

INFORMATION FOR TEACHERS
subject to the Disciplinary Procedures
for the regulation of the teaching profession

This document will come into effect on 1st April 2012

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1. Introduction

1.1 This document sets out information for teachers who may be subject to the disciplinary procedures for the regulation of the teaching profession. For full details of the regulation process, please refer to the Department for Education website at:

<http://www.education.gov.uk/schools/leadership/teachermisconduct>

2. What is the process for the regulation of teachers?

2.1 The Teaching Agency, an executive agency of the Department for Education, operates as the regulator of the teaching profession on behalf of the Secretary of State.

2.2 The Teaching Agency will only become involved in the most serious cases of teacher misconduct, in order to make a decision about whether the teacher should be prohibited from teaching. Less serious cases of misconduct, and all cases of incompetence, should be dealt with locally.

2.3 Where an allegation against a teacher is referred to the Teaching Agency, the Agency will consider whether the teacher:

- may be guilty of unacceptable professional conduct;
- may be guilty of conduct that may bring the profession into disrepute; or
- may have been convicted, at any time, of a relevant offence.

2.4 If the Teaching Agency decides that one or more of these applies, and that a prohibition order may be appropriate, it will begin an investigation. Further information about the terminology can be found in 'The Prohibition of Teachers' and about an investigation in the 'Disciplinary Procedures' at the website in paragraph 1.1.

2.5 If the investigation suggests that there is a case for the teacher to answer, the Teaching Agency will refer the case to a Professional Conduct Panel. In certain circumstances, where the teacher agrees the facts of the case, the case may be considered without a hearing. Otherwise, a panel hearing will be convened. Details of a panel's membership and the hearing procedure can be found in the 'Disciplinary Procedures'.

3. What happens if my case is referred to the Teaching Agency?

Please note that further details of these procedures can be found in the 'Disciplinary Procedures'.

3.1 The Teaching Agency will consider your case and decide whether it should be investigated. It will also consider whether an interim prohibition

order may be appropriate, in which case you would not be allowed to undertake teaching work until your case is concluded. You will be notified by letter following these initial considerations.

3.2 If the Teaching Agency decides to investigate your case it will send you an initial letter. You will be asked to respond regarding the allegation within four weeks of receiving the letter. Having completed its investigation, the Teaching Agency will confirm whether it has decided that there is no case for you to answer or that there is a case for you to answer and that it will be referring your case to a Professional Conduct Panel.

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

3.4 If you nominate a representative, you must let the Teaching Agency know their name and contact details as soon as possible. Without this we cannot discuss your case with anyone other than yourself, in the interests of confidentiality and data protection. Once you have a representative, all correspondence from or to us about your case should be conducted through them. If, for any unforeseen reason, you cannot respond by the given date but wish to do so, please let the Teaching Agency know so that they can consider extending the time limit.

3.5 If an interim prohibition order is being considered you will have seven calendar days from receiving the letter to send written representation and additional evidence. If an interim prohibition order is made you will be notified and your name will be added to the list of prohibited teachers. If this happens, your employer will be notified and you will not be able to undertake teaching work until your case is concluded.

4. What happens during the investigation?

4.1 The Teaching Agency will investigate your case by considering the evidence against the criteria set out in 'The Prohibition of Teachers'. It will seek additional evidence, as appropriate, by making reasonable requests of you and other relevant parties for further information or explanations. It may also seek advice from relevant experts, e.g. from the teaching, medical or legal professions, where this is necessary to assist the investigation.

4.2 You will be sent all the evidence the Teaching Agency is considering and you will be invited to comment and submit any further evidence before it reaches its investigation decision.

4.3 If you believe that there is no case for you to answer, or if you think there are other factors which should be considered by the Teaching Agency, you should make this clear in your written response.

4.4 The Teaching Agency will then decide:

- that there is no case for you to answer, or
- that there is a case to answer and refer the case to a Professional Conduct Panel.

4.5 You will be sent a decision letter explaining this decision and setting out any allegations that have been referred to a Professional Conduct Panel.

5. What happens if my case gets referred to a Professional Conduct Panel?

Does there need to be a hearing?

5.1 You will be given two weeks from the date of the decision letter to provide the Teaching Agency with a written response confirming whether you admit the alleged facts and, if so, whether you accept that it amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute or conviction of a relevant offence.

5.2 If you admit all the matters specified in paragraph 5.1 above, then you may request that the allegation be considered without a hearing.

5.3 If you agree to a case being considered without a hearing it will be referred to a panel for consideration at a meeting.

5.4 If you do not respond to the decision letter to:

- request that the allegation be considered without a hearing; and
- admit the matters specified in paragraph 5.1; and
- agree a statement of facts,

the case will be considered at a hearing.

5.5 Details of the hearing/meeting procedure can be found in the 'Disciplinary Procedures'.

Planning the Hearing

5.6 Hearings will usually be held at the Teaching Agency's offices in Coventry. The presenting officer will give you a preliminary indication of when the hearing might be held and will ask if there are any dates around that time

when you will definitely be unavailable to attend. The presenting officer will pass this information to the Teaching Agency. A date (or dates) for the hearing will be confirmed as soon as possible.

5.7 To enable the hearing to go ahead as planned, it is very important that you make every effort to be available for any dates set for the hearing of your case. If at any point you believe that you may be unable to attend, you must notify the presenting officer immediately, though the Teaching Agency will only postpone scheduled hearings in exceptional circumstances.

5.8 You should notify the presenting officer if you have any special requirements relating to a disability which might hinder your access to, or participation in, the hearing. The Teaching Agency will make arrangements as appropriate. For example, the Teaching Agency has an induction loop facility to assist those who are hearing impaired.

Notice of Proceedings

5.9 If your case is referred to a Professional Conduct Panel hearing, the Teaching Agency will send a Notice of Proceedings to the last known address it has for you. It will give you at least eight weeks' notice of the hearing. This will set out all the details for the hearing and may include any relevant documents which have not previously been sent to you.

5.10 The Teaching Agency will send a copy of the Notice of Proceedings to your employer or employment or supply agency at the time the matter being considered arose.

Response to Notice of Proceedings

5.11 The Teaching Agency will allow you three weeks, from the date of the Notice of Proceedings, to provide a written response to questions of whether you:

- know of any reason as to why the hearing, or part of it, shall not be held in public;
- intend to appear in person or to be represented at the hearing and if so, the name and address of your representative;
- admit the alleged facts and, if so, whether you admit the allegation of unacceptable professional conduct, conduct that brings the profession into disrepute, and/or conviction of a relevant offence, as the case may be;
- intend to call witnesses, and if so, provide their names; if more than two witnesses, you will need to state the exceptional circumstance for which claims for expenses may be made;

- know of any reason why you believe that a conflict of interest may arise in relation to any member of the panel; if so, you should state the reason; and
- are currently employed as a teacher; if so, you should provide the name and address of the current employer or employment or supply agency.

5.12 You should note however that in the case of a conviction of a criminal offence, you cannot argue that you were, in fact, innocent. Nevertheless, you can still set out why you think that the offence is not relevant to your work as a teacher or identify any other circumstances which you think the Teaching Agency should take into account.

5.13 Please be aware that if the Teaching Agency receives no response or contact from you or your representative by the given date, they will proceed with your case.

5.14 An outline running order for hearings is set out at Appendix 1.

What facilities will be available on the day of the hearing?

5.15 On arrival at the Teaching Agency please report to the reception desk, where one of the Agency's staff will greet you. You will be asked to sign in, so that the Agency can maintain an accurate record of visitors in the building for health and safety purposes, and shown to the hearings suite. The layout of the suite, including the hearing room itself, will be explained to you. A plan of how the hearing room is typically set out is attached at Appendix 2. You may not bring cameras or other recording equipment into the hearing suite and the Teaching Agency may refuse entry of any items into the hearings area.

5.16 Before the hearing starts, a private waiting room will be available for you. Whilst coffee, tea and water will be provided during the day, please note that we do not provide lunch for you, your representative or any witnesses. However, there is a cafeteria at the Teaching Agency where sandwiches and light meals are available. At a convenient point, the chair of the panel will adjourn the hearing for a lunch break of at least 40 minutes.

Do I need to attend?

5.17 You may appear at the hearing in person and/or be represented by any person of your choice, including a legal representative.

5.18 If an allegation is made and you do not attend and are not represented at a panel hearing, the chair will:

- request evidence that the Notice of Proceedings has been sent to you; and
- enquire whether any reasons for your absence have been

communicated to the Teaching Agency or the presenting officer.

5.19 Where the panel is not satisfied that the Notice of Proceedings have been complied with, the panel will adjourn the hearing.

5.20 Where the panel is satisfied that the details of the Notice of Proceedings have been complied with, then, after taking into consideration any representations by the presenting officer and any written submissions made by or on behalf of you and taking advice from the legal adviser, the panel may:

- proceed with the hearing in your absence; or
- adjourn the hearing.

Do I have to prove my innocence?

5.21 It is for the presenting officer to demonstrate that the facts of the case are more likely to have happened than not, rather than for you to prove your innocence.

5.22 If you wish to give evidence you must take the oath or make an affirmation appropriate to your beliefs. Giving evidence means you are open to questions, not just from your representative, but also from the presenting officer and members of the Professional Conduct Panel.

Can I call witnesses?

5.23 You or your representative can request the attendance of witnesses to give evidence at the hearing. The presenting officer can also call witnesses and details of these will be included in the Notice of Proceedings which the Teaching Agency will send to you.

5.24 Further information for witnesses can be found in Information for Witnesses on the Department for Education website (see link at paragraphs 1.1 and 5.25).

5.25 The Teaching Agency will normally pay 'reasonable expenses' for up to two witnesses for each party. The form and guidance on how to claim expenses can be found at:

<http://www.education.gov.uk/schools/leadership/teachermisconduct>.

The Teaching Agency may pay expenses for additional witnesses in exceptional circumstances but you will need to contact the Agency before the hearing setting out what the exceptional circumstances are.

5.26 You are responsible for meeting any costs you may incur in respect of your own attendance at the hearing, including the costs of representation. The only exception to this is when you can prove that you are unemployed *in any capacity* at the time of the hearing. Your unemployment must be

independently verified by a third party (i.e. by providing documentary proof of claiming a Jobseeker's Allowance). In making this provision, the Teaching Agency's intention is that no teacher should be prevented by financial hardship from appearing before a hearing to put their case.

What if new evidence about my case comes to light?

5.27 Exceptionally, further evidence may come to light after the date of the investigation but before the hearing takes place, which you or your representative feel might have affected the Teaching Agency's decision to refer the case on to a hearing.

5.28 In this event, the Teaching Agency will consider any new evidence or information you or your representative wish to submit, to see whether it is of sufficient importance for your case to be considered by a new investigation. If so, the Teaching Agency will inform you of their decision and the date of the new investigation. The Teaching Agency following a further investigation will then decide whether your case should proceed.

5.29 The option is also open to the presenting officer to propose that there should be a further period of investigation where new evidence comes to light.

Will the hearing be public or private?

5.30 Details of when a hearing will be held in private can be found in the 'Disciplinary Procedures'.

5.31 You may make a written request that the hearing, or part of the hearing, should be in private and if the panel does not consider it to be contrary to the public interest then the public will be excluded. If a hearing is held in private the Secretary of State's decision will still be made public.

5.32 Notice of a hearing will be placed on the Department for Education website approximately one week in advance.

Decision-making and Recommendation

5.32 The panel will consider all the evidence in private and decide whether:

- the facts of the case have been proved and, if so:
- those facts amount to unacceptable professional conduct, conduct that may bring the profession into disrepute or conviction, at any time, of a relevant offence;

The panel will then return to the hearing and announce whether it is satisfied on these two points. If it is, it will ask you or your representative whether you wish to offer any mitigation, including that not previously mentioned, that would be relevant to a decision on whether to impose a prohibition order.

5.33 The panel will then decide whether to recommend that the Secretary of State imposes a prohibition order on you and recommend the circumstances, if appropriate, in which the prohibition order may be reviewed after a specified minimum period of time.

5.34 The Secretary of State will then decide whether a prohibition order is appropriate and any terms associated with it. This will usually be made within one working day of the conclusion of the panel's deliberations and recommendations. You will usually be notified in writing of the Secretary of State's decision within two working days of the decision being made.

5.35 Within two weeks of the Secretary of State's decision being made, the Teaching Agency will make the decision public on the Department for Education website, along with a summary of the evidence and the reasons for the decision. The Teaching Agency will also notify your employer or employment or supply agency at the time the matter being considered arose and, where a prohibition order has been imposed, your current employer or employment or supply agency, if appropriate.

6. What happens if my name is put on the list of prohibited teachers?

6.1 If a prohibition order is made this means that you are not allowed to undertake teaching work unsupervised in schools or other settings as set out in The Teachers' Disciplinary (England) Regulations 2012. It does not relate to non-teaching work.

6.2 A prohibition order is a lifetime ban, though in some circumstances you may be able to have it reviewed after a specified period of time. See 'The Prohibition of Teachers' on 'review of prohibition orders'.

6.3 The prohibited list will be available online to employers. Employers in settings set out in the regulations will not be allowed to employ anyone as a teacher if their name appears on the prohibited list.

Appeals

6.4 You may appeal against a prohibition order to the Queen's Bench Division of the High Court under Part 52 of the Civil Procedure Rules within 28 calendar days from the date a notice of the order was served. You will serve a copy of the appeal notice, together with copies of such other documents as may be filed in the High Court, on the Secretary of State within such period as may be required by the court.

Sanctions imposed by the General Teaching Council for England

6.5 The Teaching Agency will uphold the General Teaching Council for England (GTCE) sanctions and monitor each case to judge whether they continue to apply.

Application to vary or revoke a condition specified in a GTCE conditional registration order or suspension order

6.6 A teacher, in relation to whom a GTCE conditional registration order or suspension order has been made, may apply to the Teaching Agency for a variation or revocation of any condition specified in the disciplinary order by submitting a written application which:

- specifies the condition or conditions concerned;
- specifies whether the teacher is seeking variation or revocation of the condition(s) and, in the case of variation, the terms of the variation applied for;
- specifies the grounds of the application; and
- is accompanied by all documents relied on in support of the application.

6.7 On receipt of the application the Teaching Agency will consider the application. Any decision to vary or revoke a condition shall be made public.

Appendix 1

Outline running order for hearings

1. Opening of the hearing by the chair and confirmation of attendees

The chair introduces themselves and the other members of the Professional Conduct Panel hearing the case and explains the arrangements and procedure for the hearing.

The chair asks the teacher and/or their representative and the presenting officer to confirm their identity.

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

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

2. Public or private hearing

The Professional Conduct Panel may decide, at any time, to deliberate in private if there are reasonable grounds to do so e.g. to protect the interests of children or vulnerable witnesses.

3. Documents

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

4. Allegation and opportunity for teacher to make admissions

The chair/legal adviser reads out the allegation.

The chair then asks whether the teacher admits the facts of the allegation and, if so, whether the teacher admits that it amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute or that they have been convicted of a relevant offence, as appropriate.

The chair invites the presenting officer to read out any agreed statement of facts (where facts admitted).

The chair invites the presenting officer to make an opening statement (where facts disputed).

5. Presenting officer presents evidence/witnesses

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

6. Allow teacher or representative to question

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

7. Questioning by members of the panel

Members of the panel may then ask the witness(es) questions.

8. Re-questioning by presenting officer

The chair may, exceptionally, allow the presenting officer to re-question their witness(es) on new areas raised by the teacher's/representative's/panel's questions.

9. Witnesses called by the teacher or representative

The chair introduces the panel to each witness and asks them to affirm the truth of their evidence or swear an oath appropriate to their faith or religion. The witness/teacher is allowed to read their statement of evidence if available/circulated and unless directed otherwise by panel. The teacher or representative is allowed additional questioning if necessary. The presenting officer is then allowed to question the witness/teacher, followed by the chair and panel members.

Exceptionally, the chair allows the teacher or representative to re-question their witness(es) on new areas raised.

10. Release of witness(es)

The chair considers whether the witness can be released or whether they may need to be recalled. The parties may be asked whether they have a view about this.

11. Panel may request summings-up

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

12. Conclusion and decision

The chair asks the parties to return to their respective rooms whilst they adjourn (in private) to consider whether they conclude that the facts of the case are proven and, if so, whether this amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute or conviction of a relevant offence. If the panel is satisfied on these points, it will ask the teacher or teacher's representative whether they wish to offer any mitigation, including that not previously mentioned, that would be relevant to a decision on whether to impose a prohibition order. All parties are then dismissed as the panel then decides in private whether to recommend to the Secretary of State that a prohibition order is appropriate. The Secretary of State's decision is always announced in public.

Appendix 2

Layout of Professional Conduct Panel Hearing Room

