



RESEARCH PAPER 98/34  
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# *The Teaching and Higher Education Bill [HL]: The Teaching Profession*

**Bill 145 of 1997/98**

Part I of the *Teaching and Higher Education Bill* provides for the establishment of a General Teaching Council for England and a General Teaching Council for Wales.

Part I also makes provision for mandatory professional qualifications for headteachers; a one year induction period for teachers; and restates and strengthens the statutory basis for the inspection of teacher training.

This paper provides background and comment on Part I of the Bill, including comment on its progress through the House of Lords.

Christine Gillie and Gillian Allen

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## Introduction and Summary

The *Teaching and Higher Education Bill [HL]* reached the Commons on 11 March 1998 [Bill 145].

The Bill was introduced in the Lords on 26 November 1997 [HL Bill 47]. Debates in the Lords were as follows:

Second Reading                      11.12.97

Committee                              20.01.98  
    22.01.98  
    26.01.98

H L Bill 66 (as amended in Committee)

Report                                    23.02.98  
    26.02.98  
    02.03.98

H L Bill 82 (as amended on Report)

Third Reading                         10.03.98

The attempt to establish a General Teaching Council has a long history. Past initiatives were thwarted by lack of agreement within the education service about such a body's composition and role. Since the late 1980s a number of organisations have come together to promote the idea of a statutory General Teaching Council, and since then the case for a GTC has been made on many occasions when education legislation has been before Parliament.

The 1997 Labour Party Manifesto promised that a Labour Government would establish a General Teaching Council to speak for teachers and raise standards in the profession. Proposals were made in the White Paper, *Excellence in Schools* and in separate DfEE and Welsh Office Consultation Papers.

There is wide support for the principle of a General Teaching Council; however, there are differences of opinion about its role. The *Teaching and Higher Education Bill* as originally presented sought to give the proposed General Teaching Council an advisory role. However, the Bill was amended on Third Reading to give it a wider, regulatory role.

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A National Professional Qualification for Headship (NPQH) was announced in 1995 and trialled in 1997 by the Teacher Training Agency. The Labour Party Manifesto proposed a mandatory professional qualification for headteachers and consulted on the suitability of the NPQH in the White Paper, *Excellence in Schools*. Chapter II of Part I of the Bill makes provision for the Secretary of State to require headteachers to hold a professional qualification.

Chapter III makes provision for newly qualified teachers to serve an induction period of one year. A probationary period for teachers was abolished from 1 September 1992. The White Paper proposed a supported induction year which is introduced by this Part. Chapter III also restates and strengthens the statutory basis for the inspection of teacher training in England, Wales and Scotland.

# I The General Teaching Councils

## A. Background

Support for the establishment of a statutory professional body for teaching- a General Teaching Council (GTC)- has grown across all sections of the education service. It has been pointed out that other major professions are represented by national bodies, and that Scotland has had a General Teaching Council since 1966.

In the late 1980s a number of organisations came together to promote the idea of a General Teaching Council, established by statute. The General Teaching Council (England and Wales) was the outcome; and it has operated as an alliance of more than thirty organisations across the education service.<sup>1</sup> Its case for the establishment of a statutory GTC was set out in a Report revised and published in 1996<sup>2</sup> and subsequently in articles in the education press.<sup>3</sup>

The early history of attempts to establish a General Teaching Council has been described as follows:<sup>4</sup>

It is over 130 years since the first moves were made towards a General Teaching Council. Bills were drafted for Parliament in the late nineteenth century. The 1899 Education Act made provision for setting up a register of teachers. The Board of Education Act of 1901 laid upon the Board the duty to establish a Teachers' Registration Council. However, civil servants produced divisive proposals for legislation which could not survive. In 1912, nevertheless, an acceptable Teachers' Registration Council was established by order of the Privy Council, and became in 1929 the Royal Society of Teachers. Its statutory duty was to establish and maintain the standards of academic attainment and professional training among teachers, and it admitted to Registration as Associate Members those who had reached the required standard and as full members (MRST) those who had then completed a period of approved teaching experience. This voluntary society was intended to precede registration for all practising teachers, but sadly the 1944 Education Act did not include the necessary legislation, and the Royal Society of Teachers was wound up by an Order in Council in 1949. By 1957, renewed pressure began, and meanwhile in Scotland the Committee chaired by Lord Wheatley recommended in 1963 'that there should be established a General Teaching Council for Scotland broadly similar in scope, powers and functions to the Councils in other professions'. Legislation for Scotland ensued in 1965, the Council being established in the following year.

In 1968, the incoming Secretary of State Edward Short (now Lord Glenamara) announced his intention to establish a General Teaching Council and established a working party chaired by (Sir) Toby Weaver, with all the teachers' unions and associations, universities and teacher-trainers, local education

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<sup>1</sup> *GTC England and Wales Handbook*, GTC England and Wales Trust, contains a list of member associations and other supporting bodies

<sup>2</sup> *Proposals for a Statutory General Teaching Council for England & Wales: A Report from GTC (England and Wales)*, Revised January 1996

<sup>3</sup> e.g. "Flesh on the bones of a big idea", *TES*, 2 May 97, p 19

<sup>4</sup> *Proposals for a Statutory General Teaching Council for England & Wales: A Report from GTC (England and Wales)* Revised January 1996, paragraphs 4 and 5.

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authorities and the Department of Education and Science. Although the Weaver Report in 1970 considered the case for a professional council already to have been accepted, and did much detailed groundwork which is still valid, it recommended a division of functions under two separate Councils, and this failed to command professional support. For the next decade, successive governments were to declare themselves in favour provided teachers' associations could agree. By the time the associations appeared able to do so, government ministers had become divided on the issue, and were raising different questions in a changing context.

Fears that a GTC would become a super union, and lack of agreement within the education service about devising a mechanism for ensuring that the Council would be representative of the profession and of wider interests, thwarted initiatives in England and Wales. In 1990, at a time of serious teacher shortages and concern about the supply of graduate entrants, the Select Committee for Education, Science and the Arts recommended the creation of a GTC.<sup>5</sup> In its response to the report the then Conservative Government said that it did not consider that the creation of a GTC would contribute to the success of the Government's educational reforms or to an improvement in teacher supply; however, it stressed that the Government was determined to continue in its efforts to enhance the standing and professionalism of teachers, and in particular to ensure that their views were taken into account.<sup>6</sup>

In 1993 the National Commission on Education, an independent enquiry funded by the Paul Hamlyn Foundation, published a paper outlining the support for a GTC. In its report, *Learning to Succeed*, the National Commission recommended statutory self-regulation of the teaching profession through a GTC. It suggested that the GTC's initial functions should include maintenance of a register for all teachers with qualified status; responsibility for professional standards of discipline and conduct, taking appropriate action in cases of serious misconduct or ill-health; and providing a statutory source of advice on issues such as professional training and development, teacher qualifications and changes in curriculum and assessment.<sup>7</sup>

The case for a GTC has been debated on many occasions when education legislation has been before Parliament. For example, Lord Butterfield moved an amendment (later withdrawn) to the Education Bill, Session 1992/3, to enable the Secretary of State to establish a GTC by order. Baroness Blatch for the Government said that she was not opposed to the teachers themselves setting up a professional body but that the Government did not think it appropriate to establish a statutory body.<sup>8</sup> Labour Peers tried unsuccessfully to establish a GTC during the debates on the Bill that became the *Education Act 1994*.<sup>9</sup> The issue was raised again during the debates on the Conservative Government's last piece of education legislation, the *Education Act 1997*. Lord Tope moved an amendment providing for a GTC.

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<sup>5</sup> *The Supply of Teachers for the 1990s*, H C Paper 208-I, Session 1989-90, paragraph 26

<sup>6</sup> *The Government Response to the Report on the Supply of Teachers for the 1990's*, Cm 1148, July 1990, p 8

<sup>7</sup> Stuart Maclure, *A General Teaching Council for England and Wales?* National Commission on Education Briefing No 11, January 1993; *Learning to Succeed*, Report of the National Commission on Education, 1993.

<sup>8</sup> HL Deb 20 April 1993 cc 1417-33

<sup>9</sup> HL Deb 14 March 94 cc 38-56

Speaking for the then Conservative Government, Lord Henley said that in earlier debates there had been support across all parties for a GTC and that the Government had not ruled out the establishment of a statutory body; however, there was no agreement on what form it should take.<sup>10</sup>

In November 1996, Sir Malcolm Thornton, then Chairman of the Education and Employment Committee, introduced a Private Member's Bill to provide a GTC in England and Wales.<sup>11</sup> The Bill had cross-party support; however, it was not given a Second Reading and fell with the General Election.

Before the 1997 General Election, the Education and Employment Committee considered the arguments surrounding the establishment of a GTC in its report on the professional status, recruitment and training of teachers. The majority of the evidence it received supported the establishment of a GTC to improve the status of the teaching profession.<sup>12</sup> The Committee concluded that it supported the principle of establishing a GTC. However, it did not go into detail about the membership, governance or duties of a GTC but noted that it agreed with the GTC (England and Wales) that the Council's membership should have a majority of teachers and should include representatives of parents and of higher education; and that it should not have responsibilities for funding and accreditation of teacher training courses. This, it pointed out, should be left to the Teacher Training Agency (TTA).<sup>13</sup>

The 1997 Labour Party General Election Manifesto promised the establishment of a GTC "to speak for and raise standards in the profession."<sup>14</sup>

The Liberal Democrats also committed themselves to establishing a GTC "charged with improving teaching standards and making teaching a profession to be proud of again."<sup>15</sup>

Chapter 5 of the White Paper, *Excellence in Schools*,<sup>16</sup> and Chapter 8 of the Welsh White Paper, *Building Excellent Schools Together*,<sup>17</sup> set out a "new deal for teachers" to ensure that they receive the support needed to do their job well. The proposals included a new General Teaching Council to speak for the profession.

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<sup>10</sup> HL Deb, 3 March 1997 cc1671-8

<sup>11</sup> Bill 26, Session 1996-97

<sup>12</sup> *The Professional Status, Recruitment and Training of Teachers*, Sixth Report of the Education and Employment Committee, HC Paper 131, March 1997, Session 1996-97, paragraph 67

<sup>13</sup> *ibid.*, paragraph 70

<sup>14</sup> *New Labour: Because Britain Deserves Better*, Labour Party, April 1997, 1997, p 8.

<sup>15</sup> *Make the Difference*, The Liberal Democrat Manifesto 1997, p 11

<sup>16</sup> Cm 3681, July 1997

<sup>17</sup> Cm 3701, July 1997

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In its recent report on teacher recruitment the Education and Employment Select Committee highlighted the important role it considers a GTC will have in promoting teaching. It said that the Committee believed that the proposed GTC should have a role in the process of setting minimum entry requirements for initial teacher training courses, together with the TTA, and in removing incompetent teachers from the profession:<sup>18</sup>

“The GTC should have a role in ensuring that teachers who fall seriously short of the professional standards expected of them are swiftly removed from teaching. If the profession can be seen to be taking action itself on weeding out the worst, it will serve to focus attention on the majority who are doing well.”

Responding to the report the Government emphasised that the proposed GTC will have significant responsibilities in advising on all aspects of the standards of teaching, including advising on individual cases of barring from the profession.<sup>19</sup>

### *Scotland*

Scotland has had a General Teaching Council since 1966. It was established by the *Teaching Council (Scotland) Act 1965*. There had been both professional and public dissatisfaction with standards in Scottish schools in the 1950s and early 1960s. In response to this concern the government set up a Committee of Enquiry under the chairmanship of Lord Wheatley which recommended the establishment of a GTC to control entry to the teaching profession. An account of the development of the Scottish GTC is given in its handbook.<sup>20</sup> The Council consists of 49 members, 30 of whom are elected by the teaching profession, 15 of whom are appointed by various interested bodies and 4 of whom are appointed by the Secretary of State for Scotland. A full list of members is set out in the Council’s Annual Report.<sup>21</sup> The functions of the Council are as set out in the Annual Report as follows:

- to keep under review standards of education, training, and fitness to teach appropriate to persons entering the teaching profession and to make recommendations to the Secretary of State with respect to these standards as it thinks fit;
- to consider and make recommendations to the Secretary of State on matters relating to the supply of teachers;
- to keep itself informed of the education and training of teachers in relevant institutions;

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<sup>18</sup> *Teacher Recruitment: What Can Be Done?* First Report from the Education and Employment Committee, Session 1997-98, HC Paper 262-1, October 1997, paragraphs 86 and 87

<sup>19</sup> *Government's Response to the First Report of the Committee, Session 1997-98: Teacher Recruitment : what can be done?*, HC Paper, 519, January 1998, paragraph 6

<sup>20</sup> *General Teaching Council for Scotland Handbook*, 1993.

<sup>21</sup> *The General Teaching Council for Scotland, Annual Report for the year ended 31 March 1997*.

- to establish and keep a register of teachers; and
- to determine whether in any particular case under its disciplinary powers registration is to be withdrawn or refused.

## **B. The DfEE Consultation Document on the General Teaching Council (July 1997) and Responses**

In July 1997 the DfEE published a Consultation Document on the functions and composition of the GTC (for England), setting out a range of options and questions on how it might operate, and inviting comment.<sup>22</sup> (There has been separate consultation in Wales-see below.)

The Government committed itself to setting up a statutory GTC by the year 2000, which would:

- act as a single voice for teaching as a profession;
- be independent of government;
- assist in the raising of standards in the classroom;
- advise on the quality of those entering the profession;
- give guidance on the framework for assessing a new entrant's induction year;
- have a role in barring individuals from the profession;
- advise on the standards of medical fitness to teach;
- establish agreed standards of conduct; and
- promote teaching as a career.

In the foreword to the Consultation Document, Stephen Byers, the Minister for School Standards, said the GTC will take its place in the new national partnership to raise standards in schools, and emphasised that the Government want to ensure that there is wide agreement on what the GTC's role, status, and functions should be.

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<sup>22</sup> *Teaching: High Status, High Standards. General Teaching Council: A Consultation Document*, DfEE, July 1997.

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"We will move forward at the right pace to ensure that the body has the confidence of those in the profession and beyond, that a sound framework has been set for its operation and that it has the necessary tools for the job. We envisage that the GTC would then assume responsibilities progressively over time."

### *Responses*

There is wide support for the establishment of a statutory GTC to be able to speak with a single voice on all professional aspects of the service. It is generally agreed that the GTC would not deal with matters relating to pay and conditions of service. Many organisations commenting on the proposals stressed that they, together with other organisations, have lobbied, and worked with the GTC (England and Wales) for the creation of a statutory GTC. (As noted above, GTC (England and Wales) is an alliance of over thirty organisations that supports the creation of a statutory GTC.) However, concern was expressed that the Consultation Document proposals would not give enough authority to the GTC; that many powers that might reasonably be expected to be given to the GTC will be retained by the Teacher Training Agency, and that this will weaken the influence of the GTC from the outset.

The DfEE one page summary of the main points raised in the consultation noted that virtually all the respondents supported the establishment of a GTC as the main professional body for teachers and contributing to the debate on raising standards.<sup>23</sup>

Some of the main issues raised in the consultation are highlighted below. However, this is not a comprehensive analysis of reactions to the proposals, and Members are advised to consult a particular organisation's response to be sure of the details of its views on the proposals. (Copies of the responses referred to below are available for consultation in the Oriol Room of the Library. Other responses may be available from the DfEE and the Welsh Office.)

#### *1. Standards in the profession*

##### *Professional conduct*

The Consultation Document invited views on the possible role of the GTC in establishing agreed standards of conduct for the teaching profession. It stressed that work in this area should not cut across the management role of heads and employers and existing school policies, and noted that the GTC for Scotland is currently working on a code for teachers.

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<sup>23</sup> Summary of Main Points Arising from Responses to School Consultations, attached to *DfEE Press Notice*, 4 December 1997

There was wide support for the proposal that the GTC should be responsible for establishing, through consultation and consensus, a professional code for teachers. GTC (England and Wales) stated in its response that the GTC should establish ethical principles for teachers and derive from these principles minimum standards of conduct. However, the National Association of Schoolmasters/Union of Women Teachers (NASUWT) expressed concern about the danger of developing open-ended wide-ranging codes of ethics. The National Association of Head Teachers (NAHT) commented that the establishment of professional standards should be a key role for the GTC, with heads and employers implementing the standards set, and schools developing policies to take account of the work of the GTC. The Association of Teachers and Lecturers (ATL) made similar points. The National Union of Teachers (NUT) stressed that statements of professional conduct should not suggest new and additional duties for teachers, and should be recognisable to teachers as a description of the professional vocation of teaching.<sup>24</sup>

### *Teacher Competence*

The Consultation Paper did not envisage a leading role for the GTC in addressing poor performance by individual teachers. (New streamlined model procedures have been developed for dealing with incompetent teachers and heads.) However, the Consultation Paper raised the issue of whether the GTC might remove grossly incompetent teachers from any register of teachers.

The GTC (England and Wales) commented that the GTC should be the body that debars teachers from teaching by removing them from the register. However, it pointed out that the removal of registered teachers from a post in which they were deemed incompetent would normally be a matter for employers. It argued that would-be employers should be required to check that potential employees are registered. The ATL observed that removal from a register would introduce an additional form of “barring” from the profession, and pointed out that failure in a certain post can be highly contextual, and not in itself a reason to lose the licence to teach. Moreover, the ATL questioned whether a fair and consistent assessment process for removal from the register could be established and applied nationally.<sup>25</sup> The Local Government Association (LGA) also stressed that there is an important distinction between being removed from a particular post and being removed from the register which allows one to practice one’s profession. The LGA said that there may be a case for teachers who are persistently incompetent, despite being given time and support to improve, to be removed, perhaps temporarily, from the register. However, LGA thought that in such a complex area there would need to be a clear demarcation of the respective roles of the employer and of the GTC. In particular, it said, the GTC process must not become a means of appeal against a decision to terminate employment on the basis of incompetence.<sup>26</sup>

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<sup>24</sup> e.g. responses to the Consultation Document from the ATL, NAHT, NASUWT and the Response of the National Union of Teachers to the DfEE and Welsh Office’s Proposals for a General Teaching Council, 12 November 1997

<sup>25</sup> ATL response to the Consultation Document

<sup>26</sup> LGA response to the Consultation Document

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### *Appraisal*

The White Paper set out the Government's intention to review the present appraisal arrangements for teachers and head teachers. The Consultation Paper raised whether there may be a role for the GTC in any new arrangements. There was support for the GTC having an advisory role on the development of appraisal policy and processes.<sup>27</sup> NASUWT argued that since appraisal is a matter which relates to conditions of service, and it is generally agreed that the GTC should not enter the area of pay and conditions, then the GTC should have no role in appraisal. However, in common with other teachers' unions, NASUWT saw the GTC playing a vital role in setting out advice on professional development.<sup>28</sup> The NUT recognised that a GTC may wish to express views on any appraisal arrangements but said that the GTC could not be involved in the implementation of any model opposed by the profession.

### *The professional framework for teachers*

The Teacher Training Agency (TTA) has begun to develop some elements of a framework of qualifications and standards for the profession (e.g. the new National Professional Qualification for Headship, standards for expert teachers, special educational needs co-ordinators, and subject leaders). The Consultation Paper stated that the GTC would clearly be able to offer an expert perspective on the professional needs and career development of teachers, working in partnership with the TTA, and observed that there may be areas where it would be appropriate for the GTC to take the lead in advising the Secretary of State.

General support was expressed for the GTC as an independent body to take a lead role in providing advice on the professional development of teachers. Some commentators wished to see the GTC take over responsibility for the development of a framework of professional standards.<sup>29</sup> For example, the ATL argued in its response that teachers will expect a GTC to take an expert perspective on the professional needs and career development of teachers, independently of the TTA, and that they will expect the Secretary of State to recognise the GTC as the leading voice of the teaching profession. It stated that the GTC should take responsibility for the development of a framework of professional standards; for advice on professional needs and career development; and for advice on what constitutes the training needs for "investment" in the profession. The GTC (England and Wales) said that continuing professional development should be in the control of the profession and that the GTC should set criteria for standards, structure and approval of courses. The LGA emphasised that one of the core functions of other professional bodies is the development of the professional framework, and it argued that this responsibility should belong to the GTC.

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<sup>27</sup> e.g. responses from ATL, GTC (England and Wales), HMC, ISJC, LGA, NGC, NAHT, SHA.

<sup>28</sup> NASUWT response to the Consultation Document

<sup>29</sup> e.g. see responses from ATL, GTC (England and Wales), Institute of Education University of London, and LGA.

*Raising standards in schools*

The creation of the GTC is seen as crucial in raising the morale and status of teachers, though some have warned that it will not solve the most important problems facing the profession.<sup>30</sup> The Consultation Paper saw a possible role for the GTC in working with the Department's Standards and Effectiveness Unit in spreading best practice and celebrating successful teaching; in contributing to the literacy and numeracy strategies; and in establishing a clear focus on good leadership in schools. Some commentators expressed the hope that such a role would not be limited to existing strategies promoted by the Standards and Effectiveness Unit. For example, the NAHT wish to see the GTC contributing to debate on the National Curriculum and on topics such as assessment, appraisal of teachers and inspection of schools.<sup>31</sup> The NUT felt that the GTC should be both "disinterested and critical (in the true sense of the words) of government initiatives" and should not be expected to support every government initiative.

The DfEE's brief summary of the responses to the Consultation Paper noted:

"There was strong support for the GTC taking the lead in setting standards for the profession by developing a framework for professional conduct and performance management. There was also support for a GTC role in continuing professional development, although there was some disagreement about the respective responsibilities of the Teacher Training Agency (TTA) and the GTC in this area."

*2. Regulating the profession*

The Consultation Document stated that a clear task for the GTC should be to advise the Secretary of State on ensuring the quality and standards of everyone in the profession.

At present, to be employed in a maintained school as a teacher an applicant must normally have gained Qualified Teacher Status (QTS). The Secretary of State awards QTS following confirmation of the successful completion of training.

*GTC Registration*

The Consultation Document said that there is a case for all teachers to be expected to register with the GTC before they enter teaching, and that this registration role might cover teachers

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<sup>30</sup> "Teaching Council model looks feeble", *TES*, 1 August 97, p12 (by Nigel de Gruchy, general secretary of NASUWT).

<sup>31</sup> NAHT response to the Consultation Document

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qualified in other countries. The Consultation Paper asked for views on the role of the GTC in advising on the standards of entry to the profession, in particular whether all teachers should be required to be registered with the GTC.

It was generally agreed that all those entering teaching should be required to register with the GTC. In a briefing for Parliament the GTC (England and Wales) set out its views on who should be included in the register of teachers, and the stages which should lead to registration.<sup>32</sup> In its response to the Consultation Document, GTC (England and Wales) said that the GTC should be responsible for recommending and publishing criteria for the registration of those qualified outside England and Wales, and also for those whose registration had lapsed.

The schools in the membership of the Independent Schools' Joint Council (ISJC) recognise that a GTC should expect professional qualification as a requirement for full registration, but would want some flexibility over entry to the profession.<sup>33</sup>

The DfEE summary of responses to the Consultation Paper noted:

"There was general support for the proposal that teachers in the maintained schools sector should register with the GTC and pay a registration fee. There was some disagreement about whether the requirement for registration should extend to the independent, nursery, and further and higher education sectors and, if so, whether qualified teachers only should be eligible for registration."

### *Induction*

The White Paper set out the Government's intention to introduce an induction year for newly qualified teachers, and the Consultation Document asked for views on whether the GTC might have a role in these arrangements. As the Consultation Paper noted the GTC for Scotland has a major role in probation arrangements north of the boarder.

There was general support for the GTC to play an advisory role on the new induction arrangements. ATL argued that in the longer term the GTC should replace the Teacher Training Agency (TTA) role in this matter. The NUT said that teacher education should be seen as a continuum with induction as a key element within it, and that, as with other parts of that continuum, the GTC should be the principle source of advice on teacher education to the Secretary of State.

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<sup>32</sup> GTC: *Who will be included in the Register for Teachers*, Briefings for Parliament No. 2, GTC (England and Wales), July 1997.

<sup>33</sup> ISJC response to the Consultation Document

*Barring from the profession*

The Secretary of State has powers to bar people from working in schools, in further education establishments, and for LEAs, whether as teachers or in any other capacity that involves regular contact with children or young people up to 18 years of age. Alternatively, specific restriction on a person's employment in those areas may be imposed. A bar or restriction can be imposed for misconduct, on medical grounds, or -for teachers-on educational grounds, although the latter power has rarely been invoked. Those convicted of sexual offences against children are automatically barred. The names of those barred or subject to restrictions are held on "List 99" which is kept by the DfEE. DfE(E) Circular 11/95 provides guidance on the provisions.<sup>34</sup>

The Consultation Paper invited views on the role of the GTC in barring from the profession and the practical arrangements and safeguards that would be needed in any new system. It raised the possibility of the GTC playing an advisory role-considering cases and making recommendations to the Secretary of State. The Consultation Document stressed that the present arrangements for barring automatically those convicted of sexual offences against children would remain, and that a barred teacher would be removed from any GTC register of teachers.

GTC (England and Wales) stated in its response that the criteria for debarment, for appeal and reinstatement should be determined by the GTC and should be made explicit. It stressed that the decision whether to bar a teacher should be made by the GTC, not by the Secretary of State, and envisaged a transitional period of dual working between the GTC and Secretary of State. Some of the teachers' unions stressed in their individual responses that decisions on barring should be a matter for the GTC, rather than the GTC advising the Secretary of State.<sup>35</sup>

The LGA pointed out that if the GTC is to assume responsibility for the registration of teachers then it must be able to bar people from the profession. However, it added that since list 99 has a wider coverage than that intended for the GTC, at least in the first instance, then the list should remain with the DfEE, with the GTC adding the names of its former members when necessary.<sup>36</sup>

The DfEE summary of the responses to the Consultation Paper noted:

"Virtually all respondents considered that the GTC should have a role in barring teachers from the profession. They felt that the GTC must have the power to remove those teachers from its register who

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<sup>34</sup> *Misconduct of Teachers and Workers with Children and Young Persons*, DfE(E) Circular 11/95, October 1995.

<sup>35</sup> e.g. see the responses from ATL, NAHT.

<sup>36</sup> LGA response to the Consultation Document

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had failed to maintain the standards required, but that the procedures must be open and transparent. A few respondents thought that the DfEE should continue to perform the barring function to ensure that cohesion and rigour is maintained."

### *Medical fitness to teach*

DfE(E) Circular 13/93 provides guidance on the conditions relating to medical fitness to teach.<sup>37</sup> The Consultation Paper sought views on whether the GTC should have a role in advising the DfEE on standards of medical fitness to teach. General support was given to the GTC playing a role in this area, and commentators stressed that medical opinion and the provisions of the Disability Discrimination Act would be relevant. GTC (England and Wales) argued that there should be a GTC sub committee on Medical Fitness to Teach that would devise appropriate rules and procedures and have access to the necessary professional advice.

### *3. Teacher supply and recruitment*

At present the Secretary of State sets targets for students to enter initial teacher training each year, and for the overall funding. The TTA is responsible for allocating student numbers and funding to providers of initial teacher training, and for accrediting providers. The TTA also has a lead responsibility for promoting teaching as a career. The Consultation Paper asked for views on the role of the GTC in teacher supply and promoting teaching as a career.

The issues raised in response included:

- The powers of the GTC to request data from the DfEE, initiate research, and to provide advice to the Secretary of State;<sup>38</sup>
- the need for the GTC to play a leading or prominent role promoting teaching as a profession;<sup>39</sup>
- whether the GTC, together with other agencies, should provide teachers with information on teacher vacancies.<sup>40</sup>

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<sup>37</sup> *Physical and Mental Fitness to Teach of Teachers and of Entrants to Teacher Training*, DfE(E) Circular 13/93, November 1993.

<sup>38</sup> e.g. see responses to the Consultation Document from GTC (England and Wales), ISJC, LGA, NASUWT, NUT, SHA.

<sup>39</sup> e.g. see responses to the Consultation Document from LGA, HMC, NAHT, NUT, SHA.

<sup>40</sup> NGC response to the Consultation Document

The DfEE summary of responses to the Consultation Paper noted:

"The majority of respondents saw a significant role for the GTC in promoting teaching as a profession and celebrating the achievements of teachers. There were differing views about whether the GTC should take on the TTA's functions in teacher supply and recruitment, or whether they should work together with the GTC taking an advisory role. Many pressed for more information about the DfEE's teacher supply model to be published. This was done on 28 November."

#### *4. Composition and membership*

The Consultation Paper stressed that the GTC will be a teaching council rather than a teachers' council. It envisaged that the GTC would include serving teachers and head teachers and also reflect the interests of: parents, school governors, teacher trainers, LEAs and the churches, other educational professionals, including non-teaching staff and those concerned with special educational needs, business and industry, and the wider community. The Consultation Document said that it would be right for serving teachers and head teachers to form a significant part of the membership of the Council, but stressed that the Government consider that it would be wrong for teacher representatives simply to be nominated by their unions or associations, although it recognised that there might be a case for a limited number of nominations by teacher unions or associations. It went on to outline possible approaches to membership:

- a number of serving heads and teachers elected through national or regional ballots of the profession (possibly covering different phases of education-primary and secondary, and special education);
- nominations by other interest groups;
- appointments by the Secretary of State, following an open public appointments procedure in accordance with Nolan principles, covering the full range of interests but weighted towards teachers and head teachers.

It stated that some or all of these approaches could be combined. The Consultation Paper also invited comment on how the chair of the GTC should be selected. It said that the chair of the Council could be appointed following open public appointment procedures or be elected by Council members.

There was general agreement that serving teachers and heads should form the majority membership of the GTC. The NUT said that serving teachers would need to form a substantial majority of the membership of the GTC for the GTC to achieve authority and

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credibility among teachers. The Secondary Heads Association (SHA) observed that the membership of the Scottish GTC (30 teachers and 19 others) is regarded as a representative and effective group. There was support among the teachers unions and others for a reasonable spread of interests to be represented.

NASUWT said that while it would not wish to prescribe how other interests should ensure their representatives are selected, it believed that teachers should be nominated through their various associations. The National Governors' Council (NGC) considered it essential that teachers elect their own representatives rather than have union nominees. GTC (England and Wales) said in its response to the Consultation Document that initially members should be elected by the different interest groups. Some commentators stressed that GTC members, whether elected or selected, should be representatives not delegates.<sup>41</sup> The NUT felt that there should be elected and nominated teacher members, but that the exact balance needed further discussion. A principal point made by the ATL in its response was that any appointments process should be undertaken by a panel, representing all the interest groups, recommended by the House of Commons Education and Employment Committee from nominations presented to it.

The GTC (England and Wales) produced a model of representation for a statutory GTC that is set out in the first of a series of Briefings for Parliament.<sup>42</sup> It recommended a substantial majority of teacher members.

There was not a consensus of opinion on how the chair of the GTC should be selected. Some thought that the chair could be selected by the Council membership; others thought that initially the chair should be appointed by the Secretary of State, and subsequently elected by the members of the Council. GTC (England and Wales) in its response to the Consultation Document favoured the Council electing its own chair, and the chief executive and staff being appointed by the Council, according to Nolan principles.

The DfEE summary of the responses noted:

"There was a wide range of views about the composition of the Council. The majority view was that a broad range of interests should be represented on the Council with serving teachers forming a majority of the membership. There was no clear view about how members should be appointed to the Council. Some felt that teaching unions should be able to nominate members, whilst others did not. There was some support for a combination of elections and nominations to appoint members."

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<sup>41</sup> e.g. see responses to the Consultation Document from GTC (England and Wales), Institute for Education London University, ISJC, LGA.

<sup>42</sup> *GTC: What will be the composition of the GTC for England and Wales*, Briefings for Parliament No. 1, GTC (England and Wales), July 1997.

### *Structure*

The Consultation Paper said that the Government was not inclined to prescribe a particular committee structure in law.

### *Funding*

The Consultation Document made it clear that the Government intends to meet the initial cost of setting up the Council but not to provide permanent funding. (The GTC for Scotland raises its funding through charging an annual registration fee.) Views were sought on the right basis for funding the GTC. The Government's intention to cover initial costs was generally welcomed, as was the suggestion that thereafter the Council should be self-funding.

### *5. Links with other national bodies*

The Consultation Paper made it clear that the GTC will be independent of central government. It said that the Government would expect the Council "to work alongside and in partnership with a range of other major national bodies." The School Teachers' Review Body will continue to advise the Government on teachers' pay and conditions. The TTA's role in "establishing high standards for the profession" and "directing funding public funding to institutions" will continue. Views were sought on the status of the GTC and how it should relate to other bodies.

There was general support for the GTC working in partnership with other bodies, but there was concern that this should be a partnership of equals. Many commentators raised the respective roles of the GTC and TTA. Some commentators argued that in the area of professional standards the GTC should become the lead body.

### *6. Coverage*

The Consultation Paper envisaged the GTC's responsibilities covering all teachers in maintained schools, including those employed as teachers in nursery classes. It asked for views on whether teachers in other nursery settings should also fall within the remit of the GTC, and whether the GTC's remit should extend to teachers in the independent sector. Views were also sought on a possible role for the GTC in relation to teachers in further and higher education.

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There was wide support for all teachers in nursery settings to be included. There was also general support for the GTC's remit to cover teachers within the independent sector, although there were different opinions about what qualifications such teachers should hold. The Independent Schools Joint Council (ISJC) wished to see independent school teachers being allowed, rather than compelled, to gain registration with the GTC. In principle there was support for all teachers from nursery to higher education to come within the GTC, but some commentators stressed that teachers in further and higher education should be separately consulted on this issue.

### C. The Welsh Office Consultation Paper on the General Teaching Council (August 1997)

In the White Paper, *Building Excellent Schools Together*, the Government committed itself to establishing a GTC with specific provision for teachers in Wales to speak for, and raise standards in, the profession. It announced in the White Paper that a separate Consultation Document would be issued on the GTC's functions and composition, and that views would be invited on at least two structural options:<sup>43</sup>

- a GTC for Wales and England combined, but with a distinct, statutorily recognised decision and policy making component for Wales;
- a separate GTC for Wales, with an obligation to liaise, and co-ordinate its activities, with the GTC in England.

A Welsh Office Consultation Paper was published in August 1997.<sup>44</sup> It stressed the importance of taking into account the cross-boarder flows between England and Wales, both of teachers and pupils, when considering the institutional arrangements. However, it said that arrangements for both countries could be established on a basis that is complementary without being identical, so as to meet the distinctive circumstances of each. The Consultation Paper said that although Ministers had an open mind as to whether a separate GTC would make most sense in the interests of the profession, they considered that the balance of argument pointed in favour of establishing a separate GTC for Wales. The option, it said, seemed simpler and more appropriate in relation to administration and accountability.

The Consultation Paper made clear that there would be no change in the arrangements in Wales for funding, quality assurance or inspection of initial teacher training. Funding for initial teacher training would continue to be channelled through the HEFCW. The Office of

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<sup>43</sup> Cm 3701, July 1997, paragraph 21.

<sup>44</sup> *Teaching: High Status, High Standards: General Teaching Council, A Welsh Office Consultation Paper*, August 1997.

Her Majesty's Chief Inspector (OHMCI) would remain responsible for inspecting institutions providing initial teacher training. The Consultation Paper stated that in so far as the Secretary of State were to possess powers of decision in respect to a GTC's functions under either structural option, then these would pass to the Welsh Assembly at its inception. Views were sought on whether there should be a separate GTC for Wales with an obligation to liaise, and co-ordinate its activities with the GTC in England. The Consultation Paper invited comment on the functions and composition of a GTC, and covered the same issues raised in the DfEE Consultation Document (see above for an outline of the main issues and comments).

NASUWT Cymru said in its response that there would be no benefit in establishing a separate GTC for Wales. It stressed that since teachers' pay and conditions are determined on a national basis in England and Wales, a separate GTC for Wales would be inappropriate. In respect of the first structural option, NASUWT Cymru welcomed the proposal to establish a distinct statutorily recognised policy making component for Wales.<sup>45</sup> The NUT in its response to the proposals said that there were advantages in retaining a unified and co-ordinated approach to the responsibilities of a GTC while taking into account the training implications of the separate National Curriculum in Wales. It believed that teachers in England and Wales needed to be consulted before decisions could be taken on the organisational arrangements arising from the proposals. It also made the point that the other professional bodies referred to in the Consultation Paper do not have separate bodies for England and Wales, and stressed that if a single GTC were established there would need to be regular reviews of the structure to examine whether it was effective for the needs of both England and Wales.<sup>46</sup>

## **D. The Bill, Amendments and Discussion in the Lords**

### **Part 1, Chapter 1, Clauses 1-14 and Schedule 1**

**Clauses 1-13 and Schedule 1** of the Bill set out the statutory framework for the establishment of a General Teaching Council for England and a General Teaching Council for Wales.

**Clause 14** requires the General Teaching Council for Scotland to have regard to the interests of disabled persons in exercising its functions.

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<sup>45</sup> NASUWT Cymru response to the Welsh Office Consultation Paper- Teaching: High Status, High Standards: General Teaching Council, October 1997.

<sup>46</sup> Response of the National Union of Teachers to the DfEE and Welsh Office's: Proposals for a General Teaching Council, 12 November 1997.

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The Bill as originally presented (and until it was amended at Third Reading) sought to give the GTC an advisory rather than a regulatory role. Provision was made for the majority of Council members to be teachers. Other detailed provision relating to the composition and constitution of the Council, the arrangements for the registration of teachers, and the arrangements for employers to deduct the registration fee from teachers' salaries, remain to be determined through regulations. The Bill also makes provision for any additional functions to be conferred on the Council by order, and for a separate GTC for Wales to be established by order.

During the debates in the House of Lords general support across the House was expressed for the principle of the GTC but a repeated criticism of the Bill was that much of the detail about its operation would only be known when the regulations are seen. During the Second Reading debate Baroness Young for the Conservatives said that she welcomed the GTC in principle but thought that it should be given more than an advisory role.<sup>47</sup>

Speaking for the Liberal Democrats during the Second Reading debate, Lord Tope said that because the Bill was a mass of enabling legislation it was difficult to give an unqualified welcome to any of its provisions without a better understanding of the Government's intentions. He said that Liberal Democrats believed that the GTC should be responsible for its own composition, have powers of disbarment, and a much wider role than provided for in the Bill.<sup>48</sup>

Much of the debate in the Lords focused on the Secretary of State's powers, the composition of the GTC and the proposed role for the GTC. Responding, Ministers introduced several amendments relating to the composition of the Council, and amendments designed to strengthen the proposed advisory role of the Council. A DfEE Note on the main issues that will be covered by the regulations was deposited in the House of Lords Library. This states that a consultation document will be issued in March 1998 inviting views on matters relating to the composition and constitution of the GTC. (This document has yet to be published.) A separate technical consultation exercise on the operational aspects of registration with the GTC is planned for later in 1998, before the regulations on registration are drafted.<sup>49</sup>

Throughout the debates Ministers emphasised that the Government sees the GTC's role evolving over time. However, at Third Reading Peers amended the Bill, against the wishes of the Government, to give the Council responsibility for determining standards of teaching, standards of conduct of teachers and medical fitness to teach; and provision was made for the Council to be responsible for deciding matters relating to qualified teacher status and the prohibition or restriction of the employment of teachers (see clause 2 below).

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<sup>47</sup> HL Deb 11 December 1997 cc 259-61

<sup>48</sup> HL Deb 11 December 1997 cc 264-6

<sup>49</sup> DfEE Note, Teacher and Higher Education Bill: The General Teaching Councils, January 1998. House of Commons Library location: Deposited Paper 5829 (3s)

## Clause 1 The General Teaching Council for England

**Clause 1** establishes the General Teaching Council for England (known as the Council) and, with **Schedule 1**, makes provision for its powers and proceedings. Government amendments to Clause 1 sought to clarify the name of the Council to reflect its territorial responsibilities (clause 1(1) (10)). The amendments were made in response to concerns about possible confusion with the GTC for Scotland expressed by Baroness Carnegy of Lour at the Report Stage.<sup>50</sup>

Clause 1 (2) sets out that the principal aims of the Council are:

- a) to contribute to improving the standards of teaching and the quality of learning; and
- b) to maintain and improve standards of professional conduct amongst teachers,

in the interests of the public.

This provision was introduced as a Government amendment to the Bill at Report Stage in response to attempts by Baroness Young and Lord Tope at Committee Stage to place on the face of the Bill a statement of the aims of the Council.<sup>51</sup>

Clause 1 (3) provides that the Council exercises its functions in relation to England and Wales, until such time as a separate GTC for Wales is established by order, after which the Council will exercise its functions in relation to England only.

Clause 1 (4) provides that in exercising their functions the Council shall have regard to the requirements of persons who are disabled for the purposes of the *Disability Discrimination Act 1995*. This requirement was introduced as a Government amendment at Report Stage in response to proposals made by Lord Jenkin of Roding during the debate in Committee.<sup>52</sup>

Clause 1 (5) gives the Secretary of State the power to make regulations about how the Council is to be constituted. This power and the composition of the Council were extensively debated. Lord Walton of Detchant, Lord Peston and Lord Glenamara raised the issue of whether the Privy Council rather than the Secretary of State should be responsible for setting up the GTC, but Baroness Blackstone rejected the idea.<sup>53</sup>

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<sup>50</sup> HL Deb 10 March 1998 cc 107-9 and c117; HL Deb 23 February 1998 cc 437-8

<sup>51</sup> HL Deb 20 January 1998 c 1379-1389; HL Deb 23 February 1998 cc 438-453

<sup>52</sup> HL Deb, 20 January 1998 c 1414; HL Deb 23.2.98 cc 439 and c 453

<sup>53</sup> HL Deb 20 January 1998 cc 1390-1398

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During the Report Stage debate, Baroness Blackstone said that the Government envisages that membership of the Council will be established through a combination of direct teacher elections, nominations from third parties (including major educational interests) and appointments by the Secretary of State.<sup>54</sup> The planned consultation on the specific matters that the regulations are likely to cover will include the method of selection of members.

In response to concern expressed about the Secretary of State's regulation-making powers governing the composition of the Council, and the provision in the original Bill for such regulations to be subject to the negative procedure, the Government amended the Bill at Report Stage to require that the regulations on the composition of the Council or of the GTC for Wales will be subject to the approval of each House of Parliament on the first occasion that they are made (clause 28 (3)). Once the Council or the GTC for Wales have been established the Secretary of State must, before making regulations under Chapter 1 of Part 1 of the Bill, consult the Council to which the regulations relate (clause 28 (9)).<sup>55</sup>

Clause 1(6) requires the Secretary of State when making regulations under clause 1(5) to have regard to the desirability of the Council's membership reflecting the interests of teachers, employers of teachers, providers of teacher training, persons concerned with the teaching of those with special educational needs, commerce and industry, the general public and any other interests which the Secretary of State considers would enable the Council to carry out their functions more effectively. The inclusion of persons concerned with special educational needs teaching and commerce and industry was the result of a Government amendment at Report Stage following strong support for these interests to be included when the clause was debated during Committee Stage.<sup>56</sup> Peers also discussed the need for the Council to reflect the interests of parents and pupils and religious denominations.

A major issue in the debate was teacher representation on the Council. There was strong support for serving teachers to form a majority of the membership. In response, Baroness Blackstone proposed an amendment at Report Stage to require that at least half the membership of the Council should be serving and qualified teachers. However, after further reflection and debate the Baroness accepted that serving, qualified teachers should form a majority on the Council and undertook to introduce an amendment to this effect on Third Reading.<sup>57</sup>

Clause 1(7) and (8), inserted by Government amendment at Third Reading, provide for the regulations to be framed in such a way as to secure that a majority of the members of the Council are practising or recently practising qualified teachers. In response to comments made in the earlier debates about the possibility of retired teachers serving on the Council,

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<sup>54</sup> HL Deb 26 February 1998 cc 800-1

<sup>55</sup> HL Deb 26 February 1998 c800; HL Deb 2 March 1998 cc 1084-5

<sup>56</sup> HL Deb, 26 February 1998 c 801 and 811

<sup>57</sup> HL Deb 26 February 1998 c 800-811

Baroness Blackstone said that the regulations could provide for recently retired teachers to be eligible for membership of the Council, and that views on this would be sought during the consultation on the regulations. She also stressed that the consultation on the regulations would include how the interests of the religious denominations and parents may be represented on the Council. She said that the Government is considering whether it is possible to make provision on the face of the Bill for the representation of religious interests, and she gave a commitment that an amendment would be introduced in the Commons to ensure that parents will be represented on the Council.<sup>58</sup>

The DfEE Note stated that the forthcoming consultations on the details of the regulations will include the size of the council, the balance of interests, the means by which Council members are to be selected, appropriate provisions in relation to Welsh representation until there is a separate GTC for Wales, arrangements for determining the chairmanship of the Council and the case for requiring, by regulation, committees.<sup>59</sup>

Clause 1 (9) gives effect to Schedule 1.

Clause 1 (10) provides that the Council will, until such time as the General Teaching Council for Wales is established under clause 7, be known as the General Teaching Council for England and Wales and will exercise its functions in relation to both England and Wales.

**Schedule 1** makes provision for the status of the Council and for miscellaneous matters related to its powers and proceedings. These provisions include the Council's powers, including the power to acquire and dispose of land, enter into contracts, make investments etc.; the Secretary of State's power to make regulations for the appointment or election of the chairman and members of the Council; the payment of salaries, allowances and pensions; the appointment of the chief officer and other employees and their pay and conditions; finance; committees; delegation of functions; proceedings; accounts and annual reports. Paragraph 3, which relates to the regulations that make provision for the appointment or election of members of the Council and the chairman, was amended by Government amendment at Report Stage to provide that regulations made after the Council has been established may authorise the Council to make rules with respect to such matters.<sup>60</sup> Under paragraph 5 (5) of Schedule 1 the Secretary of State shall appoint the first Chief Officer.

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<sup>58</sup> HL Deb 10 March 1998 cc 113-7

<sup>59</sup> DfEE Note, Teaching and Higher Education Bill, The General Teaching Councils, January 1998, paragraph 8, Deposited Paper 5829 (3s)

<sup>60</sup> HL Deb 26 February 1998 cc 803 and 811

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### Clauses 2-6 Functions of the General Teaching Council for England

**Clause 2** confers functions on the Council, including the determination of standards of teaching, standards of conduct for teachers and medical fitness to teach. The Council may be required to seek advice from the Secretary of State or other persons or bodies on these matters. Provision is made for the Council to determine or make directions relating to standards for qualified teacher status and to the prohibition or restriction of employment of teachers. These provisions were inserted into the Bill at Third Reading and were opposed by the Government (see below).

Clause 2 of the Bill as originally drafted conferred on the Council the functions of advising the Secretary of State and other persons or bodies as designated on a range of specified matters related to teaching. Those matters were set out in clause 2 (2) before it was amended at Third Reading. They were standards of teaching, standards of conduct for teachers, the role of the teaching profession, the training, career development and performance management of teachers, recruitment to the teaching profession and medical fitness to teach. Provision was also made to empower the Secretary of State to require the Council to advise him on these matters and on any matter related to teaching. Under the Bill as it stood before Third Reading, the Secretary of State was empowered to require the Council to advise him on whether he should, in the case of any individual teacher, prohibit or restrict that teacher's continued or further employment. (The Secretary of State exercises the power on prohibition or restriction on employment of teachers under section 218(6) of the Education Reform Act 1988.)

The debates on clause 2 focused on whether the Council should have the advisory role proposed by the Government or a wider, regulatory role. The central issue was whether the Council, rather than the Secretary of State should have full powers to bar a teacher from the profession or restrict employment. In Committee and at Report Stage, Baroness Young attempted unsuccessfully to make the Council responsible for standards of teaching, standards of conduct of teachers, and the medical fitness to teach.<sup>61</sup> However, the attempt was successful at Third Reading. Baroness Young moved an amendment with support from Lord Tope, Lord Glenamara and Cross-Bench Peers to replace the proposed advisory functions for the Council with responsibility for determining standards of teaching, standards of conduct of teachers and medical fitness to teach; and provision was made for the Council to be responsible for deciding matters relating to standards for qualified teacher status the prohibition or restriction of the employment of teachers. The amendment was agreed by 137 votes to 112, a Government defeat by 25 votes.<sup>62</sup>

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<sup>61</sup> HL Deb 26 February 1998 cc 811-24

<sup>62</sup> HL Deb 10 March 1998 cc 118-139

Those Peers who supported giving the Council the responsibility for professional standards emphasised that if the Council were not given powers to act, particularly in relation to standards of teaching, conduct and medical fitness it will be seen as little more than a "talking shop", and they suggested that teachers may be reluctant to fund such a body. Comparisons were made with other professional bodies, in particular the General Medical Council and the GTC for Scotland, that have the authority to take action to withdraw registration. However, the Government did not support such proposals, arguing that it would not be appropriate to give the Council such powers during the early stages of its development, and stressed that the issue of child protection made it crucial for the Secretary of State to retain his powers in relation to the prohibition or restriction on employment of teachers. It was pointed out that the Secretary of State's powers extend beyond the teaching profession to cover others who come into regular contact with schoolchildren.<sup>63</sup>

**Clause 3** confers on the Council the function of advising the Secretary of State and other persons or bodies on a range of matters related to teaching. At Report Stage, Lord Whitty gave a commitment that the Government would consider whether the Bill as then drafted gave the Council sufficient latitude in how it would fulfil its advisory role. At Third Reading the Government amended the Bill to provide that the Council may give advice on specified matters as it thinks fit to such bodies as it may determine. However, such advice must be of a general nature (clause 3 (4) and (5)).<sup>64</sup>

**Clause 4** confers on the Council the function of establishing and maintaining a register of teachers. The register must contain the name of every person who is eligible to register and applies. Subsections (3) and (4) set out the eligibility criteria for registration. A person is eligible for registration if he or she is a qualified teacher and has not been barred from the profession, or has not failed to complete an induction period satisfactorily.

The debates on the register concentrated again on the issue of whether the Council should have the responsibility for controlling who should be registered and deregistered.<sup>65</sup> At Report Stage, Earl Baldwin of Bewdley, Baroness Young and Lord Tope attempted unsuccessfully to empower the Council to remove from the register any person who has fallen short of appropriate professional standards. Baroness Blackstone explained the Government's concern about fragmenting the existing child protection arrangements that extend to teachers and others coming into regular contact with school children.<sup>66</sup> The issue was returned to at Third Reading when Earl Baldwin of Bewdley moved an amendment to empower the Council, where it considers a teacher has fallen short of professional standards, to admonish or warn a teacher, attach conditions to a registration, suspend or remove him or her from the register. The intention was to make this provision without prejudice to the Secretary of State's existing powers. The amendment was defeated by 104 votes to 69, a Government

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<sup>63</sup> HL Deb 26 February 1998 cc 824-30; HL Deb 10 March 1998 cc 118-128

<sup>64</sup> HL Deb 10 March 1998 c 139

<sup>65</sup> HL Deb 26 February 1998 cc 830-5

<sup>66</sup> HL Deb 26 February 1998 cc 830-5

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majority of 35. However, earlier Baroness Blackstone undertook on behalf of the Government to consider how the Council may be given a role in considering cases that involve a teacher's professional standing, and how this could be dovetailed with the existing child protection arrangements:<sup>67</sup>

We have recently drawn up new arrangements, which have been agreed by local education authorities, their representatives and the teaching unions, for dealing with matters of competence as to how an individual teacher does his or her job. We need to give those new arrangements time to work. Therefore, I do not believe that, for the time being, it would be sensible for the GTC to be barring a teacher on those kinds of grounds.

However, it is perfectly reasonable for the GTC to bar teachers for some of the other reasons that I gave earlier; namely, where a teacher has been

dishonest or pretended to have qualifications which he or she does not have; or where a teacher has been involved in misconduct in the school, but not misconduct that involves child protection cases. I hope that that is helpful. All I can do is reiterate that we accept in principle what the noble Earl wants to do here, but we would like more time to come up with legally watertight amendments that do not get us into difficulty when implementing the proposals in the Bill.

**Clause 5** provides for regulations to be made relating to the form and manner in which the register of teachers is to be kept and other matters relating to registration. The clause should be read in conjunction with Clause 10 that makes provision for the Secretary of State to make regulations requiring that a teacher in a maintained school or a non-maintained special school be registered with the Council or the General Teaching Council for Wales.

Clause 5 (2) lists a number of the matters that may be covered in regulations relating to registration. They include the form and manner in which applications for registration are to be made, the documentary and other evidence required, the registration of persons who have not applied, the matters to be recorded in the register, the division of the register into separate parts, the restoration and alteration of entries, the transfer of entries between different parts of the register, the charging of fees by the Council, the removal of entries from the register, the issue and form of certificates of registration, and the information from the register that may be made available to the public. Clause 5 (3) enables regulations to be made that would require any prohibition or restriction of employment of teachers to be recorded against the name of a person in the register. Under clause 5 (4) the regulations may authorise the Council to charge teachers fees in respect of the register. The level of fee would require the Secretary of State's approval.

As noted earlier, the Government announced in the DfEE Note on the areas to be covered by the regulations that there will be a technical consultation exercise on the registration arrangements, later in 1998, before the regulations are drafted.

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<sup>67</sup> HL Deb 10 March 1998 cc 140-50

**Clause 6** enables the Secretary of State by order to confer on the Council any additional functions he considers they may appropriately discharge.

### **Clause 7 The General Teaching Council for Wales**

**Clause 7 (1)** allows the Secretary of State to establish by order a corporate body to be known as Cyngor Addysgu Cyffredinol Cymru or the General Teaching Council for Wales, as from such date as may be specified in the order. Its Welsh language name was added by Government amendment at Committee Stage.<sup>68</sup> Clause 7 (2) allows for an order made under subsection (1) to provide for the matters set out in section 1 or Schedule 1 to have effect in relation to the GTC for Wales subject to any modifications set out in the order. Provision is made for the transfer of property and staff (clause 7(3)). An order made under clause 7 (1) must make provision for persons previously registered or applying for registration with the GTC for England and Wales to be treated as registering or applying for registration with the GTC for Wales from a specified date (clause 7 (4)).

The Secretary of State for Wales said in a written answer to a PQ that the Welsh Council could be set up at the same time as the English one or at a later date, and that in deciding when it should be established, the Secretary of State will take account of the emerging constitutional changes affecting the governance of Wales.<sup>69</sup>

During the Third Reading debate Baroness Blackstone pointed out that the national assembly, subject to parliamentary approval, will come into being in May 1999, and that the Government envisage that at that time all powers conferred on the Secretary of State in relation to the GTC for Wales will be transferred to the national assembly. The Baroness continued:<sup>70</sup>

In deciding whether and when to establish a separate GTC for Wales, the Secretary of State or the national assembly will want to take account of current institutional arrangements and the need to ensure that there are no artificial impediments to cross-border flows of teachers developing and any current of emerging differences in Welsh educational and child protection issues. So I cannot give a precise date (*when the GTC for Wales will be established*). In many ways it will be very much up to the national assembly at the time."

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<sup>68</sup> HL Deb 20 January 1998 c 1474

<sup>69</sup> HC Deb 10 December 1997 c 583W

<sup>70</sup> HL Deb 10 March 1998 cc 108-9

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### Clauses 8 and 9 Functions of the General Teaching Council for Wales

**Clause 8** provides for the functions of the GTC for Wales. As from such date as may be specified, section 3 to 6 of the Act will apply to the GTC for Wales as they apply to the GTC in relation to England. Provision is made to allow the Secretary of State to require the GTC for Wales to undertake (or join with other persons or bodies in undertaking) activities designed to promote recruitment to the teaching profession and the continuing professional development of teachers. Such activities may include giving advice, organising conferences and lectures and arranging for the publication of material.

**Clause 9** allows regulations to be made giving the GTC for Wales powers in relation to the awarding of qualified teacher status and the prohibition or restriction on employment of teachers. The DfEE Note on the areas to be covered by the regulation stated that “Further consideration will be given to the structures needed to carry out these functions. But as a minimum the GTC for Wales would have to demonstrate that it had arrangements in place which enabled it to process cases efficiently, openly and in accordance with accepted standards of fairness.”<sup>71</sup>

### Clauses 10-13 Supplementary Provisions

**Clause 10** allows regulations to be made to require teachers employed in schools as defined in section 218 of the *Education Reform Act 1988* (i.e. currently, maintained schools and non-maintained special schools) to be registered with the GTC for England or (after it is established) the GTC for Wales.

In a written answer to a PQ Stephen Byers, the School Standards Minister, said that teachers in independent schools who have Qualified Teacher Status (QTS) may choose to register with the GTC but they will not be required to do so for the purposes of continued employment. Retired or non-practising teachers will be free to choose to register, provided they have QTS, but they will not be required to do so.<sup>72</sup>

**Clause 11** enables the Secretary of State to make regulations requiring employers to deduct the registration fee from teachers’ salaries and pass it to the Council or the GTC for Wales. (The provision is intended to follow the arrangements that apply to the GTC for Scotland. This was explained in the DfEE Note referred to above.)

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<sup>71</sup> DfEE Note, Teaching and Higher Education Bill, The General Teaching Councils, January 1998, paragraph 14, Library Deposited Paper 5829 (3s)

<sup>72</sup> HC Deb 10 December 1997 c 552W

At Report Stage the Government amended the clause to allow the regulations to make provision for administration charges to be deducted from fees remitted to the Council. This would enable employers to retain a proportion of the fees to cover the administrative costs incurred in fee collection. Baroness Blackstone said that she expected the level of registration fee to be set by the GTC, with the approval of the Secretary of State, to be similar to the £20 per year levied by the GTC for Scotland. Employers' administration costs are likely to take up between 2% and 4% of the fees collected.<sup>73</sup> The Government intends to consult on the employers to be covered by the regulations as part of its technical consultation on the registration arrangements. The GTC will be expected to make its own separate arrangements for those teachers who are not required to register but may choose to do so.

**Clause 12** provides for the Secretary of State to consult either or both of the Council or General Teaching Council for Wales before making provision about the standards to be achieved by a person who wishes to be a qualified teacher. This provision was added to the Bill by Government amendment at Third Reading.<sup>74</sup>

**Clause 13** provides for information to be supplied to the GTC or GTC for Wales for the purposes of establishing and maintaining a register of teachers. It also provides for the Secretary of State to have access to such information as he may request for the purposes of statistical analysis or for any other of his function relating to teaching, for the General Teaching Councils to supply information to such other persons or bodies as may be prescribed, and for information to be passed between the General Teaching Councils.

#### **Clause 14 Duty for the General Teaching Council for Scotland**

**Clause 14** amends the *Teaching Council (Scotland) Act 1965* to require the GTC for Scotland to take into account the needs of disabled people in exercising its functions. (It introduces a new provision similar to that made for the GTCs in England and Wales (clause 1 (4)). The clause was introduced as a Government amendment at Third Reading. The issue had been raised on Report by Lady Darcy de Knayth. During the Third Reading debate, Lady Darcy asked whether the Government would also consider amending the Bill to make specific provision for the membership of the GTC for Scotland to reflect the interests of persons concerned with the teaching of persons with special educational needs. Speaking for the Government, Lord Sewel said that the Government would consider whether this would be appropriate, after discussion with the GTC for Scotland.<sup>75</sup>

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<sup>73</sup> HL Deb 26 February 1998 cc 835-7

<sup>74</sup> HL Deb 10 March 1998 c 151

<sup>75</sup> HL Deb 10 March 1998 cc 152-3 and c 190

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### **Clauses 28-32 General**

Clauses 28-32 contain general provisions relating to the Bill. Clause 28 defines the nature of orders and regulations to be made under the Act. Clause 28(2) provides that orders under section 6 or 7, or any regulations made under the Act (subject to the other provisions in clause 28) shall be subject to the negative resolution procedure. The other provisions in clause 28 include clause 28(3) which provides that the first regulations made under section 1(5) relating to the composition of the Council or the General Teaching Council for Wales (whether made alone or with other regulations) shall be subject to the affirmative procedure. Clause 28(9) provides that once the Council or the GTC for Wales have been established the Secretary of State must, before making regulations under Chapter 1 of Part 1 of the Bill, consult the Council to which the regulations relate.

### **Financial Effects of Clauses 1 to 14 and Schedule 1**

The Explanatory and Financial Memorandum to the Bill states:

"The initial costs will be met from central government expenditure. They will include the initial capital costs and possibly some provision for running costs in the first years of operation.

Thereafter, the Councils' core activities will be financed by subscriptions from teachers. There may, however, be continuing Government funding for specific activities which will be payable as grant or possibly by contract. The Councils may also, in due course, attract other private income besides subscription income to finance activities for the benefit of teachers.

Clause 14.....will not require additional funding"

### **The Effects on Public Service Manpower**

The Explanatory and Financial Memorandum to the Bill states:

"The General Teaching Council and the General Teaching Council for Wales will be non-departmental public bodies. The two Councils together are likely to employ no more than 100 staff and considerably fewer in the initial years. It is possible that some of these costs may be offset by small reductions in the staffing of the Department for Education and Employment and the Welsh Office Education Department."

## II Head Teachers

### A. Background

The contribution of the head teacher to the effectiveness of a school has been the subject of increasing scrutiny over the last ten years. The implementation of local management of schools<sup>76</sup> from 1989 onwards has required head teachers to possess managerial competency in dealing with financial and staffing issues as well as the routine demands of pupils and parents. At the same time the focus on school effectiveness and school improvement has created a heightened expectation of a head teacher's educational leadership. The most recent report of Her Majesty's Chief Inspector of Schools<sup>77</sup> judged that one in six primary and one in ten secondary head teachers were not providing proper educational leadership.

Several EU countries provide specific initial training for the post of head teacher: France, Portugal, Finland and Spain.<sup>78</sup> Ofsted reported on the French secondary training in 1995 and concluded that there were three features worthy of note: the value of national guidelines for training; the strengths of local training programmes organised by experienced heads; and the successful provision of a school-based support system for trainee headteachers.<sup>79</sup>

In 1994 the Government announced a voucher scheme for training newly appointed headteachers in their first post.<sup>80</sup> In 1995 Headlamp was launched. It is run by the Teacher Training Agency (TTA) and meets training costs of up to £2,500. Training must address agreed tasks and abilities and is carried out by providers registered by the TTA and open to inspection by Ofsted. Later in 1995, Gillian Shephard, then Education and Employment Secretary, announced plans to establish the National Professional Qualification for Headteachers (NPQH) to underpin the existing Headlamp scheme and to extend it to make relevant training available for deputy heads who were aiming at headship.<sup>81</sup> The TTA was to undertake consultation and produce pilot schemes as a matter of urgency.

A consultation paper on the NPQH was published by the TTA in February 1996.<sup>82</sup> It sought views on the key principles; national standards; training, development, assessment and qualification; and funding and eligibility. This followed earlier consultation in the autumn of 1995.

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<sup>76</sup> Introduced by the *Education Reform Act 1988*

<sup>77</sup> Standards and Quality in Education 1996/97, Ofsted, HC 453 of 1997/98, p.14

<sup>78</sup> School Heads in European Union, Eurydice, 1996, p.8

<sup>79</sup> Head teachers training in France, Ofsted, 1995, para.27

<sup>80</sup> Competitiveness: Helping Business to Win, Cm 2563, para. 4.42

<sup>81</sup> New National Professional Qualification for Headteachers – Shephard, DfEE PN 11.10.95

<sup>82</sup> Library location: Deposit 2814(3s)

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Trials of the qualification took place in early 1997 at twenty regional and two Welsh Training and Development and Assessment Centres.<sup>83</sup> A report on the trials<sup>84</sup> detailed the key outcomes; successes; areas requiring further development; and action taken by the TTA and the Centres for the first training starting in November 1997. Key issues identified by TTA were:

- A: **consistency**: the need for additional TTA requirements to secure greater consistency of practice in training and assessment within and between NPQH Centres;
- B: **streamlining procedures**: the need for procedures and the associated materials to be as straightforward and unbureaucratic as possible;
- C: **needs assessment and action planning**: the need for better guidance on action planning and stricter requirements of training providers to make full use of the findings of the needs assessment process;
- D: **support**: the need to ensure that NPQH candidates have the necessary support to undertake the qualification successfully.

The Labour Government made a manifesto commitment<sup>85</sup> to introduce a **mandatory** qualification for all new headteachers based on the NPQH. The TTA welcomed this announcement<sup>86</sup> at the point at which it invited applications for the first round of NPQH training at the centres in England and Wales and through supported open learning, offered by the Open University in partnership with the National Association of Head Teachers.<sup>87</sup> The NPQH will be taken in one to three years. It will include a compulsory module on Strategic Leadership and Accountability and individual and school-based projects. The TTA published at the same time, *National standards for headteachers*,<sup>88</sup> setting out the knowledge, understanding, skills and attributes which relate to the key areas of headship. The NPQH training and assessment programme is based on these standards.

The White Paper, *Excellence in Schools*, published in July 1997 sought responses on whether NPQH covered the desirable skills and competencies for a mandatory headship qualification.<sup>89</sup> It also proposed the development of a fast-track route to headship. The Welsh White Paper, *Building Excellent Schools Together*, added to its consultation the possible timetable for implementation and the position of small primary and Welsh-medium schools.<sup>90</sup>

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<sup>83</sup> Trials for school leadership qualification announced by the Teacher Training Agency, TTA PN 26.2.97

<sup>84</sup> Report on the outcomes of the NPQH trials 1996-97, TTA, 1998

<sup>85</sup> New Labour because Britain deserves better, Labour Party, 1997, p.9

<sup>86</sup> Mandatory qualification for headteachers a step closer, DfEE PN 15.5.97

<sup>87</sup> Cut out to lead a school? TTA PN 15.5.97

<sup>88</sup> May 1997

<sup>89</sup> Cm 3681, Chapter 5, paras 5-7

<sup>90</sup> Cm 3701, Chapter 8, paras 11-15

In response to the White Paper, the National Association of Headteachers (NAHT) pointed out that their partnership with the Open University in the distance learning component of the NPQH showed their commitment, but felt that any mandatory qualification must be fully funded.<sup>91</sup> The Secondary Heads Association (SHA) supported the NPQH but felt it should not be mandatory. The National Middle Schools Forum expressed concern about the quality of the trainers,<sup>92</sup> while the National Union of Teachers (NUT) felt that there should be greater stress on “people related skills”. The Education Law Association (ELAS)<sup>93</sup> also stressed training in responding to parents. The Institute of Education response summarised the research on headship and concluded that currently there was too much emphasis on management training and not enough on “transformational leadership”. The Local Government Association welcomed the mandatory qualification.<sup>94</sup> The Church of England Board of Education questioned whether the designers of NPQH had taken sufficient account of the needs of voluntary schools. Like most of the respondents cited above, they also questioned the advantages of a fast-track.

The Government’s summary of all responses stated:<sup>95</sup>

- There was general support for the development of a mandatory headship qualification, but concern to assure its quality and the consistency of standards between providers, to avoid bureaucracy, and to guarantee equality of opportunity.
- There were some concerns about whether fast-tracking arrangements were really needed and some suggestions that a mandatory qualification requirement might exacerbate the shortage of headship candidates.

Since the responses there has been a Times Educational Supplement (TES) editorial which felt the NPQH would reduce applications for headship both in the short term and in the longer term unless incentives were improved.<sup>96</sup> Anthea Millet, chief executive of the TTA, has countered that the qualification will contribute enormously towards solving the shortage of headteachers as applicants gain confidence that they are equipped for promotion.<sup>97</sup>

The NPQH was launched in Wales on 7 October 1997 by Welsh Education Minister Peter Hain.<sup>98</sup>

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<sup>91</sup> NAHT PN 22 May 1997

<sup>92</sup> Qualification needs more thought, *TES*, 27.6.97

<sup>93</sup> ELAS Bulletin, No. 16, October 1997

<sup>94</sup> LGA briefing for Lords Third Reading Debate

<sup>95</sup> DfEE PN 4 December 1997, Parents back Government’s standards agenda – Blunkett, Summary of main points arising from responses to school consultation, p.6

<sup>96</sup> Crisis comes to a head, *TES*, 12.9.97

<sup>97</sup> Trained to tackle teaching’s top job, *TES*, 19.9.97

<sup>98</sup> National qualification unveiling by Hain, *Western Mail*, 7.10.97

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### B. The Bill: Clause 15

**Clause 15** gives the Secretary of State the power to make regulations requiring that all those appointed as headteachers of maintained and non-maintained special schools hold a professional headship qualification. The regulatory power is added by amendment to Section 218 of the *Education Reform Act 1988* which contains the regulation making provisions relating to schools, further and higher education (clause 15(1)). “Professional headship qualification” is to be defined by or determined, possibly retrospectively, in accordance with regulations. Regulations may cover the accreditation of courses or the awarding of qualifications (clause 15(3)). Organisations or persons awarding a professional headship qualification may be required to notify the Secretary of State or such other organisation as he may determine of the recipients of the award together with any other prescribed information. According to the DfEE note deposited in the House of Lords Library (see below), this provision is mainly designed to secure that potential employers are in a position to check whether candidates for headship are appropriately qualified. The information would also be useful to the Department for planning purposes.

Clause 15(4) amends Section 218(9)(b) of the 1988 Act to give the Secretary of State power to regulate to make provision requiring his approval to be given to the provision of courses leading to the professional headship qualification at further and higher education institutions.

The requirements of the clause do not apply to acting headteachers (clause 15(5)).

These provisions only apply to England and Wales (clause 32(5)) and the regulations are subject to the negative procedure (clause 28(2)(b)). There is sufficient flexibility in the proposed primary legislation to allow regulations applying to Wales to make different provision from that in England.

The provisions will result in additional costs of approximately £7 million per annum.<sup>99</sup>

### C. The debate in the Lords

Further information on the qualification and supplementary information on the potential regulations under Clause 15 were given in a Note from the Department for Education and Employment deposited in the House of Lords Library following committee stage.<sup>100</sup> The Note sets out details of the structure, context and organisation of the NPQH, which Ministers

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<sup>99</sup> Bill 145, Financial memorandum, p.iv

<sup>100</sup> Teaching and Higher Education Bill: Qualifications of Headteachers, A Note by the DfEE, January 1998

have made clear that, subject to further development and continued positive feedback from evaluation, they expect to be the mandatory qualification referred to in the Bill. The Note also outlines planned provision for serving headteachers, which is expected to be introduced from September 1998.<sup>101</sup>

Peter Hain, Welsh Education Minister, has announced a similar intention to make the NPQH the mandatory qualification in Wales.<sup>102</sup>

Applicants for the NPQH apply to their LEA, if they are employed in LEA maintained schools and seeking central funding, or direct to one of eleven Assessment Centres if they are not seeking funding or are employed elsewhere. Following selection according to national criteria, successful applicants undergo needs assessment against the national standards for headteachers. They then follow an appropriate training route including the compulsory module, *Strategic direction and development of a school and Accountability*. There are ten regional Training and Development Centres in England, with a further centre in Wales. A distance learning option is also available. Assessment, during the course and at the end, is carried out separately by the network of regional NPQH Assessment Centres. The training will last between two terms and three years and the TTA has been asked by the Secretary of State to develop fast-track arrangements.

The Note makes clear (Annex F) that regulations are likely to exempt those in charge of Pupil Referral Units who are not paid as headteachers; and holders of planned equivalent headship qualifications awarded in Scotland and Northern Ireland. There is currently consultation going on in Scotland and Northern Ireland about proposed headship qualifications.

The purpose of this legislation was defined by Baroness Blackstone as intending to ensure that those coming new to headship will be appropriately skilled and knowledgeable to carry out their major responsibilities. The provisions were accepted in principle by both the Conservatives<sup>103</sup> and Liberal Democrats.<sup>104</sup> However, a number of concerns were raised although all amendments were subsequently withdrawn.

Baroness Blatch explored the possibility of first making the qualifications voluntary and then compulsory.<sup>105</sup> Baroness Blackstone assured their Lordships that the date of implementation, which is expected before the end of this Parliament<sup>106</sup>, would be announced well in advance

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<sup>101</sup> HC Deb 10 December 1997 cc.552-3w; Serving heads go back to school, *TES*2, 16.5.97

<sup>102</sup> Peter Hain tells teachers "Apply now for training for Headship", WO PN 12 February 1998

<sup>103</sup> HL Deb 11 December 1997 c260

<sup>104</sup> HL Deb 11 December 1997 c264

<sup>105</sup> HL Deb 20 January 1998 c1477

<sup>106</sup> HL Deb 26 February 1998 c842

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but that the qualification would then be mandatory.<sup>107</sup> Baroness Blatch also referred to some of the concerns reported in the evaluation of the trials [see above] particularly the requirement for weekend training.<sup>108</sup> Lord Whitty, at Report stage, confirmed that LEAs would be able to fund supply cover for primary and special school applicants and would have greater flexibility to fund cover in the case of secondary candidates, thus allowing release during the working week.<sup>109</sup>

A Parliamentary Answer from Baroness Blackstone between Second Reading and Committee Stage had stated that the Government was considering the rules covering Standards Fund expenditure and reviewing the maximum of 20 per cent of central funding that could be used for supply cover.<sup>110</sup> Currently eligible expenditure on training and training materials and supply cover for NPQH candidates attracts 100% funding under the Standards Fund. However, LEAs were limited to spending up to 20% of the grant covering NPQH and serving headteachers on TTA national programmes on supply cover.<sup>111</sup> In the same answer she confirmed that there would also be training on Saturdays and in school holidays. Candidates in the trials had mainly objected to Saturday and Sunday training, preferring Friday and Saturday.<sup>112</sup>

A recent letter to Chief Education Officers (CEOs)<sup>113</sup> raised the limit on supply cover to 50%. Both the letter and a press release at the same time<sup>114</sup> made it clear that LEAs could cover the entire cost of supply cover for primary and special schools. In these schools deputy heads are often also class teachers and can only be released for training if cover is available. CEOs' attention was also drawn to the circumstances in which weekend training could be funded.<sup>115</sup>

Baroness Maddock for the Liberal Democrats moved amendments both in Committee and on Report<sup>116</sup> aiming to outlaw short perfunctory courses or trainees simply spinning out their training indefinitely. Lord Whitty for the Government assured her that even fast track candidates would have their proper qualification.<sup>117</sup>

Lord Tope for the Liberal Democrats wanted a greater role for the General Teaching Council; the extension of the scheme to serving headteachers; and a requirement that a person awarded a professional headteacher qualification must be a member of the teaching profession and

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<sup>107</sup> HL Deb 20 January 1998 c1485

<sup>108</sup> HL Deb 20 January 1998 c1477; HL Deb 26 February 1998 cc.837-849

<sup>109</sup> HL Deb 29 February 1998 c841

<sup>110</sup> HL Deb 17 December 1997 c620

<sup>111</sup> The Standards Fund 1998-99, DfEE Circular 13/97, paras B22-B30

<sup>112</sup> Report on the outcomes of the NPQH trials 1996-97, TTA, 1998

<sup>113</sup> Standards Fund: School Leadership Grant 2, DfEE, 6 February 1998

<sup>114</sup> DfEE PN 6 February 1998, £11 million will boost training for headteachers

<sup>115</sup> DfEE Circular 13/97, paras A21-23

<sup>116</sup> HL Deb 20 January 1998 c1486; and 26 February 1998 c843

<sup>117</sup> HL Deb 20 January 1998 c1486

accredited by the General Teaching Council (GTC).<sup>118</sup> Although the amendments were not accepted, Baroness Blackstone assured the Committee that the Government would look to the GTC for advice. She also made it clear that people coming forward to be heads had to be “designated, properly qualified teachers”.<sup>119</sup>

Finally an attempt by Baroness Blatch to make regulations subject to the affirmative procedures was rejected by Baroness Blackstone on the grounds that the proposals were neither sufficiently novel nor contentious.<sup>120</sup>

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<sup>118</sup> HL Deb 20 January 1998 c1483

<sup>119</sup> HL Deb 20 January 1998 c1485

<sup>120</sup> HL Deb 26 February 1998 c846

### III Teacher Training: Induction Periods

#### A. Background

Until 1 September 1989 all teachers served a probationary period, normally of one year. DES Circular 18/89, *The Education (Teachers) Regulations 1989* outlined a modified and simplified form of probation put into effect by Regulation 14 and Schedule 6. The main changes were that:

- (a) a teacher who failed probation would be eligible for appointment to another post, where he or she would serve a new period of probation
- (b) probation decisions would in future be dealt with by LEAs (or governing bodies in grant-maintained schools). The Secretary of State would no longer be involved.

On 4 March 1992 the abolition of probation was announced by letter to Chief Education Officers.<sup>121</sup> A teacher appointed on or after 1 September 1992 was no longer required to serve a period of probation but came immediately within a school's or LEA's appraisal scheme.

There was some concern when this decision was announced that schools and LEAs might have lost a useful procedure for removing unsatisfactory teachers. The 1992 HMI survey on new teachers had reported that about 10% of their sample of 300 were judged to be unsuited to teaching. Although HMI drew attention to this as "one very worrying feature" which raised questions about the selection of those students, the cost of training them and their potentially adverse impact upon the quality of education received by the pupils taught by them, they made no suggestions on the action schools employing these teachers should take.<sup>122</sup>

The Government's White Paper *Excellence in Schools*<sup>123</sup> published in July 1997 proposed not "probation" but an "induction year" in which newly qualified teachers would be given guided support to consolidate their skills. The White Paper recorded wide support for such an idea and consulted on confirming Qualified Teacher Status (QTS) after that year and on the action needed to develop practical skills in the induction year. A similar proposal was made in the Welsh White Paper.<sup>124</sup>

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<sup>121</sup> DFE Administrative Memorandum 2/92, 11.8.92

<sup>122</sup> *The New Teacher in School*, HMI Survey 1992, Ofsted, 1993

<sup>123</sup> Cm 3681, Chapter 5, paras 14-15

<sup>124</sup> Building Excellent Schools Together, Cm 3701, Chapter 8, paras 4-5

The DfEE summary of responses on the White Paper<sup>125</sup> noted that:

- There was strong support for a structured induction year, but no consensus on whether Qualified Teacher Status should be confirmed or conferred on completion.
- The need for adequate funding, a reduced teaching load for newly-qualified teachers, and recognition of the need for mentors were mentioned.

Both the headteachers' associations, NAHT and SHA, had identified the resourcing of the year as the crucial issue. Although NUT and NASUWT supported the idea of the year, ATL were not in favour, fearing double assessment. ATL also disliked the Scottish GTC criteria used by headteachers for assessment for full professional registration, while the National Governor's Council (NGC) suggested the two year Scottish model might be worth adopting. The NGC and the ATL were concerned about leaving confirmation of QTS to the individual headteacher.

In his report, *Teacher education and training: a study*, published in July 1997 as part of the National Committee of Inquiry Report into Higher Education, Professor Sir Stewart Sutherland recommended a new framework for the induction of teachers which integrated with initial teacher training (ITT) and the assessment of Qualified Teacher Status.<sup>126</sup> He welcomed the work of the TTA on this, but felt higher education should have a key role to play in developing a model for the assessment of newly qualified teachers (NQTs) before the award of QTS. His general recommendation for the greater involvement of higher education in quality assurance in teacher education was rejected by the Government.<sup>127</sup>

The Education and Employment Select Committee supported a statutory induction year in its report on teacher recruitment.<sup>128</sup> The Government response welcomed the Committee's view and announced consultation on the detailed induction arrangements.<sup>129</sup>

## **B. The Bill: Clause 16**

**Clause 16** enables the Secretary of State to make regulations requiring newly qualified teachers to have served a satisfactory induction period of not less than one school year as a condition of being employed in a maintained school or a non-maintained special school.

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<sup>125</sup> DfEE PN 4 December 1997, Parents back Government's Standards Agenda – Blunkett, Summary of main points arising from responses to school consultation, p.7

<sup>126</sup> Report No. 10 para.82

<sup>127</sup> DfEE PN 14 November 1997

<sup>128</sup> Teacher recruitment: What can be done?, Education and Employment Committee, First Report 1997-98, HC 262-I, para.74

<sup>129</sup> Education and Employment Committee, Third Special Report 1997-98, HC 519, 1997-98

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Regulations may:

- specify the length of the induction period in any prescribed circumstances;
- supervision and training during the period;
- standards for assessing satisfactory completion of the induction period;
- requirement of appropriate body to decide whether standards have been achieved or whether the period should be extended;
- requirement of headteacher to make recommendation to the appropriate authority;
- arrangements for appeals; and
- requirement for the appropriate body to inform the Secretary of State and either the Council or the General Teaching Council for Wales of any decision (Clause 16(2)).

Clause 16(3), which was inserted by Government amendment on Third Reading, requires the Secretary of State, once the GTCs are established, to consult one or both (as appropriate) before making any determination as to standards in regulations.

The appropriate body is to be prescribed by regulations (clause 16(4)). Appraisal will not apply during the induction period (clause 16(5)). Clause 16(6) defines “schools” by reference to Section 218(12) of the *Education Reform Act 1988* as any LEA maintained school, non-maintained school or grant-maintained school and also requires references to teachers to be construed in accordance with Section 218(13) of the 1988 Act. This sub-section was added to the 1988 Act by Section 49 of the *Education Act 1997* to give an extended definition of employment.

The clause refers only to England and Wales and the regulations will be subject to the negative procedure (clause 28(2)(b) and clause 32(5)).

There would be additional costs for schools in employing newly qualified teachers and for schools and LEAs in administering the induction programme. Standards Fund grants are intended to support both training and supply cover. Additional LEA costs will be taken into account in annual review of local authorities’ needs.<sup>130</sup> There will also be a need for LEAs to take on a small number of additional staff.<sup>131</sup>

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<sup>130</sup> Bill 145, Financial Memorandum, p.iv

<sup>131</sup> Bill 145, Effect of the Bill on public service manpower, p.v

### C. The debate in the Lords

A paper deposited in the Library of the House of Lords sets out the issues for the consultation which the Government intends to carry out with schools and other partners in the education system between February and May 1998.<sup>132</sup> It is now expected that the consultation paper will be published towards the end of March.

It is made clear that Qualified Teacher Status (QTS) will continue to be awarded by the Secretary of State on the completion of training. Newly qualified teachers will then be *eligible* for provisional registration with the General Teaching Council, with their registration to be confirmed only on satisfactory completion of an induction period.

Views will be invited on the circumstances in which the statutory induction period of one year should be extended. Ministers suggest exceptions only for extended illness or maternity leave.

From May 1998 all newly qualified teachers will have from their training providers a Career Entry Profile setting out their particular strengths and further development needs. The standards for assessment during the induction year will build on the professional standards established for the award of QTS.<sup>133</sup> They will be differentiated to reflect the teacher's new responsibilities and the consultation document will seek comments on these standards and on the dedicated time and resources to be made available for training activities.

The consultation will cover the core assessment requirements to be laid down in regulations. Support for a new teacher will be expected from the line manager or an Advanced Skills Teacher if the school has one. The mentor would be expected to report to the head where a new teacher was experiencing difficulty.

At the end of the induction period the head would normally complete the formal assessment of the new teacher against the prescribed standards and make a recommendation on whether the teacher had satisfactorily met those requirements. This recommendation would normally be to the LEA, "the appropriate body", who would determine whether the new teacher had passed or failed the induction period. The employer – the LEA or the governing body – would be required to dismiss any teacher failing their induction from their post. Views will be invited on the precise roles of line managers, heads, governing bodies and LEAs in relation to assessment, and the way in which any appeals arrangements might operate.

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<sup>132</sup> Teaching and Higher Education Bill, Induction arrangements for newly qualified teachers. A note by the DfEE, January 1998, HCL Dep. 5829(3s)

<sup>133</sup> DfEE Circular 10/97, Teaching: High Status, High Standards. Requirement for course of Initial Teacher Training

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The new induction arrangements are expected to be introduced from September 1999.

In introducing clause 16 on Second Reading, Baroness Blackstone linked the need for guidance and support for new teachers with the fact that a limited number of them might not be able to deliver the expected consistent high quality performance on the job. She also made it clear that the normal period of induction would be a year.<sup>134</sup> The provisions were supported by the Conservatives<sup>135</sup> and the Liberal Democrats.<sup>136</sup> However, Baroness Blatch questioned whether what she called “probationary teachers” were to be employed as full members of staff.<sup>137</sup>

In Committee, Baroness Maddock for the Liberal Democrats proposed ensuring the induction year was served in maintained schools.<sup>138</sup> Baroness Blatch disagreed.<sup>139</sup> Lord Whitty’s response was that currently the Bill allowed precisely that, although consultation would be undertaken with the independent sector over the possibility of allowing independent schools to provide the induction period.<sup>140</sup> In response to the proposal that the length of the induction period should be on the face of the Bill, he referred to possible exceptions for part-timers. However, in response to a further Liberal Democrat amendment on this point on Report, he promised to bring forward a Government amendment in the Lords making it clear that the induction period should not be less than one academic year.<sup>141</sup> An amendment to this effect was agreed to on the Third Reading. However, the Secretary of State would retain the power to prescribe in regulations that the period should be longer for part-time teachers or to prescribe requirements which would apply in cases of extended sick or maternity leave.<sup>142</sup>

A further Liberal Democrat amendment in Committee called for the General Teaching Council to determine standards.<sup>143</sup> In rejecting it, Baroness Blackstone said that the Secretary of State set standards for Qualified Teacher Status and should therefore set standards for assessment at the end of induction. Although the General Teaching Council would advise on standards of teaching, it would not be established until the year 2000 and induction would start from September 1999. A Government amendment on Third Reading requires consultation on this point once the GTCs are established.<sup>144</sup>

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<sup>134</sup> HL Deb 11 December 1997 c255

<sup>135</sup> HL Deb 11 December 1997 c260

<sup>136</sup> HL Deb 11 December 1997 c265

<sup>137</sup> HL Deb 11 December 1997 c341

<sup>138</sup> HL Deb 20 January 1998 c1488

<sup>139</sup> HL Deb 20 January 1998 c1489

<sup>140</sup> HL Deb 20 January 1998 cc.1489-90

<sup>141</sup> HL Deb 26 February 1998 c847

<sup>142</sup> HL Deb 10 March 1998 c154

<sup>143</sup> HL Deb 20 January 1998 c1492

<sup>144</sup> HL Deb 10 March 1998 c154

On Report, Baroness Maddock and the Lord Bishop of Ripon sought a definition of the “appropriate body”. The Bishop hoped weight would be given to the recommendation of the headteacher.<sup>145</sup> Lord Whitty promised a consultation document on the arrangements and options. It was envisaged that headteachers would make a recommendation to the appropriate body who would normally be the LEA for staff in maintained schools.<sup>146</sup>

#### **D. Responses**

The Local Government Association has welcomed the proposal that the LEA would be the “appropriate body”.<sup>147</sup> The ATL produced a briefing for the Third Reading debate urging that quality assurance arrangements for assessment at the end of induction should be included in the regulations.<sup>148</sup>

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<sup>145</sup> HL Deb 26 February 1998 c848

<sup>146</sup> HL Deb 26 February 1998 c849

<sup>147</sup> LGA Briefing paper for Lords Third Reading debate, March 1998

<sup>148</sup> ATL Briefing paper for Lords Third Reading, March 1998

## IV Teacher Training: Inspection of teacher training institutions

### A. Background

#### 1. England

The functions of the Chief Inspector for England (HMCI) are set out in Section 2 of the *Schools Inspections Act 1996*. Section 2(5) states:

The Chief Inspector for England shall have such other functions in connection with schools in England, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Secretary of State.

Section 5(5) of the 1996 Act sets out the same functions with respect to Wales. Both sections derive from the *Education (Schools) Act 1992*.

The notes on clauses (Lords) set out the substance of a letter of assignment of 2 September 1996 from the Secretary of State for Education and Employment under section 2(5). It required:<sup>149</sup>

HMCI to inspect and report on provision for initial teacher training in eligible institutions and schools in initial teacher training partnerships, as defined in section 4(2) of the Education Act 1994, which are receiving funding under Part 1 of that Act.

The Secretary of State's letter also requires HMCI to inspect the provision for in-service training and development of teachers provided by schools, institutions within the higher education sector, local authorities and other persons.

There are two purposes to the inspections:

- a. to inform the Teacher Training Agency's decisions about the allocation of funding to, and accreditation of, institutions and to assist them in improving the quality of initial and in-service teacher training and development; and
- b. to provide advice to the Secretary of State with respect to initial teacher training and in-service training and development.

HMI have been involved in reporting on teacher training originally inspecting initial teacher training at Polytechnics and Colleges and visiting University Departments of Education while

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<sup>149</sup> Teaching and Higher Education Bill, Notes on Clauses (Lords), DfEE, 1997, p.19

acting as assessors to the Council for the Accreditation of Teacher Education (CATE) and to the local committees.<sup>150</sup> In 1992 the Government decided to move to a system of accrediting higher education institutions (HEIs) on the basis of five-year development plans submitted to CATE for scrutiny. HMI were to arrange visits to HEIs and their partner schools to complement CATE's scrutiny of development plans. Inspections were to be planned in consultation with the Department of Education, the Welsh Office Education Department, CATE and the Higher Education Funding Councils.<sup>151</sup> At the same time, there was a letter of remit from the then Education Secretary, John Patten, to Stewart Sutherland then HMCI, requiring under Section 2 of the *Education (Schools) Act 1992*, inspections of teacher training in order to provide advice to him. In July 1993 the Higher Education Funding Council for England agreed in principle to proceed with assessments of initial teacher training quality in co-operation with Ofsted. A circular set out the timetable for inspection.<sup>152</sup> The Teacher Training Agency was set up by the *Education Act 1994* and was required in exercising their functions to have regard to assessments of quality made by HMCI.<sup>153</sup> From 1995-96 the TTA agreed annual arrangements for the cycle of inspections with Ofsted. For 1998-99, the cycle will be agreed between the TTA, Ofsted, the DfEE and the higher education providers.

The most recent remit letter from the Secretary of State, sent to Chris Woodhead, HMCI, on 19 January 1998, included initial teacher training, the induction year for newly-qualified teachers and training for headship among the key areas on which Ofsted would be advising Ministers and the Department.<sup>154</sup>

Issues from HMI reports on teacher training form part of HMCI's Annual Report. The most recent report *Standards and Quality in Education 1996/97*<sup>155</sup> covered the teaching of reading and number in primary initial teacher training; secondary subject inspections using the joint Ofsted/TTA Framework and focusing on the Postgraduate Certificate in Education (PGCE); the Headteachers' Leadership and Management Programme (HEADLAMP); and the Specialist Teacher Assistant (STA) Scheme.

The report by Professor Sir Stewart Sutherland on teacher education<sup>156</sup>, undertaken as part of work of the National Committee of Inquiry into Higher Education, stated that he believed that the current arrangement for quality assurance of teacher education might be placing too many burdens on providers.<sup>157</sup> He referred to complaints about the frequency of request for audit information from Ofsted and the TTA. He proposed a dialogue between the stakeholders on

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<sup>150</sup> DES Circular 24/89, Initial Teacher Training: Approval of Course

<sup>151</sup> DfEE Circular 9/92, Initial Teacher Training (Secondary Phase)

<sup>152</sup> Quality Inspections and Assessments of Secondary Initial Teacher Training by Ofsted/HEFCE, HEFCE Circular 28/93

<sup>153</sup> Section 5(4)(b)

<sup>154</sup> DfEE PN 19 January 1998, New remit for Ofsted - Blunkett

<sup>155</sup> HC 453 of 1997/98, pp 61-64

<sup>156</sup> Higher Education in the Learning Society, Report of the National Committee of Inquiry into Higher Education, July 1997, Report 10, Teacher education and training: a study

<sup>157</sup> op cit; para.78

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the arrangements necessary for guaranteeing, maintaining and measuring standards in teacher education and a consideration of how these could be bought within the structure of the new higher education Quality Assurance Agency. To take forward that proposal and the other recommendations of his report, Professor Sutherland recommended the establishment of a national committee to consider the arrangements for teacher education in more detail.<sup>158</sup>

Estelle Morris, the minister responsible for teacher training, told the first national primary teacher training conference in September 1997 that the Government would listen to their concerns about inspection.<sup>159</sup> However, the Government's response to the Sutherland report<sup>160</sup> rejected the major proposal for a national committee of inquiry into teacher education. On the specific recommendation for a dialogue on arrangements for quality assurance, it stated that the statutory objective of improving the quality and effectiveness of teacher training rested with the TTA and all training provision would continue to be subject to rigorous Ofsted inspection. The TTA was responsible for ensuring that the framework for inspection met Government requirements.

The Universities Council for the Education of Teachers expressed hope that the existing dysfunctional (inspection) process would be radically improved to eliminate the worst weakness, namely the procedure of generalising from a small error-prone sample.<sup>161</sup> Their remarks reflected concern over Ofsted's "follow-up survey" of primary teacher training and the consequent downgrading of some courses. A later decision to begin to withdraw accreditation and funding for teacher training at two universities and one school based teacher training consortium was made by the TTA in December 1997.<sup>162</sup> Universities were concerned that the framework for assessing quality was too narrowly focused and led to decisions based on an inspector's assessment of one or two students.<sup>163</sup>

## 2. Wales

Inspections of teacher training in Wales have not attracted the attention nor created the hostility in some quarters which has recently been the case in England. Inspections by the Office of Her Majesty's Chief Inspector for Wales have taken place under Section 5(5) of the *School Inspections Act 1996*. The Higher Education Funding Council for Wales also makes it an annual condition of funding teacher training courses that institutions grant access to HMI.

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<sup>158</sup> *THES*, 21.11.97

<sup>159</sup> Minister's pledge on teacher training, *TES*, 12.9.97

<sup>160</sup> Attached to Morris: Tabled to monitor teacher training standards, DfEE PN 14.11.97, Letter to Professor Sir Stewart Sutherland

<sup>161</sup> Training league risk to recruitment, *TES*, 21.11.97

<sup>162</sup> Second wave of inspection claim their first casualty, *TES*, 12.12.97

<sup>163</sup> Stormy days as the inspector targets trainers, *Independent*, 5.2.98

### 3. Scotland

Although the Secretary of State currently has the power to cause inspection to be made of schools and other “educational establishments” as defined in Section 135(1) of the *Education (Scotland) Act 1980*, this power does not apply to higher education institutions (HEIs).

Prior to the Further and Higher Education (Scotland) Act 1992, HMI inspected all colleges of education. The Act gave the responsibility for the assessment of quality in higher education to the Scottish Higher Education Funding Council, specifically to its Quality Assessment Council. The Secretary of State continued to approve courses of initial teacher education as to their content, nature and duration. The General Teaching Council also approve and accredit courses, while HMI inspects the new teachers as part of school inspections.

Most Scottish colleges of education have merged with universities and eventually all teacher education will be in the university sector.

Sir Stewart Sutherland covered teacher education and training in Scotland in an annex to his main report.<sup>164</sup> He found that the mechanisms in place to maintain quality in teacher education in Scotland and to guarantee standards were “comprehensive, fairly robust and, on the whole, well tested”.<sup>165</sup> There is a shared responsibility for quality between the providers, the GTC, the SHEFC and the Scottish Office Education and Industry Department (SOEID). There is a five year cycle for quality assessment carried out by SHEFC, with input from HMI. Sir Stewart Sutherland recommended that HMI and SHEFC should be invited to consider whether there was a need for stronger linkage between teacher quality assessment and school inspections.<sup>166</sup>

On 27 November 1997, following the publication of the Bill, Scottish Education Minister Brian Wilson announced the reasons for the proposal to reinstate the powers of HMI in Scotland to inspect teacher education.<sup>167</sup> He stated that it was essential that there was a clear link between the need for effective teaching and learning in the classroom and the education received by teachers and cited Sir Stewart Sutherland’s recommendation that those links should be strengthened.

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<sup>164</sup> Higher Education in the Learning Society, Report of the National Committee of Inquiry into Higher Education, July 1997, Report 10, Teacher education and training: a study

<sup>165</sup> Annex A, para.32

<sup>166</sup> para.37

<sup>167</sup> Scottish Office PN 27 November 1997, Brian Wilson announced new initiative on standards in teacher education

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In the Government's detailed response<sup>168</sup> to the Sutherland report on teacher education in Scotland, they announced a working group with representative of SOEID, HMI, SHEFC, GTC, the Quality Assurance Agency and the providers to develop arrangements for quality assurance which would be less burdensome on the institutions. The group will meet for the first time later in March. Ministers have already announced that the Department will, from the next academic session, look to the GTC as its principal source of advice on whether courses should receive the approval of the Secretary of State.

### B. The Bill: Clauses 17 and 18

**Clause 17** inserts a new section 18A into the *Education Act 1994*. The new section gives HMCI, and his counterpart in Wales, power to inspect and report on institutions which provide initial and in-service training to teachers and specialist teaching assistants and to advise the Secretary of State, the relevant funding agency (the Teacher Training Agency or the Higher Education Funding Council for Wales) and the General Teaching Council. This restates the existing statutory position on the face of primary legislation.<sup>169</sup>

Section 18 A(1) states the express power to inspect and report. Section 18 A(2) was amended by the Government on Report in the Lords to make explicit that either Chief Inspector **when asked by the Secretary of State** should give advice to the Secretary of State on training or inspect and report on a relevant specified institution. Section 18(3) provides for the Chief Inspector to give advice at any time to the Secretary of State, a funding agency or the General Teaching Council. Section 18(4) provides for the power to produce and publish reports. Section 18(5) was amended to make it clear that the statutory right of access at all reasonable times and power to inspect and copy records applied only in the case of the exercise of the Chief Inspector's functions under this section. Section 42 of the *School Inspections Act 1996* which allows the inspection of computer records and requires the user and any operator of the computer to afford reasonable assistance is applied to these inspections as it applies to school inspections. Section 18 A(6) was amended to make it clear that the requirement to offer assistance is only in relation to the Chief Inspector's functions under this Section. Sections 18 A(7) and (8) were inserted as amendments and relate to the minimum notice of an inspection and the procedure for informing institutions. Section 18 A(9) was amended to clarify the limitations of duties and powers conferred on the Chief Inspector by this section. Section 18 A(10) defines terms and has been amended to make it clear that only institutions in receipt of **public** funding can be inspected. Section 18 A(11) defines any reference to the Chief Inspector as including a reference to any person authorised to act on his behalf under the *School Inspections Act 1996*, Schedule 1, para.5(1) or (2) i.e. HMI, other staff of Ofsted or any additional inspector (AIs).

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<sup>168</sup> Teacher Education and Training in Scotland: Response to Sir Stewart Sutherland's Report, Scottish Office, February 1998

<sup>169</sup> HL Deb 11 December 1997 c254

All amendments to the clause in the original Bill [HL Bill 47] were proposed by the Government at Report stage, with the exception of one technical amendment on Third Reading.

**Clause 18** inserts a new subsection 1B into the *Education (Scotland) Act 1980*. It enables the Secretary of State for Scotland to permit inspections (by HM inspectors or other persons appointed by him) of the education and training provided by higher education institutions wholly or mainly for schoolteachers and prospective schoolteachers. It thus re-establishes the situation prior to the Further and Higher Education (Scotland) Act 1992.<sup>170</sup>

**Clause 17** will not create additional costs and **Clause 18** will not require additional funding.<sup>171</sup> The additional functions undertaken by the Chief Inspectors of Schools in England and Wales and by HMI or persons appointed by the Secretary of State in Scotland do not have manpower implications.<sup>172</sup>

### C. The Debate in the Lords

On Second Reading Baroness Blackstone for the Government made it clear that the purpose of Clause 17 was to ensure that all teacher training provision was open to full and rigorous inspection by Ofsted. The restatement of the existing statutory position and reinforcement by a right of access at all reasonable times was necessary because “a small minority of institutions” had sought to delay or question inspectors’ access.<sup>173</sup> The clause was supported by the Conservatives who urged early implementation,<sup>174</sup> although the Liberal Democrats expressed concern over the possible infringement of academic freedom<sup>175</sup> and central control.<sup>176</sup>

The Lord Bishop of Ripon raised concerns on behalf of the Church colleges of higher education over the need to limit the powers relating to entry and the copying of records.<sup>177</sup>

Baroness Blatch raised a series of probing amendments in Committee reflecting concerns of the Committee of Vice-Chancellors and Principals, some of which received a sympathetic

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<sup>170</sup> HL Deb 20 January 1998 c1501

<sup>171</sup> Bill 145, Financial Memorandum

<sup>172</sup> Bill 145, p.v

<sup>173</sup> HL Deb 11 December 1997 c 254

<sup>174</sup> HL Deb 11 December 1997 c260 and c341

<sup>175</sup> HL Deb 11 December 1997 c268

<sup>176</sup> HL Deb 11 December 1997 c285

<sup>177</sup> HL Deb 11 December 1997 270

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Government response.<sup>178</sup> The Government amendments on Report, outlined in the account of the Bill above, reflect these concerns.

Liberal Democrat amendments seeking a direct role for the General Teaching Council or excluding in-service education and training from inspection were less successful.<sup>179</sup>

A proposal by the Conservatives to omit Clause 18 on the advice of the Committee of Scottish Higher Education Principals and the Association of University Teachers referred to the situation in Scotland where HMI withdrew from inspection in 1994. Lord Sewel in responding for the Government confirmed the re-instatement of powers in order to provide an “effective mechanism to ensure that teacher education reflects government priorities”.<sup>180</sup>

On Report Baroness Blackstone proposed the Government amendments which had been discussed in outline with representatives of the higher education sector who had welcomed them.<sup>181</sup> In thanking her for the amendments, Baroness Blatch referred to continuing disquiet in higher education about documentation.<sup>182</sup> The amendments were also given a general welcome by Lord Tope for the Liberal Democrats.<sup>183</sup>

An attempt was made to alter Clause 18 to allow inspection in Scotland only by the Quality Assurance Agency (QAA) or by persons with substantial experience in higher education.<sup>184</sup> It was rejected on the grounds that the Secretary of State could not direct QAA, a private body, to inspect on his behalf. The addition, on Third Reading of the words “wholly or mainly for (teacher education)” in the definition of courses to be inspected reflected the concerns which had been raised that courses attended by one or two trainee teachers along with other students would have been liable to inspection.

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<sup>178</sup> HL Deb 20 January 1998 c1494

<sup>179</sup> HL Deb 20 January 1998 c1496

<sup>180</sup> HL Deb 20 January 1998 c1501

<sup>181</sup> HL Deb 26 September 1997 c849

<sup>182</sup> HL Deb 26 September 1997 c851

<sup>183</sup> HL Deb 26 September 1997 c852

<sup>184</sup> HL Deb 26 September 1997 c853