

## **PROCEDURE FOR SUPPORTING EFFECTIVE TEACHING IN SCHOOLS**

### **1. INTRODUCTION**

This procedure for supporting effective teaching in schools ('the Procedure') has been drawn up and agreed by the Teachers' Salaries and Conditions of Service Committee Schools (TNC). The Procedure is to be invoked whenever a teacher's performance is giving cause for concern and all informal measures have been exhausted.

The TNC acknowledges that the overwhelming majority of teachers are highly knowledgeable and highly skilled professionals delivering high education standards and are not underperforming or inadequate. This procedure is intended to provide professional support for those teachers experiencing difficulties to return to normal levels of performance.

The Procedure is designed to ensure that the appropriate support, advice and guidance is provided to any such teacher in order that he/she can address identified weaknesses and become more effective as well as setting out a formal capability process for teachers which is fair and reasonable. This procedure will be equality screened.

### **2. PRINCIPLES**

The Procedure is designed to:

- ensure high quality teaching is provided in all schools
- ensure that concerns about the standard of professional performance achieved by teachers are dealt with in a systematic and fair way;
- provide timely intervention when a teacher's work is giving cause for concern;
- commit all parties engaged in the process to engage constructively with a view to supporting the teacher to become fully effective;
- be open and transparent;
- provide adequate support;
- allow the teacher to come out of the Procedure at the earliest opportunity when his/her work is deemed to have improved sufficiently;
- ensure that formal capability processes including suspension and dismissal are conducted in a procedurally fair and transparent manner taking into account equal opportunity considerations; and
- ensure that the teacher's representative is a recognised trade union representative or a teaching colleague from the same or another school and the teacher will have the right to be represented at all parts of the procedure.

### **3. PURPOSE**

- 3.1 The Procedure is designed to assist Principals, Boards of Governors and Employing Authorities in adopting a consistent approach in instances where the work or aspects of the work, of a teacher is giving cause for concern. It does so by providing a framework for sensitive and constructive professional exchanges between the teacher, Principal, the Board of Governors and the Employing Authority. Issues relating to the

effectiveness of a teacher's work need to be dealt with in a fair, timely, sensitive and consistent manner.

- 3.2 The test to be applied in determining whether the Procedure should be invoked is whether the standard of work of a teacher or the nature and extent of the deficiencies on his or her part are having, or are likely to have, a detrimental effect on the educational progress of the pupils and/or the effective functioning of the school.
- 3.3 Once the Procedure has been invoked the teacher may be accompanied at any meetings held under the Procedure by a recognised trade union representative or a teaching colleague from the same or another school.
- 3.4 The primary aim of this Procedure is to effect improvement where there is cause for concern about the work, or aspects of the work, of a teacher. Adequate governance practices for monitoring the effectiveness of the work of the teacher should be in place and be sufficiently robust. Such practices should include assessment of only those duties defined under the Teachers (Terms and Conditions of Employment) Regulations (NI) 1987 and the Teachers' (Terms and Conditions of Employment) (Amendment) Regulations (Northern Ireland) 1988. Where these identify concerns about the teacher's work, the Principal should arrange for appropriate professional development to be provided.
- 3.5 There may also be instances where the teacher may seek professional development to help develop knowledge or skills with an area of required expertise. However, this would normally take place in the context of the PRSD process. In such circumstances it would be inappropriate for the Procedure to be invoked by the Principal on behalf of the Board of Governors. Also in seeking professional development the teacher must be able to demonstrate outcomes/impact of that professional development to the Principal/Board of Governors.
- 3.6 Early identification that the work of a teacher is giving cause for concern is essential so that positive action can be taken to provide the support necessary for improvement. It is recommended that the Principal and Board of Governors will seek advice from the Employing Authority. ("Employing Authority" means for controlled schools, the board responsible for the management of the school and for catholic maintained schools, the Council for Catholic Maintained Schools. In the case of voluntary grammar and grant maintained schools, the Board of Governors is the Employing Authority.)
- 3.7 The GTCNI Teacher Competences (teaching - the reflective profession) provide a basis for measuring teaching competences and may be referred to by a Principal/Board of Governors, supported as appropriate by the Employing Authority, for monitoring purposes or as part of a programme of development for a teacher whose work is causing concern.

#### **4. GENERAL**

- 4.1 The professional duties of a teacher are set out in the Teachers' (Terms and Conditions of Employment) Regulations (Northern Ireland) 1987 and are also included within applicable legislation in force (e.g. the various Education Orders), statutory regulations and determinations made from time to time by DE/Employing Authorities as well as in the school's statutory Scheme of Management.
- 4.2 For the purposes of this Procedure "a teacher" means a teacher appointed to the post of teacher and up to and including the position of vice principal and employed as such in a grant-aided school.
- 4.3 This Procedure is separate from the PRSD Scheme. When the performance of the teacher is called into question to the extent that it is considered necessary to move to the procedure for Supporting Effective Teaching in Schools, PRSD for that individual will be suspended and the teacher will be issued with formal notification that the procedure for Supporting Effective Teaching is now being invoked. However, the Principal/ Board of Governors may use Performance Review statements as part of the body of evidence to determine the effectiveness of the teacher. They cannot be used in isolation.
- 4.4 Maintain the confidentiality of all paperwork and retain in accordance with the Retention and Disposal Schedule.
- 4.5 The TNC will review this Procedure initially after two years.

#### **5. ROLES AND RESPONSIBILITIES**

- 5.1 The Board of Governors is responsible, in law, for securing the effective education and well-being of the pupils in their school and ensuring in conjunction with the Principal that the requirements of the statutory curriculum are met. In addition they have a responsibility for the welfare and the professional development of all their teachers, including the Principal.
- 5.2 While the Board of Governors has a responsibility for ensuring that the educational needs of the children and the professional needs of the teaching staff are being provided for, the Principal must support the teacher in the day to day education of the pupils and must address any issues of concern relating to the pupils in their school. The Principal must also provide access to appropriate support and training where there are concerns about the effectiveness of a teacher.
- 5.3 The Principal is required to ensure that arrangements are in place to monitor and review the operation of the procedure and to ensure that it operates equally in a non-discriminatory manner.
- 5.4 The teacher has responsibility to work in a manner and contribute to ensuring that the school meets its aims and objectives for securing effective teaching and learning in the classroom for carrying out the duties associated with any teaching allowance for which they are being remunerated.

## **6. THE PROCEDURE - PRELIMINARY DELIBERATION**

- 6.1 If a Principal and/or Board of Governors has concerns about the effectiveness of the work of the teacher the Principal should consult with the teacher as soon as possible to identify the nature of the difficulties and put in place the appropriate action to address the difficulties. Where the problem resides with the teacher, a Principal/Board of Governors should always make sure that it is dealing with a question of professional capacity, that is, where the teacher has been unable to undertake his/her duties to the standard required due to a lack of necessary capability or skill. Other procedures agreed at TNC exist for dealing with matters such as discipline, welfare, etc. Where a Principal/Board of Governors concludes that there are issues of effectiveness or performance that need to be addressed it should immediately appoint a sub-committee to consider the need to invoke the Procedure and record that discussion with due regard to confidentiality.
- 6.2 The Principal/Board of Governors, with advice and support from the Employing Authority, is responsible for identifying and supporting a teacher whose work is giving cause for concern. Early identification is essential. A Principal/ Board of Governors must have brought its concerns to the attention of the teacher in writing, indicating the need for improvement, before invoking the Procedure as a means of providing effective support to the teacher.
- 6.3 The decision by the Principal/Board of Governors that the performance provided by a teacher is giving cause for concern should be supported by a robust evidence base which can come from two potential sources:
- (a) An analysis of an accumulation of information which provides evidence of professional deficiencies on the part of any teacher including those without teaching allowances up to and including those holding the position of vice principal. The areas of work should relate to the teachers contractual duties, which includes prevailing Terms and Conditions; and
  - (b) The outcome of an inspection of a school by the Education and Training Inspectorate (ETI). The ETI may evaluate a teacher's work as requiring support.
- 6.4 When this occurs the Principal/Board of Governors will consider invoking the Procedure.
- 6.5 Principals/Boards of Governors should seek the advice and guidance of their Employing Authority, where appropriate, when it is considering implementing the Procedure.

## **7. IMPLEMENTATION OF THE PROCEDURE**

- 7.1 Where the Board of Governors has identified concerns it should, in the first instance, appoint a sub-committee of at least three people from within its membership to further consider and analyse the information and data about the performance of the teacher. The sub-committee should consider other non-work related reasons for

underperformance. This sub-committee should consider whether the information indicates that the weaknesses in the performance of the teacher is having a detrimental impact on the education provided for the pupils

- 7.2 Where the sub-committee is satisfied that there is a body of evidence demonstrating that the teachers performance is giving cause for concern and decides to invoke the Procedure it should do so in an open and transparent manner. The teacher and his/her representative shall have full and timely access to all documentation related to the Procedure. The sub-committee should advise the teacher, by letter, of the specific nature of these concerns, making it clear that the Procedure is being invoked.
- 7.3 The letter advising that the Procedure is being invoked should include the following:
  - an invitation to meet with the sub-committee, at which an Employing Authority representative may be present. At least five working days' notice shall be given of this meeting;
  - the teacher's right to be accompanied by a recognised trade union representative or teaching colleague from the same or other school;
  - full details of the body of evidence (including copies of same) considered by the sub-committee;
  - an assurance that the teacher will be given a reasonable period of time, and the opportunity and assistance to undertake a Programme of Support and development designed to effect the required improvement;
  - advice to the teacher that failure to effect the required improvement within a reasonable period could lead to dismissal; and
  - an opportunity for the teacher to present mitigating evidence.
- 7.4 At the meeting the concerns of the sub-committee will again be communicated to the teacher and s/he will be given the opportunity to respond to the evidence presented and any other mitigating factors. At this point, in light of the response and/or challenge, consideration should be given to the need to continue. If the teacher agrees to undertake a Programme of Support then such a programme will be developed by and/or on behalf of the Board of Governors following consultation with the teacher. All parties should make best effort to agree an appropriate Programme of Support.
- 7.5 At this meeting the teacher should be given the opportunity to consider a range of suitable redeployment opportunities which may include stepping down to a position of lesser responsibility. In these circumstances the teacher would receive the salary and conditions attached to the new position.
- 7.6 A Programme of Support will be drawn up by agreement with the teacher. All parties shall commit to making best efforts to reaching agreement through professional dialogue. If agreement by consensus is not reached within 10 days the sub-committee will draw up a Programme of Support. Once a Programme of Support has been drawn up the teacher will be given 10 working days to consider and agree to the programme in writing. If agreement has not been reached by the end of this period then the sub-committee shall proceed to implement the Programme of Support.
- 7.7 It is the teacher's responsibility to ensure that s/he will engage in the Programme of Support. If the teacher does not agree to engage with the Programme of Support from

the outset or fails to engage at any time during its implementation, the sub-committee may invoke the Disciplinary Procedure and inform the teacher of this decision in writing.

- 7.8 Any periods of absence during the Programme of Support should be dealt with under the Attendance Policy.
- 7.9 The Principal/sub-committee, with support from the Employing Authority, should ensure that sufficient resources are made available for the delivery of the Programme of Support which could include support from professionally trained colleagues.
- 7.10 Arrangements for the assessment of the teacher's progress within the Programme of Support should be confirmed and communicated to the teacher, giving full details of the methodology to be used. All targets to be met should be specific, measurable, achievable, realistic and time-bound.
- 7.11 If a school inspection is scheduled to take place while the Procedure is in train the school inspection will proceed as planned.
- 7.12 The teacher should normally remain in post while s/he receives support to improve their effectiveness. The Principal/Board of Governors, in consultation with the relevant Employing Authority may provide the teacher with access to a mentor from within the school or another school, to work alongside him/her to provide development support. The mentor is not responsible for monitoring the progress of the teacher – that is a matter for the Principal with the assistance of other appropriate staff members.

## **8. EXCEPTIONAL CIRCUMSTANCES**

- 8.1 The Principal and/or the Board of Governors have the right, in exceptional circumstances, to invoke a Precautionary Suspension if, in the opinion of the subcommittee of the Board of Governors, that course of action is deemed appropriate to ensure the effective delivery and management of the Programme of Support. In any case in which consideration is being given to suspension of a Teacher, under this procedure, the Employing Authority should be consulted. The Teacher shall be given written confirmation of the Precautionary Suspension at the time this occurs. The Precautionary Suspension shall be subject to regular review. During the period of suspension, the teacher will be required to continue with the Programme of Support. On the teacher's return to the workplace a sufficient period of time will be allowed in order to allow the teacher a fair opportunity to show improvement.

## **9. PROGRAMME OF SUPPORT**

- 9.1 The Programme of Support under the Procedure as referred to at section 7 above, should be tailored to the individual needs of the teacher, and may consist of a number of phases, to include, for example:
  - (a) A period of training with a recognised teacher development organisation, during which the skills, knowledge and understanding of teaching are studied.

This could include study to enhance the teacher's understanding of matters such as:

- planning for differentiation in teaching and learning;
  - strategies for the effective management of pupil behaviour in the classroom;
  - techniques for effective diagnostic and formative assessment;
  - skills of middle and senior leadership;
  - the appropriate deployment of staff and resources as a middle or senior manager; and
  - interpersonal skills and building relationships.
- (b) A period, either full-time or part-time, shadowing an experienced teacher at work with emphasis on the development of the skills and competences of teaching and leadership relevant to any identified weaknesses.
- (c) A sufficient period of time in his/her own school, with the support of a mentor, as required, during which specific teaching and/or leadership tasks may be undertaken in order to allow the teacher to demonstrate his/her capacity to perform their duties to a satisfactory standard.
- (d) This should also include intensive support from the teacher's line manager or HOD and this should be built into the support programme.

9.2 The Programme of Support should be set out in the form of an action plan aimed at addressing areas identified by the sub-committee.

9.3 The nature and purpose of the Programme of Support and the processes for monitoring and evaluating the teacher's work should be discussed by the sub-committee of the Board of Governors with the teacher and his or her trade union representative before they are finalised.

9.4 The length, nature and intensity of the Programme of Support will depend upon the nature and extent of the training and development needs of the teacher. Normally the overall time taken to undertake the support programme will be 26 working weeks with the aim being to support the teacher to return to normal working in the shortest period possible. Where it is felt that progress has been made but there is still room for improvement, or where the teacher feels s/he would benefit from additional support, the support programme may be extended by the sub-committee for a further agreed period of time.

## **10. MONITORING PROGRESS**

10.1 The progress of a teacher undertaking a Programme of Support under the Procedure will be monitored by the Principal or, where appropriate, other colleagues such as a Head of Key Stage, Head of Department or appropriate senior leader. In exceptional circumstances, it may be appropriate for the Board of Governors with the support of the Employing Authority, to have the progress of a member of staff monitored by an external assessor. The external advisor will be selected from a list of appropriate

professionals. The list will be agreed by the parties to the Teachers' negotiating Committee (TNC), and will be reviewed every three years.

- 10.2 Members of staff undertaking the task of monitoring a teacher in a Programme of Support should receive appropriate training and time to allow them to undertake that role as effectively as possible.
- 10.3 The Principal will normally provide monthly written evidence-based reports to the sub-committee and the teacher and the Programme of Support may be adjusted appropriately if required. At the end of the Programme of Support the Principal will, within 10 working days, provide a report of the progress made by the teacher to the sub-committee of the Board of Governors for their consideration. The Principal will not have a role in determining the outcome of the process.

## **11. SUB-COMMITTEE CONSIDERATION OF REPORTS AND OTHER RELEVANT INFORMATION**

- 11.1 The sub-committee will invite the teacher to a meeting to afford the teacher with an opportunity to provide any information he/she wishes the sub-committee to consider prior to the sub-committee recommending any further action in relation to the report. The sub-committee will only review information arising under the procedure in the deliberations/decisions. The invitation to the meeting should normally issue within 10 working days of receipt of the Principal's report.
- 11.2 The teacher should be provided with a copy of the report and any other documentation that the sub-committee will rely on when making its recommendation at least 10 working days prior to attending the meeting of the sub-committee.
- 11.3 The teacher may be accompanied at this meeting by a recognised trade union representative or a teaching colleague.
- 11.4 In the event the teacher is not available, or unwilling to attend such a meeting, he/she should notify the sub-committee within 10 working days of the date of the letter. If the teacher is not available, reasonable steps should be taken to facilitate a meeting. The sub-committee will then proceed to make its recommendation to the Board of Governors.
- 11.5 The sub-committee will consider the Principal's report, any other relevant information and any representations made by the teacher, and with advice from the Employing Authority, as required, recommend to the full Board of Governors such appropriate action. This recommendation will normally be made within 10 working days of the date of the scheduled meeting with the teacher. Such recommendations may include:-
  - (i) that sufficient progress has been made and there is no requirement to continue on the Programme of Support and that the teacher should return to normal duties;
  - (ii) an acknowledgement that whilst progress has been made an extension to the Programme of Support is being made for a further specified period;

- (iii) a proposal that the Board of Governors makes a determination that the teacher should be dismissed from his or her employment on the grounds of capability given that there has not been sufficient progress made.

## **12. DETERMINATION OF THE BOARD OF GOVERNORS**

- 12.1 If the recommendation of the sub-committee is that the teacher is deemed to be competent in the areas identified for improvement, the Board of Governors should inform the teacher in writing that s/he has successfully completed the Programme of Support.
- 12.2 If the recommendation is that, whilst progress has been made, a further period of support is necessary; this will be communicated to the Principal/Board of Governors for their information. The Sub-committee will inform the teacher of this decision which will include the reasons for the extension, the duration of the extension, the areas for focused development, as well as support available and that failure to be deemed competent in the areas identified for improvement within a set period could lead to dismissal.
- 12.3 If the recommendation is that the teacher's work has not reached the required standard, the teacher should be given the opportunity to consider a range of suitable redeployment arrangements which may include stepping down to a position of lesser responsibility. In these circumstances the teacher would receive the salary and conditions attached to the new position.
- 12.4 If the recommendation is that the teacher's work has not reached the required standard and it has not been possible to agree redeployment arrangements, then the Board of Governors should inform the teacher accordingly in writing and advise him or her that it is proposing making a determination that the teacher's employment be terminated on the grounds of capability in accordance with the provisions of Schedule 2 paragraph 5 of the Education (NI) Order 1998. In this case the procedure outlined in Appendix 1 should be followed.

**Appendix 1**

**TERMINATION OF EMPLOYMENT OF PRINCIPALS/TEACHERS ON THE GROUNDS OF CAPABILITY/PERFORMANCE**

**1. GENERAL PROVISIONS**

- 1.1 The purpose of this appendix is to provide fair and consistent treatment of teachers in those circumstances where consideration is to be given to termination of employment by the Board of Governors where a Principal/teacher may no longer meet the required performance standards for employment as a Principal/teacher.
- 1.2 This appendix supplements Schedule 2 paragraph 5 of the Education (NI) Order 1998.
- 1.3 Schedule 2 paragraph 5(8) of the Education (NI) Order 1998 provides that the relevant officer of the Employing Authority is entitled to attend all proceedings of the Board of Governors relating to any determination by the Board of Governors that any person employed at the school should cease to work there and such advice must be considered by the Board of Governors before making any such determination.
- 1.4 The Principal/teacher may be accompanied at representation and appeal stages of this procedure by a recognised Trade Union representative or a teaching colleague.

**2. PROPOSAL TO MAKE A DETERMINATION AND THE RIGHT TO MAKE REPRESENTATIONS**

- 2.1 Where a sub-committee of the Board of Governors under Section 11 of the Procedure for Supporting Effective Leadership by School Principals , or under Section 11 of the Procedure for Supporting Effective Teaching in Schools recommends that the Board of Governors proposes to make a determination that the Principal/teacher's employment should cease on the grounds of capability, it shall inform the Principal/teacher in writing within 10 working days of receipt of the sub-committee's recommendation.
- 2.2 The Principal/teacher shall be advised of the right to make representations to the Board of Governors in accordance with paragraph 5(6) of Schedule 2 of the Education (NI) Order 1998, in respect of the action it proposes to take, including, if the Principal/teacher so wishes, oral representations to such person or persons as the Board of Governors may appoint for the purpose, excluding those who were members of the Sub-Committee referred to in 2.1. The meeting to receive the representations should normally take place not more than 10 working days of receipt of the letter referred to in 2.1. The Board of Governors shall have regard to those representations before making a determination to dismiss.
- 2.3 Where, following any representations made under 2.2 above, or where the Principal/teacher chooses not to make representations, the Board of Governors shall decide whether to make a determination to dismiss the Principal/teacher on the

grounds in 2.1 above. Where the Board of Governors makes such a determination it shall write to the Principal/teacher normally within 10 working days and advise of the right of appeal to the Independent Appeals Committee at the Labour Relations Agency before the Board of Governor's notify the Employing Authority of the determination.

**3. APPEAL TO INDEPENDENT APPEAL COMMITTEE (LABOUR RELATIONS AGENCY)**

3.1 If the Principal/Teacher wishes to appeal against the determination, s/he shall write to the Secretary of the Independent Appeals Committee at the Labour Relations Agency within 10 working days of the date of receipt of the Board of Governors decision, setting out the grounds for the appeal. A copy of this letter should also be sent to the Chairperson of the Board of Governors and to the Employing Authority.

3.2 An Independent Appeal Committee may:

- (i) dismiss the appeal; or
- (ii) uphold the appeal.

The outcome of the appeal will be binding for all parties.

3.3 If the appeal is not upheld by the Independent Appeals Committee, or the Principal/teacher has chosen not to appeal the Board of Governors shall notify the Employing Authority in writing of its determination and the reasons for it. In such circumstances the Employing Authority will issue the formal notice of dismissal terminating the Principal/teacher's contract of employment in accordance with Schedule 2 paragraph 5 of the Education (NI) Order 1998.

3.4 References to the Labour Relations Agency in this Procedure should not be construed in any way as creating a contractual relationship between the Labour Relations Agency and any person or organisation. Such references are merely indicative of the role of the Agency in providing an independent administration for appeals on behalf of the Employing Authority.

3.5 Management and Teachers' Sides have agreed not to have legal or professional industrial relations consultants representing the two parties at an appeal.

3.6 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the Teachers' Side and one nominated by the Management Side of the Teachers' Salaries and Conditions of Service Committee (Schools). Neither member should have had a direct interest or involvement in the case. The Agency will appoint a Secretary to the Appeals Committee who shall be responsible for the setting up and operation of the Committee.

- 3.7 The Secretary, in conjunction with the Chairperson, will fix a date for the Committee's hearing of the appeal, inform the parties accordingly and invite nominations to the Committee.
- 3.8 The Secretary will also invite the parties to make written submissions to the Committee, such submissions to be received not later than 10 days before the date of the hearing. The Secretary will distribute copies of the submissions to the Committee members and to the other party not later than 5 days before the date of the hearing.
- 3.9 The Committee will normally meet the parties to hear the appeal within 20 working days of the matter being referred to the Labour Relations Agency. The Chairman of the Committee will determine the order of the oral presentations to the Committee. All notes taken by Committee members should be kept for one year.
- 3.10 The work of the Appeals Committee will not be invalidated by the absence of one or other of the parties.
- 3.11 The decision of the Appeals Committee will be given in writing to both parties within 10 working days of the hearing.