

2003 No. 1186

EDUCATION, ENGLAND

The General Teaching Council for England (Disciplinary Functions) (Amendment) Regulations 2003

<i>Made</i>	- - - -	<i>29th April 2003</i>
<i>Laid before Parliament</i>		<i>6th May 2003</i>
<i>Coming into force</i>		<i>1st June 2003</i>

In exercise of the powers conferred upon the Secretary of State by sections 5(2)(a) and (3), 6, 15, 15A, 42(6) and (7) of, and paragraph 9 of Schedule 1 and Schedule 2 to, the Teaching and Higher Education Act 1998(a), and after consulting the General Teaching Council for England in accordance with section 42(9) of that Act, the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement and application

- 1.—(1) These Regulations may be cited as the General Teaching Council for England (Disciplinary Functions) (Amendment) Regulations 2003.
- (2) These Regulations shall come into force on 1st June 2003.
- (3) These Regulations shall apply to England.

Amendment of the General Teaching Council for England (Disciplinary Functions) Regulations 2001

2. The General Teaching Council for England (Disciplinary Functions) Regulations 2001(b) shall be amended as follows.
- 3.—(1) Regulation 2 shall be amended as follows.
- (2) In paragraph (1), insert the following new definitions in the appropriate place in alphabetical order—
- ““agent” has the meaning given by section 15A(1) of the 1998 Act;”;
- ““arrangements” means arrangements of the kind referred to in section 15A(1) of the 1998 Act for a worker to carry out work;”;
- and
- ““worker” has the meaning given by section 15A(1) of the 1998 Act.”.
- (3) For paragraph (3) substitute the following—
- “(3) In regulations 13A, 18 and 29 “employer” means—

(a) 1998 c.30; section 15 was substituted and section 15A inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c.32); Schedule 2 was amended by paragraph 12 of Schedule 12 and paragraph 86 of Schedule 21 to the Education Act 2002.

(b) S.I. 2001/1268.

- (a) a local education authority,
- (b) a person exercising a function relating to the provision of education on behalf of a local education authority,
- (c) the proprietor of a school (including an independent school), or
- (d) the governing body of a further education institution.”.

4.—(1) Regulation 9 shall be amended as follows.

(2) In paragraph (1)(b), for the words “section 218(6)” to the end substitute “section 142 of the Education Act 2002 because it raises a relevant issue.”.

(3) After paragraph (2) insert the following new paragraphs—

“(3) Where the Council is in receipt of documents concerning a registered teacher in which a relevant issue arises the Council shall refer those documents to the Secretary of State for his consideration.

(4) Where a Committee is considering allegations of unacceptable professional conduct or serious professional incompetence against a registered teacher or that he has been convicted of a relevant offence and a relevant issue arises, the Committee shall refer those allegations, 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 consideration.

(5) Where a prohibition order is made in relation to a person on grounds of unacceptable professional conduct or a conviction for a relevant offence the Council shall refer the case and copies of all relevant documents to the Secretary of State for him to consider the further exercise of his own powers.

(6) For the purposes of this regulation a “relevant issue” arises where the circumstances of the case, including occasions of conduct other than that in question, are such as to raise an issue concerning the safety and welfare of persons under the age of 18.”.

5. After regulation 13 insert the following new regulation—

“**13A.** An Investigating Committee may require an employer or an agent to give evidence or to produce documents or material evidence that the committee considers relevant to the carrying out of an investigation.”.

6.—(1) Regulation 18 shall be amended as follows.

(2) For paragraph (3) substitute—

“(3) A suspension order shall in addition to the items referred to in paragraph (1) specify—

- (a) the period (not exceeding 2 years) at the end of which the registered teacher, subject to sub-paragraph (b), becomes eligible again for registration; and
- (b) any conditions with which the registered teacher must comply before he becomes eligible again for registration.”.

(3) In paragraph (6)(a)(v), after “application,” omit “and”.

(4) After paragraph (6)(a)(vi) insert—

“and

- (vii) where the order is a suspension order, 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.”.

(5) In paragraph (6)(b), after “employer” insert “and, where relevant, agent”.

7.—(1) Regulation 20 shall be amended as follows.

(2) In paragraph (1) after “conditional registration order” insert “or suspension order”.

(3) In paragraph (3) after “conditional registration order” insert “or suspension order”.

(4) In paragraph (4) after “conditional registration order” insert “or suspension order”.

8. For regulation 29 substitute the following new regulation—

“29.—(1) Where an employer—

- (a) has ceased to use a registered teacher’s services on grounds relating to his professional incompetence; or
- (b) might have ceased to use a registered teacher’s services on such a ground had the registered teacher not ceased to provide those services,

the employer shall report the facts of the case to the Council and provide the Council with all the information listed in Part 1 of the Schedule that is available to him in relation to the registered teacher.

(2) Where an agent, in relation to a worker who is a registered teacher—

- (a) has terminated the arrangements on grounds relating to his professional incompetence;
- (b) might have terminated the arrangements on such a ground if the registered teacher had not terminated them; or
- (c) might have refrained from making new arrangements for a registered teacher on such a ground if the registered teacher had not ceased to make himself available for work,

the agent shall report the facts of the case to the Council and provide the Council with all the information listed in Part 2 of the Schedule that is available to him in relation to the registered teacher.

(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.

9. For the Schedule substitute the following—

“

SCHEDULE

Regulation 29

INFORMATION

PART 1

INFORMATION TO BE SUPPLIED BY AN EMPLOYER

1. A statement of reasons for ceasing to use the person’s services.
2. Employer’s records relating to the cessation of the use of the person’s services or any contemplated cessation, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.
3. Employer’s records relating to the conduct which eventually led to the cessation of the use of the person’s services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services, including notes and minutes of meetings, interviews notes and evidence supplied or obtained by the employer.
4. Employer’s letters, warnings or notices issued to a person in relation to the cessation of the use of his services or contemplated cessation, or conduct which eventually led to the cessation of the use of the person’s services or might, but for the person having ceased to provide those services, have led the employer to cease to use those services and the person’s replies or representations in relation thereto.

5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of his services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services.

6. Letter advising a person's intention to cease to provide services.

7. Any other document or information which the employer considers is relevant to any investigation which may be carried out by the Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher.

PART 2

INFORMATION TO BE SUPPLIED BY AN AGENT

8. Statement of reasons for terminating the arrangements.

9. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the agent.

10. Any records relating to the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes and evidence supplied or obtained by the agent.

11. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led the agent to refrain from making new arrangements, and the worker's replies or representations in relation thereto.

12. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led to the agent to refrain from making new arrangements.

13. Worker's letter terminating arrangements or ceasing to make himself available for work.

14. Any other document or information which the agent considers is relevant to any investigation which may be carried out by the Investigating Committee or any proceedings which may be taken by a Committee against a registered teacher."

29th April 2003

David Miliband
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the General Teaching Council for England (Disciplinary Functions) Regulations 2001 (“the Disciplinary Regulations”).

Regulation 4 amends regulation 9 of the Disciplinary Regulations to provide a duty on the General Teaching Council for England (“the Council”) and its committees to provide information about cases to the Secretary of State where an issue relating to the safety and welfare of children arises and where a prohibition order has been made on grounds of unacceptable professional conduct or following a conviction for a relevant offence.

Regulation 5 inserts a new regulation to provide an Investigating Committee with a power to request information from an employer or an agent which the committee considers relevant to an investigation.

Regulation 6 amends regulation 18 of the Disciplinary Regulations to allow for suspension orders to contain conditions which a registered teacher must comply with before he becomes eligible for registration. Regulation 7 amends regulation 20 of the Disciplinary Regulations to allow a registered teacher to apply for such conditions to be varied or revoked by the Council.

Regulations 8 and 9 amend regulation 29 of, and the Schedule to, the Disciplinary Regulations to provide the circumstances where an employer or a person who arranges for a registered teacher to carry out work for such an employer are required to provide information to the Council.

STATUTORY INSTRUMENTS

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