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Policy

1.0 Purpose

- 1.1 A competency procedure is designed to encourage an improvement in an individual's performance where this is necessary.
- 1.2 All teachers shall be made aware of the standards of performance expected of them. Before this procedure is formally invoked, it is assumed that there has been a period of ad hoc / informal support already put in place and deemed unsuccessful. It is, however, accepted by the Council and the Teaching trade unions that there may be occasions where it will be necessary to use the formal procedure to assist in addressing underperformance in learning and teaching. It is also essential that teachers are aware that support and counselling are available at all times.

2.0 Guiding Principles

- a) Before this procedure is invoked, it is expected that a period of informal support will have been made available to the teacher.
- b) When the competency procedure has been invoked, issue(s) should be clearly outlined to the teacher concerned highlighting the relevant part(s) of the GTCS Standard for Full Registration.
- c) The teacher will have the opportunity at all stages to be involved in the identification of areas of concern and the proposed support mechanisms to be put in place in the context of an agreed action plan.
- d) A teacher will have the right to be represented at all stages of the formal competency process.
- e) There shall be a right of appeal at all stages. At Stages 1 and 2, this will be through the Grievance procedure. At Stage 3, this will be a formal appeal against dismissal to the Appeals Sub-Committee.
- f) No teacher shall be dismissed without having had the opportunity to improve his/her teaching performance.
- g) If the employee is a trade union representative the relevant full-time trade union official will be informed of the nature of the case before formal action is taken.

3.0 Scope

This agreement applies to all staff employed under the terms of the Scottish Negotiating Committee for Teaching Staff, however, it is only intended to cover competence issues in teaching and learning.

Procedure

Introduction

The vast majority of teachers within the Education Service provide excellent service, supporting children and young people in the teaching and learning process. However, as in any profession or area of employment, there may be occasions when individual performance falls short of an acceptable standard. This impacts on the quality of the learning experience in the classroom, evidenced by e.g. demotivated and unenthusiastic pupils, poor pupil behaviour and attendance and gaps in pupil knowledge and understanding.

Typically evidence for under performance may come from a variety of sources - pupils, parents, other staff, informal or formal observations, pupil work, complaints. It is important therefore that any response by school and service management is measured and consistent. It may be that some under performance may be short-lived caused by factors such as illness, personal circumstances, lack of understanding of current methodology, loss of confidence or external factors beyond the control of the teacher. In these circumstances support is vital and Headteachers and other senior staff will have a key role in any strategy undertaken. Under performance may become evident in such areas as planning and delivery of lessons, classroom management, presenting lessons, organisation of work for pupils of different levels of ability within the class and in other areas of teaching and learning and dealing with difficult disciplinary situations.

Benchmark standards in all of these areas are clearly stated in the General Teaching Council (Scotland) Code of Practice on Teacher Competence. This provides the definition of competence against which performance may be judged in terms of the Standard for Full Registration (SFR). These standards should be used to aid diagnosis of where issues lie, rather than as a measure to identify that a competence issue exists. Longer running under performance becomes evident where although support and guidance and professional development opportunities have been offered to the teacher, this has not resulted in the teacher maintaining the level defined in the SFR.

The procedures and guidance in this policy are intended to support the school and service response to performance issues. Before this procedure is formally invoked, it is assumed that there has been a period of ad hoc / informal support already put in place and deemed unsuccessful. This may include staff development review meetings, access to appropriate learning and teaching policies, access to continuous professional development opportunities, any departmental policies which may assist the teacher to develop the necessary skills, knowledge and ability and other support specific to the issues experienced by the teacher. It is most likely that any decision to move to the formal procedure will involve the member of staff responsible for the teacher's CPD review meeting. This policy is only intended to cover competence issues in teaching and learning. If difficulties are found within the management ability of promoted staff, these should be dealt with separately.

At all stages of the following procedure the teacher may be accompanied by a colleague or representative from his/her Professional Association. Depending on the

circumstances of the school (for example smaller primary schools), Education Service managers other than those listed in the procedure below may be involved at appropriate stages of the procedure.

While the policy and procedure look for agreement at each stage, there may be situations where the teacher does not agree with the manager's decision. If the teacher wishes to appeal the manager's decision this should be done by following the Grievance Procedure for Teaching Staff.

The procedure adopted by the Service reflects the four stages in the GTCS Code of Practice:-

Stage 1:

Principal teachers and senior management within the school have a responsibility placed upon them to monitor the performance of staff, and this may result in the need to draw to the attention of a member of staff perceived areas of under-performance.

1. Discussions should be held between the teacher and senior colleague(s) on the perceived areas of under-performance. These should refer to the appropriate sections of the Standard for Full Registration. The teacher should be encouraged to participate fully in identifying the causes of the under-performance and suggesting possible remedies. Advice and guidance should be offered from appropriate colleagues to support improvement.
2. At the conclusion of the discussion agreement should be sought on the areas where improvement is required and the support which will be given to assist the improvement. This will be stated in an Action Plan. The length of time to be given for the teacher to reach the required standard will depend on the context of the situation but should not normally be more than an academic term. The dates for the Competency Review and interim progress meetings should be agreed by the teacher and senior colleagues. This will all be confirmed in writing and copied to the Headteacher where he/she is not already involved.
3. During the period of review appropriate support will be available as stated in the Action Plan and will include interim progress meetings (see guidance notes).
4. At the end of the period of review a formal meeting will be chaired by the Headteacher. At that meeting the senior colleague involved will present the evidence they have gathered on the teacher's competence and area(s) of concern and progress made. The teacher will have the opportunity to question the evidence and to present any mitigating circumstances. (Note – in a small Primary School it may be the Head teacher who is the senior colleague who has been involved in arranging support. In this case, another Headteacher or appropriate officer should chair the review meeting.)

- 5 Following that meeting, the teacher will be informed whether or not the required standard has been achieved. A written report should be given to the teacher indicating the outcome and the underpinning reasons to support this decision. The appropriate Education Officer will be informed of this decision. Three outcomes are possible:

Outcome 1:

Where improvements have been made to the required standard, no further action will be taken.

Outcome 2

In cases where the performance of the teacher has improved significantly during the review period but some areas have not reached the required standard consideration can be given to extending the review period. This would allow a further period for the teacher to reach the required standard in the remaining area(s) of concern. Only one extension of the review period can be granted before a final decision on how to progress the performance issue.

Outcome 3:

Where improvements have not been achieved to the required standard, the teacher should be informed that the matter will be progressed under Stage 2 of the procedure. The teacher will be informed of the procedure that will be followed.

Stage 2:

This stage should broadly follow the stage 1 process, the difference being that the support offered should be more intense, targeted on remaining area(s) of concern and ensure that all practical options for support are explored with the teacher involved. It is important at this stage that the methods of assessment of performance are reviewed and clear.

1. Discussions should be held between the teacher and Headteacher with the aim of seeking an agreed way ahead. During these discussions the teacher should be encouraged to address the issues openly in order to:
 - clarify the areas of under-performance specific to the Standards for Full Registration (SFR);
 - suggest further forms of support which he/she would find helpful;
 - agree appropriate professional development opportunities.
2. Sympathetic consideration should be given to all reasonable requests for support made by the teacher. It is likely that advice and guidance will be required from outwith the school at this stage (eg Development Officers or other specialists).
3. At the conclusion of these discussions agreement should be sought on the area where improvement is require and the support which will be given to assist the

improvement. This will be recorded in the Action Plan. The length of time to be given for the teacher to reach the required standard will depend on the context of the situation but should not normally be more than an academic term. The dates for the Competency Review and interim progress meetings should be agreed by the teacher and Headteacher. This will all be confirmed in writing and copied to the Education Officer.

4. During the period of review appropriate support will be available as stated in the Action Plan and will include interim progress meetings (see guidance notes).
5. At the end of the period of review a formal meeting will be chaired by the Education Officer. At that meeting the Headteacher will present evidence of the teacher's competence and area(s) of concern. The teacher will have the opportunity to question the evidence and present any mitigating factors.
6. Following that meeting, the teacher will be informed whether or not the required standard has been achieved. A written report should be given to the teacher indicating the outcome and the underpinning reasons to support this decision. The appropriate Senior Manager will be informed of this decision.
7. Three outcomes are possible:

Outcome 1:

Where improvements have been achieved to the required standard, no further action will be taken.

Outcome 2:

In cases where the performance of the teacher has improved significantly during the review period but some areas have not reached the required standard consideration can be given to extending the review period. This would allow a further period for the teacher to reach the required standard in the remaining area(s) of concern. Only one extension of the review period can be granted before a final decision on how to progress the performance issue.

Outcome 3:

Where improvements have not been achieved to the required standard, the teacher should be informed that a formal Competency Hearing will be convened.

Competency Hearing

A Competency Hearing will be undertaken following continued unsatisfactory performance at stages 1 and 2 of the procedure. The problem is now considered to be long standing.

1. Notice of the Competency Hearing will normally be issued within 15 working days of the Stage 2 review meeting. Any delay will be communicated to the teacher.

2. The teacher should be advised of his/her right to be accompanied.
3. A comprehensive statement should be produced by the Education Officer indicating:
 - details of the teacher's alleged failure to maintain the standards described in the SFR with clear identification of which aspects are alleged not to be of the required standard;
 - details of the support mechanisms and professional development opportunities offered to the teacher;
 - the duration of stages 1 and 2;
 - the teacher's performance at the start of the procedure;
 - the teacher's performance at the end of the Stage 2 of the procedure.
4. The above information will be considered at the hearing

Conducting the Competency Hearing

1. The hearing will be conducted by the Executive Director, accompanied by a representative of the Human Resources Service. The Education Officer will present the facts of the case based on the statement they have prepared, supported by appropriate representative(s) from the school. The teacher and/or representative will be given the opportunity to question the Education Officer. The Executive Director and/or Human Resources representative may question the Education Officer.
2. The teacher and/or representative will then have the opportunity to respond, followed by any questions from the Education Officer, the Executive Director and/or Human Resources representative.
3. The Education Officer will then sum up, followed by the teacher or representative.
4. The Executive Director will adjourn the meeting in order to consider the case and consult with the Human Resources representative.
5. The Executive Director will recall the parties together to announce the decision and any action to be taken. The teacher shall be given an explanation for that action and informed of the right of appeal. Three possible outcomes are possible:

Outcome 1:

Where improvements have been achieved to the required standard, no further action will be taken. The proceedings will be deemed to be complete.

Outcome 2

In cases where the performance of the teacher has improved significantly during the review period but some areas have not reached the required standard consideration can be given to extending the review period. This would allow a further period for the teacher to reach the required standard. Only one extension of the review period can be granted before a final decision on how to progress the performance issue.

Outcome 3:

Where improvements have not been achieved to the required standard, the teacher should be informed that he/she is being dismissed on the grounds of his/her incompetence and that a referral will be made to the General Teaching Council. The teacher will also be advised of his/her right of appeal.

- 1 Where the Executive Director needs further time to reach a conclusion on the evidence presented he/she should advise the teacher that the decision will be communicated in writing within the agreed time limits.
- 2 The Executive Director should arrange for a note of the competency hearing to be taken, a copy of which will be forwarded to the teacher with the letter informing him/her of the outcome of the hearing. A copy will also be sent to the Human Resources Section and representative if appropriate.
- 3 When the teacher and/or representative disputes the accuracy of the note then a request should be made to the Executive Director to amend it accordingly. If the request is denied, the teacher and/or representative may request that his/her version of the record is appended to the original note.

Referral to the General Teaching Council for Scotland

In the case of the dismissal of a teacher, or the resignation of a teacher in the context of possible dismissal a referral will be made to the General Teaching Council under the terms of Section 9B of the Teaching Council (Scotland) Act 1965 as amended.

Relevant information from the Competency Hearing will be sent to the General Teaching Council by the Authority.