

## Slipping Through the Net

### *Tackling Incompetence in the Teaching Profession*

*In the second of a series of papers and research notes on the teaching profession in the run-up to the publication of a major report on teacher recruitment, training and retention later this year, **Sam Freedman** and **Briar Lipson** look at the Government's failure to remove poorly-performing teachers from schools and propose a series of improvements to the capability review process.*

Earlier this year, the head of the General Teaching Council for England (GTCE) was quoted as saying "It is not unreasonable to assume that in a workforce of half a million [teachers] there is a proportion that is probably around 17,000 that are in practice sub-standard." This was reported as a scandal, but it would be a perfectly reasonable assumption for any profession; in fact the number is probably higher. Debates about numbers are irrelevant however, what matters is developing systems to retrain underperforming teachers, or prevent the very worst from working in schools at all.

The current system for ensuring minimum standards is plainly inadequate. The legal position is clear: employers (in most cases the local education authority but sometimes the school itself) are obliged to refer on to the GTCE teachers who are dismissed on grounds of incompetence following a capability review. They are also supposed to refer cases in which a teacher has left a school voluntarily- but would have been dismissed if they had not left. The GTCE then have the power, if they decide further action should be taken, to issue a reprimand to the teacher; attach conditions to a teacher's registration (e.g. further training); or remove a teacher from the register either temporarily or permanently.

Figures revealed in full for the first time by Policy Exchange show that referrals are not being made. Since the GTCE took responsibility for regulating the teaching profession in June 2001, almost two-thirds (97 of 150) of Local Education Authorities in England have not referred a single case to the GTCE on grounds of incompetence. A further 27 have referred just one case. Essex and Nottinghamshire are the only authorities to refer more than ten. Other employers of teachers (primarily Foundation and Voluntary Aided schools) have referred just 9 cases in a little under seven years. The total number of referrals for incompetence for the 80 months to 31<sup>st</sup> January 2008 is just 135, or an average of 20 per year. From the 135 referrals, 60 incompetence hearings have taken place to date, with 46 resulting in a conviction and disciplinary order. Of these, just 8 teachers were barred from the profession and 10 suspended.

*Sam Freedman is Head of the Education Unit at Policy Exchange*

*Briar Lipson is a Research Fellow at Policy Exchange*

It is entirely implausible that there have been just 46 incompetent teachers operating since 2001. Anecdotal evidence suggests that there are many more, but that they often resign before the end of a capability review or when threatened with one. Certainly, a number of poorly performing schools are known to have lost 30%-40% of staff soon after the arrival of a new headteacher. Even though the legal regulations require employers to notify the GTCE if a teacher resigns who would otherwise have been dismissed for incompetence, it is hardly surprising that this does not happen. For a busy headteacher, pursuing a GTCE hearing (or co-ordinating one with the local authority) is additional bureaucracy. Furthermore it could lead to bad publicity for the school and bad feeling amongst other staff. In most cases, it seems, heads are simply relieved to get rid of the troublesome member of staff and do not take the process any further. Unfortunately the result is that underperforming teachers are simply “recycled” through schools – often those already facing challenging circumstances.

Both the GTCE and the Government are aware of this problem. The GTCE are engaged in research to find out why numbers of referrals are so low. The DCSF stated, in its Children’s Plan, that: “we will look with social partners at whether more can be done to address the performance of teachers who have the greatest difficulty in carrying out their role effectively. This should include helping them to leave the profession if that is appropriate.” There is concern, however, that in seeking to ease the fears of its “social partners” (i.e. teaching unions) the Government will offer only half-measures on this vitally important issue. Policy Exchange’s recommendations can be found at the end of this note.

### **Numbers of referrals to the GTCE of registered teachers by Local Authority**

#### **Employers from 01/06/01 to 31/01/08 (80 months)**

*Source: GTCE (authorities that have referred no teachers on competence grounds highlighted in orange)*

EMPLOYERS (Local Authorities)	Compe- tence	Conduct
Barnsley Metropolitan Borough Council	0	2
Bath and North East Somerset Council	0	1
Bedfordshire County Council	2	5
Birmingham City Council	0	27
Blackburn with Darwen Borough Council	0	3
Blackpool Borough Council	0	2
Bolton Metropolitan Borough Council	1	2
Borough of Poole Council	3	1
Bournemouth Borough Council	0	1
Bracknell Forest Borough Council	1	0
Brighton and Hove Council	0	1
Bristol City Council	0	2
Buckinghamshire County Council	0	7
Bury Metropolitan Borough Council	0	1
Calderdale Metropolitan Borough Council	0	0
Cambridgeshire County Council	0	5
Cheshire County Council	3	8
City of Bradford Metropolitan District Council	1	4
City of Stoke-on-Trent Council	3	6
City of Wakefield Met. District Council	0	1
City of York Council	5	0
Cornwall County Council	1	7
Corporation of London	0	0

EMPLOYERS (Local Authorities)	Compe- tence	Conduct
Council of the Isles of Scilly	0	0
County of Herefordshire Council	0	0
Coventry City Council	0	2
Cumbria County Council	0	3
Darlington Borough Council	0	5
Derby City Council	0	0
Derbyshire County Council	0	7
Devon County Council	3	5
Doncaster Met. Borough Council	1	7
Dorset County Council	1	6
Dudley Metropolitan Borough Council	0	8
Durham County Council	2	4
East Riding of Yorkshire Council	2	5
East Sussex County Council	1	2
Essex County Council	11	19
Gateshead Metropolitan Borough Council	0	0
Gloucestershire County Council	0	2
Halton Borough Council	0	5
Hampshire County Council	5	7
Hartlepool Borough Council	0	5
Hertfordshire County Council	0	8
Isle of Wight Council	0	0
Kent County Council	3	24

EMPLOYERS (Local Authorities)	Competence	Conduct
Kingston upon Hull City Council	0	3
Kirklees Metropolitan Council	2	8
Knowsley Metropolitan Borough Council	0	2
Lancashire County Council	2	2
Leeds City Council	1	5
Leicester City Council	1	3
Leicestershire County Council	0	1
Lincolnshire County Council	1	7
Liverpool City Council	0	2
London Borough of Barking & Dagenham	0	0
London Borough of Barnet	0	3
London Borough of Bexley	0	4
London Borough of Brent	0	1
London Borough of Bromley	0	1
London Borough of Camden	0	0
London Borough of Croydon	0	1
London Borough of Ealing	0	6
London Borough of Enfield	1	3
London Borough of Greenwich	1	1
London Borough of Hackney	0	0
London Borough of Hammersmith & Fulham	0	0
London Borough of Haringey	0	1
London Borough of Harrow	0	0
London Borough of Havering	1	0
London Borough of Hillingdon	0	2
London Borough of Hounslow	0	1
London Borough of Islington	0	4
London Borough of Lambeth	0	7
London Borough of Lewisham	3	4
London Borough of Merton	0	0
London Borough of Newham	0	4
London Borough of Redbridge	1	0
London Borough of Richmond upon Thames	0	1
London Borough of Southwark	0	2
London Borough of Sutton	0	0
London Borough of Tower Hamlets	0	3
London Borough of Waltham Forest	0	5
London Borough of Wandsworth	1	2
Luton Borough Council	1	1
Manchester City Council	0	4
Medway Council	0	1
Middlesborough Borough Council	0	2
Milton Keynes Council	0	1
Newcastle upon Tyne City Council	0	3
Norfolk County Council	1	8
North East Lincolnshire Council	6	5
North Lincolnshire Council	0	1
North Somerset Council	0	1
North Tyneside Met. Borough Council	1	2
North Yorkshire County Council	1	3
Northamptonshire County Council	0	7
Northumberland County Council	0	3
Nottingham City Council	0	0

EMPLOYERS (Local Authorities)	Competence	Conduct
Nottinghamshire County Council	12	8
Oldham Met. Borough Council	2	5
Oxfordshire County Council	1	2
Peterborough City Council	0	2
Plymouth City Council	0	0
Portsmouth City Council	3	3
Reading Borough Council	0	3
Redcar & Cleveland Borough Council	0	1
Rochdale Met. Borough Council	1	5
Rotherham Met. Borough Council	0	5
Royal Borough of Kensington & Chelsea	0	1
Royal Borough of Kingston upon Thames	0	0
Royal Borough of Windsor & Maidenhead	1	3
Rutland District Council	0	1
Salford City Council	0	6
Sandwell Metropolitan Borough Council	0	6
Sefton Metropolitan Borough Council	0	0
Sheffield City Council	1	6
Shropshire County Council	1	4
Slough Borough Council	0	4
Solihull Metropolitan Borough Council	0	4
Somerset County Council	0	6
South Gloucestershire Council	1	2
South Tyneside Met. Borough Council	0	3
Southampton City Council	1	3
Southend-on-Sea Borough Council	2	0
St. Helens Metropolitan Borough Council	0	5
Staffordshire County Council	3	6
Stockport Metropolitan Borough Council	0	1
Stockton-on-Tees Borough Council	0	0
Suffolk County Council	0	4
Sunderland City Council	0	6
Surrey County Council	0	4
Swindon Borough Council	0	1
Tameside Metropolitan Borough Council	2	5
Telford and Wrekin Council	0	0
Thurrock Borough Council	0	0
Torbay Borough Council	0	0
Trafford Metropolitan Borough Council	0	1
Walsall Metropolitan Borough Council	0	1
Warrington Borough Council	3	4
Warwickshire County Council	4	5
West Berkshire Council	1	3
West Sussex County Council	2	4
Westminster City Council	0	2
Wigan Metropolitan Borough Council	0	2
Wiltshire County Council	8	7
Wirral Metropolitan Borough Council	0	2
Wokingham District Council	0	1
Wolverhampton Met. Borough Council	0	2
Worcestershire County Council	3	2
Foundation schools	3	36
Voluntary Aided schools	6	15

As part of a nine-month project on teacher recruitment and training, Policy Exchange will offer a number of recommendations on this subject including:

- Reducing the time it takes to undertake a capability review (currently it can take up to a year), making them less onerous for employers to manage.
- Transferring the onus to discover and act on the outcomes of capability reviews from employers to the GTCE. This could be achieved in one of the following two ways:
  - a) The GTCE could write to head teachers every year requesting details of any teachers who had been dismissed following a capability review, or who, had they not left voluntarily before it began, would have been subject to a capability review.
  - b) Placing an obligation on employers to inform the GTCE whenever a capability review *is begun* or would have been had the teacher not left voluntarily.
- When a teacher voluntarily leaves following the threat of a capability review, the employer should put their name on to a GTCE monitoring list. The onus would then be on the GTCE to keep an eye on the teacher and, if sufficient further evidence was gathered, pursue an incompetence case. Some of the ways they might gather evidence would be to:
  - a) Use data already available to the DCSF to monitor the frequency of a teacher's movements between schools.
  - b) Use DCSF workforce data (which will be available from 2010) to track a teacher's effectiveness (using contextual value added scores). In order to start measuring effectiveness the DCSF will need to link pupil attainment data with workforce data which they are not currently proposing to do.
- The GTCE should provide a package of advice and retraining for those people they remove from the register.

### **The relevant legislation**

#### **Statutory Instrument 2003 No. 1186, *The General Teaching Council for England (Disciplinary Functions)***

29. (1) Where an employer -

(a) has ceased to use a registered teacher's services on grounds relating to his professional incompetence; or

(b) might have ceased to use a registered teacher's services on such a ground had the registered teacher not ceased to provide those services,

the employer shall report the facts of the case to the Council

### **About Policy Exchange**

Policy Exchange is an independent think tank whose mission is to develop and promote new policy ideas which will foster a free society based on strong communities, personal freedom, limited government, national self-confidence and an enterprise culture. Registered charity no: 1096300.

Policy Exchange is committed to an evidence-based approach to policy development. We work in partnership with academics and other experts and commission major studies involving thorough empirical research of alternative policy outcomes. We believe that the policy experience of other countries offers important lessons for government in the UK. We also believe that government has much to learn from business and the voluntary sector.

#### *Trustees*

Charles Moore (Chairman of the Board), Theodore Agnew, Richard Briance, Camilla Cavendish, Richard Ehrman, Robin Edwards, Virginia Fraser, Lizzie Noel, George Robinson, Andrew Sells, Tim Steel, Alice Thomson, Rachel Whetstone.

**For further information please contact Dr Steven King, External Relations Director,  
on 020 7340 2664 or [steven.king@policyexchange.org.uk](mailto:steven.king@policyexchange.org.uk)**