

# **Fitness to Teach Process**

Information Booklet for Employers



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# Introduction

## What does the GTCS Regulation Team do?

GTCS regulates the teaching profession in Scotland through its fitness to teach process. The fitness to teach process is in place to ensure public protection and maintain proper teaching standards.

The process is about ensuring that we have a teaching profession in Scotland that is, and remains, fit to teach so that public trust and confidence in teachers is maintained and the learning of our children and young people is protected.

We investigate and make decisions about a registered teacher's fitness to teach in line with our Fitness to Teach Rules (which set out the process followed). Our Fitness to Teach Threshold Policy explains what we investigate – we only investigate when an allegation is of a level of seriousness that we think a teacher presents a risk of harm.

Action is taken if a teacher's fitness to teach is found to be impaired because of shortfalls in conduct or professional competence. Fitness to Teach Hearings are held and Consent Orders issued in this context.

With its focus on ensuring maintenance of our teaching standards, our fitness to teach process is distinct from any employer or criminal process that may also be followed.

The Regulation Team is responsible for administering the fitness to teach process. The team remains neutral throughout the process and is there to ensure that all the relevant information is gathered so that the right outcomes are reached in the public interest.

The aim of this booklet is to provide you with:

- an overview of the fitness to teach process
- details of each stage of the process
- guidance on making a referral.

## Other key information

You may wish to familiarise yourself with some of the key documents on our website that relate to the process:

[Visual overview of the fitness to teach process](#)

[Fitness to Teach Rules](#)

[Practice statements](#)

[Code of Professionalism and Conduct](#)

[Standards for Registration](#)

[Fitness to Teach Threshold Policy](#)

To support the regulation of the profession, GTCS has a Search the Register facility on its website. The online register lets you check the registration status of any teacher who is registered with us.

The information displayed will show you if someone is registered with us, if they are subject to a temporary restriction order or are subject to a current fitness to teach disposal order (i.e. reprimand, condition or combination of both). Where a teacher has been removed from the Register as a result of a fitness to teach decision, this will be displayed for a period of two years.

[Search the Register](#)

# What do we investigate?

**Our Threshold Policy explains what we investigate under our fitness to teach process. When GTCS receives a fitness to teach referral, the policy is applied to decide whether investigation is required.**

In short, we investigate when, based on the allegation/information received, we think there is a real prospect that a teacher's fitness to teach would be found to be impaired.

We approach assessing whether fitness to teach is impaired holistically, in the here and now. We look at the shortfalls in conduct or professional competence identified alongside where the teacher is now. A big part of this includes considering what steps have been

taken by the teacher to openly and honestly reflect on the issues, learn from them and make changes to ensure they will not happen again. While there are times when the shortfalls identified are so fundamental that there is no scope for remediation in this way, our approach recognises that we all make mistakes and is about providing assurance that those same mistakes will not be repeated so that the public (especially pupils) is not harmed and trust and confidence in the teaching profession is maintained.

Throughout our investigation process, we aim to ensure that the process is fair and transparent and that any action taken is proportionate given all the circumstances and options available.

# Making a referral to us

**Anyone can make a referral to GTCS if they have concerns about the fitness to teach of a teacher. Referrals should be made using our online referral form which guides you through the information we require.**

We have a form that has been designed for employers. Referral forms are available on our website: [www.gtcs.org.uk/regulation/referral.aspx](http://www.gtcs.org.uk/regulation/referral.aspx)

We inform members of the public as part of the referral process that we expect any fitness to teach concern that relates to the school or employment context to be raised with the school or employer in the first instance. We know that most concerns can be more quickly and satisfactorily resolved at this local level and there is no need for them to come to us. When a concern is of a more serious nature, we know that the school or employer will appropriately investigate the matter and ultimately make a referral to us where this is appropriate (see below).

Similarly, when what is alleged is of a potentially criminal nature, we would expect that matter to be raised with the police to enable a criminal investigation to be carried out as soon as possible.

As an employer of a teacher, you must legally refer a case to us if:

- a teacher is dismissed on grounds of misconduct or incompetence
- a teacher resigns or otherwise stops working for the employer in circumstances where, but for leaving that employment, the employer would have or might have dismissed the teacher on grounds of misconduct or incompetence.

The legal obligations placed on employers to refer a matter to us, in the particular circumstances noted above, take effect as soon as the teacher's employment is terminated. There is, therefore, an expectation that an employer will make the referral to us almost immediately following the teacher's dismissal or resignation. Employers should not wait for any employment appeal process to be concluded before making the referral but, if such a process is ongoing, this should be pointed out as part of the referral.

An employer can make a referral to GTCS on a discretionary basis at any time if they have serious concerns about the conduct of a teacher, even if formal disciplinary action has not yet been concluded. It is a matter for the employer to decide when to make a discretionary referral. As a matter of best practice, we would anticipate that employers would seek to make a referral at an early stage where they have referred the teacher to Disclosure Scotland or the behaviour involved raises child protection concerns in order that immediate protective steps may be taken by us.

Where concerns are not of this extreme nature, at the conclusion of the employment disciplinary procedure the employer should consider the Fitness to Teach Threshold Policy in deciding whether to make a referral. Our threshold policy provides further important information about our referral process and explains how we make decisions about whether to investigate the referrals we receive.

If you are unsure whether to make a referral, or need help or support in making a referral, please contact the Regulation Team at [regulation@gtcs.org.uk](mailto:regulation@gtcs.org.uk) or telephone 0131 314 6000 and ask to speak to a member of our team.

# The investigation process

**The purpose of an investigation is to find out what has happened and establish what action should be taken, if any, in the public interest.**

An Investigating Officer will be looking to gather together all of the information that is relevant to the allegations with a view to establishing whether the teacher's fitness to teach is impaired.

As noted earlier, we approach the investigation process in an entirely neutral and objective way – we are investigating to find out what has happened and to establish what action should be taken in the public interest, not to build a case for or against the teacher.

The Investigating Officer decides what investigations are needed based on the particular allegations and the information that has been provided with the referral. We sometimes need to make a lot of enquiries and speak to a lot of people, and sometimes we do not need to do much.

Our investigations can involve asking the person who has made the referral to provide more information as well as contacting the teacher's current/former employer or criminal justice agencies (e.g. the police or courts) for information. We often need to go out and speak to people who have been identified as individuals who might have seen what happened or been involved in some way (witnesses) – we document the information provided in a witness statement. We also consider any information that the teacher provides to us.

If a teacher recognises that they have made an error in judgement or have done something wrong, we will investigate what the teacher has done to openly and honestly reflect on events, learn and make changes to ensure there will be no repetition. We encourage teachers who are referred to us to engage early with the investigation and to provide as much relevant information and insight as possible.

How long the investigation process takes depends on the complexity of the allegations and associated information but investigations are usually concluded within six months.

Once the Investigating Officer has completed the investigation, they will produce an investigation report and consider whether there is sufficient evidence to prove the allegation(s).

The Investigating Officer will continually assess the case as information is gathered to ensure a fitness to teach investigation

is still justified. If it is determined that the case no longer meets the required investigation threshold (or it is established that there is insufficient evidence available to support the allegation(s)) then the case will be closed at that time and will not progress to the next stage.

If the Investigating Officer decides that there is sufficient evidence to support the allegation, the case progresses to the Panel Consideration stage.



# Panel consideration

## What is a Panel?

A Panel is made up of at least three members from a pool of independent panel members. Each panel includes a mixture of teacher and lay (non-teacher) members, and will have a majority of teacher members.

## What does the Panel do?

The purpose of the Panel consideration meeting is to consider, on paper, all of the information that has been gathered through the investigation process and to decide what action is necessary and proportionate to take next in the case. The outcomes available to the Panel are listed below:

# Possible outcomes

### No further action – case closed

- The Panel decides the case shouldn't have been investigated as it does not meet the threshold (e.g. it is not relevant to fitness to teach or is vexatious)
- The Panel decides there is insufficient evidence to prove the facts alleged or the referral is malicious
- The Panel decides the teacher's fitness to teach is not impaired

### Request further information

- The Panel decides it needs some more information to make a decision. The case is considered again once this information has been received (and shared with the teacher)

### Issue a Consent Order

- The Panel decides to issue a Consent Order in line with our Indicative Outcomes Guidance. Consent Orders cover all of the disposal options following a full hearing.

### Refer case on for a full hearing

- The Panel decides a full hearing is needed in the case – usually this is because the teacher does not admit the allegations or has not engaged in our process to enable other options to be considered

Panel consideration meetings are held in private. Neither the teacher nor any representative, employer or witness is entitled to attend. The Panel will make its decision purely on the basis of the written material placed before it – this includes the Investigation Report as well as any response that the teacher has asked to be considered.

The Panel Consideration Practice Statement explains in more detail what the Panel does and the factors it will consider in reaching a decision at this stage, so this is a helpful document to read to help understand more about the process.

# Privacy

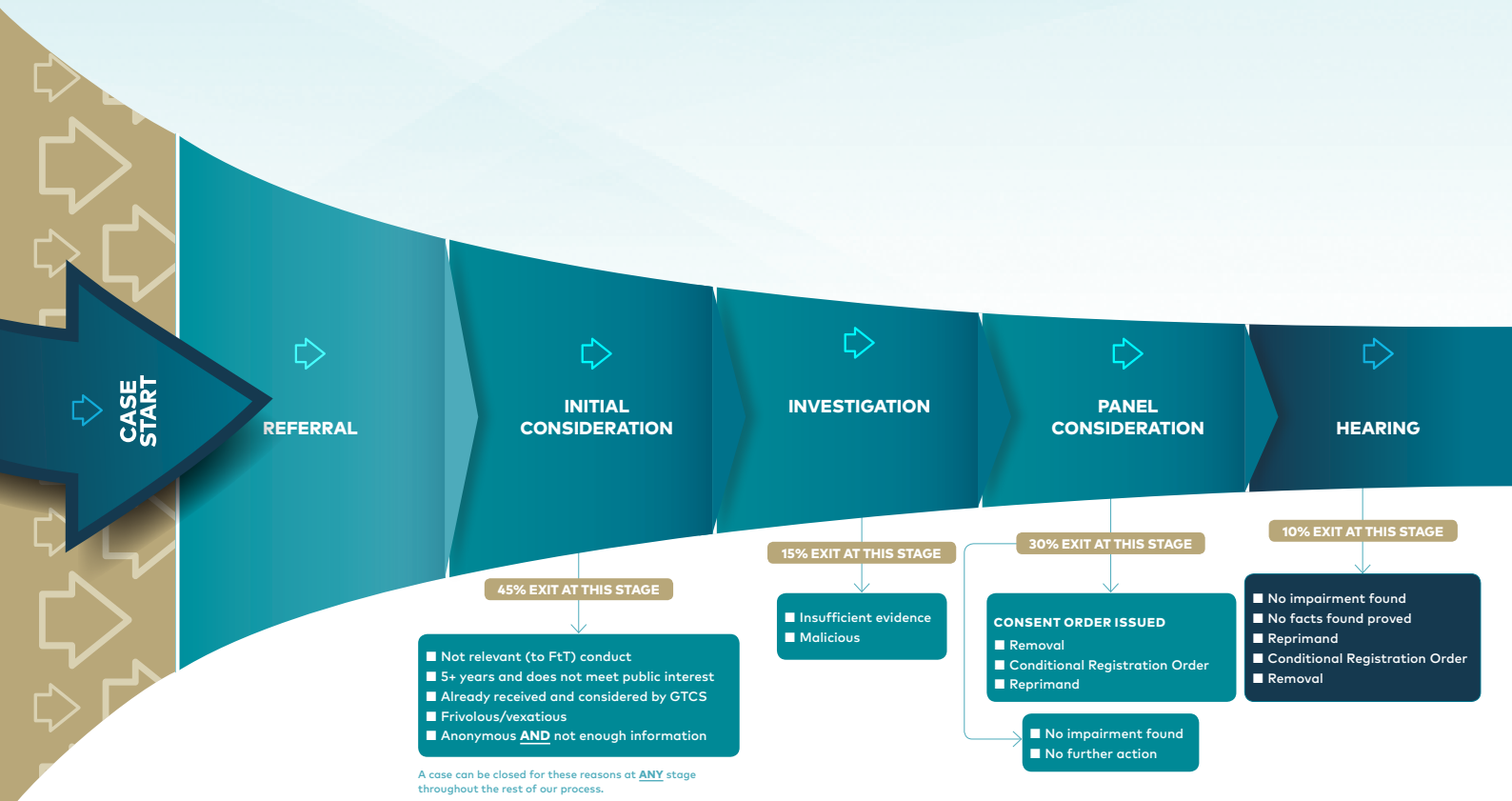
## Who do we inform?

We inform teachers' employers in order that they are aware of what is happening and also to ensure that a teacher has appropriate support available within their employment context. If the referral has come from a former employer, third party organisation or member of the public then we will also tell them that an investigation has commenced and notify them of the key decision points in the progression of the case.

Once the investigation is complete we will send the teacher a report containing all the information that the Panel will see. They will then have a period of 28 days to submit a final response for the Panel to consider if they choose to do so.

## What will be made public?

Please note that the investigation is confidential and it is important that no reference is made to it on social media or similar public forums. No details of the investigation process are made available to the public – information is only published if a case progresses to a full hearing or a Consent Order is accepted. Further information about this is set out in our Fitness to Teach Publication Policy which is available on our website.



# Hearing

Only 10 per cent of all referrals are brought before a full hearing. This is a formal process in which efforts are made to ensure all information is presented in order to make a fair and proper decision. A Presenting Officer will share evidence and information in a neutral way. Other relevant parties may be given the opportunity to present the relevant information that will help inform a fair and proper

decision. A panel will consider all information presented, as well as the wider context and any steps taken by relevant parties since the allegation took place.

The panel uses a suite of Practice Statements to provide a framework within which to base their findings. Parties retain the right to appeal any decision with the Court of Session.



# Useful contacts

## Corresponding with the Regulation Team

We hope that this booklet will answer any queries that you may have. However, if you require any further assistance please contact the Regulation Team at [regulation@gtcs.org.uk](mailto:regulation@gtcs.org.uk) or telephone 0131 314 6000 and ask to speak to a member of our team.



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