

**REPORT ON DISCIPLINARY CASES REFERRED TO
THE SOUTH AFRICAN COUNCIL FOR EDUCATORS
IN 2008 AND 2009 AND THEIR POLICY
IMPLICATIONS IN THE CONTEXT OF
INTERNATIONAL PROFESSIONAL PRACTICE**

June 2012



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SUMMARY

This report examines data from misconduct cases for 2008 and 2009 and discusses them in relation to the work of SACE as a professional body, as well as to that of similar organisations in other countries. The main findings suggest that cases are under-reported and that additional data will be required in order to provide useful statistics for future research. It is recommended that the oversight role of SACE be strengthened, not only as a disciplinary body but also as a guardian and promoter of professionalism and an implementer of government education policy.

1 INTRODUCTION

The South African Council for Educators (SACE) is one organisation amongst an increasingly integrated international body of seventeen similar organisations, the umbrella body being the International Forum of Teaching Regulatory Authorities (IFTRA) with its headquarters in the United Kingdom. The work of all these organisations, while differing in significant details, broadly concerns the regulation, support and development of the teaching profession within their respective countries. In this they are comparable to other professional bodies which support and regulate professions such as law, medicine, pharmacy, and accountancy. The need to establish teaching securely on an equal footing with these professions is one of the aims of teaching councils internationally.

The responsibilities of educational regulatory authorities involve:

- ✚ the official registration of all members of the teaching profession;
- ✚ the professional advancement and support of members; and
- ✚ the disciplining of those who fail to abide by the codes of professional conduct established by the councils.

To balance these roles so that each supports the others is a challenge. In their recent inaugural newsletter (*South African Council for Educators Newsletter*, 2011), SACE recognises that the Council's principal role is perceived to be disciplinary. This is now changing as a result of a reinvigorated strategic plan. Significant developments include the Council's work with the Department of Education towards implementing the Continuing Professional Development System (CPTD-S); expansion into new offices separated from the Education Labour Relations Council (ELRC); the establishment of better means of communication with members, including a newsletter; and the planned addition of a teacher assistance facility to its call-centre operations. In addition, a new and expanded role for primary research to be undertaken and commissioned by SACE is being instituted, as well as encouragement for teachers to undertake research. In this regard 'SACE has developed a Research Policy with priorities for the next five years as a way of ensuring that its work is evidence-based' (*South African Council for Educators Newsletter*, 2011, p.3). It is as part of this new research drive, which aims to 'ensure that the research has

an impact on policy and on educational effectiveness and improvement' (p.4) that this research report has been commissioned.

Thus, while the focus of the report is on disciplinary data, its objectives encompass these wider policy issues. The data, regarding misconduct cases referred to it by SACE in the years 2008 and 2009, is analysed with a view to understanding trends, appreciating the severity of the issues, and comparing the experiences of different provinces, different forms of misconduct, the ages and gender of perpetrators and the outcomes of the cases. However, in line with the policy objectives noted above, this research has also as its purpose to assist SACE in developing more effective systems of data collection in the future, in understanding the nature of the misconduct cases referred to it and in implementing the kinds of professional support from which its members would benefit. Comparisons are made with the experience of professional teaching bodies in other countries (focusing specifically upon Nigeria and Scotland but also with references to Sweden) in order to derive possible lessons and experiences from the systems and experiences of these other countries. This is the first such study undertaken by SACE and as such it could form a baseline study on which later reports would build.

2 ANALYSIS OF CASES OF MISCONDUCT REPORTED TO THE SOUTH AFRICAN COUNCIL OF EDUCATORS IN 2008 AND 2009

2.1 Number of cases reported

A total of 277 cases of misconduct were reported nationally to SACE in 2008, while in 2009 there were 265 reported cases. According to Education Management Information System (EMIS) data, there were 387 837 teachers in ordinary public schools and 25 230 in ordinary independent schools (Department of Education, 2011) in 2009. The number of educators involved in misconduct cases in 2009, therefore, represents 0.06 % of the total educator body of 413 067.

Table 1 Number of cases of misconduct reported to SACE by province, 2008 and 2009

Province	2008		2009	
	No.	%	No.	%
Eastern Cape	6	2%	13	5%
Free State	7	3%	19	7%
Gauteng	41	15%	39	15%
KwaZulu-Natal	80	29%	96	36%
Limpopo	14	5%	11	4%
Mpumalanga	12	4%	18	7%
Northern Cape	2	1%	5	2%
North West	19	7%	14	5%
Western Cape	94	34%	50	19%
Total	277	100%	265	100%

Table 1 shows the number and proportion of misconduct cases by province in each of the two years. In 2009, Gauteng, KwaZulu-Natal and the Western Cape accounted for just over two-thirds of all the reported cases of misconduct, a decline from the situation in 2008 when three quarters of all cases came from these three provinces.

In 2008, the Western Cape had the largest number of reported cases (94) accounting for a third of all the cases in that year. In 2009, KwaZulu-Natal had the largest number of cases (96) accounting for more than a third of all the cases. The Northern Cape, which has the fewest number of teachers in the country, had only two reported cases of misconduct in 2008 and five in 2009. Surprisingly, the Eastern Cape, which has the second largest number of educators in the country (after KwaZulu-Natal), had very few reported cases of misconduct, only 6 in 2008 and 13 in 2009. Further research might investigate to what extent a culture of reporting cases in fact exists in the Eastern Cape.

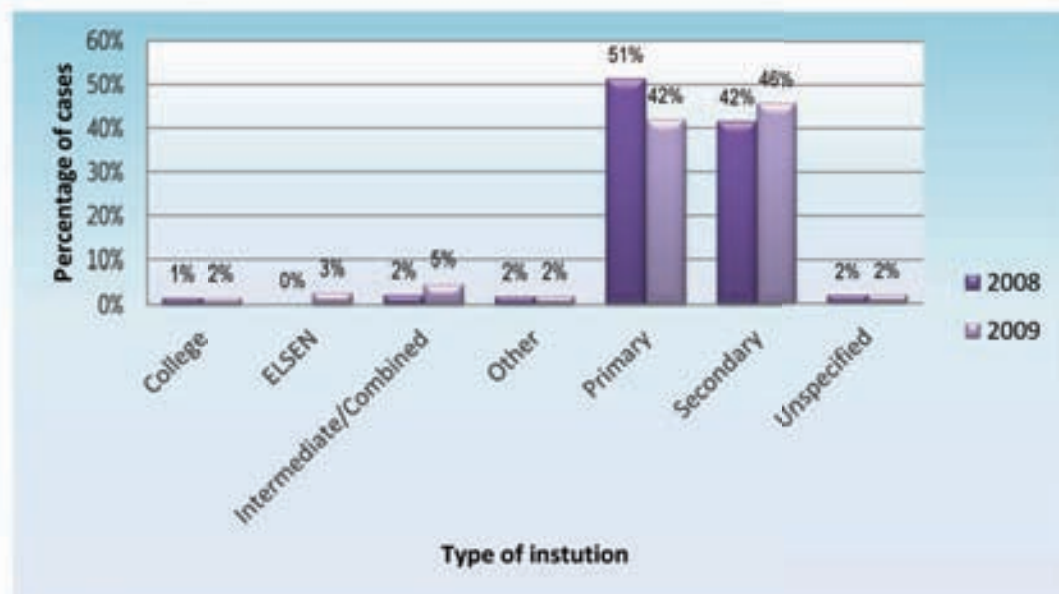


Figure 1 Percentage of cases by type of institution

The complaints involve a range of different institutions, with the vast majority of the cases coming from primary and secondary schools, as demonstrated in Figure 1. The other cases come from other educational institutions such as colleges, schools for the education of learners with special educational needs (ELSEN), intermediate and combined schools and others. In 2008 the majority of the cases of misconduct were reported as occurring in primary schools (51%) while in 2009 the largest number of cases was reported from secondary schools (46%).¹ Although Further Education and

¹ For a breakdown of the number as well as the percentage of cases by type of institution, see Table 12 in the Appendix.

Training (FET) Colleges are an important current concern in the education sector, they are not specified in the data.²

2.2 Persons accused

An overwhelming majority of the cases in both 2008 and 2009 (94% respectively) involved a single person being accused of misconduct (see Table 2). The remaining 6% of cases had more than one person accused. Thus, in 2008 there were a total of 308 individuals involved in the 277 cases reported and in 2009 there were 287 individuals involved in the 265 cases reported.

Table 2 Number of accused persons per case, 2008 and 2009

Number accused per case	2008		2009	
	No.	%	No.	%
One	259	94%	248	94%
Two	11	4%	15	6%
Three	5	2%	0	0%
Four	1	0%	1	0%
Five	0	0%	1	0%
Eight	1	0%	0	0%
Total	277	100%	265	100%

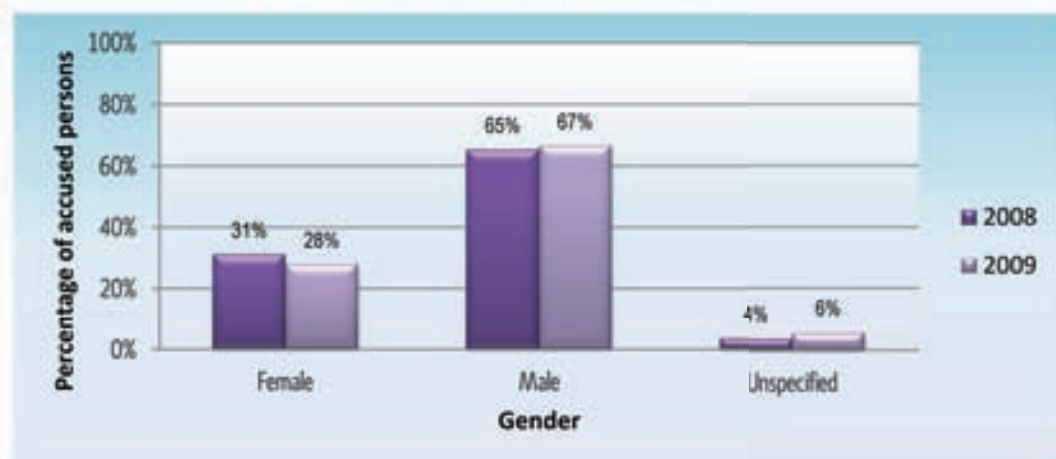


Figure 2 Accused persons by gender, 2008 and 2009

² A currently unresolved issue for SACE is the status of FET institutions and the responsibilities of FET teachers to be registered with SACE. The fairly recent separation of the Further and Higher Education sectors from Basic Education has resulted in this anomaly. The increasing focus of education policy in South Africa upon the FET sector would suggest, however, that this is an important issue and indeed a planned Belgian teacher development project to empower FET lecturers in South Africa is being finalised (*South African Council for Educators Newsletter*, 2011, p.3). The situations in Nigeria and in Scotland differ from one another in that teachers in the Further Education sector do not have to be registered with GTS Scotland, while in Nigeria all education sectors fall under the TRCN.

As can be seen in Figure 2, the majority of accused persons were male and, as Table 3 shows, with the exception of KwaZulu-Natal in 2008, this situation applied across all the provinces.³

Table 3 Number and percentage of accused persons by gender across provinces, 2008 and 2009

Province	2008							2009						
	Female		Male		Unspecified		Total	Female		Male		Unspecified		Total
	No.	%	No.	%	No.	%	No.	No.	%	No.	%	No.	%	No.
Eastern Cape	0	0%	5	83%	1	17%	6	5	33%	10	67%	0	0%	15
Free State	4	44%	5	56%	0	0%	9	3	14%	17	81%	1	5%	21
Gauteng	10	18%	44	79%	2	4%	56	10	24%	30	71%	2	5%	42
KwaZulu-Natal	48	58%	32	39%	3	4%	83	43	40%	54	50%	10	9%	107
Limpopo	4	22%	14	78%	0	0%	18	3	27%	8	73%	0	0%	11
Mpumalanga	4	31%	8	62%	1	8%	13	4	19%	16	76%	1	5%	21
Northern Cape	0	0%	2	100%	0	0%	2	0	0%	5	100%	0	0%	5
North West	7	30%	14	61%	2	9%	23	2	14%	10	71%	2	14%	14
Western Cape	19	19%	77	79%	2	2%	98	10	20%	41	80%	0	0%	51
Total	94	31%	201	65%	11	4%	308	80	28%	191	67%	16	6%	287

Figure 3 shows the proportion of the accused persons by age. In the majority of the cases, no age of the accused was recorded; this applied to 54% of the accused in 2008 and 56% in 2009. Where the ages of offenders are known the majority were aged between 35 and 54.⁴ The average age of the accused was 44 years in 2008 and 45 years in 2009. This suggests that experienced educators are most frequently involved in misconduct cases, an age group which, it may be noted, also shows an increased number of resignations (SACE, 2010).

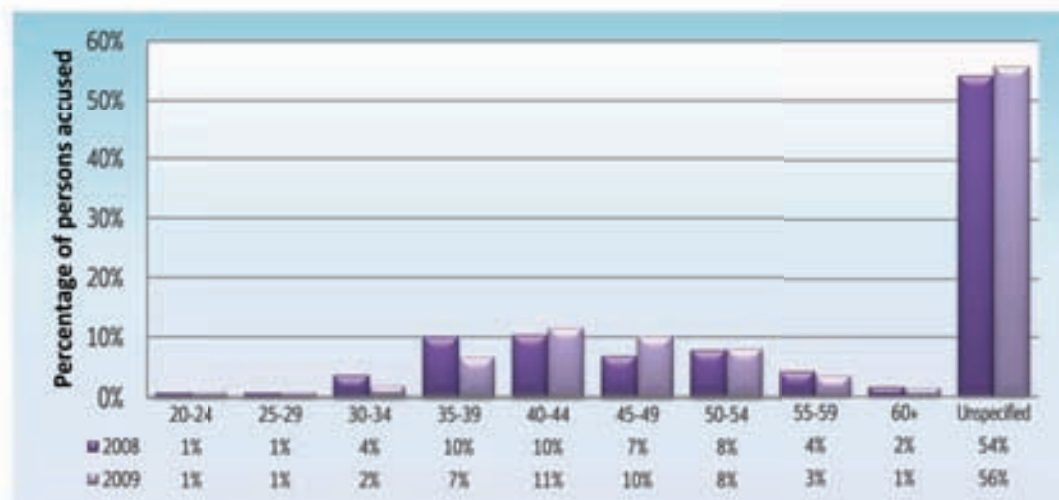


Figure 3 Percentage of accused persons by age, 2008 and 2009

³ For the numbers as well as the percentage of persons accused by gender see Table 13 in the Appendix. The number and percentage of cases of misconduct by province is shown and discussed in Table 14 in the Appendix.

⁴ For the numbers as well as the percentage of persons accused by age see Table 15 in the Appendix.

The categories into which the accused fall are represented in Table 4 below. As would be expected, the majority of the accused are educators, accounting for 75% of the accused in 2008 and 63% in 2009. The next largest group of the accused comprises principals/acting principals/deputy principals, who account for 21% of the accused in 2008 and 26% in 2009. There is a very small proportion of heads of department (HODs)/acting HODs involved in misconduct cases over this two year period. A tiny minority of cases are against schools, colleges, non-academic staff, School Governing Body (SGB) members, a provincial education department and/or learners. Where these are not entities over which SACE has jurisdiction, the cases were handed over by SACE to the relevant authorities.

Table 4 Number and percentage of accused persons by category, 2008 and 2009

Person accused	2008		2009	
	No	%	No	%
Educator(s)	230	75%	182	63%
HOD/acting HOD	3	1%	6	2%
Learner(s)	0	0%	2	1%
Non-academic staff	1	0%	5	2%
Principal/deputy principal/acting Principal	65	21%	76	26%
Provincial Education	8	3%	12	4%
SGB member	0	0%	1	0%
School/College	1	0%	2	1%
Unspecified	0	0%	1	0%
Total	308	100%	287	100%

Table 5 shows the types of misconduct in finalised cases according to the category of person accused. With regard to those educators accused of misconduct in 2008, the largest percentage of cases concerned assault (32%), followed by fraud (27%) and then unprofessional conduct (24%). In 2009, fraud constituted the largest category of misconduct cases among educators (34%), followed by assault (23%) and then sexual misconduct (21%)⁵.

⁵ It may be interesting to note that the most prevalent cases of misconduct reported to the GTCN are, firstly, extortion (from both pupils and parents), followed by sexual harassment; and, thirdly, aiding and abetting in examinations (Adedoyin, 2011).

Table 5 Number and percentage of finalised cases according to persons accused and categories of misconduct, 2008 and 2009

Person accused	Misconduct	2008		2009	
		Number	%	Number	%
Educator(s)	Absenteeism	6	5%	3	3%
	Assault	38	32%	23	23%
	Fraud	32	27%	33	34%
	Humiliation	1	1%	1	1%
	Mismanagement of School Finances	3	3%	3	3%
	Sexual Misconduct	10	8%	21	21%
	Unfair Labour Practice	0	0%	1	1%
	Unprofessional Conduct	29	24%	13	13%
	Total	119	100%	98	100%
HOD/Acting HOD	Absenteeism	0	0%	1	33%
	Sexual Misconduct	0	0%	1	33%
	Unprofessional Conduct	2	100%	1	33%
Total	2	100%	3	100%	
Learner(s)	Mismanagement of School Finances	0	-	1	100%
	Total	0	-	1	100%
Non-academic Staff	Unfair Labour Practice	1	100%	2	67%
	Unprofessional Conduct	0	0%	1	33%
	Total	1	100%	3	100%
Principal/Deputy/Acting Principal	Assault	3	12%	1	4%
	Fraud	1	4%	1	4%
	Mismanagement of School Finances	6	24%	3	12%
	Sexual Misconduct	2	8%	2	8%
	Unfair Labour Practice	5	20%	9	35%
	Unprofessional Conduct	6	24%	9	35%
	Victimization	2	8%	1	4%
	Total	25	100%	26	100%
	Provincial Education Department	Unfair Labour Practice	5	83%	10
Unprofessional Conduct		1	17%	0	0%
Total		6	100%	10	100%
School/College	Unfair Labour Practice	5	83%	2	100%
	Unprofessional Conduct	1	17%	0	0%
	Total	6	100%	2	100%
SGB/Member	Mismanagement of School Finances	0	-	1	100%
	Total	0	-	1	100%
School/College	Unprofessional Conduct	1	100%	0	-
	Total	1	100%	0	-
Unspecified	Assault	0	-	1	100%
	Total	0	-	1	100%

Table 6 shows the types of sanctions that were imposed on perpetrators according to the different categories of misconduct in 2008, while Table 7 shows those for 2009. It is generally the case that the offences that resulted in the perpetrators being struck off the roll indefinitely involved sexual misconduct; this applied to three cases in 2008 and 13 in 2009. In 2008, two cases involving assault also resulted in the accused being struck off the roll indefinitely. In 17 cases of assault in 2008 and 13 cases of assault in 2009, individuals were conditionally struck off the roll for a period. Assault cases also resulted in perpetrators being given cautionary letters (three in 2008 and one in 2009) and fines (seven cases in 2008 and four in 2009).

Table 6 Case decisions according to type of misconduct, 2008

Case decision	Misconduct									Grand Total
	Absenteeism	Assault	Fraud	Humiliation	Mismanagement of School Finances	Sexual Misconduct	Unfair Labour Practice	Unprofessional Conduct	Victimization	
Advisory/Warning/Cautious letter	2	3	28	0	2	0	0	9	0	44
Case to remain open indefinitely	0	0	0	0	0	0	0	1	0	1
Charges dropped	1	0	0	0	1	0	0	0	0	2
Charges dropped on medical grounds	0	0	0	0	0	1	0	1	0	2
Deceased	0	0	0	0	0	0	0	1	0	1
Dismissal	0	0	0	0	0	1	0	1	0	2
Fine	0	7	0	0	0	0	0	2	0	9
Lack of evidence	1	3	0	0	1	2	0	0	1	8
Matter referred to SAPS/Public Protector	0	0	0	0	1	0	0	1	0	2
Matter referred to the Provincial Education Department	1	0	1	0	3	0	9	3	0	17
Mediation successful	0	1	0	1	0	0	0	8	1	11
No record of decision	0	4	2	0	0	0	1	10	0	17
No response from key witnesses	0	1	0	0	0	2	0	0	0	3
Not guilty	0	1	0	0	0	1	0	1	0	3
Resignation	1	0	0	0	0	0	0	1	0	2
Retirement	0	2	0	0	0	0	0	0	0	2
SACE has no jurisdiction	0	0	2	0	1	2	0	0	0	5
School closed down	0	0	0	0	0	0	1	0	0	1
Struck off roll indefinitely	0	2	0	0	0	3	0	0	0	5
Struck off roll, conditionally suspended for a period of time	0	17	0	0	0	0	0	0	0	17
Grand Total	6	41	33	1	9	12	11	39	2	154

Fraud cases generally resulted in the issuing of a cautionary letter (28 fraud cases in 2008 and 32 in 2009). In 2009, cautionary letters were also given to individuals involved in four sexual misconduct cases. Other offences which resulted in the issuing of cautionary letters included absenteeism, assault, humiliation, mismanagement of school finances and unprofessional conduct. Most matters of unfair labour practice were referred to the provincial education department (nine in 2008 and 22 in 2009). Cases involving absenteeism, mismanagement of school finances and unprofessional conduct were also referred to the Provincial Education Department.

Table 7 Case decisions according to type of misconduct, 2009

Case decision	Misconduct									
	Absenteeism	Assault	Fraud	Humiliation	Mismanagement of School Finances	Sexual Misconduct	Unfair Labour Practice	Unprofessional Conduct	Victimization	Grand Total
Advisory/Warning/Cautionary letter	2	1	32	1	1	4	0	2	0	43
Charges dropped	0	0	0	0	0	0	0	1	0	1
Charges dropped on medical grounds	0	1	0	0	0	0	0	1	0	2
Deceased	0	1	0	0	0	0	0	0	1	2
Educator left the school	0	0	0	0	0	0	1	0	0	1
Fine	0	4	0	0	0	0	0	0	0	4
Lack of evidence	0	2	1	0	0	2	0	0	0	5
Matter referred to SAPS/Public Protector	0	1	0	0	0	0	0	0	0	1
Matter referred to the Provincial Education Department	2	0	0	0	6	0	22	11	0	41
Matter referred to the school	0	0	0	0	1	0	0	0	0	1
Mediation successful	0	0	0	0	0	1	0	6	0	7
No record of decision	0	2	1	0	0	2	1	1	0	7
Reinstatement	0	0	0	0	0	1	0	0	0	1
Resignation	0	0	0	0	0	0	0	1	0	1
SACE has no jurisdiction	0	0	0	0	0	1	0	0	0	1
Struck off roll indefinitely	0	0	0	0	0	13	0	0	0	13
Struck off roll, conditionally suspended for a period of time	0	13	0	0	0	0	0	1	0	14
Grand Total	4	25	34	1	8	24	24	24	1	145

2.3 Complainants

The number and percentage of complaints according to the category of complainant is shown in Table 8. In both 2008 and 2009 the largest proportion of complaints were lodged with SACE by the provincial education departments. This is followed by educators, who made up 19% of the complaints in 2008 and 25% in 2009. SACE itself initiated 26 cases in 2008 (9% of all cases in that year) and 31 cases in 2009 (12% of cases). A number of complaints were also laid by parents, guardians and relatives (9% in 2008 and 7% in 2009), as well as by principals or acting principals and deputy principals (9% in both years).

Table 8 Number and percentage of complaints by category of complainant, 2008 and 2009

Complainant	2008		2009	
	No	%	No	%
Community member(s)	5	2%	2	1%
Educator's spouse/partner	1	0%	2	1%
Educator(s)	52	19%	69	26%
HOD/acting HOD	4	1%	7	3%
Learner(s)	1	0%	2	1%
Non-academic staff	1	0%	1	0%
Other	3	1%	4	2%
Parent/guardian/relative	26	9%	18	7%
Principal/deputy principal/acting principal	26	9%	25	9%
Provincial Education	122	44%	55	36%
SACE	26	9%	31	12%
SGB member	8	3%	9	3%
Unspecified	2	1%	0	0%
Total	277	100%	265	100%

2.4 Analysis and outcome of the reported cases

As stated above, there were 277 reported cases of misconduct in 2008 and 265 in 2009. The different categories of misconduct reported are shown in Table 9. In 2008, 30% of the cases were classified as unprofessional conduct (an unrevealing category which may in future need to be disaggregated). A further 25% of the cases involved assault, 17% fraud and 9% sexual misconduct. Other types of cases that were reported to SACE during 2008, but in smaller numbers, included mismanagement of school funds, absenteeism, unfair labour practice, humiliation, victimisation and drug abuse, as well as one case of murder.

Table 9 Category of misconduct, 2008 and 2009

Misconduct	2008		2009	
	No	%	No	%
Absenteeism	16	6%	7	3%
Assault	69	25%	48	18%
Drug abuse	2	1%	0	0%
Fraud	46	17%	46	17%
Humiliation	3	1%	6	2%
Mismanagement of school finances	13	5%	10	4%
Murder	1	0%	0	0%
Racism	0	0%	1	0%
Sexual misconduct	26	9%	48	18%
Unfair labour practice	11	4%	30	11%
Unprofessional conduct	82	30%	65	25%
Victimisation	8	3%	4	2%
Total	277	100%	265	100%

In 2009, the number of sexual misconduct cases reported to SACE showed a worrying increase, almost doubling from 26 in 2008 to 48 in 2009. Unprofessional conduct still constituted the highest proportion of reported cases (25%) in 2009, followed by assault

and sexual misconduct (at 18% each). The proportion of reported fraud cases did not change over the two year period.⁶

At the time of writing this report, the available information indicated that of the 277 cases reported to SACE in 2008, 154 (56%) had been finalised while 123 (44%) were still pending. Of the 265 cases reported to SACE in 2009, 145 (55%) had been finalised while 120 (45%) were still pending.

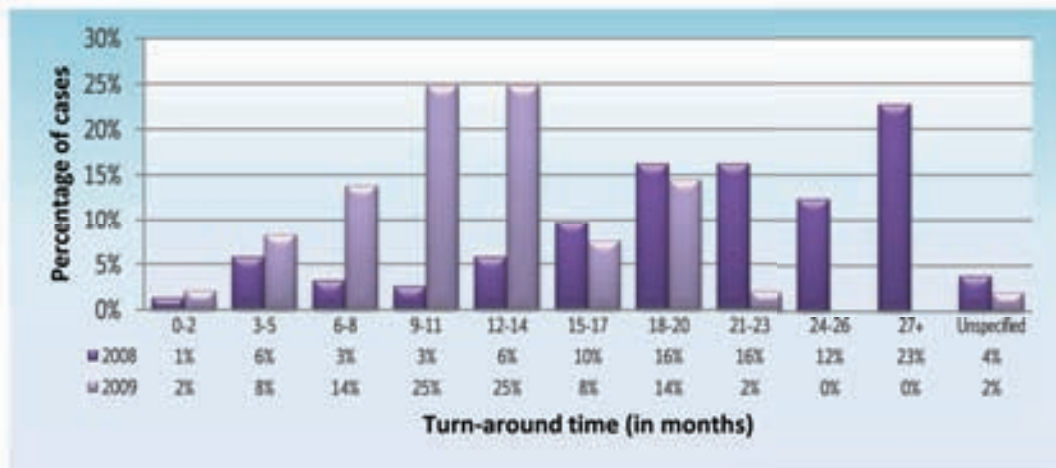


Figure 4 Case turn-around time in months, 2008 and 2009

The average turn-around time for the finalised cases is shown in Figure 4 above.⁷ There was a substantial apparent improvement in the turn-around for completed cases reported to SACE between 2008 and 2009. Further analysis would be needed to reveal whether certain types of cases took longer than others to resolve. Fewer than half the finalised cases (49%) reported to SACE in 2008 had been completed within 20 months. In fact 16% of the completed 2008 cases took longer than 27 months to complete. Of the completed 2009 cases, 96% were completed within 20 months. This suggests that SACE had begun to deal with cases more promptly. Analysis also suggests that there has been a significant decrease in the turn-around for the cases that were completed. The average turn-around time for 2008 cases was 20.3 months and this was reduced to 11.5 months for the 2009 cases.

There was a wide variety of decisions taken on cases, as shown in Table 10.

⁶ Information on the number and proportion of cases in each province is provided in Table 15 in the Appendix.

⁷ For information on number and percentage of cases according to the period of time taken to complete them see Table 16 in the Appendix.

Table 10 Decision on finalised cases, 2008 and 2009

Case decision	2008		2009	
	No	%	No	%
Advisory/warning/cautionary Letter	43	28%	43	30%
Case to remain open indefinitely	1	1%	0	0%
Charges dropped	2	1%	1	1%
Charges dropped on medical grounds	2	1%	2	1%
Deceased	1	1%	2	1%
Dismissal	2	1%	0	0%
Educator left the school	0	0%	1	1%
Fine	9	6%	4	3%
Lack of evidence	9	6%	4	3%
Matter referred to SAPS/Public Protector	2	1%	1	1%
Matter referred to the Provincial Education Department	17	11%	41	28%
Matter referred to the school	0	0%	1	1%
Mediation successful	11	7%	7	5%
No record of decision	17	11%	8	6%
No response from key witnesses	3	2%	0	0%
Not guilty	3	2%	0	0%
Reinstatement	0	0%	1	1%
Resignation	2	1%	1	1%
Retirement	2	1%	0	0%
SACE has no jurisdiction	5	3%	1	1%
School closed down	1	1%	0	0%
Struck off roll indefinitely	5	3%	13	9%
Struck off roll/conditionally suspended for a period	17	11%	14	10%
Total	154	100%	145	100%

In just over a quarter of the cases (28%) in 2008, the guilty party was given a cautionary letter. In 11% of the cases, the accused persons received a sentence where they were struck off the roll but this was conditionally suspended for a period of time, while in 3% of cases the offenders were struck off indefinitely. In 12% of the cases, the matter was referred either to the provincial education department or to the police or the public protector, presumably because SACE had no jurisdiction over these matters. In a further 3% of matters, it is reported that SACE had no jurisdiction but it is not recorded if these cases were dropped or referred elsewhere.

In 2009, in 30% of cases, cautionary letters were given to offenders, while 28% of cases were referred to a provincial education department. The number of cases where offenders were struck off the roll indefinitely more than doubled (from 5 cases in 2008 to 13 cases in 2009).

Table 11 Status of pending cases, 2008 and 2009

Status	2008		2009	
	No	%	No	%
Acknowledgement letter	26	21%	39	33%
Advisory/warning/cautionary letter	10	8%	0	0%
Arbitration	0	0%	1	1%
Changes to hearing date	0	0%	1	1%
Complainant asked for more details	1	1%	0	0%
Educator left the school	0	0%	1	1%
Hearing arranged	1	1%	2	2%
Hearing held	0	0%	1	1%
Investigation held	0	0%	7	6%
Investigation ongoing	2	2%	0	0%
Mediation successful	1	1%	0	0%
More details from complainant	0	0%	3	3%
Negotiations ongoing	1	1%	0	0%
No information specified	52	42%	11	9%
Notice of investigation	4	3%	7	6%
Postponement of investigation	1	1%	3	3%
Recommendation drafted for approval	0	0%	22	18%
Reminder letter	19	15%	19	16%
Resignation	2	2%	1	1%
Struck off roll, conditionally suspended for a period of time	1	1%	0	0%
Summons	2	2%	2	2%
Total	123	100%	120	100%

Although the available data categorises 123 of the cases lodged in 2008 and 120 of the cases lodged in 2009 as still pending at the time of writing, it is possible that the actual number of pending cases may in fact be slightly lower, since additional information with regard to some of the cases suggests that they may have been finalised.

For example, as can be seen in Table 11, in 8% of the 2008 cases whose status is said to be pending, the data indicates that an advisory, warning or cautionary letter has been sent to the accused person, while in one case mediation was successful and in another the offender was conditionally struck off the roll. Some of the 2009 cases may also be close to finalisation since 22 pending cases lodged in that year have had recommendations drafted for approval. Nevertheless, very little progress has been made in a proportion of pending cases, as indicated in Table 11. Just over a fifth of all pending cases from 2008 and a third of all pending cases from 2009 have not progressed beyond the sending of acknowledgement letters. It is also evident that information on cases is not being captured rigorously since no information is available for 42% of the pending cases from 2008 and 9% from 2009.

3 DISCUSSION

3.1 Introduction

This section will consider some of the implications of the above analysis for the work of SACE, mainly in relation to the work of its sister organisations, the Teachers Registration Council of Nigeria (TRCN) and the General Teaching Council for Scotland (GTCS). Both organisations provide useful insights in that the TRCN, providing an African context, is very active and has worked closely with SACE in the past, while the Scottish council is one of the oldest of its kind and highly respected. Reference is also made to the Swedish National Agency for Education. Information, unless otherwise stated, is drawn from the relevant website in each case.

3.2 Disciplinary systems

SACE's policy requires that the disciplining of teachers be developmental rather than punitive; thus, teachers may be required to attend a classroom management course at their own cost (Moroasui, 2011). Clearly, where disciplinary systems are experienced as fair and appropriate as well as effective, teachers are more likely to feel supported and less likely to be involved in unprofessional conduct. In this regard, there is clearly still work to be done by SACE. Not only is it possible that the jurisprudence underpinning disciplinary procedures may not be sufficiently systematic (Metcalf, 2011) but also there are clear shortcomings revealed by the data as regards the resolution of cases. The Chief Executive Officer of SACE, Mr Reg Brijraj, has recognized this and affirmed that 'a more streamlined approach towards resolution of complaints against educators is being implemented ensuring timeous closure, correction, rehabilitation and remedy where appropriate' (*South African Council for Educators Newsletter*, 2011, p. 3). The CEO of the GTCS, Mr Tony Finn, says of his own systems: 'Largely because we have so many years of experience, our disciplinary processes tend to be considered as fair and proportionate' (Finn, 2011).⁸

One of the challenges facing SACE is the apparent under-reporting of cases. This would seem to be particularly an issue in the Eastern Province, where only six cases were

⁸ He continues:

Our disciplinary procedures are open and accountable. They are not always quick (some are very complex and there are sometimes difficulties securing dates when respondents, lawyers and witnesses can be available).

We are currently considering ways to allow some faster, consensual resolutions which would allow a teacher to opt to acknowledge a charge, agree that it constitutes unprofessional conduct and accept a sanction (including removal).

We always have a legal representative to put the case against a teacher; respondents are often defended by lawyers; and we always have a neutral legal assessor to ensure the fairness of proceedings and to advise on points of law (Finn, 2011).

reported in 2008 and thirteen in 2009, as opposed, for example, to KwaZulu-Natal, where 80 cases were reported in 2008 and 96 in 2009. The recent history of the Eastern Cape Province indicates that both poverty and inefficiency in administration may have led to a breakdown in reporting of cases. Part of the problem may also lie in limitations on the right to submit complaints in the South African system.⁹ Both Scotland and Nigeria operate systems of complaint which are very easy and quick to access through the Internet.¹⁰ They are therefore available to members of the public. However, in Scotland, it is specifically noted that no complaints concerning competence to teach are permitted from the public. Internet access is, of course, limited in poorer rural areas of South Africa, making this only a partial solution.

3.3 Misconduct data

While SACE's system of data collection makes it possible to see differences between provinces very clearly (as in the figures reported above), it does not require the geographical area of individual schools to be provided (whether urban, rural or peri-urban) nor does it specify the socio-economic status of schools by quintile nor the subject areas of teachers. While EMIS data will reveal the location of the school, and thus allow the geographical area to be established through further probing, there is no requirement that teacher qualifications be given. Thus, it is not easy to link possible trends in particular types of offence and in particular categories to these variables and no indication is provided of whether certain types of offence are more prevalent amongst teachers of particular disciplines or in certain locations.

There is no requirement at present that offenders' ages be given. Analysis of data where the ages are given reveals a disturbing situation in which it is the most

⁹ Thus, in the experience of a principal of an urban secondary school in Gauteng 'cases of misconduct are referred to SACE at the sole discretion of the Labour Unit within the District'.

¹⁰ Nigeria's Dr Ibrahim Roni who has special responsibility for the TRCN's Teacher Investigation Panel (TIP) explains: The strength of the TIP system lies in the flexibility of its procedure of receiving reports of allegation of misconduct perpetrated by Registered Teachers. The enabling Law charges Heads of Educational Institutions to render such reports for investigation. However, students, parents, civil society or any individual aggrieved by the unethical conduct of a teacher can also make report to the TIP. On receipt of such allegation, the TIP conducts a thorough investigation. If a prima facie case is established, then the TIP reports to Teachers Disciplinary Committee (TDC) for trial and sanction. TDC operates with the powers of the Hon Attorney General & Minister of Justice of The Federation through an Assessor who guides the conduct of the committee on matters of Law. Our major challenge is our difficulty in coping with multiple litigations in conventional courts in cases where perpetrators are not registered teachers hence cannot be disciplined by TDC. This is owing to the vastness of the Nigerian State and reliance on the Police where the offense committed tantamount to criminality' (Roni, 2011a).

Overall in Nigeria there is evidence of under-reporting of cases of misconduct to the regulatory authorities and to security agencies according to Dr Grace Adedoyin, Director of Planning Research and Statistics GTCN (Adedoyin, 2011)

experienced teachers who are most frequently involved in misconduct. This may be seen to link interestingly to the findings of another recent SACE research project (SACE, 2010) in which the greatest number of resignations from the profession were also found to come from this age group at a stage in their careers where other professionals' salaries are markedly outstripping those of teachers. On the positive side, only a very small percentage of Heads of Department or Acting Heads of Department (presumably often teachers from this same age group) are amongst the offenders reported (1% in 2008 and 2% in 2009). While more research would need to be done to explore this phenomenon before any significance could be attached to the figures, it is possible that the status awarded to this group and accompanying feelings of self-worth and agency (Hill, 2010; Lawrence, 2007) may allow its members to develop precisely those professional attitudes to work that SACE most urgently wishes to inculcate amongst all teachers.

3.4 Problems with leadership

Statistics involving lapses in good leadership and management are of concern. That the next largest group of accused after educators is that of principals/acting principals/deputy principals and that these accounted for 21% of the accused in 2008 rising to 26% in 2009 may be an indication that selection procedures for principals and their ongoing professional support is currently inadequate. Also of concern is the prevalence of mismanagement of school finances of which school leaders are accused. The possibility that some principals and deputy principals may have attained their positions illegally cannot be ruled out, suggesting an additional cause for the underperformance of teachers in leadership positions. Research done in the North-West Province (Diko and Letseka, 2009) shows that senior positions are sometimes attained as a result of bribery or undue political influence, in which case the holders of these positions are likely to be inappropriately qualified and not of high ethical standing. Leaders in schools in South Africa clearly face far greater challenges on a day-to-day basis than do most of their colleagues in more developed countries such as Scotland and Sweden. Ensuring proper selection procedures is therefore a heavy responsibility.

At present there is no dedicated induction period for principals in South Africa. The former Minister of Education, Naledi Pandor, has introduced a scheme in which senior academics from the universities with leadership expertise provide support and advice to principals and this scheme is still continuing in some areas. Although many principals take an Advanced Diploma in school management this may also not be sufficient, given the mixed reports on the practicality of these courses (Bush, 2008; Bush et al, 2010).

While leadership skills are therefore often lacking, at the same time, the power of principals in South Africa is considerable:

The Amendment Act 53 of 2000 puts principals in the position of quasi-employers, exercising administrative control in the place of the actual employer in the first stages of the disciplinary process: they may now exercise the discretionary decision-making power delegated to them (Rossouw, 2001, p.134).

This devolution of power to principals is likely to have positive effects when the standard of leadership is high. It will normally speed up the process of disciplinary action and it puts authority in the hands of the person best able to understand the context and the personalities involved. In the case of underqualified or ineffective leaders, however, too much decentralisation of power may not be in the interests of learners and the school community in general.

3.5 Issues of political influence and fraud

Cases of fraud amongst educators (27% in 2008 rising to 34% of in 2009) often involve claiming benefits for which they are not entitled. This suggests a failure in the initial administration of such claims by school authorities. Again cases of mismanagement of school finances by principals (24% in 2008 and 12% in 2009), in addition to being an indicator of unprofessional conduct, may indicate a lack of sufficient available training in this area for both principals and school governing bodies (Xaba and Ngubane, 2010).

Alongside anecdotal evidence pointing to ineffective leadership, the literature suggests that instances of undue political influence in schools are common. According to Diko and Letseka (2009), 'the greatest threat to the retention of teachers in the teaching profession appears to be the ways in which provincial and regional education offices appropriate teacher appointment policies and procedures' (p.228). They further state that '[t]he privileged groups — education officers, principals and union leaders — continue to consolidate their grip on the system for patronage favours through misappropriation of well laid out plans to democratise school governance' (ibid. p.235). In order to guard against instances of this kind, the Governing Body Foundation has begun to employ lawyers to look after the interests of their members and defend them in court when necessary. However, this body tends to represent only the most affluent of ex-Model C schools, leaving the most vulnerable without this kind of support (de Lange, 2011).

While the very important positive role that teachers' unions play is recognised in professional teaching councils internationally, anecdotal evidence, along with some research (see above), suggests that the power of some unions is felt to be overweening in South Africa.¹¹ The need would appear to be to find an appropriate balance between

¹¹ On the positive side it should also be noted that the most recent declaration from the National General Council of the South African Democratic Teachers' Union restates their 'commitment for the Quality Learning and Teaching

the rights of the teacher (as supported by the unions) and the rights of all educational stakeholders, especially the child.

With regard to the balance of power between the teachers' unions and the Council, Dr Ibrahim Roni of the TRCN writes as follows:

TRCN is statutory and independent of Teachers Unions and Associations. However, the Council considers them very important allies in promoting professionalism. The Nigeria Union of Teachers (NUT) is the largest trade union and contributes 5 out of 23 member Governing Board of TRCN yet does not exercise undue control in the operation of the Council. Likewise the College of Education Academic Staff Union (COEASU), Academic Staff Union of Universities (ASUU) etc. In fact we collaborate (Roni, 2011b).

Mr Tony Finn reports on related issues within GTCS:

We do have a union presence on our Council but this is done following elections by teachers. The Convener has often been a former leading light in EIS (the largest union). Our 19 elected seats will have a sizeable number of union members, drawn from different unions, but some will not be a member of any union. The remaining 18 members are drawn from stakeholders and the public interest. Our Executive committee, for example, has a lay member, a director of education, an FE Principal, a Head of Faculty, a government appointee and three elected teachers, including the Convener (EIS) a primary HT (primary heads group) and two other teachers. Most members of Council recognise a distinct difference of role when they are elected: they know that they are here on behalf of the profession not accountable to a trade union (Finn, 2011).

In relation to the issue of bribery, Dr Roni states that:

The issue of bribery and corruption has not been explicitly addressed by the Teachers Code of Conduct beyond the UNESCO/ILO Recommendation on Status of The Teachers. Some of these recommendations seek to address issues of bribery and are embedded in the Teachers Code of Conduct... Furthermore, in Nigeria, a number of statutes have brought into existence some anti corruption agencies that clearly define corrupt practices and penalties thereto. These agencies are the Independent Corrupt Practices Commission (ICPC); and Economic and Financial Crime Commission (EFCC). The 2 agencies capture all forms of corruption and have powers to investigate & prosecute any related matter referred to them (Roni, 2011b).

In response to a question posed to Mr Finn on the likely consequences in Scotland of a government official demanding a bribe from a teacher, he responds: 'I have no doubt

Campaign' (South African Democratic Teachers' Union, 2011b). In particular, they declare a commitment to 'the non-negotiables, including that teachers must be on time, on task, thoroughly prepared and behave professionally in accordance with [their] code of conduct at all times' (p.1) and indicate their unequivocal condemnation of 'the minority of teachers whose bad behaviour – particularly sexual abuse of learners - brings the profession into disrepute' (p.2).

that the scenario you have painted would lead to dismissal and, for the teacher, removal from the register' (Finn, 2011).

3.6 Professional development

The disciplinary role of teaching councils internationally is inextricably linked to their positive role in supporting teacher professional standards and development. Only a teaching corps with appropriate professional expertise can be expected to act professionally. This is supported by research (e.g., Lawrence, 2007; Hill, 2010). Lawrence, in describing the Eastern Cape Department of Education/Imbewu school transformation programme, comments that '[a] strong message from the intervention...is that schools are transformed by individuals who are transformed' (p.36).

Teaching councils, including the TRCN and the GTCS, therefore place a major focus on continuing professional development. In Nigeria 'the earning of credit units is stipulated for professional development in the TRCN Mandatory Professional Development Manual (MCPD)' (Teachers Registration Council of Nigeria, 2005). The GTCS is embarking on a campaign to involve all stakeholders in the development of a system which will ensure that teachers keep up with necessary developments in their profession (as must other professionals in fields such as medicine). The GTCS website seeks to assure teachers that this 'Professional Update' is not intended to be a means of 'getting rid of teachers', suggesting that suspicion of such interventions may always be present (General Teaching Council of Scotland, 2011). In South Africa, a system of continuing professional teacher development, involving, for instance, the earning of professional development points for attendance at conferences and courses, has been mooted since 2007. Points would be recorded on an individual teacher's record. Currently SACE is working with the Department of Education to develop and pilot the CPTD-S.

Mentorship has been shown in research conducted in Africa to be one of the most effective ways of developing the skills of young teachers (Lewin et al, 2003). Nigeria has a suggested mandatory system of mentorship for new teachers in its 'Professional Standards for Nigerian Teachers'. This is being further developed at the moment and a wide ranging education policy document has internship as a key intervention for which the TRCN is responsible. Nigeria also has a planned system of mandatory in-service training following these initial periods of mentorship (Teachers Registration Council of Nigeria, 2005).

The GTCS operates a slightly different system in that teachers are granted full registration only after completing an induction programme of a minimum duration of one year (General Teaching Council of Scotland, 2011). During this time new teachers

have a reduced teaching load, give dedicated time to professional development and work closely with a nominated probation supporter who is an experienced teacher at the school. There is also a 'flexible' induction route allowing teachers who move between schools to accumulate experience over a longer period, monitored by GTCS's Learning and Development Department.

South Africa faces particular challenges on account of dramatic curricular changes which the schooling system has undergone, increasing the difficulty of assigning teachers to posts and of analysing whether teachers are adequately qualified for the posts they fill. Research conducted by Reeves and Robinson (2010) concludes:

Specifying the disciplinary knowledge-base teachers are expected to have for posts in policies dealing with teacher pre-and in-service and with teacher recruitment and promotion would...help to ensure that the selection of candidates for appointment in posts and promotion of teachers is based on an assessment of their disciplinary knowledge (p.29).

3.7 Inspection and appraisal systems

Although the issue of inspection is a particularly sensitive one, those who advocate this type of scrutiny believe that it may be needed in order to assure appropriate standards of professional knowledge and skills, particularly in the context of South Africa where, for historical reasons, under-qualification remains an issue in the teaching body as a whole (Reeves and Robinson, 2010). On the other hand, any invasive system of inspection, reminiscent of apartheid methods, could be considered undermining of teachers' professionalism. Scotland has a well-established inspection system which, 'notwithstanding teachers' apprehensions,...generally works quite well and is broadly perceived as fair' (Finn, 2011).

The South African Democratic Teachers Union (SADTU) has been criticised in the past for its firm stance against any form of teacher appraisal. Recently SADTU's response to the recommendations made by the National Planning Commission (NPC) on education and training confirmed that they perceived 'the regular testing of teachers in subjects they teach [to be] an insult to teachers' and that this will only 'add to the low morale teachers are already suffering from because the policies are deprofessionalising teachers' (South African Democratic Teachers Union, 2011). However, the union goes on to recommend instead that teachers should 'undergo regular refresher courses in the subjects they teach'. Hence the union indicates its approval of ongoing teacher development in order to maintain standards, as is required by other professions such as medicine. The Integrated Strategic Planning Framework for Teacher Education and Development (ISPFTED) will introduce a personal appraisal system which will allow teachers to test their own subject knowledge online or manually in order to establish

which areas they require to develop further; funding will be available for them to take the relevant courses (Department of Education, 2011).

With regard to the professional knowledge and skills of South African teachers, it is acknowledged in the ISPFTED that professional in-depth knowledge of a subject area and of appropriate teaching strategies cannot be guaranteed and that this is a primary weakness linked to historical factors (Department of Education, 2011). In response, innovative ways of raising these standards are suggested in ISPFTED's proposed self-evaluation system which is to be followed by the upgrading of specific skills mentioned above.

3.8 Professionalism and the Code of Ethics

Hill (2010) states that:

Education in a secular society has to pay attention to the common good explicitly. Fundamental to its ethos is a commitment to developing personal agency governed by critical attention to the ideal of universally applicable ethical ideals (p.78).

Thus, issues of misconduct, such as revealed in the data discussed in section 2, as well as the questions of inspection and mentorship mentioned above, link with wider notions of professional values and personal commitment.

For the purpose of both the initial registration of teachers and the standard required for full registration, the GTCS divides professionalism into three categories:

- ✚ professional knowledge and understanding;
- ✚ professional skills and abilities;
- ✚ professional values and personal commitment.

This understanding of professionalism is closely reflected in SACE's Code of Ethics. The Code does not detail specific examples of unethical conduct but instead provides comprehensive guidelines as to the *appropriate* relationships which teachers must maintain with the groups they encounter in the course of their professional duties, that is, with learners, parents, community, colleagues, the profession, the employer and the Council. For instance, in relationships with colleagues, the Code states that the professional teacher 'refrains from undermining the status and authority of his or her colleagues' and 'uses appropriate language and behavior in his or her interactions with colleagues' (South African Council for Educators, 2011, *Code of Professional Ethics*). Clearly, therefore, the Code is written in a way that regards teachers as being already ethically sensitive and able to interpret its requirements in a professional manner and this is, of course, appropriate. However, the continuing incidence of unprofessional

behaviour amongst a significant minority of teachers shows that this ethical awareness cannot always be assumed.

SACE is aware that, in capturing data on misconduct cases, the category 'unprofessional conduct' is too broad to be of statistical value. In effect, all misconduct cases fall into this category. More useful data could be gathered by requiring that cases which do not fall directly into another category are assigned to an unprofessional relationship with one or more amongst the seven identified groups in the SACE code.¹² The GTCS, in addition to similar expectations of good conduct, has a fairly detailed list describing the improper use of electronic communication (e-mails) and of social media which teachers must avoid. This may now be a useful additional focus for SACE to consider.

4 RECOMMENDATIONS

This section will make tentative recommendations concerning ways in which the issues identified in the discussion section above could be addressed. A summary of recommendations follows on p. 30 of this report.

4.1 The mandate of SACE

The mandate of SACE is a wide one, including the duty 'to advise the Minister on any relevant educational aspect' and specifically includes that, in addition to its disciplinary role, SACE will: determine the entry requirements to the profession, the standards of professional training programmes and the requirements for promotion; promote educational professionalism; conduct research into professional development policy; promote in-service training; develop resource material; compile and distribute publications; and give professional assistance to educators (South African Council for Educators, 2011, *Promotion of Access to Information Manual*). There are, therefore, opportunities open to SACE within its mandate to address either directly or indirectly all of the aspects of professional conduct which have emerged from this research as current issues of concern.

These may be addressed through recommendations made to government, or to the universities, or through engagement with other official bodies such as the National Planning Commission. Many will require further research.

¹² The Nigerian code of ethics follows a similar structure to South Africa's in dividing appropriate conduct into the particular groups with which teachers interact professionally.

4.2 Supporting the development of professional skills

Apart from support for continuing professional development discussed above, SACE might consider that at present there is no correlation between the qualifications attained by teachers and their promotion. Thus Diko and Letseka (2009) find that 'teachers crave recognition for staff development initiatives many of them undertake' (p.234). Teachers studying for masters and doctoral degrees are sometimes still in Level 1 posts. These authors also found that teachers were often hired, and subsequently remained, in temporary posts because principals balked at the cumbersome mechanisms required for making permanent appointments. SACE might consider making recommendations to the provincial authorities that these instances be investigated.

In the matter of policies to do with the promotion of learners, teachers also express concerns:

Directives from regional offices required teachers to promote learners with average mean scores as low as 30%. As a result, learners who did not meet the requirements for promotion to the next level were, notwithstanding, promoted. Inevitably they struggle...creating serious challenges for class teachers (Diko and Letseka, 2009, p.234).

SACE might consider making recommendations to the Minister that this policy be reconsidered.

4.3 Provision of psychological support for teachers

While positive promotion of professional attitudes may be developed gradually, the reality of violence and intimidation will need to be addressed immediately. According to press reports, cases of intimidation, violence, gender-based crimes and the use of corporal punishment, already worrying in the figures for 2008 and 2009, escalated further in the 2010 misconduct figures (e.g. Kgosana, 2011). This would suggest the urgent need for professional specialists in psychiatric and psychological counseling to be made widely available to support teachers with appropriate therapy, trauma counseling and training in anger management. A recommendation could be made to government that qualified specialists be made available to teachers.¹³ If psychologists were to be linked to SACE, they would develop particular expertise in the kinds of issues which most frequently affect teachers. This expertise could also be employed to give advice on curriculum development in order to alert teachers in training to relevant

¹³ The logistics of this would have to be carefully considered, particularly in regard to provision of psychological support to teachers in remote areas.

psychological issues. It would also be available to give input around the appropriate granting of qualifications to teachers suffering from psychiatric disorders.¹⁴

4.4 Making provision for the development of leadership and management

Particular consideration is required to be given to the selection and support of school leadership. SACE could set up, as in Scotland, a Professional Standards Committee to oversee the selection and interviewing of principals. At present there is no dedicated induction period for principals in South Africa and this could also be considered.

Bush et al (2010) states:

Research conducted by Bush and Heystek (2006) shows that 'South African principals are mainly concerned with financial management, human resource management, and policy issues. The 'management of teaching and learning' was ranked only seventh of ten leadership activities in a survey of more than 500 Gauteng principals' (p.163).

This comment seems to provide support for a suggestion by Xaba and Dumisane (2010) that financial management, currently officially the responsibility of SGBs but, in practice, the responsibility of school principals, be conducted by professional accountants instead. This would allow principals to focus rather on instructional leadership. This recommendation is one which SACE could consider giving to the Minister.

4.5 Investigating issues of fraud

Issues of financial accountability are analysed by Xaba and Ngubane (2010). They find that 'schools experience challenges in this regard', which they attribute to 'a lack of capacity to execute financial accountability functions as manifested in budgeting, accounting and reporting functions' and suggest that the Schools Act which currently locates financial responsibility with governing bodies 'should be reviewed in terms of functions that are specialised and require expertise' and 'this might necessitate the appointment of functionaries qualified as accountants for this responsibility in schools' (p.155). Furthermore, '[i]n off-the-record discussions it was mentioned that principals and school finance officers in many instances had been investigated for misconduct in terms of mismanagement and misappropriation of finances' (p.156)

¹⁴ A recent case was cited by a head of a university school of education regarding a student suffering from a bipolar disorder who nonetheless satisfied the academic requirements for his teaching qualification. The legal department at her university advised her to pass the student; thus SACE and not the school of education had the responsibility of ensuring that the welfare of learners was not put in jeopardy by this young teacher's psychological instability. The head of school was, however, not convinced that SACE currently has the capacity to make this judgement effectively.

4.6 Developing an awareness of professional ethics

A recent article by Hill (2010) on quality in teacher education concludes that 'one of the most important tasks of curriculum reform would be to seek clarity on how to promote agency, reason, coherence, human rights and ethical dispositions in teaching and learning through evaluation and its rewards' (p.78).

Further to this notion of ethics, the principal of a primary school in a deep rural district of KZN, interviewed for this research on account of his long service and high standing in his community, felt that there is too little ethical awareness within the profession at present. He suggested teachers should all be made aware of the SACE's Code of Professional Conduct and that ethical training should form a significant part of pre-service training and continuing teacher development.

Ethical awareness amongst teachers might be practically developed through the updating and reissuing of SACE's *Handbook for the Code of Professional Ethics*.¹⁵ The paper, *Comments on the Code of Professional Ethics*, commissioned by SACE, explains the valuable contribution that this book could make and indicates its two principal purposes:

- ⬇ to provoke thinking, debate and discussion about ethical issues in education
- ⬇ to sharpen understanding of ethical issues and the ability to act ethically.

It could be used, for instance, to provide scenarios relevant to the selection of students into initial training in order to discover their innate suitability for the profession; for debate during pre-service training and within continuing teacher development courses as well as providing topics for debate within school settings or between schools. Its appropriate use could allow for:

Personal professional development of educators [to] be linked to the ethical development of the whole school creating an ethos that builds professionalism and accountability (South African Council for Educators, 2011, *Comments on the Code of Professional Ethics*).¹⁶

¹⁵ The *Handbook*, which was commissioned by SACE and first published in 2002 by the University of Natal's Ethics Centre, is currently out of print.

¹⁶ This publication by SACE pre-dates the recent focus on practical ethics adopted by the South African Institute of Chartered Accountants (SAICA). The approach of both professional bodies was inspired by the doyen of professional ethics in South Africa, Professor Martin Prozesky (who might possibly be approached to update the *Handbook*). SAICA's curriculum now includes the requirement that students take a course in ethics and that this must be of a practical nature embedding knowledge within the current ethical dilemmas encountered in the profession itself. A similar requirement could be suggested by SACE and recommended to providers of pre-service training.

4.7 Engagement in research and debate

Engagement with professionally demanding activities such as research and public debate, along with the knowledge that their opinions are respected and acted upon, are important levers for achieving that professional mindset amongst teachers which our most senior respondents saw as critical to any turnaround strategy in the profession¹⁷ (see also Lawrence, 2007, and Hill, 2010). A Head of a university School of Education interviewed for this research advocates a partnership between SACE, Schools of Education and the local school community in the form of public debates on professional educational issues supported and publicised by the press. Thus she conceived of SACE as promoting a public intellectual role for the teaching profession. She was impressed that SACE has recently approached her in order to know more about research activities within her School of Education. She sees this close collaboration between academic institutions and SACE as ideally one of mutual benefit where each respects the others role and benefits from it.

4.8 Improvement of reporting systems and further research

Additional information should be provided in misconduct complaints in order to allow for useful statistical analysis. Such additional details would include identity numbers and the teaching areas of accused persons. The statisticians involved in preparing this report also suggest that in future data should be initially captured in Excel rather than in Word for ease of analysis.

Further research could include an analysis of the types of offence committed in relation to the categories of the sanctions imposed in order to establish both how appropriate the sanctions have proved to be in practice and to establish consistency in disciplinary actions. It may be useful for SACE to re-categorise 'unprofessional conduct' in terms of the groupings in the Code of Ethics (see 3.8 above) and to include as one category the improper use of electronic media.

Areas of further research with which the universities might assist include:

- ✚ alternatives to corporal punishment;
- ✚ better management of school finances by principals and SGBs;
- ✚ supply-chain management for school resources;
- ✚ work-ethic amongst teachers.

¹⁷ Teachers are encouraged to take part in research by the GTCS and also by the TRCN, while a closer partnership between teachers and the university community is advocated as a means of achieving academic standing for the teaching community in Sweden.

4.9 Ongoing improvements in communication

The similar policy trajectories of the different councils contacted in the course of this research indicate strongly the value of ongoing collaboration between SACE and these bodies. Their very informative websites are of great value to the various educational stakeholders that each serves, as well as educators beyond their borders. In particular, we recommend the exemplary website of the GTCS as a yardstick against which SACE might measure its electronic communications. Within Africa a focus upon upgrading teachers' technical skills and providing them with the equipment needed to be able to access electronic communications is clearly a necessarily corollary to this recommendation. It is one which the ISPFTED recognises. This framework will take teacher education policy forward over the next fifteen years in an integrated manner involving a full range of stakeholders and we foresee an increasingly important cohesive role for SACE developing within it.

4.10 Follow-up study

A five-year follow-up study on cases reported to SACE from 2007 to 2011 should be commissioned by SACE. This study should give more emphasis to the qualitative aspects such as factors contributing to different kinds of misconduct cases, accessibility to SACE of reporting cases, SACE's effectiveness and efficiency in dealing with cases, the reasons for under-reporting of cases in certain provinces and cooperation, or the lack of it, in some provincial departments of education, amongst other issues.

5 CONCLUSION

The focus in this report is on the data regarding misconduct cases for 2008 and 2009. However, in accordance with SACE's new strategic plan, the research looks beyond the data to comparable situations in other countries and the wider work of SACE as a professional body.

The main findings from the analysis are that most of the cases reported to SACE come from Gauteng, KwaZulu-Natal and the Western Cape, provinces with major metropolitan areas. Although the Eastern Cape has the second largest number of educators in the country, the province has among the fewest reported cases of misconduct. Males are more likely to be accused of misconduct than females and the largest proportion of offenders is between the ages of 35 and 54. The largest number of cases before SACE was lodged by the provincial education departments and the largest proportion of cases involved professional misconduct, followed by assault. Over the two years the number of sexual cases increased. These include rape allegations, harassment and inappropriate relationships with learners. There was a substantial improvement in the turn-around time of cases from 2008 to 2009. However, a substantial number of cases still remained unresolved at the time of writing. Written advisory or cautionary notices to offenders were the most common result in finalised cases, while in 14% of cases, the offenders were struck off the roll, either indefinitely or, more often, conditionally for a period of time.

Issues arising from the analysis suggest the significance of the under-reporting of cases and the inability of the data to indicate particular trends amongst types of offence and categories of offenders in relation to socio-economic data. Furthermore, the career stage of perpetrators may possibly be a significant indicator. The anomalous situation of FET colleges in relation to SACE is also noted. Drawing upon information from the TRCN and the GTCS, and to a lesser extent from the Swedish National Council for Education, as well as information gathered from interviewing experienced professionals from a wide range of positions within the educational system in South Africa, SACE's crucial role in supporting professionalism amongst educators is considered. Recommendations are made, most of which hinge upon the need for a reinvigorated oversight role for SACE as not only an instrument for disciplining offenders and ensuring effective continuing teacher development, but also as a watchdog of professionalism and of fair and effective implementation of government education policy in the country as a whole.

6 SUMMARY OF ISSUES AND RECOMMENDATIONS

6.1 Data capture

- Data should be captured in Excel.
- ID numbers should be included (indicating age) along with the subject area and qualifications of teachers, allowing these to be linked to particular types of misconduct.
- In addition the geographical location of the school and its quintile within the schooling system should be identified, allowing for better linkages to be made to socio-economic factors.

6.2 Handling of cases

- Legal advice should be taken in regard to systematising the theory that underpins which types of case attract which levels of punishment.
- Research should further investigate the outcomes and therefore the success rates of the sanctions imposed.
- Additional research should investigate the apparent underreporting of cases and the reasons for the delays in processing cases.
- Recommendations should be made in order to rectify each of these situations. (Reference could be made in regard to disciplinary procedures to the highly respected system operated in Scotland by the GTCS).

6.3 Appropriation of policy

- Recognition should be given to the reality of 'policy appropriation' which may currently undermine the DoE's role in democratising education (Diko and Letseka, 2009).
- Research should focus particularly on the ways in which provincial and regional education offices appear to be able to influence teacher appointment policies and procedures, thus potentially weakening SACE's role in supporting ethical and professional practice in the education system in the country as a whole.

6.4 Support for victims / preempting of cases of violence

- While socio-economic factors and poor school provisioning create the context for violence, the immediate need to take steps to support victims and pre-empt the acts of potential perpetrators suggests advice from professional psychologists and psychiatrists be sought.

6.5 Mismanagement and misappropriation of funds

- The huge sums of money involved in the system as a whole and the lack of appropriate training of those who in theory and in practice manage these funds should be acknowledged.
- Suggestions made by researchers, that qualified accountants be responsible for school finances, should be investigated as a matter of urgency with the potential object of making recommendations to the Minister as to the need to amend the Schools' Act in this regard.

6.6 Further research

- There is a need for SACE to commission further research to investigate the issues raised above. This could take the form of a study ranging over the five year period from 2007 - 2011, allowing for a wider investigative scope and more emphasis to be put on the qualitative factors underlying the issues.

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APPENDIX

Table 12 Number and percentage of cases by type of institution, 2008 and 2009

Type of school	2008		2009	
	No	%	No	%
College	4	1%	4	2%
ELSEN	0	0%	7	3%
Intermediate/Combined	6	2%	12	5%
Other	5	2%	5	2%
Primary	142	51%	111	42%
Secondary	115	42%	121	46%
Unspecified	5	2%	5	2%
Total	277	100%	245	100%

Table 13 Number and percentage of accused persons by gender, 2008 and 2009

Accused	2008		2009	
	No	%	No	%
Female	96	31%	80	28%
Male	201	65%	191	67%
Unspecified	11	4%	16	6%
Total	308	100%	287	100%

Table 14 Number and percentage of cases of misconduct by province, 2008 and 2009

Province	Misconduct	2008		2009	
		No	%	No	%
Eastern Cape	Absenteeism	0	0%	1	8%
	Assault	2	33%	4	31%
	Humiliation	1	17%	0	0%
	Murder	1	17%	0	0%
	Sexual Misconduct	1	17%	1	8%
	Unfair Labour Practice	0	0%	1	8%
	Unprofessional Conduct	1	17%	5	38%
	Victimization	0	0%	1	8%
	Total	6	100%	13	100%
Free State	Absenteeism	0	0%	1	5%
	Assault	3	33%	4	21%
	Fraud	0	0%	1	5%
	Sexual Misconduct	2	22%	6	32%
	Unfair Labour Practice	0	0%	2	11%
	Unprofessional Conduct	4	44%	5	26%
Total	9	100%	19	100%	
Gauteng	Absenteeism	2	5%	0	0%
	Assault	6	15%	10	26%
	Drug Abuse	1	2%	0	0%
	Fraud	0	0%	1	3%
	Humiliation	0	0%	2	5%
	Mismanagement of School Finances	3	7%	1	3%
	Sexual Misconduct	7	17%	9	23%
	Unfair Labour Practice	4	10%	5	13%
	Unprofessional Conduct	17	41%	11	28%
	Victimization	1	2%	0	0%
Total	41	100%	39	100%	
KwaZulu-Natal	Absenteeism	7	9%	4	4%
	Assault	4	5%	8	8%
	Fraud	38	48%	33	34%
	Humiliation	0	0%	2	2%
	Mismanagement of School Finances	5	6%	3	3%
	Sexual Misconduct	4	5%	17	18%
	Unfair Labour Practice	3	4%	11	11%
	Unprofessional Conduct	16	20%	17	18%
	Victimization	3	4%	1	1%
	Total	80	100%	96	100%

Limpopo	Assault	7	50%	1	9%
	Sexual Misconduct	1	7%	3	27%
	Unfair Labour Practice	0	0%	2	18%
	Unprofessional Conduct	6	43%	5	45%
	Total	14	100%	11	100%
Mpumalanga	Absenteeism	0	0%	1	6%
	Assault	1	8%	1	6%
	Humiliation	2	17%	1	6%
	Mismanagement of School Finances	0	0%	2	11%
	Sexual Misconduct	4	33%	3	17%
	Unfair Labour Practice	2	17%	2	11%
	Unprofessional Conduct	1	8%	7	39%
	Victimization	2	17%	1	6%
	Total	12	100%	18	100%
Northern Cape	Mismanagement of School Finances	0	0%	1	20%
	Unprofessional Conduct	1	50%	4	80%
	Victimization	1	50%	0	0%
	Total	2	100%	5	100%
North West	Assault	4	21%	2	14%
	Drug Abuse	1	5%	0	0%
	Fraud	2	11%	0	0%
	Humiliation	0	0%	1	7%
	Mismanagement of School Finances	1	5%	2	14%
	Sexual Misconduct	2	11%	3	21%
	Unfair Labour Practice	0	0%	5	36%
	Unprofessional Conduct	8	42%	1	7%
	Victimization	1	5%	0	0%
	Total	19	100%	14	100%
Western Cape	Absenteeism	7	7%	0	0%
	Assault	42	45%	18	36%
	Fraud	6	6%	11	22%
	Mismanagement of School	4	4%	1	2%
	Racism	0	0%	1	2%
	Sexual Misconduct	5	5%	6	12%
	Unfair Labour Practice	2	2%	2	4%
	Unprofessional Conduct	28	30%	10	20%
	Victimization	0	0%	1	2%
	Total	94	100%	50	100%

The number and percentage of cases of misconduct recoded in the various provinces are shown in Table 14 above. Of the six cases reported to SACE in 2008 in the Eastern Cape, one involved murder and two involved assault. The remaining three cases involved humiliation, sexual misconduct and unprofessional conduct. In 2009, five of the 13 cases from the Eastern Cape were for professional conduct while four were for assault. In the Free State the largest number of cases in 2008 (four) concerned unprofessional conduct, while in 2009 they involved sexual misconduct (six cases). Unprofessional conduct constituted the largest number of cases in Gauteng in both 2008 (17 cases) and 2009 (11 cases). Fraud is the biggest area of misconduct in KwaZulu-Natal, with 38 cases reported in 2008 and 33 in 2009. In Limpopo half of the cases reported to SACE in 2008 (seven) were for assault, while in 2009 the largest number of cases involved unprofessional conduct (five). The largest number of cases in Mpumalanga involved sexual

misconduct in 2008 (four cases) and unprofessional conduct in 2009 (seven cases). Of the two cases in the Northern Cape in 2008, one concerned unprofessional conduct and one victimisation. In 2009 four of the five cases in this province involved unprofessional conduct. Unprofessional conduct also constituted the largest number of cases in the North West in 2008 (eight), while in 2009, five of the 14 cases in the North West were concerned with unfair labour practice. In the Western Cape the largest number of cases in both 2008 and 2009 were concerned with assault.

Table 15 Number and percentage of accused persons by age, 2008 and 2009

Age categories	2008		2009	
	No	%	No	%
20-24	2	1%	2	1%
25-29	2	1%	2	1%
30-34	11	4%	5	2%
35-39	31	10%	19	7%
40-44	32	10%	33	11%
45-49	21	7%	29	10%
50-54	24	8%	23	8%
55-59	13	4%	10	3%
60+	5	2%	4	1%
Unspecified	167	54%	160	56%
Total	308	100%	287	100%

Table 16 Number and percentage of cases in terms of turnaround time in months, 2008 and 2009

Turnaround time (months)	2008		2009	
	No	%	No	%
0-2	2	1%	3	2%
3-5	9	6%	12	8%
6-8	5	3%	20	14%
9-11	4	3%	36	25%
12-14	9	6%	36	25%
15-17	15	10%	11	8%
18-20	25	16%	21	14%
21-23	25	16%	3	2%
24-26	19	12%	0	0%
27+	35	23%	0	0%
Unspecified	6	4%	3	2%
Total	154	100%	145	100%

LIST OF ABBREVIATIONS

ASUU	Academic Staff Union of Universities
COEASU	College of Education Academic Staff Union
CPTD-S	Continuing Professional Development System
EFCC	Economic and Financial Crime Commission
ELRC	Education Labour Relations Council
ELSEN	Education of Learners with Special Educational Needs
EMIS	Education Management Information System (Department of Education)
FET	Further Education and Training
GTCS	General Teaching Council for Scotland
HOD	Head of Department
ICPC	Independent Corrupt Practices Commission
IFTRA	International Forum of Teaching Regulatory Authorities
ISPFTEd	Integrated Strategic Planning Framework for Teacher Education and Development
MCPD	Mandatory Professional Development Manual
NPC	National Planning Commission
NUT	Nigeria Union of Teachers
SACE	South African Council for Educators
SADTU	South African Democratic Teachers Union
SAICA	South African Institute of Chartered Accountants
SGB	School Governing Body
TDC	Teachers Disciplinary Committee
TIP	Teacher Investigation Panel
TRCN	Teachers Registration Council of Nigeria



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