

# Department of Education

General Teaching Council for Northern Ireland – Board Effectiveness Review

Executive Summary Report

November 2021



# DISTRIBUTION AND VERSION CONTROL

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## 1. Executive Summary

### 1.1. Introduction

The General Teaching Council for Northern Ireland (GTCNI) is established under the Education (Northern Ireland) Order 1998. Its' constitution is set out in the General Teaching Council for Northern Ireland (Constitution) Regulations (Northern Ireland) 2001.

The functions of the Council as defined by the Order include:

- The establishment and maintenance of a register of teachers;
- The approval of qualifications for the purposes of registration;
- Regulatory functions relating to misconduct and
- The provision of advice to the Department and employing authorities on; registration, the training, career development and performance management of teachers, standards of teaching and standards of conduct of teachers.

GTCNI as a Non-Departmental Public Body (NDPB) has a number of key governance arrangements and statutory and assurance requirements (under legislation) which must be fulfilled to provide the Sponsor department (Department of Education) with an assurance of effective, transparent and robust delivery mechanisms of its remit.

The purpose of this review is to provide assurance to the Department that GTCNI as an organisation, discharges its primary functions in an effective and efficient manner and that there is in place a robust system of stewardship of the organisation; sound governance, planning, performance management, reporting, financial decision making, direction setting and leadership.

Specifically, this review set out to consider the following areas:

- Are the Council, Chair and the Chief Executive complying with the Management Statement and Financial Memorandum (MSFM)?
- Are their roles clearly understood and effectively discharged?
- Are they appropriately held to account for performance?
- Does the Chair display effective leadership in formulating the Council's strategy?
- Is there evidence that the Council constructively challenges and provides sufficient direction to the GTCNI executive team in its planning, target setting and delivery of performance?

- Are differences in executive authority between the Council and its staff team understood and observed?
- Is the organisation complying fully with its statutory duties?
- Have the Chair, the Council and the Chief Executive failed to address any significant issues which have been brought to their attention?
- Are sound arrangements for planning, monitoring performance and reporting in place?
- Does the Council demonstrate high standards of corporate governance at all times?
- Does the independent Audit and Risk Assurance Committee help the Council to proactively address the key financial and other risks it faces?
- Does the Chair encourage and deliver high standards of regularity and propriety?
- Does the executive team provide adequate information to the Council to allow it to discharge its functions effectively?
- Is there sufficient clarity between Council and executive roles?
- Do Committees communicate clearly and effectively among their members and in their engagement with the Council?
- Are expected levels of transparency and openness being met in Council and Committee communications and decision making?
- Current strengths and weaknesses in the culture of the organisation and what, if any, changes might be made to drive improvement?

## 1.2. Approach

The period of fieldwork extended over April – July 2021 and our activities included collating evidence and feedback from serving Council members, some former Council members as well as feedback from DE officials and benchmarking GTCNI to other suitable identified comparator organisations. Our approach included;

- One to one confidential consultations with serving Council members (including those recently withdrawn by their nominating organisation).
- One to one confidential consultation with Registrar/Chief Executive Officer.
- One to one confidential consultations with identified DE officials.
- A Board Effectiveness self-assessment survey completed by Council members.

- Review of significant amounts of Council and Committee correspondence and papers as well as a review of key legislation, management and governance documentation.
- Benchmarking consultations with other teaching representative bodies in GB and Ireland (including Education Workforce Council Wales, The General Teaching Council for Scotland and The Teaching Council Ireland).
- In addition, Council members supplied further written submissions as supporting evidence to their consultations

### 1.3. Summary of key findings

Effectively what we found was an inadequate governance infrastructure with an underpinning culture dominated by internecine disagreement driven by divergent behaviours, a breakdown in relationships and trust causing the Council to lose focus on its remit and purpose and to turn in on itself rather than focusing on its role as an advocate, as a strategic leader and as a champion for the sector. The key findings can be characterised as follows:

- The legislative basis of the GTCNI is weak and has not been adequately addressed to allow GTCNI to carry out its regulatory functions.
- The context of this review has developed over a period of time with a range of different concerns from both DE and GTCNI
  - From a DE perspective there were growing concerns and increasing complaints to the Department regarding GTCNI, resulting in the imposition of Monthly Oversight Meetings (MOM) with the Chair and CEO of GTCNI to increase Departmental oversight of the Council and provide closer monitoring of progress in the delivery of its Business Plan objectives. When the MOMs failed to deliver the desired improvements in performance, the Department placed GTCNI back into special measures in November 2019, putting in place additional Departmental oversight measures including monthly oversight meetings between the Permanent Secretary, the Chair, Vice Chair and Chief Executive of GTCNI and senior DE officials.
  - From Council perspective there were concerns on lack of progress from DE addressing issues relating to GTCNI legislation and delivery model and a broader context of an ongoing complex whistleblowing case and emerging allegations within the workplace which were under investigation.
  - It appears that issues identified and addressed in this review (and other reports) have recurred through various Councils but relationships and the functioning of the present Council have continued to deteriorate.
- Whilst GTCNI has a governance framework in place, this framework is inadequate and does not enable GTCNI to hold itself to account. Furthermore, GTCNI's Management Statement and Financial Memorandum do not provide sufficient guidance or clarity on some aspects of governance matters. Whilst the Council has in place a 'framework' for the process and flow of information which inform

decision making and accountability, these are not used properly. In addition, whilst there is a sub-committee structure supporting the Council, this is not functioning effectively and there are ongoing and fundamental issues around roles, responsibilities and limitations on authority and decision making – which in summary makes the governance model highly ineffective.

- There is limited evidence of an effective approach to the development of the profession, albeit recent attempts have been made in the guise of GTCNI's contribution to the new draft Proposals for Teacher Professional Learning within NI. However, the Council has done little to effectively promote or put in place measures to support teacher professional development.
- Whilst the Council does carry out registration, there are ongoing and systemic issues around the effectiveness of that delivery model – issues around information management, systems management and breaches of data confidentiality. There is a current operational issue surrounding teacher registration for Autumn 2021.
- More fundamental to these issues and the direct causal reason for the inability to discharge the statutory functions is the failure of Council to perform as an effective body demonstrated through:
  - An inadequate governance framework and an inability of Council to hold itself to account.
  - A complete breakdown in relationships intra and inter Council – amongst Council members and between Council members and the Registrar and between the Chair and Registrar.
  - Working relationships with the Sponsor department are not effective and the ongoing issues have pulled senior officials from the Department into GTCNI organisational life and absorbed much official time and effort.
  - A culture dominated by mistrust and a lack of effective communication.
  - A failure to address key organisational issues and a failure to put in place proper and adequate arrangements to address concerns raised on a range of key organisational risks (as identified through corporate risk register and GTCNI Internal Audit reports for example).
  - A wholly inadequate approach to organisational performance.
  - A fundamental lack of understanding of good governance and Council business disrupted for divergent agenda and narratives.
  - A Council which is not cohesive, unified nor corporate in any sense.
  - A Chair and Registrar who are not effectively carrying out their full statutory duties and functions as defined by their Management Statement.

This evidence paints GTCNI as a hollow corporate body which is unable to govern itself. There is a collective recognition that the present situation has been tolerated for too long and that despite best intentions, its energy is spent, relationships are fractured and trust irretrievably broken - it is difficult to understand how the situation is redeemable.

#### 1.4. Board Effectiveness Survey – Council response

A key dimension of fieldwork included an invitation to GTCNI members and DE stakeholders to participate in the Baker Tilly Board Effectiveness Survey. This is a self assessment exercise and is aligned to National Audit Office guidance and best practice around effective boards and governing bodies. The tool has since evolved to encompass good practice from the public and corporate sector and has now been used in just over 645 organisations in the public, third and corporate sectors. With a 100% response rate from Council members, key summative findings (based on GTCNI feedback only) are presented below.

- 88% of respondents disagreed or strongly disagreed that the current Council structure allowed them to get their work done in an effective way.
- 50% of respondents disagreed or strongly disagreed with the statement that Sub Committees streamline work processes and increase Council effectiveness (a further 25% of respondents were non-committal).
- 89% of Council members believe that the Council is too large (membership).
- 60% of Council members responded that Council has too many representatives on Council (too disparate).

When asked a series of questions on roles and responsibilities within Board/Committees;

- 72% of Council members disagreed or strongly disagreed that Council is consistently adhering to its role and responsibilities.
- 76% of members responded that Council does not quickly and/or effectively address problems or conflicts arising between Council and staff.
- 10% of members agreed that Council meetings are well run and make good use of members' time – 90% either disagreed or strongly disagreed with this statement.

Members were asked a series of questions on Council leadership and culture - key findings include;

- 3% of members believe that the Chair and CEO work effectively together, 33% disagreed and a further 64% strongly disagreed with this statement.
- When asked if they felt comfortable within the Council environment to always express their views, doubts or opinions, 34% of members indicated that they always or usually felt they could – 40% felt that they rarely or never felt comfortable in the Council environment to express their opinion.

A key aspect of board/governing body effectiveness is reporting and monitoring and GTCNI member responses to key questions include



- 72% of members disagreed or strongly disagreed that effective reporting arrangements were in place to allow adequate performance management of the organisation.
- 52% of members had little or no trust in the Executive Team to be transparent and honest (8% had a lot of trust that the Executive were honest/transparent).
- 33% of Council members strongly agreed or agreed that appropriate governance practices were in place – 67% disagreed or strongly disagreed with this statement.

One of the most important dimensions through which board/governing body effectiveness is measured is in how a body views itself as a cohesive unit. The findings for GTCNI include

- 89% of members disagreed or strongly disagreed that the Council exhibits strong relationships and trust amongst its membership and with staff.
- Whilst 4% of members felt that the Council 'usually' performs as a team and a further 27% of members responded that Council 'sometimes' performs as a team – 67% of members felt that Council rarely or never performs as a team.
- 84% of members felt that the quality of challenge is not effective, but can be personalised and defensive. Only 11% disagreed with this statement and a further 5% did not answer this question.

### **1.5 Self Assessment Survey Findings**

The results characterise a Council which is divided and unwelcoming; an organisation which has lost focus on its purpose and remit and instead is inward looking and consumed with internal issues. The leadership is not effective and how the Council conducts its business is not effective either in how meetings are managed, run and organised.

The results highlighted above are used to demonstrate the fundamental issues with GTCNI as identified by Council members themselves.

This tool has been used across many other boards and is therefore useful to contextualise the levels of effectiveness of this governing body in comparison to other public sector bodies. In our definition, the top 25% of boards are the high performers – the most effective who demonstrate the highest alignment to what we would consider effectiveness. At the other end of the scale in the lowest 30% would be the lowest performing boards who are often characterised by deep seated cultural and relationship issues, which prevent the body from becoming effective.

In terms of how this Council performs in comparison to other boards/governing bodies who undertook the survey, the feedback provided by GTCNI own members' self assessment results in GTCNI placed into the lowest performance indicator. This is the only organisation where this survey has been carried out on (645 other organisations) which has produced such a scoring.

	High Performance (Top 25%)	Upper Quartile (50 % - 75%)	Mid – Lower Quartile (30% - 50%)	Low Performance
Board structures and practices				√
Board and staff roles				√
Board Meetings				√
Board Membership, Induction				√
Board Leadership				√
Board Culture				√
Reporting and Monitoring				√
Policy Making Practices				√
Planning Practices				√
Financial Management Practices				√
Board Committees				√
Board and Executive Relations				√
Stakeholder Relationships				√
Board Cohesion				√

**Table 1. GTCNI Scoring Index Self-Assessment Board Effectiveness Survey July 2021**

The inevitable conclusion of the survey results indicate that this body displays deep-seated relationship and cultural issues which are distracting the body from being functional and effective. There are multiple behavioural, cultural, communication and relationship issues within this Council and the dynamic and focus is out of alignment to its role and purpose.

**1.6. Conclusion**

There is an urgent need to address the issues raised in this report. Effectively our review has confirmed what other reviews and internal audit reports have previously identified – that there is an inadequate governance framework and that the organisation is not delivering its statutory functions.

Whilst DE has powers within the MSFM framework and ‘DE Governance & Accountability Arrangements for the oversight of ALBs’, in the event that the DE, following review, wishes to abolish the function entirely or change the delivery mechanism ie transfer of function back to DE or other bodies, legislation will be required to abolish the GTCNI to provide the necessary statutory provision for its winding up and dissolution and the necessary transitional arrangements as a residual body.

It is our view that GTCNI as the current delivery mechanism for achieving its statutory responsibilities/Government objectives is incapable of rectification in its current format and requires fundamental change. This will require dissolution of the organisation as it is currently structured. To progress to dissolution will require

winding up legislation, consideration of an alternative delivery mechanism to accommodate the statutory functions in another format i.e. transfer of function back to DE or other bodies and putting in place transitional arrangements to manage the change in delivery mechanism.

## 1.7. Summary of recommendations

We have identified three key recommendations which we believe should be considered.

### 1.7.1 Recommendation One – Dissolution of GTCNI

*Evidence presented in this review demonstrates a Council which is functioning albeit it at a low level but which is not meeting its statutory obligations, is not providing leadership nor is it providing advocacy to the sector. Its energy is spent, is at war with itself and is damaged beyond repair:*

- There is significant evidence to indicate that the Chair and Chief Executive/Registrar are in breach of their obligations set out in MSFM. The evidence suggests that the Chair is failing to provide leadership to the Council, the organisation and the sector as set out in the governing protocol.
- It is our opinion that GTCNI is irretrievably broken and there is no prospect of recovery to any form of adequate performance and as such we believe that DE should move to dissolve GTCNI with immediate effect. Given the statutory basis of the Council and its regulatory functions, there are essentially three options which we believe should be considered to reflect future operating requirements;
  - **Option One** – Try to repair the existing situation within the limitations of the legislative base and with full knowledge of the evidence provided through this review. On the basis of the evidence presented, we do not believe that this is a viable option.
  - **Option Two** - Dissolution of GTCNI and transfer of duties and functions into DE. Whilst this option provides for the dissolution of Council itself, it would however allow for the continuation of regulatory and statutory activities under the immediate direction and supervision of the Department. This option would present some operational and legal work ( such as changes to the legislation), significant work in winding up the work of the Council and would require detailed preparatory work (DE staff teams, TUPE, transfer and integration of GTCNI staff) as well as a fundamental review of processes, procedures and legal advice on compliance with employment case-law for example, which could take up to two years to complete.
  - **Option Three** - Dissolution of GTCNI and the creation of a new professional body. There is an opportunity to reflect on the multiple and systemic failings of the current delivery model – weak legislation and an over-representative governing body which is unable to hold itself to account – and to take a wholly new approach to the creation of a new independent body for the teaching profession. We believe that there is a role for such a body here in Northern Ireland and we do not believe that it is in the interests of the profession that government officials are in charge of their professional body.

Again this option is likely to require significant time as well as a change to the current legislation. Furthermore we would envisage that this proposal is likely to require a public consultation on the structure of the new organisation, development of new governance rules and Standing Orders for example. However whilst it is a longer process, this option may offer an opportunity for the profession and wider sector to re-engage with and recognise the value in it (rather than government) setting and maintaining standards for entry to the profession (registration) and could be better placed to deliver effective self-regulation. This may also address some of the credibility issues of GTCNI in providing a stronger voice for the profession (development needs and advocacy). Other aspects of this model might include;

- Maximum size of the new Council 10 – 12 members.
- Public appointment process for all Council members with a focus on creating a Council composed of a blend of skills and experience to generate high levels of effective governance and oversight. Whilst teaching professionals should be on a new Councils, they should not form a majority nor dominate the composition.
- The role of Vice Chair should be re-scoped to provide more definition rather than merely a stand-in for the Chair in his/her absence.
- In any newly configured Council with public appointments, the tenure of office for all appointees should be restricted to 4 years and maximum of two terms.
- Refresh the induction process for new Council members with a much more rigorous and robust approach to inducting individuals into a new Council and their understanding of their role and responsibilities.
- Put in place a more effective annual review of Council performance which should be supported on a twice or three yearly basis by a full externally commissioned independent review of the levels of board effectiveness.
- In the interim period, we would propose that the Department moves to dissolve GTCNI and transfer functions of GTCNI in house. Our assessment of the nature of failure of GTCNI indicates that the Department should look to the legislation and take direct charge of the Executive team while working through whatever processes / changes are needed to implement the Minister's chosen way forward.

#### **1.7.2 Recommendation Two – In the event of dissolution of GTCNI, DE should undertake a review of statutory and governance documentation**

*Successive councils have failed to resolve their issues and coupled with the Departmental response demonstrates that the guidance provided to the Council is not effective nor sufficiently robust.*

- Using the recent DoF Partnerships between Departments and Arm's Length Bodies: NI Code of Good Practice, any transitional or future Council (with input from TET, DE) should undertake

a review of the Management Statement and Financial Memorandum to re-visit the roles and responsibilities of each constituent part of the agreement and to refresh, revise and clarify any ambiguities. This would support future relationships and create a new pathway for both organisations.

- A revised MSFM and Standing Orders should introduce an escalation procedure to manage disagreements and breaches of protocol/orders/statutory remit. These should escalate to outside the organisation once the internal process has been exhausted and should follow a model such as the Commissioner for Ethical Standards in Public Life in Scotland for example.<sup>1</sup>

### **1.7.3 Recommendation Three – Departmental engagement and support for public appointees.**

*In the NIAO Code of Practice Partnerships between Departments and Arm's Length Bodies (March 2019), the fifth principle is about engagement. The code suggests that partnerships work well when relationships between departments and Arm's Length Bodies are open, honest, constructive and based on trust. There is a mutual understanding about each other's objectives and clear expectations about terms of engagement.*

- The Sponsor team needs to re-visit its own role and responsibilities as set out in MSFM and ensure that it has in place the necessary mechanisms and processes to support and engage with GTCNI. This requires DE providing support to all of its public appointees; creating and maintaining effective communication channels; providing guidance and support as well as setting stretch strategic objectives to allow any future GTCNI to work towards a new vision.
- For its part any transitional or new GTCNI must recognise the role and contribution Sponsor team has in GTCNI development and must work collegiately with the Department in reaching its objectives.

The purpose of this review is to provide assurance to the Department that GTCNI as an organisation, discharges its primary functions in an effective and efficient manner and that there is in place a robust system of stewardship of the organisation; sound governance, planning, performance management, reporting, financial decision making, direction setting and leadership. We are unable to provide such an assurance and thus our recommendations stem from a view that whilst we have considered a “repair” option, this has been rejected on the basis of the overwhelming evidence. However we do recognise that we are recommending fundamental change and are therefore conscious that any option for change will take time to implement. Mindful that some key GTCNI functions must continue during any time of change/transition, we believe that

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1. <https://www.ethicalstandards.org.uk/encourage-fairness-good-conduct-transparency-public-life-scotland>

the current Council is too toxic to provide a positive contribution to that work and therefore dissolution of Council has to be the starting point from which move forward.

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