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RPA LEGISLATION – GENERAL TEACHEING COUNCIL NORTHERN IRELAND

Background

1. The General Teaching Council for Northern Ireland (GTCNI) is classed as an independent self-regulatory body, established under the Education (Northern Ireland) Order 1998 as amended by the Education and Libraries (NI) Order 2003 and the Education (NI) Order 2006. It was established in 2002 and is governed by a majority of teachers working in partnership with other stakeholders in education. The Council's remit is to represent the professional interests of teachers and put them on a par with other professions such as doctors, accountants and solicitors. In the context of public relations it is expected to raise the status of the profession in the media and in society at large by acknowledging and promoting the success of teachers in raising educational standards of young people in Northern Ireland and in contributing to their achievements and well-being.
2. The Council advises the Department and employing authorities on a wide range of issues, including the training, career development and performance management of teachers; standards of teaching; and standards of conduct for teachers. It will have powers to remove individual teachers from its register if it finds them guilty of misconduct or serious professional incompetence.

Purpose of GTCNI Ancillary Item

3. The Department sought powers in Part VI of and Schedule 1 to the Education (NI) Order 1998 (as amended) to replicate for the GTCNI the powers which were to be conferred on GTC (England and Wales) on foot of the Teaching and Higher Education (T&HE) Act 1998. As such, the Department accepted that its powers were broad enough to mirror those of the T&HE Act 1998.
4. Further legal opinion, however, suggests that the 1998 Order does not have the scope to enable the Council to have the same range of disciplinary

sanctions and evidence-based functions as its counterparts enjoy under Schedule 2 to the T&HE Act 1998. The view is taken that the 1998 Order, as it stands, would enable the GTCNI to have only one sanction, namely removal of a teacher from the register. Moreover, there would be no powers for the Council to impose lesser sanctions such as reprimands, conditional registration orders, or suspension orders. Nor would the Council have the power to call witnesses to its hearing processes, elicit evidence or to administer oaths, effectively neutering its attempts to function as a meaningful regulator of the teaching profession.

5. From a parity perspective we are anxious to keep the functions and role of the GTCNI wholly in line with England/Wales. The Department is therefore obliged to make amendments to the 1998 Order by way of an additional Schedule similar to Schedule 2 to the T&HE Act 1998. We are also taking the opportunity to clarify that the Council may issue, and from time to time revise, a code laying down standards of professional conduct and practice expected of registered teachers. This is consistent with Section 5 of the T&HE Act 1998 and will provide for failure by a registered teacher to comply with the provisions of the code to be taken into account in any disciplinary proceedings.

Consultative Process

6. This is not a policy change but a clarification of existing legislation which was part of the 1998 Order consultative process and, as such, further consultation is deemed unnecessary.

Options Considered

7. The following options were considered:
 - i. **Do nothing** – this option was rejected as to rely on the existing disciplinary powers as provided for in the 1998 Order could risk a legal challenge to lesser sanctions imposed by the GTCNI, i.e. those short of de-registration.

- ii. **Amend 1998 Order** – the option to strengthen existing powers and bring them into line with England and Wales was favoured in order to avoid the risk of legal challenge to certain GTCNI disciplinary sanctions.

Conclusion

10. In order to enable the new Education and Skills Authority (ESA) to support education providers and for the leadership within schools to raise the standards of achievement, it is essential that the full range of disciplinary powers in relation to teachers are made available to the GTCNI.
11. The inclusion in the RPA legislation of changes in relation to the Council's disciplinary functions does not involve any issues of principle nor is it controversial. In the new landscape, the GTCNI will be the key player in the registration and de-registration of all teachers in grant-aided schools and will therefore have close working links with the ESA. The Council should have, at a professional level, a similar range of evidentiary and sanction powers as those enjoyed by their counterparts in other jurisdictions. The inclusion of these powers would further the aims not only of schools, as employers of teachers, and the ESA as Employing Authority, but also the key aims of the Department.

Teacher Education Division
28th November 2006