

FOI202200327461 – Correspondence between SG and GTCS

Request

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13	GTCS	SG	email	09/11/2020
14	SG	GTCS	email	17/05/2021
14a	GTCS	SG	email	17/05/2021
15	SG	GTCS	email	02/03/2022
15a	GTCS	SG	email	02/03/2022
16	SG	GTCS	email	21/03/2022
17	SG	GTCS	email	16/05/2022
17a	GTCS	SG	email	17/05/2022

Document 1 –

Mr Joe Griffin
 Director General for Education and Justice
 Scottish Government
 St Andrew's House
 Regent Road
 Edinburgh
 EH1 3DG

21 April 2021

Dear Joe

Thank you for your recent letter outlining your new role and many congratulations.

[Outwith scope of request]

I would add that an area of deep concern to GTC Scotland is our ongoing issues in the provision of information by Police Scotland (and the sharing of information generally across public protection agencies, including Disclosure Scotland) to support us to undertake our regulatory role effectively and ensure public protection. We are being required to seek orders from the Court of Session to enable us to access information held by Police Scotland in a number of fitness to teach cases; incurring significant time and expense. An area of particular concern for GTC Scotland in this context is where an individual is not convicted of a crime but there remains an allegation of concerning behaviour that calls into question that individual's suitability to be a teacher. To illustrate this in practice, at a recent

criminal trial a teacher was found not guilty of stalking a pupil. The Sheriff in the case said:

This has been a very difficult and concerning matter. I want to make it clear from the outset that I, by and large, accepted the evidence from the two young women. I accept that there was a certain cause for concern. However, the test in law goes that the course of conduct must have been one that causes the victim fear and alarm. While I'm of the view [the Teacher] behaved inappropriately and unwisely, I'm not satisfied that the third and final leg of the law is met. It skirts very closely on to the boundaries of criminality"

[Outwith scope of request]

[Outwith scope of request]

Very best wishes in the new role.

Yours sincerely

Dr Pauline Stephen

Chief Executive and Registrar



Dr Pauline Stephen
Chief Executive and Registrar
Pauline.Stephen@gtes.org.uk

Document 2 –

Director-General Education & Justice
Joe Griffin



Scottish Government
Riaghaltas na h-Alba
gov.scot

E: dgej@gov.scot

Dr Pauline Stephen
Chief Executive and Registrar
The General Teaching Council for Scotland
(By email)

11 May 2021

Dear Pauline,

[Outwith scope of request]

[Outwith scope of request]

[Outwith scope of request]

In addition, colleagues within Safer Communities Directorate are currently considering options for next steps around the issue of data sharing this and are in the process of convening a meeting of officials from Police Division, Learning, Children and Families alongside Disclosure Scotland and Police Scotland and the regulatory bodies. As your letter indicates this is an issue of some concern and I will further ensure it is given due attention by teams within my area of responsibility.

Best of luck for your time in office!

Yours sincerely,



JOE GRIFFIN

Document 3 –

**MINUTES OF MEETING BETWEEN THE CABINET SECRETARY FOR EDUCATION AND SKILLS
AND THE GENERAL TEACHING COUNCIL FOR SCOTLAND: THURSDAY 12 AUGUST 2021**

Present:

Shirley-Anne Somerville, Cabinet Secretary for Education and Skills

Pauline Stephens, Chief Executive and Registrar, GTCS

Khadija Mohammed, Vice-Convener, GTCS

**[redacted personal information s. 38(1)(b)], Private Secretary, Cabinet Secretary for
Education and Skills**

[redacted personal information s. 38(1)(b),] Learning Directorate

[redacted personal information s. 38(1)(b),] Learning Directorate

Introductory Remarks

[Outwith scope of request]

[Outwith scope of request]

Information Sharing

Pauline outlined that this was an area of major concern for the GTCS as it curtailed them in carrying out their functions. Currently they need orders from the Court of Session to obtain information where teachers are/were under criminal investigation. They are seeking a judicial review as they consider that the Information Commissioner's Office are giving incorrect advice to Police Scotland on this issue. The Cabinet Secretary agreed that the current situation was unsustainable and asked to be kept up to date as discussions progressed.

Action: GTCS to keep Cabinet Secretary updated.

[Outwith scope of request]

[Redacted personal information s. 38(1)(b)]

Workforce, Infrastructure and Reform Division

Learning Directorate, August 2021

Document 4 a –

Wed 22/12/2021 16:32

Pauline Stephen Pauline.Stephen@gtcs.org.uk

RE: PQs re Teacher Competence

To: [redacted personal information s. 38(1)(b)] gov.scot

CC: [redacted@gtcs.org.uk>; redacted] @gtcs.org.uk

Dear [redacted personal information s. 38(1)(b)]

Thank you for the opportunity to provide some background information and comment on this really important point. It is something that we have been discussing both internally and externally over the last few months.

It is a complex area, as you will note from the attachments, that would likely merit further discussion. However, I am aware that that opportunity will not be available ahead of the Cabinet Secretary being asked these questions and so I have provided a short summary of the position, below. I would note, however, that this is not an issue that is easy to summarise into a few sentences and paragraphs and so I do think it is important to review the attached documents.

I have attached, for additional background, the following:

- An FOI response issued in June of this year, which deals directly with the issues raised;
- **[redacted – out of scope]**
- GTC Scotland's response to the Education Reform Consultation (section 11 onwards is of particular relevance);
- [GTC Scotland Fitness to Teach Rules 2017](#);
- GTC Scotland [Threshold Policy](#); and
- A recent Court of Session judgement which sets out GTC Scotland's position in child protection, attached for interest.

As you will note from the documentation attached, GTC Scotland has been engaged in these discussions for some time. GTC Scotland has been taking action to raise these issues in recent months through various forums. GTC Scotland's Director of Regulation and Legal Services was a witness at the ongoing Scottish Child Abuse Inquiry, discussing areas where improvements are considered necessary. GTC Scotland welcomes these ongoing discussions in relation to these important issues and would be pleased to engage in any further work or discussions that may take place following these issues being raised with the Cabinet Secretary.

As set out in the FOI response, attached, we consider it helpful to outline some general information relating to the fitness to teach process and GTC Scotland's statutory role.

GTC Scotland receives referrals regarding registered teachers and takes decisions as to whether to investigate those referrals based on whether the issues raised may have a bearing on the individual's fitness to teach. Something that might have a bearing on fitness to teach is a shortfall in professional competence or conduct (a behaviour or action) of a level of seriousness that it raises a concern that the teacher presents a risk or could undermine public confidence in the teaching profession.

Under the Public Services Reform (GTC Scotland) Order 2011 (the Order), GTC Scotland must perform its functions in a way which is proportionate and targeted only where action is needed. Many issues regarding teachers are more appropriately investigated by the employer with concerns being resolved at local level. It would be disproportionate for GTC Scotland to investigate every referral that is made to it and for the system to be designed in a way that requires referrals to be made to GTC Scotland in each and every case. This allows GTC Scotland resource to be targeted where necessary and in line with risk. Where the concerns are more serious, GTC Scotland expects a referral from the employer.

In line with the Order, a person who employs a registered teacher to work in an educational establishment must notify GTC Scotland if –

- a. They dismiss the registered teacher on grounds of misconduct or incompetence; or
- b. The registered teacher resigns or otherwise stops working for the person in circumstances in which the person, but for that fact, would or might have dismissed the registered teacher on such grounds.

As we highlighted at the ongoing Scottish Child Abuse Inquiry, no other person, agency or body is obliged by law to make a Fitness to Teach referral to GTC Scotland and these are the only circumstances in which an employer is legally obliged to refer a case to GTC Scotland. GTC Scotland has no power to legally compel any person or body to provide it with information related to its fitness to teach investigations: it must go to the Court of Session for this. GTC Scotland does not regulate schools and has no power of inspection: GTC Scotland is the professional and regulatory body for teaching and teachers, it is not a regulator of the system (i.e. of schools and employers).

Only educational establishment employers of teachers have an obligation to make fitness to teach referrals to GTC Scotland in the specific circumstances set out above: all other referrals made to GTC Scotland are discretionary. Referrals are no longer made to GTC Scotland by the police under the notifiable occupation scheme and are now only exceptionally received from the Crown Office and Procurator Fiscal Service.

GTC Scotland has no way of knowing with certainty that referrals are made to it appropriately by employers as it has no role in governing or controlling their actions. GTC Scotland has established engagement with teacher employers to seek to ensure that they are reminded of their referral obligations on an ongoing basis and are aware of GTC Scotland processes. GTC Scotland established staff resource to undertake this very function. The system as a whole has to rely on employers getting it right and having trust and confidence in them to do so: our view is that the public protection landscape in Scotland is currently predicated on this. We know that this necessarily carries risk and we have been highlighting our concerns with this approach: what happens when employers do not get it right or breach the trust that the system has placed in them? Are effective arrangements in place to provide the necessary checks and balances and to ensure that information is shared across the system? As part of our engagement with the Scottish Child Abuse Inquiry and beyond, we have been highlighting concerns about the information we receive and the extent to which we are currently being placed in an effective position to form part of these checks and balances. GTC Scotland does not believe that it is seen as a critical part of the child protection framework in Scotland.

In relation to the specific questions raised, we would provide the following comment:

Oliver Mundell: To ask the Scottish Government what its response is to reports that people who have referred concerns to the General Teaching Council for Scotland about professional standards have received a response indicating that, unless the referral has been subject to an employer investigation, it is considered "frivolous".

[Redacted under s.30(b)(ii) free and frank exchange of views]

However, for background context, GTC Scotland's recent letter to the Children's Commissioner deals directly with this point. In that letter, we set out the following:

The Threshold Policy sets out what GTC Scotland will investigate under its fitness to teach (FtT) procedures. It is available on our website and members of the public are encouraged to read it prior to submitting a referral to GTC Scotland regarding a registered teacher.

There are a number of reasons why a referral from a member of the public may not be investigated. These are set out at Rule 2.1.1 of the GTC Scotland Fitness to Teach Rules 2017. The decision on whether or not to investigate is communicated to the referrer. I would note for clarification that we describe those who make referrals to us as referrers rather than complainers because the purpose of the process is to determine the fitness to teach of a registered teacher and not for the resolution of complaints.

One of the grounds on which a referral may not be investigated is that it has been determined that the referral is 'frivolous or vexatious'. The Threshold Policy outlines that there are a number of factors that could contribute to a determination that a referral is frivolous or vexatious. One of those factors is that the referral has been made before the local or other more appropriate first points of referral have been used, for example the relevant Head Teacher, the school, the employing local authority and/or the police.

Under the heading, When and How to Refer to GTCS, the Threshold Policy states that we expect any fitness to teach concern that relates to the school or employment context to be raised with the school or employer in the first instance. This is because many concerns can be more quickly and satisfactorily resolved at this local level. It would be disproportionate for GTC Scotland to investigate every referral that is made to it and for the system to be designed in a way that required referrals to be made to GTC Scotland in each and every case. This allows GTC Scotland resource to be targeted where necessary and in line with risk.

It is expected that where a concern is of a more serious nature, the school or employer should appropriately investigate the matter and ultimately make a referral to us where this is appropriate. Further guidance is set out in the Threshold Policy as to when an employer should make a referral to us. Similarly, where what is alleged is of a potentially criminal nature, we would expect that matter to be raised with the police to enable a criminal investigation to be carried out as soon as possible.

We would expect an employer to make an early referral to GTC Scotland where the risk is so serious that immediate action needs to be taken by us to restrict the teacher's registration in the interests of public protection. This would apply in cases where there are allegations such as sexual abuse, violence or child protection matters.

If we decide not to investigate a referral then this will be communicated to the referrer along with the reasons why. If the ground for not investigating is that it has been determined that the referral is 'frivolous or vexatious' then we will say in the wording that it has been deemed as such because it has been made to GTC Scotland before local, or more appropriate other first points of referral, have been used and have concluded. We will reiterate what is set out in our Threshold Policy as noted above.

We have identified that the use of the word "frivolous" in this context is unhelpful and will look to change this when the Fitness to Teach Rules are next reviewed, which would require a public consultation exercise as well as approval from the Lord President of the Court of Session. Accordingly, changes to the wording in the Rules cannot be made in the immediate future. However, within our reasoning outlined to the referrer, we do state that it is not the position of GTC Scotland that the underlying behaviour is necessarily frivolous, merely that all local steps have not yet been exhausted and as such the referral itself is frivolous. We consider that far from deterring people from raising concerns with the local authority for investigation, our decision reasons, along with the Threshold Policy, actively encourages referrers to raise their concerns with employers or the police, where appropriate.

Oliver Mundell: To ask the Scottish Government, in light of reports that there have been around 200 cases referred to the General Teaching Council for Scotland in the last three years that were concluded as "closed after initial consideration", whether it is confident that there are no safeguarding or child protection matters included as part of those cases.

[Redacted under s. 30(b)(ii) free and frank exchange of views]

However, for background context, GTC Scotland's FOI response discusses these issues in detail. Our recent letter to the Children's Commissioner also deals with this point. I have extracted the following from our recent letter to the Children's Commissioner:

Whether or not a referral is investigated, as well as the referrer being informed of the decision, any known employer of a teacher is informed of the allegation and the decision. Therefore, if an allegation was not investigated because the matter had not been raised with the employer in the first instance, the employer would be made aware of that.

The system as a whole has to rely on employers getting it right and having trust and confidence in them to do so: our view is that the public protection landscape in Scotland is currently predicated on this. This is highlighted when we consider our powers to invoke interim protective measures. We can apply for a Temporary Restriction Order (TRO) to be placed on a teacher's registration status. However, even if such an Order is granted, this only prevents a teacher from working with children in a classroom if they are not currently working. The impact of a TRO in that situation is that the teacher cannot accept employment as a teacher. If the teacher is working when the TRO is applied to his/her registration record then it simply freezes them in the role that they are in. It is then for the employer to decide whether or not to remove the teacher from the classroom. Obviously, employers have specific child protection obligations and policies underpinning those obligations.

We know that the fact that the system relies on employers getting it right necessarily carries risk and we have been highlighting our concerns with this approach: what happens when employers do not get it right or breach the trust that the system has placed in them? Are effective arrangements in place to provide the necessary checks and balances and to ensure that information is shared across the system? As part of our engagement with the Scottish Child Abuse Inquiry and beyond, we have been highlighting concerns about the information we receive and the extent to which we are currently being placed in an effective position to form part of these checks and balances.

Where we do not investigate a referral we will inform the employer and they will be expected to invoke their policies and procedures as they see fit, including any child protection procedures. If there is no employer, we would investigate allegations that a child has been placed at serious risk of harm.

We have reviewed the number of the public referrals made to us since 2019 that have resulted in no further action being taken. The vast majority of those have come from parents who have direct contact with the school and can readily raise their concerns with a teacher's employer. We rarely receive referrals from children or young people or other members of the public. Having reviewed the number of the public referrals since 2019 which were not investigated, we are content with the decision making but this process of evaluation has identified some areas where we think we can make some improvement.

It is right that GTC Scotland does not investigate all instances where a teacher's conduct has been called into question in order to ensure that our work is targeted and proportionate. However, whilst the current wording of the Threshold Policy does not prevent this, we have reflected that it may be appropriate to amend the Policy to make it clear that we should open investigations where there are allegations of significant harm to a child or young person regardless of whether or not the employer is aware. We will consider this further and put any amendments to the committee that oversee the fitness to teach work of GTC Scotland.

Kind Regards,
Pauline

Festive closure: GTC Scotland will close from 5pm on 23 December 2021 and reopen at 9am on 5 January 2022

Dr Pauline Stephen
Chief Executive and Registrar

Pauline.Stephen@gtcs.org.uk

From: [redacted personal information s. 38(1)(b)] gov.scot
Sent: 22 December 2021 11:40
To: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>
Subject: PQs re Teacher Competence

Pauline

We have received the 2 PQs below for answer by 4 January. I know there is a section on your website on Fitness to Teach covering professional competency and conduct but any specific background you can give me on the issues raised in the PQs would be welcome. The first question raises the issue of how you reach a decision on a concern being frivolous and child protection safeguards so any background on that would be helpful. Obviously the answer is around GTCS being an independent body but an understanding of the process will help brief the Cabinet Secretary.

Oliver Mundell: To ask the Scottish Government what its response is to reports that people who have referred concerns to the General Teaching Council for Scotland about professional standards have received a response indicating that, unless the referral has been subject to an employer investigation, it is considered "frivolous".

Oliver Mundell: To ask the Scottish Government, in light of reports that there have been around 200 cases referred to the General Teaching Council for Scotland in the last three years that were concluded as "closed after initial consideration", whether it is confident that there are no safeguarding or child protection matters included as part of those cases.

Thanks

[Redacted personal information s. 38(1)(b)]
Education Workforce Unit
Scottish Government
[Redacted personal information s. 38(1)(b)]

Document 4 b –

An FOI response issued 25 June 2021 Number 21-22-09, which deals directly with the issues raised;

<https://www.gtcs.org.uk/wp-content/uploads/2022/03/21-22-09.pdf>

Document 4 c –

GTC Scotland's response to the Muir Review Education reform consultation 16 December 2021, redacted Information otherwise accessible section 25(1)

<consultation-response-gtcs-muir-review.pdf>

Document 4 d –

A recent Court of Session judgement which sets out GTC Scotland's position in child protection, redacted Information otherwise accessible section 25(1)

[2021csoh110.pdf \(scotcourts.gov.uk\)](#)

Document 5 –

Wed 09/02/2022 16:16

Pauline Stephen Pauline.Stephen@gtcs.org.uk

RE: Child protection issues

To: [\[redacted personal information s. 38\(1\)\(b\)\]](#) gov.scot

CC [\[redacted personal information s. 38\(1\)\(b\)\]](#) @gtcs.org.uk

Thanks for this [\[reacted personal information s. 38\(1\)\(b\)\]](#), useful clarification of the CPU's main points.

As background contextual information from GTC Scotland prior to any discussion I think it would be helpful to ensure a shared understanding about the role and scope of a professional regulator and the role of a regulator with respect to the first point – 'routinely sharing concerns from the public with the police/social work departments to allow a fuller picture of risk assessment to be built up'. I have linked some material that may be helpful:

[Making a Referral or Recommendation - The General Teaching Council for Scotland \(gtcs.org.uk\)](#)
[parental-referral-guidance.pdf \(gtcs.org.uk\)](#)

It is also unclear from these points as to where the role of the PVG Scheme, managed and delivered by Disclosure Scotland, sits in this context and that would be helpful to discuss. As you know, all our registered teachers required to be members of the PVG Scheme and we routinely make referrals to Disclosure Scotland and share information on our fitness to teach investigations and hearings with them as part of our established procedures.

With regard to this point – '*Ensuring that schools/LAs share info with the police/social work departments*' - we have raised through the call for feedback as part of the education reform work that clarity is required about the method of and responsibility for system regulation where it has been deemed that an 'education service' – a local authority, independent school or college - has not met their responsibilities in child protection or safeguarding (or indeed in other respects). As you know GTC Scotland has clear statutory regulatory functions for individual teachers, and our powers do not extend to the regulation of employers, nor should they as the body responsible for the individual registration and regulation of teachers. GTC Scotland has no power to investigate or audit schools or local authorities and has no power to instruct or compel them to do anything. Our statutory framework is predicated on an assumed trust and confidence in the employers of teachers and our regulatory effectiveness relies on the cooperation and actions of employers particularly. As you will be well aware, local authorities are also one of the three key agencies that have responsibility for child protection in Scotland and the vast majority of our registered teachers are employed by them: local authorities are involved in almost all of the fitness to teach cases that we deal with. **[Redacted under s.30(b)(ii) free and frank exchange of views]**

We note the associated point, 'scope for Scottish Government to investigate alleged failings by LAs or independent schools' and would welcome discussion on this point which also includes clarity on the role of any inspection agency and registrar for independent schools in this regard.

With regard to this point 'Sharing info on GTCS conduct investigations/hearings with police/social work', we would again want to discuss the context in which our fitness to teach process sits. As noted earlier, local authorities are involved in almost all of our fitness to teach cases as the teacher's employer. Local authorities are by in large currently responsible for social work services alongside education. Where we receive a referral that could constitute a criminal offence and it is not clear if the relevant police authority has been informed, we have and do contact the police authority to report the allegation. However, we find that where there are allegations at this level of seriousness, the police are often already aware of them, usually via the employer (who is almost always a local authority).

This whole discussion also requires to be framed, in our view, alongside longstanding issues with accessing information from Police Scotland which have not improved despite GTC Scotland successful court action. We have been raising concerns for many years about how information flows between the range of bodies that together should form a public protection nexus, including the various criminal justice agencies, Disclosure Scotland, employers and regulators.

I have provided information as to this point – 'Ability of GTCS to decide if a concern is significant' below for information:

[fitness-to-teach-rules.pdf \(gtcs.org.uk\)](https://www.gtcs.org.uk/fitness-to-teach-rules.pdf)

<https://www.gtcs.org.uk/wp-content/uploads/2021/09/fitness-to-teach-threshold-policy.pdf>

The context of GTC Scotland's role is obviously equally relevant in this context.

[Redacted personal information s.38(1)(b)] and I have availability at the following times to discuss:

22.02 at 3pm onwards

23.02 11 to 12

28.02 10 to 11

Kind Regards,
Pauline



Dr Pauline Stephen
Chief Executive and Registrar
Pauline.Stephen@gtcs.org.uk

Document 5 a-

From: **[redacted personal information s. 38(1)(b)]** [@gov.scot](mailto:)

Sent: 03 February 2022 10:18

To: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>

Subject: RE: Child protection issues

Pauline

Yes it will be an opportunity to consider the issues GTC Scotland has raised in relation to system regulation. They particularly raised the following issues:-

- Routinely sharing concerns from the public with the police/social work departments to allow a fuller picture of risk assessment to be built up
- Ensuring that schools/LAs share info with the police/social work departments
- Sharing info on GTCS conduct investigations/hearings with police/social work
- Ability of GTCS to decide if a concern is significant
- Scope for Scottish Government to investigate alleged failings by LAs or independent schools

You can certainly raise other related issues with them.

[redacted personal information s. 38(1)(b)]

Document 5 b-

From: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>
Sent: 02 February 2022 17:13
To: **[redacted personal information s. 38(1)(b)]**@gov.scot
Subject: RE: Child protection issues

Dear **[redacted personal information s. 38(1)(b)]**

Thank you for this information. It would be helpful to understand in more detail the focus of this request to meet from the Scottish Government's Child Protection Unit.

For instance, is this an opportunity to consider the issues GTC Scotland has raised in relation to system regulation – essentially what are the processes (and who is responsible) for managing the failure of employers such as local authorities in undertaking their child protection responsibilities?

Thanks Pauline



Dr Pauline Stephen
Chief Executive and Registrar
Pauline.Stephen@gtcs.org.uk



GTC Scotland Council Elections are open. Cast your vote to have your say on the future of the profession.

[Find out more about the elections.](#)

The General Teaching Council for Scotland
Clerwood House, 96 Clermiston Road
Edinburgh EH12 6UT

Comhairle Choitcheann Teagaisg na h-Alba
Taigh Clerwood, 96 Rathad Clermiston
Dùn Èideann EH12 6UT

www.gtcs.org.uk



www.in2teaching.org.uk

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Document 5 c–

From: [redacted personal information s. 38(1)(b)] @gov.scot

Sent: 01 February 2022 15:22

To: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>

Subject: Child protection issues

Pauline

Myself and [redacted personal information s. 38(1)(b)] met with colleagues from our Child Protection Unit today following correspondence they had received from the Children and Young People's Commissioner for Scotland. The Commissioner shared his letter to GTCS and redacted response of 13 December.

Basically they are looking for a meeting to talk through GTCS processes. They want to be able to support GTCS in this process to ensure you are following national guidance on child protection and are keen to understand better some of the issues/barriers your organisation faces.

If you can suggest some date then happy to co-ordinate.

Finally **[redacted personal information s. 38(1)(b)]** had mentioned some FOIs we had received. These are attached for your info and to note our response is that we do not hold this info.

[redacted personal information s. 38(1)(b)]

Education Workforce Unit

Scottish Government

Document 6

25 February 2022

Dear **[redacted personal information s. 38(1)(b)]** and Colleagues,

Thank you for the opportunity to meet on Tuesday 22 February with your colleagues from Scottish Government's Child Protection Unit and Education Scotland. You indicated concern about GTC Scotland's proactive sharing of child protection information with Police Scotland. We explained that given our role as a professional regulator and place in the system the cases we receive involving these matters are usually well known to the Police. We reassured you that we would pass information to the police as a matter of course as appropriate but this is a situation that very rarely arises. We fully understand matters of public protection and the essential role of effective information sharing. We also indicated that we will consider how best we can signpost this in our fitness to teach communications as well as our fitness to teach threshold policy so that our approach in this context is clearer and our role and place in the system is better understood.

We also discussed the circumstances and processes in place to ensure employers have investigated and manage concerns locally first, prior to referral to GTC Scotland. This principle is reflective of good professional regulatory practice ("right-touch regulation") and helps ensure our fitness to teach process is targeted and proportionate, requirements set out in our governing legislation. This paper from the Professional Standards Authority provides more detail about the principles of regulation that applies to professional regulators such as GTC Scotland, [right-touch-regulation-2015.pdf \(professionalstandards.org.uk\)](https://www.professionalstandards.org.uk/publications/right-touch-regulation-2015) It would be helpful to be aware of which other professional regulators Scottish Government is speaking with in regard to these issues as GTC Scotland is committed to working in partnership to ensure effective child protection.

We also note that our process in this context (initial action/investigation taking place as close to an incident as possible) is not dissimilar to that of Education Scotland as outlined at the meeting.

Where GTC Scotland believes there is the potential for current and ongoing public protection risk is in the areas outlined below. Whilst there was unfortunately no opportunity to discuss these at our meeting it is essential in our view to consider these fully. As you are aware we have raised these matters in various forums, some for a considerable period of time.

1 Referrals from Employers

The only group in the education system or beyond that has a duty to refer fitness to teach matters to GTC Scotland is employers of teachers and the scope of this referral obligation is limited. This means that the current system is predicated on employers getting matters of

public protection correct, making referrals to GTC Scotland appropriately and cooperating with GTC Scotland's investigative process where a fitness to teach case is identified. We receive around 55 referrals from teacher employers annually (equating to a referral rate of roughly 0.09% of the employed teacher population).

2 Trust in Employers

The effectiveness of the current system for public protection patently relies on trust in employers. Employers must manage public protection issues locally, where these issues arise, and using the powers that they have available to them (including removal of a teacher from the classroom or working context pending investigation – a power that GTC Scotland does not have). The essential role of employers in this way seems well recognised: local authorities are named by the Scottish Government as one of the three key child protection agencies and are required to account for their child protection work and its effectiveness.

There is a need to consider whether trust alone in this regard is providing assurance of public protection. There are current case examples where it is evident that this trust in employers has been misplaced, **[redacted under s.30(b)(ii) free and frank exchange of information]**. The question remains about what ongoing regulation (not inspection) of education service providers takes place to ensure adherence to procedures and compliance. There is a further consideration of what action is taken by whom in circumstances where there has been a serious employer failure or wrongdoing.

3 Information Sharing

For a number of years GTC Scotland has been raising the need for improvements in the way that information flows and is shared between and across the various agencies and bodies that are involved in safeguarding and public protection in Scotland including local authorities, independent schools, Police Scotland, Disclosure Scotland and regulators.

There is no doubt that information sharing practices are impacting negatively on our ability to effectively undertake our work as a professional regulator and therefore on public protection. A professional regulator has a particular role to play in the public interest when allegations cannot be proved or established through a criminal process and serious public protection concerns remain: we apply a civil standard of proof and have no evidential requirement for corroboration, we also look more widely than what meets the definition of a criminal offence. We take forward cases when employment has ceased and we can retain individuals on our Register in order to conclude fitness to teach investigations in the public interest.

A court of session judgement issued in October 2021 recognised GTC Scotland's public safety role and stated that the position adopted by Police Scotland's Chief Constable to date, as well as the advice provided to him by the Information Commissioner's Office were clearly wrong in law. As we have maintained consistently over some years, the legal framework does not prevent data sharing in this context – it permits it in order to protect individuals and for the wider public good. Despite the Court of Session outcome confirming our position, there has been no material change to Police Scotland's practice since it was issued.

In the meantime, a significant portion of our fitness to teach casework is severely and adversely impacted by a continued lack of information sharing. Around one third to a half of our open fitness to teach cases are affected by these issues at any one time. **[redacted under free and frank exchange of views s.30(b)(ii)]**

As a professional regulator GTC Scotland is committed to acting in the public interest, we care about education and teachers, and we care about children's experiences. We are well-placed to work with partners to build solutions to these issues. As an organisation we are also fully dedicated to continually improving our processes and practices within the scope of our remit and

legislative framework. As we have indicated we are taking action to ensure improved clarity about our role in matters of child protection and we will do everything we can to play our part. We also have considerable and significant information about some of the system issues that we believe impact on effective public protection. We would welcome opportunities to work in collaboration to ensure these issues are addressed.

Yours sincerely,

Dr Pauline Stephen
Chief Executive and Registrar

Document 7 –

Learning Directorate
Education Workforce Unit

T:
E:



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

2 March 2022

Dear Pauline

SHARING INFORMATION ON CHILD PROTECTION BETWEEN GTCS AND POLICE SCOTLAND

Thank you for your letter of 25 February outlining, amongst other issues, the current situation with regard to sharing information on child protection with Police Scotland.

It is reassuring that you have confirmed that the GTCS pass information to the police as a matter of course and fully understand matters of public protection and the essential role of effective information sharing. We are pleased to note that the GTCS will also consider how best to communicate your role and approach to partner organisations and the public.

We note the issues you have raised about receiving information from Police Scotland and Disclosure Scotland that you need to carry out your functions effectively. We will discuss the matters that you raise further with policy colleagues in the Scottish

Government to ensure that we have a shared understanding of the processes of the various bodies, including local authorities, with the aim of assisting the GTCS in overcoming the issues that you highlight.

Yours sincerely

[Redacted personal information s. 38(1)(b)]
Education Workforce Unit

Document 8

From: **[Redacted personal information s. 38(1)(b)]@gov.scot**

Sent: 21 April 2022 16:22

To: **[Redacted personal information s. 38(1)(b)]@gov.scot**; **[Redacted personal information s. 38(1)(b)]@sssc.uk.com**; **[Redacted personal information s. 38(1)(b)]@gtcs.org.uk**; **[Redacted personal information s. 38(1)(b)]@disclosurescotland.gov.scot**; **[Redacted personal information s. 38(1)(b)]@scotland.police.uk**; **[Redacted personal information s. 38(1)(b)]@gov.scot**;

Subject: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Good afternoon colleagues,

The next Data Sharing Roundtable meeting is scheduled for Tuesday 26 April. Please find the attached agenda and also the minutes from the meeting held on 3 March.

The link to our next meeting can be found in both the agenda and your calendar, or you can **[Redacted personal information s. 38(1)(b)]**

Alternatively, should you have problems connecting you may join us by calling in (audio only) **[Redacted personal information s. 38(1)(b)]** Please use the Phone Conference ID: **[Redacted personal information s. 38(1)(b)]** when prompted.

[Redacted personal information s. 38(1)(b)]



Scottish Government
Riaghaltas na h-Alba
gov.scot

Document 8a –

From: [Redacted personal information s. 38(1)(b)]@gov.scot
Sent: 23 May 2022 20:00
To: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk
Cc: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk
Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi [Redacted personal information s. 38(1)(b)]

I know that the next meeting has been postponed, and wondered if there was an update you could provide on the action below ahead of the next meeting? We are also following up with the Care Inspectorate and Education Scotland.

[Redacted personal information s. 38(1)(b)] initiated a general discussion about the public's perception and understanding of the role of professional regulators and other bodies in relation to child protection and safeguarding. It was agreed that it would be helpful for all organisations to have public messaging about their particular role which also includes consistent messaging and language where approaches are shared, i.e. in relation to sharing allegations of abuse with the police. [Redacted personal information s. 38(1)(b)] took an action to develop wording and bring this back to the group for wider discussion.

When we met to discuss the CYPCS correspondence you also indicated that you would consider how best to signpost GTCS policy in relation to sharing child protection concerns with the police in fitness to teach communications and fitness to teach threshold policy information. Would be great to have an update on this too.

Thanks

[Redacted personal information s. 38(1)(b)]

Document 8b–

From: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk
Sent: 01 June 2022 16:45
To: [Redacted personal information s. 38(1)(b)]@gov.scot
Cc: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk
Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi [Redacted personal information s. 38(1)(b)]

Just to confirm I've received this and will get back to you this week on where we are across various strands. I also think it would be good for us to chat about some aspects but I'll explain more when I respond properly.

[Redacted personal information s. 38(1)(b)]

Sent from [Mail](#) for Windows

Document 8c –

From: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk

Sent: 10 June 2022 17:20

To: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk

Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi [Redacted personal information s. 38(1)(b)]

We've been working on developing further the guide we have for members of the public on our fitness to teach process – where this is so far is attached **[Redacted attachment under section 36 (2)]**. I've been liaising with SSSC (the closest in functions to us from those involved in the Data Sharing Roundtable) and I know this is where they signpost role and info sharing so this would mirror their approach. If you have comments on the attached **[Redacted attachment under section 36 (2)]** and what we've included, all feedback welcome – it still is very much in draft and we'll continue to liaise with SSSC for consistency on what we both do. If there's anything emerging from Ed Scotland and the Care Inspectorate that's relevant for us also then obviously we can take that on board too – I couldn't see that either of them had anything obviously on their websites that was different to what was there previously.

We're also been in liaison on enhanced information sharing with Police Scotland. They have started to share information in cases with us without a court order which is very positive. We are going to see whether there is a more streamlined way that we can share information with them and we will continue to actively pursue development of a data sharing agreement (as we have in course with COPFS).

I think it would be worthwhile us having a chat about some areas that I still see as being unclear and unresolved, **[Redacted under s.30(b)(ii) free and frank exchange of views]**

I would still like to pull together a set of case examples to illustrate the issues we see too about how information does (or more appropriately does not) flow across the system and the real risk we believe that this presents. In brief, **[Redacted under s.30(b)(ii) free and frank exchange of views]**

Finally, I'd add that we at GTC Scotland share what I understand to be the Child Commissioner's view that the National Child Protection Guidance would helpfully be reviewed and revised to account better for the educational context – I think there's a lot of learning we can all take from recent events to inform that.

So, it would be good to talk! If you agree on meeting, let me know when suits? I'm off on leave at the end of next week until 27 June – have great availability when the holiday season kicks off for most from 1 July.

Kind regards

[Redacted personal information s. 38(1)(b)]

Sent from [Mail](#) for Windows

Document 8d –

From: **[Redacted personal information s. 38(1)(b)]**@gov.scot

Sent: 24 June 2022 18:08

To: **[Redacted personal information s. 38(1)(b)]** @gtcs.org.uk

Cc: **[Redacted personal information s. 38(1)(b)]**@gov.scot

Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi **[Redacted personal information s. 38(1)(b)]**

Really sorry for the lengthy delay in responding. We've been battered by a big hump of reactive work over the last couple of weeks.

Very much welcome your email and am keen to talk through the issues you raise and see the case examples. We're developing a plan for engagement with ADES so a discussion would be very timely. Good to hear that information sharing arrangements with Police Scotland are moving in a positive direction.

Thanks very much for sharing your developing fitness to teach process. In terms of the new sections **[Redacted under s.30(b)(ii) free and frank exchange of views]**

Would you be free at 3pm on 6th July? As the issues we'll be discussing are very much in the practice space, I'd like to involve our policing and social work advisers, copied in. I've also copied **[Redacted personal information s. 38(1)(b)]**, who recently joined the unit and has supporting education professionals as one of her areas of responsibility. **[Redacted personal information s. 38(1)(b)]** is on leave on 6th but will be involved with follow up actions and I'm sure will be picking up with you separately in due course. **[Redacted personal information s. 38(1)(b)]** and other unit members had a good meeting with **[Redacted personal information s. 38(1)(b)]** last week.

Regards

[Redacted personal information s. 38(1)(b)]

[Redacted personal information s. 38(1)(b)] | [Redacted personal information s. 38(1)(b)] | Children's Rights, Protection and Justice Division | Directorate for Children and Families | Scottish Government | Mobile: [Redacted personal information s. 38(1)(b)] | email: [Redacted personal information s. 38(1)(b)]

Document 8e –

From: [Redacted personal information s. 38(1)(b)]@gtcs.org
Sent: 28 June 2022 11:22
To: [Redacted personal information s. 38(1)(b)] @gov.scot
Cc: [Redacted personal information s. 38(1)(b)] @gov.scot
Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Thanks Redacted personal information s. 38(1)(b). That timing on 6 July works for me.

I'll aim to circulate case studies in advance of discussion as I think these might help develop understanding as to where our role as a professional regulator fits and what we see.

It will be interesting to hear what further interaction you've had with other professional regulators in this context to help inform thinking and share learning? The SSSC, NMC and other healthcare related professional regulators are particularly similar in terms of context to GTCS.

Kind regards

[Redacted personal information s. 38(1)(b)]
Sent from [Mail](#) for Windows

Document 8f –

From: [Redacted personal information s. 38(1)(b)] @gtcs.org.uk>
Sent: 05 July 2022 13:37
To: [Redacted personal information s. 38(1)(b)] @gov.scot>; [Redacted personal information s. 38(1)(b)] @gtcs.org.uk
Cc: [Redacted personal information s. 38(1)(b)]@gov.scot>
Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

[Redacted personal information s. 38(1)(b)]

As promised, we've pulled together some anonymised case studies [Document 8g] to help support our discussion tomorrow – these are attached and I would appreciate if they would be treated as confidential.

All the case studies relate to recent/live casework. Part A are representative and reflective of the sorts of referrals that we receive from members of the public that relate to children and that we have assessed as falling into the potential “child protection” definition. As previously noted, we receive around 40 or so referrals from members of the public each year.

As well as exploring how different bodies are assessing what is meant when we talk about the term “child protection”, I would welcome a discussion as to assessment of risk and the different roles that different agents in the system play in this context. This links to some of the points alluded to in the attached as to the role of Disclosure Scotland and what we require to do on an ongoing basis in terms of the risk that a teacher presents (which is distinct obviously from consideration of the risk presented to individual children). I also think this links to considering the flow of information into the system and whether the notion that any body has the ability to holistically assess risk from whatever standpoint is currently an illusion.

We are continuing to await further progress with Police Scotland as regards establishing a data sharing agreement. We have specifically asked them to consider what information they would wish to receive from us as against an employer. We can pick that aspect up in discussion tomorrow.

Finally, please note that I’ve invited my colleague, **[Redacted personal information s. 38(1)(b)]** – she oversees the operational casework so is particularly relevant to these discussions.

Look forward to meeting tomorrow,

Kind regards

[Redacted personal information s. 38(1)(b)]

Sent from [Mail](#) for Windows

Document 8g –

Case Studies Part A

Referrals to GTC Scotland by Members of the Public

Example 1

Allegation referred:

[Redacted personal information s. 38(1)(b)]

Example 2

Allegation referred:

[Redacted personal information s. 38(1)(b)] .

Example 3

Allegation referred

[Redacted personal information s. 38(1)(b)] .

Example 4

[Redacted personal information s. 38(1)(b)]

Case Studies Part B

Information Flow and GTC Scotland Role

- Example 1

- Allegation that **[Redacted personal information s. 38(1)(b)]**

- **Example 2**
 - Employer referred a Teacher to GTC Scotland in **[Redacted personal information s. 38(1)(b)]**

- **Example 3**
 - Teacher referred by employer **[Redacted personal information s. 38(1)(b)]** .

Document 8h –

From: **[Redacted personal information s. 38(1)(b)]** @ gov.scot
Sent: 08 July 2022 14:10
To: **[Redacted personal information s. 38(1)(b)]**@gtcs.org.uk
Cc: **[Redacted personal information s. 38(1)(b)]** @ gov.scot
Subject: FW: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi

It was good to catch up with you on Wednesday. We agreed that this meeting was the beginning of regular engagement given our shared interests, meeting next in the second half of August after the holiday season. **[Redacted personal information s. 38(1)(b)]** and **[Redacted personal information s. 38(1)(b)]** will be in touch to check your availability.

In the meantime, **[Redacted personal information s. 38(1)(b)]** and **[Redacted personal information s. 38(1)(b)]** will review the case studies you've provided and offer their views on the information sharing process, ahead of our next meeting. Conscious that we didn't manage to get beyond a discussion of the first one, but I think that in itself allowed us to begin to tease out some of the issues.

We also agreed that we would involve Disclosure Scotland colleagues in subsequent discussions. Let us know if you want to do this at our August, or a subsequent meeting.

As I said when we met, it's an ideal time to explore issues with information to and from GTCS, and the responsibilities of other parts of the system, given our current focus on guidance implementation and planned engagement with ADES.

[Redacted personal information s. 38(1)(b)]

Document 8i –

From: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk

Sent: 08 July 2022 14:32

To: [Redacted personal information s. 38(1)(b)] @gtcs.org.uk

Cc: [Redacted personal information s. 38(1)(b)] @ gov.scot

Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Agreed [Redacted personal information s. 38(1)(b)] – that all sounds good.

I think Disclosure Scotland involvement would be sensible once we get to the Part B Case Study issues?

It will be interesting to hear of your interaction with ADES and how they feel current arrangements operate. As you said at our meeting, the framework fundamentally relies on being able to trust in local authorities and what they do.

I hope you have a good holiday when it comes!

[Redacted personal information s. 38(1)(b)]

Sent from [Mail](#) for Windows

Document 8j–

From: [Redacted personal information s. 38(1)(b)]@gov.scot

Sent: 05 September 2022 12:45

To: [Redacted personal information s. 38(1)(b)]@gov.scot; [Redacted personal information s. 38(1)(b)]@gtcs.org.uk; [Redacted personal information s. 38(1)(b)]@gtcs.org.uk

Cc: [Redacted personal information s. 38(1)(b)]@gov.scot

Subject: RE: DATA SHARING ROUNDTABLE MEETING TUES 26 APRIL

Hi [Redacted personal information s. 38(1)(b)] ,

With apologies for the lateness of this, please find attached the case studies you kindly shared with a few comments from our professional advisors.

Looking forward to meeting you shortly.

Best,

[Redacted personal information s. 38(1)(b)]

Document 8k–

[Redacted under s.30(b)(ii) free and frank exchange of views]

Document 9–

From: [Redacted personal information s. 38(1)(b)]@gov.scot

Sent: 06 September 2022 09:10

To: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk; [Redacted personal information s. 38(1)(b)]@gtcs.org.uk

Cc: [Redacted personal information s. 38(1)(b)]@gov.scot;

Subject: Child protection and GTCS meeting - 5 Sep - Actions

Colleagues

Thanks very much for our meeting yesterday. Following our discussions I have recorded the actions below:

INFORMATION SHARING

- 1) Scottish Social Services Council (SSSC) to be involved in discussions around information sharing between Police Scotland (PS) and GTCS/SSSC; looking to identify if level of detail being provided by PS is sufficient (**GTCS**)
- 2) Facilitate a discussion to fully explore and clarify the flow of information between various bodies once a child protection concern regarding a teacher has been raised. The discussion will involve SG, GTCS, SSSC, PS, Education Scotland*, Disclosure Scotland and Care Inspectorate. (**SG**)

*Although we did not mention Education Scotland during the meeting, we feel it would be useful to include them in this discussion.

AWARENESS OF GTCS ROLES AND RESPONSIBILITIES

- 1) Revisions to National Child Protection Guidance to include clarity on the roles and responsibilities of regulatory bodies like GTCS to raise increased awareness among practitioners (**SG to explore possibility with Guidance implementation group**)
- 2) Engagement between GTCS and National Education Safeguarding Leads Network will allow GTCS to reach those on-ground who have day to day responsibilities/involvement with child protection (**GTCS – SG can provide introduction/links**)
- 3) Communication materials being developed internally and externally to raise profile of GTCS and its role/remit (**GTCS to share with SG**)
- 4) Invite GTCS to future engagements with ADES as appropriate/relevant (**SG**)

FUTURE ENGAGEMENT

- 1) Set up quarterly meetings between SG and GTCS (**SG**)

Document 10–

From: [Redacted personal information s. 38(1)(b)]@gov.scot

Sent: 07 September 2022 08:00

To: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk ; [Redacted personal information s. 38(1)(b)]@gtcs.org.uk; [Redacted personal information s. 38(1)(b)]@educationscotland.gov.scot' ; [Redacted personal information s. 38(1)(b)]@disclosurescotland.gov.scot>; [Redacted personal information s. 38(1)(b)]@careinspectorate.gov.scot' [Redacted personal information s. 38(1)(b)]@sssc.uk.com>; [Redacted personal information s. 38(1)(b)]@sssc.uk.com

Cc: [Redacted personal information s. 38(1)(b)]@gov.scot

Subject: Roles and responsibilities in dealing with information about child protection concerns

Colleagues

My name is [Redacted personal information s. 38(1)(b)] and I am a [redacted personal information s. 38(1)(b)] in the Child Protection Unit.

In a recent conversation with the General Teaching Council for Scotland, we identified a lack of clarity on how information flows between various bodies once a child protection concern has been raised about a teacher/social worker/other professional. Recent discussions have also focused on the public's perception and understanding of the role of regulators and other national bodies in relation to child protection and safeguarding.

We would like to discuss the public messaging in relation to your organisation's particular role, and the potential to agree consistent messaging and language where approaches are shared, for example, in relation to sharing allegations of abuse with the police.

With this in mind, SG has offered to facilitate a meeting between GTCS, Scottish Social Services Council, Education Scotland, Disclosure Scotland, Care Inspectorate and Police Scotland to progress this conversation and develop a full picture of how information flow is working in practice as well as clarify the roles of various bodies in the process.

I have created a poll to identify the most convenient date for everyone. I would be grateful if you can choose all the dates where you are able to attend.

[Redacted personal information s. 38(1)(b)]

Document 10a –

From: redacted@gtns.org.uk>

Sent: 29 September 2022 16:35

To: [Redacted personal information s. 38(1)(b)]@gov.scot; [Redacted personal information s. 38(1)(b)]@gtcs.org.uk; [Redacted personal information s. 38(1)(b)]@educationscotland.gov.scot; [Redacted personal information s.

38(1)(b)]@disclosurescotland.gov.scot; [Redacted personal information s. 38(1)(b)]@careinspectorate.gov.scot; [Redacted personal information s. 38(1)(b)]@careinspectorate.gov.scot; [Redacted personal information s. 38(1)(b)]@sssc.uk.com; redacted@sssc.uk.com

Cc: [Redacted personal information s. 38(1)(b)]@gov.scot

Subject: Roles and responsibilities in dealing with information about child protection concerns

All

In advance of the meeting next week, we thought it may be helpful to share some information about our role and our experience of how information flows between organisations.

We have set out in the attached document (**Document 10b**) a summary of our role and also some specific information about our fitness to teach process.

We have also set out in the attached a set of anonymous and confidential case studies that put into context what we have observed and experienced through our fitness to teach case work over a number of years. I would strongly emphasise that this information has been produced in a spirit of openness and honesty to help build understanding of the issues and consider where improvements or changes might be made in the interests of child protection.

I look forward to meeting and discussing next week.

Kind regards

[Redacted personal information s. 38(1)(b)]

Sent from [Mail](#) for Windows

Document 10b –
Information Flow – GTC Scotland Role and Case Study Examples
GTC Scotland's role

We are the teaching profession's independent registration and regulation body.

We work to maintain and enhance trust in teaching.

Our role is to register and regulate teachers and college lecturers in Scotland. We do this by keeping a public register and setting and regulating the standards for entering and remaining in the teaching profession. There are over 80,000 teachers and college lecturers on GTC Scotland's register.

We ensure standards are maintained by asking teachers and college lecturers to confirm their commitment to learning, and that standards are improved by encouraging ongoing learning. We believe doing this contributes to improving the quality of teaching and learning.

We also investigate serious concerns about teachers and college lecturers through our fitness to teach process.

GTC Scotland registration is a legal requirement.

We are established by law as an independent statutory body - our statutory functions are funded by the fees that registered teachers and college lecturers pay each year.

We employ approximately 65 full time equivalent staff.

GTC Scotland's Fitness to Teach Process

Our fitness to teach process exists to maintain trust in teachers and teaching, to ensure that our registered teachers and college lecturers have and retain the skills and knowledge and character to teach learners safely and effectively.

The fitness to teach process is one of GTC Scotland's core statutory functions. We are required by law to carry out this function.

The fitness to teach process is protective and must be targeted and proportionate – it is about looking forward to assess and manage the current and future risk that an individual teacher presents to teaching and the system as a whole.

The fitness to teach process is how GTC Scotland's standards for teachers are regulated.

Our fitness to teach process is entirely independent from other processes (including employer processes) - it has a distinct purpose and focus – it is about regulation of standards.

We must carry out our own investigations in cases. GTC Scotland cannot rely legally on findings made by others, with some limited exceptions (for example criminal convictions).

Our fitness to teach process relies on referrals being made to us and information being shared with us to enable effective investigations and lines of inquiry to be pursued.

Employers of teachers are legally required to make a referral to GTC Scotland in specific circumstances (in summary, where a teacher is dismissed or might have been dismissed for reasons related to competence or conduct). GTC Scotland can and does receive fitness to teach referrals from a range of other sources, including parents of learners. Around 200 referrals are received currently each year – this is comparatively low - referrals from employers have decreased over the last two years and referrals from criminal justice agencies are now negligible. GTC Scotland investigates referrals that meet the threshold for fitness to teach investigation which is defined in policy – a level of seriousness is required so that we are proportionate and targeted in what we do (a legal requirement).

We have a team of eight Regulation Officers who investigate cases. Our Regulation Officers are investigative specialists and generally come from a legal or criminal justice related career background. We also appoint external solicitors (Presenting Officers) to present the cases that reach the hearing stage. Our fitness to teach process must meet human rights law requirements - the right to a fair trial (Article 6 of the ECHR).

GTC Scotland's fitness to teach process applies the civil standard of proof – the balance of probabilities – and applies different rules of evidence. There is no requirement for corroboration in our proceedings. This means our process is very different from a criminal process. We can and do take forward cases that do not meet the higher standard of proof (beyond reasonable doubt) and evidential requirements that apply to criminal proceedings. This is an important public safeguard.

If a teacher or college lecturer is removed from or refused entry to GTC Scotland's register, they cannot be employed as a teacher or college lecturer in any educational establishment in Scotland. Removal or refusal also has implications for employment as a teacher in other countries within the UK.

Where GTC Scotland removes or refuses registration through its fitness to teach process, there is a right of appeal to the Court of Session.

Our role in public safety was recognised by the Court of Session last year – see [Decision](#).

Example 1

Allegation that Teacher **[Redacted personal information s. 38(1)(b)]**

Example 2

- Allegation Teacher **[Redacted personal information s. 38(1)(b)]**.

Example 3

- Teacher charged by police with **[Redacted personal information s. 38(1)(b)]**.

Example 4

- Allegation that **[Redacted personal information s. 38(1)(b)]**

Example 5

- Local authority employer referred Teacher to GTC Scotland **[Redacted personal information s. 38(1)(b)]**.

Example 6

- Informed in May 2022 by Disclosure Scotland that **[Redacted personal information s. 38(1)(b)]**.

Document 10c –

From: **[Redacted personal information s. 38(1)(b)]@gov.scot**

Sent: 03 October 2022 09:04

To: **[Redacted personal information s. 38(1)(b)]@gtcs.org.uk**; **[Redacted personal information s. 38(1)(b)]@educationscotland.gov.scot**; **[Redacted personal information s. 38(1)(b)]@disclosurescotland.gov.scot**; **[Redacted personal information s. 38(1)(b)]@careinspectorate.gov.scot**; **[Redacted personal information s. 38(1)(b)]@sssc.uk.com**; **[Redacted personal information s. 38(1)(b)]@sssc.uk.com**

Cc: **[Redacted personal information s. 38(1)(b)]@gov.scot**

Subject: RE: Roles and responsibilities in dealing with information about child protection concerns

Thanks very much, **[Redacted personal information s. 38(1)(b)]**

Also sharing a high-level agenda in advance of our meeting:

1. Introduction (SG)
2. Background to concerns raised - perhaps using an example (GTCS)
3. Each body present to provide overview of their role/responsibility/process when a CP concern/misconduct allegation has been raised about a teacher/other professional, and to clarify when they share information with other bodies.
4. Public messaging and understanding of each body's role in relation to child protection and safeguarding.
 - a. Each body to provide brief update as to what is being done to communicate its role with regards to CP concerns.
 - b. Discuss potential to agree any more consistent language/messaging where approaches are shared.

Best,

[Redacted personal information s. 38(1)(b)]

Document 10d –

From: [Redacted personal information s. 38(1)(b)] @gtcs.org

Sent: 06 October 2022 13:12

To: [Redacted personal information s. 38(1)(b)] @gov.scot>

Subject: RE: Roles and responsibilities in dealing with information about child protection concerns

Hi [redacted]

I had a really helpful meeting this morning with [Redacted personal information s. 38(1)(b)] at Ed Scotland – thanks for initiating that contact between us.

[Redacted personal information s. 38(1)(b)] highlighted this statutory guidance to me that exists in England - [Keeping children safe in education 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

As you will see, amongst many other things, the document sets out the role of our equivalent in England (the Teaching Regulation Agency) and the referral obligation, as well as contextualising how the various agencies inter-connect and should cooperate to ensure safeguarding within the education context.

[Redacted personal information s. 38(1)(b)] is currently exploring whether something similar could/should be put in place in Scotland. We would be very supportive of this – it seems to me that such a framework could address a number of the concerns that we've been raising based on our experience over recent years, both in relation to employer practice as well as information flow, cooperation and understanding across all bodies/agencies involved in the safeguarding nexus in the education context.

[Redacted personal information s. 38(1)(b)] and I are planning to meet again to discuss further.

I'm also meeting Disclosure Scotland [Redacted personal information s. 38(1)(b)] later this month to revisit the concerns we have raised and see whether any progress can be made.

I thought you may be interested in these insights and developments as part of planning a revised meeting date.

Kind

[Redacted personal information s. 38(1)(b)]

regards

Sent from [Mail](#) for Windows

Document 10e –

From: [Redacted personal information s. 38(1)(b)]@ gov.scot
Sent: 06 October 2022 14:04
To: [Redacted personal information s. 38(1)(b)]@gtcs.org.uk
Cc: [Redacted personal information s. 38(1)(b)] @ gov.scot
Subject: RE: Roles and responsibilities in dealing with information about child protection concerns

Hi [Redacted personal information s. 38(1)(b)]

So sorry again that the meeting earlier this week got cancelled - the circumstances were beyond my control.

But thank you for keeping us looped in on your discussions with Education Scotland. It will be interesting to know how this progresses.

Also really good to hear that you're able to speak to [redacted] ahead of the joint meeting between various agencies. Grateful if you can let us know how you get on with Disclosure Scotland as it may inform some of the conversations about information flow in the joint meeting.

Thank you [Redacted personal information s. 38(1)(b)].

[Redacted personal information s. 38(1)(b)]

Document 11 –

From: [Redacted personal information s. 38(1)(b)]@ gov. scot>
Sent: 12 September 2022 14:01
To: [Redacted personal information s. 38(1)(b)] @educationscotland.gov.scot;
[Redacted personal information s. 38(1)(b)]
@ gtcs.org.uk
Subject: Connecting with GTCS

Hi [Redacted personal information s. 38(1)(b)]

As mentioned just now, we recently met with [Redacted personal information s. 38(1)(b)] from GTCS and discussed ways for them to reach educators across Scotland who deal with child protection and safeguarding issues. GTCS is looking for ways to engage practitioners to promote awareness and clarity about GTCS's role in child protection matters, and we suggested that the National Education Safeguarding Leads Network might be a helpful route for this. We therefore promised to make the connection between ES and GTCS, so I am copying [Redacted personal information s. 38(1)(b)] in in case you would like to connect about this in future.

[Redacted personal information s. 38(1)(b)]

Document 12 –

From: [Redacted personal information s. 38(1)(b)]@ gov.scot
Sent: 29 July 2022 15:06
To: [Redacted personal information s. 38(1)(b)]@gtcs.org>
Cc: [Redacted personal information s. 38(1)(b)]@ gov.scot
Subject: Guidance on effective safeguarding for boards of governors in independent schools

Embargoed

Hi [Redacted personal information s. 38(1)(b)],

Hope you're well. I mentioned at our meeting in June that in addition to the guidance for proprietors of independent schools ([published today](#)), Education Scotland have been working with the Care Inspectorate and [Redacted personal information s. 38(1)(b)] to develop guidance on effective safeguarding for boards of governors following the recommendations of the independent review into the closure of The New School Butterstone.

I've attached [Redacted under section 25(1) Information otherwise accessible] the final guidance which has not yet been published. Grateful if you don't share this more widely. I believe that it's due to be published shortly and I can let you know when I'm informed of that. I don't think that ES are looking for comment at this stage, however I think you said you weren't aware that it was in development so we wanted to give you advanced sight.

Best wishes,

[Redacted personal information s. 38(1)(b)]

Document 12a

From: [Redacted personal information s. 38(1)(b)] @ gtcs.org.uk
Sent: 01 August 2022 14:23
To: [Redacted personal information s. 38(1)(b)] @ gov.scot
Subject: RE: Guidance on effective safeguarding for boards of governors in independent schools

Hi [Redacted personal information s. 38(1)(b)]

All good here thanks and hope that all is well with you also. Many thanks for giving me advanced sight of the document and it should be a useful self-evaluation tool for boards of governors. On reading the document, I am aware that there is no mention of GTC Scotland and the role that we play in safeguarding. I understand that there are many aspects to safeguarding outwith our remit, but think that there are opportunities within the document to recognise the important role that GTC Scotland plays in child protection by registering teachers and regulating teacher conduct through COPAC and the referral system. I have therefore made a few comments and have attached [Redacted under s.30(b)(ii) free and frank exchange of views]

] them above. I don't know if it is too late to make any changes to the document before it goes to publication but thought it may at least be helpful sharing my thoughts in case there is a window of opportunity for any changes to be made. Happy to discuss any of those thoughts further, Fiona, and many thanks again for keeping me in the loop.
Best regards

[Redacted personal information s. 38(1)(b)]

Document 12b –

From: [Redacted personal information s. 38(1)(b)] @ gov.scot

Sent: 01 August 2022 15:25

To: [Redacted personal information s. 38(1)(b)] @ gtcs.org.uk

Cc: [Redacted personal information s. 38(1)(b)] @gov.scot

Subject: RE: Guidance on effective safeguarding for boards of governors in independent schools

Hi [redacted],

Thanks for your comments on the document. I've passed these onto Education Scotland/HMI for consideration. From what I can gather publication is imminent, but there may be time for them to update.

Best wishes,

[Redacted personal information s. 38(1)(b)]

Document 13 –

From: [redacted personal information s. 38(1)(b)]@gtcs.org.uk

Sent: 09 November 2020 11:36

To: [redacted personal information s. 38(1)(b)]@gov.scot

Subject: GTCS Meeting: Follow up Resources re fitness to teach - 9 Nov 2020

Hi [redacted personal information s. 38(1)(b)],

It was lovely to chat earlier this morning and as agreed I've pulled together some resources that will hopefully be of some use:

<https://www.gtcs.org.uk/regulation/referral.aspx>

This is a link to the referral section of our website. It has recently been updated and now has 3 separate tabs:

- A section for members of the public wishing to make a referral
- A section for employers wishing to make a conduct referral
- A section for employers wishing to make a competence referral

<http://www.gtcs.org.uk/web/FILES/teacher-regulation/fitness-to-teach-threshold-policy.pdf>

This is a link to the Threshold Policy. As discussed, this is the document which we assess referrals against to determine whether an investigation is required or not and outlines what GTCS will and will not investigate.

The following documents are guidance documents that we have produced for employers. The first in particular sets out the end to end fitness to teach process for a conduct case:

<http://www.gtcs.org.uk/web/FILES/teacher-regulation/Fitness-to-teach-information-booklet-employers.pdf>

http://www.gtcs.org.uk/web/FILES/teacher-regulation/Guidance-on-making-a-competence-referral-Full_Registration.pdf

I have also attached the support documents which we send to Teachers when we decide that an investigation is required. These documents accompany a formal Notice of Investigation which sets out the allegation(s) that we are looking at and the reasons why we have commenced an investigation.

Going forward, our team Inbox is regulation@gtcs.org.uk and for any queries that you have please feel free to email this inbox and myself directly.

I hope this will be of some use and should you have any queries arising then please email me and I'll be happy to provide further information.

Kind regards

[redacted personal information s. 38(1)(b)]



[redacted personal information s. 38(1)(b)]
[redacted personal information s. 38(1)(b)]
[redacted personal information s. 38(1)(b)]

Covid-19: GTC Scotland remains open for business as usual. Find out more on our website.



The General Teaching Council for Scotland
Clerwood House, 96 Clermiston Road
Edinburgh EH12 6UT

Comhairle Choitcheann Teagaisg na h-Alba
Taigh Clerwood, 96 Rathad Clermiston
Dùn Èideann EH12 6UT

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Document 14 –

From: [redacted personal information s. 38(1)(b)]@gov.scot

Sent: 17 May 2021 14:29

To: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>; [redacted personal information s. 38(1)(b)] @gtcs.org.uk

Cc: [redacted personal information s. 38(1)(b)]@gov.scot

Subject: SBC

Importance: High

Hi Pauline & [redacted personal information s. 38(1)(b)],

I was wondering if the GTCS has any background information on the following case from the Sunday Times yesterday:

The Sunday Times (Scotland) 11 **Call for inquiry into 'botched' school abuse case** An MSP is calling for an independent inquiry into a council's "botched" handling of child abuse claims after a teacher was found guilty of assaulting children with special needs. Officials at Scottish Borders council assured parents that "not a hair on their children's' heads" had been harmed after concerns were raised about the teacher, Linda McCall, four years ago. They claimed a thorough investigation was carried out yet last week

Although GTCS isn't mentioned in the article, I presume there will be a Fitness to Teach aspect to this case? If so, do you have any lines which we could use in relation to this should Ministers be asked questions about this case?

I'm working to a deadline of 10am tomorrow, so a response by 9am tomorrow would be very helpful if possible.

Thanks,
[redacted personal information s. 38(1)(b)]
Scottish Government, Learning Directorate
Workforce, Infrastructure and Reform Division
2B North, Victoria Quay, Edinburgh, EH6 6QQ
[redacted personal information s. 38(1)(b)]
Working Pattern: Mondays to Thursdays



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Document 14 a-

From: [redacted personal information s. 38(1)(b)]@gtcs.org.uk
Sent: 17 May 2021 15:32
To: [redacted personal information s. 38(1)(b)]@gov.scot; Pauline Stephen <Pauline.Stephen@gtcs.org.uk>; [redacted personal information s. 38(1)(b)]@gtcs.org.uk
Cc: [redacted personal information s. 38(1)(b)]@gov.scot
Subject: RE: SBC

Hi [redacted personal information s. 38(1)(b)]

I can confirm that as you have anticipated, there is a fitness to teach aspect here - we have a reported case and the individual has been subject to a temporary restriction order (which is the only order that can be put in place while a case is

under investigation – it effectively freezes the teacher in his/her existing teaching post so it doesn't go so far as suspending the person from work (this remains a decision for the employer)).

The fact that a temporary restriction order has been imposed in relation to Ms McCall is made public through our Search the Register function so it therefore a matter of public knowledge that she is currently subject to a fitness to teach investigation. Ordinarily, the fact that someone is subject to a fitness to teach investigation is confidential until it reaches the hearing or consent order stage but where a TRO is imposed, this makes the position public - I hope that makes sense?

You could therefore use in any lines that you are aware that the independent professional regulator of teachers, GTC Scotland, has an ongoing fitness to teach investigation in relation to Ms McCall and Ms McCall has been made subject to a temporary restriction order.

Obviously, as you well know, our role does not extend to considering or investigating the actions of the employer.

[Redacted under s.30(b)(ii) Free and frank exchange of views]

I hope that helps? Happy to chat any aspect of this through further – just let me know. I've also copied this reply to **[Redacted under s.30(b)(ii) Free and frank exchange of views]**

Kind regards

[redacted personal information s. 38(1)(b)]



[redacted personal information s. 38(1)(b)]
[redacted personal information s. 38(1)(b)]
[redacted personal information s. 38(1)(b)]

The General Teaching Council for Scotland
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Comhairle Choitcheann Teagaisg na h-Alba
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Document 15 –

From: [redacted personal information s. 38(1)(b)]@gov.scot
Sent: 02 March 2022 10:11
To: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>
Subject: GTCS & Child protection

Pauline

Following First Minister's Questions last week Cabinet Secretary is to write to Willie Rennie about the role of the GTCS in child protection. We intend to submit the attached draft [**Outwith scope of request**] to her later today. Apologies for the short deadline but grateful to have your comments by 3.00 pm today.

[redacted personal information s. 38(1)(b)]
Education Workforce Unit
Scottish Government
Mobile [redacted personal information s. 38(1)(b)]

Document 15a–

From: Pauline Stephen <Pauline.Stephen@gtcs.org.uk>
Sent: 02 March 2022 14:49
To: Brand S (Scott) <Scott.Brand@gov.scot>
Subject: RE: GTCS & Child protection

Thanks Scott, comments attached [**Outwith scope of request**]. Pauline



Dr Pauline Stephen
Chief Executive and Registrar
Pauline.Stephen@gtcs.org.uk



Applications are open for the SCEL Legacy Fund Bursaries, to financially support teaching professionals who would like to undertake a professional learning project, activity or course. Closing date 25 March 2022.

[Find out more about the bursaries](#)

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Document 16

From: [redacted personal information s. 38(1)(b)]
Sent: 21 March 2022 11:22
To: 'Pauline Stephen' <Pauline.Stephen@gtcs.org.uk>
Cc: [redacted personal information s. 38(1)(b)]@gov.scot
Subject: Media Enquiry

Hi Pauline,

We've been contacted by our media colleagues seeking lines in response to a media enquiry they have received from the BBC which relates to GTCS investigations and safeguarding concerns. You will no doubt have been contacted by the BBC yourselves.

Given the sensitivities of the issues raised, we wanted to share the lines which we have provided to our media colleagues with you for awareness. We have based these on the recent response from the Cabinet Secretary to Willie Rennie.

Every local authority is expected to have in place appropriate child protection policies and procedures and effective processes to ensure that concerns about the safety and protection of children are identified and dealt with. The GTCS is an independent body and is a regulator of individual professionals, not the education system as a whole. However, the GTCS recognises it has an important role in child and public protection.

These are as we have submitted them to our media colleagues and aren't necessarily how they will be used by them in the response to the BBC.

Happy to discuss if helpful.

Yours,
[redacted personal information s. 38(1)(b)]

[redacted personal information s. 38(1)(b)]
Education Workforce Unit | Learning Directorate | Scottish Government
[redacted personal information s. 38(1)(b)]
Working Pattern: Monday to Thursday & Friday AM
Normal Work Location: Home

Document 17 –

From: [redacted personal information s. 38(1)(b)]@gov.scot
Sent: 16 May 2022 13:01
To: [redacted personal information s. 38(1)(b)]@gtcs.org.uk
Cc: [redacted personal information s. 38(1)(b)]@gov.scot
Subject: PQ

Hi [redacted personal information s. 38(1)(b)],

I'm currently drafting a response to the following PQ:

Question S6W-08496: Monica Lennon, Central Scotland, Scottish Labour,
Date Lodged: 12/05/2022

To ask the Scottish Government what its response is to recent reports based on General Teaching Council for Scotland data, which state that, over the last four years, 24 teachers have been removed from the register for sexual offences and 72 have been reported for sexual misconduct.

Current Status: Expected Answer date 26/05/2022

<https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S6W-08496&ResultsPerPage=10>

We obviously have some relevant lines as a result of recent related correspondence on this issue, but I just wanted to ask if you had any further information which might be useful as part of the response or background note. My deadline for this is Thursday of this week.

Thanks,

[redacted personal information s. 38(1)(b)]

[redacted personal information s. 38(1)(b)]

| Education Workforce Unit | Learning Directorate | Scottish Government

[redacted personal information s. 38(1)(b)]

Working Pattern: Monday to Thursday & Friday AM

Normal Work Location: Home

Document 17 a-

From: [redacted personal information s. 38(1)(b)]@gtcs.org.uk

Sent: 17 May 2022 16:22

To: [redacted personal information s. 38(1)(b)]@gov.scot

Subject: RE: PQ

Hi [redacted personal information s. 38(1)(b)]

Yes – I've looked at this and set out information below that I hope is helpful and you can adapt for appropriate use? Just let me know if anything is unclear or if you need anything else?

Please also note that, in our view, the media reporting that has flowed from this response has contained some inaccuracies (and this inaccuracy is replicated in the PQ).

This PQ relates to coverage that arose from GTC Scotland's response to a FOI request that was issued on 11 March 2022. GTC Scotland's response to the FOI request referred to is available [here](#).

GTC Scotland is the independent registration and regulation body for the teaching profession in Scotland. Our role is to help maintain trust in the teaching profession. We do this by keeping the Register of Teachers and setting and regulating the standards for entry to, and continued inclusion on, the Register.

Individuals are assessed at entry to GTC Scotland's Register of Teachers and GTC Scotland also receives referrals about teachers once they are registered.

There are now more than 80,000 teachers on GTC Scotland's Register.

GTC Scotland undertakes a regulatory (fitness to teach) process regarding a small percentage of registered teachers - the regulatory process must be targeted and proportionate.

In the year April 2020- March 2021, GTC Scotland received fitness to teach referrals in respect of 0.2%* of the total number of registrants. For referrals for sexual misconduct specifically, this drops to 0.02%.* These figures are consistent with previous years.

Fitness to teach referrals sometimes relate to events alleged to take place in a teaching context but commonly also include events alleged to take place outside a teaching context.

Sexual misconduct referrals relate to a broad spectrum of allegations and levels of seriousness; the term "sexual misconduct" covers much more than sexual offences. Sexual misconduct allegations can be of a criminal nature but not all meet the criminal threshold, or have been taken forward through a criminal process for a variety of reasons.

As with all professions, it is fundamental to maintaining trust and confidence in the teaching profession that there is a process that manages those rare, exceptional situations where that trust has been breached. The regulatory process is a core function performed by GTC Scotland and it exists for that very purpose.

To be effective GTC Scotland's fitness to teach process requires employers and others (including Police Scotland and Disclosure Scotland) to inform us of concerns about teachers and provide us with information. GTC Scotland has been highlighting that there is a need for improved information sharing among bodies with responsibilities for public protection and has sought support from the Scottish Government in this context.

**The 0.2% is taken from figures included in GTC Scotland's latest annual report (161/77,386) and the 0.02% in relation to sexual misconduct case numbers from 2021 (19/77,386).*