

Consultation on Functions Delivered by the General Teaching Council for Northern Ireland

June 2022



Department of
Education
www.education-ni.gov.uk

CONSULTATION SUPPORT DOCUMENT

INTRODUCTION

The General Teaching Council for Northern Ireland (GTCNI) was established in 2002 and under the current legislation is responsible for:

- establishing and maintaining a register of teachers;
- approving qualifications for the purposes of registration;
- regulating the profession; and
- providing advice on registration, training, career development and performance management of teachers and the standard of conduct for teachers.

Since 2005, GTCNI has maintained a register of teachers and, following the transfer of the function from the Department to GTCNI in 2007, it has been responsible for approving qualifications for the purposes of registration. In 2015, GTCNI became responsible for regulating the teaching profession. Legal advice and emerging case law subsequently identified that the legislative basis for regulation is not robust and has left GTCNI unable to exercise these powers as originally intended.

Operating Challenges for GTCNI

The Department undertook an independent Board Effectiveness Review of GTCNI in 2021. The consultants who undertook the Review found deep-seated problems within the Council and leadership structures of GTCNI. They considered these problems so serious and so entrenched that they concluded the current leadership structures could not be fixed and GTCNI should be dissolved.

The Minister of Education accepted this recommendation and on 13 December 2021 she announced to the Northern Ireland Assembly her intention to dissolve GTCNI, stand down GTCNI's Council with immediate effect

and to consult on those functions currently assigned to GTCNI to determine which were critical to the education sector and should be preserved, and on how these could be delivered more efficiently and effectively.

The Minister also decided that pending dissolution, the existing GTCNI staff team would continue to operate under Departmental oversight. This ensured that the essential statutory function of teacher registration could continue without interruption.

What is the Department proposing?

The Department has no fixed ideas on what should replace GTCNI to bring forward at this time.

Our intention through this consultation, is to obtain views from the profession, educational stakeholders and the public on those functions exercised by GTCNI which are critical in supporting the teaching profession and on any existing or additional functions which, if exercised correctly, could be directly beneficial for teachers, schools and the wider education system in Northern Ireland. We also want to obtain respondents' views on how these essential and helpful functions might be delivered effectively and efficiently; while addressing those recurring problems which have persistently undermined the work of GTCNI.

The Department fully recognises that there is a widespread view among the teaching profession in Northern Ireland that GTCNI has, for some time, failed to deliver tangible benefits for teachers despite being directly funded by them.

The purpose of this consultation is not to revisit those failings, which are now a matter of record, but to seek to identify a way forward in which the Department can ensure that any functions which strengthen standards of teaching in Northern Ireland are protected; functions which enhance the working lives of our teachers are consistently and effectively delivered; and that the voice of teachers, as a collective body of skilled professionals, continues to be heard. Where any existing functions do not add value to teachers, schools or the wider education system it is not in the interests of teachers or the Department to see these continue.

The Review has, however, demonstrated a compelling need for change and through this consultation, we would ask you to respond constructively and imaginatively to this opportunity. Your responses to this consultation will therefore play an important part in shaping that future.

While every consultation response will receive careful consideration, the views of those actively involved in the teaching profession, or whose work actively supports the delivery of education in Northern Ireland, will be particularly important in ensuring whatever replaces GTCNI will be fit-for-purpose and be best placed to make a positive difference for the profession.

We have already stated that this consultation is not intended to revisit the historical failings of GTCNI and in this document we will not be exploring these in detail. In considering what a replacement might look like, what functions it could discharge and how it might avoid some of the pitfalls which have proved so detrimental to the effectiveness of GTCNI, it is necessary for respondents to have some understanding of each of these issues.

1. GTCNI – BACKGROUND AND CURRENT FUNCTIONS

- 1.1 GTCNI is the professional body for teachers in Northern Ireland and is the organisation dedicated to enhancing the status of teaching and promoting the highest standards of professional conduct and practice. GTCNI currently exists as a Non-Departmental Public Body (NDPB) under the oversight of the Department of Education.
- 1.2 GTCNI is established under the [Education \(Northern Ireland\) Order 1998](#) (“the Order”). Its constitution is set out in [The General Teaching Council for Northern Ireland \(Constitution\) Regulations \(Northern Ireland\) 2001](#). The Order gives GTCNI the following functions, duties and powers:

Functions - The establishment and maintenance of a register of teachers; the approval of qualifications for the purposes of registration; regulatory functions relating to serious professional misconduct; and the provision of advice to the Department and employing authorities

on registration, the training, career development and performance management of teachers, standards of teaching and standards of conduct for teachers. The Order also gives additional and ancillary functions as the Department considers the Council may appropriately discharge in conjunction with any of its other functions.

Duties - The Council shall supply the Department with such information as it may reasonably require for the purposes of its functions under the Education Orders.

Powers - The Council may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions. As a corporate body, the Council may invest sums not immediately required for the purpose of carrying out its functions; accept gifts of money, land or other property; and charge for services provided by it.

- 1.3 A Management Statement and Financial Memorandum (MSFM) sets out in greater detail a broad framework of governance and accountability mechanisms within which GTCNI is expected to operate.

2. GTCNI – MEMBERSHIP AND STRUCTURES

- 2.1 Under current legislation, the Council of GTCNI has a membership of 33; 14 members are elected directly by the profession with a further five members appointed by the Northern Ireland Teachers' Council, the representative body for the teachers' unions. In addition, 10 members are appointed by broader interests within education including Higher Education Institutions, Employing Authorities and other agencies. Four members are appointed by the Department.

2.2 Composition of Gtcni Council Under Current Legislation

Elected Members

- One teacher (whether or not a Principal) in a nursery school;
- One teacher (whether or not a Principal) in a special school;

- Five teachers in primary education who are not Principals;
- Five teachers in secondary education who are not Principals;
- One Principal in primary education; and
- One Principal in secondary education.

Appointed Members

- Two members by the Education Authority;
- Two members by the Council for Catholic Maintained Schools;
- One member by Comhairle na Gaelscolaíochta;
- One member by the Governing Bodies Association;
- One member by the Northern Ireland Council for Integrated Education;
- One member by the Transferors' Representative Council;
- One member by the Archbishop of Armagh and the Bishops of Clogher, Derry, Down and Connor, Dromore and Kilmore acting jointly (as representatives of the trustees of Catholic maintained schools);
- One member by the Universities' Council for the Education of Teachers (Northern Ireland); and
- Four members by the Department of Education (of whom one is representative of industry and commerce and three representative of such other interests as in the opinion of the Department will enable the Council to carry out its functions more effectively).

2.3 Both elected and nominated members serve on the Council for four-year periods (mandates) and at the start of each new mandate the Council members elect two members to serve as Chair and Vice Chair. The Council is supported by a small team of staff, directly employed by GTCNI, which is led by a Chief Executive Officer (CEO). In addition to managing the day-to-day operation of its staff and the delivery of its functions, the CEO also fulfils the role of Registrar, approving the

addition of suitably qualified individuals to the Northern Ireland teaching register.

2.4 The Council is specifically charged with:

- setting the strategic direction of GTCNI;
- setting and prioritising the overall work of GTCNI's staff;
- monitoring the delivery of its agreed business objectives;
- planning for, monitoring and mitigating identified business risks; and
- ensuring GTCNI meets the financial and governance requirements expected of all NDPBs.

2.5 Under the current legislation the Council exercises its responsibilities and takes its decisions on a collective basis and the differing roles, responsibilities and authorities of the Council, Chair and CEO are each set out within GTCNI's MSFM.

2.6 To assist the Council in its decision making, GTCNI has four standing Committees. The responsibilities of the Committees are broadly:

Policy, Registration and Regulation Committee (PRRC) – PRRC is responsible for the development, implementation and monitoring of GTCNI's registration and regulation processes, providing the Council with recommendations regarding Initial Teacher Education, teaching qualifications, professional standards and competences; and for providing advice to the Department and the education sector on issues relating to teacher professionalism.

Finance and General Purposes Committee (F&GPC) – F&GPC is responsible for key business planning and reporting processes. It provides reports and recommendations to the Council on ongoing expenditure, major financial decisions, procurement and contract management; and ensuring banking arrangements, accommodation,

insurance and any other financial issues are being managed appropriately.

Audit and Risk Assurance Committee (ARAC) – ARAC advises the Council and CEO on those strategic processes being used to manage risk, controls and governance issues and for the preparation of all required governance statements. It oversees the preparation of GTCNI's annual accounts and assesses how the organisation is addressing any identified audit concerns.

Human Resource Committee (HRC) – HRC holds GTCNI's Senior Management Team to account for the management of HR and personnel issues. It leads on the development and implementation of GTCNI's HR policies ensuring these support the business needs of the Council. It provides recommendations on the staff team's capability and capacity to meet Council agreed business needs; and on matters such as employee relations, staff grievances, Health and Safety at work and remuneration.

- 2.7 In each Council mandate, members are appointed to serve on these Committees based, where possible, on their interests, skills and experience; and each Committee in turn elects a Chair and Vice Chair to direct its work.

3. GTCNI – CONTEXT LEADING TO 2021 BOARD EFFECTIVENESS REVIEW

- 3.1 GTCNI has a history of poor performance and of failing to meet its governance responsibilities as an NDPB. A series of reviews undertaken since 2015 have examined different aspects of the Council's work, however these have consistently found that the Council was failing to provide the required strategic direction to its staff and was failing to ensure key decisions were taken in an efficient and timely manner.
- 3.2 These earlier reviews have reported that GTCNI Committees were failing to adequately fulfil their roles or observe the boundaries of their

respective remits. They have found that performance management, at all levels, was absent or ineffective and that the size of the Council, along with dysfunctional relationships and poor behaviour by some members, were all significantly contributing to GTCNI's continuing ineffectiveness.

- 3.3 An action plan for improvement, agreed by the Council in 2017, failed to make significant progress in addressing these difficulties and matters only deteriorated following the last reconstitution of the Council, in late 2019, with increasing levels of conflict within the Council leading to the resignation or withdrawal of thirteen of its members.
- 3.4 In light of these unresolved issues, the Minister of Education decided to commission a further independent Board Effectiveness Review to examine the operation of GTCNI's Council and Committees and provide an evidence base for Departmental action. The contract for this work was awarded to Baker Tilly Mooney Moore (BTMM), a company with extensive experience in this area.

4. GTCNI – 2021 BOARD EFFECTIVENESS REVIEW AND ITS CONCLUSIONS

- 4.1 BTMM evaluated the effectiveness of GTCNI's Council and its Committees based on extensive desk research, direct observation of Council and Committee meetings; and on an extensive series of interviews with current and former Council members, GTCNI's CEO and DE officials. This evidence was supplemented using a standard Board members' self-evaluation effectiveness survey which BTMM have routinely used when undertaking organisational reviews.
- 4.2 In their conclusions BTMM found:
- A continuing failure by GTCNI to meet its regulatory function;
 - Inadequate governance continued to hinder accountability within the Council;
 - Ineffective Committees which were failing to observe boundaries;

- Poor Information Management which had contributed to data protection failures;
- A complete breakdown in working relationships within the Council;
- A breakdown in the working relationship between GTCNI's Chair and CEO;
- Ineffective working relationships with DE;
- A general lack of open and effective communications;
- A long-running failure to adequately identify, monitor and address business risks and identified audit failings; and
- Many Council members lacked the knowledge, skills and experience to contribute effectively at Board level and had a lack of understanding of good governance practices.

4.3 BTMM noted that the members' own assessments of GTCNI were the worst they had encountered in over 640 similar effectiveness reviews; and they concluded that GTCNI was so irretrievably broken that there was no prospect of recovery to any form of adequate performance and recommended that the Department should move to dissolve GTCNI with immediate effect. Should you wish to know more about the findings of the Review, an Executive Summary of BTMM's report is available at: <https://www.education-ni.gov.uk/publications/general-teaching-council-northern-ireland-board-effectiveness-review-executive-summary-report>.

4.4 Having received such a stark analysis, after careful consideration, the Minister of Education accepted BTMM's recommendations and, on 13 December 2021, she announced to the NI Assembly that DE officials would begin work immediately to prepare a Bill for the dissolution of GTCNI, that she had decided to stand down its Council with immediate effect and that the Department would bring forward a consultation (*this consultation*) to determine what, if anything, should replace GTCNI.

5. PROFESSIONAL BODIES FOR TEACHERS IN OTHER JURISDICTIONS

- 5.1 We have already stated that any model that will replace GTCNI should be determined by those functions necessary to protect teaching standards, enhance professionalism and positively support our teaching workforce. In doing so, it may be beneficial for respondents not just to consider those functions which GTCNI has historically been asked to exercise, but the roles and functions discharged by similar bodies in other jurisdictions.
- 5.2 This comparison is not intended to suggest that these functions can only be exercised by a new professional body, indeed, we would specifically highlight that this is not the mechanism currently used in England. We believe, however, that understanding what functions may be possible, how they are delivered effectively in other countries or regions, what systems or structures have been established elsewhere to support their delivery and how similar structures might address some of the failures identified within GTCNI, will help to inform your thinking regarding the best way forward for Northern Ireland.
- 5.3 In this section we have focused on equivalent teaching organisations elsewhere in the UK and the Republic of Ireland. If you have experience of other professional bodies which we could learn from, please share your views as part of your consultation response.

FUNCTIONS DELIVERED

5.4 England - Teaching Regulation Agency (TRA)

Following the abolition of the General Teaching Council for England (GTCE) in 2012, some of the functions of GTCE were assumed by the Teaching Agency which in 2013 became the National College for Teaching and Leadership. In 2018 the TRA, an executive agency of the Department for Education, assumed responsibility for registering and regulating the teaching profession. It describes its responsibilities as:

- maintaining a record of teachers, trainee teachers and those who hold a teacher reference number in England as a digital-by-default

system to allow employers to complete pre-recruitment checks, including safeguarding checks, and provide a self-service function for teachers to access certificates;

- issuing a teacher reference number to all teachers undertaking initial teacher training (ITT) or early years initial teacher training (EYITT) in England and any individual whose details are added to its record of teachers and trainee teachers;
- awarding Qualified Teacher Status (QTS) to teachers who successfully complete ITT, and Early Years Teacher Status to teachers who successfully complete EYITT;
- recording the results of mandatory induction;
- acting on behalf of the Secretary of State as the competent authority for teaching in England – this includes the award of QTS to appropriately qualified teachers from the European Economic Area (EEA), Switzerland, Australia, New Zealand, Canada, Gibraltar, the USA and teachers trained within the United Kingdom;
- holding details of teachers who have been prohibited from teaching or hold a sanction from the Secretary of State;
- operating the regulatory system for all teacher misconduct as defined by The Teachers' Disciplinary (England) Regulations 2012 and the Teacher Misconduct: Disciplinary procedures for the teaching profession – this includes:
 - investigating all cases of misconduct received and progressing those cases assessed to be serious enough to result in prohibition, if proven, through to hearing;
 - considering and making decisions on whether an interim prohibition order should be imposed to prevent a person working whilst an investigation is carried out;
 - administering the hearing process and procedures, ensuring the constitution of the professional conduct panel reflects regulation and guidelines; and

- acting as decision maker on behalf of the Secretary of State to consider the professional conduct panel's recommendation and determine whether a prohibition order is appropriate – the decision maker will also decide whether a teacher may apply for a review of the order.

5.5 Scotland – General Teaching Council Scotland (GTCS)

GTCS was established in 1965, and is one of the oldest teaching councils in the world. In 2012 the Scottish Parliament passed legislation to make it the world's first independent, self-regulating body for teaching. GTCS functions, as set out in The Public Services Reform (General Teaching Council for Scotland) Order 2011, are:

- to keep the register (of teachers);
- to establish (and to review and change as necessary)
 - the standards of education and training appropriate to school teachers;
 - the standards of conduct and professional competence expected of a registered teacher;
- to investigate the fitness to teach of individuals who are, or who are seeking to be, registered;
- to keep itself informed of the education and training of individuals undertaking courses for the education and training of teachers;
- to consider, and to make recommendations to the Scottish Ministers about, matters relating to
 - teachers' education, training, career development and fitness to teach; and
 - the supply of teachers (except matters of remuneration or conditions of service); and
- to keep such other registers of other individuals working in educational settings as it thinks fit.

5.6 Wales - Education Workforce Council (EWC)

Formerly the General Teaching Council for Wales, the EWC was established in 2015 through the Education (Wales) Act 2014. The EWC is the independent regulator for the education workforce in Wales, covering teachers and learning support staff in school and further education settings, qualified youth/youth support workers and work-based learning practitioners. The EWC describes its main functions as being to:

- establish and maintain a Register of Education Practitioners;
- maintain a Code of Professional Conduct and Practice for the education workforce;
- investigate and hear allegations of unacceptable professional conduct, serious professional incompetence or relevant criminal offences that might call into question a registered practitioner's fitness to practise;
- accredit programmes of initial teacher education and monitor their compliance with national criteria;
- provide advice to the Welsh Government and others on matters related to the education workforce and teaching and learning;
- monitor Induction and hear Induction appeals (where applicable) for teachers;
- promote careers in the education workforce; and
- undertake specific work in relation to teaching and learning at the request of the Welsh Government.

5.7 Republic of Ireland – The Teaching Council (TCI)

The functions of the TCI are set out in the Teaching Council Act, 2001. It is TCI's duty to perform the following functions:

- promote teaching as a profession;

- establish, publish, review and maintain codes of professional conduct for teachers, which shall include standards of teaching, knowledge, skill and competence;
- establish and maintain a register of teachers;
- determine, from time to time, the education and training and qualifications required for a person to be registered;
- establish procedures and criteria for registration including the issue of certificates and renewal of registration;
- establish procedures in relation to the induction of teachers into the teaching profession;
- establish procedures and criteria for probation of teachers including periods of probation;
- advise the Minister in relation to all or any of the following:
 - the minimum standards of educational qualifications required for entry into programmes of teacher education and training;
 - the professional development of teachers;
 - teacher supply; and
 - any other matter relating to the functions of the Council as the Council considers appropriate or as requested by the Minister;
- conduct inquiries into and, where appropriate, impose sanctions in relation to, the fitness to teach of any registered teacher;
- conduct or commission research on matters relevant to the objects of the Council and, as it considers appropriate, to publish in such form and manner as the Council thinks fit the findings arising out of such research;
- represent the teaching profession on educational issues and establish procedures for the exchange of information with teachers, organisations involved in education and the public;

- provide the Minister with such information as the Minister may from time to time require;
- review and accredit programmes of teacher education and training for the purpose of registration;
- act as a designated authority within the meaning of Regulation 3(1) of the European Communities (General System for the Recognition of Higher Education Diplomas) Regulations, 1991 (S.I. No. 1 of 1991) for the recognition of qualifications under Council Directive No. 89/48/EEC of 21 December 1988;
- act as the competent authority for the recognition of qualifications, obtained in a state other than a Member State of the European Communities, by a person who has applied under this Act to be registered; and
- as the Minister may direct, co-operate with such body as may be established in Northern Ireland, which performs similar functions to the Council, in relation to teacher qualifications and teacher exchanges between the State and Northern Ireland.

STATUS AND FUNDING MODEL

5.8 England - TRA

Status – Executive agency of the Department for Education.

Funding - The TRA's expenditure is included within the Department for Education's budget and financial monitoring processes. However, the TRA does have a budget which is set by the Department, and against which performance is measured. Expenditure is split between administrative and programme totals, whereby programme expenditure relates to frontline services, and administrative expenditure relates to non-frontline expenditure. The total net expenditure in 2020/21 was £8.2m¹.

Teachers are not charged a fee to have their qualifications assessed or to be accepted or retained on the TRA's 'register'.

1 Source: TRA's Annual Report and Accounts for the year ended 31 March 2021.

5.9 Scotland - GTCS

Status – The GTCS was granted independent status by the Scottish Government in 2012.

Funding – GTCS is predominantly funded from fees paid by teachers who are required to register under legislation in order to teach in Scotland. The annual registration fee is £65 for teachers who qualified in Scotland. For those teachers who qualified outside of Scotland, the initial first year fee is £189 before reducing to £65 for annual re-registration.

Income from fees in 2020/21 totalled £5.1m².

5.10 Wales - EWC

Status – EWC is a body corporate established by the Welsh Government under legislation.

Funding – EWC's core functions are funded from fee income from the statutory annual registration and other activities, completed on behalf of the Welsh Government, are funded by grant. The annual registration fee is £45 for teachers no matter where the teacher gained their qualification.

Income from fees in 2020/21 totalled £2.5m³. It should be noted however that EWC received £5.9m in grant from the Welsh Government for the same period.

5.11 Republic of Ireland - TCI

Status – TCI is a body corporate established by the Irish Government under legislation.

2 Source: GTCS's Annual Report and Financial Statements for the year ended 31 March 2021.

3 Source: EWC's Annual Report and Accounts for the year ending 31 March 2021.

Funding – TCI is funded from fees paid by teachers who are required to register under legislation to teach in the Republic of Ireland. TCI charge an initial registration fee of €90 and in subsequent years an annual registration fee is €65. For those teachers who qualified outside of the Republic of Ireland, a fee of €200 is charged to assess your qualification. If you are a post-primary teacher qualified to teach in more than one subject then there is an extra charge of €100 to assess any extra subjects.

Income from fees in 2019/20 totalled €7.2m⁴.

LEADERSHIP STRUCTURES

5.12 England - TRA

As an agency of the Department for Education in England, the TRA does not have a Board/Council.

5.13 Scotland - GTCS

GTCS is overseen by a Council comprised of 37 members:

- 19 elected registered teachers;
- 11 education stakeholder members of which
 - three individuals are nominated by the Convention of Scottish Local Authorities (following consultation with the Association of Directors of Education in Scotland);
 - three individuals are nominated by Universities Scotland (following consultation with institutions providing recognised teaching qualifications for individuals seeking registration as either school teachers or further education teachers);
 - one individual is nominated by the governing bodies of institutions in the further education sector;

4 Source: TCI's Annual Report 2019/20.

- one individual is nominated by the Scottish Council of Independent Schools;
 - one individual is nominated by the Church and Society Council of the General Assembly of the Church of Scotland;
 - one individual is nominated by the Scottish Hierarchy of the Roman Catholic Church; and
 - one individual is nominated by a body representative of Parent Councils and Combined Parent Councils.
- seven lay members appointed by an independent Appointments Committee – these members must not be or have been a registered teacher, eligible to be a registered teacher or hold a recognised teaching qualification.

Much of the work of Council is conducted through its committees which have delegated responsibilities in certain areas. The committees formulate and recommend policies for approval by Council and implement and monitor policies approved by Council. They also advise, inform, and put forward recommendations or proposals on other matters for Council or its other committees or sub-committees as appropriate.

GTCS has the following Committees which Council can decide to co-opt non-Council members to their membership:

- Conveners Committee;
- Professional Regulatory Assurance Committee;
- Education Committee;
- Finance and Corporate Services Committee;
- Audit Sub-Committee;
- Staffing Sub-Committee; and
- Appointments Committee.

The Council can also establish panels to make decisions in specific areas of work and, in conjunction with its Committees, can decide to set-up temporary or ad hoc sub-committees or working groups.

5.14 Wales - EWC

EWC is overseen by a Council comprised of 14 members:

- seven members directly appointed through the Welsh Government public appointments process; and
- seven members appointed by the Welsh Government from nominations made by:
 - National Union of Teachers (Cymru);
 - National Association of Schoolmasters Union of Women Teachers (Cymru);
 - Association of School and College Leaders;
 - Professional Association of Teachers;
 - National Association of Head Teachers in Wales;
 - Undeb Cenedlaethol Athrawon Cymru;
 - Association of Teachers and Lecturers;
 - University and College Union;
 - UNISON;
 - GMB;
 - UNITE (the Union);
 - Aspect Group of Prospect Union;
 - Wales TUC;
 - CollegesWales;
 - Y Coleg Cymraeg Cenedlaethol;
 - Association of Directors of Education in Wales;

- Welsh Local Government Association;
- Confederation of School Governors Associations in Wales;
- The Church in Wales;
- The Catholic Education Service;
- Higher Education Wales;
- Universities Council for the Education of Teachers;
- Welsh Independent Schools Council;
- Wales Association of SACREs;
- Association of Directors of Social Services Cymru;
- Federation of Small Businesses ; and
- Wales Council for Voluntary Action.

The Council can delegate its functions, in relation to any particular matter, to a Committee appointed for that purpose, or to the Chairperson or the Chief Executive. In turn, committees can delegate any of its functions to a sub-committee of the Committee.

EWC has the following Committees:

- Executive Committee;
- Audit and Scrutiny Committee;
- Registration and Regulation Committee;
- Performance Review Committee; and
- Fitness to Practise Committees.

5.15 Republic of Ireland - TCI

TCI is overseen by a Council comprised of 37 members:

- 11 primary teachers, nine of whom are elected and two of whom are teacher union nominees;

- 11 post-primary teachers, seven of whom are elected and four of whom are teacher union nominees;
- two nominated by colleges of education;
- two nominated by specified third-level bodies;
- four nominated by school management (two primary and two post-primary);
- two nominated by parents' associations (one primary and one post-primary); and
- five nominated by the Minister for Education and Skills, including one representing each of the Irish Business and Employers Confederation and the Irish Congress of Trade Unions.

The Council can delegate its decision-making function to a committee or sub-committee.

TCI has the following Committees:

- Executive Committee;
- Investigating Committee;
- Disciplinary Committee;
- Registration Committee;
- Education Committee;
- Remuneration Committee;
- Finance Committee;
- Audit Committee;
- Qualifications Panel;
- Evidence of Character Panel; and
- Registration Panel.

MECHANISMS FOR PROFESSIONAL REGULATION

5.16 England - TRA

The powers to regulation are set out in legislation and allow the Secretary of State to regulate the profession and to hold a list of teachers who have been prohibited from teaching. The TRA operates these powers on behalf of the Secretary of State.

The TRA recruits panel members to consider misconduct allegations through a public appointment process. A panel will consist of three members. A teacher, or someone who has been a teacher in the previous five years; a layperson, specifically not from the teaching profession. The third panel member may be a person who has taught previously, but does not currently meet the 'teacher panellist' criteria and is referred to as a 'former teacher panellist'.

The panel will decide whether there has been:

- unacceptable professional conduct;
- conduct that may bring the profession into disrepute; or
- a conviction of a relevant criminal offence.

If the panel decides that there has been any of the above, it will make a recommendation to the Secretary of State. A senior TRA official will decide on behalf of the Secretary of State whether a prohibition order is appropriate. A prohibition order applies for life. It means that the person cannot undertake teaching work in any school, sixth form college, children's home or youth accommodation in England.

Under some circumstances and after a minimum of two years, the Secretary of State may allow a teacher to apply for the prohibition order to be removed. This would only be possible following a recommendation by a professional conduct panel.

The primary purpose of a prohibition order is to:

- protect pupils;

- maintain public confidence in the teaching profession; and
- uphold proper standards of conduct

5.17 Scotland - GTCS

Misconduct referrals are considered by panels comprised of at least three persons with a majority of its members being registered teachers and with the panel having at least one lay person.

Where a panel is satisfied that a teacher's fitness to teach is impaired, it may, as appropriate and as it sees fit, direct in terms of one or more of the following that:

- a reprimand be recorded against the teacher's entry in the Register for such period of time and in such terms as is specified by the panel;
- the teacher be subject to a conditional registration order for such period of time (which may be unlimited), and with such conditions attached, as may be specified by the panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the Panel to direct that his/her name be removed from the Register;
- provided that the teacher is otherwise eligible for registration, he/she be granted provisional registration or full registration as the Panel sees fit;
- provided that the teacher is otherwise eligible for registration, the teacher be granted provisional or full registration subject to a conditional registration order for such period of time (which may be unlimited) with such conditions attached as may be specified by the panel provided always that he/she is, and continues to be, eligible for registration and that any failure to comply with such an order may permit the panel to direct that his/her name be removed from the Register;
- the teacher's application for registration be refused; or

- the teacher's name be removed from the Register.

The process is not about disciplining or punishing teachers; it is about ensuring that the teaching profession in Scotland is fit to teach so that:

- public trust and confidence in teachers is maintained; and
- the learning of children and young people is protected.

GTCS emphasise that this process is distinct from any employer or criminal process due to its focus on ensuring maintenance of teaching standards.

5.18 Wales - EWC

The powers to regulate the profession in Wales are set out in legislation and allows the EWC to establish Investigating and Fitness to Practice Committees which must include one or more lay members and one or more registered person member. A person who is a member of the Council must not be appointed as a member of these Committees.

The EWC's Rules state that a Committee must consist of a minimum of three persons and a maximum of five persons. The quorum for a meeting of a Committee is three which must include one or more lay members and one or more registered persons from the same category, or categories of registration, as the registered person who is subject to the disciplinary proceedings.

The Committee will base its decision on the 'balance of probabilities', whether it is more likely than not the facts of the allegations are proven, and whether they amount to unacceptable professional conduct, serious professional incompetence, and/or a conviction for a relevant offence. The Committee will then decide whether registration should be affected by one of the following disciplinary orders:

- **Reprimand** - (two years) means registration is not affected and a registrant can continue practising;
- **Conditional Registration Order** - (any time period) means registration is not affected as long as the conditions set by the Committee are met;

- **Suspension Order** - (up to two years) means registration is suspended. The individual cannot practise in Wales for the period stipulated by the committee; or
- **Prohibition Order** - means registration is removed and the individual will no longer be allowed to practise in Wales. The Committee sets a time period (not less than two years) after which the individual may apply to be re-considered as suitable for registration. Should no such application be successfully made, the Prohibition Order remains in force.

The primary aims of regulating are seen as:

- Contributing to improving the standards of teaching and the quality of learning in Wales;
- Maintaining and improving standards of professional conduct amongst registrants in the education workforce in Wales; and
- Safeguarding the interests of learners, parents and the public and maintaining public trust and confidence in the education workforce.

5.19 Republic of Ireland - TCI

The powers to regulate the profession are set out in legislation and allow TCI to establish committees consisting in whole or in part persons who are members of the Council. It also requires the Council to establish an Investigating Committee and Disciplinary Committee.

If a complaint is referred to the Disciplinary Committee, the panel will consist of not less than three members and not more than five persons of whom the majority shall be registered teachers. At the conclusion of the inquiry, the Panel may either dismiss the complaint or decide whether to impose a sanction on the registered teacher.

The sanctions available to the Panel are:

- that the registered teacher be removed from the register and that he or she shall not be eligible to apply to be restored to the

register before the expiration of such period, beginning with the date of removal, as may be specified by the Panel in the decision;

- that the registered teacher shall be suspended from the register for the period specified by the Panel, which period shall not exceed 2 years;
- that the registered teacher be retained on the register subject to all or any of the following conditions:
 - that the teacher seek the assistance of such service relating to teacher health and welfare as may be available;
 - that the teacher attend a specified professional development course or such other course as the Panel considers appropriate;
 - the period within which the teacher shall comply with the conditions of the retention on the register; or
 - such other conditions as the Panel thinks fit; or
- to advise, admonish or censure the registered teacher in writing.

The Panel may also combine sanctions, where it deems it appropriate. The primary aim of sanction is to protect the public rather than to punish a registered teacher. In coming to its decision, the Panel will consider the maintenance of the public's confidence in teachers, teaching standards and in the integrity of the teaching profession.

6. COMPLETING THE QUESTIONNAIRE

- 6.1 The consultation questionnaire contains a number of statements and questions. In most cases you are asked to indicate to what extent you agree or disagree with the statements. Additionally, each question provides a comment box to allow you to explain your thinking on each of the issues or to raise any additional factors you believe the Department should consider.

6.2 In this section we wish to clarify the intention behind each of the questions in the consultation questionnaire and highlight any specific factors we would like you to consider when providing your answers.

6.3 Question 1. Functions

This question invites you to consider the importance of each of the functions currently assigned to GTCNI. While we fully accept that GTCNI has not met all of these functions, the purpose of this question is to identify which of them are considered to be:

- Essential to the teaching profession - ***and must be maintained***;
- Helpful to the teaching profession - ***and should be maintained if possible***; and
- Non-essential to the teaching profession – ***and could be ended without significant loss to the profession***.

In offering general comments on this question we would also invite you to consider any functions not currently provided which you feel could positively support the teaching profession, schools and/or the wider education system in Northern Ireland.

6.4 Question 2. Delivery of Functions

This question invites you to consider how the essential / helpful functions identified in Question 1 could be delivered most effectively. These functions could be delivered through a number of mechanisms, e.g. directly by Government, via existing employing authorities for teachers, through the creation of a new professional body or some other mechanism.

While most regions of the UK and the Republic of Ireland currently use the model of a professional body, the approach used in England illustrates that, particularly if the range of essential or helpful functions to be delivered is smaller, a professional body need not always be necessary.

In offering general comments on this question we would invite you to set out any specific advantages you see in your chosen option for the delivery of each of the four core functions currently assigned to GTCNI, to suggest any alternative delivery mechanisms which could be established and to suggest your preferred delivery model for any additional functions you have flagged in Question 1 as being advantageous for the profession.

6.5 Question 3. Professional Bodies / Models

If a new professional body, agency or other mechanism is ultimately created, the bodies which exist elsewhere in the UK and the Republic of Ireland could provide valuable models to draw from in terms of their structures and the approaches they have adopted to deliver core activities such as registration and regulation. This question invites you to consider (based on the information provided in this support document and/or any direct personal experience you may hold), whether you feel any of these models provides a helpful starting point.

You may wish to consider the range of functions they deliver against your assessment of those functions needed in Northern Ireland. You may also wish to consider how their leadership structures provide adequate and balanced representation to all strands of the profession and the wider education system; and how these structures and their supporting appointments processes might address the identified structural failings which have undermined the effectiveness of GTCNI.

If you consider a hybrid model, drawing on elements from more than one of these models, would be better suited to our needs in Northern Ireland, we would invite you to explain that in your additional comments.

6.6 Question 4. Registration/Membership

Most careers requiring specialist knowledge and skillsets are recognised as professions, with a requirement for those wishing to work in that field to be a member of a professional body. Members accept that the professional body will act as both the gatekeeper to the profession (*through registration/membership of the body*) and the custodian of professional standards within the profession

(by defining professional standards, encouraging professional development and ultimately by operating regulatory/misconduct processes).

This question seeks to obtain respondents views on the extent to which they see teaching as a profession in which a professional body is important.

To support their operation and to strengthen their independence, most professional bodies operate on the basis of charging initial registration fees and/ or ongoing membership fees. While once again acknowledging that GTCNI has failed to deliver its intended benefits for teachers, Question 4b only asks respondents to consider whether they consider it reasonable for an effective professional body to charge some form of recurring fee.

In providing general comments we would welcome your views on the general value of a professional body for the Northern Ireland teaching profession and your thoughts on how such a body might be financed.

6.7 Question 5. Board Composition

BTMM's Report identified weakness in the skills and experience of GTCNI's Council members as significant factor in its ineffectiveness. Council members' self assessments, undertaken as part of the Review, also recognised that this was a significant problem for the organisation. In this question we are seeking your views on whether Board members for any new professional body (if established) should be selected on the basis of the relevant skills and experience they would bring to the organisation.

BTMM also made a specific recommendation regarding the size of any future board (a maximum of 10-12 members) and recommended that future Board members should be appointed using a full public appointment process. This would see prospective Board members assessed against a set of agreed criteria but with their appointment ultimately being a Ministerial decision. The public appointments process is often taken as best practice for Board appointments, however, this could be perceived as reducing the independence of the Board. More details on the public appointments process, including the detailed Code of Practice to be followed, can be found at <https://www.publicappointmentsni.org/>.

In considering any general comments on this question we would invite you to specifically share your views on what you consider to be an optimal size of Board, how the membership could be kept representative of both the profession and the wider education system; and how this could be balanced against the need for Board members to possess the knowledge and skills to provide strategic direction and to contribute to effective, consensus-based decision making.

6.8 Question 6. Regulation

As already stated, the legislative basis for GTCNI to regulate the teaching profession has been determined to be flawed and unable to support a robust investigatory process. Additionally, it currently only permits GTCNI to invoke one sanction for a teacher found guilty of misconduct, their permanent removal from the teaching register. This step would immediately end their employment and prevent them from seeking further employment as a teacher in any grant-aided school in Northern Ireland. The Department has been advised that any application of this sanction is likely to be found to be in breach of existing human rights provisions.

In the rest of the UK and in the Republic of Ireland, the regulatory bodies can apply a range of graduated sanctions on a teacher found guilty of misconduct, with the sanction dependent on the nature and seriousness of the misconduct. As part of any future Bill, the Department intends to ensure that robust legal powers are created to support effective teacher regulation, irrespective of the body assigned to exercise those powers.

In this question we are seeking your views on whether a range of graduated sanctions is needed to support a fair and proportionate response to cases of misconduct. In considering any general comments on this question we would also invite you to consider the processes and sanctions used elsewhere in the UK and the Republic of Ireland.

6.9 Question 7. Additional Comments

In this section we would invite you to highlight any other issues which you consider relevant to this consultation exercise and which should be considered by the Department as we develop firm plans for the future.

7. TIMESCALES AND SUBMISSION OF RESPONSES

- 7.1 This questionnaire can also be completed online. The consultation will be open from 13th **June 2022** until **midnight on 30th September 2022**.

If you prefer, you can e-mail or post your response to:

GTCNIconsultation@education-ni.gov.uk

or

Teacher Education Team
Department of Education
Rathgael House
43 Balloo Road
Rathgill
BANGOR BT19 7PR

Responses received after the deadline will not be considered.

8. WHAT WILL HAPPEN NEXT?

- 8.1 The Department will consider the views expressed in the consultation exercise and use them to inform drafting of the new primary legislation needed to dissolve GTCNI while ensuring the protection and continuity of all essential functions. In considering the best way forward, we will reflect on respondents' ideas for additional beneficial functions which could be introduced and any unnecessary functions which should cease. We will also publish an analysis of the consultation responses.
- 8.2 For this reason, we would, once again, ask all respondents to be aspirational rather than retrospective and to focus on the potential value to teachers if the various functions and services highlighted in this consultation paper and, in your own response, could be effectively delivered by a replacement body or some alternative means.
- 8.3 We estimate that this legislative process is likely to take a minimum of 24 months and will include a further public consultation exercise

to be undertaken once an initial Bill, reflecting the Department's firm proposals for the way ahead, has been drafted.

- 8.4 Nonetheless, this current consultation will play an important part in ensuring the proposals we bring forward are well-grounded and can offer teachers professional support which is of tangible value to them throughout their careers, and we thank you for your contribution to this process.

CONSULTATION SUPPORT DOCUMENT

**Consultation on Functions Delivered
by the General Teaching Council for Northern Ireland**