Removal from the Register with Consent
Practice Statement

Introduction

Where a registrant has been referred to a Fitness to Teach Panel for proceedings in terms of Part 3 of the Fitness to Teach and Appeals Rules, a Fitness to Teach Panel Convener (the “Convener”) may instruct the Servicing Officer to issue that registrant (the “Respondent”) with a removal with consent order.

A Convener should only issue a removal with consent order where it is appropriate to do so in the circumstances. It should be borne in mind that The General Teaching Council for Scotland (“GTC Scotland”) has an over-arching obligation to act in the public interest and give consideration to the principles of natural justice and human rights. A removal with consent order should not be issued unless the Convener is satisfied that:

- The appropriate level of public protection is being secured;
- Doing so would not be detrimental to the wider public interest; and
- The principles of fairness and proportionality have been duly considered.

Assessing the public interest will involve consideration of the following:

- The protection of members of the public (in particular, children and young people);
- The maintenance of the public’s confidence in teachers and in the integrity of the teaching profession;
- The maintenance of the public’s confidence in GTC Scotland as a professional regulator; and
- The need to declare and uphold proper teaching standards.

The removal with consent process is a means by which the GTC Scotland and the Respondent can seek to conclude a case without the need for a full hearing meaning the time taken to deal with the case will generally reduce significantly. The disposal of cases in this way will only occur where:

- The Investigating Panel (“the IP”) has found that there is a “case to answer” so that an assessment has been made of the nature, extent and viability of the allegation/s;
- The Respondent is willing to admit the allegation/s in full;
- The Respondent wishes to be removed from the Register and has had explained to him/her the implications of this; and
- It is confirmed that the Respondent has been given an opportunity to seek appropriate legal and professional advice before consenting to be removed from the Register.

The removal with consent procedure may be initiated at any point after a case has been referred to a Fitness to Teach Panel by the Investigating Panel. However, in the interests of all those involved, it would generally be expected that it would be identified and initiated relatively soon after such a referral has been made, in the early stages of the case management process.

Procedure

If a Respondent wishes to follow the removal with consent process, he/she (or an appointed representative) should inform Legal and Adjudication Services as soon as possible. A Convener will then consider whether it is appropriate for the removal with consent procedure to be followed taking account of the circumstances of the case and the factors outlined above.
If the Convener provides the appropriate instruction:

1. A letter will be issued to the Respondent enclosing a Removal with Consent Order in a similar form to that set out in Annex A.

2. The Removal with Consent Order will set out the allegations made against the Respondent and will require him/her to admit these allegations in full as well as provide various confirmations in seeking to ensure that the consequences of agreeing to the Order are fully understood. If the Respondent does not want to sign the Order, the full hearing process will be resumed as if the Removal with Consent process had never been pursued.

3. On receipt of the signed Order, a procedural hearing of the Fitness to Teach Panel will be arranged as soon as reasonably practicable so that the matter may be considered.

4. If the Fitness to Teach Panel agrees at the procedural hearing that an order should be made to remove the Respondent from the Register:
   - the terms of the Order will be made available to the public and be announced at the hearing;
   - the Panel will consider at the hearing whether or not it is appropriate to make a referral in terms of the Protection of Vulnerable Groups (Scotland) Act 2007 in order that Scottish Ministers may consider whether or not the Respondent should be barred from working with children or protected adults (and will refer to any written or oral submissions made on this matter by the Respondent and Presenting Officer as well as the Indicative Outcomes Guidance as part of such deliberations);
   - the Respondent’s name will be removed from the Register and the case will be considered disposed of.

If, however, the Panel decides that the Order should not be so made, the adjudication procedure set out in Part 3 of the Fitness to Teach and Appeals Rules will resume as if the removal with consent process had never been pursued.

5. The effect of the decision to remove the Respondent from the Register is the same as if the decision had been reached by the Fitness to Teach Panel following full hearing proceedings. Once the Respondent has been removed from the Register or refused registration, the Respondent remains removed or refused unless and until a (further) registration application is made by him/her and a Fitness to Teach Panel is satisfied at a hearing that the application should be granted in line with Part C of the Indicative Outcomes Guidance on Subsequent Registration Applications. Registration following removal or refusal by a Fitness to Teach Panel is not automatic and is not at all guaranteed. A person will only ever be granted re-registration where he/she demonstrates to a Panel’s satisfaction that he/she is now fit to teach. As part of the removal with consent procedure, the Respondent is prohibited from making such a re-registration application for 2 years, as referenced in the Order.
ANNEX A

FORM OF REMOVAL WITH CONSENT ORDER

[Name and Address of Registered Teacher]  (“the Registrant”)
[Registration Number]
[Date]

As you have been informed, a complaint has been received by the General Teaching Council for Scotland (“GTC Scotland”) that alleges that your fitness to teach is impaired. A GTC Scotland Investigating Panel has considered this complaint and, having determined that there is a case to answer, referred your case to a GTC Scotland Fitness to Teach Panel for further proceedings.

A Convener of a Fitness to Teach Panel has decided to issue you with this Removal with Consent Order for the following reasons –

[Insert reasons, for example, the Respondent has indicated in correspondence that he/she would wish to removed from the Register]

If you wish to consent to be removed from GTC Scotland’s Register of Teachers, you have 28 days from the date of receipt of this Order to do so.

You are entirely free to choose not to provide your consent. If you do not consent, this would mean that you would have an opportunity to challenge the allegation[s] made against you at a full hearing [(to the extent that it is possible to do so given that the allegations reflect criminal convictions)][included where allegation(s) are criminal convictions]. In the event that those allegation[s] were found proved or were admitted by you, this would mean that you would also have the opportunity at that hearing to make submissions to the Fitness to Teach Panel with regard to your fitness to teach. You would, in addition, have the opportunity at that hearing to try to persuade the Fitness to Teach Panel that a less severe sanction than removal from the Register should be imposed upon you. If you provide your consent by signing and returning the Order, you are waiving your right to a full hearing.

Please also be aware that if you provide your consent to the Order, when the Order is referred to a Fitness to Teach Panel Procedural Hearing for agreement and announcement, the Panel may also consider whether your name should be referred to Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007. If you wished to make representations to the Panel on this matter, you would have the opportunity to do so either orally or in writing at the Procedural Hearing. We would write to you again to inform you of the date of that hearing.

By signing below, I, declare that:

1 I waive my right to have a full hearing and admit the following allegation[s] made against me relating to my fitness to teach in full:

   • [Allegations]

2 I freely and willingly consent to being removed from GTC Scotland’s Register of Teachers in view of my admission of the allegation[s] set out above and understand that I will be prohibited from applying for restoration to that Register for a period of 2 years.

3 I have had the opportunity to seek independent advice from a professional association and legal representative on the content of this Order and fully understand the importance of so doing.

4 I understand that the content of this Order will be made available to the public.

Signed: [Registrant and Witness signing section to be inserted]

Counter-signed: [Fitness to Teach Panel Convener signing section to be inserted to confirm that a removal order has been made]