



General Teaching Council
for Northern Ireland

Promoting Teacher Professionalism

General Teaching Council for Northern Ireland

Regulation Guidance

Teachers and their representatives

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1 Introduction

The General Teaching Council for Northern Ireland (GTCNI) is the professional body for teachers in Northern Ireland. We are dedicated to enhancing the status of teaching and promoting the highest standards of professional conduct and practice.

We recognise that the vast majority of teachers are committed to maintaining the highest standards of professional ethics and conduct. However, in circumstances where a registered teacher's conduct falls short of these standards and is dismissed by their employer, GTCNI will investigate and, if necessary, remove them from the Register. In this way, the teaching profession continues to enjoy public confidence, which underpins the status of the teaching profession.

The GTCNI Conduct Rules set out how we will deliver regulation. This guidance is intended to provide information for registered teachers and their representatives about how the GTCNI regulation process works.

It is important to recognise that GTCNI is not a complaints body. We are a professional body and any allegation that relates to misconduct, or conviction of a relevant offence, received by the Council will only be considered, investigated and heard, in the public interest and in the interests of the teaching profession.

We will not consider any referral or complaint unless the local employer processes have been completed, and then, only if:

- a teacher has been dismissed on the grounds of misconduct or may have been had they not resigned; or
- a teacher has been convicted of a relevant criminal offence, at any time.

The ONLY exception may be where GTCNI hold a record of registration for a teacher and it is clearly in the professional and public interest to consider the allegation.

This guidance provides information about regulation and what to do if you are contacted by GTCNI.

2 GTCNI and Regulation

In April 2015 the Department of Education amended the General Teaching Council for Northern Ireland (Registration of Teachers) Regulations (Northern Ireland) 2004 and transferred power to the Council to consider cases and remove a teacher from the register on the grounds of misconduct.

Our role as a regulator is defined by legislation and the GTCNI Conduct Rules 2019. The specific powers are contained in the General Teaching Council for Northern Ireland (Registration of Teachers) (Amendment) Regulations (Northern Ireland) 2015 (SR 2015/151). These regulations, made under Article 36(3) and (5) of the Education (Northern Ireland) Order 1998, set out the framework within which GTCNI will deliver this statutory function.

GTCNI believes that the right to carry out professional self-regulation has been hard won and that, as a privilege and responsibility, it should be valued by our profession, its representatives, and those who employ teachers. By working together these important stakeholder groups will help shape our approach to regulation and ensure its quality.

We also believe that regulation is welcomed by the public who have come to expect that all professionals are registered and value the reassurance that regulation brings.

Our objective is to ensure that the regulation process is not just fair and proportionate, but also transparent, consistent, impartial and, above all else, professional.

The General Teaching Council for Northern Ireland (Registration of Teachers) (Amendment) Regulations (Northern Ireland) 2015 allow:

- GTCNI to remove a teacher from the register if found guilty of misconduct;
- individuals to make representations to GTCNI;
- GTCNI to issue a notice of its decisions; and
- the right of appeal to the High Court if a teacher is removed from the register.

The GTCNI Conduct Rules 2019 set out how we will deliver regulation. The Rules state that:

“Any allegation that relates to misconduct or conviction of a relevant offence, received by the Council will be considered, investigated and heard in the public interest and in the interests of the teaching profession.”

Our overriding responsibility is to act in the public interest and the interest of the teaching profession. In general we will consider an allegation if:

- The allegation of misconduct is of a serious nature, falling significantly short of the standard of behaviour expected of a teacher;
- The allegation of misconduct is such that it may bring the profession into disrepute;
- The conviction of an offence is relevant to being a registered teacher.

Our responsibility is to ensure that a teacher is suitable to be a member of the teaching profession in Northern Ireland.

The General Teaching Council for Northern Ireland (GTCNI) is fully committed to compliance with the requirements of the General Data Protection Regulation. Please see our Data Protection Policy Statement and Guidelines for further information or contact GTCNI’s Data Protection Officer, Mr Gerry Devlin on 028 9033 3390.

3 How does regulation work?

In circumstances where a registered teacher's conduct falls short of these standards and the teacher is dismissed by their employer, GTCNI has the statutory responsibility to apply its regulatory process - which may lead to a teacher being removed from the register.

GTCNI will only consider an allegation against a registered teacher that is about misconduct or conviction of a relevant offence, and only once all employer processes are completed and a teacher has been dismissed, or may have been had they not resigned.

It is the responsibility of an employer to deal with any allegation of misconduct using the agreed disciplinary process as set out in the 'Disciplinary Procedure for Teachers including Principals and Vice-Principals in Grant-Aided Schools with fully delegated Budgets' (TNC 2016/2) – this includes any allegation that relates to a substitute teacher or a teacher on a short-term contract.

The GTCNI regulation process includes a number of stages, including:

- **Referral** where a complaint or referral is received by GTCNI.
- **Screening stage** to establish if the referral falls within our statutory remit and is capable of amounting to an allegation.
- **Investigation stage** where an Investigating Panel, drawn from the membership of our Regulatory Panel, will look at the available evidence and written response from the teacher concerned and decide if there is a case to answer.
- **Conduct stage** where a Conduct Panel, drawn from the membership of our Regulatory Panel, will hear evidence relating to the case and make a finding about the facts of an allegation and may recommend whether a teacher should be removed from the Register. The teacher concerned has a right to make representations.
- **Council stage** where a sub-committee, drawn from the membership of the Council, will make a decision based on the recommendations of a Conduct Panel and may make an Order to remove a teacher from the Register.

3.1 Definition of misconduct

GTCNI use the broad definition of misconduct to include conduct which falls short of the standard expected of a registered teacher and/or conviction of a relevant offence. This is based the Indicative Sanctions Guidance that supports the application of the GTCNI Conduct Rules.

However, these Rules and guidance only form part of our internal procedures and every case will be dealt with in accordance with its own unique facts and merits and the legal advice provided.

The sorts of questions we will ask in considering an allegation at an early stage are:

1. Is the allegation of misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher?
2. Has the teacher been dismissed on the ground of misconduct (or may have been had they not resigned)?

3. Is the allegation of misconduct such that it may bring the profession into disrepute?
4. Is the '*conviction, at any time, of a relevant offence*' fundamentally incompatible with being a registered teacher?

3.2 Referral

GTCNI can receive referrals or complaints from a number of sources, including employers, the PSNI and DBS, other teaching regulators and the public. We will carry out initial checks to see if the referral or complaint is something that can or should be considered.

The majority of referrals will come from an employer, who has a duty to inform GTCNI, under paragraph 40(4) of the Education (Northern Ireland) Order 1998, if a registered teacher is dismissed on the ground of misconduct and/or conviction of a relevant offence, or may have been had they not resigned.

We will NOT proceed with any referral that relates to competence.

We will also NOT proceed with any complaint from a member of the public unless the same issue has been raised with an employer and all local processes have been exhausted.

3.3 Screening

GTCNI will make an assessment based on the information we have about whether a case should proceed to the investigation stage. The assessment will be based on two questions - whether the referral is within the statutory remit of GTCNI and if it is capable of amounting to an allegation.

We can only consider a referral at this stage if all local employer processes have been completed and a teacher has been dismissed on the ground of misconduct and/or conviction of a relevant offence, or may have been had they not resigned.

The ONLY exception may be where GTCNI hold a record of registration for a teacher and it is clearly in the professional and public interest to consider the allegation.

We will screen out all vexatious or malicious complaints and we cannot consider any complaint that relates to competence. This stage includes important safeguarding and quality assurance steps to ensure that we make decisions based on the public interest and the interests of the profession.

If we decide to screen out a referral at this stage because it does not fall within our remit or is not capable of amounting to an allegation we will take no further action and advise the teacher accordingly. We will contact the teacher concerned to let them know that we received a referral, the nature of the referral, the source of the referral and the reasons why we decided not to proceed.

Teachers and their representatives should note that under Rule 4(7) where the Council has decided that there should be no further action; if further additional evidence becomes available the referral may be reconsidered at screening stage.

If the assessment at the screening stage is that the referral is both within the remit of GTCNI and also capable of amounting to an allegation then it will be referred to an Investigating Panel. If a referral is screened in we will write to the teacher concerned and provide them with information about the next steps in the GTCNI regulatory process.

3.4 Investigation stage

Once a referral moves to the Investigation stage GTCNI will prepare an investigation file and make arrangements for the case to be considered by a GTCNI Investigating Panel, which will consist of 3 to 5 members drawn from our independent Regulatory Panel and include at least one registered teacher and one lay member.

When a date for the Investigating Panel is set GTCNI will again write to the teacher concerned, at least 4 weeks before the date of the panel meeting, with a formal Notice of Investigation that will provide information about when the panel will meet, which Regulatory Panel members will sit on the panel and set out the particulars of the allegation(s).

This communication will include the all the relevant information we have about the referral (the GTCNI investigation file).

The GTCNI investigation file may include witness statements, notification of conviction or information obtained from a local employer process. This is set out in Rule 6(2) of the GTCNI Conduct Rules. Some information in the file may be redacted to protect the personal data of individuals. The Notice of Investigation will be posted to the last known address of the teacher concerned.

If a teacher has concerns about a possible conflict of interest arising from any of the identified panel members who will consider their case they should let us know immediately.

The teacher will be asked if they want to provide a written response to the information we send them or other written evidence for the Investigating Panel to consider. The response from the teacher must be submitted within 4 weeks from the date that the formal Notice of Investigation was posted.

We would advise any teacher who receives a Notice of Investigation to contact their trade union representative and/or get legal advice immediately.

We will also send the Notice of Investigation to the teacher's current employer and employer at the time of the allegation (if different).

An Investigating Panel will consider all of the available information, including the submission from the teacher concerned, in private, and will be given legal advice to ensure that it is compliant with the Conduct Rules and relevant legislation.

If the Investigating Panel determines that there is no case to answer the GTCNI will write to the teacher concerned setting out the reasons for the decision.

If an Investigating Panel decides that there is a case to answer then the matter will be referred to a Conduct Panel.

3.5 Conduct stage

The case at Conduct Panel stage will be heard in public by 3 to 5 members drawn from our independent Regulatory Panel and will include at least one registered teacher and one lay member.

GTCNI will write to the teacher concerned giving them at least eight weeks' notice of the Conduct Panel hearing date. The formal Notice of Proceedings will set out the particulars of the allegation(s) and enclose the relevant information we have about the case. The information we will provide is set out in Rule 9(2) of the GTCNI Conduct Rules. We will write to the teacher concerned at their last known address.

GTCNI will also write to the current employer of the teacher concerned and the employer at the time of the allegation.

The information gathered by GTCNI in relation to the case (the GTCNI Conduct Case file) will be made available to the teacher concerned as part of the Notice of Proceedings and they will be notified about any witnesses that may be called by the Council.

The teacher concerned will also be provided with the names of the Regulatory Panel members who will sit on the Conduct Panel.

We would advise any teacher who receives a Notice of Proceedings to contact their trade union representative and get legal advice immediately.

Within 28 days of receiving the Notice of Proceedings, the teacher concerned is required to inform GTCNI, in writing, if they intend to be present at the hearing and provide the details of any trade union, legal or other representative that will be attending by completing the Representative Authorisation Form (COM-03).

The teacher concerned should also let us know within 28 days of receiving the Notice of Proceedings, if:

- they have any concerns about a possible conflict of interest arising from any of the identified panel members;
- they intend to call witnesses, and if so, provide their names and contact details (see the separate booklet on Guidance for Witnesses);
- they admit the alleged facts and, if so, whether the allegation of misconduct and/or a conviction of a relevant offence, is admitted (see section 3.6 on Voluntary Removal); or
- they do not think the hearing should be held in public.

If we do not hear back from the teacher within 28 days we will take reasonable steps to try to contact them and inform them that an allegation has been made and is going to be considered by a GTCNI Conduct Panel.

In accordance with Rule 12 (and Rule 9) a Conduct Panel may continue to consider an allegation in relation to a teacher in their absence.

The Conduct Panel hearing room layout is provided at Annex I. If the teacher or their representative would like to visit the hearing room in advance, this can be arranged prior to the start of the hearing and they should contact the designated GTCNI Case Officer handling their case.

Prior to the Conduct hearing the teacher concerned or their representative can make pre-hearing applications in relation to a number of issues, including whether the hearing should be held in public or private. This should be discussed directly with the designated GTCNI Case Officer handling their case.

Where the teacher concerned appears without representation, it is the Council's preferred practice to allow time for the Panel Legal Adviser and Case Officer to meet them prior to the hearing to discuss the procedure which is to follow.

Where the teacher attends a Conduct hearing without representation, or with an inexperienced representative, GTCNI will ensure both are satisfied with the procedure prior to the start of the hearing.

All preliminary issues will be agreed in private by the Conduct Panel with legal reasoning given in public at the start of a hearing.

At the Conduct Panel hearing, the Presenting officer will set out the case against the teacher concerned on behalf of the Council, and the teacher or their representative will have the opportunity to challenge the case.

GTCNI will treat all children under the age of 18 as 'vulnerable witnesses', which means that we will consider special measures which may make it easier for them to give evidence. This may include being able to give evidence via a video link or having the teacher seated behind a screen while evidence is being given.

A teacher will not be allowed to question a child witness. However, the teacher's representative is entitled to question all witnesses (additional information is available in the Guidance for Witnesses).

The burden of proof shall rest with the Presenting officer and the standard of proof will be the civil standard, 'on the balance of probabilities'.

Both the Presenting officer and the teacher concerned or their representative will have an opportunity to call witnesses, present and question evidence (both oral and written) in accordance with the Conduct Rules (particularly Rules 22, 23 and 24).

The Presenting officer and the teacher concerned and/or their representative are required to supply copies of all witness statements that they intend to rely on during the hearing in advance. The Presenting officer will provide all relevant information as part of the Notice of Proceedings and the teacher concerned and/or their representative should provide witness statements within 28 days of receipt of the Notice of Proceedings.

Subject to Rule 22 (Admissibility of Evidence) the teacher or their representative should be mindful that if the facts relate to the established facts of a conviction, as tested in a Magistrates' or Crown Court, the teacher and/or their representative will not be permitted to use the proceedings as an

opportunity to dispute events or re-run arguments which could have been put, or put successfully, in a criminal appeal.

The Conduct Panel, in making its recommendation, will consider whether the facts of the case, all or in part, are proved, and if the facts are admitted or proved, determine whether those facts amount to misconduct, or a conviction of a relevant offence.

If a Conduct Panel determines that misconduct or conviction of a relevant offence has been established, both the Presenting officer and the teacher or their representative can set out any aggravating or mitigating circumstances that should be considered.

The Conduct Panel will also make a recommendation about the sanction, and the only available sanction is removal from the Register. It may be that a Conduct Panel finds that misconduct or conviction of a relevant offence has been proven but do not recommend removal from the Register.

In reaching its recommendation the Conduct Panel must set out its reasoning in full. This will include setting out the recommendation for how long it is before a teacher who has been removed from the Register must wait before they can apply for re-admittance.

A Conduct Panel may consider:

- a case to answer in relation to misconduct or conviction of a relevant offence;
- a review of a previous decision requested by the Council;
- a recommendation for Voluntary Removal;
- a review of a previous decision where, new evidence is obtained that may have impacted on the outcome, or where a conviction relevant to a decision to remove a teacher from the Register is overturned or quashed in a court; or
- an application for restoration to the Register following removal.

3.6 Voluntary Removal

If an Investigating Panel refers a case to a Conduct Panel on the grounds that a registered teacher has a case to answer, GTCNI may consider a recommendation for voluntary removal.

The Conduct Rules (Rule 14 and 15) set out the circumstances and procedures for voluntary removal including a requirement for the teacher concerned to sign an agreed statement of facts and accept that the allegations amount to misconduct or a conviction of a relevant offence.

If GTCNI decides that a teacher will be offered voluntary removal we will write directly to the teacher and ask them to sign an agreed statement of facts. Conduct Rule 14(2) sets out the minimum criteria for a recommendation for voluntary removal.

If a teacher receives an invitation to agree to voluntary removal they must respond within 21 working days from the date the invitation was posted.

The Conduct Panel will consider the recommendation for voluntary removal and decide whether or not to accept it; and will then determine how long the removal will be in 'force' before any application for restoration to the Register can be made.

The Conduct Panel will consider the recommendation for voluntary removal in private; and will then make its recommendations to Council.

3.7 Right of Appeal

Any person aggrieved by the decision of the Council to impose an Order shall have the right of appeal against an Order to the High Court within 28 days from the date on which the Order is served on them.

4 Role of the Council

Only the Council or a sub-committee of Council has the legal power to make an Order for the removal of a teacher from the Register.

4.1 Composition of the Council or a sub-committee of Council making a decision about a recommendation for removal

The Council or a sub-committee of Council making a decision about a recommendation for removal must include at least 3 to 5 Council members.

Members of this sub-committee cannot be drawn from the Council's Policy, Registration and Regulation Committee (PRRC) because of their direct oversight role of GTCNI's regulation processes.

In accordance with Rule 16(2) the registered teacher will also be notified of the composition of the sub-committee making a decision about a recommendation to remove them from the Register. All Council members appointed to the sub-committee are also required to complete a Conflict of Interest declaration and must recuse themselves if a conflict is declared.

The sub-committee will meet in private.

4.2 Decision making

The sub-committee is required to decide whether to accept the recommendations of the Conduct Panel or request a review of the case by the original Conduct Panel. If it accepts the recommendation to remove a teacher from the Register it must decide if it accepts the recommendation in relation to the length of time before a teacher can apply for re-admittance. It should also determine if due process has been applied at each stage of the regulatory process.

In making a decision about a case, the sub-committee should examine, in accordance with Rule 16(3), all of the relevant reports, including the:

- the application of due process at the screening stage, investigating stage and conduct stage;
- the full report of a Conduct Panel and particularly the recommendations of the Conduct Panel; and
- any other material or evidence considered relevant.

The sub-committee will be supported in making this decision by the Legal Adviser who provided advice to the Conduct Panel that made the recommendation for the removal of a teacher from the Register and the GTCNI Case Officer(s) who were responsible for managing the case through each of the screening and investigation stages.

The sub-committee will be provided with the Summary Screening Report, the Investigating Panel Report and the Conduct Panel Report.

In accordance with Rule 16(4) the sub-committee can make a decision to:

- make an Order for the removal of a teacher from the Register, including the period before the end of which no application may be made by the registered person for a determination that he or she is eligible to reapply for registration i.e. agree with the recommendation of the Conduct Panel; or
- request a review of the recommendation by the original Conduct Panel.

If the decision is to make an Order for the removal of a teacher from the Register, the sub-committee must, following legal advice, set out its reasons for making this decision. The reasoning of the Council will be included in the final report that will be published as part of the Order.

The sub-committee may also:

- recommend a review of any part of the regulation process or its application; or
- recommend that further information and advice is provided to the profession.

5 Misconduct or conviction of a relevant offence

It is likely that GTCNI may conclude that a complaint or referral amounts to misconduct where a teacher's conduct will be considered to be incompatible with being a teacher if there is evidence of one or more of the factors below:

- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- actions or behaviours that undermine values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs; or that promote political or religious extremism. This would encompass deliberately allowing the exposure of pupils to such actions or behaviours, including through contact with any individual(s) who are widely known to express views that support such activity, for example by inviting any such individuals to speak in schools;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;

- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;
- possession of prohibited firearms, knives or other weapons;
- sexual misconduct e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one off incidents;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures; and
- failure to refer to the police known female genital mutilation (FGM) cases involving girls under 18 where the individual is aware, or should have been aware, of the statutory duty to report such matters but deliberately chose not to do so.

As with an assessment of whether a criminal conviction (at any time) is relevant, this decision will include judgement about the nature and gravity of the allegation or offence, its circumstances and to what extent the teachers' actions:

- were relevant to teaching, working with children and/or working in an education setting;
- would be likely to have an impact on the safety or security of pupils or members of the public; or
- would be likely to affect public confidence in the teaching profession if the teacher were allowed to continue teaching.

The Indicative Sanctions Guidance provides further guidance, although it is not exhaustive. For example, **it is less likely that any of the following offences will be considered to be 'a relevant offence'**:

- minor driving offences (standard ban of no more than 24 months);
- minor offences involving personal use of alcohol or class B or C drugs away from children and education contexts;
- minor offences involving gambling; or
- isolated minor cases of theft.

However, **it is likely that all offences (on the list below) that led to a term of imprisonment or that relate to, or involve, any of the following will be considered to be 'a relevant offence'**:

- convictions for involvement in offences relating to violence which resulted in, or had the potential to result in harm to a person
- intolerance and/or hatred on the grounds of race/religion or sexual orientation;
- fraud or serious dishonesty;
- theft from a person or other serious theft;

- possession of class A drugs;
- supplying of illegal substances of any classification;
- sexual activity;
- arson and other major criminal damage;
- serious driving offences, particularly those involving alcohol or drugs;
- serious offences involving alcohol;
- serious offences involving gambling;
- possession of prohibited firearms, knives or other weapons; or
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting any such activity, including one off incidents.

6 Getting support

GTCNI will ensure that any teacher about whom a referral or complaint is made will be provided with accurate and relevant information. The Council can only provide information about our organisation and how our processes work.

If you require further information about regulation or a case you are involved with, we will endeavour to provide you with accurate and timely information (within the limits of data protection and confidentiality).

The Council's commitment is to ensure that our processes and decision making are professional, open, transparent, fair and consistent.

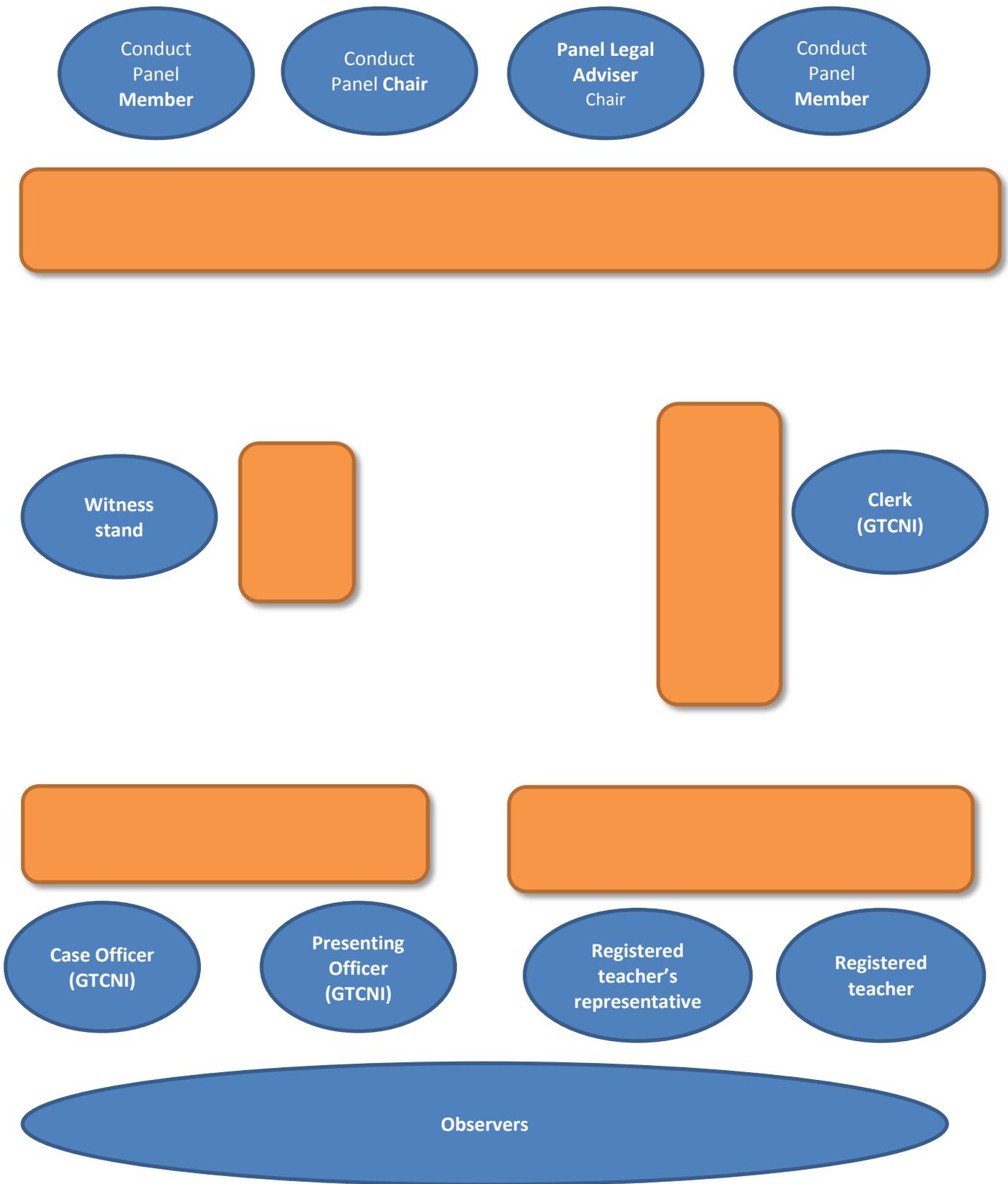
GTCNI take its legal obligations and duty to act both in the public interest and the interests of the teaching profession very seriously. This includes the protection of members of the public, the maintenance of public confidence in the teaching profession and the declaration and upholding of proper standards of conduct.

If you require support about an individual case please contact your trade union and/or seek legal advice.

6.1 Representative authorisation

If a teacher wishes to empower a representative to act on their behalf, including a trade union or legal representative, they must complete the Representative Authorisation form (Annex II, COM-03) and return to GTCNI.

Annex I: Conduct Panel hearing room layout



Annex II: Representative Authorisation form (COM-03)



General Teaching Council
for Northern Ireland

Promoting Teacher Professionalism

Case Number:

Designated Case Officer:

If you wish to empower a representative to act on your behalf, including a trade union or legal representative, they must complete the following information. **Please note you may only have one named representative at a time.**

Registered Teacher Details	
Teacher Name:	
Date of Birth:	
GTCNI Number:	
TR Number:	

Representative Details	
Representative Name:	
Organisation:	
Postal Address:	
Contact Telephone Number:	
Contact Email Address:	

I do hereby affirm that the above named representative is authorised to act on my behalf in relation to the regulatory matter concerning me. I understand that all correspondence in relation to this matter may be sent to my representative.

Teacher's Signature:	
Date:	

I confirm I will act as representative in relation to the above named teacher.

Representative's Signature:	
Date:	

Please return by post to

General Teaching Council for Northern Ireland
3rd Floor Albany House,
73 - 75 Great Victoria Street,
Belfast BT2 7AF

Please Note: GTCNI collects, maintains, and processes data in accordance with the Council's legislative role, GDPR and associated legislation, full details of which can be found within our Privacy Notice on www.gtcni.org.uk.