

BARTON PRIMARY SCHOOL AND EARLY YEARS CENTRE.



Competence of Teachers Procedure

DATE: October 2011

TO BE REVIEWED: October 2012

Signed..... Chair of Governors

Date.....

COMPETENCE OF TEACHERS PROCEDURE

1. Introduction

(a) General

This procedure has been drawn up in consultation with all the Teachers' Associations on the Isle of Wight. Its purpose is to assist Governing Bodies in meeting their obligations under the Education Act 2002. Furthermore, it is intended to assist teachers experiencing difficulty to reach an acceptable level of professional performance through the provision of support and guidance. It is not to be perceived as a punitive procedure.

The Headteacher may delegate the investigation of matters and action under this procedure, below dismissal, to a senior member of staff. Reference in this procedure to Headteacher is to include senior member of staff

Where the Headteacher has been directly involved in the formal procedure any action beyond a final written warning will be referred to a Panel of Governors for decision appointed and authorised by the Governing Body for such purposes.

(b) Time limits

The time limits laid down for the improvement in performance are upper limits which may be shortened, if appropriate. Hearings should not normally be held during the summer holiday period. On occasions and by mutual consent the parties may modify the time limits referred to in this procedure.

2. Management Supervision

(a) Where the Headteacher or senior member of staff believes there is cause for concern about the professional competence or performance of a teacher, the first step should be to discuss such concerns with the teacher concerned. Guidance on supporting teachers can be found in the document "Identifying and tackling poor performance". The Headteacher or senior member of staff should agree a support programme and keep notes of the action agreed.

This phase in the support process should not normally exceed three months.

A review of the support programme will take place with the teacher before any formal monitoring is undertaken in accordance with paragraph 3.

If there is no improvement in the teacher's performance, the head or senior member of staff should inform the person of the concern and state that they intend to follow the procedures outlined in this document.

3. Formal Procedure

(a) The formal procedure should normally be completed within the DCSF guidelines of a six month period of structured improvement

(b) The teacher shall be observed by more than one person in the performance of his/her duties to identify any specific problems. The head, senior member of staff or officer shall then prepare a written report listing observations and suggestions.

(c) The head or senior member of staff shall then meet the teacher to discuss the report.

A copy of the report called for in paragraph 3(a) will be made available to the teacher at least 5 working days (or 7 consecutive days out of term time) before the meeting. The teacher shall have the right to be accompanied at the meeting by a trade union representative or work colleague. While the purpose of the meeting will be to assist that teacher in

the improvement of performance, the Headteacher or senior member of staff must make it clear to the teacher that his/her performance has been found to be unsatisfactory and specify the area(s) of concern. During the interview, any appropriate means of helping the person should be identified, including appropriate monitoring. In consultation with the teacher, the Headteacher or senior member of staff should establish objectives to be met, success criteria and the period of time in which it will be reasonable to expect these to be achieved by the teacher. The timescale for improvement should not normally be more than six weeks. During that period there should be at least one review meeting to assess the progress made and review the support given. The Headteacher or senior member of staff shall issue an oral warning to the teacher that continued failure to improve performance could lead to the institution of further procedures which might ultimately involve the termination of his/her employment. The issue of such a warning is to be regarded as the "date of entry into the formal procedure."

- (d) Where a teacher has been given an oral or first written warning within the previous 12 months under this procedure relating to the same or similar areas of concern the Headteacher or senior member of staff may issue a first written warning in accordance with paragraph 4(b).
- (e) In extreme circumstances where there is concern that the education of pupils is being jeopardised a final written warning may be issued in accordance with paragraph 5(b).

(f) Giving the decision

After the meeting, the Headteacher or senior member of staff shall within 3 working days (or 5 consecutive days out of term time) give the oral warning and provide a written account of the warning referred to in paragraph 3(b) stating:

- (i) the reasons why the teacher's performance is not considered acceptable;
- (ii) the improvements required and the timescale within which they are expected to take place;
- (iii) the support to be given to the teacher;
- (iv) the fact that failure to improve sufficiently may result in the dismissal of the teacher;
- (v) the date of at least one review meeting before the formal review meeting to assess the progress made and review any support given;
- (vi) the date of the formal review meeting.

The letter should be given to the teacher for signature to indicate that he/she

has seen the document. If the teacher wishes to appeal against the decision they must do so within 5 working days (or 7 consecutive days out of term time), and a hearing will be held within 10 working days (or 14 consecutive days out of school term time). The appeal will be dealt with in accordance with paragraph 12. Any appeal will not disrupt the procedure, unless the appeal decision leads to the matter being reconsidered.

(g) **Monitoring and review**

During the period established for improvement of performance in paragraph 3(b), the Headteacher or senior member of staff shall observe the teacher and make notes for future use. The Headteacher or senior member of staff may wish to bring a suitable person from the Local Authority (to be referred to as "the officer") at this stage to observe and advise the teacher and the Headteacher or senior member of staff. Written observation feedback should be given to the teacher. Particular attention should be given to any objectives previously agreed with the teacher and the degree to which these objectives have been met.

(h) **At the end of the period established in paragraph 3(b) the Headteacher or senior member of staff shall meet with the teacher to review his/her performance. The Headteacher or senior member of staff and the officer shall prepare a written report recording their observations and shall provide the teacher with a copy of this report at least 5 working days (or 7 consecutive days out of term time) before the meeting. The teacher shall have the right to be accompanied by a trade union representative or work colleague. The Headteacher or senior member of staff may be accompanied. If the Headteacher or senior member of staff is satisfied with the teacher's performance this must be clearly stated and the procedure brought to an end and the decision recorded in writing to the teacher.**

4. First Written Warning

(a) **Should the teacher's performance have shown only marginal improvement, remain unchanged or deteriorated, this should be clearly stated and the teacher should be told that a first written warning will be issued. It is essential that the teacher be warned that failure to improve his/her performance could lead to termination of employment. Again, any appropriate means of helping the teacher to improve performance should be identified. The Headteacher or senior member of staff shall, in consultation with the teacher, specify a period of time in which it will be reasonable to expect an improvement. The time period for improvement should not normally exceed six weeks.**

(b) **Giving the decision**

After the meeting, the Headteacher or senior member of staff shall within 3 working days (or 5 consecutive days out of term time) prepare a written account of the first written warning referred to in paragraph 4(a) stating:

(i) **the reasons why the teacher's performance is not considered acceptable;**

- (ii) the improvements required and the timescale within which they are expected to take place;
- (iii) the support to be given to the teacher;
- (iv) the fact that failure to improve sufficiently may result in the dismissal of the teacher;
- (v) the date of at least one review meeting before the formal review meeting to assess the progress made and review any support given;
- (vi) the date of the formal review meeting.

The letter should be given to the teacher for signature to indicate that he/she has seen the document. If the teacher wishes to appeal against the decision they must do so within 5 working days (or 7 consecutive days out of term time), and a hearing will be held within 10 working days (or 14 consecutive days out of school term time). The appeal will be dealt with in accordance with paragraph 12. Any appeal will not disrupt the procedure, unless the appeal decision leads to the matter being reconsidered

(c) Monitoring and review

During the period established for improvement of performance in paragraph 4(a), the Headteacher or senior member of staff, or officer shall observe the teacher and make notes for future use. Written observation feedback should be given to the teacher. Particular attention should be given to any objectives previously agreed with the teacher and the degree to which these objectives have been met.

- (d) At the end of the period established in paragraph 4(a) the Headteacher or senior member of staff shall meet with the teacher to review his/her performance. The Headteacher or senior member of staff and, where relevant, the officer shall prepare a written report recording their observations and shall provide the teacher with a copy of this report at least 5 working days (or 7 consecutive days out of term time) before the meeting. The teacher shall have the right to be accompanied by a trade union representative or work colleague. The Headteacher or senior member of staff may be accompanied. If the Headteacher or senior member of staff is satisfied with the teacher's performance this must be clearly stated and the procedure brought to an end and the decision recorded in writing to the teacher.

5. Final Written Warning

- (a) If the Headteacher or senior member of staff feels that the teacher's performance is still unsatisfactory, the head or senior member of staff shall issue a final written warning to the teacher. The Headteacher or senior member of staff may wish to invite the Director for Children and Young People or his representative to the meeting for the purposes of giving professional advice. A written summary of the matters discussed at this meeting, listing any specific problems, advice given and any other relevant points, shall be prepared by the Headteacher or senior member of staff. At this meeting, a period of time shall be determined by the Headteacher or senior member of

staff, in consultation with the teacher, in which it would be reasonable to expect the teacher to improve his/her performance. The time period for improvement between the final written warning and the final review should not normally exceed 4 weeks. The complete procedure must not normally exceed 6 months (excluding August) from the "date of entry into the formal procedure" referred to in paragraph 3(b).

(b) Giving the decision

The Headteacher or senior member of staff shall then issue a final written warning to the teacher, within 3 working days (or 5 consecutive days out of term time) of the meeting, which shall state:

- (i) the reasons why the teacher's performance is not considered acceptable;
- (ii) the improvements required and the timescale within which they are expected to take place;
- (iii) the support to be given to the teacher;
- (iv) the fact that failure to improve sufficiently may result in the dismissal of the teacher;
- (v) the date of at least one review meeting before the formal review meeting to assess the progress made and review any support given;
- (vi) the date of the formal review meeting.

A copy of the letter should be countersigned by the teacher and returned to the Headteacher or senior member of staff to indicate that the teacher has received the letter. If the teacher wishes to appeal against the decision they must do so within 5 working days (or 7 consecutive days out of term time), and a hearing will be held within 10 working days (or 14 consecutive days out of school term time). The appeal will be dealt with in accordance with paragraph 12. Any appeal will not disrupt the procedure, unless the appeal decision leads to the matter being reconsidered.

6. Dismissal

- (a) If the teacher's performance is still below an acceptable level the Headteacher shall suspend the teacher and a formal dismissal hearing arranged. The teacher shall be given at least 5 working days (or 7 consecutive days out of term time) notice of the hearing and shall be entitled to attend the meeting accompanied by a trade union representative or work colleague. Copies of all documents to be considered by the hearing shall be supplied to the teacher at least 5 working days (or 7 consecutive days out of term time) before the meeting.

(b) Giving the decision

The teacher shall be informed of the decision in writing, within 5 working days (or 7 consecutive days out of term time) of the decision. Where the Headteacher decides that the teacher shall be dismissed, the teacher shall be informed of the right of appeal and the way such an appeal should be made.

7. Appeals Against Dismissals

(a) Making an appeal

Where a teacher wishes to appeal against a decision to dismiss, he/she must do so within 5 working days (or 7 consecutive days out of term time) of the date of the written decision. All appeals must be in writing and must state clearly the basis of the appeal.

(b) Composition of the Panel

The Staff Appeals Committee shall hear the appeal. No Governor hearing the appeal shall have been directly involved in the decision to which it relates. The Staff Appeals Committee will be advised by the Director for Children and Young People or his representative.

(c) Notice of the appeal hearing and other teacher rights

Within 10 working days (or 14 consecutive days out of school term time) of receipt of a notice of appeal under paragraph 7(a), arrangements will be made for the case to be heard. The teacher shall be given at least 5 working days (or 7 consecutive days out of term time) notice of the date of the appeal hearing. The teacher is entitled to attend the appeal hearing and to be represented by a trade union representative or work colleague. The meeting shall be conducted in accordance with Paragraph 9.

(d) Possible outcome of an appeal

The Staff Appeals Committee may:-

(i) confirm the decision;

(ii) quash the decision;

(iii) in the case of (ii) above, issue an oral, a first or final written warning and the appropriate timescales for improvement will apply.

(e) Giving the decision

The teacher shall be informed of the decision of the Staff Appeals Committee in writing, within 5 working days (or 7 consecutive days out of term time) of the hearing. If the decision that the teacher should cease to work at the school be quashed, the teacher will be reinstated with no loss of pay or other rights and benefits. If the teacher feels reinstatement in his/her previous post would be difficult, he/she may ask within 40 working days of the decision to reinstate that:

(i) the Governors consider his/her redeployment in another post within the school;

(ii) the Director for Children and Young People consider seeking his/her redeployment to a post elsewhere in the service of the Council acknowledging that such redeployment could be difficult to achieve;

(iii) both the above be explored.

(f) The hearing of the Staff Appeals Committee represents the final level of appeal. Where at appeal stage a decision that the teacher should cease to work is quashed, but a written warning is issued, there is no right of appeal against that warning.

8. Notification to the Director for Children and Young People of a decision to dismiss a teacher

- (a) Where the Headteacher has determined in accordance with paragraph 6 (b) that a teacher shall cease to work at the school the Headteacher or Clerk to the Governing Body, where the decision has been made by a Panel of Governors, shall notify the Director for Children and Young People in writing as soon as possible of the decision with the reasons.
- (b) Action on the part of Council
Unless the teacher has resigned and ceases to work at the school, the Director for Children and Young People shall, within a period of fourteen consecutive calendar days from the receipt of the notification of the determination, write to the teacher to terminate his/her employment at the school.
- (c) Period of notice
The period of notice to be given shall be that required in accordance with the teacher's conditions of service.
- (d) Appeal
If an appeal is upheld against the decision to terminate the employment, the period of notice will be withdrawn or rescinded.

9. Conduct of Meetings of Governors

All cases coming before a panel of Governors shall be conducted in accordance with the stages set out below, unless all parties agree to a modification.

Stage 1 The Headteacher to present the case in the presence of the teacher and his/her representative including, as the Headteacher considers appropriate by:-

- reference to the written statements and other written evidence;
- the calling of witnesses.

Stage 2 The teacher (or his/her representative) to have the opportunity to ask questions on the evidence given by the Headteacher and any witnesses called, as they are called.

Stage 3 The panel of Governors hearing the case to have the opportunity to ask questions on the evidence given by the Headteacher and witnesses, as they are called.

Stage 4 The teacher (or his/her representative) to put his/her case in the presence of the Headteacher including at the discretion of the teacher by:

- referring to the written statements and other written evidence;
- the calling of witnesses.

Stage 5 The Headteacher to have the opportunity to ask questions on the evidence given by the teacher and any witnesses called, as they are called.

Stage 6 The panel of Governors to have the opportunity to ask questions on the evidence given by the teacher and any witnesses called, as they are called.

Stage 7 The Headteacher and then the teacher (or his/her representative) to have the opportunity to sum up their cases if they so wish.

Stage 8 The Headteacher and the teacher (and his/her representative) to withdraw.

Stage 9 The person(s) hearing the case (with any adviser(s) on procedure and precedent) to deliberate in private, only recalling the Headteacher and the teacher to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.

Stage 10 The decision of the panel of Governors will be notified to the teacher and his/her representative as soon as possible and will be confirmed in writing within 5 working days (or 7 consecutive days out of term time) of the meeting by the Clerk to the Governors.

The Headteacher may arrange for a representative to present the case on his/her behalf and the Headteacher (or representative) may be assisted in the presentation.

10. Accredited Union Representative

Where action is being considered against an accredited union representative, a senior trade union representative or a full time official must be informed.

11. Illness of Staff

There may be occasions where a teacher's health is a factor in his/her poor performance at work. Careful consideration needs to be given to any health related problems. The Authority's Medical Adviser is available to assist. Teachers may become unwell during a period of performance monitoring. In that event consideration will need to be given to how the matter should be taken forward. In normal circumstances, it would be expected that the teacher would, on return to duty, continue in the procedure at the point they had reached immediately prior to their absence. Where such absence occurs after a teacher has received a final written warning, any absence may count against the period for improvement performance. It may be necessary to consider dismissal at the end of the period of time identified for improvement irrespective of whether or not the teacher has attended work during that time.

12. Appeals against formal warnings

Appeals will be heard by an individual governor who has not previously been involved in the case and will be advised by the Director for Children and Young People or his representative. More governors may be used only where this does not compromise the availability of previously uninvolved governors to staff the dismissal and dismissal appeals committees. Appeals should be restricted to considering the reasonableness of the decision made, and any relevant new evidence, or procedural irregularities. A teacher is entitled to be accompanied at an appeal by a trade union representative or work colleague. The appeal decision must be confirmed in writing and the teacher told that there is no further appeal against the decision. Where the decision is being questioned the test that should apply for overturning a formal warning is that the decision was so unreasonable that it was one that no other Headteacher, acting with proper regard to his or her responsibilities, could have chosen to take.

Where an appeal is upheld the matter should be referred back to the Headteacher or senior member of staff to be reconsidered or for further appropriate action. Where monitoring under this procedure would be continuing, it should not be halted while an appeal is pending.

September 2004 (amended December 2008)