
STATUTORY INSTRUMENTS

2001 No. 1268

The General Teaching Council for England
(Disciplinary Functions) Regulations 2001

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the General Teaching Council for England (Disciplinary Functions) Regulations 2001 and shall come into force on 1st June 2001.

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” means the Teaching and Higher Education Act 1998;

“authority” means a local education authority;

“Code of Practice” means the code of practice authorised to be issued under regulation 13 of the General Teaching Council for England (Registration of Teachers) Regulations 2000⁽¹⁾;

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

“disciplinary proceedings” in relation to a teacher in England or Wales means disciplinary proceedings under Schedule 2 to the 1998 Act;

“independent school” has the same meaning as in section 463 of the Education Act 1996⁽²⁾;

“institution within the further education sector” has the same meaning as in section 91(3) of the Further and Higher Education Act 1992⁽³⁾;

“institution within the higher education sector” has the same meaning as in section 91(5) of the Further and Higher Education Act 1992;

“the Register” means the register of teachers which the Council are required to establish and maintain in accordance with section 3 of the 1998 Act and the General Teaching Council for England (Registration of Teachers) Regulations 2000, and “registration” means registration on the Register;

“school maintained by an authority” means a school referred to in section 142(1) of the School Standards and Framework Act 1998⁽⁴⁾; and

“special school” has the same meaning as in section 337(1) of the Education Act 1996⁽⁵⁾.

(1) S.I.2000/2176.

(2) 1996 c. 56; section 463 is amended by paragraphs 57 and 124 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31).

(3) 1992 c. 13.

(4) 1998 c. 31.

(5) 1996 c. 56; section 337(1) is amended by paragraph 80 of Schedule 30 to the School Standards and Framework Act 1998.

(2) The expressions “disciplinary order” (in relation to a teacher in England or Wales), “relevant offence” and “unacceptable professional conduct” are defined in paragraph 8(1) of Schedule 2 to the 1998 Act.

(3) In regulations 18 and 29, “employer” means—

- (a) a person who employs a registered teacher to work as a teacher at—
 - (i) a school maintained by an authority,
 - (ii) a special school not maintained by an authority,
 - (iii) an institution providing further or higher education or both which is maintained by an authority or is within the further education sector, or
 - (iv) an institution within the higher education sector in receipt of financial support under section 65 of the Further and Higher Education Act 1992⁽⁶⁾;
- (b) an authority which employs a registered teacher to work as a teacher otherwise than at a school or institution falling within sub-paragraph (a);
- (c) 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 regularly into contact with persons who have not attained the age of nineteen years; and
- (d) 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 regularly into contact with persons who have not attained the age of nineteen years,

and in sub-paragraphs (a) and (d) above includes a person who engages (or makes arrangements for the engagement of) a registered teacher to provide his services otherwise than under a contract of employment, and “employed” shall be construed accordingly.

(4)

- (a) In regulations 7, 8 and 9 “Committee” means an Investigating Committee, a Professional Conduct Committee, or a Professional Competence Committee; and
- (b) in regulations 11 to 16, 18 and 23 and paragraph 8 of the Schedule “Committee” means a Professional Conduct Committee or a Professional Competence Committee.

(5) In regulations 11 to 15 “hearing” means the hearing by a Professional Conduct Committee or a Professional Competence Committee of disciplinary proceedings against a registered teacher, or a hearing under regulation 20, 21 or 22.

(6) In regulation 8 “registered teacher” means a person for the time being registered under section 3 of the 1998 Act, and in the remaining provisions of these Regulations it means—

- (a) a person for the time being registered under section 3 of the 1998 Act;
- (b) a person who was registered under section 3 of the 1998 Act at the time of any alleged conduct or offence on his part; or
- (c) a person who has made an application to be registered under section 3 of the 1998 Act.

(6) 1992 c. 13; section 65 was amended by the Disability Discrimination Act 1995 (c. 50) and the Teaching and Higher Education Act 1998.

PART II

Disciplinary Functions of the Council

Establishment of Investigating Committees

3.—(1) The Council shall establish one or more committees to be known as Investigating Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of an Investigating Committee are—

- (a) to carry out such investigations as they see fit in cases where—
 - (i) it is alleged that a registered teacher is guilty of unacceptable professional conduct or serious professional incompetence, or has been convicted (at any time) of a relevant offence, or
 - (ii) it appears to them that a registered teacher may be so guilty or have been so convicted; and
- (b) to decide in the light of their investigations whether—
 - (i) a registered teacher has a case to answer in relation to unacceptable professional conduct or conviction of a relevant offence, and the case should be referred for determination by a Professional Conduct Committee,
 - (ii) a registered teacher has a case to answer in relation to serious professional incompetence, and the case should be referred for determination by a Professional Competence Committee,
 - (iii) a registered teacher has a case to answer both in relation to unacceptable professional conduct or conviction of a relevant offence and in relation to serious professional incompetence, and the case should be referred for determination by either a Professional Conduct Committee or a Professional Competence Committee, as they consider appropriate,
 - (iv) a registered teacher has no case to answer and the case against him should be discontinued, or
 - (v) the case against a registered teacher should be discontinued on other grounds.

Delegation of Investigating Committees' functions

4.—(1) An Investigating Committee may delegate to an employee of the Council the functions of—

- (a) deciding whether to investigate, and investigating, allegations of a particular character or description, or particular allegations—
 - (i) against a registered teacher, or
 - (ii) that a registered teacher has been convicted of a relevant offence;
- (b) deciding whether a registered teacher has a case to answer in relation to a matter he investigated under sub-paragraph (a);
- (c) discontinuing a case against a registered teacher where he has decided under sub-paragraph (b) that there is no case to answer.

(2) These Regulations shall apply to the exercise of a function by an employee of the Council as they would apply to the exercise of that function by an Investigating Committee.

Establishment of Professional Conduct Committees

5.—(1) The Council shall establish one or more committees to be known as Professional Conduct Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of a Professional Conduct Committee are—

- (a) to determine cases referred to them by an Investigating Committee where it appeared to the Investigating Committee that a registered teacher has a case to answer—
 - (i) in relation to unacceptable professional conduct or conviction of a relevant offence, or
 - (ii) both in relation to unacceptable professional conduct or conviction of a relevant offence and in relation to serious professional incompetence;
- (b) where a Professional Conduct Committee find a teacher—
 - (i) guilty of unacceptable professional conduct or to have been convicted of a relevant offence,
 - (ii) guilty of unacceptable professional conduct or to have been convicted of a relevant offence and, in addition, guilty of serious professional incompetence,to consider whether to make a disciplinary order in relation to him and, if they consider that such an order should be made, to make a disciplinary order; and
- (c) to determine applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 or 23.

Establishment of Professional Competence Committees

6.—(1) The Council shall establish one or more committees to be known as Professional Competence Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of a Professional Competence Committee are—

- (a) to determine cases referred to them by an Investigating Committee where it appeared to the Investigating Committee that the registered teacher has a case to answer—
 - (i) in relation to serious professional incompetence, or
 - (ii) both in relation to serious professional incompetence and in relation to unacceptable professional conduct or conviction of a relevant offence;
- (b) where a Professional Competence Committee find a teacher—
 - (i) guilty of serious professional incompetence, or
 - (ii) both guilty of serious professional incompetence and guilty of unacceptable professional conduct or to have been convicted of a relevant offence,to consider whether to make a disciplinary order in relation to him and, if they consider that such an order should be made, to make a disciplinary order; and
- (c) to determine applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 or 23.

Use of the Code of Practice in disciplinary matters

7. A Committee may take into account any failure by a registered teacher to comply with the Code of Practice in any disciplinary proceedings against him.

Membership and procedure of Committee

8.—(1) The Council must include on a Committee—

- (a) one or more lay members;
- (b) one or more registered teacher members; and
- (c) if none of the lay members or registered teacher members is a Council member, one or more Council members.

(2) A person who by virtue of regulation 5(2) of the General Teaching Council for England (Constitution) Regulations 1999(7) is not eligible to be a member of the Council or to vote in an election for elected members of the Council shall not be eligible to be a member of a Committee.

(3) The quorum for a meeting of a Committee shall be three members, including one lay member, one registered teacher member and if no lay member or registered teacher member present is a Council member, one Council member.

(4) A person who is a member of the Investigating Committee investigating a case shall not be appointed as a member of the Professional Conduct Committee or Professional Competence Committee which determine that case.

(5) Subject to paragraphs (1) to (4) and regulations 20 and 22 the Council may make such provision as they see fit as to—

- (a) the membership of a Committee;
- (b) the terms on which a Committee's members are to hold and vacate office; and
- (c) the procedure of a Committee.

(6) In this regulation—

- (a) “lay member” means a member of the Committee who—
 - (i) is neither a registered teacher, nor
 - (ii) has been employed, or engaged to provide his services otherwise than under a contract of employment, as a teacher within the period of five years ending with the date of his appointment to the Committee,

and a lay member who becomes a registered teacher or who takes up a post or engagement as a teacher shall cease to be regarded as a lay member;

- (b) “registered teacher member” means a member of the Committee who is—
 - (i) a registered teacher, and
 - (ii) employed, or engaged to provide his services otherwise than under a contract of employment, as a teacher on the date of his appointment to the Committee,

and a registered teacher member who ceases to be a registered teacher or who ceases to hold a post or engagement as a teacher shall cease to be regarded as a registered teacher member; and

- (c) “Council member” means a member of the Committee who is a member of the Council.

Exclusion or restriction of Committees' powers

9.—(1) The functions under these Regulations of an Investigating Committee are excluded in a case where—

- (a) it is alleged that a registered teacher is guilty of unacceptable professional conduct, a registered teacher has been convicted (at any time) of a relevant offence, or it appears to them that a registered teacher may be so guilty or have been so convicted; but

- (b) the Secretary of State wishes to consider the case with a view to exercising his powers under section 218(6)(8) of the Education Reform Act 1988 because it raises issues relating to the safety and welfare of persons under the age of 19.
- (2) The functions under these Regulations of an Investigating Committee are excluded in a case where—
 - (a) it is alleged that a registered teacher is guilty of serious professional incompetence or it appears to them that a registered teacher may be so guilty; but
 - (b) information has not been provided to the Council pursuant to regulation 29 in relation to that teacher.

Proceedings of Investigating Committees

10.—(1) Where an Investigating Committee decide to carry out an investigation in relation to a registered teacher, they shall at such stage in the investigation as they consider appropriate—

- (a) inform the teacher of the nature of the allegation or case against him;
- (b) afford him an opportunity to submit evidence and make representations in writing; and
- (c) consider such evidence and representations and any other evidence and material available to them.

(2) An Investigating Committee may decide to discontinue an investigation at any time before a case is referred for determination by a Professional Conduct Committee or a Professional Competence Committee.

(3) When their investigation is complete the Investigating Committee shall take one of the following steps—

- (a) refer the case for determination by a Professional Conduct Committee;
- (b) refer the case for determination by a Professional Competence Committee;
- (c) discontinue the case.

(4) Where an Investigating Committee decide to discontinue an investigation or a case they shall inform the registered teacher concerned, and when they do so they shall at the same time inform him if they decided that he had no case to answer.

(5) Where an Investigating Committee decide that a registered teacher has no case to answer, they shall at his request publish a statement to that effect.

(6) The Council may make such other provision as to the procedure to be followed by an Investigating Committee in connection with their Investigations and other proceedings as they see fit, and may from time to time revise any rules of procedure made under this paragraph.

Proceedings of Professional Conduct Committees and Professional Competence Committees

11.—(1) A Committee shall determine cases against registered teachers referred to them by an Investigating Committee in accordance with paragraphs (2) to (6), regulations 12 to 15 and rules made by the Council under regulation 16.

(2) Except as provided in paragraph (3), a Committee shall determine all cases, applications under regulation 20 or 22 or matters arising in relation to disciplinary orders under regulation 21 following a hearing.

(8) 1998 c. 40; section 218(6) was amended by section 290(3) of the Education Act 1993 (c. 35) and section 5 of the Protection of Children Act 1999 (c. 14) and subsection (6A) was inserted by section 49(2) of the Education Act 1997 (c. 44) and amended by section 5(3) of the Protection of Children Act 1999. The regulations currently in force under section 218(6) are S.I. 1999/2166 and S.I. 2000/2419.

(3) A Committee may determine a case, application under regulation 20 or 22 or matter arising in relation to a disciplinary order under regulation 21 without a hearing at the written request of the registered teacher against whom disciplinary proceedings are being taken or against whom the disciplinary order was made unless it appears to them necessary in the interests of justice or the public interest to hold a public hearing.

(4) A Committee may decide at any time after a case is referred to them by an Investigating Committee to discontinue that case, and if they decide to discontinue a case they shall inform the teacher concerned and when they do so they shall at the same time inform him if they decided that the case against him was not proved.

(5) Where they do not find the case against a registered teacher proved, a Committee shall at his request publish a statement to that effect.

(6) Where they find a registered teacher—

(a) to have been guilty of unacceptable professional conduct or serious professional incompetence; or

(b) to have been convicted (at any time) of a relevant offence,

a Committee may make a disciplinary order in relation to him in accordance with regulation 18.

Entitlement to appear and be represented at hearings

12. A registered teacher is entitled to appear and make oral representations, and to be represented by any person whom he desires to represent him, at any hearing of a Committee at which his case is considered.

Attendance of witnesses

13. A Committee may require any person to attend and give evidence or to produce documents or other material evidence at any hearing.

Requirement for hearings to be held in public

14.—(1) A Committee shall announce their determination of the outcome of all hearings in public and subject to paragraphs (2) and (3) all hearings of a Committee shall take place in public.

(2) A Committee may deliberate in private at any time and for any purpose during or after a hearing.

(3) A Committee may exclude the public from a hearing or any part of a hearing—

(a) where it appears to them necessary in the interests of justice to exclude the public;

(b) where the registered teacher against whom disciplinary proceedings are being taken 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; or

(c) where it is necessary to protect the interests of children.

Administration of Oaths and affirmations

15. A Committee may require any witness at a hearing to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

Other provisions about Professional Conduct Committees' and Professional Competence Committees' procedure

16. The Council may make such other provision as to the procedure to be followed by a Committee in connection with their determinations and other proceedings as they see fit, and may from time to time revise any rules of procedure made under this paragraph.

Referring cases to other Committees

17.—(1) A Professional Conduct Committee may refer a case for determination by a Professional Competence Committee, and a Professional Competence Committee may refer a case for determination by a Professional Conduct Committee.

(2) A Professional Conduct Committee or a Professional Competence Committee may refer a case to an Investigating Committee.

Disciplinary orders

18.—(1) A disciplinary order shall record the decision of the Committee, the date on which the order is made, and the date on which the order takes effect.

(2) A conditional registration order shall in addition to the items referred to in paragraph (1) specify all the conditions relevant to his employment as a teacher with which the registered teacher is required to comply, and in relation to each such condition, either the period for which it has effect, or that it has effect without limit of time (as the case may be).

(3) A suspension order shall in addition to the items referred to in paragraph (1) specify the period (not exceeding two years) at the end of which the registered teacher again becomes eligible for registration.

(4) A prohibition order shall in addition to the items referred to in paragraph (1) specify the period (which shall not be less than two years beginning with the date on which the order takes effect) before the end of which no application may be made for a determination that the registered teacher is eligible for registration.

(5) Except where a Committee otherwise decide, a disciplinary order shall take effect on the date on which notice of it is served on the person in relation to whom it is made.

(6) A Committee shall—

(a) serve a notice of the disciplinary order on the person in relation to whom it is made containing the following information:

(i) the text of the order,

(ii) a description of the effect of the order,

(iii) the Committee's reasons for making the order,

(iv) notification of his right to appeal to the High Court against the order and the time period for making such an appeal,

(v) where the order is a conditional registration order, an explanation of the steps a Committee are empowered to take should he fail to comply with a condition specified in it, and an explanation of his right to apply to vary or revoke a condition specified in the order and the method for making such an application, and

(vi) where the order is a prohibition order, an explanation of his right to apply for a determination that he is eligible for registration and the method for making such an application;

(b) serve notice of the order on his present or last employer; and

(c) send a copy of the order to the Department for Education and Employment.

(7) Where following the determination of a case by a Committee they decide not to make a disciplinary order in relation to a registered teacher, the Committee shall notify him of their decision and when they do so they shall at the same time inform him of their reasons for the decision including if they decided that the case against him was not proved.

(8) Where they do not find the case against a registered teacher proved, a Committee shall at his request publish a statement to that effect.

Publication of disciplinary orders

19.—(1) The Council may publish the information set out in paragraph (2) in relation to a disciplinary order—

- (a) on a website which they maintain on the Internet for a period of three months starting on the date on which the order takes effect; or
- (b) in such other manner as they see fit.

(2) The information to be published is—

- (a) the name of the person in relation to whom the order is made and the name of the institution at which he was last employed as a teacher, or if he was employed by a local education authority otherwise than at an institution, the name of that local education authority;
- (b) the type of disciplinary order;
- (c) the dates on which the disciplinary order was made and takes effect;
- (d) whether the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence or to have been convicted of a relevant offence;
- (e) where the person was found to have been convicted of a relevant offence, the nature and date of the conviction in question; and
- (f) where the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence, an indication of the nature of the conduct which led to the making of the order.

Application to vary or set aside a condition in a conditional registration order

20.—(1) A registered teacher in relation to whom a conditional registration order has been made may apply to the Council for variation or revocation of any condition specified in the order.

(2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the registered teacher seeks to have any condition specified in the order varied or revoked, and it shall be accompanied by every document he relies upon in support of his application.

(3) Where a conditional registration order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application shall be determined by another Professional Conduct Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

(4) Where a conditional registration order in respect of which an application is made under paragraph (1) was made by a Professional Competence Committee, the application shall be determined by another Professional Competence Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

Consequences of failure to comply with a conditional registration order

21. Where a Professional Conduct Committee or a Professional Competence Committee are satisfied that a registered teacher against whom a conditional registration order has been made has

failed to comply with any condition of it, they may make a suspension or prohibition order in relation to him.

Prohibition orders

22.—(1) A person in relation to whom a prohibition order has been made may apply to the Council for a determination that he is eligible for registration.

(2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the person seeks the determination, and it shall be accompanied by every document he relies upon in support of his application.

(3) Where a prohibition order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application shall be determined by another Professional Conduct Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

(4) Where a prohibition order in respect of which an application is made under paragraph (1) was made by a Professional Competence Committee, the application shall be determined by another Professional Competence Committee which shall not include as a member any person who was a member of the Committee which made the order complained of.

Review of disciplinary orders

23. 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 person 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 obtained evidence not considered by them before they made the order, and they are satisfied that had they been aware of that evidence before they made the order they would not have made it.

Appeals

24. Any person aggrieved by a disciplinary order made in relation to him shall have the right to appeal against the order to the High Court within 28 days from the date on which notice of the order is served on him.

Disciplinary orders made by the General Teaching Council for Wales

25. A disciplinary order made by the General Teaching Council for Wales or a committee of that Council shall apply in relation to England as it applies in relation to Wales.

Service of notices and orders

26.—(1) Anything required to be served on a person for the purposes of disciplinary proceedings may be—

- (a) delivered to him personally; or
- (b) sent to him or left at his address recorded on the Register by post; or
- (c) where he requests in writing that documents be served on him by such method, sent to him by facsimile or electronic mail or similar means which are capable of producing a document containing the text of the communication, in which case the document shall be regarded as served when it is received by him in a legible form.

(2) For the purposes of regulation 18(5) notice of a disciplinary order shall be taken to have been served on the person in relation to whom it was made—

- (a) where it was delivered to him personally, on the day of delivery;
- (b) where it was sent to him by a postal service which seeks to deliver documents by post no later than the next working day in all or the majority of cases or left at his address recorded on the Register, on the second day after the day on which it was sent or left;
- (c) where it was sent to him by a postal service other than one which seeks to deliver documents by post no later than the next working day in all or the majority of cases at his address recorded on the Register, on the fourth day after the day on which it was sent; or
- (d) where he requests in writing that documents be served on him by such method, where it was sent to him by facsimile or electronic mail or similar means which are capable of producing a document containing the text of the communication, on the second day after the day on which it was transmitted.

Publication and provision of copies of documents

27.—(1) The Council shall publish—

- (a) on a website which they maintain on the Internet; and
- (b) in such other manner as they see fit,

any rules of procedure made under regulation 10(6) or 16 and any provision made under regulation 8(5), and shall at the request of any registered teacher provide him with a copy of such rules or provision free of charge.

(2) The Council shall publish any statement they are required to publish under regulation 10(5), 11(5) or 18(8) on a website which they maintain on the Internet, and if they so wish they may publish the statement in such other manner as they see fit.

Witness expenses

28. The Council may pay such reasonable travelling, subsistence and such other allowances as it sees fit in respect of witnesses appearing before a committee.

PART III

Provision of Information by Employers

Provision of information by employers to the Council

29.—(1) The employer of a registered teacher shall in the circumstances specified in paragraph (2) provide the Council with all the information listed in the Schedule that is available to him in relation to such teacher.

(2) The circumstances specified in this paragraph are that—

- (a) the employer dismissed the teacher on the grounds of incompetence; or
- (b) the teacher resigned in circumstances where the employer would have dismissed him or considered dismissing him, had he not resigned, on such grounds.

(3) The Council shall make all information provided to them under this regulation available to an Investigating Committee.

(4) In this regulation, “employer” includes a former employer.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

28th March 2001

Jacqui Smith
Parliamentary Under Secretary of State,
Department for Education and Employment