

PRIVACY STATEMENT

For this call for views we intend to publish a summary of the responses that we receive. If we quote from individual responses in our summary, these will be unattributed. Please be mindful not to share any personal information in the body of your response.

Further information on how we process your personal data in relation to this consultation is set out in our Privacy Notice, which can be found on our website.

[Privacy notice for calls for consultations](#)

Please check the box to confirm that you have read and understood the Privacy Notices and consent to personal data being processed as set out in the Notices.

I confirm and consent ☒

CALL FOR VIEWS QUESTIONNAIRE

Q1: It is important for anyone involved in the Fitness to Teach process to be familiar with the Fitness to Teach rules, particularly those subject to investigation and any representative. We publish our rules and the policies that underpin them on our website, including our threshold policy and publication policy, which we highlight to those who are involved in our Fitness to Teach process.

Do you have any further comments to make in relation to interpreting and applying the Fitness to Teach rules?

No comments

Q2: We publish information to help people understand and participate in our Fitness to Teach work. As well as information about the Rules themselves and the process followed, we publish details about upcoming hearings and recent decisions; practical information for people involved in cases and; guidance on how to make a referral.

We have also published a number of practice statements designed to help guide and inform best practice and promote GTC Scotland's commitment to our organisational values and principles, as well as best regulatory practice.

Do you have any suggestions for these or any other resources we can provide to support understanding and participation in the process?

The GTCS plays an important role in protecting children's rights in Scotland and the Fitness to Teach process is an important element of that work. It ensures that all teachers in Scotland's schools meet minimum standards of professional competence and conduct and are able to help children realise their right to an education (Article 28 and 29 UNCRC), together with the full range of rights engaged during the school day.

Most of the resources on the GTCS website are aimed at adults. Children have a right to information which is produced in a child-friendly format (Article 13 UNCRC). They also have a right to access all the same complaints processes (and we would include the Fitness to Teach process) as adults, as part of their right to participate in decision making (Article 12).

The SPSO have recently developed a child-friendly complaints process to be used by public authorities. Whilst their work is not directly applicable to the GTCS's Fitness to Teach process, we would welcome additional work by the GTCS to develop similar resources aimed at children.

Q3: We are aware that the experiences of those who participate in our process vary considerably. For example, this can depend on whether a hearing takes place and if it is online or in person, the subject matter of the referral and the people involved.

What are your experiences of participating in the Fitness to Teach process?

Not applicable.

Q4: We sometimes need to involve children and young people in our investigations by taking statements from them and sometimes we ask them to give evidence at a hearing because, where their evidence is key, we can experience challenges about relying on their statements alone. This tends to happen in the cases that raise the biggest potential public protection concerns.

Understandably, children and young people and their parents or carers are often reluctant to become involved in our process.

What can we do to ensure that the rights of children and young people are respected and protected and the impact of their involvement minimised?

It is important that children participating in formal processes, such as the Fitness to Teach process, are properly supported to do so. In their General Comment 12, the UN Committee on the Rights of the Child highlights the importance of child friendly information (see above) and adequate support for self-advocacy. They also highlight the importance of children being supported to prepare for any hearing, including ensuring that they have a sufficient awareness of their own rights when doing so. It is also important that children understand what will happen

as a result of their participation. Where it may not be possible to share the outcome with the child, care should be taken to ensure they understand why this is the case.

It is also important that the child is able to participate in a way that is appropriate for them and importantly that there is flexibility in the way in which they participate. It is not appropriate to simply include a child in a formal hearing process. They should be given opportunities to share their views in way of their choosing, for example via video or audio recording, and in written and non-written form.

Good practice in this area already exists in Scotland, for example the provision of information and advocacy for children making referrals to the First Tier Tribunal Health & Education Chamber (previously the ASN Tribunal). Children making a referral have access to independent advocacy funded by the Scottish Government and Tribunal members have had considerable training to develop the skills necessary to support children's participation. The Tribunal has also invested significantly in ensuring that their hearings centres are child friendly.

We are aware that in some cases, participation in hearings may carry a risk of re-traumatisation. This should be mitigated as far as possible but should not be used as a reason to refuse participation. Again, there is existing good practice in Scotland which could be drawn on to increase support for children making referrals to the Fitness to Teach process. In Children's Hearings, independent advocacy workers can report the child's views to a hearing on their behalf. This is in line with the recommendations of the Committee on the Rights of the Child, in General Comment 12, that any representative of a child should exclusively represent their views and interests and not those of other persons.

Finally and most importantly, adult participants in the hearing, including decision makers, must receive appropriate training in children's rights and inclusive and supportive participation practices, to ensure that when children do participate their rights are respected and their views are "given due weight in accordance with the age and maturity of the child".

Q5: Do you have any other views that you would like to provide?

We note that the Committee on the Rights of the Child is currently drafting a General Comment on children's rights to access to justice and effective remedies. This is expected to be finalised and publicised during 2025 and will provide additional guidance which will be relevant to children's participation in the Fitness to Teach Process.

THANK YOU FOR TAKING THE TIME TO RESPOND.

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual, group or an organisation?

- Individual ☐
Group ☐
Organisation ☒

Which of the following best describes your role in the education system, or experience in relation to the Fitness to Teach process?

- | | |
|---|-------------------------------------|
| GTC Scotland registrant or teacher representative | ☐ |
| Teacher employer or employer representative | ☐ |
| Higher Education Institution | ☐ |
| Public body or national agency | ☒ |
| Interest group | ☐ |
| Witness | ☐ |
| Referrer | ☐ |

Other (please state):

We may want to contact you about some of the points you have raised in your response. If you are happy for us to do this, please provide your name and/or an email address:

Name: Children and Young People's Commissioner Scotland

Contact: Megan Farr

Email address: megan.farr@cypcs.org.uk