

2 April 2009

Interested Parties

CONSULTATION ON THE FUTURE STATUS OF THE GENERAL TEACHING COUNCIL FOR SCOTLAND

This consultation document invites comments on the future status of the General Teaching Council for Scotland. Currently, the GTCS is classed as an advisory Non-Departmental Public Body (NDPB). This means that while it is not a Government Department, it is still part of the structure of Government in Scotland and is sponsored by Schools Directorate.

In January 2008, the First Minister announced that the GTCS would be established as a “self-regulating, profession-led body, along the lines of the General Medical Council”. The move away from being an advisory NDPB to a fully independent body provides an opportunity to consider the responsibilities of the GTCS and the way in which these responsibilities are delivered. This consultation invites comments on the future role of the GTCS and how the organisation should be governed.

The consultation is now available online at www.scotland.gov.uk/consultations.

Responding to this consultation paper

We are inviting written responses to this consultation by **26 June 2009**.

It is possible to respond to this consultation by downloading the response form from www.scotland.gov.uk/consultations and then by sending the form to David.Roy@scotland.gsi.gov.uk. Alternatively respondents may print the consultation, remove chapter 4 from the paper itself and send it the address below.

David Roy, Teachers Division, Scottish Government, 2C South, Victoria Quay, Edinburgh, EH6 6QQ

If you have any queries contact David Roy on 0131 2444925.

We would be grateful if you would use the consultation response form provided as this will aid our analysis of the responses received. However the use of the response form is optional and responses on any relevant issue in any format are welcome.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** enclosed with this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages by August 2009. We will check all responses where agreement to publish has been given for

any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help the Scottish Ministers take decisions regarding the future status of the GTCS. We are aiming to issue a report on this consultation later in the year. Stakeholders may wish to note that the Public Service Reform Bill, which is needed to allow the Scottish Government to take forward changes to the Council, is due to be introduced to the Scottish Parliament in spring 2009.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the address above.

Thank you for taking time to participate in this consultation.



Michel Kellet
Deputy Director
Teachers Division

towards an independent general teaching council for scotland

consultation on the future status of the gtcs



DEVELOPMENT

ACCOUNTABILITY

OPPORTUNITY

LEADERSHIP

towards an independent general teaching
council for scotland

consultation on the future status of the gtcs

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1 Introduction

1. The General Teaching Council for Scotland (GTCS) is the regulatory body for the teaching profession in Scotland. This consultation document invites comments on the future role of the GTCS and how the organisation should be governed.

Background to the consultation

2. The GTCS was the first Teaching Council in the United Kingdom and one of the first teaching Councils in the world. It was established by the Teaching Council (Scotland) Act 1965 ('the 1965 Act') following concerns about the fact that unqualified teachers were working in Scottish schools. In continuing to ensure that an effective and well trained teaching profession is in place in Scottish schools, the GTCS makes a crucial contribution to the education of Scotland's children.

The GTCS has three principal aims:

- > to contribute to the development of a world-class educational system in Scotland;
- > to maintain and to enhance professional standards in schools and colleges in collaboration with partners; and
- > to be recognised as an advocate for the teaching profession.

3. Currently, the GTCS is classed as an advisory Non-Departmental Public Body (NDPB). This means that while it is not a Government Department, it is still part of the structure of Government in Scotland and is sponsored by the Schools Directorate. In January 2008, the First Minister announced that the GTCS would be established as a "self-regulating, profession-led body, along the lines of the General Medical Council". The move away from being an advisory NDPB to a fully independent body provides an opportunity to consider the responsibilities of the GTCS and the way in which these responsibilities are delivered. This consultation seeks views on a range of options relating to the functions of the GTCS and the way in which these functions should be undertaken.



4. The GTCS is trusted and well respected, both by those directly involved in the delivery of teaching as well as by the Scottish Ministers, as a regulator with a good track record in ensuring that teachers working in Scotland's schools conform to high standards. The move to independence is an endorsement of the good work undertaken by the GTCS over the past 44 years. In addition, it should be noted that while regulation is a core function, the GTCS has a wider responsibility than other regulators of the teaching profession in the United Kingdom. Through its accreditation of courses, its role in the development and maintenance of the teaching standards and its influence on all areas of educational development, it has become a significant professional body in Scotland.

Financial Independence

5. In addition to the good track record of the GTCS, it is important to note that the organisation is wholly self-funded by the registration fees that teachers pay on an annual basis. Unlike most other NDPBs the GTCS receives no additional funding from the Scottish Government and the move to independence will not change this arrangement. (Annex A compares the fee level set by the GTCS with other regulatory bodies).

What will change?

6. The move to independence gives an opportunity to examine the precise role of the GTCS and the way in which it carries out its business. This consultation therefore considers possible changes to the responsibilities of the GTCS alongside possible changes to its organisational structure.
7. Despite the possible changes discussed in chapters 2 and 3 of this paper, the Scottish Government does not believe the move to independence will result in a significant change to the core functions of the organisation. The over-arching responsibility, through strong regulation, to ensure that the teaching profession is well placed to provide the best possible standard of education for Scotland's children, will remain central to all the activities the GTCS is involved in. It is in this light that any change in function should be considered. In short, the core responsibilities of the GTCS are likely to remain broadly the same in an era of independence as they are now.

8. In considering the options set out in this consultation paper, it should be noted that the Scottish Government has no fixed plan as to the future role and make-up of an independent GTCS. The responses to the consultation will be carefully considered by the Scottish Government in conjunction with other key stakeholders to ensure that the final proposals help create a GTCS that is well placed to discharge its responsibilities as an independent body while contributing to the Scottish Government's National Outcomes which include ensuring:
- > our young people are successful learners, confident individuals, effective contributors and responsible citizens;
 - > our children have the best start in life and are ready to succeed; and
 - > we are better educated, more skilled and more successful, renowned for our research and innovation.

9. This consultation focuses on the principles that will underpin a newly independent GTCS. The power to make these changes will be included in the Public Service Reform Bill, due to be introduced to the Scottish Parliament in Spring 2009. The powers introduced in the Bill and any secondary legislation made using the powers, will be subject to scrutiny of the Scottish Parliament. Consultees may find it beneficial to read this consultation paper in conjunction with an up to date copy of the 1965 Act. A copy of the 1965 Act, as amended can be downloaded from the link below.

<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Primary&PageNumber=64&NavFrom=2&activeTextDocId=1556632>

Structure of the GTCS

10. The Scottish Government believes that as an independent body, the GTCS should have a large degree of flexibility in terms of being able to set its own structure. While giving some flexibility, the 1965 Act tightly governs elements of the way in which the GTCS operates. Currently, if the GTCS wanted to amend some aspects of its organisational structure, it would be necessary for Government to either take forward primary or secondary legislation. The Scottish Government intends giving the independent GTCS broad powers allowing the organisation to determine its own internal structures, without recourse to legislation.



Context of the move to independence

11. This consultation focuses on potential changes to the responsibilities and governance of the GTCS. However, it is worth noting that this discussion is taking place at a time of significant change to the regulatory landscape in Scotland and the UK. The GTCS, for many years the only Teaching Council in the UK, has, through the Teaching and Higher Education Act 1998, now been joined by Councils for England, Wales and Northern Ireland. In addition, the bodies that regulate the health professions are currently undergoing considerable change further to the February 2007 White Paper – *Trust, Assurance and Safety: The Regulation of Health Professionals in the 21st Century*.

12. When announcing the change to the status of the GTCS, the First Minister stated that the Council should be developed “along the lines of the GMC (General Medical Council)”. The UK Government has recently introduced legislation that has changed the way in which organisations such as the General Medical Council (GMC), Nursing and Midwifery Council (NMC) and the General Dental Council (GDC) are constituted. The size of their Councils has been reduced, they have moved to a position where all Council members are appointed, rather than elected, while the balance between lay and professional members is equal. In one case, the General Optical Council, they are moving towards having a lay majority of Council members. For more detailed information on the changes to the health regulators please see the final report of the White Paper Working Group *Trust, Assurance and Safety: Enhancing Confidence in Healthcare Professional Regulation – Final Report*.

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085162

13. It is also relevant to note that the two other Scottish regulatory bodies that were introduced in 2001, the Care Commission and the Scottish Social Services Council, also both have small Councils composed of individuals appointed by the Scottish Ministers. More information about how some of the other regulatory bodies are composed, including the other UK Teaching Councils, is given in Annex A.

14. It is worth emphasising that although the move to independent status is taking place within a context of considerable change within the professional regulatory framework more widely, the GTCS is in a different position to the health regulatory bodies. The regulation of teaching has not been subject to a series of significant inquiries, nor is there is a suggestion that the GTCS has in some way lost the trust of the public and profession. The move to independence is in itself an endorsement of the work of the Council and the change in status provides an opportunity to discuss the issues considered in this consultation.
15. It is however important that changes to the wider public sector landscape are recognised and that the GTCS is constituted in a way that retains public confidence, while allowing the organisation to continue to act a strong regulator for the profession. It plays an important role in the well-being and future economic prosperity of Scotland because good teachers help pupils to become successful learners, confident individuals, responsible citizens and effective contributors to society. Ensuring the teaching profession is well placed to meet the challenges of teaching in 21st century Scotland is therefore a critical task.

Previous Reviews of the GTCS

16. It is also worth noting that the scope of the Council's work and the way in which it is organised have previously been discussed. A 1999 Scottish Government consultation document sought views on a series of recommendations that were originally made in a review of the GTCS by Deloitte and Touche. The Scottish Government's response is set out in the "Improving our Schools" consultation report. The Deloitte and Touche review, and the subsequent consultation and report, proposed changes to role and structure of the GTCS, some of which were adopted in the amendment to the 1965 Act brought forward in the Standards in Scotland's Schools etc. Act 2000.¹ For example, the 2000 Act set the composition of the current Council.
17. In many respects this consultation is a continuation of the discussion started in 2000, and the forthcoming changes that will be made to the GTCS in terms of the responsibilities and governance can be viewed as being part of a gradual evolution of the organisation as opposed to a sudden change. More information on the Deloitte and Touche Report is available at:

<http://www.scotland.gov.uk/library2/doc01/rgtc-00.htm>

¹ A copy of the Standards in Scotland's Schools etc. Act 2000 is available at http://www.opsi.gov.uk/legislation/scotland/acts2000/asp_20000006_en_1



18. More information on the “Improving our Schools Consultation” is available at:
<http://www.scotland.gov.uk/library2/doc01/iosc-00.htm>

Legislative process/timetable

19. The Public Service Reform Bill, which is scheduled to be introduced in the spring of 2009, will give the Scottish Ministers power to form an independent Council. It is likely that secondary legislation will also be required, further to the Bill, to set out some of the detail about the way in which the Council will operate.
20. It will not be possible to have all the legislative provisions for a new, independent Council in place by November 2009 when the term of the current Council ends. Accordingly, it will be necessary to elect/appoint/nominate a new Council under current arrangements in advance of this date. It is likely that the Council elected/appointed in 2009 will not serve its full term and will be wound-up early allowing for the new legislation relating to an independent GTCS to be implemented. It is therefore estimated that the November 2009 Council will exist for around 2 years.

2 Functions of an Independent General Teaching Council for Scotland

2.1 Introduction

21. The change in status of the GTCS to a fully independent teaching regulator provides a natural opportunity to consider amending the Council's existing statutory functions. This section will discuss the powers and functions of the GTCS and will consider whether its role should be amended.² This section also considers the impact the change in status will have on the relationship between the GTCS and the Scottish Government.
22. In terms of the Teaching Council (Scotland) Act 1965 the key functions of the Council are:

- > to maintain a register of those entitled to teach in public sector schools;
- > to keep under review the standards of education, training and fitness to teach of persons entering the teaching profession in Scotland and to make recommendations to Scottish Ministers on this matter. This includes maintaining and enhancing the Professional Standards – the Standard for Initial Teacher Education, the Standard for Full Registration, and the Standard for Chartered Teacher, and administering the Standard for Headship;
- > to keep itself informed of the education and professional preparation of teachers in teacher education institutions, and to review the content and arrangement of and to accredit initial teacher education programmes;
- > to determine whether, in any particular case under its registration and disciplinary powers, registration is to be refused or withdrawn on grounds of professional conduct or withdrawn on grounds of professional competence;
- > to make recommendations to Scottish Ministers on the supply of teachers;
- > to oversee the management of the probationary period for teachers;

² The General Functions of the Council are set out in sections 2-6 of the 1965 Act, as amended.



- > in the area of Continuing Professional Development (CPD) –
 - to accredit all modules and programmes leading to the award of Chartered Teacher and all programmes leading to the award of the Standard for Headship;
 - to manage the support and assessment of claims for the accreditation of prior learning by experienced teachers who can demonstrate that they have achieved the Standard for Chartered Teacher;
 - to convene a professional interview in respect of a teacher recommended for the professional award of the Standard for Headship as part of the national Flexible Routes to Headship pilot project;
 - to make recommendations to Scottish Ministers on the career development, ie CPD and staff development and review of teachers, and such other recommendations as may be necessary from time to time.

23. The Scottish Ministers do not believe that the functions of the GTCS should be significantly altered as a result of the move to independent status and accordingly the GTCS will continue to be responsible for the functions listed above. Despite the move to independence, the central responsibility of the GTCS will continue to be to ensure that through strong regulation of the profession, children receive the best possible quality of teaching. In undertaking this responsibility, the maintenance of the register and keeping the standards under review will remain the core functions of the organisation. Ministers do however appreciate that as a widely respected, independent, profession-led body, the GTCS may be in a position to develop its existing responsibilities.
24. To help easily address topical issues and changing priorities relating to education policy, the Scottish Government believes that the functions of an independent GTCS should be defined within a set of relatively broad parameters. This would allow the organisation to adapt its role in relation to existing functions in consultation with key education stakeholders, including the Scottish Government and employers, without having to rely upon Government to legislate to give a statutory base for the additional responsibility. The arrangement would also allow the Scottish Government to reflect upon the changes to the education landscape more generally, and then consider, with Council, whether their degree of involvement, within the set parameters, needed to be altered. The Scottish Government intends to use the powers in the Public Service Reform Bill to set out this arrangement in more detail.

2.2 Responsibility for the Teaching Standards

25. There are currently four standards relating to teachers; the Standards for Initial Teacher Education, Full Registration, Chartered Teacher and Headship that describe the qualities and competencies teachers should have at various stages of their career. The Standards are not set out in statute nor is there a clear basis signalling who should take overall responsibility for them. Currently the GTCS works with the Scottish Government and others in setting, maintaining and developing the standards. In effect the GTCS currently manage the Standards (apart from Headship) with the Scottish Government playing a role in agreeing and helping to set their content. An independent GTCS could take additional responsibility in relation to the standards.

What should this role be?

26. The Scottish Government does not believe that any one particular body in the Scottish education establishment should actually own the standards. The standards are currently developed by GTCS in a partnership arrangement involving the Scottish Government and other stakeholders. It is however possible that the GTCS could effectively take on additional responsibility and act as a guardian of the suite of standards. This would involve taking overall responsibility for the maintenance and development of the standards in conjunction with other players in Scottish education such as the Scottish Government, teachers' employers and universities.

An alternative approach: retention of the status quo

27. Despite the safeguards present in the approach outlined above (the requirement for the GTCS to work on conjunction with other actors), it could be argued that the best arrangement for Scottish education as a whole would be to retain the status quo, with the Scottish Government, in partnership with the GTCS, continuing to play a significant role in determining the content of the Standards. This would allow the Scottish Government, again in conjunction with its partners such as the GTCS, local authorities and teacher trade unions, to more readily adapt the standards to reflect changing national priorities.

Question

Q1: Would it be appropriate for the GTCS to be given a more explicit responsibility in relation to the standards?



2.3 Entry Requirements to, and Approval of Courses of, Initial Teacher Education

28. Another area where the responsibility of the GTCS could be increased is in respect of Entry Requirements to Courses of Initial Teacher Education (ITE) in Scotland. Currently, the Scottish Ministers, in consultation with the GTCS and Her Majesty's Inspectorate of Education, decide the entry requirements for admission to teacher education courses in Scotland. This, in conjunction with the potential role of guardian in relation to the Standards and ongoing control over admissions to the register from outwith Scotland, would give the GTCS full responsibility in relation to who could teach in local authority schools in Scotland.
29. It is also possible that the GTCS could take on an additional role in relation to approving all initial teacher education programmes without recourse to the Scottish Government. The current arrangement is that the GTCS accredits Initial Teacher Education courses and that the Scottish Government approves them. In practice, the Scottish Government has always approved courses accredited by the GTCS but under current arrangements the Scottish Government could, in theory, decline to approve any courses that they felt were not appropriate.

An alternative approach: retention of the status quo

30. In a similar manner to the discussion on standards in section 2.2, an alternative approach would be to retain the status quo.

Questions

Q2: Should the GTCS assume responsibility for setting entry requirements to Courses of Initial Teacher Education?

Q3: Should the GTCS assume responsibility for the approval of initial teacher education courses?

2.4 Continuing Professional Development

31. In 2000 the general functions of the Council were expanded to include a duty to consider and make recommendations to the Scottish Ministers on the 'career development' of teachers. Currently the GTCS accredit all modules and programmes leading to the award of the Standards and could potentially take on more responsibility in relation to CPD. Currently the Council:
- > operates the Framework for Professional Recognition/Registration. This offers teachers the opportunity to take further responsibility for their own development, and is designed to create new exciting possibilities for registered teachers in Scotland;
 - > organises the Professional Interview Panel for the Flexible Routes to Headship (FRH) programme;
 - > is involved in the Chartered Teacher programme through the accreditation route (now closed to new applicants) and through accrediting all modular Chartered Teacher programmes provided by universities.

What additional function could the GTCS provide in relation to CPD?

32. As potential guardian of the Standards, it has been suggested that the GTCS could expand its role to approve programmes and other routes leading to the award of the Standards. It has also been suggested that the GTCS could take on a greater role in relation to the general professional development of teachers.
33. In terms of programmes of professional development for teachers at any stage in their career, the GTCS could work with the providers of the courses, and other stakeholders, to ensure that the courses being provided helped teachers in Scotland develop the skills they need to do their job effectively. It may also be appropriate for the GTCS to discuss, and thereafter consult on, the introduction of a system of professional re-accreditation, in which evidence of teachers' professional development might play a key part in confirming that they have kept up to date with good practice and maintained professional standards.
34. The Scottish Government would be interested to hear the views of stakeholders as to whether CPD is an area in which the GTCS should be more involved.

Question

Q4: Do you think the GTCS should expand its role to into CPD? If so, what do you think this role should consist of?



3 Governance of an Independent General Teaching Council for Scotland

3.1 Introduction

35. This chapter focuses on the governance arrangements for an independent Council. It seeks views on issues such as how the new Council should be formed, how it should operate, who should sit on it and what size it should be. It also seeks views on how best to make the Council accountable as an independent, profession-led, public body while seeking views on the best way to ensure the public interest is fully represented.
36. The GTCS was established under the Teaching Council (Scotland) Act 1965, and as such, the composition and structure of the organisation was designed more than 40 years ago. It is widely acknowledged as an effective and professional organisation that carries out its functions to a high standard. Changing the status of the GTCS provides an opportunity to examine, and make amendments to the way in which the Council operates. It is also an opportunity to reflect on recent developments in the regulatory landscape. For example, many other regulatory bodies have reduced the size of their councils and now operate a system through which members are independently appointed to Council, rather than elected or appointed by a named organisation. (Annex A gives more detail on the size of regulatory body Councils.)
37. The organisational structure of the GTCS needs to support the continued delivery of its core functions. It must also be well positioned to respond flexibly and strategically to the fast-moving education policy environment while ensuring that the public interest is well represented.

Professional Majority in Council

38. Currently, elected teachers outnumber appointed and nominated members by 26 to 24 in a Council comprising 50³ members. However, many other regulatory bodies now have parity between professional members and lay members in their Councils. Parity was introduced to the membership of these Councils to help increase their public credibility by demonstrating that they are open, actively taking account of the public interest and not in a position by which the interests of professionals could appear to be paramount.

³ 1965 Act, Schedule 1, Part 1 sets out the balance composition of the Council

39. As previously discussed, the GTCS is currently well respected both by professionals and the public. While this chapter of the consultation considers the size of the Council and its composition, it does not consider changing the professional majority in Council. Although the size and composition of Council could change, the Scottish Ministers are minded to retain the professional majority in an independent GTCS as a key component of a credible self-regulating, profession-led body. The consultation does however seek views on methods by which the public interest would be properly represented on the newly independent GTCS.

3.2 Size of the Council

40. The current Council has 50 members, 26 of which are elected, 18 are appointed and 6 are nominated by the Scottish Ministers. This size of Council and its composition is set by the 1965 Act, as amended. The Council of 50 was originally put in place so that as many bodies as possible with a significant interest in teaching in Scotland could be represented. The large Council also allows for the GTCS to ensure that their committees are all populated by Council members. While the Council of 50 has served teaching in Scotland well by allowing individuals from across Scottish education to be involved, the move to independent status gives an opportunity to review whether the current size and composition of Council should remain.

Appropriate size of the GTCS

41. The appropriate size of the Council depends partly on the role its individual members are expected to carry out. If the current committee structure continues and committees are required to contain a significant number of Council members, then a large Council may be required. However, if the Council moves to use a system of co-option more frequently, as discussed below, then the number of Council members could be reduced as their place in committees could be taken up by non-Council members.
42. The Scottish Government believes there are advantages that could be gained through reducing the size of the Council. The Scottish Government's view is that a Council reduced in size could be more effective in helping to ensure effective strategic oversight of the organisation. Fewer members could also allow Council to become a more dynamic forum for debate. While some progress has been made recently in this respect there is scope for further development.



43. It is worth noting that the Deloitte and Touche Review of June 1999 compared the size of the GTCS Council with other regulatory bodies. They felt that in terms of overall size, the GTCS was not out of line with its comparators, which included the General Medical Council and General Dental Council. Despite this, they suggested that a professional organisation fitted for the future will be one which “is focused on the wider interest” and “has an efficient and lean organisational structure”. The authors went on to recommend that the size of Council was reduced to 39, on the basis that the size of committees was also reduced and the use of co-option was increased.

Why do other regulators, particularly in the Health Sector, now have smaller Councils?

44. The move to smaller Councils in the health sector reflects the final report of the February 2007 White Paper Working Group *Trust, Assurance and Safety: Enhancing Confidence in Healthcare Professional Regulation*, which recommended that Health regulators should move to Councils of between 9 and 15 members. The White Paper final report argued that a council cannot operate in a ‘board-like’ manner, holding the executive to account, if it is overly large. The report recommended that Councils should focus on strategic rather than operational issues with the aim of assuring excellence in delivery in the long term. The report believed that in order to do this, councils will need to be smaller to ensure effective strategic decision making, shifting away from the model of large representative bodies that seek to include all interests. While the report focused only on the Health Regulators, the UK Government supported this recommendation and commented that they believe that it applies equally to all professional regulatory bodies. The Scottish Government also supported this recommendation.

Ability to co-opt non Council member to committees

45. It is acknowledged that the level of workload undertaken by Council is growing, especially in relation to disciplinary and competence work, and that current arrangements by which the Council of 50 manage the entire committee workload is gradually becoming unworkable. In the current Council, this issue has been exacerbated by the fact that a high number of Council members have resigned their position over the course of the term. Clearly reducing the number of Council members within the current committee structure would significantly increase the amount of work a smaller group of members would be required to do.

46. One potential solution could be to co-opt, or appoint, non-Council members to committees to ensure they were fully populated.⁴ It is the intention of the Scottish Government that the GTCS is provided with suitable flexibility in its organisational structure so that it is able to determine its own committee structure. This will include the ability to co-opt Council and committee members as required.
47. The next section of the consultation discusses the composition of the independent Council and the definition of 'lay member'. As both issues may have an impact on the most appropriate size for Council, stakeholders are advised to consider the other parts of chapter 3 before answering the question below.

Question

Q5: What do you think is the most appropriate size for an independent Council?

4 The 1965 Act would currently allow for co-option to take place to the Council's Standing Committees and related working groups. However, the 1965 Act does not allow for non-Council members to serve on the statutory committees, including the Disciplinary Sub-Committee.



3.3 Composition of the Council

48. If the size of the Council changed then it is likely that the number of representatives of each sector would be required to change and it is also possible that categories could be removed and new ones created. Even if it is decided that there should be no change in the size of Council, the move to independence gives an opportunity to consider the Council's composition.
49. Currently the Council is made up of a set number of individuals who are *elected*, *appointed* and *nominated* to serve for a term of four years. The composition of the Council is set out in the 1965 Act, as amended. There are 26 members elected from the teaching profession, 18 appointed by named organisations and 6 nominated by the Scottish Ministers. The lists below give this breakdown in more detail.

Elected Members (26)	Appointed Members (18)
Primary/Nursery Head Teachers (4)	Convention of Scottish Local Authorities (3)
Primary/Nursery Teachers (7)	Association of Directors of Education in Scotland (3)
Secondary Head Teachers (3)	Further Education Colleges (1)
Secondary Teachers (8)	Scottish Council of Independent Schools (1)
Pre-school/Non-school teachers (1)	Relevant Institutions (4)
Further Education (2)	Universities Other than Relevant Institutions (3)
Relevant Institutions (1)	Church of Scotland (1)
	Roman Catholic Church (1)
	Association of Directors of Social Work in Scotland (1)

50. The 1965 Act, as amended, states that the 6 individuals nominated by the Scottish Ministers are intended to represent particular elements of the public interest. The Scottish Ministers shall:
- > ensure that at least one nominee represents the interests of parents and pupils;
 - > ensure that at least one nominee is engaged in, or represents the interests of persons engaged in, commerce or industry;
 - > ensure that at least one nominee is engaged in, or represents the interests of persons engaged in, the teaching of children or young persons with additional support needs; and
 - > have regard to the desirability of the membership of the Council reflecting the interests of the public.
51. As the GTCS will no longer be an advisory NDPB, it is not appropriate that Ministers retain a power to influence the composition of the Council. Accordingly the Scottish Ministers will no longer nominate individuals to sit on Council subject to alternate provision being made to ensure that the public interest is adequately represented in the newly constituted Council.

Strengths and Weaknesses of the current Council model

52. Before examining the merits of the above model it is worth noting that the current composition of the GTCS has a number of **core strengths** that should be acknowledged:
- > as a profession-led regulatory body, the teacher majority gives confidence to teachers that teaching is being regulated by individuals that understand and have direct experience of the profession;
 - > the election process is a democratic method by which teachers from all sectors of the profession are able to become Council members;
 - > having fixed organisations that appoint individuals to Council means that a wide range of key interests are represented;
 - > although there are a significant number of registered teachers appointed/nominated to Council, they have a genuine interest in teaching and often bring highly relevant experience from working in the sector; and
 - > although not particularly significant in terms of the overall Council membership, the interests of the general public are represented through the six Ministerial nominees.



53. In considering these strengths, it is also appropriate to identify what could be perceived as **potential weaknesses** in the composition of the current Council:
- > the process by which the members are appointed by their parent organisations is not transparent;
 - > the number of lay members (members who are not registered teachers, or formerly registered teachers) is very low;
 - > it could be argued key elements of the public interest, such as parents, pupils and the business community, are not adequately represented;
 - > it could be argued that some bodies who appoint members to Council are over-represented; and
 - > some organisations, such as the Scottish Qualifications Authority, Learning Teaching Scotland and the Police, who have a role to play in education or more broadly in children's welfare, are not represented on Council.

Alternative models for the composition of Council

54. It will be crucial that an independent GTCS retains the trust of the public. The public must continue to be assured that fully trained, appropriate individuals are employed as teachers in state funded schools and accordingly the GTCS must take into account the public interest. It will also be important for GTCS to retain the trust and respect of the teaching profession, the Scottish Government and other players in Scottish Education more widely. To retain the high level of trust and respect from all sectors, an independent Council must be publicly accountable and the Council's composition, and the way in which individuals are appointed, are important aspect of this.
55. A process by which individuals with an interest can apply and are then appointed on merit, as opposed to being elected or appointed by a parent organisation directly related to teaching could act as a mechanism through which the Council could contain a more diverse membership. This section seeks views on two potential models for the composition of Council. They both retain a guaranteed majority of teachers and both contain elements of an appointments process, but would change the overall composition and would act to increase the level of members representing elements of the public interest. While the consultation only details two models, there are many variables of each that could be adopted. If stakeholders believe there are other, more appropriate models, or variables, that should be considered then we would be pleased to receive details of them.

Model 1 – Retain elections/amend appointments process

56. Under this model, registered teachers would continue to be elected to Council. However, the proportion of Council members that are currently appointed by named organisations would be replaced by a system through which these members would be appointed on the basis of their skills, through an independent process, possibly administered by the Council under a duty to follow current best practice and overseen by an independent adjudicator. Key aspects of this model would be as follows:

- > retention of a teacher majority;
- > retention of professional election process/retention of current teacher categories;
- > no guaranteed seats on Council for any named organisations;
- > open, skills based appointments process for a proportion of seats; and
- > appointments process designed so the Council contains a good balance of experience and skills.

Benefits of this model include:

- > election process is seen as being democratic and a good way for teachers to become Council members;
- > creates a more open and accountable appointments process;
- > would allow for an increase in lay members being appointed to help balance the interests of the teacher majority; and
- > the criteria set for the open appointments process could help to increase the diversity of backgrounds of Council members.



Challenges to this model include:

- > organisations with a legitimate interest in teaching, and education in Scotland more broadly, would no longer have guaranteed seats on Council. These organisations, such as the universities that provide teacher education courses and local authority Directors of Education, are important actors in Scottish education and are seen as being good contributors to the work of Council. While individuals from these organisations could apply to join the Council, they would not have a guaranteed seat; and
- > the election process, while being a democratic method by which individuals can become Council members, is not supported by strict eligibility criteria in terms of the skills elected teachers should have as Council members.

57. A variant of this model would be to guarantee seats for some particular bodies whose contribution to Council is seen as being particularly relevant. Individuals could be appointed to these seats by their own organisation as per current procedure, or, as set out above, the seats could be reserved and potential candidates would be required to apply. For example, seats could be reserved for parents, employers of teachers or representatives of the university sector. As employers of teachers and representatives of the university sector are often registered teachers, setting aside seats for these groups could result in the Council being heavily populated, as it is now, by registered teachers. A potential disadvantage of this approach could be to reduce the seats in Council available for lay members, unless there were also a fixed number of seats set aside for this group.

Model 2 – Appoint all Council members

58. Under this model the current framework by which teachers are elected by their peers and organisations appoint individuals to Council would be replaced by a system under which all Council members are appointed. The model set out below is therefore similar to the one adopted by the other regulatory bodies and would give the GTCS a very similar governance structure to its contemporaries. Key aspects of this model would be as follows:

- > retention of a teacher majority;
- > open, skills based appointments process for all Council members;
- > no election for registered teachers;
- > the categories from which teachers are elected would be retained;
- > no guaranteed seats on Council for any organisations; and
- > appointments process designed so the Council contains a good balance of experience and skills.

Benefits of this model include:

- > method by which the Council is appointed is open and accountable;
- > should lead to a mixture of teachers and lay members with the skills to fully contribute;
- > would allow for an increase in lay members being appointed to help balance the interests of the teacher majority; and
- > tailoring the open appointments process would help to increase the diversity of backgrounds of Council members; and
- > as with Model 1, it would be possible to set aside seats for particular interests on Council.

Challenges to this model include:

- > the democratic election process would no longer exist for registered teachers as they would instead be appointed; and
- > as with Model 1 organisations with a legitimate interest in teaching, and education in Scotland more broadly, would no longer have guaranteed seats on Council.



59. There can be no doubt that the adoption of either model would result in a very significant change to the way in which the Council is currently established. The Scottish Government is aware that the election process is greatly valued by parts of the teaching profession and from the perspective of some stakeholders the removal of elections would be an unwelcome development. Despite this, the Scottish Government is cognisant of developments in other regulatory bodies and believe the move to independent status is an appropriate opportunity to seek the views of stakeholders on the relative merits of these, and other models. All parties should continue to be mindful of the over-arching purpose of the GTCS to ensure children receive a high standard of teaching. Accordingly, the Council should have a composition that can help ensure it achieves this primary goal.

How would the appointments process to an independent GTCS work?

60. If either of the models above (or any variants thereof) were to be adopted, then a process would need to be developed through which Council members could be appointed. If an appointments process is required for the new Council, then the Scottish Government will work with the GTCS to ensure that the process that is developed is open, transparent and takes into account current best practice including the Nolan principles.

Ensuring the Public Interest is well represented – Definition of Lay Member

61. Currently the 1965 Act only requires that the 26 teachers elected to Council are registered with the GTCS.⁵ The Act does not prevent other individuals from the appointed and nominated member categories who are registered with the GTCS from being appointed or nominated to Council. In the current Council 37 of 48 members are registered teachers and many others have a background in education provision. Of the 24 appointed or nominated members 12 are registered teachers.⁶

⁵ 1965 Act, Schedule 1, Part 1, Paragraph 2

⁶ At time of writing there are only 48 members as there are two vacancies, one in the Pre-school/ Non-school Teacher category and the other is a Ministerial nominee.

62. Given the organisations (ADES, Teacher Education Universities, etc) that can appoint individuals to the GTCS, it is perhaps not surprising that a large number of registered teachers are appointed to Council. Their background in teaching means they have an understanding of the profession allowing them to contribute effectively to the work of the Council. However, the number of lay members within Council is relatively low and adopting a definition of lay person such as the one used by the GMC set out below, could help the independent GTCS to demonstrate that, while being a profession-led organisation, its membership reflects the wider public interest and is not dominated by those with a vested interest in teaching.
63. The definition of lay member adopted by the Health Regulators such as the General Medical Council and Nursing and Midwifery Council is as follows:⁷
- Lay members, that is members who:*
- (i) are not and never have been provisionally registered or fully registered; and*
 - (ii) do not hold qualifications which would entitle them to apply for provisional or full registration.*
64. If the definition above was applied to the GTCS, then the number of teachers on Council would reduce and a guaranteed space would be created for members that could represent the public interest. The Scottish Government is seeking views as to whether a more tightly defined definition of lay member should therefore be adopted by the GTCS.

Questions

Q6: How best can we ensure that the public interest is well represented on an independent Council? In answering this question stakeholders may wish to consider factors such as the composition, appointments process and definition of lay member which could all play a role in ensuring the public interest is well represented.

Q7: In terms of models the independent Council could adopt, do you prefer Model 1 or Model 2, a variant of either model, the status quo, or something completely different?

Q8: In considering the composition of the current Council, do you think that there are groups missing from whose input the Council would benefit?

⁷ Under paragraph 4 of Schedule 1 to the Medical Act 1983, as amended and under paragraph 1A of Schedule 1 of The Nursing and Midwifery Order 2008.



3.4 Other Relevant Issues

Accountability to the Scottish Parliament

65. The GTCS carries out, and will continue to carry out, a crucial role in ensuring that teachers working in Scotland have the skills that make them competent to teach. In this way, the GTCS plays an important role in ensuring that the standard of education provided across publicly funded schools in Scotland remains high. In becoming independent from Government, it is crucial that the Council is open, transparent and publicly accountable. As a public body it is also important that the GTCS continue to be accountable to Parliament.
66. It is a requirement of the 1965 Act that the GTCS submits its annual report to the Scottish Ministers.⁸ The Scottish Government proposes that an independent GTCS will be required to submit its annual report, Strategic Plan and Diversity Action Plan to the Scottish Parliament. GTCS members and officials should also be willing to continue to attend Committees of the Scottish Parliament as required.

Financial Issues

67. Currently the GTCS are required to seek the approval of the Scottish Ministers if they wish to borrow money.⁹ In addition, while the Council may pay their members travelling, subsistence and other allowances as they see fit, this process must first be approved by the Scottish Ministers.¹⁰ The Scottish Government believes that an independent, self-financing, body should have control over its own finances and these provisions will be revoked when the GTCS becomes independent.

Removal of Council Members

68. Schedule 1, Part 1, paragraphs, 4 (2)(b), (e) and 4A) of the 1965 Act make provision for the disqualification or removal of members. It is the intention of the Scottish Government that flexibility will be given to the GTCS to set more detailed criteria for the removal of individuals from Council. This could include issues such as being convicted of a criminal offence involving dishonesty or deception which may have a material impact on an individuals ability to continue to act as a member of Council.

⁸ Schedule 1, Part II, 13 (2) states that the published accounts must be sent to the Secretary of State. In practice the accounts are also published in the Scottish Parliament Information Centre (SPICE) and on the GTCS website so are widely available.

⁹ 1965 Act, Schedule 1, Part II, 8(2)

¹⁰ 1965 Act, Schedule 1, Part II, 15

Terms of Office

69. Currently Council members are elected or appointed for terms of four years. Further to completing the four year term, they are then free to stand again for election, or to be re-appointed/nominated. Ministerial nominees are in a slightly different position as their position on Council is bound by the Office of the Commissioner for Public Appointments (OCPAS) Code of Practice which dictates that normally members should only serve for two terms. There are currently no restrictions on the number of terms that an individual can stand as a member of the Council.
70. The Scottish Government is aware that the practice in many other regulatory bodies is to place a cap on membership. For example, the GMC allow Council members to stand for two terms of four years within a period of twenty years. In addition the Office of the Commissioner for Public Appointments (OCPAS) Code of Practice for appointments to public bodies normally only allows members to stand for two terms for appointments that are governed by the code. The Scottish Government is therefore seeking views as to whether the length of time members should be allowed to serve on GTCS should be capped.

Questions

Q9: Do you have any comments relating to the issues raised in this section?

Q10: Do you believe the length of time individuals should be allowed to serve on Council should be capped?





4. Responding to the Consultation

4.1 Response Form

We are inviting responses to this consultation by 26 June 2009.

It is possible to respond to this consultation by downloading this response form from www.scotland.gov.uk/consultations and then by sending the form to David.Roy@scotland.gsi.gov.uk. Alternatively respondents may remove chapter 4 from the consultation paper itself and send it to:

David Roy
Teachers Division
Scottish Government
2C South, Victoria Quay
Edinburgh
EH6 6QQ

Space has been provided in the form for responses to be written. Please feel free to continue your answers/comments on additional pieces of paper. If doing so, please ensure that answers can be clearly associated with the questions.

Chapter 2: Functions of an independent General Teaching Council for Scotland **Section 2.2 – Responsibility for the Teaching Standards**

Q1: Would it be appropriate for the GTCS to be given a more explicit responsibility in relation to the standards?



Section 2.3 – Entry Requirements to and Approval of Courses of Initial Teacher Education

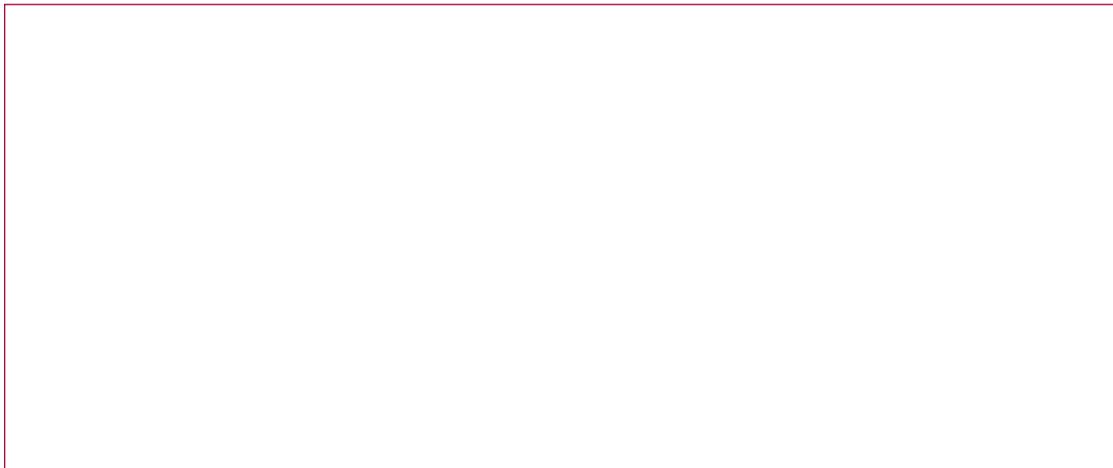
Q2: Should the GTCS assume responsibility for setting entry requirements to Courses of Initial Teacher Education?

Q3: Should the GTCS assume responsibility for the approval of initial teacher education courses?



Section 2.4 – Continuing Professional Development

Q4: Do you think the GTCS should expand its role to into CPD? If so, what do you think this role should consist of?



Chapter 3: Governance of an independent General Teaching Council for Scotland Section 3.2 – Size of Council

Q5: What do you think is the most appropriate size for an independent Council?

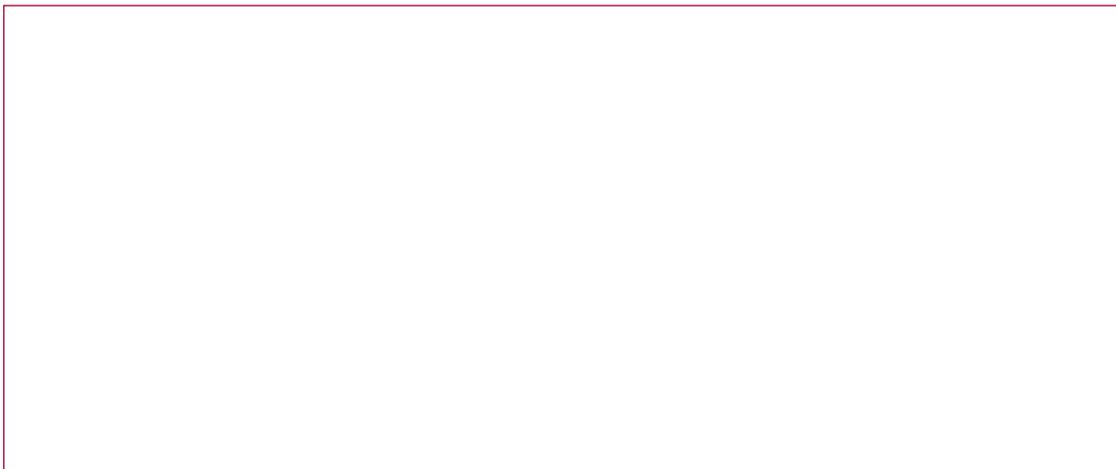


Section 3.3 – Composition of Council

Q6: How best can we ensure that the public interest is well represented on an independent Council? In answering this question stakeholders may wish to consider factors such as the composition, appointments process and definition of lay member which could all play a role in ensuring the public interest is well represented.



Q7: In terms of models the independent Council could adopt, do you prefer Model 1 or Model 2, a variant of either model, the status quo, or something completely different?



Q8: In considering the composition of the current Council, do you think that there are groups missing from whose input the Council would benefit?

Section 3.4 – Other relevant issues

Q9: Do you have any comments relating to the issues raised in this section?



Q10: Do you believe the length of time individuals should be allowed to serve on Council should be capped?



Space for additional comments

Space for any additional comments that respondents would like to make about the future status of the GTCS.





the Scottish Government consultation process

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- > indicate the need for policy development or review
- > inform the development of a particular policy
- > help decisions to be made between alternative policy proposals
- > be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



annex a – general teaching council for scotland: comparison with other regulatory bodies

Body	Size	Professional/ Lay Ratio	Appointment/Election	Registration Fee (per annum)
GTCS	50	Professional Majority	Election and appointment by fixed organisations and Government	£40
General Teaching Council for England	64	Professional Majority	Election and appointment by fixed organisations	£33
General Teaching Council for Wales	25	Professional Majority	Election and appointment by fixed organisations	£45
General Teaching Council for Northern Ireland	33	Professional Majority	Election and appointment by fixed organisations	£44
General Medical Council	24	Parity	All members appointed	£410
Care Commission Board	12	Not fixed – 3 places for representatives of service users	All members appointed	+
Scottish Social Services Council	12	Not fixed	All members appointed	Varies – between £10 and £50
General Dental Council	24	Parity	All members appointed	For a dentist – £438
General Optical Council	No more than 13	Parity in Council of 12/Lay majority of 1 by 2011	All members appointed	£219
Nursing and Midwifery Council	14	Parity	All members appointed	£76
Health Professions Council	20	Parity	All members appointed	£144 for every two years

* This is the position these bodies will move to in 2009.

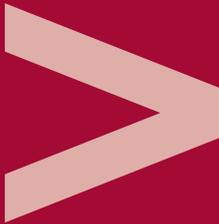
+ The Care Commission regulates services and childminders. The annual fee for a childminder is £17.

annex b – list of consultees

This consultation has been issued to a wide range of groups and individuals with an interest in this area. For information, Local Authority Education Departments have been asked to highlight the consultation to the schools in their area. A full list of consultees is available on request. The organisations and groups of individuals consulted include:

- Association of Directors of Education Scotland
- Association of Directors of Social Work Scotland
- Commission for Racial Equality
- Convention of Scottish Local Authorities
- Disability Rights Commission
- Equal Opportunities Commission
- Faith Groups
- General Medical Council
- General Teaching Council for Scotland
- Her Majesty's Inspector of Education
- Learning Teaching Scotland
- Local Authority Chief Executives
- Local Authority Directors of Education
- Office of the Commissioner for Public Appointments Scotland
- Parents Groups
- Political Parties
- Scotland's Commissioner for Children and Young People
- Scottish Council for Independent Schools
- Scottish Further Education Colleges
- Scottish Higher Education Institutes
- Scottish Local Authorities
- Scottish Youth Parliament
- Scottish Qualifications Authority
- Teacher Unions and Professional Bodies





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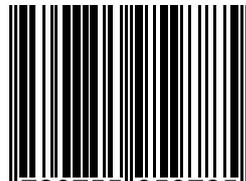
This document is also available on the Scottish Government website:
www.scotland.gov.uk

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