



**Medical Standards Consultation - Responses available on SE Website**

To abandon the requirement that a person must satisfy the medical officer of the relevant institution that (s)he is medically fit to teach, a) before being admitted to a course of Initial Teacher Education, and b) *before* being recommended by the relevant institution for registration as a teacher by the General Teaching Council for Scotland.

**Responding to this consultation paper**

We are inviting written responses to this consultation paper by 26 April 2004. **Please send your response to:**

[medicalstandardsconsultation@scotland.gsi.gov.uk](mailto:medicalstandardsconsultation@scotland.gsi.gov.uk)

or

Medical Standards Consultation  
Teachers Division  
Scottish Executive Education Department  
Victoria Quay  
Edinburgh  
EH6 6QQ

If you have any queries contact Diane Lovie on 0131-244-0155

We would be grateful if you could clearly indicate in your response which questions or parts of the consultation paper you are responding to (using the consultation questionnaire if appropriate) as this will aid our analysis of the responses received.

**For future engagement:**

If you wish to access this consultation online, go to <http://www.scotland.gov.uk/view/views.asp>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is, if you prefer to submit your response by e-mail to [medicalstandardsconsultation@scotland.gsi.gov.uk](mailto:medicalstandardsconsultation@scotland.gsi.gov.uk)

**SEconsult**

A new email alert system for SE consultations ([SEconsult](#)) was launched in December 2003. This system will allow stakeholder individuals and organisations to register and receive a weekly email containing details of all new SE consultations (including web links). SEconsult will complement, but in no way replace SE distribution lists, and is designed to allow stakeholders 'keep an eye' on all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We encourage you to register as soon as possible.

**Access to consultation responses**

We will make all responses available to the public in the Scottish Executive Library by 31 May 2004 and on the Scottish Executive consultation unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.

## CONSULTATION

### **PROPOSAL:**

**To abandon the requirements that a person must satisfy the medical officer of the relevant institution that (s)he is medically fit to teach, a) before being admitted to a course of initial teacher education, and b) before being recommended by the relevant institution for registration as a teacher by the General Teaching Council for Scotland.**

### **Current legislative provisions**

1. The Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993 deal with admission of students to initial teacher education courses, the requirements which such courses must satisfy, the teaching qualifications which may be awarded, and the recommendation of persons so qualified for registration as teachers by the General Teaching Council for Scotland (GTCS).

### **Regulation 3(1) ( c) states that:**

3.-(1) A person should not be admitted to a course-

(a) unless he satisfies the requirements for admission determined by the Secretary of State after consultation with the Council:

(b) where the principal of the relevant institution providing the course is of the opinion that the applicant should not be admitted on grounds of personal unsuitability as a teacher; or

(c) where the applicant fails to satisfy the medical officer of that relevant institution that, in accordance with directions given by the Council, he is medically fit to teach.

### **Regulation 6 (b) (ii) states that:**

6. In order to be recommended by the governing body of a relevant institution for registration as a teacher by the Council, a person-

(a) shall hold one or more teaching qualifications awarded following a course provided by that institution; and

(b) shall satisfy-

(i) the principal of that institution that he shows promise of success as a teacher; and

(ii) the medical officer of that institution that, in accordance with directions given by the Council, he is medically fit to teach.

2. The term “medically fit to teach” also appears in the Teachers (Entitlement to Registration) (Scotland) Regulations 1991 which relate to teachers who are nationals of Member States of the European Union and wish to teach in Scotland

**Regulation 2(d) states that:**

2. The requirements to be fulfilled for the purpose of section 6(2) (ba) of the Teaching Council (Scotland) Act 1965 are that the person-

(a) is a migrant as defined in regulation 2(1) of the European Communities (Recognition of Professional Qualifications) regulations 1991 (b);

(b) applies under these regulations to the Council for authorisation to practise the profession of School Teacher in Scotland (In publicly regulated schools);

(c) fulfils the requirement specified in regulation 5(1) (a) or (b) of those Regulations: and

(d) produces a certificate that he is medically fit to teach which complies with the requirements of regulation 9(3) of those Regulations [European Communities (Recognition of Professional Qualifications) Regulations 1991] or otherwise satisfies the Council that he is medically fit to teach.

**Current practice as regards medical examinations**

3. The organisation and administration of the medical examination process is inconsistent across the seven Scottish universities that offer initial teacher education courses. Inequalities emerge for a number of reasons. Not all universities employ a medical officer and so alternative arrangements have to be made. Some universities conduct medical examinations during the course of the first term, which suggests that anyone found not to be medically fit to teach will have embarked on a course of study that they cannot complete. There is also uncertainty over the funding of these medical examinations. As a result, students in some universities pay for all or part of the cost of the medical examination whereas others do not.

**Purpose of these requirements**

4. Initially these medical standards were introduced mainly for the protection of children; classically, from infectious diseases such as tuberculosis. This is now very rare and full medical examinations are really only helpful in very advanced cases. Other infections of a chronic and potentially infectious nature, including HIV, would require laboratory testing, and symptoms would appear over the three or four years of the course. Thankfully today very few people are carrying life-threatening infections that might be potentially dangerous.

5. There was also a concern that a psychiatric problem could arise which could endanger the children. Again medical examinations are not very helpful in this respect and cannot predict with any degree of certainty the possibility of a dangerous candidate. A past history is very much more helpful. It often happens that mental health instability becomes evident during the course being undertaken, revealed by the pressure encountered in studying for a degree.

6. In recent years the main purpose of medical examinations has moved away from blocking applicants, to identifying those who might have a problem and offering them help. The medical

profession and employers should be trying to assist all those who have an illness or disability to achieve their ambition as best they can rather than acting as a barrier.

### **Integration of teacher education within the university system**

7. Over the last few years, initial teacher education has been integrated into Higher Education. It seems anomalous that no other students at the relevant universities are required to have medical examinations carried out.

8. In addition, many universities are now introducing new approaches to working with students in the early years of their degree courses. It is not uncommon for faculties to run common first year, and sometimes second year, programmes before allowing students to specialise in their third and fourth year studies. In a situation like this it would be impossible to determine which students undertaking a general degree programme in a faculty of education would eventually opt for the teaching option as opposed to social work, community education or outdoor education. The requirement that entry to third year, for students who opt for teaching, is dependent on passing a medical examination could prove to be a barrier to entry to the teaching profession. Given the importance of widening access to the profession this seems to be an unhelpful requirement.

9. Many universities, in partnership with further education colleges, offer ACCESS programmes to encourage mature students to gain the experience and qualifications they need to embark on a BEd programme. Satisfactory completion of this programme can guarantee the individual direct entry to a BEd programme. There is no requirement that students have a medical examination before embarking on the ACCESS programme and therefore it is possible that an individual could complete the ACCESS programme and then find that they can not accept their place in the BEd programme because they fail the medical examination. Again, given the importance of widening access to the profession, this seems to be an unhelpful requirement.

10. Another feature of the integration of Teacher Education within higher education relates to the role of medical officers. In the past, Teacher Education Institutions employed a medical officer who dealt with all matters related to illness and disability. That is not the case in Higher Education. Some Higher Education Institutions have their own medical officer, others do not. The ability of the institutions to ensure that medical examinations are undertaken on entry to the course and before students go on school placements is variable.

11. However, since the mid-1990s all SHEFC-funded Higher Education institutions have had in place disability co-ordinators/advisors whose role it is to co-ordinate the support and provision that a disabled student might need in order that they can successfully participate in their chosen course of study. The Disability Discrimination Act 1995, as amended was extended to cover education and a duty was placed on educational institutions in relation to admissions and services for students. Such staff do not work from a 'medical model' of disability, but instead work with the student or prospective student, their chosen department of study and any other relevant individuals and organisations to ensure that the student's additional needs (eg ICT needs and human support) are met and/or any organisational/administrative barriers are removed. This 'social model' approach to disability concentrates on the 'real world' situations faced by disabled students and seeks to overcome any potential barriers students might face. Such a non-medical approach allows the exploration of issues (such as how a blind student marks jotters) and attempts to come up with solutions to them. Medical examinations simply could not provide this level of information and support to students, departments or placements providers.

12. These examples highlight that the medical examination requirement for students embarking on teacher education programmes is discriminatory when there is no general requirement for a medical examination for entry into other degree programmes.

### **Other professionals working with young people**

13. Within the education sector, and the broader children's services sector, a wide range of different professionals work with children; eg classroom assistants, nursery nurses, special needs auxiliaries, social workers, educational psychologists and language therapists. None of these professional people requires a medical examination on entry to or exit from their professional education and training in order to gain registration or the equivalent.

14. We suggest, therefore, that these medical standards requirements are discriminatory as no other profession has a similar requirement relating to either education/training and/or registration.

### **Role and responsibilities of employers**

15. The Disability Discrimination Act 1995, as amended (DDA) states clearly that it is the responsibility of the employer to do everything possible to bring down the barriers to employment for individuals with disabilities; whether these disabilities occur when an individual is applying for a post or during tenure of the post. It is the responsibility of the employers to be aware of their obligations in relation to the DDA and to act upon these obligations in a manner consistent with the circumstances of an individual case.

16. Given that the General Teaching Council for Scotland has no responsibility for ensuring that employers comply with the requirements of the DDA, it is anomalous that admission to the register - which relates to a person's professional capacity to be a teacher - should be dependent upon a person's medical/physical condition. It is suggested that, if it were deemed necessary that teachers undergo a medical examination, it would be more appropriate that this was considered to be an employment related issue rather than a registration issue.

### **Summary**

17. The following points have been made in the foregoing paragraphs that lead us to propose that the medical standards provisions referred to in paragraph 1 be deleted:

- Current practice is inconsistent;
- The diseases that were considered when these provisions were introduced no longer prevail;
- Other university students are not required to undergo medical examination;
- Other professional workers do not require to undergo medical examination;
- There is significant risk of non-compliance with the Disability Discrimination Act; and
- Medical fitness is an employment issue rather than a registration issue.

### **Conclusion**

18. The world of education, the world of teaching, the world of employment and the world of medicine have changed since the existing medical standards were devised. Now is the appropriate time to alter the current provisions.

19. Accordingly, it is proposed that:

- the requirement for a medical examination as a requirement for entry to such courses be abandoned; and
- the requirements for a medical examination as a condition for registration with the General Teaching Council for Scotland should be abandoned.

### **Proposed legislative changes**

20. A draft statutory instrument is attached as an Annex to this consultation paper. You will note that, having concluded that it is appropriate to propose that the relevant provisions of the Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993 should be deleted, we also propose that the corresponding provision in the Teachers (Entitlement to Registration) (Scotland) Regulations 1991 should be deleted. These latter regulations were made to ensure compliance with the European Communities (Recognition of Professional Qualifications) Regulations 1991.

### **Consultation arrangements**

21. We would welcome any comments by **26 April 2004** on the proposal to abandon the requirements that a person must satisfy the medical officer of the relevant institution that (s)he is medically fit to teach, a) before being admitted to a course of initial teacher education, and b) before being recommended for registration as a teacher by the General Teaching Council for Scotland.

22. While all comments will be taken into account, our analysis of the responses received will be simplified if, when submitting your comments for submission to the Scottish Executive, you address the following questions:

**22.1 Do you agree that the circumstances that prevailed when medical standards provisions were first introduced have changed to such an extent that it is appropriate to reconsider their current validity?**

**22.2 Do you agree that preventing someone from: either, undertaking an initial teacher education course; or, being recommended for registration as a teacher; may be challengeable under discrimination legislation?**

**22.3 Do you agree that medical fitness to teach is an employment issue rather than a registration issue?**

**22.4 If the current medical standards provisions are dropped, as proposed here, do you think it will be necessary for alternative provisions, whether of a statutory or non-statutory nature, to be put in place for local authorities as employers?**

**22.5 Do you agree that, having concluded that these medical standards provisions relating to students entering and leaving Scottish Universities should be deleted, it is equally appropriate for the corresponding provisions relating to nationals from other EU countries should also be deleted?**

**Respondee Information Form**

23. Please use Annex A attached to respond to the consultation.

# SCOTTISH STATUTORY INSTRUMENTS

2004 No.

## EDUCATION

The Teachers Registration (Scotland) Amendment Regulations 2004

*Made* 2004

*Laid before the Scottish Parliament* 2004

*Coming into force* 2004

The Scottish Ministers in exercise of the powers conferred by sections 6(2)(ba) and 7(1)(d) of the Teaching Council (Scotland) Act 1965 (<sup>1</sup>) and of all other powers enabling them in that behalf

- (i) on the recommendation of the General Teaching Council for Scotland under section 2(2) and (3) of the said Act,
  - (ii) after consultation with the said Council and such organisation as appeared to them to be representative of the interests of education authorities, in accordance with section 6(2A) of the said Act; and
  - (iii) having caused a draft of the Regulations to be published and having sent a copy thereof to every education authority in accordance with section 7(8A) of the said Act and having had regard to any representations made by them or by any person interested,
- hereby make the following Regulations:

### **Citation and commencement**

1. These Regulations may be cited as the Teachers Registration (Scotland) Amendment Regulations 2004 and shall come into force on 2004.

### **Amendment of the Teachers (Entitlement to Registration) (Scotland) Regulations 1991<sup>2</sup>**

2. Regulation 2(d) of the Teachers (Entitlement to Registration)(Scotland) Regulations 1991 is hereby revoked.

<sup>1</sup> 1965 c. 19; section 6 (2) (ba) was inserted by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10 paragraph 2; section 7 was amended by the Education (Scotland) Act 1969 (c. 49), Schedule 2, Part II, paragraph 2 and by the Further and Higher Education (Scotland) Act 1992 (c. 37) section 55. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46)

<sup>1</sup> SI 1991/1136

### **Amendment of the Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993<sup>3</sup>**

<sup>1</sup> 1965 c. 19; section 6 (2) (ba) was inserted by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10 paragraph 2; section 7 was amended by the Education (Scotland) Act 1969 (c. 49), Schedule 2, Part II, paragraph 2 and by the Further and Higher Education (Scotland) Act 1992 (c. 37) section 55. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46)

<sup>2</sup> SI 1991/1136

3. Regulations 3(1)(c) and 6(b)(ii) of the Teachers (Education, Training and Recommendation for Registration) (Scotland) Regulations 1993 are hereby revoked.

PETER PEACOCK

A member of the Scottish Executive

Victoria Quay

Edinburgh.

2004.

EXPLANATORY NOTE  
*(This note is not part of the Regulations)*

These Regulations revoke the requirements for a person applying for admission to a teacher training course or for registration as a teacher, to be medically fit to teach.

## A. RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Postal Address:

Consultation title:

1. Are you responding as: (please tick one box)

- (a) an individual  (go to 2a/b)  
(b) **on behalf of** a group or organisation  (go to 2c)

### 2a. INDIVIDUALS:

Do you agree to your response being made available to the public (in SE library and/or on SE website)?

- Yes (go to 2b below)   
No, not at all

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

- Yes, make my response, name and address all available   
Yes, make my response available, but not my name or address   
Yes, make my response and name available, but not my address

### 2c ON BEHALF OF GROUPS OR ORGANISATIONS:

Your name and address as respondees **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

- Yes   
No

3. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future for consultation or research purposes?

- Yes   
No

## **B. The Scottish Executive Consultation Process**

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

Typically, Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses<sup>4</sup>. Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4552).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

If you have any comment about how this consultation exercise has been conducted, please send them to:

Medical Standards Consultation  
Teachers Division  
Scottish Executive Education Department  
Victoria Quay  
Edinburgh  
EH6 6QQ

E-mail: [medicalstandardsconsultation@scotland.gsi.gov.uk](mailto:medicalstandardsconsultation@scotland.gsi.gov.uk)

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<sup>4</sup> [www.scotland.gov.uk](http://www.scotland.gov.uk)

