

DRIVING FORWARD PROFESSIONAL
STANDARDS FOR TEACHERS



The General Teaching Council for Scotland Fitness to Teach Rules 2017

These Rules are available in alternative formats on request

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Part 1 - General

1.1 Introduction

- 1.1.1 These Rules are the General Teaching Council for Scotland Fitness to Teach Rules 2017 (the Rules) and will come into force on 21 August 2017.
- 1.1.2 These Rules are made by the General Teaching Council for Scotland (GTC Scotland) in accordance with The Public Services Reform (General Teaching Council for Scotland) Order 2011 and its statutory function to determine the fitness to teach of those applying to be registered with it, as well as those already registered. These Rules are made and will be applied with regard to the interests of the public.
- 1.1.3 Subject to the transitional arrangements set out in rule 1.3 below, the Fitness to Teach and Appeals Rules 2012 are revoked by these Rules.

1.2 Interpretation

- 1.2.1 In these Rules, unless the context otherwise requires:
- “allegation(s)” means the facts alleged in the case.
 - “appeal” means (as the context requires) either:
 - (i) an appeal (other than those reserved to the Court of Session in accordance with the Order) made under the Fitness to Teach and Appeals Rules 2012; or
 - (ii) an appeal made to the Court of Session against a decision made by GTC Scotland.
 - “application” means an application for registration or re-registration with GTC Scotland (including any subsequent registration application) and “Applicant” will be construed accordingly.
 - “case” means (as the context requires) the allegation(s), application, referral or recommendation at issue.
 - “conditional registration order” means an order made by a Panel that imposes conditions on a Teacher’s registration.
 - “Convener” means the convener of the Panel.
 - the “Convention” means the European Convention on Human Rights.
 - “days” means calendar days.
 - “educational establishment” has the same meaning as in the Order.
 - “electronic communications” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000¹.

¹ 2000 c.7

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- “employer” means the present or most recent employer of the Teacher of whom GTC Scotland is aware.
 - “general objective” means the general objective of these Rules, as described in rules 1.3.5 and 1.3.6.
 - “impairment of fitness to teach” (and any related expression) means that the person’s conduct or professional competence falls short of the standards expected of a registered teacher.
 - “lay person” means a person that (i) is not, nor has been, nor is eligible to be, entered in the Register; and (ii) has not obtained a “recognised teaching qualification”, as defined by the Order.
 - “Legal Assessor” means a legal assessor appointed by GTC Scotland under paragraph 3 of Schedule 4 of the Order. A Legal Assessor has no role in a Panel’s decision-making process.
 - “Nominated Address” means, for the Teacher, his/her Registered Address or, if he/she is represented and has informed GTC Scotland that his/her representative may be used as an address for communications, the agent’s nominated address. For the service of any notice on GTC Scotland, it means the address nominated by the Presenting Officer for this purpose.
 - “the Order” means The Public Services Reform (General Teaching Council for Scotland) Order 2011².
 - “Panel” means the panel (composed of independent members) appointed by GTC Scotland to adjudicate or consider the particular case or matter and, where the context so requires (including with regard to subsequent registration applications), includes its historic equivalents.
 - “parties” means GTC Scotland (or the Presenting Officer nominated to act on its behalf) and the Teacher (and any appointed representative).
 - “Presenting Officer” means a person nominated by GTC Scotland to present to a Panel anything reasonably considered relevant to the Panel’s consideration of the case or matter before it.
 - “private” means –
 - (i) in the context of a hearing generally, in the absence of the wider public but in the presence of all those involved in hearing proceedings (including the parties, witnesses, and any persons appointed by GTC Scotland to administer proceedings, record proceedings, provide legal advice or carry out Panel member performance reviews); an appeal made to the Court of Session against a decision made by GTC Scotland.
 - (ii) in the context of the deliberations of a Panel as part of hearing proceedings, in the presence of the members of the Panel, the Servicing Officer, and any appointed Legal Assessor; and

² S.S.I. 2011/215

(iii) in any other context, in the absence of the wider public but in the presence of all those involved in the proceedings concerned.

- “recommendation” means a recommendation made by (or information received from) the employer or former employer of a Teacher regarding that teacher’s professional competence, as further described in Part 3 of these Rules.
- “referral” means any information received by GTC Scotland about a Teacher or Applicant that is (or may be) Relevant Conduct.
- “Register” means the register (or registers) kept and maintained by GTC Scotland of those persons fully, provisionally or otherwise registered with it, and “registrant”, “registered” and “registration” will be construed accordingly.
- “Registered Address” means the postal address provided by the Teacher for entry in the Register.
- “Relevant Conduct” means –
 - (i) a criminal offence, or
 - (ii) misconduct (including having fraudulently sought or procured an entry to the Register),and there is, on the face of it, a real prospect of a Panel finding that the Teacher’s fitness to teach is impaired on that basis.

For the avoidance of doubt, any such criminal offence or misconduct may have occurred: by act or omission, inside or outside the United Kingdom or at a time when a Teacher was not registered. Any such criminal offence or misconduct may also have occurred in the Teacher’s course of employment or in other circumstances.

- “Servicing Officer” means the person responsible for servicing the Panel. The Servicing Officer has no role in a Panel’s decision-making process.
- “subsequent registration application” means an application made by a person subsequent to a Panel having directed either that (i) his/her name be removed from the Register; or (ii) an application made by him/her be refused.
- “Teacher” means, as the context requires, the Applicant or registrant that the referral or recommendation is about.
- “temporary restriction order” means an order made by a Panel to temporarily restrict a Teacher’s registration pending conclusion of an investigation of his/her fitness to teach.
- “unfit to teach” means, in accordance with the Order, that the person’s conduct or professional competence falls significantly short of the standards expected of a registered teacher.
- “vulnerable witness” has the meaning set out in rule 1.7.28.
- “witness” means a person who provides a Panel with evidence (for the avoidance of doubt, this may include the Teacher).

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- 1.2.2 Any reference to legislation, rules, standards, processes, publications, schemes, panels, or committees will be construed as a reference to such legislation, rule, standard, process, publication, scheme, panel, or committee as it may be supplemented, amended, substituted, re-named or replaced from time to time.
- 1.2.3 Any reference to a numbered:
- (a) rule or Part, refers to the rule or Part that has that number in these Rules;
 - (b) schedule, refers to a schedule that has that number in these Rules; and
 - (c) paragraph, refers to the paragraph that has that number in these Rules.
- 1.2.4 Headings set out in these Rules will not affect the interpretation of the Rules themselves.
- 1.2.5 These Rules will be construed and applied in accordance with GTC Scotland's obligations under the Order, the Human Rights Act 1998³, the Rehabilitation of Offenders Act 1974⁴ (and related legislation), the Data Protection Act 1998⁵ and the Equality Act 2010⁶, as well as any other relevant and applicable legislation that may be enacted from time to time.

1.3 Application

- 1.3.1 These Rules will apply to any referral, application or recommendation raised, initiated, made or lodged on or after 21 August 2017.
- 1.3.2 These Rules will also apply to any referral, application or recommendation raised, initiated, made or lodged that is still awaiting disposal on or after 21 August 2017. Any action or decision taken by GTC Scotland in terms of any such referral, application or recommendation prior to 21 August 2017 will be treated as if it were an action or decision taken by GTC Scotland in accordance with these Rules. For the avoidance of doubt, this means that any such referral, application or recommendation will be deemed to have been referred to GTC Scotland or a Panel in terms of these Rules with reference to the stage that it has reached prior to 21 August 2017 and will be considered or adjudicated from then on in accordance with these Rules.
- 1.3.3 These Rules will not apply to any appeal made in respect of a decision that was served on or before 21 August 2017. Any such appeal will be determined in accordance with the Fitness to Teach and Appeals Rules 2012.
- 1.3.4 Guidance may be published by GTC Scotland as to matters of practice and as to how the powers conferred by these Rules may be exercised. Panels and parties must have regard to any such guidance but will not be bound by it.
- 1.3.5 Subject to the provisions of these Rules and any other provisions or guidance that GTC Scotland may make and publish from time to time, a Panel may regulate its own procedures and will conduct proceedings in the manner it considers fair and in the public interest, having regard to the principles contained in the general objective below. A Panel may also relieve any party from the consequences of a failure to comply with a provision in these Rules which is shown to be due to mistake, oversight or other excusable cause, on such conditions as it thinks fit where it determines that it is just and fair to do so.

³ 1998 c.42

⁴ 1974 c.53

⁵ 1998 c.29

⁶ 2010 c.15

1.3.6 The provisions set out in this Part 1 apply, as appropriate, to all procedures carried out under these Rules.

General Objective

1.3.7 These Rules have the general objective of enabling GTC Scotland, Conveners and Panels, with the assistance of the parties, to deal with cases fairly and justly.

1.3.8 Dealing with a case fairly and justly includes, so far as practicable, dealing with it in ways which:

- (a) are proportionate to the complexity of the issues;
- (b) seek informality and flexibility in proceedings;
- (c) ensure that parties are able to participate fully in proceedings; and
- (d) avoid delay, so far as compatible with the proper consideration of the issues.

1.3.9 GTC Scotland, the Conveners and Panels must give effect to this general objective when exercising any power under these Rules and interpreting and applying them. Parties must assist GTC Scotland, Conveners and Panels to further the objective and, in particular, must co-operate generally with each other and with GTC Scotland, Conveners and Panels.

1.4 Panel Quorum

1.4.1 The quorum of any Panel will be three and, subject to the below, a Panel will comprise a majority of Teachers and at least one lay person.

1.4.2 In the context of hearing proceedings, where a hearing has commenced and a Panel member is no longer able to remain a member of the Panel for any reason, provided that the Panel determines that it is just and fair to proceed, the Panel may do so notwithstanding that it no longer comprises a majority of Teachers or a lay person.

1.5 Decision-making

1.5.1 All Panel decisions will be determined by majority.

1.6 Notice

1.6.1 Any reference in these Rules to a notice being sent to a party is a reference to the notice being:

- (a) delivered personally to the party;
- (b) sent to the party's Nominated Address by a postal service which provides confirmation of delivery or receipt; or
- (c) sent to the party using electronic communications to an electronic address provided by him/her.

1.6.2 Notice will be taken to have been received on the day after posting, on the day of hand delivery or on the day of transmission of electronic communication.

1.6.3 Where, before proceedings begin or at any stage of such proceedings, it appears that the notice fails to comply with any provision of these Rules, the Panel may allow the notice to be amended provided that it has given the parties an opportunity to make representations on the matter and it considers it just to do so. If the Panel considers that the nature of the

amendment is such as to require that the amended notice should be re-sent to the Teacher, it will so direct and the relevant proceeding will be postponed or adjourned accordingly.

1.7 Proceedings

Attendance and representation

- 1.7.1 A Teacher will be entitled to attend and be represented in hearing proceedings, whether by a legally qualified person or otherwise (and subject to any determination excluding him/her from proceedings in terms of rule 1.7.10).

Privacy and restrictions on disclosure

- 1.7.2 Subject to the provision set out below or as provided otherwise elsewhere in these Rules, hearings will be held in public.
- 1.7.3 A Panel may, at any stage of proceedings on its own initiative or on application to it, make an order with a view to preventing or restricting the public disclosure of any aspect of proceedings. A Panel may do this so far as it considers it necessary where it is satisfied (having given the relevant parties an opportunity to make representations and in compliance with all relevant Convention rights) that it is in the interests of justice to do so and the particular circumstances of the case outweigh the interests of the Teacher and the public in the hearing being held in public. Any such decision (and the reasons for it) will be announced in public or made publicly available.

Such orders may include (but will not be limited to) –

- (a) An order that a hearing be conducted (in whole or in part) in private;
- (b) An order that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed at such proceedings to the public (by the use of anonymisation or otherwise) and whether before, during or after those proceedings; and
- (c) An order for measures seeking to prevent witnesses at a public hearing being identifiable by members of the public.

Unless a Panel orders otherwise, any vulnerable witness referred to in proceedings will be subject to the measures specified at (b) and (c) above.

- 1.7.4 Where these Rules specify that a hearing is to take place in private, all or any part of it may be conducted in public where the Panel is satisfied, having given parties an opportunity to make representations, that the interests of the Teacher, the public or any third party require the hearing to be held in public.
- 1.7.5 A Panel may deliberate and meet in private at any time.

Use of electronic communications

- 1.7.6 All or any part of a hearing may be conducted by use of electronic communications provided that –

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- (a) the Panel has given the parties an opportunity to make representations on the matter and the Panel considers it just and equitable for electronic communications to be used;
 - (b) the method used allows the parties, the Panel and any witnesses to hear each other; and
 - (c) where all or any part of the hearing is to be held in public, the method used also allows the public to hear proceedings.

1.7.7 Where all or any part of a hearing is conducted by use of electronic communications, for the purposes of these Rules, the meaning of being “present” at a hearing (and any related expressions) will be construed accordingly.

Non-attendance

- 1.7.8 If a party fails to attend or to be represented at the time and place fixed for a hearing, the Panel –
- (a) will require to satisfy itself that notice of the hearing has been sent to that individual in accordance with these Rules (or that all reasonable efforts have been made so to do); and
 - (b) may, where the Panel is satisfied that notice has been so sent (or such reasonable efforts have been made) and that it is just to do so, proceed to hear and dispose of the case or matter presented in the absence of that party.

Recording of proceedings

1.7.9 Hearing proceedings will normally be recorded electronically. Subject to payment of any reasonable charge that GTC Scotland may prescribe, an electronic copy of any recording made will be made available to the Teacher on request.

Exclusion from proceedings

1.7.10 A Panel may (on its own initiative or on the application of a party) decide to exclude from the whole or any part of proceedings, any person (including, for the avoidance of doubt, a Teacher or representative) where the Panel is of the opinion that his/her presence is disruptive or is otherwise detrimental to proceedings being conducted in accordance with the general objective.

In making any such decision, the Panel must take into account the interests of the parties.

Postponements and adjournments

- 1.7.11 The Convener of a Panel may, of his/her own volition, or upon the application of a party, postpone a hearing before the hearing begins provided that he/she has given the parties an opportunity to make representations on the matter.
- 1.7.12 A Panel considering any matter may, of its own volition, or upon the application of a party, adjourn the proceedings at any stage provided that –
- (a) it is satisfied that no injustice is caused; and
 - (b) the parties have been given an opportunity to make representations on the matter.

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- 1.7.13 Where the proceedings have been adjourned, the Panel will, as soon as practicable, notify the parties of the date, time and venue of the resumed hearing.
- 1.7.14 In considering whether or not to grant a request for postponement or adjournment, regard will be had, amongst other things, to –
- (a) the interests of the public and the parties in expeditious proceedings;
 - (b) the potential inconvenience (or other consequence) caused to a party or any witnesses to be called by that party; and
 - (c) fairness to the parties and the relevant Convention rights

Burden and standard of proof

- 1.7.15 Where facts alleged by the Presenting Officer are in dispute, the burden of proving such facts rests with the Presenting Officer. Where facts advanced or arising in a case are disputed, a Panel will only find such facts proved where it is satisfied that they have been established on the balance of probabilities. In the context of a subsequent registration application, the burden will rest with the Applicant in seeking to satisfy the Panel that his/her application should be granted.

Timetabling

- 1.7.16 A Panel may impose reasonable and fair limits on the time that a party may take at a hearing in presenting evidence, questioning witnesses or making submissions, and may prevent the party from proceeding beyond any time so allocated.

Evidence

- 1.7.17 Subject to the requirements of relevance and fairness, a Panel may admit oral, documentary or other evidence, whether or not such evidence would be admissible in civil or criminal proceedings in the United Kingdom.
- 1.7.18 Subject to rule 1.7.18, where a Teacher has been convicted of a criminal offence (and provided that such conviction is neither pending appeal nor been successfully appealed):
- (a) an extract conviction, or copy of the certificate of conviction certified by a competent officer of the relevant court, will be conclusive proof of the conviction; and
 - (b) any findings of fact upon which the conviction is based will be admissible as evidence of those facts.
- 1.7.19 The only evidence which may be presented by the Teacher in rebuttal of a conviction extracted or certified in accordance with the provision above, is evidence for the purpose of proving that he/she is not the person referred to in the certificate or extract. For the avoidance of doubt, the Teacher may present evidence to explain the circumstances of any such conviction, or in mitigation of it.
- 1.7.20 A certificate as to a determination about a Teacher made by a body responsible under any enactment or otherwise for the regulation of any profession signed by an officer authorised by the body to sign such certificates will be admissible as prima facie evidence of the facts referred to in the determination.

1.7.21 A Teacher may admit a fact or description of a fact and a fact or description of a fact so admitted will be treated as proved.

1.7.22 Where a party seeks to present evidence and –

(a) has failed to comply with any direction for service of evidence given under these Rules; and

(b) has shown no good cause for failure to comply with the direction given,

a Panel may refuse to allow that party to admit the evidence in question.

Witnesses

1.7.23 Subject to a Convener or Panel ordering otherwise, any fact which needs to be proved by the evidence of a witness at a hearing may be proved by his/her evidence being provided in writing in the form of a written statement signed by him/her which contains the evidence that he/she would be permitted to provide orally at a hearing.

1.7.24 A party may apply to the Panel for permission to cross-examine a witness or ask that the person be ordered to attend a hearing to provide his/her evidence orally. If a Panel so orders but the person in question does not attend, his/her evidence will not be used unless the Panel gives permission.

1.7.25 Where a witness is called to give oral evidence and has provided a witness statement, his/her witness statement will stand as his/her evidence in chief unless a Panel orders otherwise. Any such witness statement will be read aloud or will be made available for inspection during the course of the hearing by any members of the public attending the hearing.

1.7.26 A witness giving oral evidence at a hearing who has provided a witness statement may –

(a) amplify his witness statement; and

(b) give evidence in relation to new matters which have arisen since the witness statement was prepared.

A witness giving oral evidence at a hearing will also answer any questions put to him/her in cross-examination or by the Panel.

1.7.27 Witnesses will be required to take an oath, or to affirm, before giving evidence at any hearing.

1.7.28 Unless the Panel determines otherwise and with the exception of the Teacher, a witness will be excluded from a hearing until such time as they give, or have given, evidence.

Vulnerable witnesses

1.7.29 A Panel may, of its own volition or on the application of any party, treat as vulnerable:

(a) any witness under the age of 18; and

(b) any witness whose quality of evidence is likely to be diminished for any of the following reasons:

i. he/she has a mental disorder;

ii. he/she has a significant impairment of intelligence and/or social functioning;

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- iii. the allegation(s) is/are of a sexual and/or violent nature, and he/she is an alleged victim; or
 - iv. fear or distress in connection with giving evidence.

1.7.30 Provided that the parties have been given the opportunity to make representations on the matter, a Panel may adopt such measures as it considers necessary to enable it to receive evidence from a vulnerable witness. These measures may include but will not be limited to:

- (a) use of video links;
- (b) use of pre-recorded evidence, provided always that such witness is available at the hearing for cross-examination and questioning;
- (c) use of interpreters; and
- (d) the hearing of evidence in private.

1.7.31 Where –

- (a) a witness is defined as a vulnerable witness;
- (b) the Teacher is not represented; and
- (c) a Panel considers it necessary,

the Teacher will not be allowed to examine or cross-examine the witness. In such circumstances, examination or cross-examination of the witness will be undertaken by such means, or by such person, as the Panel considers appropriate.

Joint hearings and related matters

1.7.32 Unless a Panel is of the view that there is a risk of prejudice to the fairness of the proceedings, a Panel may hold a joint hearing for two or more Teachers where: the matters arise from the same facts or circumstances; or in the view of the Panel, a joint hearing is necessary.

1.7.33 For the avoidance of doubt, a Panel may consider more than one allegation and/or recommendation about a Teacher at the same hearing. Where any allegation relates to a criminal conviction, this should be heard after any other conduct or professional competence matter has been heard and determined to the extent that it is possible to do so in the circumstances of the case.

1.8 Decisions and Reasons

1.8.1 Unless otherwise provided in these Rules, notice of any decision or disposal made with reference to rules 2.10, 3.8 and 4.10 (together with the reasons for it) will be served on the parties as soon as reasonably practicable after the decision was made (and normally within 28 days). This notice will include details of any right of appeal that the Teacher may have.

1.8.2 Reasons for the direction given at disposal of a case under rules 2.10, 3.8 or 4.10 may be provided orally at the time of issuing a decision or may be reserved to be given in writing as soon as it is reasonably practicable to do so. If a Panel's decision as to disposal of a case is not announced on the day of a hearing, it will not be necessary to hold a hearing for the purpose of announcing its decision. Where the Teacher is known by GTC Scotland to be employed as a teacher in an educational establishment, the employer will be advised of any such decision.

1.8.3 Clerical mistakes or errors arising from an accidental slip or omission in any decision notice issued may at any time be corrected by the Convener in writing.

1.9 Referrals Back After an Appeal

1.9.1 Where an appeal against a decision of a Panel is upheld in whole or in part by the Court of Session and has been referred back to a Panel for re-consideration, the Panel will re-consider the matter in accordance with the decision or direction given and, insofar as is compatible with that direction or decision, these Rules.

1.10 Orders for Expenses

1.10.1 A Panel must not normally make an order for expenses against a party but may do so where it is of the opinion that his/her conduct in proceedings has been vexatious, non-compliant (in terms of rule 1.11 below) or otherwise unreasonable and has resulted in increased expenses being incurred.

1.10.2 An order for expenses may include the legal expenses of the successful party; the reasonable expenses of witnesses in attending any hearings; the costs of any investigation, including the fees and expenses of any expert witness; and the costs of the Panel. The total sum payable under any such order will not exceed such sum as the Panel considers just and reasonable in all the circumstances, and may be fixed at a proportion of the expenses actually and reasonably incurred.

1.10.3 No such order may be made without first giving the parties an opportunity to make representations on the matter.

1.10.4 In making an order for costs and expenses, a Panel must take into account the resources of the parties, details of which will be disclosed to the Panel on request.

1.10.5 A Convener may make such provision regarding the manner and timescale for payment of any such expenses order by the party concerned as it considers appropriate in the circumstances.

1.10.6 Where a Panel orders a party to pay expenses, the Convener may –

- (a) summarily assess the expenses to be paid; or
- (b) appoint a suitably qualified independent person to assess the expenses to be paid.

1.10.7 Non-payment of any instalment will render due the whole sum outstanding at that time under any order for expenses.

1.10.8 GTC Scotland may by civil proceedings recover from any party such sums as may at any time be due and unpaid under an order for expenses.

1.11 Consequences of Non-compliance

1.11.1 A Panel or a Convener may take such action as it considers just in respect of the failure by a party to comply with any directions issued to him/her in terms of these Rules. This may include but will not be limited to –

- (a) waiving or varying the direction(s) given;
- (b) refusing to admit evidence or submissions presented; or

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- (c) barring or restricting the party's participation in the proceedings with reference to rule 1.7.10.

Part 2 - Conduct Cases

2.1 Initial consideration

2.1.1 Where GTC Scotland receives a referral, it will first be subject to initial consideration. The person giving initial consideration must refer the matter for investigation under rule 2.2 unless he/she decides:

- (a) that it is not Relevant Conduct;
- (b) that it relates to events that occurred 5 years or more before the date of the most recent event (or events) referred to and it is not in the public interest for it to be referred for investigation;
- (c) that the referral has already been received and considered by GTC Scotland and rule 2.3.3(b) does not apply;
- (d) that it is frivolous or vexatious; or
- (e) where it has been made anonymously, or by a person who fails to co-operate with the initial consideration procedure (or similar), that the matter cannot be verified or the Teacher concerned is not identifiable.

The person giving initial consideration may also refer the Teacher concerned to a Panel to determine, under rule 2.6, whether the Teacher's registration should be made subject to a temporary restriction order to restrict his/her registration pending conclusion of GTC Scotland's investigation of his/her fitness to teach.

2.1.2 Initial consideration may be carried out by either:

- (a) one or more persons appointed by GTC Scotland for that purpose; or
- (b) one or more members of GTC Scotland staff.

2.1.3 Where a case is referred for investigation, the Teacher will be informed of the allegation(s) to be investigated.

2.1.4 Where a case is not referred onwards, the Teacher will be notified accordingly unless the person that has given the matter initial consideration considers that it is not in the public interest to do so.

2.2 Investigation

2.2.1 After a case has been referred for investigation, such investigations as are considered appropriate will be carried out by GTC Scotland with reference to the allegation(s) identified.

2.2.2 Investigations may be carried out by either:

- (a) one or more persons appointed by GTC Scotland for that purpose; or
- (b) one or more members of GTC Scotland staff.

2.2.3 At any stage in the investigating process, the person investigating the case may refer the Teacher to a Panel to determine, under rule 2.6, whether the Teacher's registration should be made subject to a temporary restriction order to restrict his/her registration pending conclusion of GTC Scotland's investigation of his/her fitness to teach.

2.2.4 The person investigating the case may:

- (a) make a finding that the matter was not eligible for onward referral (with reference to rule 2.1.1) and dispose of the case in accordance with rule 2.1.4;
- (b) dismiss the case and notify the Teacher accordingly because he/she finds that there is insufficient evidence to prove the facts alleged or determines that the referral is malicious; or
- (c) refer the case to a Panel for consideration in accordance with rule 2.3 below.

2.3 Panel consideration

2.3.1 Where the case is referred to a Panel for consideration, the Teacher will be provided with a notice that will:

- (a) set out the allegation(s) to be considered by the Panel;
- (b) have attached to it, copies of any documents to be placed before the Panel following the investigating process; and
- (c) state that any written representations or additional documents that the Teacher wishes the Panel to consider must be submitted by him/her within 28 days of the date of the notice.

2.3.2 A Panel will meet in private to consider all of the information provided to it in writing in respect of a case: it may not hear oral evidence at this stage. A Panel may decide:

- (a) To dispose of the case in accordance with rule 2.1.4 on the basis that it was not eligible for onward referral (with reference to rule 2.1.1).
- (b) To dismiss the case because there is insufficient evidence to prove the facts alleged or the referral is malicious.
- (c) To request that further information be obtained and the case be considered again by a Panel once such information has been received and the Teacher has been given a further 28 day period to consider any such new material.
- (d) That the Teacher's fitness to teach is not impaired and that no further action should be taken.
- (e) To issue a consent order to the Teacher in accordance with rule 2.7.
- (f) To refer the case on for hearing proceedings.

2.3.3 Where a case is dismissed at this stage and:

- (a) A new referral is made about the Teacher concerned, account may be taken of the previous allegation(s) when considering the new referral in accordance with (and subject to) the provisions set out above. In addition, the original allegation(s) may be re-considered in accordance with (and subject to) the provisions set out above and elsewhere in these Rules.
- (b) new evidence or information is received about it which means re-consideration of that decision is necessary in the public interest, the case may be re-considered in accordance with (and subject to) the provisions set out above and elsewhere in these Rules.

2.4 Case Management

- 2.4.1 Following the referral of a case for a hearing, it will be subject to case management in accordance with the provisions below.
- 2.4.2 The Convener or Servicing Officer may manage a case by issuing parties with case management directions or arranging a case management discussion at any stage of proceedings. The purpose of case management is to secure the just, expeditious and effective running of proceedings. In particular, it is intended to identify clearly in a case the matters on which parties are in agreement and disagreement so that proceedings are appropriately focused. The Convener or Servicing Officer may issue case management directions or arrange a case management discussion on his/her own initiative or on the application of a party (whether in writing or orally at a hearing or case management discussion).
- 2.4.3 Unless the parties agree otherwise, the Teacher will be given no fewer than 7 days' notice of any case management discussion. This notice will:
- (a) specify the date, time and arrangements for holding the case management discussion;
 - (b) inform the Teacher of his/her right to attend the case management discussion and be represented; and
 - (c) inform the Teacher that the case management discussion may proceed in his/her absence.
- 2.4.4 A case management discussion will take place in private and will be conducted by telephone or by such other method as may be agreed between the parties.
- 2.4.5 Case management directions may be issued according to what is considered appropriate in the circumstances of the case. Directions may include (but are not limited to) the following:
- (a) that each party discloses whether any preliminary or procedural issues are to be raised. If either party is to do so, clear specification of the issues to be provided in writing to the other party (together with any supporting documentary evidence) and the other party to then provide his/her written response to them.
 - (b) that each party provide an estimate as to the likely length of the process of them leading evidence and making submissions at a hearing.
 - (c) that each party sets out -
 - (i) what evidence is admitted and what remains in dispute, and
 - (ii) which witnesses (if any) are required for oral evidence.
 - (d) where all or part of the allegation(s) or any evidence is admitted or agreed, that the parties produce a statement of agreed facts.
 - (e) where the parties agree, that a particular witness should be treated as a vulnerable witness.
 - (f) where the parties agree, directions as to how the evidence of a vulnerable witness should be obtained or presented to the Panel.
 - (g) time limits for compliance with any of the directions listed above (as appropriate) and instructions as to how an application may be made for any such time limits to be extended.

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- 2.4.6 A record of the directions made at a case management discussion will be issued in writing by the Servicing Officer, normally within 14 days of the date of the discussion.

2.5 Procedural and Preliminary Matters

- 2.5.1 At any stage of proceedings, a Panel of its own volition, on the Convener's direction or upon the application of a party (in such form as may be specified by the Servicing Officer), may:

- (a) determine any interim or preliminary matter that has arisen in the case;
- (b) resolve any issues of law; or
- (c) consider an application for a case to be cancelled.

Unless a party has (in the relevant application) requested that a procedural hearing be held or a Panel considers that such a hearing is necessary in the particular circumstances, the above matters will be considered by a Panel at a meeting based on the written representations made by the parties in compliance with case management directions set for this purpose.

- 2.5.2 Where a procedural hearing is arranged in a case and unless the parties agree otherwise, the parties will be given no fewer than 7 days' notice of any such hearing. This notice will:

- (a) inform the parties of the matter(s) to be considered at the hearing;
- (b) specify the date, time and venue of the hearing;
- (c) inform the Teacher of his/her right to attend the hearing and be represented; and
- (d) inform the parties that the hearing may proceed in their absence.

- 2.5.3 Where the Panel considers and determines a procedural or preliminary matter in terms of the provisions above, such determination will bind any subsequent Panel hearing the case unless it considers that there has been a material change in circumstances and it is just for it to be re-considered. Where an application is made in terms of rule 2.5.1 above which has already been determined and there has been no such change in circumstances specified, the Servicing Officer may dismiss the application.

The Convener may dismiss an application to determine a procedural or preliminary matter where he/she is of the reasonable opinion that it:

- (a) has already been determined and the material change in circumstances requirement referenced above is not engaged;
- (b) lacks specification; or
- (c) is frivolous or vexatious.

Where any application is dismissed by the Convener in terms of the above, the parties will be notified in writing of the decision.

2.6 Temporary Restriction

- 2.6.1 At any stage of proceedings, a Panel of its own volition or upon the written application of the Presenting Officer (in such form as the Servicing Officer may reasonably specify), may determine whether a Teacher's registration should be made subject to a temporary restriction order to restrict his/her registration pending conclusion of GTC Scotland's investigation of his/her fitness to teach.

2.6.2 Where a Teacher is made subject to a temporary restriction order, at the conclusion of GTC Scotland's investigation of a Teacher's fitness to teach, any temporary restriction order imposed will be cancelled and the mark on the Register will be removed accordingly. If, however, at any stage of proceedings before the conclusion of the investigation either party makes a written application (in such form as the Servicing Officer may reasonably specify) for the order to be reviewed or revised, the order will be reviewed in accordance with the process described below.

2.6.3 Unless the determination is made by a Panel at a full hearing, a temporary restriction order will be imposed and reviewed in accordance with the process described below.

The parties will be given notice that a Panel is to: consider whether the Teacher should be made subject to a temporary restriction order; or review any such order. This notice will explain why a temporary restriction order is under consideration or review and state that the parties have 7 days (from the date of that notice) in which to:

- (a) provide written representations to the Panel on the matter; or
- (b) request that a hearing be held in order that oral representations may be made on the matter.

This notice will also invite the parties (as relevant to the circumstances) to consent to the imposition or removal of a temporary restriction order. Should the parties provide such consent, the Convener may direct that the order be imposed or removed without any further process.

If hearing has not been requested and a Panel does not consider that a hearing is necessary, the Panel will meet to consider whether to impose a temporary restriction order based on the written representations made.

If a hearing has been requested or a Panel considers such a hearing necessary, a hearing will be arranged in accordance with the procedure set out in rule 2.6.4.

2.6.4 Unless the parties agree otherwise, the parties will be given no fewer than 7 days' notice of any temporary restriction hearing or temporary restriction order review hearing. This notice will:

- (a) specify the date, time and venue of the hearing;
- (b) inform the Teacher of his/her right to attend the hearing and be represented; and
- (c) inform the parties that the hearing may proceed in their absence.

2.6.5 Unless the Panel determines otherwise in accordance with rule 1.7, any temporary restriction hearing and temporary restriction order review hearing will be held in private.

2.7 Consent Orders

2.7.1 Where considered appropriate, the Convener or a Panel may instruct the Servicing Officer to issue a consent order. This consent order will seek confirmation from the Teacher that he/she:

- (a) has had the opportunity to seek advice from an independent legal representative on the terms and content of the consent order;
- (b) admits the allegation(s) in full;
- (c) waives his/her right to further adjudication proceedings; and

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- (d) agrees to the imposition of the disposal option specified in the consent order, as will have been determined by the Convener or a Panel with reference to rule 2.10 and any GTC Scotland indicative outcome guidance.

2.7.2 Should the Teacher fail to provide his/her consent to the order within 28 days of the date of receipt, the adjudication procedure set out in these Rules will resume as if this process had never been pursued.

2.7.3 Should the Teacher provide his/her consent to the order, the order will be made available to the public, the disposal will be recorded against the Teacher's name in the Register as appropriate and the case will be considered disposed of.

2.8 Full Hearing

2.8.1 A full hearing is the substantive hearing in a case at which a Panel determines, in turn:

- (a) Whether it finds the facts set out in the allegation(s) proved;
- (b) Whether, on the basis of any facts found proved, the Teacher's fitness to teach is impaired or he/she is unfit to teach; and
- (c) If it finds that fitness to teach is impaired, with reference to rule 2.10, what disposal to impose in view of the identified impairment.

2.8.2 Unless otherwise agreed, the parties will be given no fewer than 28 days notice of a full hearing. Unless in exceptional circumstances the Convener or a Panel directs otherwise, this notice will:

- (a) explain that the hearing is to consider the matters specified at rule 2.8.1;
- (b) provide a list of any documents and witnesses to be relied upon by the parties at the hearing together with copies of the corresponding documents and witness statements (if not already disclosed in compliance with case management directions set for this purpose or at another earlier stage);
- (c) specify the date, time and venue of the hearing;
- (d) inform the Teacher of his/her right to attend the hearing and be represented;
- (e) inform the Teacher that the hearing may proceed in his/her absence;
- (f) inform the Teacher of the disposals available to a Panel at the hearing and, where the Teacher is a registrant, the Panel's power to impose a temporary restriction order at any point should it be considered appropriate to do so.

2.8.3 The parties and a Panel may agree that the matters set out at rule 2.8.1 will be considered by a Panel at a meeting based on the written representations made by the parties in compliance with case management directions set for this purpose.

2.8.4 At any stage before making its findings of fact, the Panel may amend the allegation(s) to be considered, unless, having regard to the merits of the case and the fairness of the proceedings, the Panel considers that the required amendment cannot be made without injustice. Before making any such amendment, the Panel will receive advice from a Legal Assessor and will consider any representations made on the issue by the parties.

2.9 Conditional Registration Order Review

2.9.1 Where a Teacher has been made subject to a conditional registration order in accordance with a direction of a Panel and either party makes a written request (in such form as the

Servicing Officer may reasonably specify) for the order to be reviewed, revoked or revised, subject to the provisions below, a hearing will be arranged to review the order.

2.9.2 Where it is alleged that a Teacher has failed to comply with a conditional registration order, the Servicing Officer will ask whether he/she is willing to consent to removal from the Register. If he/she is so willing, the process set out in rule 2.7 will be followed.

2.9.3 Unless the parties agree otherwise, the Teacher will be given no fewer than 14 days' notice of a hearing to review a conditional registration order. This notice will:

- (a) specify the date, time and venue of the hearing;
- (b) inform the Teacher of his/her right to attend the hearing and be represented;
- (c) inform the Teacher that the hearing may proceed in his/her absence; and
- (d) invite the Teacher, if he/she chooses not to attend the hearing, to make written representations to be received by GTC Scotland no fewer than 7 days before the hearing.

2.9.4 The parties and a Panel may agree that a conditional registration order will be reviewed, revoked or revised by a Panel at a meeting based on the written representations made by the parties in compliance with case management directions set for this purpose.

2.10 Decision and Disposal

2.10.1 In any case where a Panel is satisfied that a Teacher is unfit to teach, the Panel will, as appropriate, direct (in accordance with the Order) either that:

- (a) the Teacher's application for registration be refused; or
- (b) the Teacher's name be removed from the Register.

2.10.2 In any case where a Panel is satisfied that a Teacher's fitness to teach is impaired, it may, as appropriate and as it sees fit, direct in terms of one or more of the following that:

- (a) a reprimand be recorded against the Teacher's entry in the Register for such period of time and in such terms as is specified by the Panel;
- (b) the Teacher be subject to a conditional registration order for such period of time (which may be unlimited), and with such conditions attached, as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name be removed from the Register;
- (c) provided that the Teacher is otherwise eligible for registration, he/she be granted provisional registration or full registration as the Panel sees fit;
- (d) provided that the Teacher is otherwise eligible for registration, the Teacher be granted provisional or full registration subject to a conditional registration order for such period of time (which may be unlimited) with such conditions attached as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name be removed from the Register;
- (e) the Teacher's application for registration be refused; or
- (f) the Teacher's name be removed from the Register.

2.10.3 In any review of a conditional registration order, a Panel may direct that:

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- (a) the conditional registration order be continued or revoked;
 - (b) the conditional registration order be amended with such conditions as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name will be removed from the Register;
 - (c) a reprimand be recorded against the Teacher's entry in the Register for such period of time and in such terms as is specified by the Panel; or
 - (d) the Teacher's name be removed from the Register.
- 2.10.4 In any case where a Panel considers that there are circumstances which on the face of it might cause GTC Scotland to remove a Teacher's name from the Register, it may direct that a temporary restriction order be imposed pending conclusion of GTC Scotland's investigation of these circumstances and be marked on the Register accordingly. In any review of the imposition of such an order, a Panel may continue or revoke the order made and may direct that the Teacher be prohibited from applying, or as the case may be applying again, for a further review until the expiry of such period as it may determine.
- 2.10.5 Where a Panel directs that the Teacher's application for registration be refused, or the Teacher's name be removed from the Register, the Teacher will not be entitled to be registered, or as the case may be re-registered, except in compliance with a direction of a Panel.
- 2.10.6 As part of making a direction that a Teacher's application for registration be refused, or the Teacher's name be removed from the Register, the Panel may also direct that the Teacher be prohibited from applying, or as the case may be applying again, for registration until the expiry of such period (not exceeding 2 years) as it may determine.
- 2.10.7 Where a Panel directs that a Teacher is to be made subject to a conditional registration order (including any revised conditional registration order), the Teacher will be asked to accept the conditions imposed under that order within such time period as the Panel may specify. If these conditions are not accepted by the Teacher, the Panel will review and revise its disposal decision as it sees fit.
- 2.10.8 As part of a direction to impose a conditional registration order or as part of any review of a conditional registration order, a Panel may direct that the Teacher be prohibited from applying for a review (or further review) until the expiry of such period as it may determine.
- 2.10.9 A Panel may at any time following the referral of a case to it for a hearing decide to cancel a case (and dispose of it on that basis). Before making any such decision, a Panel must have heard from the parties on the matter and be satisfied that it is in accordance with the general objective and in the public interest to do so.

Part 3 – Professional Competence Cases

3.1 Recommendation

- 3.1.1 Where GTC Scotland receives a recommendation from an employer or previous employer of a Teacher that:
- (a) alleges that the Teacher's professional competence falls below the standards expected of a registered teacher;
 - (b) recommends how a Panel should dispose of the Teacher's case with reference to rule 3.8;
 - (c) explains why the employer has formed this view; and
 - (d) has attached to it supporting evidence,

GTC Scotland will issue the recommendation to the Teacher concerned and provide him/her with no fewer than 28 days in which to intimate in writing that he/she wishes to challenge the recommendation made. If the Teacher does not so intimate, a Panel may decide that the recommendation is accepted and dispose of the case in accordance with rule 3.8. If the Teacher intimates a challenge or should a Panel be of the view that a hearing is necessary, the Servicing Officer will arrange a full hearing.

3.2 Case Management

- 3.2.1 In seeking to secure the just, expeditious and effective running of proceedings, the Convener or Servicing Officer may manage a case by issuing case management directions or arranging a case management discussion at any stage.
- 3.2.2 Unless agreed otherwise, the Teacher will be given no fewer than 7 days' notice of any case management discussion. This notice will:
- (a) specify the date, time and arrangements for holding the case management discussion;
 - (b) inform the Teacher of his/her right to attend the case management discussion and be represented; and
 - (c) inform the Teacher that the case management discussion may proceed in his/her absence.
- 3.2.3 A case management discussion will take place in private and will be conducted by telephone or by such other method as may be agreed between the parties.
- 3.2.4 Case management directions may be issued according to what is considered appropriate in the circumstances of the case.
- 3.2.5 A record of the directions made at a case management discussion will be issued in writing by the Servicing Officer; normally within 14 days of the date of the discussion.

3.3 Temporary Restriction

- 3.3.1 At any stage of proceedings, a Panel of its own volition may determine whether a Teacher's registration should be made subject to a temporary restriction order to restrict his/her registration pending conclusion of GTC Scotland's investigation of his/her fitness to teach.

3.3.2 Where a Teacher is made subject to a temporary restriction order, at the conclusion of GTC Scotland's investigation of a Teacher's fitness to teach, any temporary restriction order imposed will be cancelled and the mark on the Register will be removed accordingly. If, however, at any stage of proceedings before the conclusion of the investigation the Teacher makes a written application (in such form as the Servicing Officer may reasonably specify) for the order to be reviewed or revised, the order will be reviewed in accordance with the process described below.

3.3.3 Unless the determination is made by a Panel at a full hearing, a temporary restriction order will be imposed and reviewed in accordance with the process described below.

The Teacher will be given notice that a Panel is to: consider whether the Teacher should be made subject to a temporary restriction order; or review any such order. This notice will explain why a temporary restriction order is under consideration or review and state that the Teacher has 7 days (from the date of that notice) in which to:

- (a) provide written representations to the Panel on the matter; or
- (b) request that a hearing be held in order that oral representations may be made on the matter.

This notice will also invite the Teacher to consent to the imposition or removal of a temporary restriction order. Should the Teacher provide such consent, the Convener may direct that the order be imposed or removed without any further process.

If hearing has not been requested and a Panel does not consider a hearing necessary, the Panel will meet to consider whether to impose a temporary restriction order based on the written material submitted.

If a hearing has been requested or a Panel considers such a hearing necessary, a hearing will be arranged in accordance with the procedure set out in rule 3.3.4.

3.3.4 Unless agreed otherwise, the Teacher will be given no fewer than 7 days' notice of any temporary restriction hearing or temporary restriction order review hearing. This notice will:

- (a) specify the date, time and venue of the hearing;
- (b) inform the Teacher of his/her right to attend the hearing and be represented; and
- (c) inform the parties that the hearing may proceed in their absence.

3.3.5 Unless the Panel determines otherwise in accordance with rule 1.7, any temporary restriction hearing and temporary restriction order review hearing will be held in private.

3.4 Procedural and Preliminary Matters

3.4.1 At any stage of proceedings, a Panel of its own volition, on the Convener's direction or upon the application of the Teacher (in such form as may be specified by the Servicing Officer), may:

- (a) determine any interim or preliminary matter that has arisen in the case;
- (b) resolve any issues of law; or
- (c) consider an application for a case to be cancelled.

Unless the Teacher has (in the relevant application) requested that a procedural hearing be held or a Panel considers that such a hearing is necessary, the above matters will be

considered by a Panel at a meeting based on the written representations made by the parties in compliance with case management directions set for this purpose.

3.4.2 Where a procedural hearing is arranged in a case and unless agreed otherwise, the Teacher will be given no fewer than 7 days' notice of any such hearing. This notice will:

- (a) set out the matter(s) to be considered at the hearing;
- (b) specify the date, time and venue of the hearing;
- (c) inform the Teacher of his/her right to attend the hearing and be represented; and
- (d) inform the Teacher that the hearing may proceed in his/her absence.

3.4.3 Where the Panel considers and determines a procedural or preliminary matter in terms of the provisions above, such determination will bind any subsequent Panel hearing the case unless it considers that there has been a material change in circumstances and it is just for it to be re-considered. Where an application is made in terms of rule 3.4.1 above which has already been determined and there has been no such change in circumstances specified, the Servicing Officer may dismiss the application.

The Convener may dismiss an application to determine a procedural or preliminary matter where he/she is of the reasonable opinion that it:

- (a) has already been determined and the material change in circumstances requirement referenced above is not engaged;
- (b) lacks specification; or
- (c) is frivolous or vexatious.

Where any application is dismissed by the Convener in terms of the above, the Teacher will be notified in writing of the decision.

3.5 Conditional Registration Consent Order

3.5.1 Where the Teacher is fully registered and it is considered appropriate to do so, the Convener or a Panel may instruct the Servicing Officer to issue a conditional registration consent order. This order will seek confirmation from the Teacher that he/she:

- (a) has had the opportunity to seek advice from an independent legal representative on the terms and content of the consent order;
- (b) admits that his/her professional competence has fallen below the standards expected of a registered teacher;
- (c) agrees to be subject to a conditional registration order for such period of time (which may be unlimited), and with such conditions attached as is specified by the Convener or Panel in the consent order; and
- (d) understands that any failure to comply with the conditional registration order may permit a Panel to direct that his/her name be removed from the Register.

3.5.2 Should the Teacher fail to provide his/her consent to the order within 28 days of the date of receipt, the procedure set out in this Part 3 of these Rules will resume as if the consent order process had never been pursued.

3.5.3 Should the Teacher provide his/her consent to the order, the order will be made available to the public, the disposal will be recorded against the Teacher's name in the Register as appropriate and the case will be considered disposed of.

3.6 Full Hearing

- 3.6.1 A full hearing is the substantive hearing in a professional competence case at which a Panel determines:
- (a) Whether the Teacher's professional competence falls below the standards expected of a registered teacher;
 - (b) Whether the Teacher's fitness to teach is impaired or he/she is unfit to teach; and
 - (c) If it finds that fitness to teach is impaired, with reference to rule 3.7, what disposal to impose in view of the identified impairment.
- 3.6.2 Unless agreed otherwise, the Teacher will be given no fewer than 28 days' notice of a full hearing. This notice will:
- (a) explain that the hearing is to consider the matters specified at rule 3.6.1;
 - (b) specify the date, time and venue of the hearing;
 - (c) inform the Teacher of his/her right to attend the hearing and be represented; and
 - (d) inform the Teacher that the hearing may proceed in his/her absence.
- 3.6.3 Copies of any information submitted to the Panel that is to be considered by it at the hearing in addition to the recommendation will be provided to the Teacher no fewer than 7 days before the date of the hearing.
- 3.6.4 A Panel may of its own volition (acting through the Servicing Officer as is seen fit), or on the application of any party, ask any person to provide information that it considers relevant to the Panel (at the hearing or otherwise).
- 3.6.5 Unless a Panel determines otherwise in accordance with rule 1.7, a full hearing in respect of a provisionally registered Teacher will take place in private.

3.7 Conditional Registration Order Review

- 3.7.1 Where a Teacher has been made subject to a conditional registration order in accordance with a direction of a Panel and either party makes a written request (in such form as the Servicing Officer may reasonably specify) for the order to be reviewed or revised, subject to the provisions below, a hearing will be arranged to review the order.
- 3.7.2 Where it is alleged that a Teacher has failed to comply with a conditional registration order, the Servicing Officer will ask whether he/she is willing to consent to removal from the Register. If he/she is so willing, the removal process set out in rule 3.8 will be followed.
- 3.7.3 Unless agreed otherwise, the Teacher will be given no fewer than 14 days' notice of a hearing to review a conditional registration order. This notice will:
- (a) specify the date, time and venue of the hearing;
 - (b) inform the Teacher of his/her right to attend the hearing and be represented;
 - (c) inform the Teacher that the hearing may proceed in his/her absence;
 - (d) inform the Teacher of the disposals available to a Panel in the case and its power to impose a temporary restriction order at any point in proceedings should it be considered appropriate to do so; and

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- (e) invite the Teacher, if he/she chooses not to attend the hearing, to make written representations to be received by GTC Scotland no fewer than 7 days before the hearing.

3.7.4 The Teacher and a Panel may agree that a conditional registration order will be reviewed or revised by a Panel at a meeting based on the written representations made by the parties in compliance with case management directions set for this purpose.

3.8 Decision and Disposal

3.8.1 With reference to the Order as well as the relevant criteria for registration set out in GTC Scotland's Registration and Standards Rules as appropriate, a Panel may order in terms of one or more of the following that:

- (a) the Teacher be granted full registration in part or parts of the Register;
- (b) the Teacher be given a further period of time (as specified by the Panel) to demonstrate that he/she has met the standard of professional competence required to gain full registration;
- (c) the Teacher be subject to a conditional registration order for such period of time (which may be unlimited), and with such conditions attached, as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit a Panel to direct that his/her name be removed from the Register; or
- (d) the Teacher's name be removed from part or parts of the Register.

3.8.2 Where a Panel directs that a Teacher's name be removed from part or parts of the Register, the Teacher will not be entitled to be re-registered except in compliance with a direction of a Panel.

3.8.3 As part of making a direction that a Teacher's name be removed from the Register, the Panel may also direct that the Teacher will be prohibited from applying, or as the case may be applying again, for registration until the expiry of such period (not exceeding 2 years) as it may determine.

3.8.4 In any review of a conditional registration order, a Panel may direct that:

- (a) the conditional registration order be continued or revoked;
- (b) the conditional registration order be amended with such conditions as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name will be removed from the Register; or
- (c) the Teacher's name be removed from the Register.

3.8.5 In any case where a Panel considers that there are circumstances which on the face of it might cause GTC Scotland to remove a Teacher's name from the Register, it may direct that a temporary restriction order be imposed pending conclusion of GTC Scotland's investigation of these circumstances and be marked on the Register accordingly. In any review of the imposition of such an order, a Panel may continue or revoke the order made and may direct that the Teacher be prohibited from applying, or as the case may be applying again, for a further review until the expiry of such period as it may determine.

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- 3.8.6 Where a Panel directs that a Teacher is to be made subject to a conditional registration order (including any revised conditional registration order), the Teacher will be asked to accept the conditions imposed under that order within such time period as the Panel may specify. If these conditions are not accepted by the Teacher, the Panel will review and revise its disposal decision as it sees fit.
- 3.8.7 As part of any review of a conditional registration order, a Panel may direct that the Teacher will be prohibited from applying for a further review until the expiry of such period as it may determine.
- 3.8.8 A Panel may at any time following the referral of a case to it for a hearing, and in accordance with the general objective, determine that it is in the public interest for the case to be cancelled and considered disposed of.

3.9 Right of Review

- 3.9.1 A provisionally registered Teacher will have the right to ask for a full hearing decision to be reviewed (by a Panel comprised of members who have had no earlier involvement in the case) where there are grounds for such a review in terms of the Panel that reached the decision concerned having either:
- (a) failed to act in accordance with these Rules; or
 - (b) made an error in law or in fact,
- that has had a significant impact on the decision made.
- 3.9.2 Any such review request must specify the grounds on which it is based and be made within 28 days of the date of service of the notice of the decision.
- 3.9.3 A Panel or Convener may at any stage dismiss a review request where it considers that the application is frivolous or vexatious, has not been properly made or has been abandoned.
- 3.9.4 A Panel will meet in private to determine whether there are grounds for review. If the Panel determines that there are no such grounds, it will make a direction to dismiss the request. If the Panel determines that there are grounds, it will make a direction for a fresh full hearing to be held in the case with the Panel comprised of members who have had no earlier involvement in the case.
- 3.9.5 Subject to any right of appeal that the Teacher may have to the Court of Session in terms of Article 24 of the Order, the decision of a Panel regarding a review request will be final and takes immediate effect.

Part 4 – Subsequent Registration Applications

- 4.1 A subsequent registration application is an application from a person who was removed from (or refused entry to) the Register in terms of these Rules (or the historic equivalent) or article 19 of the Order (entitled “Barred individuals”). Where an individual submits such an application (in such form as GTC Scotland reasonably requires), the application must be considered by a Panel at a hearing. The Applicant may only be admitted to the Register if a Panel is satisfied that he/she is now fit to teach.
- 4.2 Upon receipt of a subsequent registration application, the case may be subject to case management in seeking to secure the just, expeditious and effective running of a hearing. The Convener or Servicing Officer may manage a case by issuing case management directions or arranging a case management discussion at any stage.
- 4.3 Unless agreed otherwise, the Applicant will be given no fewer than 7 days’ notice of any case management discussion. This notice will:
- (a) specify the date, time and arrangements for holding the case management discussion;
 - (b) inform the Applicant of his/her right to attend the case management discussion and be represented; and
 - (c) inform the Applicant that the case management discussion may proceed in his/her absence.
- 4.4 A case management discussion will take place in private and will be conducted by telephone or by such other method as may be agreed between the parties.
- 4.5 Case management directions may be issued according to what is considered appropriate in the circumstances of the case.
- 4.6 A record of the directions made at a case management discussion will be issued in writing by the Servicing Officer; normally within 14 days of the date of the discussion.
- 4.7 A Panel or Convener may at any stage dismiss any subsequent registration application where it considers that the application is frivolous or vexatious, has not been properly made or has been abandoned.
- 4.8 Unless agreed otherwise, no fewer than 28 days’ notice will be given of a hearing to consider a subsequent registration application. This notice will:
- (a) specify the date, time and venue of the hearing;
 - (b) inform the Applicant of his/her right to attend the hearing and be represented; and
 - (c) inform the Applicant that the hearing may proceed in his/her absence.
- 4.9 Unless a Panel determines otherwise in accordance with rule 1.7, where the Applicant was removed from the Register on the grounds of his/her professional competence and he/she was provisionally registered at that time, the subsequent registration application hearing will take place in private.
- 4.10 In terms of its decision and disposal options, a Panel may direct that:
- (a) provided that the Applicant is otherwise eligible for registration, he/she be granted provisional registration or full registration as the Panel sees fit;

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- (b) provided that the Applicant is otherwise eligible for registration, the application be granted subject to a conditional registration order for such period of time (which may be unlimited) with such conditions attached as may be specified by the Panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name will be removed from the Register; or
 - (c) the application be refused.

As part of making a direction that a subsequent registration application be refused, the Panel may also direct that the Applicant will be prohibited from applying, or as the case may be applying again, for registration until the expiry of such period (not exceeding 2 years) as it may determine.

GTC Scotland aims to promote equality and diversity in all its activities

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Comhairle Choitcheann Teagaisg na h-Alba

The General Teaching Council for Scotland is the independent professional body which maintains and enhances teaching standards and promotes and regulates the teaching profession in Scotland. We strive to be a world leader in professional education issues.

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