



Teaching
Agency

Teacher misconduct - Disciplinary procedures for the regulation of the teaching profession

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Introduction

1.1 This document sets out the procedures for the regulatory system, relating to teacher misconduct, in operation from 1 April 2012. The system will be operated by the Teaching Agency, an executive agency of the Department for Education, on behalf of the Secretary of State. References to the “Teaching Agency” in this document should be interpreted as officials within that agency acting on behalf of the Secretary of State.

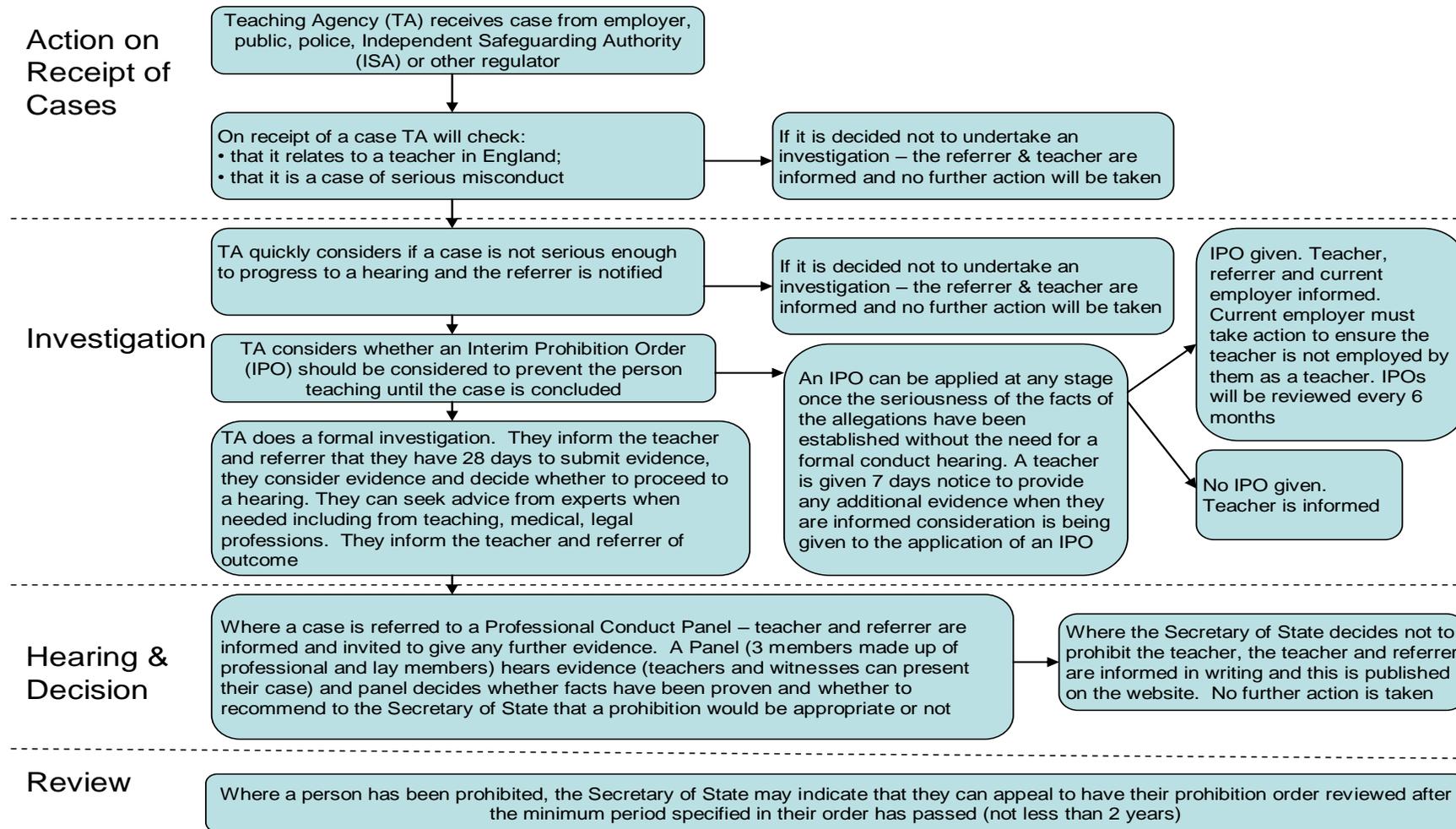
1.2 This document aims to inform teachers, hearing witnesses and employers or employment or supply agencies of what will happen at each stage of the investigation, hearing and decision-making processes. The information may also be of interest to members of the public and other organisations who may consider making a referral to the Secretary of State.

1.3 For the purposes of this document, references to “teachers” should be assumed to include “instructors” and interpreted as a person engaged to carry out teaching work, as defined by The Teachers’ Disciplinary (England) Regulations 2012.

1.4 Where there is an agreement between the teacher or the teacher’s representative and the presenting officer, any procedures or requirements set out in these Disciplinary Procedures, except for matters subject to the Regulations, may be waived or varied, provided that such a waiver or variation is not contrary to the interests of justice.

1.5 A flowchart on the next page shows the overall process; there are more specific and detailed flowcharts at the end of each section.

The system of teacher regulation



2. Action on receipt of cases

2.1 The Teaching Agency may become aware of a possible case of serious misconduct by a teacher from a number of sources. If a teacher has been dismissed for serious misconduct, or would have been dismissed for that reason if they had not resigned, the employer must consider whether to refer the case to the Secretary of State. Referrals may also be made by the police, the Independent Safeguarding Authority, other regulators or members of the public. Before a referral is made by a member of the public, all local procedures for complaint resolution should have been exhausted. More information about making a referral can be found at:

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

2.2 On receipt of a case of alleged serious misconduct, the Teaching Agency will check:

- that it relates to a teacher in England, and
- that it is a case of serious misconduct

2.3 If the Teaching Agency considers that 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

and that a prohibition order may be appropriate, it will begin an investigation.

2.4 Descriptions of the terms used above and advice on the factors that are relevant when considering is a case should be referred can be found in 'The Prohibition of Teachers' document.

2.5 Where the allegation is of particularly serious misconduct, the Teaching Agency will make an initial assessment of whether to consider that an interim prohibition order prior to the investigation and hearing being completed would be in the public interest. The assessment will determine whether the nature and severity of the allegation and the evidence suggest that, if the person were to continue teaching, either:

- children's welfare and/or education may be seriously threatened or
- parents or other school staff may be seriously at risk

Further details on interim prohibition orders are provided in 2.10-2.18 below.

2.6 The Teaching Agency will not investigate cases where it is alleged that a teacher is guilty of incompetence or cases where the Secretary of State has no jurisdiction (for example, if the offence took place while teaching in Scotland, Wales or Northern Ireland or in a Further Education College). If the case should have been referred to another

regulatory body or other organisation, the Teaching Agency will contact that body as soon as possible to forward the relevant information.

2.7 If a case includes allegations against a teacher that involve both misconduct and safeguarding (ie the risk of harm, or actual harm, to a child), the Teaching Agency will contact the Independent Safeguarding Authority (ISA) within two working days of receipt of the case, in order to agree how best to progress with investigations into the allegations. The agencies will also agree when and how further communication about the case is likely to be appropriate.

2.8 The Teaching Agency will aim to make a decision within two working days of receipt of a case regarding whether to start an investigation (see section 3), if it has sufficient information to make that decision. If further information is needed, the Teaching Agency will aim to request that within two working days.

2.9 The Teaching Agency will inform the teacher concerned and, if appropriate, the employer or employment or supply agency, whether an investigation will be undertaken. If the referral came from a party other than the employer or employer or supply agency, the Teaching Agency will also inform the referrer.

Interim prohibition orders

2.10 An interim prohibition order prevents a person from teaching until their case has been fully considered and concluded. Once an allegation has been received by the Teaching Agency an interim prohibition order can be imposed at any time, without the need for a formal hearing. This includes instances where a case has already begun, but the Teaching Agency receives new information justifying the imposition of an interim prohibition order. Similarly, new information may justify the lifting of an interim prohibition order that is in place.

2.11 Interim prohibition orders may only be imposed in allegations of the most serious misconduct if it appears that:

- there is reliable evidence that the allegation is well founded; and
- it is necessary for the protection of children, parents or other school staff; and
- it is in the public interest.

2.12 Each case will be considered on an individual basis. Behaviour that may be relevant includes, but is not limited to:

- drink or drug abuse, including attending work under the influence;
- sexual misconduct
- violence

2.13 Where the initial assessment by the Teaching Agency determines that an interim prohibition order should be considered, a letter will be sent to the teacher within one working day, which will:

- inform the teacher that consideration is being given to the imposition of an interim prohibition order;
- set out the information known to the Teaching Agency that has led it to consider the possibility of the order; and
- invite the teacher to make written representations regarding the allegation and provide any additional evidence they wish to be considered.

2.14 The teacher should ensure that any written representation and additional evidence is received by the Teaching Agency within seven calendar days of receiving the letter. The letter will be deemed to have been received on the fourth day after it was sent, if posted; on the second day if sent electronically and on the day of delivery if delivered by hand. If the teacher does not provide any additional evidence within seven calendar days, the Teaching Agency will make a decision based on the evidence it has available.

2.15 When the teacher's evidence has been received, or the time limit of seven days has expired, the Teaching Agency will review all the available evidence within a further five working days and make a decision on behalf of the Secretary of State. The Teaching Agency may decide at any stage of the five working days that:

- it is not necessary for an interim prohibition order to be imposed; or
- it is in the public interest to impose an interim prohibition order

2.16 If the decision is made to impose an interim prohibition order, the teacher and the teacher's current or previous employer or employment or supply agency, depending on whether they are still employed, will be informed in writing within two working days of the decision being made. The order takes effect on the date on which notice of the order is served. That will be deemed to be on the fourth day after it was sent, if posted; on the second day if sent electronically and on the day of delivery if delivered by hand.

2.17 When an employer or employment or supply agency is notified of an interim prohibition order relating to a member of their staff, they must take action immediately to ensure that the person concerned does not undertake teaching work at their establishment until:

- the case is concluded, without a prohibition order imposed; or
- the Secretary of State decides to revoke the order following a review.

2.18 As soon as the interim prohibition order is imposed, the individual's name will appear on the list of prohibited teachers, which will state that the order is an interim one.

Review of an interim prohibition order

2.19 Where an interim prohibition order is imposed, the teacher does not have a right of appeal to the High Court. However, the Secretary of State must review an interim prohibition order:

- six months after the order has been made; and

- at subsequent six-monthly intervals,

in each case if the teacher makes a written application for a review, setting out the grounds for the application.

2.20 The Teaching Agency will consider the evidence provided by the teacher alongside other evidence from the investigation. If it is satisfied that the applicant no longer presents a serious risk to children's welfare and/or education, parents or other staff members and it is no longer in the public interest to prevent a person from teaching until their case has been concluded, it will decide that the order should be revoked. Otherwise, it will decide that the order should remain.

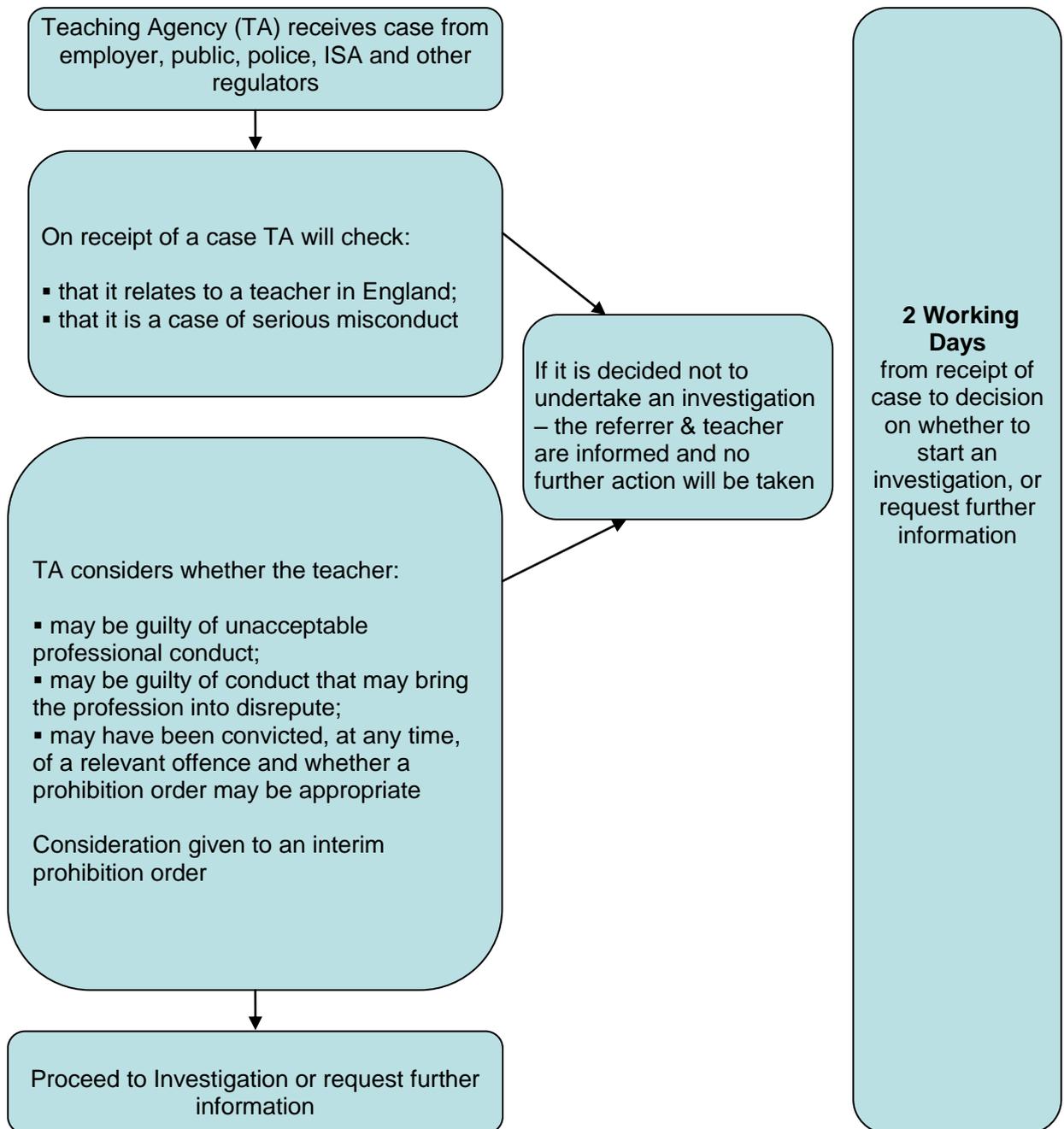
2.21 If the Teaching Agency agrees to revoke the order:

- the individual and the employer or employment or supply agency will be informed in writing within two working days of the decision being made; and
- the individual's name will be removed from the prohibited list.

2.22 If the Teaching Agency decides that the order should remain in place:

- the individual and the employer or employment or supply agency will be informed in writing within two working days of the decision being made; and
- no further application for a review may be made within six months from the date on which the decision was made.

Action on receipt of cases



Interim Prohibition Orders (IPOs)

Normally within 2 working days of receipt of the case:
The Teaching Agency makes an initial assessment of whether to consider an interim prohibition order to prevent the person from teaching until the case has been fully considered and concluded

Within 1 working day of assessment:
If an interim prohibition order is to be considered a letter will be sent to the teacher

Within 7 calendar days of receiving letter:
The teacher can send written representation and additional evidence

Within 5 working days of evidence received or 7 day time limit:
All evidence is reviewed and recommendation made to Secretary of State

Within 2 working days:
If decision made to make an interim prohibition order the teacher and employer are informed and the name added to the prohibited list

After 6 months:
Interim prohibition order reviewed every 6 months on request

An interim prohibition order can be applied at any stage once the seriousness of the allegation(s) have been established without the need for a formal conduct hearing

3. Investigation

3.1 As soon as the Teaching Agency has decided that an allegation should be investigated, it will send an initial letter to the teacher.

3.2 The initial letter will:

- set out the allegation(s) referred to the Secretary of State, enclosing, subject to paragraph 4.3 below, copies of relevant documentation, including details of any relevant criminal convictions obtained from a relevant police force;
- invite the teacher to make written representations regarding the allegation, normally within four weeks from receipt of the initial letter, and to provide any other relevant evidence which the teacher wishes; and
- provide access to a copy of these Disciplinary Procedures.

3.3 The Teaching Agency may have received documents or other physical evidence prior to writing the initial letter that are not appropriate or practicable to be copied or sent to the teacher. Examples may be pornographic material or information stored on a computer hard drive. In these cases, the Teaching Agency will provide the teacher or his or her representative with:

- a description of the evidence;
- an explanation of the reason why a copy of the evidence cannot be provided;
- details of the arrangements that may be made for inspection of that evidence by the teacher and/or their representative.

3.4 Wherever possible, the Teaching Agency will send a copy of the initial letter to the employer, employment or supply agency, or member of the public who made the referral.

Consideration of evidence / use of experts

3.5 The Teaching Agency will investigate the 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 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. The Teaching Agency will send to the teacher all documents it is considering during the investigation and invite the teacher to submit comments and further evidence within a further two weeks before it reaches the investigation decision.

Investigation decision

3.6 The Teaching Agency will decide, as a result of its investigation:

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

3.7 The Teaching Agency will inform the teacher in writing of the decision within two weeks.

3.8 Where a case has been referred to a Professional Conduct Panel the decision letter from the Teaching Agency will:

- inform the teacher that the allegation against them has been referred to a Professional Conduct Panel;
- specify the details of the allegation; and
- provide details of the requirements under paragraph 3.9.

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

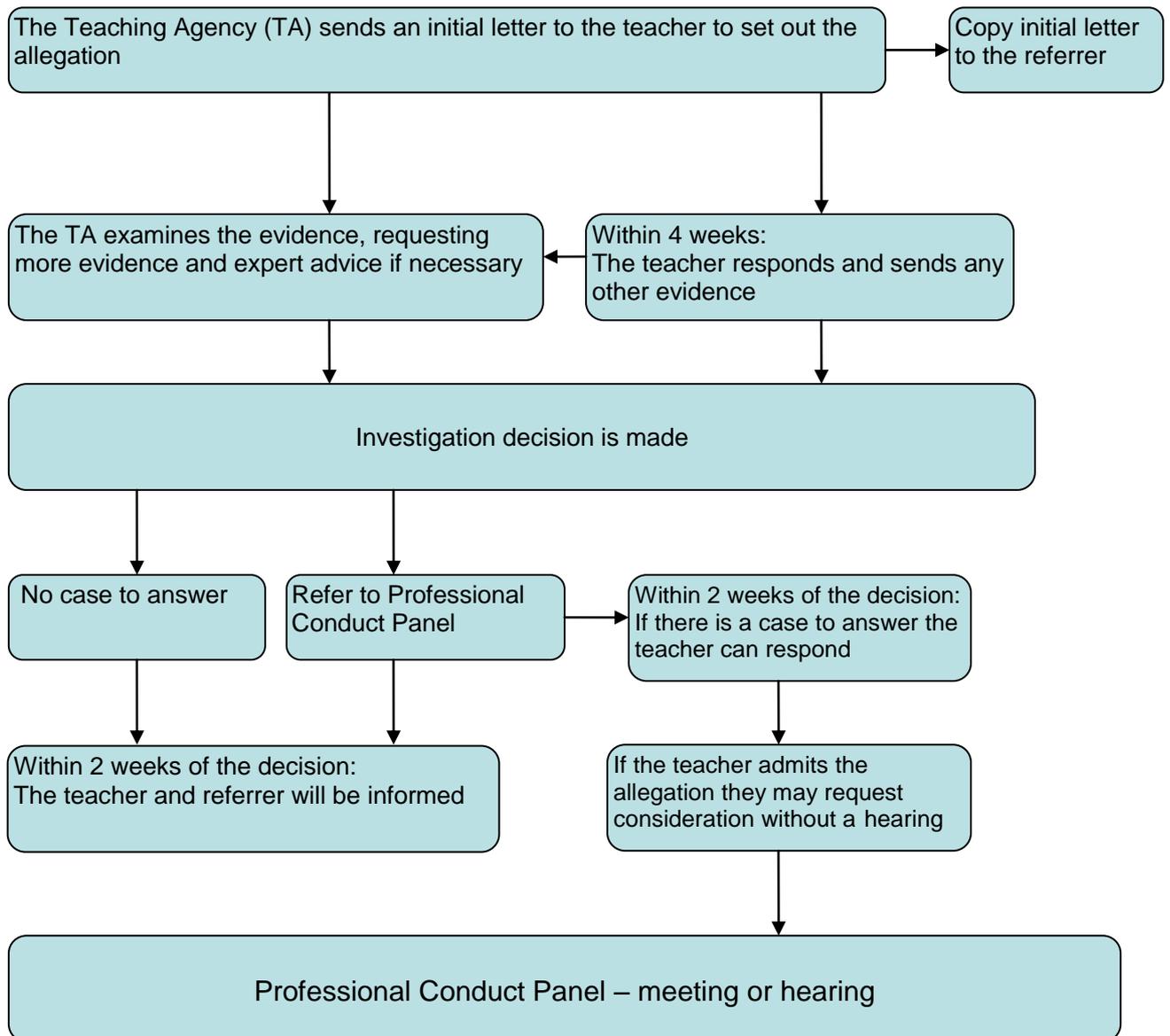
3.10 If the teacher admits the matters specified in paragraph 3.9 above, then they may request that the allegation be considered without a hearing; see paragraphs 4.82-4.90.

3.11 If the teacher does not respond to the decision letter and does not do all of the following:

- request that the allegation be considered without a hearing; and
- admit the matters specified in paragraph 3.9; and
- agree a statement of facts,

the case will be considered at a hearing.

Investigation of cases



4. Professional Conduct Panels

Constitution

4.1 A panel will consist of at least three members, all of whom will have been recruited through a public appointments process. At least one of the panel members will be a teacher or someone who has been a teacher in the past five years. At least one member will not be from the teaching profession. The Teaching Agency will appoint one panel member to act as the chair and will take all reasonable steps to ensure that it does not appoint to a panel any member who is associated with or has a conflict of interest with the teacher whose hearing is the subject of the panel.

4.2 Where any member of a panel might reasonably be perceived to have a conflict of interest in connection with their consideration of a case, they should declare this and withdraw from the panel. If the panel member does not consider there to be a conflict, but the teacher does, the panel should decide whether it is appropriate for that member to continue to sit. A panel member's membership of a teachers' trade union or professional association does not of itself constitute a conflict of interest.

4.3 Where, in the course of the panel's hearing of a case a panel member is unable to remain a member of the panel the Teaching Agency will appoint another member in that person's place, ensuring that they are fully acquainted with all the documents previously before the panel, including a record of the proceedings. The teacher may make representations if there is a reason to request a new panel. The Teaching Agency will consider convening a new panel if it is considered to be in the interests of justice.

4.4 Teaching Agency officials may attend a hearing or meeting of a panel but not participate in the making of the panel's decision.

Legal adviser to the panel

4.5 The Teaching Agency will make a legal adviser available to any panel constituted under these Disciplinary Procedures. The legal adviser cannot be a member of Department for Education staff and will take no part in the decision making process.

4.6 The legal adviser will not be a person who has previously advised or addressed that panel in any capacity other than as a legal adviser.

4.7 The legal adviser's role is to advise the panel on:

- questions of law;
- questions of mixed law and fact;
- matters of practice and procedure;
- any relevant decisions, though it is expected to be rare that any previous decisions will relate to sufficiently similar misconduct within a similar context;

- other issues relevant to the matter before the panel.

4.8 The legal adviser may also:

- remind the panel of evidence;
- ask questions of witnesses and other parties in order to clarify the evidence or relevant issues;
- help the panel to formulate and record their reasons for their decisions.

4.9 The legal adviser will provide advice to an unrepresented party with regard to the procedure for presenting their case. They must do so without appearing to become an advocate for the party concerned.

Notice of Proceedings

4.10 Where a case has been referred to a Professional Conduct Panel, the Teaching Agency will send a Notice of Proceedings to the teacher at least eight weeks before the hearing date unless otherwise agreed with the teacher.

The Notice of Proceedings will:

- specify the address, time and date of the hearing and the identity of the panel members;
- specify the details of the specific allegation(s) against the teacher;
- identify the witnesses, if any, that the presenting officer proposes to call to give evidence at the hearing;
- have annexed to it any relevant documents which have not previously been sent to the teacher; and
- set out the requirements of paragraphs 4.12 and 4.18-4.25.

4.11 The Teaching Agency will send a copy of the Notice of Proceedings to the teacher's employer or employment or supply agency at the time the matter being considered arose. Notice of a hearing will also appear on the Department for Education website approximately one week in advance.

Response to Notice of Proceedings

4.12 The teacher will be given three weeks, from when the Notice of Proceedings is served, (deemed to be on the fourth day after it was sent, if posted; on the second day if sent electronically and on the day of delivery if delivered by hand), to provide a written response to questions asking whether they:

- wish to put forward 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 their representative;
- admit the alleged facts and, if so, whether they admit that it amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute, and/or conviction, at any time, of a relevant offence, as the case may be;
- intend to call witnesses, and if so, provide their names; if more than two witnesses, the teacher should state the exceptional circumstance for which claims for expenses may be made (see paragraph 4.70); and
- know of any reason why they believe that a conflict of interest may arise in relation to any member of the panel; if so, they should state the reason; and
- are currently employed as a teacher; if so, they should provide the name and address of the current employer or employment or supply agency.

Representations to the panel

4.13 The Teaching Agency will appoint a presenting officer to present a case before a panel; a presenting officer may be an official of the Department for Education or an external lawyer.

4.14 The teacher concerned may appear in person or be represented by any person of their choice, including a legal representative.

Standard of proof

4.15 The standard of proof is that applicable to civil proceedings, namely, the “balance of probabilities”. This means that it is for the presenting officer to demonstrate that the facts of the case are more likely to have happened than not. However, this does not apply in relation to an application by a teacher for a prohibition order to be set aside, where the responsibility rests solely with the teacher to demonstrate why this should be done (see paragraphs 5.2-5.5).

Evidence

4.16 The panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

4.17 Evidence not disclosed in accordance with paragraph 4.18 will be admitted only with the permission of the panel at the hearing.

Service and inspection of documents

4.18 Subject to paragraphs 4.19 and 4.20, where the presenting officer, the teacher or the teacher’s representative wishes to rely upon any document, including a witness statement, which was not annexed to or enclosed with the Notice of Proceedings or the

reply to the Notice of Proceedings, they will submit to the panel, and the other party to the proceedings, a copy of the document at least four weeks prior to the hearing.

4.19 The presenting officer and the teacher or teacher's representative will, whenever possible, agree a bundle of relevant documents to be used at the hearing. If agreement is reached, the presenting officer will forward a copy of the agreed bundle to the Teaching Agency at least two weeks prior to the hearing. Where the Teaching Agency receives a bundle, it will send a copy to the panel members, the legal adviser and the parties, five working days prior to the hearing.

4.20 Where there is a dispute between the presenting officer and the teacher in relation to the relevance and/or admissibility of documents, then:

- a bundle of the disputed documents will be prepared by the party who seeks to rely on them and the disputed documents shall be served on the other party, and the legal adviser (via the Teaching Agency), two weeks prior to the hearing; and
- at the start of the hearing (or case management hearing, if there is one – see paragraphs 4.36-4.47) an application will be made to the panel for a determination as to the relevance and/or admissibility of the disputed documents.

4.21 If the presenting officer is unable to obtain a response from the teacher or the teacher's representative that enables the bundle of documents for the hearing to be agreed, the presenting officer will prepare a bundle of relevant documents and forward it to the Teaching Agency two weeks prior to the hearing. Where the Teaching Agency receives a bundle, it will send a copy to the panel members, the legal adviser and the teacher five working days prior to the hearing.

4.22 Where the teacher or the teacher's representative or the presenting officer wishes to rely at the hearing upon documents or other physical evidence and it is not appropriate or practicable for that evidence to be copied or sent by post, the party in possession of the documents or other physical evidence will, at least four weeks prior to the hearing of the case, contact the Teaching Agency and the other party to the proceedings, setting out:

- a description of the evidence;
- an explanation of why it is not appropriate or practicable for the documents or other evidence to be sent as described above; and
- details of the arrangements that may be made for inspection of that evidence by the other party.

The Teaching Agency will then make appropriate arrangements for the documents or other physical evidence to be collected and brought to the Teaching Agency's offices.

4.23 If the teacher or the teacher's representative or the presenting officer wishes to inspect the originals of any documents served in accordance with paragraphs 4.19-4.22, the Teaching Agency will make suitable arrangements for the inspection of the evidence to take place at least five working days before the date of the hearing.

4.24 If the teacher or the teacher's representative or the presenting officer wishes to rely at the hearing upon any document not served in accordance with this section, then that document may only be admitted at the discretion of the panel.

4.25 The panel may, after hearing any representations, waive or amend the periods of time set out in this section if it is in the interests of a fair hearing.

Absence of the teacher at a hearing

4.26 Where a teacher against whom an allegation is made does not attend and is not represented at a panel hearing, the chair will:

- request evidence that the Notice of Proceedings has been sent to the teacher in line with paragraph 4.10; and
- enquire whether any reasons for the teacher's absence have been communicated to the Teaching Agency or the presenting officer.

4.27 Where the panel is not satisfied that the details of paragraph 4.10 have been complied with, the panel will adjourn the hearing.

4.28 Where the panel is satisfied that the details of paragraph 4.10 have been complied with, after taking into consideration any representations by the presenting officer and any written submissions made by or on behalf of the teacher, the panel may:

- proceed with the hearing in the absence of the teacher; or
- adjourn the hearing.

4.29 Where the panel adjourns the hearing to another date, the next panel convened to hear the case may consist of members other than those who decided to adjourn the case.

Postponements and adjournments

4.30 Before the first day of a hearing for which a Notice of Proceedings has been served on the teacher in accordance with these Disciplinary Procedures, the Teaching Agency may postpone the hearing until such time and date as it thinks fit. This may be because further evidence has been submitted by the teacher or presenting officer, or some other reason.

4.31 Where a hearing has commenced and is then adjourned to another date, the panel considering the matter may, prior to the adjourned date, adjourn the hearing further until such time and date as they think fit.

4.32 No hearing will be postponed or adjourned unless both parties have been given a reasonable opportunity to make representations on the matter to the Teaching Agency or panel.

4.33 Notice of a decision in relation to the postponement or adjournment of a hearing will be given to the teacher, with reasons for the decision.

4.34 Where a hearing has been postponed or adjourned, the Teaching Agency will, as soon as is practicable, notify the parties of the time, date and place at which the hearing is to take place or to resume.

Referral back to investigation stage

4.35 Prior to the first day of a hearing, the Teaching Agency may refer a case back to the investigation stage to reconsider if it becomes aware of new evidence, for example, that may suggest that the case should not progress to a Professional Conduct Panel.

Pre-hearing case management agreement

4.36 If the teacher or presenting officer consider that it would be helpful to agree certain matters before the hearing, either may make an application in writing to the Teaching Agency for pre-hearing directions regarding the management of the case. This may be done after the issue of the Notice of Proceedings but no less than three weeks before the first day of the hearing. The teacher and presenting officer should attempt to reach agreement before applying for directions.

4.37 The directions may include proposals such as:

- that each party discloses to the other any relevant evidence in their possession and details of the witnesses or signed witness statements;
- that each party provides an estimate as to the likely length of the hearing;
- that the teacher indicates:
 - i) whether the allegation is admitted;
 - ii) which facts are admitted and which facts remain in dispute;
 - iii) whether witness evidence is admitted and which witnesses are required for questioning;
 - iv) whether any preliminary legal arguments are to be made;
- where the allegation is admitted, that the parties produce a statement of agreed facts;
- that a particular witness should be treated as a Vulnerable Witness and directions should be agreed regarding how their evidence should be obtained or presented to the panel at the hearing;
- that a witness be required to attend (see paragraph 4.69);
- a joint hearing (see paragraph 4.60);
- a hearing to be held in private (see paragraph 4.56);
- for the names and identities of schools or witnesses to remain anonymous (see paragraph 4.59);
- time limits for compliance with any directions issued;

- any other appropriate matter.

4.38 If the teacher and presenting officer agree the proposed directions, a written application, signed by the teacher or teacher's representative and the presenting officer should be submitted to the Teaching Agency. If the Teaching Agency decides that these proposals will assist in the just and efficient management of the case, then they will make the directions accordingly.

4.39 If the teacher and presenting officer are unable to agree proposed pre-hearing directions, then the Teaching Agency may consider an application from either party and decide to:

- refuse the application, or
- refer the application to a Professional Conduct Panel for them to give pre-hearing directions – this will be known as a case management hearing.

4.40 The panel for a case management hearing will consist of one or three members and be advised by a legal adviser. Where possible, the same member(s) and legal adviser will also be used for the full hearing.

4.41 The Teaching Agency will decide, after receiving representations from both parties, whether the case management hearing will be conducted by telephone, video conferencing or oral hearing. The Teaching Agency will make the arrangements and send an appropriate notice to the teacher and to the presenting officer at least five working days before the case management hearing.

4.42 At least three working days before the case management hearing, the teacher and presenting officer will send any relevant documents to support the proposals for directions to the Teaching Agency, who will send copies to the panel.

4.43 The procedure at the case management hearing will be determined solely by the panel.

4.44 The panel will invite each party to make representations regarding the directions sought and will give an opportunity for the other party to respond.

4.45 The panel will determine the directions to be given. The Teaching Agency will provide each party with a written record of the directions within seven days of the case management hearing.

4.46 Where a party fails to comply with the directions issued at a case management hearing a panel may take whatever decision it thinks is most appropriate in relation to the admissibility of evidence or any other relevant matter.

4.47 At the request of the presenting officer or teacher, the panel at the full hearing may, at any time during the hearing, give directions for the management of the case.

Procedure at a Professional Conduct Panel hearing

4.48 Subject to paragraphs 4.49-4.55 and 4.72-4.73, the procedure at the panel hearing will be determined by the chair, who will direct the parties to adopt an investigative rather than an adversarial approach.

4.49 The chair will introduce the members of the panel and confirm the identity of the teacher.

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

4.51 Where the teacher admits the facts of the allegation, the chair will ask the parties whether they have agreed a statement of facts for the panel to consider and if so:

- the presenting officer will be invited to read out the agreed statement of facts; and
- the presenting officer and the teacher will be invited to make representations to the panel, including by calling witnesses, regarding whether the facts that have been admitted amount to unacceptable professional conduct or conduct that may bring the profession into disrepute or conviction, at any time, of a relevant offence; and
- the panel will, later, decide whether they are satisfied that the facts that have been agreed by the parties amount to unacceptable professional conduct, conduct that may bring the profession into disrepute and/or a conviction of a relevant offence; this is regardless of whether an admission to that effect is made by the teacher.

4.52 Where the facts are not admitted or where some material facts remain disputed:

- the presenting officer will be invited to make an opening statement about the allegation and the teacher will have the opportunity to reply either in person or through their representative;
- the presenting officer and the teacher may present relevant written evidence relating to the facts alleged and whether those facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence, and may call witnesses; and
- the panel may invite the presenting officer and the teacher or teacher's representative to sum up.

4.53 The panel may, at any stage of the proceedings where it considers it fair and appropriate:

- adjourn the case; or
- discontinue the proceedings.

4.54 The panel may decide, at any time, to deliberate in private if there are reasonable grounds to do so.

4.55 The panel may, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved. Before making an amendment the panel will consider any representations by the presenting officer and by the teacher or teacher's representative, and take advice from the legal adviser.

Public or private hearing

4.56 A Professional Conduct Panel may exclude the public from a hearing or part of a hearing where:

- it appears necessary in the interests of justice;
- the teacher makes a request that the hearing should be in private and the panel does not consider it to be contrary to the public interest; or
- it is necessary to protect the interests of children or vulnerable witnesses (see paragraphs 4.70-4.71).

4.57 Where, at the start of a hearing, an application is made for that hearing to be in private, the panel will hear the application in private, but will announce its decision on the application in public.

4.58 Where a panel holds a hearing in private, the panel will announce in public its decision regarding whether the facts have been proven and whether those facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence. The Secretary of State's decision will also still be made public.

4.59 A panel may, if it considers it to be in the interests of justice, decide that:

- the name and identity of a school will not be disclosed during the hearing or at all;
- the name and identity of a witness, either referred to in the hearing papers or present before the panel to give oral evidence, shall not be disclosed during the hearing or at all.

Joint hearings

4.60 After hearing any representations from the teachers or their representatives, a Professional Conduct Panel may consider an allegation against two or more teachers at the same hearing where:

- the allegation against each teacher arises out of the same circumstances; and/or
- prior to a panel being convened, the Teaching Agency deems that a joint hearing is necessary; and/or
- a panel has been convened and, in the opinion of that panel, a joint hearing is necessary

if it determines that there is no risk of undue prejudice to the fairness of the proceedings.

Witnesses

4.61 Witnesses must take the oath or make an affirmation appropriate to their beliefs before giving evidence.

4.62 The panel will normally direct that a signed witness statement, copied to the relevant parties at the hearing, will be taken as read by the witness even though not read aloud.

4.63 Where a statement is taken as read, the panel may direct that a copy of the statement, or any part it specifies, should be made available to the public.

4.64 The teacher or teacher's representative, the presenting officer and the members of the panel may question any witness, subject to paragraph 4.70 and as permitted by the chair.

4.65 Except as may be determined by the panel, witnesses may not be an observer at the hearing until they have completed giving evidence and been formally released by the chair.

4.66 Witnesses may be recalled at the discretion of the panel.

4.67 The panel may require any person to attend and give evidence or to produce documents or other material evidence at the hearing.

4.68 The Teaching Agency may make payment of:

- reasonable expenses, and
- reasonable costs of employing a supply teacher,

in relation to witnesses called by a teacher and/or the presenting officer. This will apply for up to two witnesses for each party, unless the Teaching Agency agrees that there are exceptional circumstances.

4.69 Where a presenting officer or teacher requires the attendance of, or the production of a material document or evidence by, a witness who refuses to attend or to produce the document before a hearing, they may make an application to the Teaching Agency. If the Teaching Agency is satisfied that the attendance of the person or production of the document or evidence is material to the case, it may refer the application to a

Professional Conduct Panel for a direction in accordance with paragraphs 4.36-4.47. This will amount to a requirement by the Secretary of State.

Children and vulnerable witnesses

4.70 A panel will only decide that a child or a vulnerable witness will give evidence if it decides, after considering representations by or on behalf of the teacher and the presenting officer, that the welfare of the child or vulnerable witness will not be prejudiced. A panel will treat any person as a child where they are under the age of 18 at the start of the hearing, and any person as a vulnerable witness where their quality of evidence is likely to be adversely affected at a hearing, including where their evidence might be affected by any mental or physical impairment and where they require special consideration. This may include any witness:

- with a mental disorder;
- who is significantly impaired in relation to intelligence and social functioning;
- with physical disabilities who requires assistance to give evidence;
- where the allegation against the teacher is of a sexual nature and the witness was the alleged victim;
- who complains of intimidation.

4.71 The panel will adopt such measures as they consider necessary to safeguard the interests of a child or vulnerable witness, which may include:

- the use of a video link;
- the use of pre-recorded evidence;
- the use of interpreters (including signers and translators);
- the hearing of evidence by the panel in private; or
- the attendance of an appropriate adult.

Decision-making and recommendation

4.72 During the course of its deliberations, the panel will consider all the evidence available. It may take into account the conduct elements of the latest standards published by, or on behalf of, the Secretary of State, to determine whether the teacher has failed to comply with them. The panel will use the criteria set out in 'The Prohibition of Teachers', taking into account any relevant mitigating circumstances, and then decide, in private, whether it is satisfied that:

- 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 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. The teacher or teacher's representative may call witnesses as part of this process.

4.73 The panel will then decide in private whether to recommend to the Secretary of State that a prohibition order should be imposed on the teacher and recommend the circumstances, if appropriate, in which the prohibition order may be reviewed after a specified minimum period of time. The panel may take into account any previous disciplinary order imposed by the Secretary of State, the GTCE or other relevant body.

4.74 Following the panel's recommendation, the Secretary of State will decide whether a prohibition order is appropriate and any terms associated with it. This decision will usually be made within one working day of the conclusion of the panel's deliberations and recommendations.

Notification of decision

4.75 The Secretary of State's decision will be sent in writing to the teacher, normally within two working days of the decision being made. It will be deemed to have been served on the fourth day after it was sent, if posted; on the second day if sent electronically and on the day of delivery if delivered by hand.

4.76 The decision will also be sent to the employer or employment or supply agency of the teacher at the time the matter being considered arose and, where a prohibition order is imposed, to any current employer or employment or supply agency, as may be if known to the Teaching Agency. This will be done on the date on which the decision is made public.

4.77 The decision, along with a summary of the evidence and the reasons for the decision, will be made available on the DfE website within two weeks of the decision being made.

Reference to another panel

4.78 A panel hearing a case may, before its final decision, refer the case to a differently constituted panel, where, in exceptional circumstances, it appears that there has been a breach of natural justice or that the panel has not been constituted appropriately.

4.79 The panel will not decline to hear or determine a case because there has been a defect or deficiency in a procedure set out in this document if it does not amount to a breach of natural justice. Any panel member with a concern, however, should alert the Teaching Agency to that concern.

4.80 Where a panel refers a case to another panel the Teaching Agency will inform the teacher and other relevant parties.

Resumption of hearing after adjournment

4.81 Where a hearing is resumed after a period which exceeds three months since it was adjourned, the Teaching Agency will, prior to the resumption of the hearing, send to the teacher:

- a notice of resumption of proceedings specifying the date of the hearing, which will not be less than one month from the date the notice was given; and
- a note or transcript of the evidence of the adjourned hearing.

Agreement to consider allegations in a meeting

4.82 Where the teacher requests that the allegation be considered without a hearing, the presenting officer will contact the teacher or the teacher's representative and seek to agree a statement of facts.

4.83 The teacher or the teacher's representative will have three weeks to respond to the request from the presenting officer and provide, in addition to the agreed statement of facts:

- any information they wish to make about the case, including mitigating factors; and
- the reasons why they consider the case should be considered without a hearing.

4.84 The Teaching Agency will decide, based on the available evidence and information submitted, whether the allegation may be considered without a hearing. In reaching this decision, it will take into account:

- the interests of justice; and
- the public interest.

4.85 Where there is an agreed statement of facts and the Teaching Agency agrees the request to consider the allegation without a hearing, it will be considered in a meeting of a Professional Conduct Panel. The Teaching Agency will inform the teacher and the presenting officer in writing of the decision and of details of the panel membership and meeting date.

4.86 The Teaching Agency will send a copy of the agreed statement of facts and any representations made by the teacher and presenting officer to the panel members, prior to the meeting.

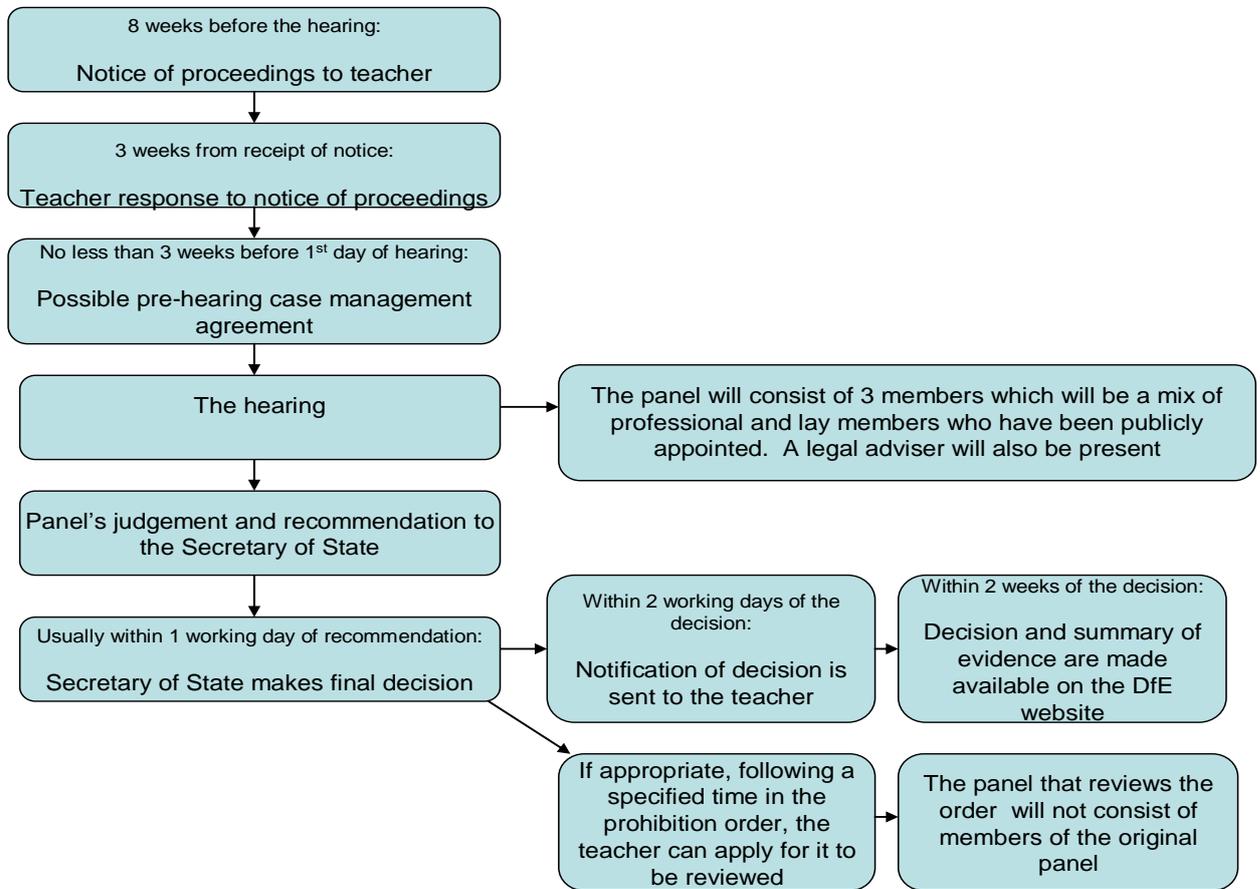
4.87 The Professional Conduct Panel will meet to decide the case. The procedure at the meeting will be determined by the chair. The panel will be constituted as set out in paragraphs 4.1-4.9.

4.88 The panel may adjourn the proceedings at any stage.

4.89 At any stage of the meeting, the panel may decide that, in the public interest and/or in the interests of justice, the allegation should be considered at a hearing. It will then order a hearing and the procedure will continue as set out from paragraph 4.48

4.90 The decision-making and recommendation process for panels without a hearing are the same as those for where a panel hearing is held in public, as set out above in paragraphs 4.72-4.74; this will allow teachers to have the right to come to the end of the meeting to provide further mitigation, if they so wish.

Professional Conduct Panels



5. Appeals, review of prohibition orders and GTCE orders

Appeals

5.1 A teacher may appeal against a prohibition order (though not an interim 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 on them. The teacher 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.

Eligibility to apply for a prohibition order to be set aside

5.2 Where a person makes an application to the Secretary of State for a determination that a prohibition order should be reviewed the Teaching Agency will normally appoint a panel in line with paragraphs 4.1-4.9, consisting of persons who were not members of the original panel which recommended the prohibition order. There may be circumstances where the Teaching Agency will set aside a prohibition order without needing to refer to a panel. This may be, for example, where the conviction of a relevant offence has been quashed.

5.3 If the application is referred to a panel, the Teaching Agency will send to the teacher a Notice of Hearing which will:

- specify the address, time and date of the panel and the identity, where known, of the panel members; and
- have annexed to it a copy of the GTCE Committee's or Secretary of State's decision when the prohibition order was made.

5.4 The panel will take into account the principles of *The Prohibition of Teachers* in determining whether or not the prohibition order should be set aside.

5.5 If the panel is satisfied that the prohibition order should be set aside, it will make a recommendation accordingly to the Secretary of State. If the application is refused, no further application may be made within twelve months of the date on which the original application was determined or a longer time limit as the Secretary of State may determine.

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

5.6 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.

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

Review of disciplinary orders

5.8 A panel may, at any time, recommend that the Secretary of State should revoke a disciplinary order made by GTCE or the Secretary of State where:

- the only or main reason for making the order was that the teacher in relation to whom the order was made had been convicted of a relevant offence, and after the date the order was made, the conviction in question was quashed; or
- after the order was made the panel, having obtained evidence not considered before the order was made, are satisfied that, had they been aware of that evidence before they made the order they would not have made it.

Compliance with GTCE conditional registration orders or suspension orders

5.9 Where the GTCE has made a conditional registration order or a suspension order in relation to a teacher, the Teaching Agency may request reasonable information to determine whether the conditions have been, or continue to be, complied with. The information may be requested from:

- the teacher;
- any person who is, at the time the request is made, an employer employing the teacher to work as a teacher, or an employment or supply agency with whom the teacher has made an arrangement.

5.10 Where the Teaching Agency:

- receives the information requested and is of the opinion that the conditions have not been complied with, or
- does not receive the information requested,

it may refer the matter to a panel, constituted in accordance with paragraphs 4.1-4.9, who will make a determination as to whether the teacher has failed to comply with the

conditions and whether to recommend to the Secretary of State that a prohibition order is appropriate.

5.11 The Teaching Agency will send to the teacher a Notice of Hearing which will:

- specify the place and the address where the panel hearing is to take place and the identity, where known, of the members of the panel;
- specify the time and date of the hearing, which shall not be less than eight weeks after the day the notice was sent to the teacher;
- have annexed to it a note of the evidence given at the hearing when the conditional registration or suspension order was made together with a record of the decision made; and
- specify the allegation in terms of paragraph 5.10.

5.12 The decision by the Secretary of State will be made publicly available.



Teaching
Agency

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