

ANGUS COUNCIL  
EDUCATION COMMITTEE

27 AUGUST 2002

RESPONSES TO GTC SCOTLAND CONSULTATION EXERCISES ON:  
(i) DRAFT PROFESSIONAL CODE FOR REGISTERED TEACHERS  
(ii) DRAFT CODE OF PRACTICE ON TEACHER COMPETENCE

REPORT BY THE DIRECTOR OF EDUCATION

**ABSTRACT**

The purpose of this report is to bring to the attention of the Education Committee officer responses to consultation papers issued by the General Teaching Council for Scotland on 25 June 2002.

**1 RECOMMENDATIONS**

1.1 It is recommended that the Education Committee:

- (a) notes the terms of the officer responses to the consultative documents (Appendices)
- (b) notes that copies of the full consultation papers are available in the Members' Lounge
- (c) approves the responses submitted to the General Teaching Council for Scotland

**2 CONSULTATION EXERCISE ON DRAFT PROFESSIONAL CODE FOR REGISTERED TEACHERS: BACKGROUND AND GENERAL COMMENTS**

- 2.1 In October 1997 the General Teaching Council for Scotland produced a draft consultation document on "A Professional Code for Teachers" which was the subject of a consultation exercise in Spring 1998. The overwhelming majority of the responses to that document (80%) accepted the principle and the value of establishing a Professional Code for Teaching Staff in Scotland.
- 2.2 In light of the 1999 quinquennial review of the General Teaching Council undertaken by Deloitte & Touche, a number of non-legislative requirements were set in place following joint discussion between the Council and the Scottish Executive. One key non-legislative requirement was that the Council should proceed to draw up a Professional Code for Registered Teachers.
- 2.3 It should be noted that as a result of the Standards in Scotland's Schools, etc Act 2000, a number of amendments were made to the Teaching Council (Scotland) Act 1965 including an extension to the General Teaching Council for Scotland's role into the areas of **competence and health**, as well as changes to the Council's Disciplinary Procedures.
- 2.4 One of the fundamental principles underpinning the work of the General Teaching Council for Scotland is that of **professional self-government** and one of the main aims of the Council is to **maintain and enhance professional standards**. The Draft Professional Code for Registered Teachers seeks to identify the key areas of professionalism which underpin the Council's work in fulfilling this role. **The Draft Professional Code for Professional Teachers does not form part of the Council's Disciplinary Procedures.**
- 2.5 While the establishment of a Professional Code for Registered Teachers is unarguable, the definitive Code which will arise from this consultation exercise should take due account of relevant parts of "A Teaching Profession for the 21<sup>st</sup> Century" (January 2000), in particular, Annex B and Annex D and of "The Standard for Full Registration" (February 2002) which sets out very clearly the standards for professional conduct and competence which fully registered teachers can reasonably be expected to attain and maintain.

2.6 The officer response to this consultation exercise has been submitted to the General Teaching Council for Scotland to meet their deadline of 22 August 2002. The attached response (Appendix 1) is therefore subject to the homologation of the Committee.

### 3 CONSULTATION EXERCISE ON CODE OF PRACTICE ON TEACHER COMPETENCE: BACKGROUND AND GENERAL COMMENTS

3.1 The Standards in Scotland's Schools, etc Act 2000 extended the role of the General Teaching Council for Scotland into the areas of **competence and health** and also brought about changes to the Council's disciplinary procedures.

3.2 With respect to matters of competence the 2000 Act set in place for employers of teachers an obligation to notify the General Teaching Council of the dismissal of a teacher on grounds of competence or the resignation of a teacher in the context of a possible dismissal on the grounds of competence. It also placed upon the General Teaching Council a new duty to consider whether such a teacher, having been notified to the Council in these circumstances, should be retained on the register.

3.3 The 2000 Act provides no definition of teacher competence. It is acknowledged that the General Teaching Council would only become involved in matters of teacher competence if prior action had been taken by an employer.

3.4 The Council was invited by the Scottish Negotiating Council for Teachers (SNCT), which represents the Teacher Unions and local authority employers, to produce a Code of Practice on Teacher Competence. The Draft Code of Practice which is the subject of this consultation exercise is the Council's response to that request. It is intended that the Code of Practice should:

- provide a definition of teacher competence
- explain the process and support measures to be followed by employers in addressing issues of teacher competence
- provide a single reference base for employers in an effort to ensure that decisions taken by employers would be reasonably consistent across Scotland
- be compatible with the disciplinary framework being developed by the SNCT

3.5 The Draft Code of Practice on Teacher Competence offers a definition of competence in terms of the recently launched Standard for Full Registration which will apply to teachers who have gained full registration with the Council.

3.6 It should be noted that an implementation date has yet to be announced for the extension of the General Teaching Council's role into the area of competence, but it is anticipated that this date may be set for later in this calendar year. It should also be noted that the context within which the Draft Code of Practice on Teacher Competence will operate will be provided by what is currently the Council's Draft Conduct Competence and Disciplinary Rules. These draft Rules set down the procedures and protocols to be adopted by the General Teaching Council following the extension of its powers into areas of **competence and health**. The Rules are currently in draft form and will require to be granted approval by the Scottish Executive and the Lord President of the Court of Session.

3.7 As indicated above, the development and implementation of the draft Code of Practice on Teacher Competence will cross-refer to the development by the SNCT Discipline Working Group of a revised disciplinary framework to replace paragraph 15.1 in the current Scheme of Pay and Conditions of Service. It is not unreasonable to anticipate that a revised disciplinary framework, unlike paragraph 15.1 in the Scheme of Pay and Conditions, will include references to advice, counselling and support procedures as a necessary **initial** response to situations where concerns are raised about a teacher's performance or competence.

3.8 The draft Code of Competence properly makes reference to the importance of ensuring that disciplinary procedures or a disciplinary framework include the provision of informal advice and counselling, and thereafter of support, formal or informal, prior to addressing matters at a formal disciplinary stage. Leaving aside details of terminology, the recommended procedures are in line with the Disciplinary Procedures for Teachers agreed by the Education Committee at its meeting on 24 November 1998 (Article 12 refers).

**3.9** The officer response to this consultation exercise has been prepared and submitted to meet the deadline set by the General Teaching Council for Scotland of 22 August 2002. The attached response (Appendix 2) is, therefore, subject to the homologation of the Committee.

#### **4 FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from this report.

#### **5 HUMAN RIGHTS IMPLICATIONS**

While there are clearly human rights issues surrounding the implementation of a Professional Register for Teachers and the application of a Code of Practice on Teacher Competence once finalised, there are no human rights implications arising directly from this report.

#### **6 CONSULTATION**

In accordance with the Standing Orders of the Council this report has been the subject of consultation with the Chief Executive, the Director of Law and Administration, the Director of Finance and the Personnel Services Manager.

#### **7 CONCLUSION**

While the officer responses to these consultation documents propose a number of amendments, mainly of a technical nature, the general thrust of both documents is welcome. The adoption of a Professional Code for Registered Teachers of a Code of Practice on Teacher Competence is wholly consistent with the spirit and letter of the National McCrone Agreement ("A Teaching Profession for the 21<sup>st</sup> Century"). The provision of both Codes is likely to promote and enhance the professionalism of teachers, which is one of the key objectives of the National Agreement.

JIM ANDERSON  
DIRECTOR OF EDUCATION

#### **BACKGROUND PAPERS**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

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## ANGUS COUNCIL

### COMMENTS ON THE DRAFT CODE OF PRACTICE ON TEACHER COMPETENCE – JULY 2002

#### 1 INTRODUCTORY REMARKS

- 1.1 The Code is to be welcomed in general terms. Its structure is straight-forward and it is set out in simple accessible terms.
- 1.2 Given that the Standard for Full Registration, which was itself the subject of an extensive consultation exercise, provides a comprehensive statement of the professional standards which a fully registered teacher can be expected to attain and maintain, the use of that Standard as a means by which to define teacher competence is wholly endorsed.
- 1.3 Notwithstanding the simple accessible language in which the Draft Code is framed, the use of the terms “**temporary under-performance**” and “**chronic incompetence**” is curious. Neither term is entirely appropriate and it would be more appropriate and more consistent with current employment practice to make references to “**unsatisfactory performance**” or to “**incompetence**”. In seeking to address situations where a teacher’s work is unsatisfactory, the key issue facing an employer is not necessarily the length of time for which such issues have existed but rather whether the unsatisfactory performance is capable of being resolved.
- 1.4 There may well be circumstances (eg if a teacher is reluctant to comply with advice and support made available) where issues of work performance may have to be addressed within formal disciplinary proceedings even though the difficulty is not longstanding in nature. The simple link made within the Draft Code between “chronic” situations and the use of disciplinary procedures is therefore not apt. That said, it is recognised that, where protracted attempts to address performance at work concerns fail to bring about any improvement, the chronic nature of the difficulties being encountered is likely to result in the application of serious disciplinary sanctions including the possibility of dismissal.

#### 2 PROPOSED PROCEDURES – SECTION 3 OF THE DRAFT CODE

- 2.1 It is self-evident that procedures adopted to respond to situations of poor or unsatisfactory performance assume that, prior to concerns arising or problems being identified about a teacher’s

work, the teacher has been performing competently or satisfactorily. The first paragraph of section 3 of the Draft Code is, therefore, redundant.

2.2 For reasons stated in 1.3 above, it is recommended that the term “**temporary under-performance**” in paragraph 2 be simply replaced by “**unsatisfactory performance**”. It is self-evident that if an employee’s unsatisfactory performance is resolvable, then that situation is necessarily “temporary” in nature. The obvious does not require to be stated here.

2.3 The focus on “**temporary under-performance**” and “**chronic incompetence**” is in our view inappropriate. The emphasis on chronological references is misplaced and the second sentence of the second paragraph should, therefore, perhaps read:

“At stages 1 and 2 of the following procedures it is assumed that in the first instance every possible effort will be made to resolve issues of unsatisfactory performance on an informal basis. The provision of appropriate advice, counselling and support will be a crucial element of such efforts to secure improvement in the performance of a teacher.”

2.4 Paragraph 3 should be rewritten as follows:

“When stage 3 (the formal disciplinary stage) of the procedures is implemented, it is assumed that advice, support guidance and professional development opportunities offered to the teacher have not resulted in the teacher achieving the required level of performance. It is, therefore, recognised that use of formal disciplinary procedures is necessary to respond to **unresolved issues of unsatisfactory performance**”.

2.5 In light of the above comments it is suggested that the terms “**temporary under-performance**” and “**chronic incompetence**” in the boxes to the left of the flowchart are replaced respectively by the terms “**unsatisfactory performance**” and “**unresolved issues of unsatisfactory performance**”.

2.6 It is furthermore suggested that in light of the above observations about the possible inappropriateness of the terms “**temporary under-performance**” and “**chronic incompetence**” all such references be removed from the stage by stage guidance offered on pages 3-5 of the draft Code and be replaced, where appropriate, by the alternatives suggested in 2.5 above.

### 3 GENERAL OBSERVATIONS

3.1 Although the informal stage and the support stage of the procedures outlined clearly do not constitute part of an employer’s disciplinary procedures, it should be possible in certain circumstances for a teacher, whose work is giving cause for concern, to be accompanied even at informal meetings by a colleague or a representative of his/her professional association. Experience over many years in this and other authorities suggests that the informal involvement of such parties often assists rather than inhibits a resolution of performance-related difficulties.

3.2 While it is the case that the SNCT Discipline Working Group will seek to take account of the draft Code in framing the revised draft Disciplinary Framework to replace paragraph 15.1 of the Scheme of Pay and Conditions of Service, it will be essential to ensure that the finalised Code and the finalised Disciplinary Framework are wholly consistent with each other. Such consistencies should include consistencies in relation to terminology.

3.3 The caveat indicated in the second paragraph of the introduction to the draft Code in relation to promoted staff is well made. In situations of administrative/managerial incompetence on the part of a promoted teacher, it is, of course, open to an employer to redeploy or to demote such a teacher to class teaching duties. Where concerns about such a colleague’s competence persist after such steps have been taken the procedure described in the draft Code would clearly then apply.

3.4 The adoption of a Code of Practice on Teacher Competence and of a Professional Code for Registered Teachers is wholly consistent with the spirit and the letter of the National McCrone Agreement (“A Teaching Profession for the 21<sup>st</sup> Century”). It is our view that the provision of both Codes is likely to promote and enhance the professionalism of teachers, which is one of the key objectives of the National Agreement.

## ANGUS COUNCIL

### OBSERVATIONS ON DRAFT PROFESSIONAL CODE FOR REGISTERED TEACHERS – JULY 2002

#### 1 INTRODUCTORY REMARKS

- 1.1 The Draft Code is presented in simple clear terms. The titles of each section of the Code are broadly appropriate, but see comments below. The Code should be seen to articulate closely with relevant parts of "A Teaching Profession for the 21<sup>st</sup> Century", in particular, Annex B and Annex D and with "The Standard for Full Registration". The relationship between the Code and these key documents should perhaps be pointed up in the introductory paragraph/preamble, by adding the following sentence:

"This Code takes due account of "A Teaching profession for the 21<sup>st</sup> Century" (January 2000) and of "The Standard for Full Registration" (February 2002)."

#### 2 COMMENTS ON INDIVIDUAL SECTIONS OF THE DRAFT CODE

- 2.1 The following comments include proposed amendments to the text of various sections of the draft Code:

##### **Expertise**

- first sentence - remove "throughout their teaching career" and after "strive" insert "constantly"
- second sentence - replace "careers" by "career"

##### **Collegiality**

- replace "good" by "effective"

##### **Legal framework**

- after "pastoral and administrative responsibilities" add "which are clearly stated in Annex B of "A Teaching Profession for the 21<sup>st</sup> Century"

##### **Responsive to individual needs**

- in keeping with the use of nouns as headings for each section of the Code, amend in the title of this section "Responsive" to "Responsiveness"
- as a means of highlighting the relationship between the Code and Annex B of "A Teaching Profession for the 21<sup>st</sup> Century", it might be helpful to amend the text of this section as follows:

"Teachers should be responsive to the individual needs of their pupils and students and should provide them with advice and guidance, promote and safeguard their health welfare and safety, and seek to involve them in decisions affecting their education in a manner commensurate with their age and ability"

##### **Discrimination**

- first line - "grounds" should perhaps more properly read "ground"

##### **Role Model**

The title of this section of the Code might more appropriately be "Professional Conduct". Given the proposed change of title it is suggested that the following sentence be added to the text:

"Teachers should, therefore, conduct themselves in a manner which inspires respect among pupils, colleagues and parents"

### **Final (unheaded) paragraph**

The final paragraph does not sit easily under the heading "Professional Relationships". It would be more appropriate to use "Professional Grievances" as a more appropriate heading/title for that final paragraph/section of the draft Code.

### **3 General Observations**

- 3.1** The draft Code is a useful means by which to communicate to teachers and to other stakeholders in school education the principal responsibilities of members of the teaching profession. Notwithstanding this benefit of the proposed Code, it is important to recognise that teaching staff have rights as well as responsibilities. It may, therefore, be helpful to acknowledge this fact in the introductory page which precedes the statement of the Code. Angus Council has recently produced a document entitled "Rights and Responsibilities of Staff" which mirrors to a degree a similar document in respect of the "Rights and Responsibilities of Pupils and Parents". Both documents are enclosed for information and may be useful to the Council in its continuing deliberations about the proposed Code for Registered Teachers.
- 3.2** The adoption of a Professional Code for Registered Teachers and of a Code of Practice on Teacher Competence is wholly consistent with the spirit and the letter of the National McCrone Agreement ("A Teaching Profession for the 21<sup>st</sup> Century"). It is our view that the provision of both Codes is likely to promote and enhance the professionalism of teachers, which is one of the key objectives of the National Agreement.