



Cyngor Addysgu Cyffredinol Cymru  
General Teaching Council for Wales

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# Suitability to be a Registered Teacher - Procedures & Rules 2009

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April 2009



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**Section 1** of this document serves as a brief introduction to the Rules, explains the principles which govern the Council's suitability role and provides relevant contacts.

**Section 2** of this document sets out the *Suitability to be a Registered Teacher - Procedures and Rules* of the General Teaching Council for Wales.



# **Section I**

## **Introduction**



## **I.0 The Council and its role in respect of suitability**

The General Teaching Council for Wales 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 Regulation 7 of 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 General Teaching Council for Wales. Other persons with Qualified Teacher Status (QTS), such as those working in independent schools, further or higher education, as home tutors or those not currently teaching are also encouraged to register.

In accordance with the *Education Act 2002* and the *Education Act 2002 (Commencement No. 10 and Transitional Provisions)(Wales) Order 2006 (WSI 2006 No.1336 (W.129)(C.44))*, a teacher is not eligible for registration with the Council unless it is satisfied that he or she is suitable to be a registered teacher.

All suitability assessments are 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 standard of conduct and competence.

The *Suitability to be a Registered Teacher - Procedures and Rules* in Section 2 will be kept under continuous review and will be updated as and when considered appropriate by the Council.

In the event of any conflict or inconsistency between the English language and Welsh language versions of this document, the English language version will prevail.



## 2.0 Principles governing the Council's suitability work

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

### **Fairness**

Committees will treat each disclosure received fairly and on its own merits, based on the evidence submitted.

In assessing the suitability of an applicant on the basis of a disclosure, the Council will consider the evidence which may affect his or her suitability. The evidence in all assessments will be different. The Council will consider the particular evidence arising from each disclosure in coming to its decision as to whether to grant or refuse an application for registration.

### **Efficiency**

The Council will seek to deal with disclosures efficiently so as to cause the minimum of delay and discomfort to the parties involved. Once a disclosure has been received by the Council, it is anticipated that most suitability assessments will be concluded within six months from receipt of the disclosure by the Council. However, there will be some disclosures that will require a greater level of investigation, or may be subject to delays beyond the Council's control and therefore, may take longer.

### **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 responsibilities regarding suitability assessments. The Council also recognises the concern it must have for the exercise of the private lives of applicants whose suitability is being assessed 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 matter in private. An applicant may choose to waive his or her 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**

All investigations and hearings will be undertaken with careful regard to the principles of 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 Council members and officers who are involved in an Investigating Committee and a Suitability Committee.

### **Confidentiality**

Subject to the need to ensure justice and fairness, Committee members and officers are committed to respecting the confidential nature of all information involved in a suitability assessment, in so far as is possible where hearings are in public.

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

### **Natural justice**

The requirement for 'natural justice' will prevail. The applicant whose suitability is being assessed will be informed of the disclosure made to the Council. The Criminal Records Bureau (CRB) will also send an applicant a copy of a disclosure in relation to him or her simultaneously with providing it to the Council.

Where the Council issues a Notice of Investigation or a Notice of Proceedings, an applicant will be given an opportunity to provide written and other representations and evidence in response to the disclosure made, with a view to establishing to the Council's satisfaction that he or she is suitable to be a registered teacher. In addition, the applicant is given the right of appeal to the High Court where an application for registration is refused by a Suitability Committee on the grounds that it is not satisfied that he or she is suitable to be a registered teacher.

#### **The Public Interest**

All suitability assessments will be investigated and heard in the public interest.

The public interest 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.

Applying the public interest test requires that Committees of the Council balance competing interests, for example, the general public interest as opposed to that of the applicant. A Committee will take into account the general public interest in the proper regulation of the profession and the protection of the public.

#### **Equal opportunities**

The Council is fully committed to equal opportunities and non-discrimination. The Council respects the rights and needs of all persons in respect of gender, ethnicity, age, religion, special needs, sexual orientation and linguistic background.

#### **Language**

Committees will be conducted (all or in part) in English or Welsh at the request of the applicant whose suitability is being assessed.

### **3.0 Key contacts**

Any queries regarding these procedures should be directed to the following:

**Contact**     **Hayden Llewellyn**, Deputy Chief Executive  
or  
**Susan Mathias**, Professional Standards Officer

**Address**     4th Floor  
Southgate House  
Wood Street  
Cardiff CF10 1EW

**Telephone**   029 2055 0350

**Fax number**   029 2055 0360

**E-mail**       professionalstandards@gtcw.org.uk



## **Section 2**

### ***Suitability to be a Registered Teacher – Procedures and Rules 2009***



## **1.0 Introduction**

### **Introduction, citation and transitional provisions**

1- (1) The General Teaching Council for Wales in the exercise of the powers conferred upon it by:

- (a) the *Teaching and Higher Education Act 1998* as amended by the *Education Act 2002*;
- (b) the *Education Act 2002 (Commencement No. 10 and Transitional Provisions)(Wales) Order 2006 (WSI 2006 No.1336 (W.129)(C.44))*;
- (c) the *General Teaching Council for Wales (Functions)(Amendment) Regulations 2006 (WSI 2006 No.1343 (W.133))* and the *General Teaching Council for Wales (Additional Functions)(Amendment) Order 2006 (WSI 2006 No.1341 (W.132))*, as amended,

hereby make the following Procedures and Rules, which were approved in Council on 28th April 2009.

- (2) These Procedures and Rules may be cited as the *Suitability to be a Registered Teacher - Procedures and Rules 2009* of the General Teaching Council for Wales and shall come into force on 28th April 2009. Save as provided for in paragraph (4), the *Suitability to be a Registered Teacher - Procedures and Rules* which were approved by the Council on 17th October 2006 are hereby revoked.
- (3) These Rules apply to all applications for registration received by the Council on or after 28th April 2009, and Part 4.0 (Rules 15 to 30) shall apply to all matters heard by a Suitability Committee in respect of which the Notice of Proceedings is sent to the applicant on or after 28th April 2009.
- (4) The *Suitability to be a Registered Teacher - Procedures and Rules* approved by the Council on 17th October 2006 shall continue to apply in respect of the following suitability assessments until they are concluded, namely:
  - (a) all hearings before Suitability Committees that are part-heard as at 28th April 2009; and
  - (b) all hearings of Suitability Committees in respect of which the Notice of Proceedings is sent to the applicant before 28th April 2009, save where the applicant or his or her representative agrees in writing to have the assessment dealt with under these Rules.

### **Interpretation**

2- (1) In these Procedures and Rules, unless the context otherwise requires:

‘the Act’ means the *Teaching and Higher Education Act 1998*, and any amendments as set out in the *Education Act 2002*;

‘the applicant’ means a person who has made an application to be registered under Section 3 of the Act;

‘child’ (in relation to ‘Child and vulnerable witnesses’) means a person who has not attained the age of 18 years;

'the Committee' means in relation to:

- (a) Part 2.0 of these Procedures and Rules, the Investigating Committee and Suitability Committee;
- (b) Part 3.0 of these Procedures and Rules, the Investigating Committee;
- (c) Part 4.0 of these Procedures and Rules, the Suitability Committee;

'the Council' means the General Teaching Council for Wales;

'criminal offence' means:

- (a) a conviction;
- (b) a caution (a formal warning about future conduct given by a senior police officer, usually in a police station, after a person has committed an offence. It is used as an alternative to charge and possible prosecution);
- (c) a warning (a young person given a second and 'final' formal warning about future conduct);
- (d) a reprimand (a reprimand has replaced the caution for young people aged under 18);

'disclosure' means information provided to the Council by the CRB in an Enhanced Criminal Record Certificate which relates to an individual applicant, and/or information declared by an applicant concerning his or her criminal history outside of the United Kingdom;

'the duly authorised officer' means the person appointed by the Chief Executive Officer of the General Teaching Council for Wales to act on his or her behalf;

'hearing' means the hearing of a Suitability Committee of the Council;

the 'ISA' means the Independent Safeguarding Authority;

'Investigating Committee' means a Committee convened to investigate whether or not the application for registration should be granted on the grounds that the Committee is satisfied that the applicant is suitable to be a registered teacher;

'lay member' means a member of the Committee who is neither:

- (a) a registered teacher; nor
- (b) employed, or engaged to provide services otherwise than under a contract of employment, as a teacher, nor has been so employed or engaged within the period of five years ending with the date of that person's appointment to the Committee,

and a lay member who becomes a registered teacher or who takes up a post or engagement as a teacher shall cease to be regarded as a lay person;

'month' means a calendar month;

'an officer of the Council' means an employee of the Council, or any person duly authorised to act on behalf of the Chief Executive Officer;



'other information of relevance' means:

- (a) information relating to a prosecution pending; and/or
- (b) non-conviction information disclosed by the police at its discretion; and/or
- (c) confirmation that an applicant has been included on an ISA barred list;

'particulars of the disclosure' means the further details of the matters disclosed which call into question the applicant's suitability to be a registered teacher;

'presenting officer' means the person appointed by the Council to present the particulars of a disclosure which call into question the applicant's suitability to be a registered teacher before a Suitability Committee;

'the Register' means the Register of Qualified Teachers which the Council is required to establish and maintain in accordance with Section 3 of the Act, detailed in *The General Teaching Council for Wales (Functions) Regulations 2000* (as amended),

and 'registration' means registration on the Register;

'registered teacher' means (subject to paragraph 8 of Schedule 2) a person for the time being registered under Section 3 of the Act;

'registered teacher member' means a member of the Committee who is:

- (a) a registered teacher; and
- (b) employed, or engaged to provide services otherwise than under a contract of employment as a teacher on the date of that person's appointment to the Committee,

and a registered teacher member who ceases to be a registered teacher or who ceases to hold a post or engagement as a teacher shall cease to be regarded as a registered teacher member;

'suitable' means that the Council is satisfied that the applicant meets the standards expected of a registered teacher;

'Suitability Committee' means a Committee convened to determine whether or not an applicant is suitable to be a registered teacher;

'vulnerable witness' means a person whose quality of evidence is likely to be adversely affected at a hearing. This may include:

- (a) any witness with a mental disorder (i.e. mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind);
- (b) any witness who is significantly impaired in relation to intelligence or social functioning;
- (c) any witness with physical disabilities who requires assistance to give evidence;
- (d) any witness where a matter that calls into question the applicant's suitability for registration involves an allegation of a sexual nature and the witness was the alleged victim;

- (e) any witness who complains of intimidation.

'week' means a calendar week.

- (2) In these Procedures and Rules, unless the contrary intention appears:
  - (a) words in the singular include the plural, and words in the plural include the singular;
  - (b) numbered sub-paragraphs and paragraphs are references to the Rule in which they appear;
  - (c) numbered rules are references to the rules of these Procedures and Rules.

## **Publication of the Procedures and Rules**

3 - (1) These Procedures and Rules shall be:

- (a) made available without charge on request to any applicant;
- (b) published at the Council's website on the Internet;
- (c) kept under continuous review and updated as and when appropriate.

## **2.0 Constitution and meetings**

### **Committee membership**

4 - (1) The following points relate to an Investigating Committee and Suitability Committee.

- (2) A Committee shall consist of a minimum of three persons and a maximum of five persons. The quorum for a meeting of the Committee shall be three which must include:
  - (a) one or more lay members;
  - (b) one or more registered teacher members.
- (3) In constituting a Committee, the Council shall have regard to its Equal Opportunities Policy and Welsh Language Scheme.
- (4) Where a Committee is assessing the suitability of an applicant and a member:
  - (a) is unwilling; or
  - (b) is unable to remain a member,

and there is no longer a quorum, the determination shall be adjourned and a new Committee appointed to investigate or hear the matter.

- (5) A person who is a member of an Investigating Committee investigating an applicant's disclosure shall not be appointed as a member of the Suitability Committee which subsequently assesses the suitability of that applicant to be a registered teacher.



- (6) Where, in considering a disclosure, any member of a Committee considers that a fair-minded and informed observer could perceive that he or she has a conflict of interest, that member shall make a declaration accordingly. This may, following legal advice, result in the member being disqualified from sitting in relation to that suitability assessment.
- (7) In pursuance of paragraph (6), where a member of the Committee belongs to the same union or professional association as the applicant, this shall not in itself constitute a conflict of interest for the purposes of this Rule.

### **Chairs**

- 5- (1) Each Committee shall have a Chair.
- (2) In the absence of the appointed Chair under paragraph (1), the Committee shall appoint another of its members to act as the Chair.

### **Meetings**

- 6- (1) A Committee shall be convened at such time and place as a duly authorised officer considers appropriate by sending appropriate notices to the members selected for that Committee. An Investigating Committee shall be convened normally within six weeks of a disclosure having been received by the Council.

A Suitability Committee shall be convened normally within six weeks of a disclosure being referred to it by an Investigating Committee.

- (2) Officers of the Council:
  - (a) may be in attendance at all Committee meetings;
  - (b) shall not participate in the making of the decision of a Committee.

### **Voting and decision making**

- 7- (1) Any decision of a Committee shall be made by a vote of the members of that Committee.
- (2) Any question put to the vote of a Committee shall be put in the form of a motion by the Committee Chair.
- (3) No member in attendance at a meeting of a Committee may abstain from voting when any question is put to a vote.
- (4) Where a question is put to a vote, the Chair shall:
  - (a) call on the members to vote for or against the motion; and
  - (b) declare that the motion has been carried or not carried, as the case may be.
- (5) Where the votes are equal on any motion, the motion shall be deemed to have been resolved in favour of the applicant.

### **Legal adviser or other professional adviser**

- 8- (1) The Council shall make available to any Committee constituted under these Procedures and Rules any such legal adviser and/or other professional adviser as may be required by it to act as an adviser in the course of a meeting or a hearing.
- (2) Where a Committee requires legal advice and/or other professional advice which is given to it by the legal adviser and/or other professional adviser made available by the Council, the appointed legal adviser and/or other professional adviser shall:
- (a) in the case of an Investigating Committee, make a written declaration in relation to the nature of the advice the Committee sought and received;
  - (b) in the case of a Suitability Committee, make a written declaration in relation to the nature of the advice the Committee sought and received, and declare in public the nature of the advice the Committee sought and received.
- (3) The legal adviser and/or other professional adviser shall not be a person who has previously addressed the Committee in a matter in relation to which the Committee seeks advice in any capacity other than as a legal adviser or other professional adviser.

## **3.0 Investigating Committee**

### **Preliminary**

- 9- (1) Subject to Rule 10, an Investigating Committee shall investigate all disclosures received by the Council which may affect an applicant's suitability to be a registered teacher, where, at the time the disclosure is made, the applicant has made an application to be registered under Section 3 of the Act.
- (2) Disclosures received by the Council under paragraph (1) shall include disclosures considered by the ISA where it decided it was not appropriate to include the applicant on a barred list at that time.
- (3) An Investigating Committee shall not investigate a disclosure received by the Council where the General Teaching Council for England has refused an application for registration on the grounds that it was not satisfied as to the applicant's suitability to be a registered teacher. The applicant, in this case, must not be taken to be suitable to be a registered teacher by the Council.
- (4) The duly authorised officer shall determine whether a disclosure falls within paragraph (3).
- (5) Where a disclosure has been referred to an Investigating Committee which should have been referred to the ISA or to another body, it shall be referred to the ISA or the other body accordingly, and the duly authorised officer shall notify all relevant parties.
- (6) For the purposes of these Rules, the date the disclosure is made, in accordance with paragraph (1), shall be the date the disclosure is received by the Council.



## **Deciding whether or not to investigate**

- 10-(1) Where a disclosure reports a criminal offence, and the duly authorised officer is of the view that the details of the offence are not considered to affect the applicant's suitability to be a registered teacher, he or she may conclude that the disclosure should not be referred to an Investigating Committee for investigation by reference to a list of criminal offences approved by Council as being matters which may be dealt with by the duly authorised officer.
- (2) Should a disclosure be dealt with by the duly authorised officer under paragraph (1), he or she shall recommend that the application for registration shall be granted on the grounds that the applicant is suitable to be a registered teacher.
- (3) In the case of action taken under paragraph (1), the recommendation of the duly authorised officer shall be considered by the Chairperson of the Council's Registration Committee. If the duly authorised officer's recommendation is not approved by the Chair of the Registration Committee, the disclosure shall be referred to an Investigating Committee under Rule 11.

## **Notice of Investigation**

- 11-(1) Where a disclosure is to be referred to an Investigating Committee to be investigated, the duly authorised officer shall send to the applicant a Notice of Investigation in accordance with paragraph (2) by special delivery to his or her latest address known to the Council.
- (2) The Notice of Investigation shall:
- (a) set out the details of the disclosure and those referred to the Committee, enclosing copies of all relevant documentation;
  - (b) inform the applicant of the date of the Investigating Committee which is to investigate the disclosure, and the identity of the members of that Committee;
  - (c) invite the applicant to make written representations regarding the details referred to in sub-paragraph (2)(a) and provide, within two weeks from the day the Notice was sent, any evidence as to his or her suitability the applicant wishes to provide;
  - (d) enquire whether the applicant believes that a conflict of interest may arise in relation to any member of the Committee, and if so, what the reason is;
  - (e) have annexed to it a copy of these Procedures and Rules.
- (3) The duly authorised officer shall send a copy of the Notice of Investigation, as provided in paragraph (2), to the current employer or agent of the applicant where known.

## **Standard and burden of proof**

- 12-(1) The standard of proof applied in these proceedings is the civil standard, 'on the balance of probabilities'.
- (2) The burden of proof as to establishing an applicant's suitability to be a registered teacher shall rest with the applicant.

### **Proceedings of an Investigating Committee**

- 13-(1) Subject to paragraphs (2) to (7) and to Rule 7 (Voting and decision making), the procedure shall be determined at the discretion of the Chair.
- (2) The Committee shall, before investigating the disclosure, ensure that all relevant available information, including any written representations and evidence received from the applicant, is available to the Investigating Committee.
- (3) An Investigating Committee may at any stage:
- (a) require further enquiries to be conducted by an officer of the Council;
  - (b) request further available evidence from any relevant party, and obtain further available documents,
- and any statements and documents obtained shall be copied to the applicant.
- (4) An Investigating Committee shall investigate the available evidence, including any written representations and evidence submitted by the applicant.
- (5) An Investigating Committee may at any stage adjourn investigation of the disclosure.
- (6) An officer of the Council requested by an Investigating Committee to undertake an investigation under paragraph (3) shall present the results of any such investigations in writing to the Committee.
- (7) Meetings of the Investigating Committee shall be held in private.

### **Decision of an Investigating Committee**

- 14-(1) Where a Notice of Investigation has been issued under Rule 11, an Investigating Committee constituted to investigate a disclosure may:
- (a) decide that the application for registration should be granted on the grounds that it is satisfied that the applicant is suitable to be a registered teacher; or
  - (b) decide that the disclosure should be referred to a Suitability Committee for consideration on the grounds that it is not satisfied that the applicant is suitable to be a registered teacher and is minded not to grant the application; or
  - (c) refer the disclosure to the ISA where appropriate; or
  - (d) adjourn the assessment for further investigation or legal advice under Rule 13(5), prior to a final determination under this Rule.
- (2) Where an Investigating Committee grants an application for registration under sub-paragraph (1)(a), arrangements to enable the applicant to register shall be made.
- (3) The applicant shall be informed in writing of the Investigating Committee's decision within two weeks of it reaching a decision.



- (4) Where a disclosure is adjourned under sub-paragraph (1)(d), it may be referred to and investigated by the same Committee or a newly-constituted Committee.
- (5) A Committee investigating a disclosure may, in exceptional circumstances and before its final decision, refer it to a differently constituted Investigating Committee where it appears that there has been a breach of Rule 4 or a breach of natural justice.
- (6) Where a Committee refers a disclosure to another Committee, the duly authorised officer shall inform the parties accordingly.

## **4.0 Suitability Committee**

### **Preliminary**

- 15-(1) A Suitability Committee shall assess disclosures referred to it by an Investigating Committee where the Investigating Committee was not satisfied that the applicant was suitable to be a registered teacher, and was minded not to grant the application.

### **Notice of Proceedings**

- 16-(1) Where a disclosure has been referred to a Suitability Committee, the duly authorised officer shall send to the applicant a Notice of Proceedings in accordance with paragraph (2) by special delivery to his or her latest address known to the Council, giving him or her at least six weeks' notice of the hearing of the matter.
- (2) The Notice of Proceedings shall:
- (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
  - (b) specify the time and date of the hearing, which shall not be less than six weeks after the day the Notice was sent to the applicant;
  - (c) specify the particulars of the disclosure which call into question the applicant's suitability to be a registered teacher;
  - (d) specify the witnesses, if any, the presenting officer proposes to call to give evidence at the hearing, and enclose any witness statements which may be available;
  - (e) have annexed to it all available documents in relation to the assessment;
  - (f) have annexed to it a copy of these Procedures and Rules.
- (3) The duly authorised officer shall send a copy of the Notice of Proceedings, as provided in paragraph (2), to the current employer or agent of the applicant where known.

### **Response to the Notice of Proceedings**

- 17-(1) The applicant shall, within three weeks of the date of the Notice of Proceedings, provide the Council with written responses to the following enquiries, namely whether the applicant:

- (a) has, or knows of any reason why the hearing or part of it shall not be held in public;
  - (b) intends to appear in person and/or to be represented at the hearing and if so, provide the name and address of their representative;
  - (c) admits the particulars of the disclosure, as specified in the Notice;
  - (d) intends to call witnesses and if so, to provide their names and contact details; and
  - (e) knows of any reason why the applicant believes that a conflict of interest may arise in relation to any member of the Committee, and if so, what the reason is.
- (2) The applicant shall, in accordance with this Rule and Rule 19, and within three weeks of the date of the Notice of Proceedings, provide the Council with any written submission or such documents as he or she considers relevant, including any witness statements which may be available.

### **Representations to the Committee**

- 18-(1) The duly authorised officer shall appoint a presenting officer following a decision by an Investigating Committee to refer a disclosure to a Suitability Committee.
- (2) The presenting officer shall present the particulars of the disclosure which call into question the applicant's suitability to be a registered teacher before a Suitability Committee, and such a person may be an officer of the Council or other representative.
  - (3) The applicant whose suitability is being assessed may appear in person and/or be represented by any person of his or her choice, including a legal representative.

### **Service and inspection of evidence**

- 19-(1) Subject to paragraph (2), where the presenting officer or the applicant or his or her representative wish to rely upon any document, including a witness statement, they shall submit to the Council a copy of the document concerned at least three weeks prior to the hearing.
- (2) Where either the presenting officer or the applicant or his or her representative wish to rely at the hearing upon documents or other physical evidence and it is not appropriate or practicable for that evidence to be copied or sent by post, the party in possession of the document(s) or other physical evidence concerned shall, at least four weeks prior to the hearing, provide the Council with:
    - (a) a description of the evidence;
    - (b) an explanation of the reason why it is not practicable or appropriate for the evidence or a copy to be sent in accordance with paragraph (1); and
    - (c) details of the arrangements that may be made for inspection of that evidence by the other party.
  - (3) If the presenting officer or the applicant or his or her representative wish to rely at the hearing upon any document not served in accordance with this Rule, then that document may only be admitted at the discretion of the Committee. In exercising this discretion, the Committee may waive or amend the periods of time set out in the Rules for disclosure of documents, but only after hearing any representations and provided the Committee is satisfied that it is appropriate to do so in the interests of a fair hearing.



### **Absence of the applicant at the hearing**

- 20-(1) Where the applicant does not attend and is not represented at a Committee hearing, the Chair shall:
- (a) request evidence that the Notice of Proceedings has been sent to the applicant in compliance with Rule 16; and
  - (b) enquire whether any reasons for the applicant's absence have been communicated to the Council or to the presenting officer.
- (2) Where the Committee is not satisfied that Rule 16 has been complied with, the Committee shall adjourn the hearing.
- (3) Where the Committee is satisfied that Rule 16 has been complied with, then after taking into consideration any representations by the presenting officer and any written representations made by or on behalf of the applicant, and taking advice from the legal adviser, the Committee may:
- (a) proceed with the hearing in the absence of the applicant; or
  - (b) adjourn the hearing.

### **Witnesses**

- 21-(1) A Committee may require any person to attend and give evidence, or to produce documents or other material evidence at a hearing.
- (2) Witnesses must take an oath or affirmation before giving evidence. In doing so, the witness makes a solemn promise that what he or she is about to say is, to the best of his or her knowledge and belief, true.
- (3) Except as may be determined by the Committee, witnesses may not be present at the hearing until they have completed giving evidence and been formally released by the Chair.
- (4) Witnesses may be recalled at the discretion of the Committee.
- (5) The Council may make payment of:
- (a) reasonable expenses;
  - (b) reasonable costs of employing a replacement teacher,
- in relation to witnesses called by an applicant or the presenting officer.

## **Witness summons**

- 22-(1) Where a Committee requires the attendance of, or the production of a material document or evidence by a witness who refuses, or intentionally fails to attend or to produce a material document or evidence, the Chair of the Committee concerned may direct the duly authorised officer to obtain a witness summons by way of a Court Order.
- (2) Where, prior to a hearing before the Suitability Committee, a presenting officer or an applicant whose suitability is being assessed requires the Council to secure the attendance of, or production of, a material document or evidence by a witness who intentionally refuses to attend or to produce a material document or evidence before a hearing of a Suitability Committee, he or she may make an application to the Council. If the duly authorised officer is satisfied that the attendance of the witness or the production of the document or evidence is directly relevant to the determination, the applicant concerned, or the presenting officer, as the case may be, may be allowed to apply to the appropriate Court for a witness summons for the attendance of the witness or the production of the document.

## **Children and vulnerable witnesses**

- 23-(1) A child or a vulnerable witness shall only give evidence where, after considering representations by or on behalf of the applicant and the presenting officer, it is determined by the Committee, or as provided for in paragraphs (2) and (3), that the welfare of the child or vulnerable witness will not be prejudiced by so doing.
- (2) In advance of the hearing, written representations may be referred for consideration to the Chair of a Committee sitting at the time or to one or more prospective members of the Committee.
- (3) If the Chair of the Committee, or prospective member or members, considers that the welfare of the child or vulnerable witness would be prejudiced by giving evidence, the Committee Chair, member or members, as the case may be, shall refuse permission for the child or vulnerable witness to be approached or called to give evidence.
- (4) If the Committee Chair, or member or members, as the case may be, determine that the child or vulnerable witness should be permitted to give evidence, then the Committee that assesses the suitability of the applicant shall adopt such measures as it considers necessary to safeguard the interests of the child or vulnerable witness, which may include, but shall not be limited to:
- (a) the use of a video link;
  - (b) the use of pre-recorded evidence as the main evidence of the witness, provided always that such witness is available at the hearing for questioning;
  - (c) the use of interpreters (including signers and translators); and
  - (d) the hearing of evidence by the Committee in private.
- (5) The Committee may direct that a child or vulnerable witness is not referred to by name during a hearing regardless of whether he or she is called to give evidence at the hearing.



## Language

- 24-(1) Committees will be conducted (all or in part) in English or Welsh at the request of the applicant whose suitability is being assessed.
- (2) Where a witness wishes to give evidence in Welsh, he or she shall be permitted to do so provided that at least fourteen days notice of that request has been given to the Council.

## Procedure at hearing

- 25-(1) Subject to the provisions of this Rule and Rule 7 (Voting and decision making), the procedure at the hearing shall be determined at the discretion of the Chair.
  - (2) The Chair shall introduce the members of the Committee present, confirm the identity of the applicant whose suitability is being assessed, and ask for confirmation that there are no conflicts of interest between the parties.
  - (3) The Chair shall enquire if there are any preliminary applications.
  - (4) The Chair or duly authorised officer, as directed by the Chair, shall read the particulars of the disclosure which call into question the applicant's suitability to be a registered teacher. The Chair shall enquire of the applicant whether the facts reported in the disclosure are admitted or not.
  - (5) The presenting officer shall be permitted to make an opening statement about the particulars and the applicant or his or her representative shall have the opportunity to reply.
  - (6) The presenting officer and the applicant or his or her representative may present relevant evidence, including calling witnesses, relating to the facts of the particulars of the disclosure.
  - (7) The presenting officer, the applicant or his or her representative and members of the Committee may question any witness called, including the applicant if he or she is called as a witness.
  - (8) The Committee will allow the presenting officer and the applicant or his or her representative an opportunity to sum up and make final summations.
  - (9) Except where the facts of the particulars are admitted and no material facts are in dispute, the Committee shall determine whether the facts have been proved.
  - (10) The Committee may adjourn the proceedings at any stage.
  - (11) When making a determination under Rule 28, the Committee shall deliberate in private and may deliberate in private in relation to any other matter.
  - (12) Subject to the requirements of a fair hearing, in the interests of justice the Committee may amend the particulars of a disclosure as referred to in the Notice of Proceedings at any time prior to the final determination.
  - (13) Before amending the particulars of a disclosure in accordance with paragraph (12), the Committee shall first consider any representations by the presenting officer and by or on behalf of the applicant, and take advice from the legal adviser.

- (14) A Committee may, in exceptional circumstances and before its final decision, refer an assessment to a differently constituted Suitability Committee where it appears that there has been a breach of Rule 4 or a breach of natural justice.

### **Public or private hearing**

- 26-(1) The Committee may exclude the public from a hearing or any part of a hearing:
- (a) where it appears to them necessary in the interests of justice to exclude the public;
  - (b) where the applicant makes a written request that the hearing should be in private, and the Committee does not consider it to be contrary to the public interest to hold the hearing in private; or
  - (c) where it is necessary to protect the interests of children or vulnerable witnesses.
- (2) Where an application is made for the hearing to be in private under Rule 25(3), the Committee shall hear the application in private, but shall announce the decision in public.

### **Postponement, adjournment and resumption of hearing**

- 27-(1) Prior to the first day of a hearing before the Suitability Committee, the duly authorised officer may postpone the hearing of his or her own motion or upon application by a party to the proceedings, provided both parties have been given an opportunity to make representations before the decision is made. Notice of a decision to postpone a hearing shall be served upon the applicant and shall include reasons for the decision. The duly authorised officer shall, as soon as is practicable, notify the parties of the date of the rescheduled hearing.
- (2) Where a Committee adjourns a hearing of a case under Rule 25(10) and determines to resume the hearing, the duly authorised officer shall notify the applicant in writing, specifying the date of the rescheduled hearing.

### **Decision**

- 28-(1) The Suitability Committee, in making its decision in accordance with Rule 7 (Voting and decision making) shall determine whether, on the basis of the evidence before it, to:
- (a) grant the application for registration on the grounds that the Committee is satisfied that the applicant is suitable to be a registered teacher; or
  - (b) refuse the application for registration on the grounds that the Committee is not satisfied that the applicant is suitable to be a registered teacher.
- (2) The outcome of the hearing shall be announced in public.
- (3) If the Committee is satisfied that the applicant is suitable to be a registered teacher, arrangements to enable the applicant to register will be made.
- (4) If the Committee determines that the applicant is not suitable to be a registered teacher, no further application for registration may be made by the applicant for a period of 12 months, beginning with the date of the determination of the Suitability Committee.



### **Notification of decision**

- 29-(1) The duly authorised officer, as directed by the Committee, shall serve on the applicant for registration Notice of the Committee's decision, whether to:
- (a) grant the application; or
  - (b) refuse the application.
- (2) Under sub-paragraph (1)(b), the Notice shall specify the grounds on which the decision was taken and notify the applicant of his or her right of appeal against the decision to the High Court within 28 days from the date on which Notice of the decision is served upon him or her.

### **Suitability for registration following a refused application**

- 30-(1) Where an application for registration is refused on the grounds that the applicant was not suitable to be a registered teacher, subject to Rule 28(4) and paragraph (9) of this Rule, he or she may make an application to the Council for a determination that they may be suitable.
- (2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the applicant seeks the determination, and shall be accompanied by every document relied upon in support of the application. This must include new evidence to demonstrate significant changes in an applicant's suitability.
- (3) Where a person makes an application to the Council for a determination that he or she is suitable to be a registered teacher following a refusal, a Committee shall conduct a hearing in accordance with these Procedures and Rules.
- (4) The duly authorised officer shall send to the applicant a Notice of Proceedings by special delivery to the applicant's latest address known to the Council which shall:
- (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
  - (b) specify the time and date of the hearing; and
  - (c) have annexed to it a copy of the evidence given, and the Committee's decision at the hearing when the determination was made that the applicant should be refused registration on the grounds that it was not satisfied as to his or her suitability to be a registered teacher.
- (5) In considering the application, the Committee shall apply these Procedures and Rules shall apply as appropriate given the Committee's role.
- (6) The Committee, in making its decision, shall:
- (a) satisfy itself as to the evidence supporting the application; and
  - (b) determine whether or not it is satisfied that the applicant:
    - (i) has been of good character since the decision to refuse the application for registration;

- (ii) has demonstrated that he or she is a suitable person to be a registered teacher and to be admitted to the Register of Qualified Teachers.
- (7) An application made under paragraph (1) shall be determined by another Suitability Committee and shall not include as a member any person who was a member of the Committee which refused the application for registration.
- (8) If the Committee is satisfied that the applicant is suitable to be a registered teacher, arrangements to enable the applicant to register will be made.
- (9) If the Committee is not satisfied that the applicant is suitable to be a registered teacher and the application is refused, no further application for registration may be made within 12 calendar months of the date of the determination of the Suitability Committee under this Rule, or within such longer period as the Committee may determine.

