



AB KETTLEBY SCHOOL

POLICY DOCUMENTATION: Staff Discipline and Grievance

This Policy has been approved by the Trust Board of the Mowbray Education Trust and has now been adopted by the Local Governing Body of Ab Kettleby School



MOWBRAY
Education Trust

a. Disciplinary Procedure

o **Purpose**

This Policy is designed to:

- a) Assist Head Teachers/Directors/Governors with their responsibility to ensure consistent and fair treatment of all employees and comply with relevant legislation and the ACAS Code of Practice.
- b) Help and encourage all employees to achieve and maintain satisfactory standards of conduct.
- c) Provide opportunities, where appropriate, for assistance and support to be given to employees to address unacceptable conduct.

o **Legal Context**

The School Staffing (England) Regulations 2003 and the Education (Modification) of Enactments Relating to Employment) Order 2003 came into effect on 1 September 2003. Sections 16 and 17 of the School Standards and Framework Act 1998 have been replaced by Sections 35 and 36 of the Education Act 2002. This guidance has been written to reflect this and other legislation relevant to the employment of staff in schools.

Part 1 of the School Staffing (England) Regulations 2003 requires each school to establish dismissal procedures for all college employees and delegates to Head Teacher and local Governing Bodies the power to decide all dismissal matters themselves.

o **Scope**

In deciding what principles to follow, local school Governors will need to decide which, if any, powers they wish to delegate to the Head Teacher. This responsibility should not be delegated to other employees. The issue of the performance of an employee should be dealt with through the Capability Policy.

The procedure is recommended for all employees in Schools for whom local Governors have delegated personnel responsibility. This does not include contractors' employees.

o **Principles**

- a. Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate.
- b. No disciplinary action should be taken until the case has been fully investigated.
- c. No formal disciplinary penalty will be imposed without a disciplinary hearing.
- d. Other than in cases of gross misconduct or gross negligence (when the penalty may be dismissal without notice or payment in lieu of notice) no employee will be dismissed for a first offence.

- e. At every stage in the procedure the employee must be advised of the nature of the allegations against him/her and must be given the opportunity to state his/her case before any decision is made
- f. At all stages, the employee has the right to be accompanied by his/her Trade Union representative or a fellow colleague, at any disciplinary hearing or investigation.
- g. All formal proceedings shall be confidential and held in private.
- h. An employee has the right to appeal against any disciplinary penalty.
- i. Disciplinary and appeal hearings should take place within the normal working day of the employee.
- j. If the disciplinary hearing is adjourned, the newly arranged hearing should be arranged within 5 working days unless otherwise agreed by both parties.
- k. It is advised that Staff Governors should only be involved with this procedure in exceptional circumstances

- **Special Considerations**

Safeguarding Children and Young People

Any allegations of misconduct involving abuse of trust or the physical or sexual abuse of a child by an employee must be dealt with in line with Leicestershire's child protection procedures. In these circumstances Head Teachers should also seek advice from the Authority's Allegations Manager (0116 3056584).

Criminal Offences

An employee should not face disciplinary action solely because they have been charged with or convicted of a criminal offence. The question which needs to be addressed in such circumstances is whether the conduct which has led to such charges or conviction warrants disciplinary action because of its employment implications. In such circumstances, the facts of the matter should be investigated and, if disciplinary action is considered appropriate, the procedures outlined in this document should be followed.

In cases involving criminal charges or convictions, if sufficient evidence is not available on which to form a reasonable view on whether or not to hold a disciplinary hearing, action should be deferred until further enquiries have been made or the matter settled by a court.

Disciplinary action against a Trade Union Official

Disciplinary action against an employee who is a Trade Union official may lead to difficulties if it is seen as an attack on the union's function. Although normal disciplinary standards will apply to a Trade Union representative's conduct as an employee, no disciplinary action should be taken following the investigation until the circumstances of the case have been discussed confidentially and with the employee's knowledge, with a senior Trade Union representative or a full-time Officer of the Trade Union.

Roles and Responsibilities

Upon receipt of an allegation, it will be important to establish who will undertake the necessary roles and responsibilities in line with the Trust's agreed policy on such matters.

The following roles will, therefore, need to be established by the individual school:

Investigating Officer

The Investigating Officer, with advice from the Group HR Manager, will be responsible for conducting the investigation and presenting the findings to the Head Teacher and/or disciplinary panel. The arrangements for dealing with a disciplinary investigation will need to be considered within the framework of the School Staffing Regulations 2003 as well as the principle of natural justice. It is not, therefore, possible for the Head Teacher to be the Investigating Officer as well as the person responsible for deciding whether or not to dismiss the employee or to issue a formal warning. The Head Teacher can only be the Investigating Officer, therefore, in circumstances where they will not be given delegated responsibility for making any decisions about a potential dismissal. Should an employee raise an objection to the choice of Investigating Officer, the concerns must be seriously considered and discussed with the Group HR Manager. There may be occasions when it is appropriate to choose an alternative Investigating Officer.

Where the disciplinary decision is delegated to the Head Teacher, either on their own or as part of the disciplinary panel, another appropriate member of the leadership team should take on the role of Investigating Officer.

It is strongly advised that the Investigating Officer seeks advice from the Group HR Manager to ensure that the correct procedures and appropriate lines of enquiry are followed.

Disciplinary Panel

In relation to the 2003 Staffing Regulations, the LA strongly advises schools that dismissal decisions are best made by a panel rather than by one person acting on their own. It is recommended, therefore, that the Disciplinary Panel should normally consist of 3 Governors where dismissal is being considered.

The selection of Governors for a disciplinary panel must ensure that there is no conflict of interest which may arise in hearing the case. It is generally considered unwise for Staff Governors to take part in such a disciplinary hearing.

Appeal Panel

All appeals against disciplinary outcomes including dismissal must be heard by an appeal panel. This should consist of three Governors who have had no previous involvement in the case.

The right to be accompanied

All workers have a statutory right to be accompanied at a disciplinary hearing. The companion may be:

- a) A fellow colleague
- b) A Trade Union representative with appropriate experience or training in acting as a companion, and who has been certified in writing by the union

If the companion cannot attend on a proposed date, the employee can suggest an alternative time and date as long as it is reasonable and not more than 5 working days after the original date.

Before the hearing, the employee should notify the school who they have chosen as a companion.

The school will neither disadvantage employees who use their right to be accompanied or employees who agree to be a companion.

Suspension

Suspension of an Employee

At any stage prior to, during or following the investigation, the employee may be suspended. An employee may be suspended when:

- a. The continued presence of the employee at work may be prejudicial to a fair disciplinary investigation
- b. There is a belief that there may be a health and safety risk or danger to themselves or others
- c. There is evidence that the allegations are serious enough to warrant consideration of dismissal and/or may constitute gross misconduct. Where possible this evidence shall be made available to the employee and their representative
- d. Where a decision to suspend has been made or is likely to be made, the employee should be strongly advised by the Head Teacher to seek the advice and assistance of his or her professional association, Trade Union or fellow worker and given the opportunity and resources to do so.

Advice should always be sought from the Group HR Manager. The school may also consider temporary redeployment to another school or workplace within the Trust, if appropriate and practical, as an alternative to suspension.

The reason for the suspension shall be made clear to the employee in writing as soon as possible. This shall normally be the next working day.

Since suspension is not a disciplinary sanction, an employee has no right of appeal against the decision.

Head Teachers should consult with the local Chair of the Governing Body and inform the Governing Body as soon as possible of any cases of suspension. This shall be done on a confidential basis. In the case of a suspension of a Head Teacher, the Group HR Manager will undertake the necessary arrangements with the Chair of the local Governing Body and inform the Chair of Directors and Trust board.

A suspension can only be lifted by the local Governing Body (who may delegate the responsibility to a Committee or identified member).

An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to their full pay. It is important to maintain contact with the employee throughout this period, on a monthly basis as a minimum.

Investigations

When allegations of misconduct are made, an appropriate person should be appointed to investigate the allegations - the "Investigating Officer". As a general rule, the Investigating Officer will present the case at any subsequent disciplinary or appeal hearing.

Any allegation of misconduct should be dealt with as a matter of urgency and no disciplinary action taken until the case has been fully investigated.

Initial Discussion

The employee involved should be interviewed by the Investigating Officer at an initial discussion meeting to ascertain their immediate response to the allegation(s) and asked to provide and/or sign a full written statement. The purpose of this meeting will be to determine whether any further action, (e.g. a further investigations or suspension) is required. The Investigating Officer will also need to consider whether or not the employee should be suspended (see section on Suspension). At this meeting the employee has no right of representation. However, they should be strongly advised to contact a representative of their recognised Trade Union and ensure that they are accompanied at this meeting where possible. This should be on the clear understanding that the employee is being accompanied and not represented as the Investigating Officer will need to ask questions of the employee at the meeting and will expect answers from her/him. Should an employee be unable to arrange for their Trade Union to be present they are entitled to be accompanied by a fellow worker. The Investigating Officer should interview any witnesses and take statements from them at the earliest opportunity. These statements should be signed and dated by the witnesses. A copy of the statement should be retained by the witness. The witnesses should be advised that they may be required to support their statements orally at any subsequent disciplinary hearing.

All records of meetings with the employee will be made available to them.

On the basis of all available information the Investigating Officer may:

- a) decide no further action is necessary
- b) consider that it is sufficient to talk the matter over with employee concerned i.e. "counselling"
- c) refer the matter to an investigatory meeting.

Investigatory meeting

Following the initial discussion/statements it may be necessary to conduct further enquiries and hold an investigatory meeting. If not carried out at the initial stage the Investigating Officer will also need to consider whether or not the employee should be suspended (see section on Suspension). If it is necessary to hold an investigatory meeting this should be confirmed in writing to the employee 5 working days notice of that meeting and informing them of their right to be accompanied. The letter should also confirm the nature of the allegations/investigation.

At the meeting the Investigating Officer will make clear to the employee exactly what is being alleged. They must also advise the employee that the matter may result in a formal disciplinary hearing and they are again advised to be represented at any such hearing.

On the basis of all available information the Investigating Officer may:

- a. decide no further action is necessary
- b. consider that it is sufficient to talk the matter over with employee concerned i.e. "counselling"
- c. refer the matter to a formal disciplinary hearing.

It is important that the outcome is confirmed in writing within 5 working days and that where any delay occurs in relation to concluding the matter or moving forwards that the employee is informed.

Where the conduct of a Head Teacher is under consideration and some form of minor warning is felt to be appropriate, the local Chair of the Governing Body or a Governor nominated by him or her will hear the case, again advised by the Group HR Manager. Where it is felt that a conflict of interests may arise, the Chair may choose to engage HR to conduct an investigation. In more serious cases a Panel of Governors / Directors who have not been involved with the investigation process should be convened for the formal disciplinary hearing

Disciplinary Hearing

Convening a Disciplinary Hearing

Where the decision is taken to hold a formal disciplinary hearing, the employee will be given written notification of the hearing as soon as possible and at least 10 working days before such hearing. This timescale can be extended in exceptional circumstances. The written notification will include:

- a. the date, time and place of the meeting
- b. who will be present at the meeting
- c. statement of case outlining the specific allegation and details of the investigation and findings
- d. copies of any documents, if any, to be used in evidence
- e. the right to be accompanied by a Trade Union representative or fellow worker.
- f. the names of witnesses, if any, to be called
- g. their right to call witnesses on their behalf
- h. given the opportunity to send any written submission or evidence to the panel prior to the hearing. A copy of any such submission should also be made available to the Investigating Officer
- i. a copy of the disciplinary procedure

If their union representative or companion is unable to attend on the date of the meeting, the Employment Relations Act 1999 requires that a further date should be set within five working days of the original date. To avoid unnecessary delays, therefore the date of the hearing should always be set in consultation with both the employee's Trade Union and the Group HR Manager. It should be noted that the Groups HR Manager is not a member of the panel and that their role is advisory. The Director for Children and Young People's Services or their representative has the right to attend disciplinary hearings. If the employee fails to attend the rearranged hearing it will normally precede and a decision made, in their absence.

The school should arrange for an appropriately experienced and confidential minuting clerk to take detailed notes of the meeting.

Conducting the Disciplinary Hearing

At any disciplinary hearing the Investigating Officer will explain the complaint against the employee and go through the evidence that has been gathered. The employee or their representative will be allowed to set out their case and respond to the allegations. The employee or their representative will be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. At any point during the disciplinary hearing an adjournment can be called by any of the parties.

After an adjournment has taken place to allow the panel to consider all the information presented to them, the Disciplinary Panel will announce the decision to the employee, representative and Investigating Officer personally. The right of appeal against the decision will also be explained.

The decision will be confirmed in writing to the employee within 3 working days and given any right of appeal.

The same procedure will also be followed to hear any appeals against decisions to issue formal warnings or to dismiss.

Disciplinary Action

On the basis of all available information the disciplinary panel will need to consider whether each allegation is founded or unfounded. The panel must then consider the appropriate action, either:

- a. Decide no further action is necessary
- b. Determine the appropriate disciplinary response.

The formal disciplinary responses outlined will normally be followed sequentially in the order of the stages set out below. However, offences of a serious nature may be brought into the procedure at any stage, if an earlier stage would not be severe enough or appropriate to deal with it:

Written Warning

A written warning will be given to the employee in writing by their line manager if:

- a. they commit an offence of misconduct, or they fail to comply with the agreed "counselling"
- b. despite having been given "counselling" the employee
- c. commits a further offence of misconduct

The warning will state that, if the employee commits a further offence of misconduct during the period specified in the warning, they may be subject to further disciplinary action. A copy of the written warning and any evidence presented to the disciplinary hearing should be kept on the employee's personal file for a period of 6 months after which time it will be disregarded and destroyed, unless covered by the Safeguarding children legislation. A copy of the warning should be sent to the employee for his/her retention.

Final Warning

Following an earlier warning for misconduct or in response to serious misconduct, the employee may be issued with a final written warning which will contain a statement that any further incidents may lead to dismissal.

There may be occasions when misconduct is regarded as being insufficiently serious to justify consideration of dismissal but sufficiently serious to warrant only one written warning which, in effect, is both a first and final warning. Again, a copy of the warning and any evidence presented to the disciplinary hearing should be on the employee's personal file for a period of 12 months after which time it will be disregarded and destroyed, unless covered by the Safeguarding children legislation.

Dismissal

Except for cases of gross misconduct (please refer to Appendix A), an employee shall not be dismissed for a first breach of discipline. Where possible gross misconduct is being investigated, the Group HR Manager should be notified at the earliest possible stage and advice sought. The HR Manager will review the investigation and details of the case before the disciplinary panel is convened so that appropriate advice may be given.

To ensure the decision of the disciplinary panel is reasonable in all the circumstances of the case, account should be taken of:

- a. the employee's previous disciplinary record
- b. the employee's general record, position, length of service and state of health
- c. the penalty imposed in similar cases in the past
- d. any mitigating circumstances which might make it appropriate to lessen the severity of the penalty

Communicating and recording the outcome

Any decision of a disciplinary hearing must be confirmed to the employee in writing within 3 working days.

Written and Final warnings:

The requirements of safeguarding children legislation mean that for investigations and / or warnings arising from the allegations of abuse, the school should retain records indefinitely.

Reference should not be made to spent warnings when producing employment references unless they are related to safeguarding issues.

Dismissal:

If there is no appeal or the outcome of an appeal is to uphold the decision to dismiss, the local Governing Body must request the Trust's Payroll Provider to terminate the employee's contract within 14 days of the dismissal/appeal hearing. In accordance with the School Staffing (England) Regulations 2003, the Payroll Provider is then required to terminate the contract with due notice or where appropriate pay in lieu of notice (or immediately with no notice in the case of gross misconduct). In the case of a teacher the Trust must also notify the General Teaching Council (GTC) of the decision. In cases of a Child Protection nature the matter will be referred to the Secretary of State who will take appropriate action.

Appeals

An employee has a right to appeal against any decision to issue a written or final warning or any decision to dismiss. The employee will be advised of this right in the conveying of any such decision by a Head Teacher, Director or member of a Governing Body who constitute a disciplinary panel. This will also be confirmed in writing as part of the outcome letter. The employee will also be advised that he/she has 10 working days from the date of the hearing to lodge an appeal.

The appeal hearing will take place as soon as possible. The employee will be given at least 10 working days' notice of the date, time and place fixed for the appeal hearing. At the hearing of the appeal, the employee will be given an opportunity to state their case and will be entitled to be accompanied by the Trade Union representative or fellow worker.

If the employee's representative is unavailable on the date of the initial appeal, the employee may delay the date of the appeal once up to 5 days to enable the chosen representative to attend.

At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. The decision of the appeal panel, as appropriate, will be sent to the employee in writing within 3 working days of the appeal hearing and will be final.

An appeal will be heard by a Panel of Governors / Directors who has played no part in the disciplinary hearing itself. In the case of an appeal against a decision taken by a disciplinary Panel of Governors / Directors, the appeal should be heard by the same number of Governors / Directors as comprised the original disciplinary panel, normally 3.

The format of the hearing will be dependent upon the nature of the appeal. It is not necessary to have a full re-hearing in all cases.

External Referrals

The Director of the Children and Young People's Service is required to notify the DBS and the Secretary of State of the dismissal on the grounds of conduct or where a teacher has resigned prior to the completion of the disciplinary process.

The DfE is required to review such cases and consider whether they should be referred to a Professional Conduct Committee. Where a teacher is found by such a Committee to have fallen short of the standards expected, the DfE may issue a disciplinary order. Under the Teaching and Higher Education Act 1998 the DfE is empowered to issue the following orders: reprimand; conditional registration order; suspension order and prohibition order. The last 2 orders allow the DfE to remove the teacher's name from the register so that they cannot be employed to teach in maintained schools and non-maintained special schools.

It should be noted that the Trust may directly dismiss school employee in its employment where the Secretary of State or the DBS have prohibited further employment of any employee because of their previous conduct or capability.

Appendix A

Gross Misconduct – illustrative list

The following offences are examples of offences which could be regarded as Gross Misconduct. The list is not exhaustive and offences of a similar nature will be dealt with under the procedure and an assessment of the seriousness will be made on the merits of each case.

- a. Serious incapability as a result of being intoxicated by reason of alcohol, non- prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety¹
- b. Deliberate falsification of school registers, reports, accounts, expense claims or self certification forms
- c. Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the school or to another employee or student
- d. Repeated refusal to carry out duties or reasonable instructions or to comply with school policies and procedures
- e. Serious damage deliberately sustained to school property or to the property of another employee or pupil
- f. Falsification of any information used in support of an application for a post within the Trust
- g. Repeatedly leaving school premises during normal working without obtaining the permission of the line manager
- h. Any indecent act which is defined as any act of a lewd, suggestive or indecent nature which could cause any person to be offended or feel threatened
- i. Serious acts of insubordination
- j. Violation of the Trust's and / or School's policies and procedures concerning health and safety at work
- k. Unlawful discrimination or harassment due to race, gender, disability, religious belief, sexual orientation or age, the purpose of which is directly or deliberately intended to ridicule, humiliate, offend, annoy, embarrass, cause detriment to, threaten or degrade a fellow employee or pupil.
- l. Any tampering with the Trust's / School's computer systems which arises in loss or damage to hardware or software or unauthorised exposure of confidential information including the

accidental installation of virus programs. This also includes any contravention of the Data Protection Act and the disclosure of any password or key to unauthorised persons. It is also an offence to install, run, load or download any pornography, unauthorised software or to copy, run, transfer or load software such as public domain programs or games of any description or to disregard any operating protocol.

- m. Serious negligence/incompetence which causes unacceptable loss, damage or injury
- n. Personal behaviour which is likely to bring the Trust into serious disrepute
- o. A criminal offence, which may (whether it is committed during or outside the employee's hours of work for the Trust) adversely affect the Trust's reputation, the employee's suitability for the type of work they are employed by the Trust to perform, or their acceptability to other employees or to pupils.

1 - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.

b. Grievance Procedure

o **Purpose**

This Procedure is designed to:

- a. Assist Head Teachers/Directors /Governors with their responsibility to ensure consistent and fair treatment of all employees and comply with relevant legislation and the ACAS Code of Practice.
- b. Resolve individual employees' grievances quickly and fairly.

o **Scope**

The procedure is recommended for all employees in the Trust for whom Directors /Governors have delegated personnel responsibility. This does not include contractor's employees.

This procedure does not apply to:

- a. Grievance regarding statutory and voluntary deductions from pay e.g. income tax, pension contributions, national insurance etc, which should be raised with the relevant local Governing Body
- b. Collective disputes and differences
- c. Matters specifically covered by a separate procedure e.g. harassment and bullying, whistle blowing.

In the case of grievances on the part of Head Teachers and/or Deputy Head Teacher/Vice Principals the procedure will need to be varied in terms of the appropriate person to hear the grievance.

o **Principles**

- a. All grievances should be dealt with as quickly as possible.
- b. All grievances should be dealt with as near as possible to the point of origin.
- c. Whilst the grievance is being considered the status quo will apply.
- d. All information associated with grievance proceedings will be treated in the strictest confidence.
- e. Notes should be kept of all meetings.

- f. The advice of the Group HR Manager can be sought at any stage
- g. At the formal stage of the procedure the employee should be advised of the response to his/her grievance in writing
- h. There is a right of appeal against the decision of the Head Teacher/ Director/ Chair of Governors/ Local Authority representative.
- i. An employee should not be victimised because they have raised a grievance.
- j. It is advised that Staff Governors should only be involved with this procedure in exceptional circumstances

Roles and Responsibilities

When dealing with a grievance, it is important to establish at the outset who will undertake the necessary roles and responsibilities under this procedure. This must then be communicated to all parties to avoid any conflicts of interest or misunderstandings.

The Employee:

The essence of a grievance is that an employee has a complaint or dispute which remains unresolved and is seeking for that to be remedied. The opportunity to raise a grievance is an important feature of an employee's contract of employment. Employees should be aware that vexatious allegations could result in disciplinary action being taken.

Principal:

The precise role of the Head Teacher should be determined on a case by case basis and should be clarified to all parties at the outset. In many situations the Head Teacher will have a key role in facilitating a resolution to a grievance received in the school at Stage 1.

However, in other cases it may be more appropriate at this stage for this role to be delegated to another appropriate senior manager or Director / Governor.

This would then allow the Head Teacher or Chair of Directors / Governors to hear the grievance at Stage 2 if appropriate.

Trade Unions or other Representatives:

All workers have a statutory right to be accompanied at a grievance hearing. The companion may be:

- a. A fellow worker
- b. A trade union representative with appropriate experience or training in acting as a companion, and who has been certified in writing by the union.

Their role will be to support and advise the complainant. They will have the right to address any meetings held but not to answer questions unless agreed by all parties.

Investigating Officer:

The Investigating Officer will be responsible for conducting a formal investigation into the grievance and presenting findings to the Grievance Panel and Directors / Governors' Appeal Committee as part of the formal stages of this procedure. The investigating officer must be impartial and not implicated with the grievance in any way.

Should an employee raise an objection to the choice of Investigating Officer, the concerns must be seriously considered and discussed with the Group HR Manager. There may be occasions when it is appropriate to choose an alternative investigating officer.

It is strongly advised that the Investigating Officer seeks advice from a member of the Group HR Manager to ensure that the correct procedures and appropriate lines of enquiry are followed.

Grievance Panel:

This panel should comprise three members for example Head Teacher/Senior Manager(s)/Governors as appropriate. The panel will take responsibility for considering a grievance under Stage 2 of the procedure. The members of a panel hearing a grievance should have had no previous direct involvement in the case in question.

Appeal Panel:

This panel should comprise three Governors who will take responsibility for considering an appeal under Stage 3 of the procedure. The Governors included in such an appeal should have had no previous direct involvement in the case in question. Where this presents a problem, for example in very small schools or exceptionally complex cases, membership of the panel should be subject to agreement by all parties.

The Procedure

Stage 1:

These procedures recognise the need to resolve grievances as promptly, efficiently and as close to their original source as is possible.

If an employee has a grievance relating to their employment, the matter should therefore be raised initially with their immediate Line Manager. The grievance should be raised orally in the first instance. In the event that the grievance relates to the Line Manager who would normally deal with grievance at this stage, the grievance should be referred to the line manager's own manager. Where a grievance involves or is against the Head Teacher, the matter should be raised with the local Chair of Governors who would then assume the role of the Head Teacher as described below.

It may be agreed that the nature of the grievance is such that the involvement of a third party (for example another Head of Department, Deputy Head or external advisor with counselling/mediation skills) might assist in resolving the matter. The use of a third party to help mediate or facilitate a solution is dependent on the agreement of all persons affected by grievance. Such mediation/facilitation should then be conducted over an agreed timescale after which the situation will be reviewed and a decision made as to whether the matter is now resolved.

The line manager will attempt to resolve the complaint informally. They will enquire into the grievance and will discuss it with the complainant and will provide a written record of the discussion and its outcome within 5 working days after the decision. It is intended that most grievances will be resolved at this stage.

Stage 2:

If the complainant feels that the matter has not been resolved through the Stage 1 discussion, the grievance should be put in writing (Appendix A) to the Head Teacher/Director/Governor (or other senior manager designated for the purpose). The notification should be presented on the Grievance Registration Form and specify the exact nature of the grievance and append any relevant evidence. An acknowledgement of receipt of the grievance should be sent within 5 working days.

Investigating the Grievance:

An investigation may need to be undertaken to obtain all relevant information surrounding the grievance and to facilitate a reasonable decision on how to proceed. The Head Teacher/Chair of

Directors / Governors may delegate the role of Investigating Officer to a senior member of staff or other Director / Governor who has not had any prior involvement in the case. Where it is felt that a conflict of interests may arise, the Head Teacher may choose to engage the Group HR Manager to conduct an investigation. The investigation should be completed within 20 working days or as soon as possible thereafter with agreement from all parties.

To investigate the grievance the investigating officer will need to:

- a. Arrange a further separate meeting with the aggrieved employee to establish the reason for and full details of the grievance.
- b. Interview any other employees involved in the grievance
- c. Arrange someone to take full notes of any investigatory interviews.
- d. The Interviewee will be given a copy of the notes of their interview and will be asked to confirm that they represent an accurate account of the interview or indicate any amendments they would wish to make.
- e. Ensure that any employees being interviewed as part of the investigation has the right to be accompanied by a Trade Union representative or fellow worker.
- f. Make other parties being interviewed as part of any investigation aware their statement may be made available to the Grievance Panel and that they may be called upon to explain their statements at a formal meeting.

The investigating officer will need to prepare a formal statement of case for the Grievance Panel. This should be circulated to the Grievance Panel and the aggrieved employee and their representative at least 10 working days in advance of the meeting. In their statement of case, the investigating officer should not express an opinion but will provide a summary of the facts of the case. This might include specific details of incidents, documents, interviews and any other relevant material uncovered during the investigation.

Convening the Grievance Hearing

A formal grievance meeting will then be arranged by the individual school to fully consider the outstanding grievance complaint.

A minimum of 10 working days notice of the meeting must be given in writing. It will be important, therefore, to make the arrangements in consultation with all parties i.e. TU representatives, witnesses, panel members and the Group HR Manager to ensure their attendance as appropriate. Arrangements should also be made for a suitable person to take notes throughout the meeting.

The aggrieved employee is entitled to be accompanied at the meeting by their Trade Union representative or a fellow worker and the meeting should be arranged to accommodate this. This also needs to take into account the rights of the Trade Union representative to seek an alternative date within 5 working days of that proposed, in line with Trade Union and Labour Relations Act (TULRA).

The Investigating Officer, will attend to present the investigation report to the Panel. The parties concerned will make their submissions to the Panel and either party may call witnesses as required. The Panel can choose to invite the Group HR Manager to advise as appropriate although they cannot be part of the Panel.

All papers relevant to the grievance should be circulated to the individuals attending the meeting 10 working days before the meeting. This means that all such papers must be submitted to the Clerk to

the Panel 15 working days prior to the hearing to facilitate their circulation to all parties within the required timescale.

Conducting the Grievance Hearing:

Both parties will be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. However, as the aim is to achieve a mutually acceptable resolution the chair may wish to engage in a more flexible discussion and dialogue to facilitate this.

If the Panel decides that it needs further information, an adjournment may be arranged for a mutually acceptable date and time. This also needs to take into account the rights of the Trade Union representative to be available and to seek an alternative date within 5 days, in line with TULRA.

Grievance Outcomes:

Possible outcomes open to the panel are:

- a. A decision to uphold the grievance. This will mean that arrangements must be made to implement the employee's desired outcome.

Or

- b. A decision that the grievance is unsubstantiated. The response should, therefore, include details of the employee's rights to invoke Stage 3 of the Grievance Procedure should they disagree with this decision.

The Panel may also wish to make recommendations on other implications arising from the case e.g. training, review relevant school policies and/or procedures etc.

The decision and any remedy will normally be conveyed verbally to the employee at the end of the meeting. However, where complex issues are being addressed it may be necessary for the Grievance Panel to reconvene within an agreed timescale to conclude their deliberations. The decision will be confirmed clearly in writing within 5 working days of the meeting, giving the right of appeal to the complainant if they consider that their grievance has not been remedied. A copy of the notes of the meeting should also be provided within 5 working days.

Stage 3 – Appeal Hearing

Right of Appeal:

The third and final stage of the Grievance Procedure is an appeal to a Panel of Governors. If the employee wishes to exercise their right of appeal against a decision of the Grievance Panel they must notify the Head Teacher of this in writing (Appendix B) within 5 working days of the date of the outcome letter. The written notification must re-affirm the nature of the grievance; the remedies sought and include the grounds for an appeal.

Convening an Appeal Hearing:

The appeal will be heard by the Directors / Governors' Appeal Panel. This should comprise 3 Directors / Governors who have had no previous involvement with the case. The management case will be presented by either the Head Teacher or Investigating Officer who attended the initial hearing against which the appeal is made. Either party may ask relevant witnesses to attend and give evidence. Time off will be granted for witnesses to attend the meeting.

The appeal meeting should be convened within 25 working days of the written notification of the appeal. A minimum of 10 working days notice of the time and date of the hearing must be given to all parties. It will be important, therefore, to arrange the appeal in consultation with all parties i.e. TU representative(s), witnesses, Directors, Governors and the Group HR Manager to ensure their attendance as appropriate. Arrangements should also be made for a suitable person to take notes throughout the meeting.

All papers relevant to the appeal should be circulated to the individuals attending the meeting 10 working days before the meeting. This includes the paperwork that was considered at Stage 2. To facilitate this, all such papers must be submitted to the Clerk to the Panel 15 working days prior to the date of the appeal.

The complainant's statement of case should reiterate the grounds for their appeal and the outcome sought at the time of the notification of appeal. It should also include written details of any witnesses to be called.

Advice to the Director's / Governors' Appeal Panel may be available from the Group HR Manager who will ensure that the Advisor to the panel has had no previous involvement in the case.

Conducting the Appeal Hearing:

Both parties will be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. However, as the aim is to achieve a mutually acceptable resolution the chair may wish to engage in a more flexible discussion and dialogue to facilitate this.

If the Panel decides that it needs further information an adjournment may be arranged for a mutually acceptable date and time. This also needs to take into account the rights of the Trade Union representative to be available and to seek an alternative date within 5 days, in line with TULRA.

Appeal Outcomes:

Possible outcomes open to the panel are:

Uphold the original decision

- a. It may be appropriate after considering all of the information presented at the appeal hearing to uphold the original decision taken

Or

- b. Overturn the original decision

It may be appropriate after considering all of the information presented at the appeal hearing to overturn the original decision.

The Panel may also wish to make further recommendations on implications arising from the appeal e.g. training, review relevant school policies and/or procedures etc.

The decision and any remedy will normally be conveyed verbally to the employee at the end of the meeting. However, where complex issues are being addressed it may be necessary for the Grievance Panel to reconvene within an agreed timescale to conclude their deliberations. The decision will be

confirmed clearly in writing within 5 working days of the meeting together with a copy of the notes of the meeting.

The appeal process is the last stage of the Grievance Procedure.

Grievances against the Head Teacher

If the grievance is against the Head Teacher, it should be sent to the Chair of the Governing Body who will seek to resolve the matter or be delegated to a recognised Director / Governor (e.g. Complaints Governor). The formal stage will be dealt with by a relevant sub committee of the Governing Body.

Any appeal will be dealt with by a panel from the Directors / Governing Body which would not include panel members involved at previous stages.

Grievances Raised by the Principal:

The principles of the procedures to address a Head Teacher's grievance complaint mirror those in the standard procedures. However, the matter will need to be addressed by members of the governing body at an earlier stage in line with the summary below. The role of the Head Teacher in the standard procedures will also need to be taken by an appropriate member of the Directors / Governing Body.

Stage One:

Where a Head Teacher has a grievance, he/she should initially attempt to resolve the matter informally by direct approach to the person concerned. They may, of course, seek personal support from their Trade Union at this stage and, if necessary through the formal stages.

Stage Two:

If the grievance is still unresolved, the Head Teacher may, within 5 working days, notify the Chair of Governors or other nominated Director / Governor, giving full details of their grievance and desired outcome in writing (Appendix A). A Directors / Governors' Grievance meeting will then need to be convened in line with the school grievance procedures and an investigatory officer appointed if appropriate.

The Grievance Panel will comprise 3 Directors / Governors with no prior involvement in the case. The Group HR Manager may be invited to attend in an advisory role as appropriate but shall not form part of the Panel. The decision of the Grievance Panel should be confirmed in writing within five working days.

Stage Three - Governors' Appeal Hearing:

If the Head Teacher remains dissatisfied with the initial decision reached by the Grievance Panel, he or she may lodge an appeal in writing (Appendix B) within 5 working days of the receipt of written notification of that decision. A Directors / Governors' Appeal Hearing will then need to be convened in line with the school grievance procedures. The appeal notification should reaffirm the grievance; the remedies sought and specify the grounds for appeal against the initial decision of the Grievance Panel.

The Director's / Governors' Appeal Panel should comprise 3 Directors / Governors who have had no prior involvement in the case. Again, an appropriate the Group HR Manager may be invited to attend in an advisory role. The decision of the appeals committee shall be confirmed in writing within 5 working days and is final and binding under this procedure.

APPENDIX A
GRIEVANCE PROCEDURE
GRIEVANCE REGISTRATION FORM

This form should be completed by an employee registering a grievance at Stage 2 of the procedure and forwarded to the individual with whom the complaint was originally raised.

Part 1

Employee's name:

Date:

Stage 1 investigated by (name):

On (date):

Job Title:

Contact number:

Part 2

What is the grievance about? List each complaint. (If necessary, continue on a separate sheet)

Point 1

Point 2

Point 3

Point 4

Background to the Grievance, What was the outcome to Stage 1

Who is involved (names, job titles, departments etc.)?

When did the above take place? (one-off, several occasions or continuous?)

How can the situation be resolved?

Should you wish to attach any documents please list below and explain for each, the relevance to the grievance.

APPENDIX B
GRIEVANCE PROCEDURE
GRIEVANCE APPEAL REGISTRATION FORM

This form should be completed by an employee registering an appeal at Stage 3 of the procedure and forwarded to the Chair of the grievance panel.

Part 1

Employee's name:

Date:

Stage 2 hearing held on (date):

Stage 2 outcome letter dated:

Job Title:

Contact number:

Part 2

Please list the grounds upon which you are raising an appeal

Point 1

Point 2

Point 3

Please state the desired outcome of the appeal process?

Should you wish to attach any documents please list below and explain for each, the relevance to the appeal

c. Appeal Procedure

○ **Purpose**

This Procedure is designed to:

a) Head Teachers/Directors/Governors with their responsibility to ensure consistent and fair treatment of all staff. To comply with relevant legislation and the ACAS Code of Conduct. This procedure covers the following policies:-

- Disciplinary
- Grievance
- Attendance Management
- Staffing Reductions
- Pay Policy
- Performance Management
- Dignity at work
- Capability

b) Provide a clear structure for staff to request a formal decision or sanction to be reviewed by parties not involved in the original decision.

c) Be used as the standard appeal procedure for all future policies where access to an appeal procedure is included.

○ **Scope**

This procedure covers all teaching and support staff in Mowbray Education Trust for whom Governors have delegated personnel responsibility. It also covers centrally employed teaching staff where Trust HR policies and procedures are applicable. This does not include contractors' employees.

This procedure will apply to all Trust Human Resources policies and procedures except where they specifically provide for an alternative appeals process.

○ **Principles**

- a. Staff have the right to appeal against any formal action or decision taken by the employer as a result of a formal process.
- b. The staff member shall be informed of this right at the point of the original decision and have this confirmed in writing, with details of how and with whom the appeal should be lodged.
- c. All appeals should be dealt with as soon as practicable
- d. The staff member has the right to be accompanied by his/her trade union representative or fellow worker.
- e. If the staff member, their trade union representative, or fellow worker cannot attend on a proposed date the employee can suggest an alternative date as long as it is reasonable and not more than five working days after the original date.
- f. All proceedings and information shall be confidential and held in private.
- g. Notes of the meeting will be taken and copies provided to the staff member and their representative or fellow worker.
- h. The advice and support of the Group HR Manager should be taken in dealing with any appeal.
- i. Appeal hearings where possible will take place within the working day of the employee
- j. The decision of the Appeal Panel is final.
- k. It is recommended that at least one member of the appeals panel should be trained in the hearing process.

Appeals Panel

The Appeals Panel will comprise three Directors / Governors not involved in the original hearing/decision. Appeal Panels should try to ensure that they are representative.

An HR member not involved in the original hearing may advise the panel on procedural and technical issues but will not contribute to the final decision.

If, because of a shortage of Director's / Governors or the nature of the case, it is not possible to identify three previously uninvolved Directors / Governors, then the Chair of the Appeal Panel will consult with all parties with a view to reaching agreement. Advice may be sought from Human Resources and/or Governor Services as appropriate.

Roles and Responsibilities

When dealing with HR policies and procedures it is important to establish at the onset who will undertake the necessary roles under that particular procedure. This will avoid any conflict of interest and misunderstandings at later stages.

Chair of Appeal Panel:

When dealing with an appeal the Chair of the Appeal Panel will ensure that a panel is convened. They will also ensure that the necessary arrangements are made with the assistance of the schools to identify a time and venue for the hearing. They will also ensure that all relevant parties are invited to attend, including arranging a note taker. Support may also be sought from the Group HR Manager to advise the Appeal Panel.

They should also consider whether any participant needs any adjustments e.g. hearing loop, disabled access. The Chair of the Appeal Panel may delegate the responsibility for the administrative arrangements of the Appeal Hearing.

Chair of Original Panel:

The Chair of the original panel will ensure that all relevant paperwork from the original hearing is provided to the Appeal Panel, the staff member, Trade Union Representative and Group HR Manager. The Chair of the Original Panel may be required to attend the hearing as a witness.

Management Representative:

The Management Representative will present the management case at the appeal hearing. The Management Representative will be decided by the nature of the Appeal (e.g. an appeal against a disciplinary warning will require the Chair of the Disciplinary Panel to attend the appeal) and may be a different management representative (e.g. Chair of Original Panel) than the manager who presented the case previously.

Procedure

Submitting an Appeal

Registering of Appeals

All Appeals must be registered with the Chair of the Original Panel within the time limits applying to each policy. The Chair of the Original Panel will liaise with fellow Directors / Governors and HR to ensure the Appeal is addressed promptly.

Timescales for an Appeal:

An appeal against a decision for all policies listed in section 1 above shall be submitted no later than 10 working days from the receipt of the outcome letter.

A meeting will be arranged within 10 working days of receipt of the appeal.

Convening an appeal meeting

Staff will be given 10 working days notice of an appeal hearing date.

The invitation to the appeal hearing should also include any supporting documentation to be considered by the panel such as,

- The format of the meeting
- Notes of the original hearing
- The documents used at the original hearing
- Copy of the letter confirming the original outcome
- Copy of the letter of appeal and any supporting documents, including any new evidence.
- A statement from the original presenting officer/chair of original panel in response to the points raised in the appeal.

The Chair of the original panel may also approach HR for support in preparing for the Appeal.

The names of any witnesses either party wishes to call to the Appeal Panel should also be submitted no later than 5 working days prior to the Appeal Hearing.

Grounds for Appeal:

When completing the appeal form the staff member should specify the grounds on which they are appealing the original decision or sanction. Grounds for appeal will include such things as procedural flaws in the original hearing or investigation, the imposition of an unreasonable sanction and/or that it was unreasonable to find the employee blameworthy or that new evidence was available.

Members of staff should also specify what outcome they are seeking from the appeal. If the staff member, their Trade Union Representative, or fellow worker cannot attend on a proposed date the employee can suggest an alternative date as long as it is reasonable and not more than 5 working days after the original date. Normally when an employee or their representative is unable to attend an appeal the panel will provide one alternative hearing date for the member of staff to state their case. When the member of staff is unable to attend they can elect to ask their representative to present a written / oral statement on their behalf, or submit written evidence on their own behalf.

If an employee fails to attend the Appeal Hearing without giving an acceptable reason the hearing will proceed in their absence.

New Evidence

Any new evidence submitted by the staff member or the management representative should explain why it would influence the original decision and why it was not available at the original hearing

The Management Representative or Chair of the original panel may, in response to the submission of an appeal against the original decision, submit new evidence for consideration at the Appeal Hearing.

If in the view of the Appeal Panel the new evidence requires further investigation before it can be properly considered at an Appeal Hearing they will consult with the staff member, their representative and the management representative to adjourn the hearing whilst this is undertaken. The investigation should be completed within 20 working days or as soon as possible thereafter with agreement from all parties and the Appeal Panel reconvened at the earliest opportunity. It is the responsibility of the Chair of the Appeal Panel to ensure that timelines are met.

Conducting the Appeal Hearing

In conducting an appeal the panel will decide whether the original decision and sanction imposed or action taken were appropriate in all the circumstances.

The following format shall apply when the Appeal is a review of the original decision:

- The Chair will outline the process and protocols of the hearing.
- The staff member / representative will outline their case, along with any new evidence and witnesses.
- The Management representative(s) will question the staff member and any witnesses.
- Panel will question the staff member and any witnesses.
- Management will present their case.
- Staff member / representative will question management and any witnesses.
- Panel will question management and any witnesses.
- Staff member summarises.
- Management summarises.
- Hearing will adjourn for panel to consider its decision.
- Hearing will reconvene for panel to deliver its decision
- The Chair of the Appeal Panel will ensure all necessary paperwork is sent to staff member / representative and any other relevant parties.

Appeal Outcomes

Possible outcomes open to the panel are:

- Uphold the original decision
- The panel may decide to uphold the original decision taken and maintain any sanction.
- Overturn the original decision
- The panel may decide to overturn the original decision (in whole or part) and implement a new decision along with any appropriate sanction / action. The original sanction cannot be increased.

Additional Recommendations

The Panel may also wish to make recommendations on other implications arising from the appeal e.g. training, issuing of guidance.

Record of Hearing

It is essential that a comprehensive record is made of the meeting. The notes do not need to be verbatim however they need to be an accurate reflection of the conversation that took place. The notes must be typed after the meeting and sent to the individual for them to sign and return. If the individual disputes the content of the minutes they must put their comments in writing and the panel can either amend the minutes accordingly or add the comments to the original minutes to keep on file.

Notification of Decision

The decision must be sent, in writing, within 3 working days, stating each point of appeal, the information that was considered and the decision taken. The minutes of the meeting must be enclosed with the letter. There will be no further right of appeal against the decision of the Appeals Panel.

d. Capability Procedure

1. DEFINITION

- 1.1 Under normal circumstances, an employee is expected to be qualified for, and competent to undertake the work for which they are employed with due regard to any reasonable adjustments made under the terms of the Disability Discrimination Act 1995. Given that all Teachers are subject to Performance Management areas for improvement should be identified through the Performance Management process and only in exceptional circumstances should it be necessary to use this procedure. Where, however, an individual appears unable to meet the requirements of the post, having been subjected to appropriate areas of support, this procedure should be applied where there has been insufficient improvement.
- 1.2 At the start of an informal procedure the Head Teacher will have evidence to support that there is a capability problem.
- 1.3 In all discussions and decisions, both the School needs and the fair and equitable treatment of the individual should be taken into account.

2. AIMS

The aim of the informal procedure is to provide support for an employee whose level of performance appears to be unacceptable. Both the informal and formal elements of the procedure are designed to deal only with issues of capability and not issues relating to ill-health or misconduct. Any ill health issues should be addressed via the Management of Attendance Policy with the support of the Occupational Health Service.

3. OBJECTIVES

The objectives of the procedure are:-

- 3.1 To ensure that concerns about capability are identified and support given and action taken at an early stage via the informal stages of the procedure.
- 3.2 To promote a consistent, realistic approach to capability problems by all concerned resulting wherever possible in the employee being able to perform satisfactorily.
- 3.3 To recognise the value of the involvement of Professional Associations and Trade Unions from an early stage and throughout both the informal and formal elements of the procedure.
- 3.4 To deal sensitively and imaginatively when seeking to resolve a capability problem.
- 3.5 To define the support available which should be in place either before or at the start of the capability informal procedure.

- 3.6 To agree realistic timescales over which improvement can be achieved, either after or during a period when support is available from the date of the beginning of the use of the informal/formal procedure. Where, the member of staff's performance is considered to be jeopardising the education of pupils, the period given initially for improvement will be 3 or 4 weeks and it may not be possible to use the informal procedure.
- 3.7 Where the employee, having been given support, does not prove to have an appropriate level of capability to undertake the work, the Head Teacher and/or local Governors will institute a process of representation and appeal which forms part of the formal procedure.

4. PERFORMANCE MANAGEMENT

The process of performance management should be suspended, once a person is being supported via the informal Capability Procedure and should not be resumed until either the informal and/or formal procedure has been satisfactorily concluded. Suspension of Performance Management will mean that pay progression for staff subject to Performance Pay Progression will not be available.

5. REFERRALS TO EXTERNAL BODIES

In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

6. WRITTEN RECORDS

Detailed written records of both informal and formal procedures must be kept and be available for sight by the employee.

7. PROCEDURE

7.1 Teaching Staff other than Head Teachers

a) Identification and Support (Informal Procedure)

Where the Head Teacher believes there is a problem resulting from an unacceptable level of performance, it will be necessary to refer to the job description/job profile, provide details of previous in-service training and refer to the member of staff's personnel records.

The Head Teacher should arrange to explain the areas of concern. The employee will be asked to attend a meeting at which they may be represented by their Professional Association/Trade Union Representative or accompanied by a colleague. The meeting should be no sooner than 5 working days following the receipt of the written concerns.

The individual and the representative should be given every opportunity to answer or dispute the areas of concern identified or offer reasons for the situation and the Principal should seriously consider the representations.

At this stage, if the representation has been unsuccessful, the member of staff should be formally notified in writing that the following informal procedure will be commenced:-

- i) Identification of measures to be taken and details of the support to be provided by the School to enable the employee to achieve the agreed levels. These may include training, monitoring and the setting of targets and where appropriate, welfare support, mentoring, stress counselling, stepping down, risk assessment and where the employee agrees an acceptable mentor should be provided.
- ii) Once support has either been completed or is in place to agree a review date with regular feedback sessions which will be 4 weeks from the start of the review period.
- iii) If there has been no improvement, the member of staff should be formally advised verbally at the meeting with confirmation in writing if there is not considered to have been sufficient improvement at the review meeting. Any further action which may be necessary, may result in the Head Teacher issuing the member of staff with an oral warning. This action will begin the formal part of the capability procedure.

(b) **Outcomes of Monitoring and Evaluation (Leading to Formal Procedure)**

Review under the Informal Procedure

Where there has not been any improvement or sufficient improvement in the level of performance as a result of the informal procedure pursued, the Head Teacher will issue the member of staff with an oral warning.

It will be possible for the employee to have placed on the file a written objection to the oral warning.

A further period of monitoring will be agreed, objectives set and a reasonable timescale identified (4 weeks from the start of the review period).

Second Review Meeting

Where there has not been any, or sufficient, improvement in the level of performance, the Head Teacher will issue a written warning. The employee may make an appeal against the written warning.

A further period of monitoring will be agreed, objectives set and a timescale (4 weeks from the start of the review period).

Third Review Meeting

At the review meeting, if there has not been any or sufficient improvement in performance, the Head Teacher will issue a final written warning and inform the teacher that if by the next review date there has not been any improvement in the level of performance, arrangements will be made for the Dismissal Committee to meet to consider dismissal.

The employee may ask that an Appeals Panel of Governors be called together in order for an appeal against the final written warning to be heard. If the appeal panel agrees with the Head Teacher's decision, the further review period will be confirmed at the end of which a review meeting will be held.

If there has not been sufficient improvement, a Dismissal Committee of the Governing Body will be called to hear representations from the employee and/or his/her representative. If the outcome of the hearing is a recommendation to dismiss, an Appeals Dismissal Committee of the Governing Body will be convened if the employee wishes to appeal against the decision. The employee and/or his/her representative may make further representation to the Appeals Dismissal Committee in response to the decision of the Committee.

Once the decision of the Dismissal Committee is known and if it is recommending dismissal the Director of Children and Young People's Services will write to the employee terminating the employment of the member of staff.

Where the outcome of the Appeals Dismissal Committee confirms the recommendation to dismiss, the possibility of redeployment into other areas of work within the County Council's service will be considered. If alternative employment can be found, a 'trial' period of not less than 4 weeks will be arranged after which, subject to satisfactory performance, a permanent transfer will be agreed. If redeployment has not been achieved by the end of the notice period, the employment will cease. The redeployment into an alternative teaching post can only be considered once the General Teaching Council has been informed of the dismissal by the Local Authority (LA) and have considered whether continuation in teaching is appropriate.

(c) **Extreme Circumstances**

In extreme circumstances where incapability results in the education of pupils being jeopardised and the health, safety and welfare of the pupils are at risk, the informal procedure will not be pursued. The period of monitoring will be determined following consultation with the employee and his/her representative, after which if there has not been any improvement and it is considered that the education of pupils is still being jeopardised and the health, safety and welfare of the pupils are at risk, the member of staff will be suspended and this will be confirmed in writing along with details of the procedure to be followed. Arrangements will be made for a Dismissal Committee of not less than 3 Governors to meet to hear representation from the employee and his/her representative.

If the outcome of the hearing is a recommendation to dismiss, notice of dismissal will be issued by the Director of Children and Young People’s Service. After the notice has been issued an Appeals Dismissal Committee of the Governing Body will be convened to which the employee and/or his/her representative or work colleague may appeal against the decision of the Dismissal Committee.

If the decision of the Dismissal Committee is upheld, the Director of Children and Young People’s Services will confirm the termination of the employment of the member of staff in writing.

At this stage, the possibility of redeployment into a suitable alternative post for which the employee has the appropriate skills will be considered. If a suitable post is available, a trial period of 4 weeks will be considered after which, subject to satisfactory performance, the employee will be confirmed in the new post.

If redeployment into a teaching post is to be considered, it can only be pursued once the DBS and DfE has been informed about the dismissal by the LA and a decision taken about whether teaching is still appropriate to consider.

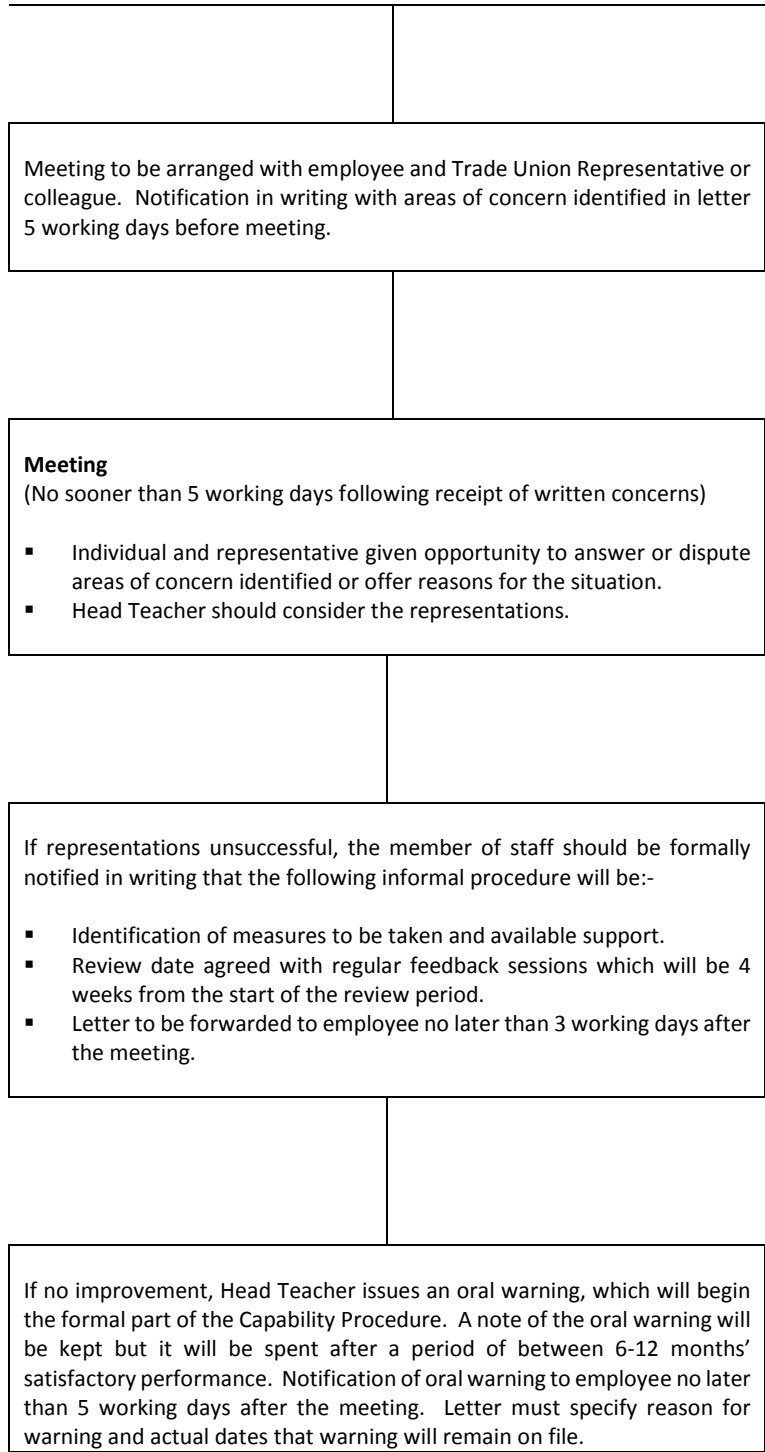
7.2 **Head Teacher**

The same procedures will be followed for the Head Teacher except that the person meeting with the employee at all stages up to the Governors’ Hearings will be the Chair of Governors.

APPENDIX A

INFORMAL PROCEDURE

Identification of unacceptable level of performance



APPENDIX B
FORMAL PROCEDURE

<p>Oral warning issued following review under the Informal Procedure Member of staff has right to lodge written objection. If written objection received, acknowledgement sent to employee within 2 working days of receipt.</p>
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Further period of monitoring agreed, objectives set and a reasonable timescale identified (4 weeks). Notification of outcomes of the review meeting to employee in writing no later than 3 working days after meeting.



Second Review Meeting

If there has not been any or sufficient improvement, a written warning is issued.

Written notification of warning to employee no later than 5 working days of the meeting with details of appeals mechanism. The written warning must specify the reasons and the length the warning will remain on file.

Appeal mechanism available to employee.

If employee appeals, notification of the date of the appeal hearing plus management documentation to employee no later than 10 working days after the receipt of the request to pursue the appeal process.

A further period of monitoring is agreed, objectives set and a timescale identified (4 weeks).



Third Review Meeting

If there has not been any or sufficient improvement, a final written warning is issued. Individuals should be informed that if no improvement at the next review date, the Dismissal Committee will meet to consider dismissal.

Letter confirming warning to employee no later than 5 working days after the meeting.

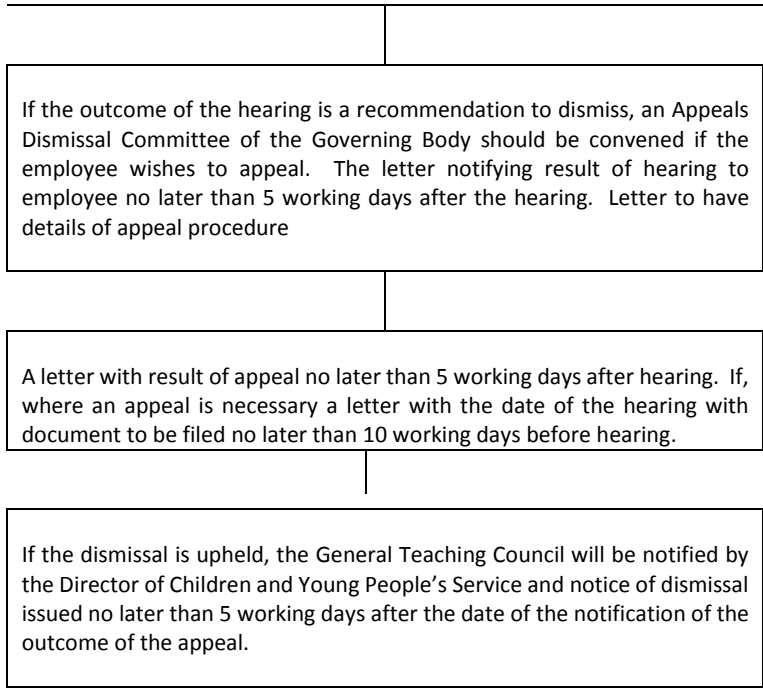
Written notification of warning to employee no later than 5 working days of the meeting with details of appeals mechanism as in above.

The appeal mechanism must be made available to employee.



Dismissal Committee of the Governing Body will be called to hear representations from employee and their representatives. Letter notifying date of meeting to employee with appropriate documentation no later than 10 working days before the meeting.

If the decision of the Dismissal Committee is to dismiss, a letter of dismissal will be forwarded to the employee by the Director of Children and Young People’s Service.



Policy last Reviewed: November 2015

SIGNATURES AND DATES

Chair of Governors.....

Head teacher

Review date.....