Cyngor Addysgu Cyffredinol Cymru
General Teaching Council for Wales

Professional Standards

Information for hearing observers

(Disciplinary cases involving registered teachers)

THE DISCIPLINARY PROCESS

The General Teaching Council for Wales ('the Council') is the statutory, self-regulating professional body for teachers in Wales. It seeks to raise the status of teaching by maintaining and promoting the highest standards of professional practice and conduct in the interests of teachers, pupils and the general public.

Under Section 134 of the *Education Act 2002*, and the *Education (Specified Work and Registration (Wales) Regulations 2004 (SI 2004/1744 (W. 183))*, every qualified teacher who carries out the specified work of a teacher in a maintained school must be registered with the Council.

Under the terms of the *Teaching and Higher Education Act 1998* as amended, the Council is responsible for investigating and hearing cases of unacceptable professional conduct, serious professional incompetence and/or where a teacher has been convicted (at any time) of a relevant offence, or it appears that a registered teacher may be so guilty or have been so convicted.

The public interest

The Council regulates the teaching profession in Wales in the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaration and upholding of proper standards of conduct and competence.

This means that Committees of the Council apply the public interest test in their consideration, investigation and hearing of all cases and complaints referred to it. Applying the test requires Committees to balance competing interests, for example, the general public interest as opposed to that of the registered teacher.

The public has a right to expect that registered teachers uphold the highest professional standards, just as teachers have a right to be certain that their peers are in good standing with their professional body.

The referral process

Cases of alleged unacceptable professional conduct, serious professional incompetence or a conviction of a relevant offence are referred to the Council in the following ways, by:

1. employers, in line with Welsh Assembly Government regulations, where they dismissed, or might have dismissed a registered teacher had he or she not resigned, on the grounds of their conduct or incompetence;

2. agents, in line with Welsh Assembly Government regulations, where they terminated arrangements, or might have terminated arrangements with a registered teacher had he or she not terminated them or similar, on the grounds of their conduct or incompetence;

3. the police. Teaching is a 'notifiable occupation'. This means if a registered teacher is convicted or cautioned for a criminal offence whilst they are registered, it will be reported to the Council;

4. any other person who wishes to make a complaint about a registered teacher's conduct.

The introduction of the Independent Safeguarding Authority (ISA) will see the referral process change, but the Council's disciplinary role will not.

What happens once a referral is received by the Council?

Where a referral is received under 1 to 4 above, the Council will consider it in line with its *Disciplinary Procedures and Rules*. **This information is general information. In all circumstances, *The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001*, as amended, and the Council's *Disciplinary Procedures and Rules* take precedence.**

How has the case or complaint reached this stage?

The 'hearing stage' is the second stage of the process where a case or complaint has been referred to a Professional Conduct or Competence Committee. To reach this point, a registered teacher was found by an Investigating Committee to have '**a case to answer**' in respect of **unacceptable professional conduct**, **serious professional incompetence**, a **conviction of a relevant offence**, or a combination of these.

Unacceptable Professional Conduct

Unacceptable professional conduct is conduct which falls short of the standard expected of a registered teacher within the meaning of paragraph 8(1) of Schedule 2 to the Act

Serious professional incompetence

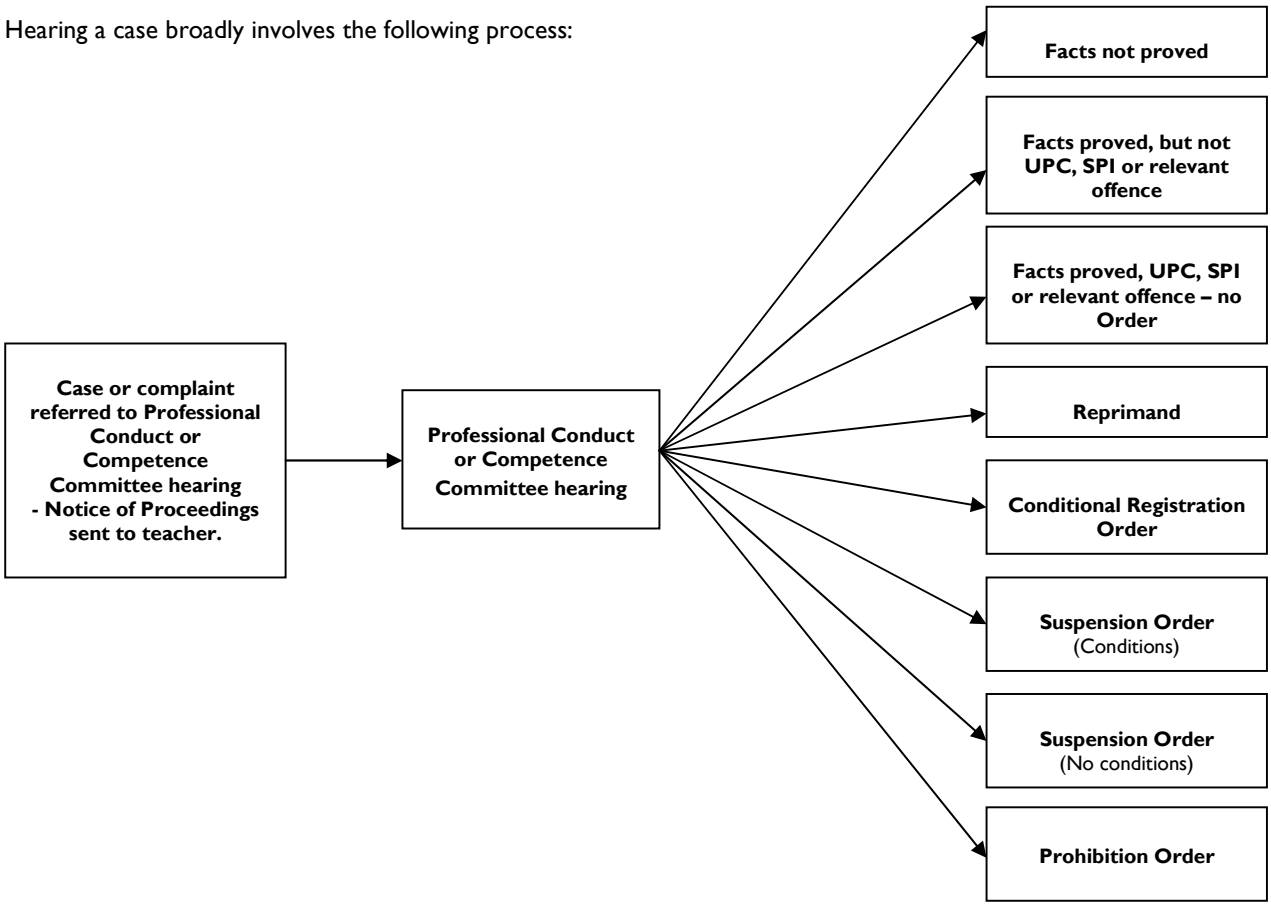
Serious professional incompetence means demonstrating a level of competence which falls seriously short of that expected of a registered teacher, taking into account the relevant circumstances.

A relevant offence

A 'relevant offence' means a conviction in the United Kingdom for a criminal offence, other than one having no material relevance to a teacher's fitness to be a registered teacher, committed in England or Wales, or, if committed elsewhere, would have constituted a conviction in the United Kingdom England and Wales, within the meaning of Schedule 2 to the Act.

Hearing process

Hearing a case broadly involves the following process:



Hearing decision

A Professional Conduct or Competence Committee decides whether or not (a) the facts of the case are proved (b) the facts found proven amount to unacceptable professional conduct (UPC), serious professional incompetence (SPI) and/or a conviction of a relevant offence. This is a judgment the Committee makes. If a Committee finds there has been unacceptable professional conduct, serious professional incompetence or a conviction of a relevant offence, it then decides whether or not it is appropriate to impose a disciplinary order upon the registration of the teacher. Before doing so, the Committee will ask the registered teacher if they have any mitigation for it to consider.

The Council will issue the registered teacher with a 'Notice of Proceedings' and ask him or her to respond to it prior to the hearing.

The Orders available to the Committee are:

a Reprimand. This Order is held on the Register of Qualified Teachers for two years and then removed permanently. Registration is not affected.

a Conditional Registration Order. This Order sets out conditions the registered teacher must comply with in order to remain registered. Conditions may be set for a specific period, or without limit of time.

a Suspension Order. This Order suspends the teacher's registration for a maximum of two years. Conditions may be attached to this Order.

a Prohibition Order. This Order removes the teacher's registration for a minimum of two years. The teacher may only apply for re-admission to the Register of Qualified Teachers after a specified time period has elapsed.

A decision at this stage is made on the basis of written and oral evidence, and, unless the teacher asks for a private hearing and the Committee agrees, all evidence is heard in public. The teacher is encouraged to attend, and attend with representation. A solicitor or union official may fulfill this role on behalf of the teacher. Witnesses may be called by both the teacher and the Council. If the teacher does not attend, the Council reserves the right to continue in their absence.

A teacher against whom an Order has been imposed has the right of appeal to the High Court within 28 days of the date the decision notice is sent to them.

The Professional Standards Team will post any disciplinary order imposed by a Committee on the Council's website for three months.

Information for observers

The procedure the Professional Conduct or Competence Committee will follow is set out in the Council's *Disciplinary Procedures and Rules.* Members of the public and press are asked to note the following:

Arriving at and leaving the hearing

- **Hearings will normally start at 10:00am**. Please aim to arrive by **9:45am** at the latest and sign the attendance sheet. When you arrive, a Council Officer will either show you to a waiting room from which you will be collected before the hearing is about to start, or will take you directly to the hearing room. You do not have to stay for the duration of the hearing if you do not wish to do so.

- The Professional Conduct or Competence Committee will take a lunch break at an appropriate point during the proceedings. **This is usually around 1:00pm.**

- The Professional Conduct or Competence Committee may ask the public and press to leave the hearing, or any part of a hearing, at any time.

- **The hearing will often be stressful for the registered teacher and witnesses. Please avoid causing any additional distress by remaining silent throughout. If it is necessary for you to leave or enter the hearing room at any point during proceedings, please do so quietly and at an appropriate time.**

The registered teacher and witnesses

- The registered teacher may or may not attend, and cannot be forced to. A Committee will give careful consideration to the relevant circumstances where this happens before continuing with a hearing. In any event, the Council will have given the registered teacher an opportunity to attend and make representations.

- If the registered teacher attends, he or she does not have to give evidence.

- If the registered teacher and/or a representative attends, he or she may ask the Professional Conduct or Competence Committee for the hearing, or any part of it, to be heard in private. If/when the registered teacher and/or a representative does so, you will be asked to leave the hearing room - a Council Clerk will escort you to a waiting room. The Clerk will collect you when the Committee has made its decision. You will be unable to observe any part of the hearing the Committee decides should be in private.

  Any legal or professional advice the Committee receives in private will be declared in public.

- Witnesses, including the registered teacher if appropriate, will be asked to give the oath or affirmation before giving their evidence.

- Hearings may be conducted in English or Welsh if the registered teacher requests. Translation services will be provided by the Council where appropriate.

- Witnesses cannot observe the hearing until they have given their evidence.

Tone of the proceedings

- As a matter of general approach, Professional Conduct Committee and Professional Competence Committee hearings are held in an investigative rather than an unduly adversarial manner.

Other issues for observers to note

- The hearing room layout is attached for information.

- The proceedings will be tape recorded.

- **The use of mobile telephones during the hearing is prohibited**.

- **Members of the press are prohibited from taking photographs in the hearing venue.**

Principles governing the Council's disciplinary work

There are a number of key principles which govern the Council's disciplinary work. These are:

Fairness. Committees will treat each case or complaint fairly and on its own merits based on the available evidence.

Efficiency. The Council will seek to deal with cases and complaints efficiently so as to cause the minimum of delay and discomfort to the parties involved.

Openness. The Council recognises that the interest of the public lies in the openness of its procedures and the accountability of the Council as displayed through its disciplinary responsibilities. However, the Council also recognises the concern it must have for the private lives of teachers whose cases are being investigated and heard, and for potential witnesses, not least as these might include children.

The *Human Rights Act* entitles individuals to a public hearing, but this is subject to a number of qualifications. A Committee may decide that it is not in the interests of justice, of children or the protection of the private lives of individuals to hold a hearing in public. In such cases, a Committee will hear a case in private. A registered teacher may choose to waive their right to a public hearing, but it will still be for the appropriate Committee to decide whether the hearing should be in public or in private.

Impartiality. The composition of Committees will be developed to ensure a fair balance and Committee members involved will be impartial. The Council will ensure that there is a clear separation and division of roles in respect of those members and officers who are involved in an Investigating Committee and a Professional Conduct or Professional Competence Committee.

Confidentiality. Subject to the need to ensure justice and fairness, members and Council officers are committed to respecting the confidential nature of all information involved in disciplinary cases and complaints, in so far as is possible where hearings are in public.

All evidence, case papers and records will be stored confidentially and securely.

Natural Justice. The teacher against whom allegations have been made will be informed of any case or complaint referred. Where a Notice of Investigation or Notice of Proceedings is issued, the teacher will have an opportunity to challenge the allegations by providing written and other representations to the Council. In addition, the registered teacher is given the right of appeal to the High Court where a disciplinary order is imposed upon him or her.

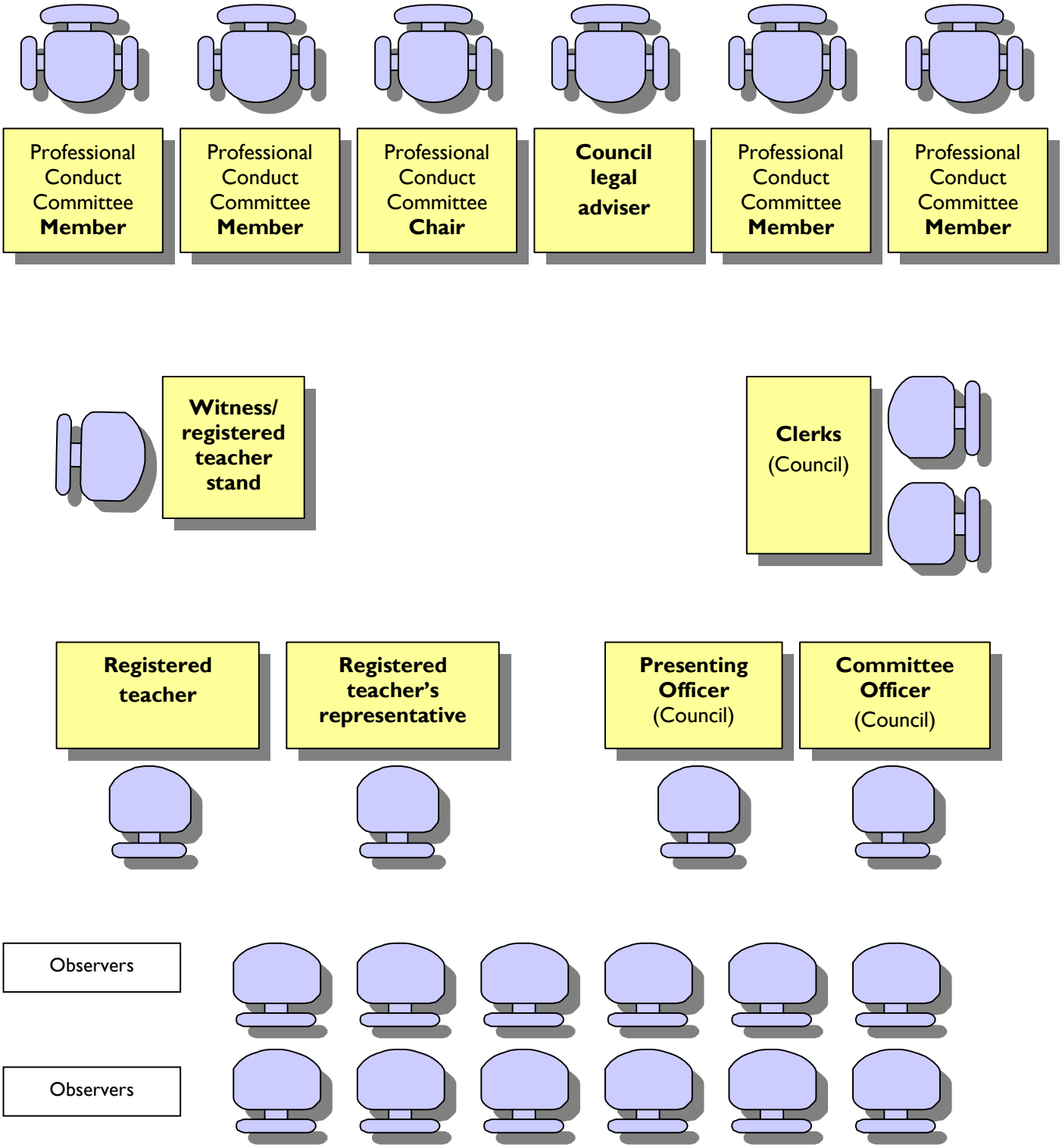
The Public Interest. All cases and complaints will be investigated and heard in the public interest. This includes the protection of members of the public, the maintenance of public confidence in the profession and the declaration and upholding of proper standards of conduct and competence.

Equal Opportunities. The Council is fully committed to equal opportunities and non-discrimination.

Language. Committees will be conducted (all or in part) in English or Welsh at the request of the registered teacher.

Key contacts

Address	**Professional Standards Team**, The General Teaching Council for Wales, 4th Floor, Southgate House, Wood Street, Cardiff CF10 1EW
Telephone	029 20550350
Fax number	029 20550360
Email	professionalstandards@gtcw.org.uk

Hearing Room

(Professional Conduct and Professional Competence Committee)