

Joint Consultation Response



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Department for

**Employment
and Learning**

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Joint Departmental Response to Consultation -

**Proposals to Widen the Powers
of the General Teaching Council
for Northern Ireland and Extend
its Remit to Include the Further
Education Sector**

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Introduction

Background

Between October 2012 and January 2013, the Department for Employment and Learning and the Department of Education carried out a joint consultation on the powers of the General Teaching Council for Northern Ireland (GTCNI).

The consultation proposed that the current legislation be repealed and new legislation be introduced to provide independent status for the Council; an extension of its remit to include the registration of further education (FE) lecturers as a separate, distinct staff grouping in its own right; and the widening of its disciplinary powers to include disciplinary orders short of prohibition from teaching.

The consultation was issued to approximately 1800 stakeholders in both the FE and schools' sectors, and was advertised on both Departments' websites.

Purpose of this Document

This document highlights issues raised through the consultation process, provides the response of both Departments, and outlines the agreed way forward, taking into account the views of key stakeholders.

Responses

A total of 41 responses to the consultation were received; a complete list of respondents is attached at **Annex A**. Respondents can be categorised as follows:

Respondents in FE sector:	Respondents in schools sector:	Respondents in both sectors:
FE Colleges (4)	Individuals (15)	Unions (1)
Unions (1)	Unions (3)	Universities (2)
Other Organisations (1)	Education & Library Boards (3)	Statutory Bodies (5)
	Schools (1)	
	Headmasters / Principals (4)	
	Universities (1)	

Contact Details

The Department for Employment and Learning was responsible for collating responses to the consultation, and remains the main contact for queries regarding this joint response. Associated documents may be obtained from the Department's website, or in alternative formats upon request from the Department.

Web-site: www.delni.gov.uk/consultation-zone

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An Irish translation of this document can be found on the Department of Education website at the following link:

<http://www.deni.gov.uk/index/school-staff/teaching-in-northern-ireland-gtcsi-consultation.htm>

Consultation responses to proposals and the way forward

Summary of Consultation Responses

Many respondents expressed a view that the proposals were welcomed, but that more explicit detail on the policy proposals would be beneficial, in order to appreciate the scale of the potential changes and the impact they will have on the registration and regulation of schoolteachers and FE lecturers. It is hoped that this viewpoint, along with other main themes which emerged during the consultation process, will be addressed through this response.

The vast majority of respondents (85%) indicated that they agreed that teaching staff in both the schools and FE sectors in Northern Ireland should be subject to independent regulation. Respondents believe that this will be an essential step which will strengthen professional standards and the standing of teachers and lecturers. Some respondents also suggested that independent regulation should also be extended to other education staff, for example, classroom assistants.

A small minority of respondents stated that they did not support the proposals. These respondents, who were all drawn from the schools' sector, contended that there was no practical or fruitful need for a teaching council in Northern Ireland and drew attention to the decision of the coalition Government to abolish the General Teaching Council for England.

Independent Regulation

The consultation asked:

Are the proposals outlined in this consultation sufficient to secure independent regulation for FE lecturers and school teachers?

Sixty-eight per cent of respondents provided a response to this question. The majority of these (70%) indicated that the proposals are sufficient to secure independent regulation.

The respondents who indicated that they were not in favour of the proposal, argued that they did not believe there was a need or a role for a teaching council in Northern Ireland.

Common themes highlighted throughout these responses included requests for more clarity regarding:

- the constitution of the revised Council;
- the make-up of the register and the professional standards to be applied to FE lecturers;
- the Council's role in relation to conditions of employment, continuous professional development and early professional development;
- disciplinary powers and the interface between the role of the Council and the role of employers; and
- the charging of fees.

Just under a third (32%) of respondents commented that greater detail would be required in order to determine whether the proposals were sufficient to ensure independent regulation was achieved.

Joint Departmental Response

Constitution

Ministers have agreed that the proposed Bill will make provision for a reconstituted Council which will, for the first time, include representation from the FE sector as well as from across the schools sector. As now, the Council will be made up from a mix of elected and non-elected members but the Department of Education role in appointing four members to the Council will be removed. The Council itself will be given powers to appoint a Chair and Committees, and for providing a scheme under which elections will be conducted. The Bill will set the term of office at 4 years.

Register

Ministers have agreed that the Bill will require the GTCNI to register a teacher or a lecturer, if it is satisfied that an individual meets the criteria for registration. It will place a duty on the GTCNI to refuse to register, or remove from the register, a person who is barred from working as a teacher or a lecturer.

The detailed arrangements around how the registers will operate, who will be eligible (or ineligible) for registration and what information the registers will hold will be provided for in rules made by the Council.

Council's Role

Ministers propose to carry forward the current functions of the Council into the new legislation but with extended powers relating to fitness to teach. The main functions of a reconstituted Council will be:-

- establishing two separate registers in order to register (i) school teachers and (ii) FE lecturers;
- setting rules for entry to and exit from the registers, and rules for continuing registration or re-registration;
- conducting eligibility and fitness to teach investigations and imposing proportionate measures on teachers and lecturers where necessary;
- setting standards for teacher education, entry to the register and continuing registration including approval of qualifications and accreditation and approval of initial teacher education courses;
- providing advice to, and sharing information with, relevant bodies including the Department of Education and the Department for Employment and Learning; and
- acting as the representative professional voice of the teaching profession.

Regulatory Powers

Ministers have agreed that the Bill should make provision related to the GTCNI's regulatory functions including its new fitness to teach functions. This will enable the GTCNI to make decisions related to a teacher's or lecturer's registration and eligibility to teach on the grounds of conduct or competence.

It is envisaged that, in particular, the GTCNI will be given powers to investigate and, where appropriate, undertake proceedings against a teacher or lecturer who is found guilty of serious professional incompetence or professional misconduct. This will include setting out the broad principles around how investigations and proceedings should be handled.

A range of sanctions which may be imposed on a person found guilty of an offence will be available to the Council. It is proposed that these would be a reprimand, a conditional registration order, a suspension order, a prohibition order or removal from the register(s). The Bill will provide a proportionate right of appeal.

Fee

In line with other professional regulatory bodies, including Teaching Councils in other jurisdictions, it is proposed that the annual registration fee will be set by the GTCNI.

Removal of Department of Education Authority

The consultation asked:

It is proposed that the amendment of the GTCNI legislation to give the Council independence will remove some authority which the Department of Education currently has to:

- **Appoint four members to the Council;**
- **Approve the appointment, remuneration and terms & conditions of employment for the Registrar to the Council; and**
- **Approve governance arrangements including the accounts and annual report of the Council.**

Are there any issues that you feel the Departments should consider in respect of the proposed change?

The majority (61%) of respondents agreed that Department of Education authority needed to be removed to secure the independence of the Council. Respondents also indicated that there is a need for appropriate accountability and governance arrangements to be in place to ensure that public confidence is maintained. A number of respondents also drew attention to the use of the term 'removal of some authority' and argued that a truly independent Council needed to be completely removed from the control of the Department in order to become so.

Joint Departmental Response

The Ministers' policy is to ensure that the General Teaching Council is the professional voice of the teaching profession in both sectors with a full range of regulatory and fitness to teach powers to enable it to contribute to the Ministers' aims of increasing the professionalism of the teaching workforce and driving up standards in our schools and colleges.

In order to secure the independence of the Council, the Department of Education's powers to appoint four members to the Council, to approve the appointment and terms and conditions of the Registrar and to approve governance arrangements will be removed.

The Department of Education also proposes to remove its powers to make regulations relating to the detailed arrangements around the Council's constitution and registration and regulatory functions and it will no longer have an approval role in relation to the setting of the annual fee. These powers will be conferred directly onto the Council in the Bill.

In addition, the Department of Education functions relating to approval of qualifications and Initial Teacher Education (ITE) courses will be delegated to the Council. However, before making or amending its rules relating to registration and regulation, the Bill will require the Council to consult with stakeholders. This will ensure the views of stakeholders are appropriately reflected in the Council's rules.

The Departments agree that appropriate accountability mechanisms should be in place. However, it is important that these mechanisms do not impinge on the Council's independent status. As with similar professional bodies, the Council will be held accountable by their electorate or nominating organisations. The Council will also be required to produce an annual report on its activities, including fitness to teach work, and publish its Annual Accounts. The Departments consider that these are proportionate accountability arrangements.

Suggested Further Considerations

The consultation asked:

Are there any further measures you feel the Departments should consider to secure effective registration and regulation, independent of Government?; and

Are there any other factors you feel should be considered?

Of those respondents who submitted answers to these questions, almost all echoed the concerns expressed, in responses to previous questions, regarding the need for clarity. These have been addressed through the response to question one.

Another common theme mentioned by stakeholders across both sectors, was that two separate registers would need to be established – one for school teachers and one for FE lecturers.

Joint Departmental Response

The Bill will provide for the establishment of registers for the teaching and FE sectors. The detailed arrangements around how the registers will operate,

who will be eligible (or ineligible) for registration and what information the registers will hold will be provided for in rules made by the Council.

A number of respondents also suggested that a role in the system(s) of continuous professional development, across both sectors, should be part of the remit of the new GTCNI. It was also argued that the potential use of periodical professional reaccreditation should be considered.

Joint Departmental Response

Currently, the GTCNI accredits ITE courses for the schools sector. However the Department of Education currently retains the function of approving the content of courses. Under the proposals in the Bill responsibility for the approval of ITE provision will become a function of GTCNI in relation to the schools sector and the Department of Education wishes to see its role in providing advice on the professional development of teachers continue.

In relation to the FE register, the GTCNI will accredit ITE courses for registration purposes and will be able to work with providers to ensure that those courses meet the criteria for registration. The Department for Employment and Learning will continue to set the minimum qualifications needed to be employed as a lecturer. Appointment to a lecturing post will, however, remain the responsibility of FE college employers, subject to any guidance put in place by Department for Employment and Learning.

While a lack of detail and clarity seemed to be the biggest concern for the majority of respondents, it was also highlighted that the GTCNI would need to be flexible enough to be responsive to various situations as they arise. Respondents who highlighted this in their response suggested that the legislation should be 'enabling' rather than detailed, thus ensuring flexibility.

Finally, it is apparent from a number of respondents to the consultation that a positive view of the status of the GTCNI in the eyes of teachers and the general public will be crucial to its success.

Joint Departmental Response

As has already been outlined, the Bill will provide the Council with greater flexibility to develop its own detailed rules in relation to its proposed functions. This will ensure it is flexible enough to respond to the changing educational landscape. However, it is important that any changes also reflect the needs of teachers and lecturers, where appropriate, and there will therefore be a requirement for the Council to consult when developing or amending its rules.

Ministers consider that securing independence and strengthening its regulatory powers are necessary to enhance the credibility of the GTCNI and promote its status within the teaching profession. It is considered that an independent GTCNI is essential in order to provide assurance to learners and

parents that an effective professional body is overseeing the conduct and standards of the teaching profession.

The proposals in the Bill will aim to transform the GTCNI into the independent regulatory voice of school teachers and lecturers, tasked with promoting the highest standards of professional conduct and practice and ensuring that the profession is held in high esteem by teachers, other educationalists and the public.

Next Steps and Way Forward

The Department for Employment and Learning and the Department of Education are grateful to all those who took the time to respond to the consultation.

The Department of Education will, in conjunction the Department for Employment and Learning, bring forward proposals for a Bill which will repeal and replace the existing GTCNI legislation contained in the *Education (Northern Ireland) Order 1998* (as amended). The Bill will seek to address the issues raised by respondents to this consultation and will focus on the three key areas of independence, registration of FE lecturers and wider regulatory powers.

This section provides an overview of the provisions which Ministers have agreed should be included in the proposed Bill.

Establishing the GTCNI

The Bill will provide for the establishment of the GTCNI and will set out, in broad terms, who its functions will relate to (teachers in grant aided schools, peripatetic teachers and FE lecturers). It would require the Council to establish and maintain a register of people eligible to be registered, and confer power on the Council to make provision for setting out the detail of how this would be done.

The GTCNI's functions will be:

- establishing two separate registers in order to register (i) school teachers and (ii) FE lecturers;
- setting rules for entry to and exit from the registers, and rules for continuing registration (re-registration at a given point in time);
- conducting eligibility and fitness to teach investigations and imposing regulatory measures on teachers and lecturers where necessary;
- setting standards for teacher education, entry to the register and continuing registration including approval of qualifications and accreditation and approval of initial teacher education courses;
- providing advice to, and sharing information with, relevant bodies including the Department of Education and the Department for Employment and Learning; and

- acting as the representative professional voice of the teaching profession.

Constitution of the GTCNI

The Bill will specify the size of the Council and the number of elected and non-elected members. The Department of Education intends to take a power to amend the constitution by affirmative Order, if required, rather than by way of a further Bill.

Powers and Duties of the GTCNI

In order to ensure the Council can act in a more independent manner, the Bill will enable it to employ staff, including the Registrar, and set their terms and conditions. It will enable the Council to carry out a number of governance functions such as making Standing Orders, creating Committees and making provision for fitness to teach Panels. It will require the Council to prepare an Annual Report on how it has carried out its functions and lay it at the Assembly, and require the Council to keep accounts and records and prepare an annual statement of accounts, which will also be laid before the Assembly.

The Bill will also give the GTCNI powers to charge registration fees to teachers and lecturers. The GTCNI will need to conduct appropriate consultation with relevant bodies before exercising a number of its functions, including setting rules for registration and the charging of fees.

Registration

The Bill will require the GTCNI to register a teacher or a lecturer, if it is satisfied that an individual meets the criteria for registration. It will place a duty on the GTCNI to refuse to register, or remove from the register, a person who is barred from working as a teacher or a lecturer.

The Bill will set out the GTCNI's duty to notify individuals of decisions made by it, for example, if they refuse to register an individual, restrict registration or if they are removed from the register(s). Any notice issued must explain the reason for a decision and give notice of a right of appeal. The Bill will provide for an appeals process.

The Bill will also make it an offence for an individual to deliberately provide misleading or false information to the GTCNI, or to pretend to be registered with the GTCNI when they are not.

Approval of Qualifications and Initial Teacher Education Courses

The Bill will make provision enabling the GTCNI to approve qualifications required for registration and eligibility to teach purposes, and enable it to set the minimum requirements for entry into ITE courses for schools, and to approve the content of these courses. The latter are currently functions of the Department of Education.

In the FE sector, GTCNI would accredit ITE courses for the purposes of registration. The Department for Employment and Learning will retain the current power to set minimum qualification requirements for entry to the profession. Achievement of registration with the GTCNI will be a condition of employment within the FE sector.

Advisory and Information Sharing Functions

The Bill will confer a number of advisory functions on the GTCNI relating to the registration of teachers and lecturers; the training, professional development and performance management of teachers and lecturers; standards of teaching; and standards of conduct for teachers and lecturers. Such advice will be provided to relevant bodies including both departments, providers of teacher training, employers and unions. Provision will also be made to enable the Department of Education and the Department for Employment and Learning to exchange information relating to their respective functions with the GTCNI, and a duty will be placed on employers to provide information to the GTCNI about teachers and lecturers, where the GTCNI requires the information in order to carry out its functions.

Representing the Profession

The Bill will establish the GTCNI as the representative voice for the teaching profession. This would involve promoting high standards in the teaching profession and ensuring that the profession is held in high esteem by teachers, other educationalists and the public and acting as the voice of the profession in public.

The Bill will also make provision enabling the GTCNI to publish a Code of Practice laying down standards of professional conduct and practice expected of registered teachers and FE lecturers. This would enable the GTCNI to consider any failure to comply with the Code when considering proceedings against a teacher or lecturer. It is important to note that, while GTCNI would regulate the profession for the purposes of registration, the power to select and discipline staff would remain with the employer.

Fitness to Teach

The Bill will make provision related to the GTCNI's regulatory functions including its new fitness to teach functions. This will enable the GTCNI to make decisions related to a teacher's / lecturer's registration and eligibility to teach on the grounds of conduct and competence. This would include provision about how panels would be constituted and what evidence (including standards of evidence) they would require.

The Bill will, in particular, require the GTCNI to investigate and, where appropriate, undertake proceedings against a teacher or lecturer who is found guilty of serious professional incompetence or professional misconduct. This will include setting out the broad principles around how investigations and proceedings should be handled. It will also specify a range of sanctions which may be imposed. It is proposed that these would be a reprimand, a conditional registration order, a suspension order or a prohibition order. The ultimate sanction available to the GTCNI will be removal from the register(s) and, therefore, removal of eligibility to teach. The Bill will provide a right of appeal to the High Court.

Transitional and Other Provisions

The Bill will make such transitional provision as is considered necessary to secure a smooth transition from the current to a re-constituted Council. It will also make a number of changes to existing legislation to reflect the new arrangements where appropriate.

Annex A: List of respondents

Association of School and College Leaders NI
Association of Teachers and Lecturers
General Teaching Council for Northern Ireland
General Teaching Council for Scotland
General Teaching Council for Wales
Learning and Skills Improvement Service
National Association of Head Teachers NI
Northern Regional College
Open University Ireland
South Eastern Education and Library Board
South Eastern Regional College
South West College
Southern Education and Library Board
Southern Regional College
St Mary's University College
Stranmillis University College
Teaching Council of Ireland
Ulster Teachers Union
Universities Council for the Education of Teachers NI
University and College Union
University of Ulster
Western Education and Library Board

19 responses from individuals, all based in the schools sector, were also received