



Northern Ireland  
Assembly

Committee for Education

# OFFICIAL REPORT (Hansard)

Statutory Rule: General Teaching Council for  
Northern Ireland

17 September 2014

# NORTHERN IRELAND ASSEMBLY

## Committee for Education

Statutory Rule: General Teaching Council for Northern Ireland

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**Members present for all or part of the proceedings:**

Mr Danny Kinahan (Deputy Chairperson)  
Mr Jonathan Craig  
Mr Chris Hazzard  
Mr Trevor Lunn  
Ms Maeve McLaughlin  
Mr Stephen Moutray  
Mr Robin Newton  
Mrs Sandra Overend  
Mr Seán Rogers

**Witnesses:**

Mr Ivan Arbuthnot	General Teaching Council for Northern Ireland
Mr Gerry Devlin	General Teaching Council for Northern Ireland
Dr Carmel Gallagher	General Teaching Council for Northern Ireland

**The Deputy Chairperson:** I welcome Carmel Gallagher, Ivan Arbuthnot and Gerry Devlin to today's meeting. You have 10 minutes. You do not have to use it all.

**Dr Carmel Gallagher (General Teaching Council for Northern Ireland):** Thank you, Chair. You will glad to know that we hope not to use the full 10 minutes.

We are aware that the matter came to light through the discovery of a non-intended repeal of previous legislation and that no regulations are currently in place to provide assurance to the Assembly and the public on the regulation of the teaching profession. We know that the proposal to amend legislation and transfer limited powers to the General Teaching Council for Northern Ireland (GTCNI) was brought to the Committee on 2 July 2014. We appreciate that the Committee wishes to hear the council's view on the matter before approving the statutory rule. We also appreciate that you wish to hear about our resource position before approving it.

The council debated the matter fully on Friday last. It voted almost unanimously to support the proposed amendment. In fact, we welcome the opportunity to take on limited regulatory powers in advance of full powers coming through, hopefully in the GTCNI Bill. We highlight the fact that 99.9% of teachers abide by the code of professional conduct. Therefore, we believe that only a very limited number of cases have come before the Department of Education for scrutiny. In effect, there are fewer than 10, of which judgements have to be made on two or three. So, we do not consider that the task will be onerous or that investigation will be needed. Detailed investigatory powers as judgements will have been made elsewhere. Rather, we have just to set up a screening process to determine

whether the breach of conduct is over a particular threshold of unprofessional behaviour that requires removal from the register.

That will require the council to develop processes and to train a small number of our own staff and council members to operate those processes. All of that preparation is under way — we are building up to the main Bill anyway — but we stress that we cannot finalise the processes until we see the final regulations. We will signal to DE when we are ready for a commencement order on the regulations — when our processes are in place, and we are ready to pick it up. Before that, we will seek written assurance from DE that any legal liability arising from previous decisions will remain with it and will not come to GTCNI. Generally, we are just happy to report that we wish to take on the responsibility in order to give the Minister, the Assembly and the public reassurance that the profession is being regulated.

**Mr Kinahan:** Do you see any need for extra resources in the future for legal challenges?

**Dr Gallagher:** We are glad to report after 16 months that a business case for our own staffing has been approved by DE and the Department of Finance and Personnel. Our council also approved that on Friday. However, it will take some time to implement and will not result in additional staff to the council, because the current numbers are all that we can afford under the current fee structure. However, we do have reserves. Last year, we reported to you that we have reserves of around £1.2 million. Our liaison with the other general teaching councils indicates that we will need those reserves for specific regulatory processes in the future and for significant capital expenditure on our new database, which we will need to take on the extension of our powers to the further education (FE) sector. The lease is up on our building as well, so we will possibly require new premises. As potentially an independent body in the future, we would like to think very soundly about the nature of those premises in the long term.

When we get our staff restructuring in place, we can fulfil our remit, but we will need more staff as regulation kicks in. We will need to build up more staff. Therefore, we are likely to need an increase in the registration fee, which has remained static for 10 years. We have brought that matter to our council and to discussions with DE. We will be setting up a working group in our council to consider the matter further.

There is just one matter that we want to raise with you about current financial resources. In the past, DE has commissioned advice from GTCNI, and it obviously paid for that advice. However, since we have become self-funding, we are still required to provide that advice but more or less free and gratis. If that advice were to be commissioned, we could possibly get some income from DE that would allow us to put staff in place to do specific things at specific times. We believe that that will be taken care of in the new Bill. We are just drawing that to your attention, or putting down a marker that we hope that, in future, we will be commissioned for those pieces of work.

In general, we think that our resources are OK at present, but we will bring forward the matter of an uplift in fee in the future for approval.

**The Deputy Chairperson:** If there is an uplift in fee, will you consult with teachers?

**Dr Gallagher:** Obviously, we will have to consult with teachers and their unions.

**The Deputy Chairperson:** You talk of resources. It looks to me as though quite a lot of extra resources are needed, if you are looking for new staff, a new building and IT services.

**Dr Gallagher:** To reiterate the figures that we gave to the Committee last time around, we employ 16 staff. Wales currently employs 28 staff; Ireland employs 44; and Scotland employs closer to 60. So, we are by far the least resourced of the councils. Obviously, we do not have regulatory powers as yet, but, as we move forward, there will certainly be a need to provide additional resources.

**The Deputy Chairperson:** Do you think that the transfer of that role is the right thing to be doing and that it should not be left with the Department?

**Dr Gallagher:** We believe that the Department would have to legislate on the matter. Your intention, its intention and the Minister's intention is to transfer those powers to us fully within two years. The council has debated it and considers that it would be appropriate, almost as a practice run.

**The Deputy Chairperson:** OK.

**Dr Gallagher:** Gerry is looking after this area. He may want to say something.

**Mr Gerry Devlin (General Teaching Council for Northern Ireland):** To reiterate what Carmel has said, the council endorsed the view that it should take on that responsibility. It seems to be wholly appropriate that the profession in Northern Ireland should be self-regulating. Self-regulation is both a responsibility and a privilege, but it is a responsibility and privilege that the council was set up to make happen.

**Mr Ivan Arbuthnot (General Teaching Council for Northern Ireland):** Carmel made reference to premises. That is something that I have talked about with her since she came into post, as I did with previous registrars. We need to be fit for purpose and the present building is not fit for purpose. The General Teaching Council for Scotland (GTCS) has, if you like, been in the vanguard of that for years. I think that its facilities are very good, but I was surprised to hear it say that its facilities are not right and that it is looking to improve them. So, there is a lot tied up with that alone, bearing in mind what we would be moving into, which is dealing with people who may be heading towards certain disciplinary cases, and so on. It has to be done right, in the right environment and in the right way. It is going to cost to set that up properly.

**The Deputy Chairperson:** Given our difficult budgeting and resources at the moment, I do not want to see it delaying. When it comes to the Budget system, we will need to know exactly the scale and size of premises that you want.

**Dr Gallagher:** Let me just reinforce the point that the building would be financed by GTCNI, and we are in the process of drawing up a business case and negotiating that with DE. However, we will be paying for that out of our reserves.

**The Deputy Chairperson:** Very good.

**Dr Gallagher:** What the chairman is emphasising is that GTCS bought its building. It is now worth millions of pounds, but you find that, even though it is a beautiful building, because you are involved in semi-judicial processes, you have almost to keep prosecution and defence apart, and there may even be media attention to be catered for. So, we need a building that is particularly designed for that purpose. Therefore, we will be negotiating with DE early on to see how we can build, but we will not be coming to you for those resources. When we talk about an uplift in fee, we are obviously talking about the profession helping to finance future regulation.

**Mr Rogers:** You are very welcome. Can you clarify for me, Carmel, whether the powers associated with the proposed statutory rule are simply a replication of what previously existed in the Department?

**Mr Devlin:** It is basically the same power, but the process that the Department operated would not be appropriate for a professional body, so, on the basis of the regulations that would be made, we would then establish our own processes. We will move from the secondary legislation to establishing our own rules, which will outline our process, but it is fundamentally the same power. Until the position on eligibility to teach was uncovered, the Department of Education had a de jure role of granting eligibility to teach, on the basis of de facto assessment of teacher qualifications by the council. What has subsequently happened is that the concept of eligibility to teach no longer exists because of the problem with this power, which the Department uncovered. Therefore, what will happen is that the only gatekeeping role for teaching in Northern Ireland will be registration with the GTCNI. We approve qualifications to teach in Northern Ireland. With the additional power, we will also be able to remove eligibility for registration. So, it is a similar but modified power for the way in which a professional regulatory body operates.

**Mr Rogers:** The likes of the Department's protocols for training, referral, or whatever, will simply transfer from it to us.

**Mr Devlin:** We have had initial discussions with the Department. It has told us about its processes. It has processes for communicating with the Disclosure and Barring Service, as we currently have, for communicating with the PSNI to receive PSNI referrals and for receiving referrals from employing authorities. We are at the initial stage of preparation, but we will also have to put in protocols for

communicating with the PSNI and employing authorities, so the communication will no longer go to the Department but directly to GTCNI.

**Mr Rogers:** Tell me if I am wrong, but I get the feeling that there are major resource implications for you exercising those duties. Money will have to come from the Department, your teachers, or wherever.

**Mr Devlin:** Certainly, that is so in the long term if we get full regulatory powers. However, these are not the full regulatory powers that we anticipate in the GTCNI Bill. They are quite limited regulatory powers. The Department has informed us that the cases that they have been dealing with are few and far between, so we think that we can deal with this particular responsibility with the current resource. The big question on resource allocation will be when we assume full regulatory powers, which are much more extensive than this. This is simply about eligibility to register to teach in Northern Ireland. The full regulatory powers are much wider.

**The Deputy Chairperson:** What is the reaction of the unions to this? If teachers lose a day's pay, or whatever the fee amounts to, they will presumably ask what they are getting for it. How have the unions reacted to the whole idea?

**Dr Gallagher:** Our chairman may wish to come in on this question as a representative of a union. The unions have been a large and representative part of the council. They have been generally supportive, as Gerry said, of the desire for the profession to regulate itself. As indicated by the vote last Friday, virtually all the unions were supportive of the position adopted. As we go forward, we will consult with them and put in place processes that they respect and approve of, because they, too, would not like to have teachers in the classroom who are deemed to be either in breach of professional conduct or in breach of competence standards.

To go back to Seán's point, future regulation will be about not only breaches of conduct but the whole issue of competence and whether teachers are judged by their employer as not meeting the mark when it comes to competence standards. That is the kind of regulation that has increased massively in, for example, Wales, to the extent that the General Teaching Council for Wales (GTCW) has become bankrupt. It has used up all their significant resource and are now increasing it registration, to include not only the FE sector but virtually the whole of the education sector, including classroom assistants and all sorts of support people. So, although Scotland has around 78,000 registrants, who are mostly just teachers, Ireland has around 70,000 and Wales will be taking on virtually the whole profession and will also have around that number, whereas we have only around 27,000. We will come up to perhaps nearly 30,000 when we take on FE. We will always be very small in number. That raises issues about our economic survival.

**Mr Arbuthnot:** May I comment in support of what Carmel said about unions? Yes, I support that totally. It is ironic that we were sitting listening to the earlier presentation, and you made a comment about time. I can remember sitting on the Northern Ireland Teachers' Council in 2010 when all the unions were encouraging the Department to speed the process through. Here we are, four years on, and nothing has happened. The unions would be for that. All that Carmel said is to the point.

**The Deputy Chairperson:** Exactly.

**Mr Lunn:** Thanks for your presentation. The word "competence" keeps coming up. What has been the position to date with competence issues? Does this new set of rules and regulations give you extra powers to deal with competence issues or have you always had those powers? If you have had them, were you able to use them?

**Dr Gallagher:** I will start off and say that the competence issues are dealt with by employers themselves, but, for example, if a teacher happened to be found to be incompetent in a school and was let go from that school, we would have no powers then to look at that person's record and consider whether he or she should remain on the register. That is what the new regulations will do. They will say that a person has been dismissed from a school for reasons of competence and that it is now up to the professional body to consider whether that person perhaps needs to undertake training or needs support for a specific period. So, all those extra rules and regulations that were missed out in previous legislation will be taken care of in this legislation.

**Mr Lunn:** In the past, would you have had a situation in which, let us say, the board of governors decided that a teacher was not sufficiently competent, that that was doing pupils' education harm and that it wanted to dismiss the teacher? I think that it has been a very difficult thing to do. Did you have no say in the matter? Did you effectively have to strike that teacher off?

**Dr Gallagher:** We were not allowed to strike teachers off. They were not referred.

**Mr Lunn:** I have got you now. You could not go back to the school and say, "Hold on a minute. There may be a retraining or development option here". You could not do that, no?

**Mr Devlin:** The employer has certain questions and a certain role to play regarding competence. The employer takes a decision on whether an individual is competent to teach in a particular school. GTCNI would take a decision on whether an individual is competent enough to be a member of the profession in Northern Ireland. So, you could have the scenario under a competence ruling that an individual is dismissed from a school but is still deemed to be competent to teach in another environment, and, in my opinion, that is quite appropriate.

**Mr Lunn:** Yes, but that dismissal would be on the individual's record. It would be quite difficult for them to find a suitable environment.

Anyway, I have no problem with what is being offered here.

**Mr Craig:** I want to welcome this development. It is good to see Ivan again. We sat on a board of governors for years, Chair.

I find this interesting, because I have always felt that there was a major loophole here. I have come across this. I have seen teachers be dismissed, in some cases, with criminal charges coming about for whatever reason and their actually being charged and prosecuted. However, you find out through third parties, perhaps two or three years later, that they are actually employed in other schools. The criminal charges and the reasons that they were dismissed were very, very serious. You are telling me that, at the minute, you have absolutely no way of deregistering those individuals, even if there is a criminal charge against them.

**Mr Devlin:** The current situation is that, if someone is found guilty of a serious criminal offence, the PSNI will inform the Department of Education. The Department of Education will then take a decision on whether someone should remain eligible to teach. You are aware that the Department has not had that power. What will happen in the future if someone is convicted of a serious criminal offence is that the PSNI will communicate with the GTCNI, and we will decide whether that person should continue to be eligible for registration as a teacher in Northern Ireland.

**The Deputy Chairperson:** Which is the whole point of today.

**Dr Gallagher:** To summarise, it therefore matters that there is a gap at the moment, in that no powers exist. The council feels that it is its moral duty to pick up this matter and give cover to the Minister, the Committee, the Assembly and the public.

**Mr Craig:** You are absolutely right, Carmel. I know that the powers exist, but whether those powers are exercised properly is another matter. At least you would be open to scrutiny on how you exercised them. I welcome that development.

**Mr Lunn:** It baffles me how the current situation has been allowed to exist for so long. Effectively, you could refuse to register a new teacher under your current regulations, but you could not deregister an existing teacher.

**Mr Devlin:** The only way in which we can deregister someone is if we are informed by the Department of Education that it has removed his or her eligibility to teach. Obviously, we are in this position because the Department has not had the power to deal with that. We would have received communications from the Department of Education that an individual's eligibility to teach had been removed, and we would have put a restriction on that individual's registration record. That is the current process that is in moderation.

**Mr Lunn:** What regulation do you operate under currently?

**Mr Devlin:** The Department operates under the Teachers' (Eligibility) Regulations (Northern Ireland) 1997. We operate under our own registration regulations.

**Mr Lunn:** That is a situation that has pertained for 17 years.

**Mr Lunn:** Yes.

**Mr Kinahan:** The onus is on us to get this through quickly.

**Dr Gallagher:** That is why it will be extremely important that you scrutinise the GTCNI Bill, because it was the 1998 order, the 2002 order and the 2006 order that all missed the need for very specific details on regulation. We believe that that Bill is being very tightly monitored to ensure that it picks up on all those issues.

**Mr Lunn:** When you think of the time that is spent constructing and scrutinising legislation in this country, it is amazing that something like that can be missed, not just once but three or four times.

**Dr Gallagher:** That is the merit of having a bespoke Bill. Before, GTCNI was always a small element in a much larger education Bill. We are so glad that it was not part of the ESA Bill.

**Mr Lunn:** You were doing OK until you said that.

**Mr Devlin:** Of course, some of the other Bills were brought through as an Order in Council so may not have got the same scrutiny.

**Mr Kinahan:** Very good. Thanks very much, Ivan, Carmel and Gerry.

**Mr Lunn:** You have just been struck off my list. *[Laughter.]*