

EAST AYRSHIRE COUNCIL

CABINET – 17 NOVEMBER 2010

CONSULTATION ON THE DRAFT PUBLIC SERVICES REFORM [GTCS] ORDER 2011

Report by Executive Director of Educational and Social Services

1. PURPOSE OF REPORT

- 1.1 To seek approval for an East Ayrshire response to the Draft Public Services Reform [General Teaching Council for Scotland] Order 2011

2. BACKGROUND

- 2.1 In January 2008, the First Minister announced that the General Teaching Council for Scotland (GTCS) would be established as a "self-regulating, profession-led body, along the lines of the General Medical Council". To make the proposed changes to the constitution of the GTCS, the Scottish Government is now bringing forward legislation under the 2010 Act. Subject to satisfactory progress through Parliament, the draft Order will repeal the Teaching Council (Scotland) Act 1965 which founded the GTCS and introduce new legislation supporting an independent GTCS.
- 2.2 The Order making power in section 14 of the 2010 Act is subject to a 'super affirmative' which includes a formal consultation process in which East Ayrshire education staff have been involved.
- 2.3 In a similar way to the 1965 Act, the draft Order sets the aims and functions of the GTCS and sets broad parameters in which it can operate. It also sets out the governance arrangements for GTCS including its size and composition. Unlike the 1965 Act the draft Order aims to give the GTCS as much flexibility as possible in the way it discharges its functions. For example, the Council's current committee structure is, to a certain degree, governed by provisions in the 1965 Act. The draft Order allows the GTCS to develop its own committee structure and similarly allows for greater flexibility in terms of the teacher election process, financial control and in considering opening new parts of the GTCS's register.
- 2.4 While many of the provisions in the draft Order have been substantially restated as a result of being carried over from the 1965 Act, there are a number of provisions that are either new, or have been significantly amended.
- 2.5 Draft Article 6 – General Functions of GTCS
The functions of the GTCS have been largely carried over from the 1965 Act. The most significant change to the general functions is that the draft Order makes it clear that the GTCS's role in relation to the maintenance and development of teaching standards for school teachers includes the

management of the suite of current, and the development of future, teaching standards.

2.6 Draft Article 20 – Registration Fees

This provision allows the GTCS to charge fees in relation to registration. This means that the GTCS will be able to specify arrangements requiring teachers' employers to deduct the registration fee from the salary of their staff administratively rather than by way of legislation.

2.7 Draft Article 26 – Register of Other Education Professionals

This article allows the GTCS to open new parts of the register thereby allowing the registration of other education professionals not currently covered by the work of the GTCS. In doing so, as with all their functions, the GTCS is bound by its aim to “contribute to improving the quality of teaching and learning”. Draft article 26 also requires the GTCS to consult widely before opening new parts of the register. It should be noted that this provision does not allow the GTCS to make registration mandatory for any new groups subject to new parts of the register. In the case of teachers, the Requirements for Teachers (Scotland) Regulations 2005 make registration mandatory for those working in state schools. The Scottish Government intends to retain the separation between the management of the register, including opening new parts, and the requirement for groups to be registered. The GTCS could not therefore compel new groups to register.

2.8 Draft Articles 29 and 30 – Teaching Qualifications

These articles put in place the Scottish Government proposal that the GTCS should play a lead role in setting entry requirements and approving courses of initial teacher education for the primary and secondary school sectors. The status quo in respect of entry requirements and approvals for teacher education for the further education sector is retained in draft article 30.

2.9 Draft Article 31 – Re-accreditation

This article places the GTCS under a duty to bring forward a scheme by which it will keep itself informed as to the standards of education and training of registered teachers and the GTCS is given power to impose a system of re-accreditation as part of that scheme. It provides wide powers that will allow the GTCS to develop and manage the system as it sees fit. As with many of the GTCS's powers the Council must consult with their stakeholders before making or varying rules related to this process.

2.10 Draft Schedule 2 – GTCS Membership

Schedule 2 sets out the composition of the GTCS. It requires the GTCS to make and publish a teacher election scheme and an appointments scheme for members representing the public interest. The schedule also sets the term of office for members, requires the GTCS to make a scheme for the removal, disqualification and replacement of members and includes a power for the Scottish Ministers to amend the Schedule by Order (subject to approval by resolution of the Parliament).

2.11 Draft Schedule 3 – Further provision relating to the GTCS

This schedule gives the GTCS the power to develop its own committee structure. This includes allowing the GTCS to co-opt non-GTCS members onto committees as the GTCS sees fit and it restates long-standing audit and accounting requirements. The 2010 Act itself places the GTCS, as a body listed in Schedule 8 to that Act, under a duty to publish specific details of its financial activities. This schedule makes it clear that the GTCS has the flexibility to pay remuneration and allowances to Council members if it so wishes.

2.12 Draft Schedule 4 – Fitness to Teach

Schedule 4 sets out the GTCS's responsibilities and powers in relation to a teacher's fitness to practice. This draft Schedule 4 presents the GTCS's powers in relation to competence and conduct in a clearer fashion than the 1965 Act as amended. It is worth noting that the schedule is titled "Fitness to Teach" as opposed to "professional conduct" or "disciplinary powers" as it better encompasses the role of the GTCS in relation to conduct and competence cases.

When considering competence cases the GTCS currently only has two disposal routes available to it. These are to remove the teacher from the register or take no action. The Scottish Government believes the GTCS should also be able to attach conditions to a teacher's ongoing registration thereby giving more flexibility to the GTCS in the way it handles competence cases. This added flexibility may be useful in a case where the GTCS believes that a teacher is capable of meeting standards if certain steps are taken. Continued registration would then be allowed on the basis that this was done. The provision in paragraph 2 allows for this, and the issue of a reprimand. The GTCS's rules on fitness to teach require to be approved by the Lord President of the Court of Session.

Article 25 places a duty on employers to refer a competence case to the GTCS where an individual resigns/abandons their post and they would or might have dismissed the individual on such grounds. This is slightly different to the requirement as set under the 1965 Act where the employer is under a duty to notify the GTCS if the teacher is dismissed or if a hearing is to be held. This amendment will help close the loophole that currently exists where if a teacher is subject to the competency procedure, and resigns before a disciplinary hearing is set (effectively the final step in the process), they can avoid having their case considered by the GTCS and can continue to move from employer to employer.

2.13 Commencement Provisions

Schedule 1 of the draft Order contains provision as to when its provisions will come into force. This will be a two-stage process by which a number of provisions will be brought into force as soon as possible after the Order has completed its Parliamentary process and this is planned for April 2011. The second stage of commencement is proposed for April 2012 at which point the new constitution of the GTCS will be in place and the GTCS will be formally an independent body.

3. EAST AYRSHIRE RESPONSE TO THE CONSULTATION

- 3.1 East Ayrshire Council Educational Services (ESS) welcomed the opportunity to respond to the consultation on the Draft Public Services Reform [General Teaching Council for Scotland] Order 2011. Details of the Department's response is posted on the Members Portal. A summary of the response is outlined below.
- 3.2 It is believed that the draft reform clearly sets out the background and key provisions of the proposal which reflect the current high regard amongst teachers and Government alike for the regulatory work undertaken by the GTCS, and the Department of Educational and Social Services supports the move for it to become an independent body.
- 3.3 The need for legislative change to allow GTCS to become an independent body with the additions to its core functions and changes to its membership structure is supported and the detailed articles relating to the need for transparency, consistency and accountability of procedures and functions are welcomed.

3.4 GTCS Membership

The streamlining of the membership is favoured along with the continuation of the majority being elected practising teachers. While it was not felt feasible to have a young person as part of the membership, input through the national pupil council is favoured so that their voice on educational matters is heard. Given the need for close partnership with the business world, it would be advantageous, also, to have Chamber of Commerce representation.

The terms of office and the interim arrangements to allow for staggered retirements are acceptable.

3.5 Further Provisions about the GTCS

The greater flexibility in committee structures and the extension of responsibilities to include entry requirements to courses of initial teacher education, the approval of courses of initial teacher education and development and maintenance of current and future teaching standards are all welcomed. It is hoped that the entry requirements to Initial Teacher Education will highlight minimum requirements to set standards and a common entry process to establish level of commitment and communication skills.

While in favour of GTCS being responsible for teaching standards, the respondent has expressed concern about the fact that the current standards all require candidates to undertake a programme of study and practice which have a cost. The response has questioned whether if other standards are introduced, will this require payment to the GTCS or a further increase in

registration fees? For the current standards, mentors, supporters and field assessors are required. Clarification has been sought on who will moderate progress towards future standards?

3.6 Schedule 4

The phrase 'fitness to teach' is considered to be appropriate as it encapsulates the professional, ethical and skills set required for competence and conduct in the teaching profession and the extension of the powers of the GTCS to reprimand, impose conditions on registration and remove from the register those who do not demonstrate that 'fitness' is very welcome. The appeals procedure, including the appointment of a legal assessor and the approval of the Lord President of the Court of Session will safeguard any teachers under investigation. The need for employers to refer competence cases to GTCS when individuals resign/abandon their posts will certainly help ensure such people do not continue to teach.

3.7 The ability to open new parts of the register for other educational professionals is approved and, while it is clear that registration for all is not compulsory, it is hoped that, with Curriculum for Excellence addressing education 3-18, the way will be open for nursery and college/university staff to become part of the one teaching body.

3.8 The term 're-accreditation' is not favoured as it implies a qualification, with cost implication being necessary before approval to continue teaching as before is granted. There is a danger this could become an academic exercise driven by a monetary imperative.

The view of the Department is that the work currently being undertaken nationally on Professional Review and Development and the consequent tightening up of procedures, the monitoring calendar, and the McCrone Agreement CPD requirement, alongside the proposed 'fitness to teach' structures, are more valid and natural ways to maintain standards within Scottish Education. Making Scotland's teaching force a '2 degree profession', would not, in itself, guarantee improved standards of learning and teaching in our educational establishments and, therefore, the impact of practical CPD experiences which focus on learning and teaching should be the priority. Ultimately, whatever is put in place must allow for real professional development opportunities for the classroom.

3.9 The Department has emphasises that it is important to further consult stakeholders on this prior to any scheme being introduced.

4. POLICY/LEGAL IMPLICATIONS

4.1 This report has no policy or legal implications for the Council.

5. RISK IMPLICATIONS

5.1 There are no risk implications at this stage.

6. COMMUNITY PLANNING IMPLICATIONS

6.1 This report does not impact on the Community Plan.

7. RECOMMENDATIONS

7.1 It is recommended that Cabinet:

- i) Agree the consultation response made by the Department of Educational and Social Services; and
- ii) Otherwise note the contents of this report.

Graham Short
Executive Director of Educational and Social Services

PD/AS
24/10/10

BACKGROUND PAPERS

Members wishing further information should contact Andrew Sutherland, Head of Service: Schools, Tel: (01563) 576126

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CONSULTATION ON THE DRAFT PUBLIC SERVICES REFORM [GTCS] ORDER 2011

EAST AYRSHIRE RESPONSE

East Ayrshire Council Educational Services welcomes the opportunity to respond to the consultation on the Draft Public Services Reform [General Teaching Council for Scotland] Order 2011. Teachers were invited to contribute to this response and this is the outcome of their deliberations.

The draft reform clearly sets out the background and key provisions of the proposal which reflect the current high regard amongst teachers and Government alike for the regulatory work undertaken by the GTCS, and we applaud the move for it to become an independent body.

We understand, therefore, the need for legislative change to allow GTCS to become an independent body with the additions to its core functions and changes to its membership structure, and welcome the detailed articles relating to the need for transparency, consistency and accountability of procedures and functions.

Membership and Further Provision [Article 4]

Schedule 2 – GTCS Membership

The streamlining of the membership is favoured and we welcome the continuation of the majority being elected practising teachers. While it was not felt feasible to have a young person as part of the membership, we would favour input through the national pupil council so that their voice on educational matters is heard. Given the need for close partnership with the business world, it would be advantageous, also, to have Chamber of Commerce representation.

We are happy with the terms of office and the interim arrangements to allow for staggered retirements.

Standards of Education, Training, etc.

Schedule 3 – Further Provisions about the GTCS

We welcome the greater flexibility in committee structures and the extension of responsibilities to include entry requirements to courses of initial teacher education, the approval of courses of initial teacher education and development and maintenance of current and future teaching standards. We hope that the entry requirements to Initial Teacher Education will highlight minimum requirements to set standards and a common entry process to establish level of commitment and communication skills.

While we are in favour of GTCS being responsible for teaching standards, there was some concern expressed about the fact that the current standards all require candidates to undertake a programme of study and practice which have a cost. If other standards are introduced, will this require payment to the GTCS or a further increase in registration fees? For the current standards, mentors, supporters and field assessors are required. Who will moderate progress towards future standards?

Schedule 4

We like the phrase 'fitness to teach' as it encapsulates the professional, ethical and skills set required for competence and conduct in the teaching profession and welcome the extension of the powers of the GTCS to reprimand, impose conditions on registration and remove from the register those who do not demonstrate that 'fitness'. The appeals procedure, including the appointment of a legal assessor and the approval of the Lord President of the Court of Session will safeguard any teachers under investigation. The need for employers to refer competence cases to GTCS when individuals resign/abandon their posts will certainly help ensure such people do not 'slip the net'.

We welcome the opening of new parts of the register for other educational professionals and, while we understand that registration for all is not compulsory, we would hope that, with Curriculum for Excellence addressing education 3-18, the way will be open for nursery and college/university staff to become part of the one teaching body.

We are concerned about the term 're-accreditation' as it implies a qualification, with cost implication, which constitutes approval to continue teaching as before. There is a danger this could become an academic exercise.

We believe that the work currently being undertaken nationally on Professional Review and Development and the consequent tightening up of procedures, the monitoring calendar, and the McCrone Agreement CPD requirement, alongside the proposed 'fitness to teach' structures, are more valid and natural ways to maintain standards within Scottish Education. We would be disappointed if this merely became another revenue source for the GTCS. Making Scotland's teaching force a 2 degree profession, as discussed previously, would not, in itself, guarantee improved standards of learning and teaching in our educational establishments and we must, therefore, remember the impact of practical CPD experiences which focus on learning and teaching. Whatever is put in place must allow for real professional development opportunities for the classroom.

We are pleased that stakeholders will be further consulted on this prior to any scheme being introduced.

Timeframe for commencement

The timeframe for consultation, consideration and commencement in stages is acceptable.