

# The General Teaching Council for England

## Guidance for Teachers who are subject to the Council's Disciplinary Procedures

### Introduction

Under the legislation relating to the Disciplinary Functions of the GTC, teachers' employers (including supply agencies) are required to refer to the Council cases where they have ceased to use the services of a registered teacher because of misconduct or incompetence (including by resignation short of employer action). All misconduct referrals are made initially to the Department for Education and Skills who retain cases which raise concerns about the safety and welfare of children and young persons.

The Council will also consider cases against registered teachers where teachers are convicted of offences which may be relevant to being a teacher.

This leaflet explains what you need to do now that your case has been referred to the Council.

### What is the disciplinary role of the Council?

One of the functions of the Council under the Teaching and Higher Education Act 1998 is to consider allegations which may reflect on the fitness of teachers to continue to be registered with the Council.

The Council has been given these regulatory powers by Parliament to enable the profession to safeguard its own standards and thus help raise the status of teaching. Regulatory powers place the Council and the profession on an equal footing with other established professions such as the law, nursing and medicine.

The Council is required to consider whether in any individual case the teacher has demonstrated **serious professional incompetence** or **unacceptable professional conduct** or has been convicted of a **relevant offence**.

Serious professional incompetence is defined as competence falling seriously short of that expected of a registered teacher taking account of the relevant circumstances; unacceptable professional conduct is conduct which falls short of the standard expected of a registered teacher and which is a breach of the standards of propriety expected of the teaching profession. A relevant offence is not specifically defined in the legislation but examples are provided in the Council's Code of Conduct and Practice for Registered Teachers, which also gives guidance and examples of serious professional incompetence and unacceptable professional conduct. A copy of the Code is sent to teachers involved in the process and is available on the Council's website [www.gtce.org.uk/standards/regulation](http://www.gtce.org.uk/standards/regulation).

If the Council is satisfied of this it can take a series of actions which could be a reprimand, a conditional registration order, a suspension order (with or without conditions), or a prohibition order.

As you will know, it is a legal requirement for teachers who wish to teach in maintained schools or non-maintained special schools to be registered with the Council. If you are subject to the Council's disciplinary procedures, the Council consider that it is very important that you take the opportunity to present your case.

The Council is committed to ensuring that when a case is referred it is fully investigated by independent and impartial Committees of Members of the Council. Under the Council's Disciplinary Rules of Procedure a majority of the Members of any Committee will themselves be qualified teachers. Each Committee will also have at least one lay Member of the Council.

As part of the investigating process (which is outlined below) you have an initial opportunity to make written comments to an **Investigating Committee** on whether or not the case should be referred for a hearing. The Investigating Committee will consider any written representation you choose to submit before it makes a decision as to whether there is a case for you to answer.

If it so decides, the Investigating Committee will refer the case for a hearing before either a **Professional Conduct Committee** or a **Professional Competence Committee**. If so, you will have the opportunity to attend the hearing, be represented by the person of your choice and call witnesses on your own behalf.

### **What do I need to do now?**

If the Council has had your case referred to it, it will send you a formal **Notice of Investigation**. This sets out the allegation which has been made about you and attaches copies of relevant information. It also tells you that if you wish to make written comments you should do so by a certain date.

**If you are a member of a trade union or a professional association you are strongly advised to contact that organisation immediately to discuss the matter.** If you are not a member of such an organisation you may wish to consider taking other professional advice, for example from a solicitor or the Citizen's Advice Bureau, before responding to the notice. Please note, however, that legal aid is not available to teachers being investigated under these procedures and that you cannot claim your costs back from anyone else involved.

You may wish to delay your reply with any comments on the notice until you have spoken with your representative or adviser. However, it is important that any written response from you or your representative or adviser is received by the Council on or before the specified date.

If you believe that you do not have a case to answer or where there are other factors which you think should be considered by the Investigating Committee you should make sure that these are included in your written response.

If however you have been convicted of a criminal offence then you cannot argue to the Council that you were in fact innocent. However, you can still set out why you think that the offence is not relevant to your work as a teacher or any other circumstances which you think the Committee considering your case should be aware of.

### **What will happen next?**

All of the documents, including any written response that you have made or which has been made on your behalf, will be considered at a meeting of an Investigating Committee. This meeting takes place in private and you will be told when it is to take place.

The Committee will consider the case on the basis of the papers submitted to it and will consider whether or not you have a case to answer in respect of the allegation. If it decides that there is no case to answer, you will be notified of this in writing. That will be the end of the matter so far as the Council is concerned. You may, however, ask the Council to publish a notice to the effect that it has found no case for you to answer. This notice will be published in The GTC Record of Decisions which is made available to employers.

If, however, the Investigating Committee decide that the case should be referred to either a Professional Conduct Committee or a Professional Competence Committee, then you will also be informed of this in writing.

### **Professional Conduct/Competence Committees**

If your case is to be referred to one of these Committees, then you will receive a **Notice of Proceedings**. This will tell you the details of the allegation(s) you will need to answer at the hearing, the identity of the Presenting Officer, any witnesses the Presenting Officer intends to call and when the hearing will take place. The hearing will take place at least 8 weeks after the notice is sent.

It will also ask you to let the Council know by a specified date:

- whether you intend to come to the hearing (with or without a representative),
- whether you will not attend but send a representative,
- whether you admit the facts alleged and, if so, whether you admit that those facts amount to unacceptable professional conduct, serious professional incompetence or conviction of a relevant offence, as the case may be
- whether you intend to call witnesses
- whether you know of any reason why there should be a conflict of interest with any member due to hear your case and
- whether you know of any reason that the hearing should be in private.

The hearing will be in public unless there are special reasons why it should not be. If you choose not to attend or to be represented, the case will normally

proceed in your absence on the basis of the documents before the Committee and the evidence from any witnesses called by the Presenting Officer.

**Again you are strongly advised to contact your trade union or other representative as soon as you receive this notice and prior to responding to it.**

Normally the Investigating Committee will have had before it the evidence which you feel is relevant to the case and will have based its decision on this evidence. Exceptionally, further evidence may come to light after the date of the Investigating Committee but before the hearing takes place, which you feel might have affected the decision of the Investigating Committee to refer the case forward for hearing. In this eventuality, the Registrar will consider the further evidence you have put forward to see whether the evidence is of sufficient importance that the case should be considered for referral back to an Investigating Committee.

If the Registrar considers the case should be considered for referral back to an Investigating Committee then he is required either to consult one or more prospective Members of the Professional Conduct or Competence Committee or the Chair of a relevant Professional Conduct or Competence Committee sitting at the time, before a decision is reached. Where the Members so decide, your case will be referred back to an Investigating Committee.

Because the Council's disciplinary role is carried out in the public interest, the dates of forthcoming GTC hearings are published on the GTC's website. The name of the school referring the case, your name and the hearing committee you are to appear before are posted in the foyers' of the Council's Birmingham and London offices and on the Council's website three working days before the hearing. No other information will be given out to any member of the public or the press before the hearing.

Under the Council's Disciplinary Rules, the Council may pay witness expenses, including replacement costs, for up to two witnesses called by the teacher. The same applies to witnesses called by the Presenting Officer. Expenses beyond this level are discretionary and subject to application to the Council.

If you are in employment, the Council will not pay any costs personally incurred for your attendance at the hearing. Where, however, you are not in employment at the time of your hearing, you are permitted to seek reimbursement of your personal expenses up to a level agreed by the Council. If this situation applies, you are invited to contact the hearings team dealing with your case to seek further information.

In exceptional circumstances, you may find yourself unable to secure the attendance of a witness or to obtain specific documents or other evidence you believe would be crucial to the hearing of allegations against you by a Professional Conduct or Competence Committee.

Should this situation arise, it may be possible for the Council to apply to court for a summons requiring the witness to attend or for the documents or evidence to be submitted to the hearing. In this eventuality, you or your representative should

write to the Registrar, describing the difficulties you are encountering and their impact on the presentation of your case and requesting that a witness summons is issued.

The Registrar will then consider your request in consultation with Members of the Professional Conduct or Competence Committee. Committee Members will only authorise the Registrar to proceed with an application for a summons if they agree that the absence of a witness, documents or other evidence is crucial to the determination of the case.

### **Procedure at the Hearing**

The case will be heard by a Committee of three or five Members of the Council, of whom the majority will be teachers. The other Members of the Committee will be lay Members of the Council.

The Council is committed to the hearings being **investigative rather than adversarial** in nature. You will receive a copy of the Council's Disciplinary Rules of Procedure which set out how the hearing will proceed.

There are options under the Disciplinary Rules to contest or accept the allegation against you. If, for instance, you accept the facts of what is alleged and that those facts amount to unacceptable professional conduct, serious professional incompetence or conviction of a relevant offence, you will not wish to contest them. There will be opportunity to confirm this in advance of the hearing and to formally confirm it on the day.

If confirmed on the day, the Committee may, subject to satisfying itself that the admissions are secure, then move to the stage of considering mitigation and determining whether it is appropriate to impose a disciplinary sanction.

If you do not accept the facts of what is alleged, or if you accept the facts but do not accept that what is alleged amounts to unacceptable professional conduct, serious professional incompetence or conviction of a relevant offence, the Committee will proceed to consider the factual evidence as the first stage of their proceedings.

Whether or not you contest the allegation, the Presenting Officer will contact you or your representative to try to agree a bundle of documents to go before the Committee. This is in order that the papers considered in the case do not include duplicate material or material that both sides agree is not relevant to the case. There is no requirement to agree a bundle. Where this is not possible, all the papers will be submitted for consideration.

You or your representative will have the opportunity at the hearing to present your own case, including anything you may wish to put forward by way of mitigation. This will include asking any witnesses you have asked to give evidence and the opportunity to ask questions of the witnesses called by the Presenting Officer. The Presenting Officer and the Members of the Committee may ask questions of you or any of the witnesses as well.

In line with the Council's remit to act in the public interest, the hearing will normally be held in public. However, a Committee at the start of the proceedings will consider any submissions by you that all, or part of the hearing, should be held in private and in any event will consider that matter.

Where the proceedings take place in public, members of the press are entitled to attend.

You are asked to note that for Member training purposes, there may be an observer in attendance at the hearing. This person has no role in the hearing or decision-making process and is present purely to observe the proceedings. However, in the event that any part of the hearing takes place in private, you will be able to express a preference regarding the continued presence of the observer. The Council requires observers to treat any evidence heard in private in strict confidence.

You and your representative will also have the opportunity to draw the Committee's attention to any mitigating circumstances that you feel it should be aware of. A running order for disciplinary hearings is attached to this document for your information.

### **The Decision of the Committee**

Once the Committee has heard the case, it will decide in private whether it is satisfied that the allegation is substantiated or, in the case of a criminal offence, that it is relevant to being a registered teacher.

The Committee must be "satisfied" as to the facts of the case. The facts of the case in this context are the details of the allegations of misconduct, incompetence or relevant conviction which are set out in the Notice of Proceedings.

In the case of a conviction, a valid certificate of conviction or an admission shall be taken as conclusive evidence of the commission of an offence which by itself is a finding of fact.

The Standard of Proof required at all stages of the Committee's decision-making process is the civil standard, "on the balance of probabilities". The "balance of probabilities" standard means that the Committee is satisfied an event occurred if the Committee considers that, on the evidence, the occurrence was more likely than not. The more serious the allegation, the less likely it is that an event occurred and hence the stronger the evidence needed before the Committee concludes that the allegation is established.

If the Committee is not satisfied of this, then the case will be dismissed. That will be the end of the matter so far as the Council is concerned and, as at the investigating stage, you may ask the Council to publish a notice to the effect that it has found no case for you to answer.

If the Committee are satisfied that the facts are established, it will decide whether or not it is satisfied that these amount to serious professional incompetence or unacceptable professional conduct or conviction of a relevant offence.

Again, if it is not satisfied of this, then the case will be dismissed.

If the Committee is satisfied of the facts and that they amount either to unacceptable professional conduct, serious professional incompetence or conviction of a relevant offence, it will consider what action, if any, should be taken.

## **Disciplinary Orders**

In deciding what action to take, the Committee can decide as follows:

- To take no action
- To issue a Reprimand
- To make continued registration conditional on specified conditions (a Conditional Registration Order)
- To suspend from the Register for a period of up to two years (a Suspension Order)
- To prohibit eligibility for registration (a Prohibition Order).

The Committee will impose a Conditional Registration Order if it believes that it is appropriate that eligibility for registration should remain subject to meeting certain conditions. Conditions may also be applied to Suspension Orders.

Examples of the type of conditions which might be imposed are:

- further training
- counselling
- conditions which apply to aspects of the teacher's role – e.g. management responsibilities.

The Council will monitor whether the conditions in a Conditional Registration Order or attached to a Suspension Order are met. Where the Council considers this may not be the case, it may consider the matter at a further hearing and impose a higher level of sanction.

In reaching a decision on sanction, a committee will take into account the Council's guidance on sanctions ("Indicative Sanctions Guidance"). A copy of the Indicative Sanctions Guidance is sent to teachers involved in the process and is available within the Guidance for Members of Disciplinary Committees available on the Council's website at [www.gtce.org.uk/standards/regulation](http://www.gtce.org.uk/standards/regulation).

The decision of the Committee will be given in public and confirmed in writing, along with the reasons for the decision. The decision will also be made available to employers in the form of The GTC Record of Decisions and, in accordance with Regulations, placed on the website for a three month period. Where a disciplinary

order is made, the Register will be amended to record the order for the period of its duration.

In all cases, there is a right of appeal to the High Court within 28 days of receiving the written notice of the order. Details of the contact address for appeal are given at the time that an order is sent.

## **Conclusion**

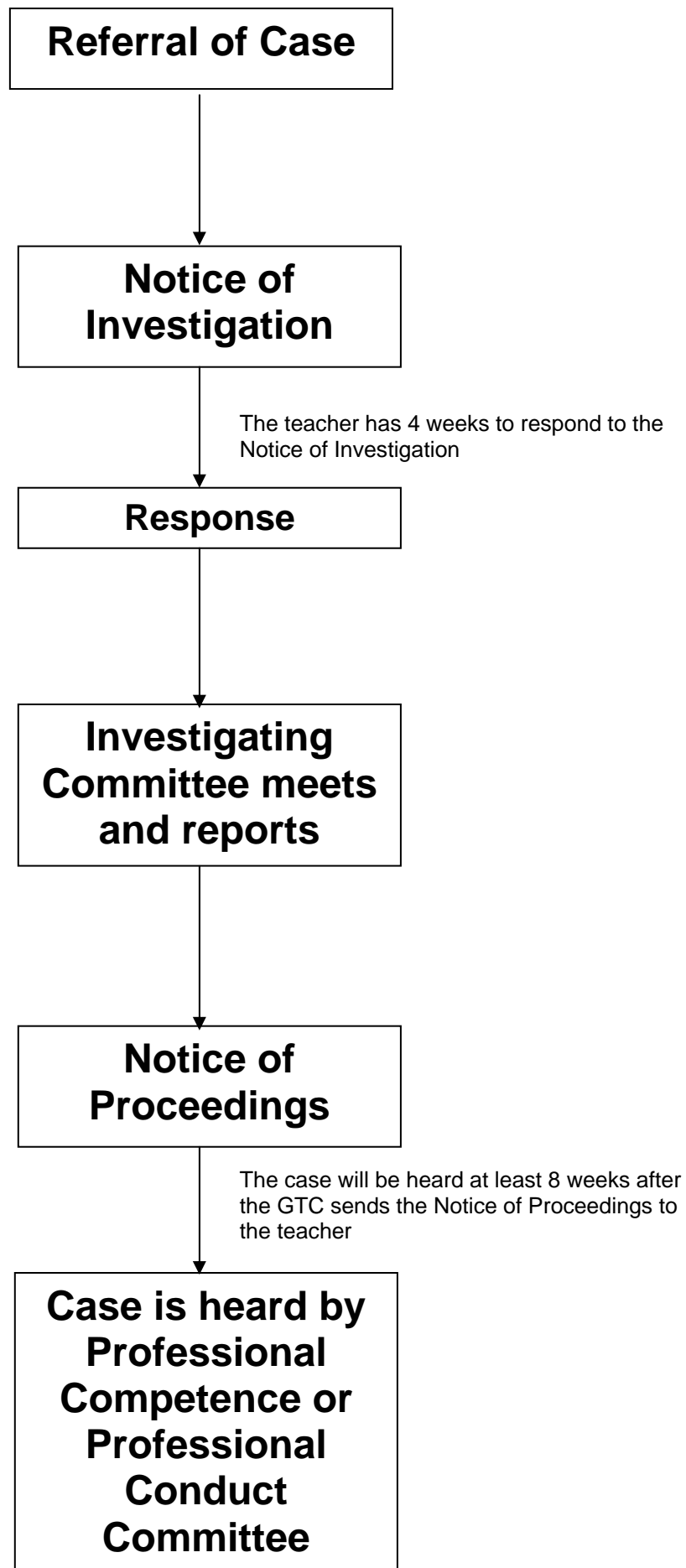
The Council wishes to carry out its disciplinary role, fairly, objectively and openly. It wishes its procedures to be clear and understandable. A flowchart of the Council's procedures is attached. Because the proceedings may be open to the public, it is possible that there may be press interest in cases. The Council manages all communications with the press through its media officer, Susan Limb, who can be contacted on 020 7023 3907. The Council will not promote coverage of disciplinary cases and will only issue factual statements in response to any press queries.

If you have any queries about the operation of these procedures, you may raise them either personally or through your representative with the following members of staff:

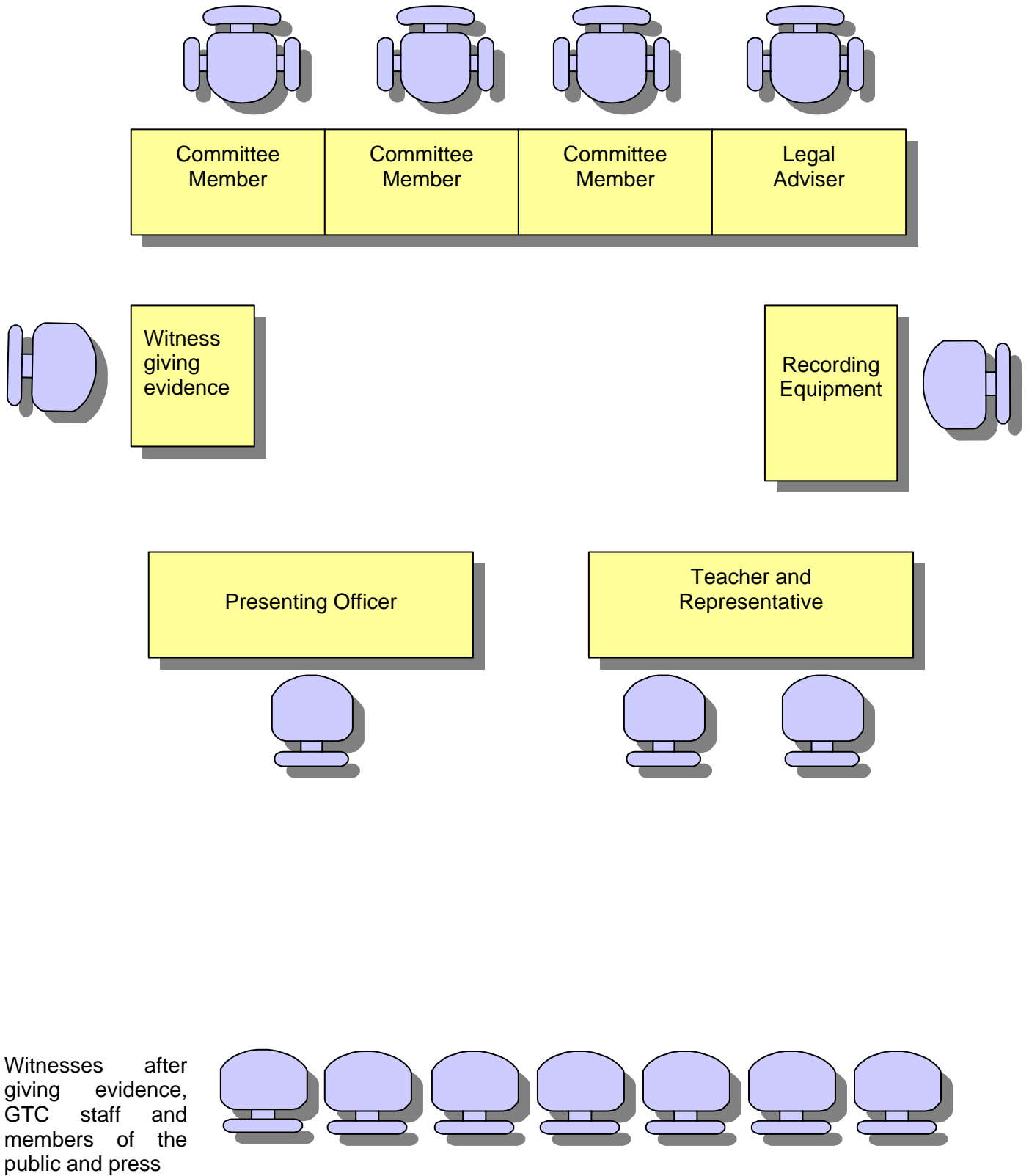
- **Investigating Team Leader** - **Alan Sweeney**  
(0121) 345 0065  
alan.sweeney@gtce.org.uk
- **Investigating Team Leader** - **Sharon Timmins**  
(0121) 345 0044  
sharon.timmins@gtce.org.uk
- **Professional Conduct/  
Competence Team Leader** - **Anita Jones**  
(0121) 345 0062  
anita.jones@gtce.org.uk
- **Professional Conduct/  
Competence Team Leader** - **Ian Davies**  
(0121) 345 0096  
ian.davies@gtce.org.uk
- **Professional Conduct/  
Competence/Induction Appeals  
Team Leader** - **Nicola Bailey**  
(0121) 345 0087  
nicola.bailey@gtce.org.uk

**The Professional Standards Team is based at the following address:**

**Victoria Square House  
Victoria Square  
Birmingham  
B2 4AJ**



## Layout of GTC Hearing Room



## **'Running Order' for Conduct and Competence Hearings**

### **1. Opening of the hearing by the Chair and confirmation of attendees**

The Chair introduces themselves and the other members of the Committee hearing the case and explains the arrangements for the hearing.

The Chair asks the teacher and/or their representative and the Presenting Officer to confirm their identity.

The Chair then asks the parties to confirm the names and occupations of any witnesses they intend to call. The teacher and/or their representative is also asked to confirm whether the teacher will be giving evidence.

The Chair asks the parties whether they contend that witnesses should be present during the hearing prior to giving their evidence.

### **2. Public hearing**

The Chair asks the parties if there are any reasons why all or part of the hearing should be held in private. If there is such a request, the Committee withdraw to consider this in private. The hearing will continue in public session when they announce their decision on this matter.

### **3. Documents**

The Chair confirms that all the papers in the hearing bundle are correct and that everyone has sight of a full set of papers. If either party has new documents to present to the Committee, their admission is considered at this point.

### **4. Hearing procedure**

The Chair outlines the procedure for the hearing.

### **5. Allegation and opportunity for teacher to make admissions**

The Chair/Legal Adviser reads out the Allegation.

The Chair then asks whether the teacher admits the facts of the Allegation and, if so, whether the teacher admits that it amounts to unacceptable professional conduct/serious professional incompetence/conviction for a relevant offence.

The Chair invites the Presenting Officer to read out any Agreed Statement of Facts (where facts admitted).

The Chair invites the Presenting Officer to make an opening statement (where facts disputed).

### **6. Presenting Officer presents evidence/witnesses**

The Chair invites the Presenting Officer to present their evidence (including evidence presented through witnesses). If witnesses are called the Chair asks them to affirm the truth of their evidence or swear an oath according to their religion. Witnesses are then normally asked to read their statements aloud unless the Committee directs otherwise. The Presenting Officer may question their witness(es) whilst the statement is being read or afterwards.

## **7. Allow teacher or representative to question**

The Chair informs the teacher or their representative that they now have the opportunity to ask the witness(es) any questions, or put an alternative version of events to the witness(es) where the teacher disagrees with what the witness(es) has said.

## **8. Members of the Committee to question**

## **9. Re-questioning by Presenting Officer**

The Chair exceptionally allows the Presenting Officer to re-question their witness(es) on new areas raised by the teacher's/representative's/Committee's questions only.

## **10. Release of witness(es)**

The Chair considers whether the witness can be released or whether they may need to be recalled. The parties are asked whether they have a view about this. If witnesses can be released the Chair thanks them for their attendance.

## **11. Teacher or representative presents evidence/witnesses**

- a) The Chair introduces the Committee to each witness.
- b) The Chair administers the affirmation/oath to each witness as they are called and to the teacher when giving their evidence.
- c) The witness/teacher is allowed to read their statement of evidence if available/circulated and unless directed otherwise by Committee.
- d) The teacher or representative is allowed additional questioning if necessary.
- e) The Presenting Officer is allowed to question the witness/teacher.
- f) The Chair and members of the Committee question the witness/teacher.
- g) Exceptionally the Chair allows the teacher or representative to re-question their witness(es) on new areas raised by (e) and (f) only.
- h) The Chair considers whether witness(es) can be released or whether may need to be recalled.

## **12. Committee may request summings up**

The Chair may invite both parties, beginning with the Presenting Officer, to make closing statements summing-up their case. The Chair reminds the parties that new evidence should not be introduced at this stage.

## **13. Committee retire to consider decision**

The Chair asks the parties to return to their respective rooms whilst they adjourn to consider their decision.

## **14. Announcing the decision**

The parties are invited back into the hearing room to hear the Committee announce their decision and their reasons. The decision is always announced in public, regardless of whether or not all or part of the hearing is held in private.

## **15. Conclusion**

The Chair thanks everyone for their attendance and their participation.