Committee or a Professional Competence Committee, as the case may be, they –

- (a) may, without permission from the Committee concerned, appeal to the Queen's Bench Division of the High Court under Part 52 of the Civil Procedure Rules within 28 days from the date a notice of the Order was served on them; and
- (b) shall serve a copy of the appellant's notice, together with copies of such other documents as may be filed by the Registered Teacher in the High Court, on the Registrar within such period as may be required by the court.

### **Publication of Disciplinary Orders**

**56.—**(1) The Council shall publish information relating to Disciplinary Orders as set out in Regulation 19 (2) of the Regulations on its website and in the form of a record of decisions which shall be –

- (a) periodically sent to Employers and Agents; and
- (b) subject to the discretion of the Registrar, made available to any person who requests it.

### **Publication of the Rules**

**57.—**(1) These Rules shall be –

- (a) made available without charge on request to any Registered Teacher; and
- (b) published on the Council's website.

## **Revocation and Transitional Provisions**

**58.**—(1) Save as provided for in paragraph (3), the General Teaching Council for England Disciplinary Rules of Procedure 2006 are hereby revoked as from 31 August 2008.

(2) These Rules shall apply to all applications and referrals received by the Council on or after 1 September 2008, and Parts III, IV and V of these Rules shall apply to all cases considered by Professional Conduct Committees or Professional Competence Committees in respect of which the Notice of Referral and/or Notice of Proceedings under Rules 13 (1) and 24 (1) respectively or Notice of Hearing under Rules 43, 44 or 46 is sent to the Registered Teacher on or after 1 September 2008.

(3) The General Teaching Council for England Disciplinary Rules of Procedure 2006 shall continue to be used in respect of:

- (a) any hearings which are part heard as at 31 August 2008, and
- (b) all hearings of Professional Conduct Committees or Professional Competence Committees in respect of which the Notice of Referral, Notice of Proceedings or the Notice of Hearing, as referred to in paragraph (2) was sent to the Registered Teacher before 1 September 2008, save where the Registered Teacher elects in writing to have their case dealt with under these Rules,

until those cases are concluded.

**Signed by -**

**Chair of Council:**

**Other Member:**

**The Seal of the  
General Teaching  
Council for England.**