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**General Secretary: Dr Patrick Roach**

10 March 2025

Dr Pauline Stephen  
Chief Executive and Registrar  
The General Teaching Council for Scotland  
Clerwood House  
96 Clermiston Road  
EDINBURGH  
EH12 6UT

Dear Pauline

Thank you for inviting the NASUWT to comment on the Temporary Restriction Order and Use of Electronic Communications Practice Statements as part of the wider review in to the 2017 Fitness to teach Rules.

The NASUWT position on the respective practice statements is set out below:

In the recent consultation response to the GTCS regarding the 2017 Fitness to Teach Rules, NASUWT stated in relation to Temporary Restriction Orders that:

While the Temporary Restriction Order (TRO) is an important principle, the current application disproportionately impacts teachers not in work. Where a TRO is imposed when a teacher is not in employment at the time, there needs to be a process to fast track proceedings and prioritise those not in work over those currently in employment as the consequence of the TRO (unable to work as a teacher) is disproportionately higher than that for a teacher in work (unable to move to a new job).

The current implementation of Temporary Restriction Orders has significantly different impacts dependent on the circumstances of the Teacher. This is further impacted on by the significant period of time which a TRO can be in place. It is not uncommon in NASUWT experience for Fitness to Teach proceedings to take 3-4 years. If at the full hearing a Teacher is not found unfit to teach, then they can have been deprived the opportunity to practice as a Teacher for several years. As well as the huge financial impact, there is the impact on confidence, professional development and being de-skilled, which is likely to keep a teacher out of employment for a longer period of time. Also, there is an over representation of groups with protected characteristics involved in supply work due to institutional barriers to employment and the societal caring burden still placed on women; the current TRO practice statement further reinforces these inequalities.

The GTCS has to introduce working practices (which are reflected in the practice statement) which minimise the detrimental impacts on unemployed and supply teachers. This could involve a system for fast-tracking and prioritising investigations for unemployed Teachers subject to a TRO and also consider introducing a time limit to a TRO, as opposed to the current situation where, in reality, the TRO remains in place indefinitely. The SSSC has a 2 year time limit for a TRO.

The GTCS Fitness to Teach Insight Report 2018-2023 shows a slight increase in the use of TROs as well as setting out the barriers for GTCS Investigating Officers in gathering information and data. When considering whether a Temporary Restriction Order should be imposed there are 8 criteria to be considered 'in the balance'.

The final bullet point states:

'Proportionality, bearing in mind that the consequences of the TRO for the Teacher must not be disproportionate to the potential harm.'

The GTCS needs to give greater weight to the proportionality of the impact on the Teacher for the reasons set out above.

The nature of the use of electronic communications in GTCS Fitness to Teach Hearings has changed dramatically since the Covid-19 Pandemic in 2020. Electronic communication has moved from a specific witness joining a hearing remotely to complex, multi-day hearings being held with all participants joining remotely. This is a relatively new area and requires the GTCS to conduct ongoing research which is shared with stakeholders and informs Practice Statements and good practice moving forwards.

Internet and broadband access varies in quality and cost across Scotland and the impact on Teachers (who may be unemployed and unable to undertake employment due to a TRO) of having limited access should be considered.

By the same token, the costs associated with attending a multi-day in-person hearing which may require multiple overnight stays is also likely to be a barrier to justice, therefore, the option of joining a hearing virtually can be of significant benefit to the Teacher.

For these reasons, the GTCS should carry out impact assessments on the socio-economic duty as well as the public sector equality duty. Part of this process should be an agreement to gather and review the anonymised data amongst stakeholders. This would be consistent with the GTCS Fitness to Teach Insight Report commitment:

'We want to make significant improvements so that we can continue to grow our use of data to educate and inform the profession and the public about our Fitness to Teach work.'

During the Covid-19 pandemic, the NASUWT made representations around safety in the home regarding the provision of online learning. The current Practice Statement does not appear to consider or address safety in the home. For example, there is no consideration of a Teacher living in an environment of domestic violence or a coercive and controlling partner. There is also no consideration where someone is

not able to safely disclose their protected characteristics e.g. LGBTI. GTCS should consider this as part of their impact assessment and also, moving forward, to meet its duty of care towards participants. Currently, safety is not mentioned in the listed decision-making criteria though it does ask about 'vulnerability or needs' - this needs to be more clearly exemplified in order to encourage those who need to, to be able to safely disclose.

Currently, there is nothing in the Practice Statement about recording proceedings and distributing that recording - with the advent of Artificial Intelligence the GTCS should be clearly setting out explicit guidance around recording, broadcasting and publicity.

There is also specific Employment Tribunal guidance which could be cross-referenced: Paragraph 40 of the Employment Tribunal Guidance would be a useful starting point:

<https://www.judiciary.uk/wp-content/uploads/2015/03/12-June-20-SPT-ETS-Remote-hearings-Practical-Guidance.pdf>

Regards

A handwritten signature in blue ink that reads "Mike Corbett". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Mike Corbett  
National Official (Scotland)