

**THE GENERAL TEACHING COUNCIL**  
**DISCIPLINARY PROCEDURE RULES 2006**

(AS AMENDED BY REGISTRATION AND REGULATION COMMITTEE –JUNE 2007)

**TABLE OF CONTENTS**

**Part I - Introduction**

1. Citation, interpretation and commencement

**Part II - Investigating Committee**

2. Preliminary
3. Notices
4. Constitution
5. The Chair
6. Members of the Committee
7. Referral to other bodies
8. Meetings
9. Proceedings
10. Voting and decision-making
11. Code of Conduct
12. Decision

**Part III - Professional Conduct and Competence Committees**

13. Constitution
14. The Chair
15. Members of the Committee
16. Hearings

July 2007

17. Voting and decision-making
18. Notice of Proceedings
19. Response to Notice of Proceedings
20. Representations to the Committee
21. Service and inspection of documents
22. Absence of the Registered Teacher at a hearing
23. Procedure at hearings
24. Witnesses
25. Children and Vulnerable Adults
26. Functions of the Committee at hearings
27. Relevant Issue
28. Code of Conduct
29. Decision
30. Notification of decision
31. Reference to another Committee
32. Adjournment and resumption of hearing
33. Application to vary or revoke a condition specified in a Conditional Registration Order or Suspension Order
34. Compliance with Conditional Registration Orders or Suspension Orders
35. Prohibition Orders
36. Eligibility for registration following a Prohibition Order

#### **Part IV – Miscellany**

37. Convening of Committee meetings
38. Public or private hearing
39. Legal Adviser

40. Witness summons
41. Joint hearings
42. Review of Disciplinary Orders
43. Appeals
44. Publication of Disciplinary Orders
45. Publication of the Rules
46. Revocation and Transitional Provisions

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 1998(b), hereby makes the following Rules which were approved by the Registration and Regulation Committee on 7 December 2005.

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(a) S.I. 2001/1268, amended by S.I. 2003/1186.

(b) 1998 c.30, Schedules 1 and 2 were amended by Schedule 12 to the Education Act 2002 (c.32).

# 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 January 2006.

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

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

“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 education 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);

“a Committee” means:

(a) In Part II of these Rules, an Investigating Committee; and

(b) In Part III of these Rules, a Professional Conduct Committee or a Professional Competence Committee;

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(a) 1998 c.30, as amended by the Education Act 2002 (c.32).

(b) S.I. 2000/2176, amended by S.I. 2001/23 and S.I. 2001/1267

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

“Disciplinary Order” means a Reprimand, a Conditional Registration Order, a Suspension Order 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) a Local Education 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 him or her regularly into 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 him or her regularly into 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 misconduct, incompetence or conviction, 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;

“Month” means a calendar month;

“an 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 his or her services otherwise than under a contract of employment, as a Teacher on the date of his 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 issue 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

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(a) S.I. 2001/1268, amended by S.I.2003/1186.

conviction in the United Kingdom, within the meaning of paragraph 8(1) of Schedule 2 to the Act;

“Schedule” means the Schedule to these Rules;

“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 Adult” means a person, who is not a Child, who suffers from a mental disorder or is significantly impaired in relation to intelligence or social functioning or has a physical disability or disorder and requires assistance in order to give evidence;

“Week” means a calendar Week;

“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, 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.

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

(5) 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
- (ii) 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 above;

(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 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 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) Where the Registrar determines that the case falls within paragraph 2 (a) to (c) or that the information does not amount to an Allegation, the Registrar shall inform the provider of the information that no further action will be taken and that the matter will be closed. 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 and that the matter will be closed.

### **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 by first class post or recorded delivery.

(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) below, copies of relevant documentation in its possession including details of any relevant criminal conviction 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 his or her 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.

(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 among the Members of the Council.

(2) An Investigating Committee shall consist of 3 or 5 Members.

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

(4) Where a Member of an Investigating Committee –  
(a) dies,

(b) resigns, or

(c) is unable to remain a Member,

in the course of the Committee's consideration of a case, the Chair may, after consulting with the other Members of the Committee, appoint, in that person's place, such other Member of the Council as the Chair considers fit, who has not participated in the consideration of the case; but the replacement Member shall not sit until that person is fully acquainted with all previous documents before the Committee.

(5) Where a Member of the Council has been appointed to an Investigating Committee immediately before the expiration of his or her tenure of office, the Investigating Committee Member shall, subject to paragraph (4), continue to be treated as if he or she were a Member of the Council for the duration of the consideration of that case by 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) believes a conflict of interest arises in connection with,

the Registered Teacher in relation to whom the Committee is sitting, the Member shall make a declaration accordingly and disqualify himself or herself 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 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, 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.

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

## **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) The Council's Officers –

(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 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 the case.

(4) An Officer of the Council requested by an Investigating Committee to undertake an Investigation 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,

(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, in the case of sub-paragraphs (a) and (c), 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.

## PART III

### Professional Conduct and Competence Committees

#### Constitution

13.—(1) A Professional Conduct Committee shall be constituted by the Council from among the Members of the Council 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 of Unacceptable Professional Conduct or conviction of a Relevant Offence, or an allegation of both Unacceptable Professional Conduct or a conviction of a Relevant Offence and Serious Professional Incompetence against a Registered Teacher.

(2) A Professional Competence Committee shall be constituted by the Council from among the Members of the Council for the duration of a case referred to it by an Investigation Committee under Regulation 3 (2), or a Professional Conduct Committee under Regulation 17 (1), or the Regulations in order to determine an Allegation of Serious Professional Incompetence, or both in relation to Serious Professional Incompetence and in relation to Unacceptable Professional Conduct or conviction of a Relevant Offence against a Registered Teacher.

(3) A Committee shall consist of 3 or 5 Members.

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

(5) 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 of the Council, as the Chair considers fit, who has not participated in the consideration of the case; but the replacement Member shall not sit until that person is fully acquainted with all the previous documents before the Committee, including the record of the proceedings.

(6) 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 (5), continue to be treated as if he or she were a Member of the Council until the Committee has finally determined the case.

### **The Chair**

14.—(1) A 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**

15.—(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 (4), 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
- (c) believes 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 himself or herself from sitting as a Member in relation to that case.

(4) In pursuance of 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**

**16.**—(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) The Council's Officers –

- (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**

**17.**—(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**

**18.—**(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, the Registrar shall send to the Registered Teacher a Notice of Proceedings in accordance with paragraph (2) by first class post, or by recorded delivery to the Registered Teacher's Registered address recorded on the Register or such other latest address known to the Council 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 after the day the notice was sent to the Registered Teacher;
- (c) specify the Allegation and the particulars of the Allegation against the Registered Teacher;
- (d) specify 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 21(4), have annexed to it any documents which have not previously been sent to the Registered Teacher; and

(f) set out the requirements of Rules 19 and 21 (1) and (2).

(3) The Registrar shall send a copy of the Notice of Proceedings as provided in paragraph (2) to the Employer of the Registered Teacher or Agent, 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.

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

**19.**—(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 his or her representative;

(c) admits the alleged facts and, if so, whether the Allegation of Unacceptable Professional Conduct, or 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 24 (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**

**20.**—(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 a lawyer.

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

### **Service and inspection of documents**

21.—(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 18 (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 wherever possible agree a core bundle of relevant documents for the hearing and a copy of this bundle shall be provided to the Council at least 2 Weeks prior to the hearing. Where such a bundle is received a copy shall be sent by the Council to the Members of the Committee at least 7 days prior to the hearing.

(3) Where it has not been possible to agree a bundle of relevant documents in accordance with paragraph (2) the Council will at least 7 days prior to the hearing send to the Committee and to the Registered Teacher and the Presenting Officer a bundle of documents comprising –

- (a) the Notice of Proceedings;
- (b) any documents which an Investigating Committee or the Professional Competence Committee or the Professional Conduct Committee, as the case may be, has considered;
- (c) any additional documents served with the Notice of Proceedings;
- (d) any response from the Registered Teacher under Rule 19; and
- (e) any further documents submitted under paragraph (1) of this Rule.

(4) 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, write to 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 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.

(5) 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) or (4) 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.

(6) 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.

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

**22.—**(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 18 (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 18 (1) has been complied with the Committee shall adjourn the hearing.

(3) Where the Committee is satisfied that Rule 18 (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) apply 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.

### **Procedure at hearings**

**23.**—(1) Subject to paragraphs (2) to (10) and Rule 17 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, conviction of a Relevant Offence or Serious Professional Incompetence, as the case may be.

(4) Where the Registered Teacher indicates that he or she admits 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 proved 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 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 his or her 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) In any case, the Presenting Officer and the Registered Teacher may present evidence relating to the Registered Teacher's history and character and any mitigating circumstances.

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

(8) The Committee may determine, at any time, to deliberate in private.

(9) Subject to the requirements of a fair hearing, 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.

(10) Before amending an Allegation or the particulars of an Allegation in accordance with paragraph (9), 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**

**24.**—(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 25 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 or the Presenting Officer, not exceeding, respectively, 2, or such other number as the Council may consider, in exceptional circumstances as appropriate.

### **Children and Vulnerable Adults**

**25.—**(1) A Child or a Vulnerable Adult shall only give evidence where, after considering representations by or on behalf of the Registered Teacher and the Presenting Officer, it is determined by the Committee or as provided for in paragraphs (2) and (3) that the welfare of the Child or Vulnerable Adult will not be prejudiced by so doing.

(2) In advance of the hearing, written representations may be referred for consideration to a Chair of a relevant Committee sitting at the time or to one or more prospective Members of the Committee.

(3) If the Chair of a relevant Committee, or prospective Member or Members, consider that the welfare of the Child or Vulnerable Adult would be prejudiced by giving evidence, the Committee Chair, Member or Members, as the case may be, shall refuse permission for the Child or Vulnerable Adult to be approached or called to give evidence.

(4) If the Committee Chair, or Member or Members, as the case may be, determine that the Child or Vulnerable Adult 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 Adult, 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, provided always that such witness is available at the hearing for questioning;
- (c) the use of interpreters (including signers and translators); and
- (d) the hearing of evidence by the Committee in private.

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

**26.**—(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) Without prejudice to Rule 23 (6), a Committee shall not, prior to the determination of guilt or otherwise, have available to it, inspect or consider any record of any Disciplinary Order made in relation to the Registered Teacher in respect of whom an Investigating Committee has referred the case.

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

### **Relevant Issue**

**27.**—(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**

**28.** A Committee may, in considering an Allegation of Unacceptable Professional Conduct, relevant conviction or Serious Professional Incompetence, take into account, in accordance with Regulation 7 of the Regulations, a Registered Teacher's failure to comply with the Code of Conduct laying down the standards expected of Registered Teachers.

### **Decision**

**29.**—(1) The Committee, in making its decision in accordance with Rule 17 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, conviction of a Relevant Offence or Serious Professional Incompetence;
- (d) if the facts amount to Unacceptable Professional Conduct, conviction of a Relevant Offence or Serious Professional Incompetence –
  - (i) consider the previous history and character of the Registered Teacher and any mitigating circumstances;

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

- (ii) determine whether to make a Disciplinary Order against the Registered Teacher, and
- (iii) 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**

**30.**—(1) In addition to the service of notice of Disciplinary Order under Regulation 18(6) of the Regulations (if any), the Committee shall require its written decision to be sent to the Registered Teacher, his or her Employer or previous Employer, as the case may be, and the Department for Education and Skills 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**

**31.**—(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 13 or a breach of natural justice, to a differently constituted relevant Committee; or
- (b) where appropriate, to a Professional Competence 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 interest in the case.

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

**32.—**(1) Where a Committee adjourns a hearing of a case indefinitely or for a period of more than three Months, and determines to resume 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) the notes of the evidence of the adjourned hearing.

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

**33.—**(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 13 consisting of persons who were not members of the Committee which made the Order complained of; and
- (b) unless the Registered Teacher otherwise requests, conduct a hearing.

(3) The Registrar shall send to the Registered Teacher a Notice of Hearing by first class post, or by recorded delivery to the Registered Teacher's Registered address recorded on the Register or such other latest address known to the Council 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 Conditional Registration Order or Suspension Order was made.

(4) In considering the application the Committee will apply these Rules and, in particular, Rules 14 (The Chair), 15 (Members of the Committee), 16 (Hearings), 17 (Voting and decision-making), 20 (Representation to the Committee), 22 (Absence of the Registered Teacher at a hearing), 23 (1), (2), (7) and (8) (Procedure at hearings), 30 (1) (Notification of decision) and 32 (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**

**34.—(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 shall refer the matter to a Committee, constituted in accordance with Rule 13 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 condition.

(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 by first class post, or by recorded delivery to the Registered Teacher's Registered address recorded on the Register or such other latest address known to the Council 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 14 (The Chair), 15 (Members of the Committee), 16 (Hearings), 17 (Voting and decision-making), 20 (Representations to the Committee), 22 (Absence of the Registered Teacher at a hearing), 23 (1), (2), (7) and (8) (Procedure at hearings), 30 (1) (Notification of decision) and 32 (Adjournment and resumption of hearing).

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

### **Prohibition Orders**

**35.—**(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, 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**

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

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

- (a) be appointed in accordance with Rule 13 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, conduct a hearing.

(2) The Registrar shall send to the Registered Teacher a Notice of Hearing by first class post, or by recorded delivery to the Registered Teacher's Registered address recorded on the Register or such other latest address known to the Council 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 14 (The Chair), 15 (Members of the Committee), 16 (Hearings), 17 (Voting and decision-making), 20 (Representations to the Committee), 22 (Absence of the Registered Teacher at a hearing), 23 (1), (2), (7) and (8) (Procedure at hearings), 30 (1) (Notification of decision) and 32 (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 his or her willingness, and the ability to maintain in the future the standards of conduct expected of Registered Teachers; and
  - (iii) has demonstrated that he or she is a suitable person to be re-admitted to the Register.

(5) If the application for a determination that the Applicant is eligible for registration is refused, no further application for a determination that he or

she is 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 IV**

### **Miscellany**

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

**37.—**(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 provisions of these Rules.

(2) Where, before a convened meeting of a Professional Conduct Committee or a Professional Competence Committee sits –

(a) the Registered Teacher against whom the Allegation is made submits new or fresh evidence or information to the Council, or the Presenting Officer discovers new or fresh evidence or information, and

(b) it appears to the Registrar that the new or fresh evidence or information is of a nature which the Investigating Committee referring the case would have considered relevant to its determination had it been made available to it,

the Registrar shall consult one or more prospective members of the Committee or the Chair of a relevant Committee sitting at the time as to the appropriate procedure to be followed.

(3) Where paragraph (2) applies, if the prospective members of the Committee concerned are, or the Chair of a relevant Committee sitting at the time is, of the view that the evidence or information is of such a nature that an Investigating Committee ought to consider it rather than a Professional Conduct Committee or Professional Competence Committee, the Registrar shall be instructed to refer the case to an Investigating Committee to investigate the Allegation afresh.

### **Public or private hearing**

**38.—**(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 Adults.

(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.

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

**39.—**(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 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**

**40.**—(1) Where a Committee under Rule 9 (2) (b) or Rule 24 (7) requires the attendance of, or the production of material, document or evidence by, a witness who refuses, or intentionally fails, to attend or to produce a material, document or evidence, the Chair of the Committee concerned may direct the Registrar 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 attendance of, or 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, he or she may make an application to the Registrar, who shall consult with one or more prospective members of the Committee or the Chair of a relevant Committee sitting at the time and if, the prospective member or members of the Committee are, or the Chair of a relevant sitting Committee is, satisfied that the attendance of the witness or the production of the document or evidence is crucial to the determination of the case, the members or the Chair, as the case may be, may direct the Registrar to apply, with the assistance of the Registered Teacher concerned or the Presenting Officer, as the case may be, to the appropriate court for a witness summons, or a court order for the production of the document.

### **Joint hearings**

**41.**—(1) Unless the Professional Conduct Committee or Professional Competence Committee determines that there is a risk of 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; or
- (b) in the opinion of the Committee a joint hearing is necessary.

### **Review of Disciplinary Orders**

**42.—**(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**

**43.—**(1) Where a Registered Teacher is aggrieved by a Disciplinary Order made in relation to him or her by a Professional Conduct Committee or a Professional Competence Committee, as the case may be, he or she –

- (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 on form N161 within 28 days from the date the notice of the Order was given to him or her; 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**

44.—(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) made available to any person who requests it.

### **Publication of the Rules**

45.—(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**

46.—(1) Save as provided for in paragraph (3), the General Teaching Council for England Disciplinary Rules of Procedure 2004 are hereby revoked as from 1 January 2006.

(2) These Rules shall apply to all applications and referrals received by the Council after 1 January 2006, and Parts III and IV of these Rules shall apply to all hearings of Professional Conduct Committees or Professional Competence Committees in respect of which the Notice of Proceedings under Rule 18 (1) or the Notice of Hearing under Rule 33 ,34 or 36 is sent to the Registered Teacher on or after 1 January 2006.

(3) The General Teaching Council for England Disciplinary Rules of Procedure 2004 shall continue to be used in respect of:

- (a) any hearings which are part heard as at 31 December 2005, and
- (b) all hearings of Professional Conduct Committees or Professional Competence Committees in respect of which the Notice of Proceedings or the Notice of Hearing, as referred to in paragraph (2) was sent to the Registered

Teacher before 1 January 2006, save where the Registered Teacher elects in writing to have his or her 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.**