

Featherstone High School



Managing Unsatisfactory Performance

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The
Managing Unsatisfactory Performance
Procedure has been adopted in line
with the guidance from the Local
Authority and has been ratified by
the Governing Body

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1. Aim

- 1.1** The school is committed to improving and maintaining employee performance, which is essential to improving the school's overall performance in teaching and learning. The aim of this Procedure is to provide fair, equitable and effective arrangements for achieving and maintaining the required standards of performance.
- 1.2** This document sets out a model Managing Unsatisfactory Performance Procedure, which is recommended for adoption by Governing Bodies in exercising their powers of local management. It has been developed following consultation with the Trade Unions/Professional Associations.
- 1.3** The procedure takes account of the best practice and guidance contained in the ACAS Code of Practice on Discipline and Grievance Procedures and the requirements of legislation, including guidelines set by the Department for Children, Schools and Families (DCSF).

2. Scope and Principles

- 2.1** This procedure applies to all employees who have a contract of employment to work at a school. It does not apply to agency workers or contractors (including staff employed by contractors under PFI arrangements). It also excludes any non-school funded posts for which separate procedures have been agreed centrally.
- 2.2** It is expected that Governing Bodies would have formally delegated to Head Teachers the power to suspend and dismiss staff and to the chair of the Governing Body the power to suspend the Head Teacher.
- 2.3** An employee appeal against any formal sanction imposed by the Head Teacher under this Procedure, including dismissal, should be heard by the Governing Body Appeal Panel. It is a legal requirement for Governing Bodies to establish committees to deal with disciplinary (including unsatisfactory performance) and grievance issues. Therefore, other than in exceptional circumstances, the Governing Body should delegate the responsibility for staff disciplinary matters to the Head Teacher. The Head Teacher cannot delegate dismissal responsibility to other members of staff in the school. However where a Head Teacher is on long-term sick leave, secondment or some other long-term absence, the Governing Body should consider whether it is necessary to pass full (or partial) delegated responsibility to the person acting in the Head Teacher's absence.
- 2.4** Actions and/or sanctions to deal with the performance of newly appointed Support staff during the probationary period, or for all internal Support staff appointments (except for assimilations, redeployments and medical redeployments) during a performance review period, should be dealt with under the Council's Probation and Performance Review procedure. This is contained the Local Terms and Conditions of Service, Part 2, paragraph 2.3 and Part 3, paragraph 2.3 to 2.7. Newly qualified Teachers serving an induction period will have any performance concerns dealt with in accordance

with the arrangements introduced by Department for Children, Schools and Families (DCSF) for dealing with NQT induction.

- 2.5** Where a Governing Body have concerns regarding the performance of their Head Teacher the Chair of the Governing Body will consult with the Director of School Services who will appoint a Senior Officer of the Authority to advise and work with the Governing Body in implementing the procedure.
- 2.6** All employees should have clear standards of performance set for them by managers through Job Descriptions, Person Specifications, competencies, targets, objectives and achievements. They should also be made aware of the consequences of failing to adhere to these.
- 2.7** Separate Procedures and Guidances exist for dealing with disciplinary matters and the Management of Sickness Absence and Medical Capability. If when progressing a performance case it transpires that it is an issue of misconduct or medical capability rather than poor performance, the matter should be referred for action under the relevant Procedure. The same Manager nominated to handle the unsatisfactory performance will normally follow through under the relevant Disciplinary or Medical Capability Review procedure.
- 2.8** If it is established that an employee's unsatisfactory performance may be due to either a personal, domestic or short-term health problem, the manager should consider what support could be given to the employee. Employees should be referred to the Council's Occupational Health Service and advised of the availability of the Employee Counselling service. In some circumstances, external professional assistance may be needed, for example, counselling or advice on housing problems. However, it should be made clear to the employee that while reasonable assistance will be provided, standards for improved performance will be established and must be met.
- 2.9** The procedure is designed to establish the facts of a case quickly and to deal consistently with unsatisfactory performance issues.
- 2.10** Minor instances of unsatisfactory performance and practice should initially be dealt with in an informal way e.g. counselling, supervision, training and setting clear standards for improvement.
- 2.11** Performance Review Hearings should be heard by the Head Teacher, the Personnel Manager may attend as an Adviser to the Hearing Officer.
- 2.12** If an employee is dismissed on the grounds of unsatisfactory performance, such a dismissal will be with notice.
- 2.13** Employees have the right to appeal against any formal action imposed. There is however, no right of appeal against any informal action taken by the Manager.

3. Timescales

- 3.1** All parties to the proceedings have an obligation to co-operate in ensuring that processes and timescales set out in this pProcedure are followed without delay. Where the handling of the case would be compromised by the need to comply with the timescales and in the event more time is needed, the timescales may be extended. In this case, the employee must be informed and given the reasons for the extension, together with details of any steps to be taken to resolve the unsatisfactory performance within this period.
- 3.2** Where a Trade Union representative or work colleague chosen by the employee (who is the subject of performance action or an investigation) to accompany them at any stage of the formal procedure cannot attend on the date proposed, an alternative date may be arranged. This should normally be within five working days, beginning with the first working day after the day proposed by the employer.
- 3.3** The meeting would not normally be postponed a second time.

4. Right to Representation

- 4.1** Employees who are the subject of action under this procedure have the right to advice and guidance and to be accompanied/represented by a Trade Union representative or work colleague at any stage of the formal Procedure. This does not extend to representation at day to day management/supervision meetings, or any informal action.
- 4.2** In exceptional circumstances a representative who is neither a work colleague nor a Trade Union representative may be permitted, for example, a Medical Adviser to explain a medical condition or assist the employee during the hearing. This will be at the sole discretion of the Officer conducting the hearing. Legal representation, specialist Employment Law Advisers and similar, will not be allowed.
- 4.3** Employees and their representatives should be consulted on the timing of meetings/hearings, in order to avoid the need to re-arrange meetings.

5. Application of Procedure

- 5.1** Managers who participate in any formal stage of this procedure must have an understanding of the operation and requirements associated with the Managing Unsatisfactory Performance Procedure.

6. Role of Personnel Manager and Schools HR Provider

- 6.1** At all stages of this procedure, in addition to those stages where there is a specific requirement, the Personnel Manager should be consulted for advice.

6.2 The role of the Personnel Manager / School HR Provider includes the following:

- Providing advice to Managers on informal action;
- Providing advice to Managers on taking formal performance action, including advice on complex cases, scoping letters, advising on hearing case documentation
- Ensuring that Managers and Hearing Officers/Appeal Hearing Officers are aware of the legal and any other sensitive aspects of a case;
- Advising at hearings and/or appeals hearings;
- Advising on outcome letters;
- Advising on interpretation of Council/school policy;
- Monitoring progress on performance action, investigations, hearings and appeals to ensure that the process is completed as quickly as possible.

6.3 The role of the Personnel Manager/ School HR Provider at formal hearings and appeals is primarily to provide advice to the Hearing Officer on procedural matters. The Personnel Manager / School HR Provider may also ask questions in order to seek clarification of points for the Hearing Officer/Appeal Panel.

6.4 The role of the Personnel Manager includes the following:

- Managing employee's performance informally, and formally if required;
- Preparing documentation to be presented at Performance Review Hearings, i.e. details of unsatisfactory performance;
- Making arrangements for administering the process and for notes to be taken and written up, where appropriate.
- Conducting Performance Review Hearings

6.5 Managers should consult the Personnel Manager before instigating action under this procedure.

7. About the Procedure

7.1 Relationship with Performance Management (Appraisal) Scheme

This Procedure and Guidelines are not intended to replace the proper operation of the School's Performance Management Scheme(s), which provides a framework for the regular assessment of an employee's performance, potential and development needs. If a Manager has concerns about the performance of an employee, action must be taken immediately under this Procedure. Managers should not wait until the next appraisal meeting before raising their concerns with the employee and taking appropriate action under this Procedure.

7.2 Where action is being taken in respect of an employee under the formal stage contained in this Procedure, it should be noted that the appraised is subject to Managing Unsatisfactory Performance Procedure. Consideration may be given to suspending the Performance Management process during this time. The outcome of the Performance Management may be referred to under this Procedure.

7.3 Internal Appointments Performance Review

Where an internal Support staff appointment is subject to a six-month performance review period (see Local Terms and Conditions of Service Part 3, paragraph 2.3. to 2.7) and fails to meet the required standards of the new job at the end of the Performance Review period, the Managing Unsatisfactory Performance Procedure will be initiated at the formal stage and go straight to a Stage 2 Performance Review Hearing. Evidence and documentation arising from the performance review will be considered.

7.4 Confidentiality

At all stages of the Procedure confidentiality must be observed. Circulation of information will be that which is necessary to ensure a fair investigation and hearing. Unnecessary disclosure of confidential information at any stage may lead to disciplinary action.

7.5 Records

Written records of proceedings must be kept on the employee's personnel file and managed appropriately. Tape recordings of meetings are not permitted. Managers should keep their own records and the Personnel Manager should retain a record. The outcome should be retained on the employee's personnel file. Where the action/outcomes are rescinded, all records will be removed from the employee's personnel file and destroyed except in cases involving children. A copy of the investigation will be retained in accordance with Human Resources record keeping practices. Notes taken by the school appointed notetaker will remain the official notes. Employees can take their own notes if they wish.

7.6 Trade Union Representatives

Where an employee under investigation is an official of a recognised Trade Union; the local Branch Secretary or paid official of that union must be informed before proceedings commence, except where immediate action may be required. In any event, further advice should be taken about cases involving Trade Union representatives before any action is taken under this Procedure.

7.7 Performance and Grievances

Employees cannot generally raise a grievance to complain about or object to the fact that the school may take action under this Procedure, including the fact that the school is commencing or is contemplating commencing any investigation.

7.8 The only exception would be if the grievance is that the action being taken amounts to, or would amount to unlawful discrimination, or that the true reason for the action is not the reason given.

7.9 In such cases, consideration should be given to suspending the Procedure for a short period whilst this is looked into. The decision about whether or not to suspend action under this Procedure, and for how long is at the sole discretion of the school.

7.10 In any cases involving the above, advice must be sought from the Personnel Manager before proceeding.

7.11 Absence through illness during the procedure

If non-attendance is due to a medical reason, the employee must inform the Hearing Officer as soon as possible. Written confirmation together with a Medical Certificate must be submitted, stating specifically the reasons why the employee is unable to attend the Performance Review hearing (a certificate which merely states that the employee is unfit for work is not sufficient; the Certificate must relate specifically to the employee's ability to attend the Performance Review Hearing). The cost of obtaining the Medical Certificate will be reimbursed. The employee may also be referred to the Occupational Health Unit to ascertain whether they are fit to attend the hearing.

Absence during the Capability Procedure, and which management believe is likely to be long term, should be referred immediately to the Council's Occupational Health Adviser for an assessment. Short absences should not delay any part of the formal stage of the Capability Procedure. Reasonable steps should be made to enable the member of staff to attend evaluation meetings, but where the member of staff is unable to attend, these may proceed in the absence of the member of staff if delay would otherwise compromise the maximum time set aside for the procedure. In such circumstances a full account of the evaluation should be provided in the letter confirming the decision taken.

8. Managing Unsatisfactory Performance

8.1 Informal Action

Cases of minor unsatisfactory performance should be dealt with through day to day management, for example, through counselling, management guidance, supervision, instructions and training, setting clear standards for performance and expectations rather than the formal Managing Unsatisfactory Performance Procedure. The Manager should confirm any informal discussions and action to the employee in writing.

In many cases, dealing with matters of performance early - the right actions at the right time - will often provide a more satisfactory result for both the Manager and employee and may well prevent the need for more formal action in the future.

The following section deals with minor performance issues and should not be used for cases involving more serious performance issues, where formal action should be instigated immediately.

Where improvement in performance is required, the employee should be told what standards are expected, how this will be reviewed and over what time period. Any informal performance discussions should be noted, with a copy given to the employee concerned. Employees should also be made aware of what action could be taken if they fail to improve. Where the performance does not improve, or has not met the required standard, the manager should

consider taking formal action. In other cases, a Manager may decide the improvement required in performance is likely to be achieved over a longer period of time, with other additional support provided. Any action taken and/or details provided about required standards should be confirmed in writing to the employee. This action may be referred to as part of the formal process.

If the employee subsequently achieves the required standards, then the employee should be informed of the need to maintain that improvement. A copy should be placed on his/her personnel file. The employee may comment on the content of the note if he or she wishes and this should also be placed on the personnel file. The Manager will continue to monitor the employee's performance as part of their normal day-to-day supervisory/management responsibilities.

Where the required improvement is not reached or maintained, then the informal action may be referred to in Any Formal Action Subsequently Taken Under This Procedure Or The Disciplinary procedure.

If during an informal meeting it becomes clear that the matter is more serious than first thought, the meeting should be adjourned and a decision made as to whether formal action should be taken immediately. Managers must contact the Personnel Manager for further advice at this stage. The employee should be kept informed of any decisions and advised of any timescales.

If the decision under this procedure is that the employee's performance is now satisfactory then the employee will be notified accordingly in writing. In cases involving children, Managers must seek advice and refer to the relevant procedures, i.e. London Child Protection Procedures or other guidance from the Department for Children, Schools and Families and procedures regarding Dealing with Allegations of Abuse Against Teachers or other School Staff.

8.2 Formal Action

The object of all action is to provide a framework for dealing with employees in a fair, equitable and expeditious manner. The formal procedure is designed to be used only if attempts to resolve potential problems through normal supervision and discussion or informal action (including where an employee has failed to meet the required performance standard) has been unsuccessful, or in cases of more serious unsatisfactory performance. Action under this Procedure requires that more formal monitoring is undertaken leading to a sustained improvement or further formal action.

The Head Teacher should arrange for a clerk to take confidential notes at the hearing. These notes should subsequently be written up and copied to the Head Teacher and the member of staff (see paragraph 8.5). There are two stages in the formal stage (the 1st formal and 2nd formal stages).

The member of staff should be given a minimum of 5 working days written notice (or 7 consecutive days out of term time) of the time, date and place of the hearing and informed of their right to be accompanied by a colleague or

Trade Union/Professional Association representative. The letter should include details of the matters to be discussed and should enclose copies of any documents to be used and a copy of this Procedure. The member of staff should be asked to provide copies of any documentary evidence that they intend to present, and the names of any witnesses that they intend to call, at least 3 working days before the interview.

In cases whereby the performance of the Deputy Head is in question, the Head Teacher may need to investigate if no suitable Leadership Team Member can be found. This will mean the Head Teacher is the Investigating Officer as well as the Hearing Officer. The date of the hearing constitutes the date of entry into the formal stage of the procedure. Every effort should be made to arrange the hearing during term time and non term time dates should only be set where it is in the interest of both parties.

8.3 First Formal Performance Review Hearing (Stage 1)

The Head Teacher conducting the hearing should begin by making introductions and confirming the purpose of the hearing. The purpose being to obtain all of the facts in order to arrive at a decision.

The Head Teacher and/or where appropriate the Senior Manager (the person acting as the school's representative and therefore the 'Presenting Manager') should start by presenting the case against the employee.

Where appropriate any senior members of staff who have had line management responsibility for the member of staff concerned may be called as witnesses.

The member of staff (or his/her colleague or Trade Union/Professional Association representative) should be given every opportunity to comment and ask questions of both the Senior Manager and any witnesses called. If new information is provided, or a new slant is put on the evidence collected, it may be necessary to adjourn the hearing in order that further investigation can be conducted. An adjournment should be for an appropriate length of time to allow this to happen.

Witnesses should leave the hearing after they have given their evidence. They should be advised that they may need to remain on site for possible recall or if they can be released. They must be told that matters discussed at the hearing are confidential and should not be discussed with others.

Once all of the evidence has been presented, and any representations from the member of staff and/or his/her representative have been considered, the Head Teacher should invite the Senior Manager to summarise their position.

The Head Teacher should recall the member of staff and his/her representative to convey the decision. Three options are open to the Head Teacher, the first two of which are only relevant where new information, a different slant on the information collected, or further investigation suggests that the matter is not as serious as it first seemed. The options are as follows:

Take the matter no further

Where the evidence shows that there is no case to answer or the matter is too trivial to proceed any further, the member of staff should be informed in writing that no further action will be taken and that no record will be retained on their personnel file.

Arrange advice and support

(except where already undertaken without improvement).

The type of support that may be appropriate will vary depending on the nature and cause of the problem. In assessing the cause, any external personal circumstances should be taken into consideration. It may be that temporary lapses from the established standards of work performance have been caused by domestic or personal problems. In such circumstances it may be more appropriate to identify the nature of the problem in order to establish an appropriate support programme. However personal circumstances cannot always excuse poor performance and in some cases the unsatisfactory performance process will continue alongside the provision of support. It may be appropriate to refer the employee to Occupational Health and/or suggest they access the Employee Assistance Programme if the school buys into it.

A support programme and structured timetable should be agreed and targets set. These should be recorded and a copy given to the member of staff. An example of a chart that can be used for this purpose is included in Appendix I. The timescales for improvement may vary according to the nature of the problems. Under normal circumstances a period of two terms should be appropriate. For some problems earlier improvement will be appropriate.

During the period of monitoring and support periodic informal meetings between the Senior Manager and the member of staff should be held to discuss progress. It is important that during this period such meetings are conducted constructively and in a non-threatening way. A record should be kept of what is agreed and copied to the member of staff. *The purpose is to improve the employees work performance.*

After the meeting, the Personnel Manager will confirm to the employee in writing:

- Issues discussed, any actions and timescales agreed to enable the employee to improve their performance, and the date for the next review meeting;
- Any training, development, supervision or other support offered to the employee;
- Arrangements to review their progress and provide feedback;
- The consequences of failure to achieve the required performance standard, which could include dismissal.

Final Formal Written Warning

Where the member of staff has been through a period of monitoring and review under the informal stage of the procedure, and has failed to achieve the targets set, a final written warning should normally be given.

The Head Teacher should establish a set of targets as appropriate, which could be those used in the informal stage and these should again be recorded and a copy given to the member of staff. An example of a chart that can be used for this purpose is included at Appendix I. A letter should be sent to the member of staff following the formal hearing, attaching a copy of the targets and confirming the following:

- That the letter represents a Formal Final Written Warning
- The timescale for improvements (see below)
- Details of the further support that will be given to the member of staff;
- A reminder that failure to achieve the improvements required could lead to dismissal.
- Details of the right of appeal

If a condition of the monitoring is that a single reoccurrence of a specific event or action would lead to further action, then the 2nd formal stage of the unsatisfactory performance process should be initiated promptly.

Timescale for improvements

The timescale adopted will be in accordance with the seriousness of the unsatisfactory performance of the member of staff. Consideration needs to be given to whether the problem is a specific or broader professional difficulty, whether it is of very recent concern or spanning a longer period of time. Normally the total period given for improvement should be no more than two terms from the date of the first formal hearing (the date of entry into the formal procedure). (4 weeks in extreme cases e.g. where the safety or education of children will be jeopardised by failure to improve.

Upon receipt of a written request from an employee and subject to satisfactory service, the Head Teacher should consider deleting from an employee's personnel file the record of any unsatisfactory performance hearing provided that it is not less than 12 months after the formal interview for a final written warning. A request to remove a record should not be unreasonably refused but, if refused the reason for refusal should be given.

8.4 Second Formal Performance Review Hearing (stage 2)

If at any point during the first assessment stage the circumstances suggest a more serious problem (week 4 in extreme cases) a Second Formal Performance Review Hearing should be convened to assess performance over the previous weeks. The letter calling the employee to the hearing shall be in accordance with 9.2 paragraph 3. The employee should also be informed in the letter of the status of the hearing and possible outcomes of demotion or dismissal. It should also inform the member of staff that failure to attend, without prior notice of a valid and acceptable reason, may itself constitute a

separate disciplinary offence and may lead to the hearing taking place in their absence.

The hearing will be held by the Head Teacher. This stage of the Procedure should be used for:

- Repeated unsatisfactory performance or where an employee has failed to reach the required standard(s), whether as a result of a performance review hearing or a period of monitoring or;
- Where there is a relevant unexpired formal warning, issued as a result of a previous performance review hearing;
- Where an existing employee has failed to reach the required standards of a new post within the six month performance review period (see 8.3, internal appointments);
- If an employee has successfully met targets set at the first performance review hearing but performance subsequently dips within a 12 month period.

The hearing should follow the same format as the first formal performance review hearing outlined in 9.3.

The Head Teacher should recall the member of staff and his/her representative to convey the decision. The Head Teacher can reach one of the following decisions:

Cease the Procedure

If the required improvements have been fully met then the employee should be informed that the required standard of performance must be sustained. They should be told that if they fail to maintain this standard further action may be taken under this Procedure. If the employee's performance falls below the required standard in the next twelve months then the Manager may revisit the 2nd Formal Performance Review Hearing stage of the procedure. This should be confirmed to the employee in writing and a copy placed on the employee's personnel file.

Demotion or transfer to another post

This would normally be where the employee is judged not capable of carrying out their current job. (This may be particularly appropriate where the employee has been promoted but has a history of satisfactory performance at the lower grade). There will be no salary protection on demotion. It will also be dependent on a suitable vacancy existing within the school and this must first be discussed with the Section Head in the new area. The appointment will normally be to the first point of the grade or pay rate applicable to the new job and not the rate applicable to the old job. In the event that this option is chosen, the employee must be able to demonstrate that they have the skills, abilities and aptitude necessary for the job for which they are being considered. They also need to be advised that they will be subject to the Probation/Performance Review Procedure in the Local Terms and Conditions of Service, Part 2 and 3 (for Support staff).

Dismissal on the grounds of incapability with the appropriate contractual notice.

Dismissal, demotion or transfer to another job may only be applied if the employee has been formally warned in writing and as an outcome of a previous Formal Performance Review Hearing that a failure to achieve the required standard of performance will result in dismissal from the school's employment.

The Head Teacher conducting the hearing should give his/her decision to both parties, specifying any subsequent action to be taken and any right of appeal. The detail will be confirmed in writing to the member of staff as soon as possible but within 5 working days of the date of the decision.

8.5 Appeals Procedure and Appeals Panel

An employee has the right of appeal against any formal action taken under this procedure on the following grounds:

- The process followed was flawed;
- The outcome/targets/objectives length of monitoring period was not appropriate and/or reasonable in all the circumstances; and/or,
- New evidence has come to light, which if it had been available at the original Hearing may have resulted in the Hearing Officer reaching a different conclusion.

Appeals must be registered within 5 working days of date of the letter informing the employee of the outcome of the Performance Review Hearing, and should be sent to the Head Teacher (Chair of Governors in cases of the Head Teacher appealing against Unsatisfactory Performance Procedures). The appeal notification must incorporate a statement setting out clearly the grounds for the appeal specifying the reasons or state that the full grounds of appeal will follow. If these are not received within a further 10 days, (i.e. within 15 days of the date of the outcome letter) then the employee will be deemed to have failed to appeal and no further action will be taken in relation to the Notice of Appeal. If the employee wants a short extension of time for lodging the full grounds of appeal, then the employee must make a written request within the time limit. The request will normally be granted where the reason is that the school failed to supply the notes of the Performance Review Hearing promptly. Otherwise the request will only be granted in exceptional circumstances, such as severe ill health, or pre-planned holiday abroad. The duration of the extension will be at the discretion of the Head Teacher/Chair of Appeal Panel, but will not normally be longer than 20 working days.

All appeals under this procedure will be heard by Governing Body (GB) Appeal panel supported by the Personnel Manager

If an employee lodges an appeal against dismissal, then the employee will not be reinstated, nor be entitled to have the termination date delayed, pending the outcome of the Appeal Hearing. This means the appeal is dealt with while they are working their notice.

Timing of Appeal Hearing

The Appeal Hearing will be held no later than 20 working days from receipt of the notice of appeal or the full grounds of appeal. The employee, and (if appropriate) their representative, will be given at least 5 days written notice of:

- The date, time and place of the hearing;
- Details of the panel hearing the appeal;
- The employee's right to attend and be represented at the appeal by a Trade Union representative or work colleague.
- The employee shall be enabled to call witnesses and produce documents relevant to their defence at the hearing.

Provided the employee has been given the appropriate notice of the date of the hearing, the appeal may be considered on the basis of the available evidence in the absence of the individual.

8.6 Appeal Hearing and Process

When setting up an Appeal Panel, it is recommended that there should be at least 3 members of the Governing Body on Appeals Panels. Panel members should be impartial, i.e. not have a personal interest in the case (should not be a staff Governor). 1/2 of the voting members of the Governing Body should decide the membership. There should also, if possible, be 2 named reserves.

The Appeal Hearing will take the form of a review of the original hearing and not a full re-hearing of the issues. A decision on whether the appeal should take the form of a rehearing will be made following advice. The Appeal Hearing should address the arguments set out in the grounds of appeal and determine whether the decision made at the original hearing was reasonable in all the circumstances.

The Presenting Manager (usually the Head Teacher or Chair of the original Panel who was responsible for the original decision) will prepare a response to the employee's submission. This should be provided to the employee within 10 working days of receipt of the notice of appeal or of the full grounds of appeal, if sent later. If further clarification or elaboration is considered necessary, either or both parties will be asked to provide this information at least 3 working days before the appeal hearing.

New evidence will only be considered in exceptional circumstances. This will be at the discretion of the Appeal Panel and will only be admitted where it may significantly affect the previous decision, as provided for in the grounds

The Governing Body should have delegated to an Appeal Panel the power to deal with disciplinary appeals. Arrangements should be made for a clerk to take confidential notes at the hearing. These notes should subsequently be written up and copied to the panel members, the person presenting the case for the school and the member of staff (see 8.5).

Outcomes

Possible outcomes of an Appeal Hearing for appeals against warnings, setting of formal targets/objectives or the length of a monitoring period are:

- A decision to uphold the employee's appeal and either revoke the decision completely or impose a different outcome;
- Deny appeal and confirm the original decision or impose a different outcome;
- Submit case back to the school for a new hearing (In the event that the Hearing Officer believes that the hearing was so flawed as to render the decision unsafe OR that important evidence was either not available or not appropriately considered at the original hearing AND feels unable to rehear the case and/or substitute a new decision for the original hearing then the case may be remitted for a new hearing subject to the agreement of all parties to cooperate).

Possible outcomes of an Appeal Hearing for considering appeals against demotion or dismissal are:

- An adjournment to allow for additional evidence and/or witnesses and/or information to be made available;
- A decision to uphold the employee's appeal and either revoke the decision completely or impose a lesser sanction;
- To make any appropriate recommendation;
- Any combination of the above; or
- To submit the case back to the school for a new Performance Review Hearing (In the event that the Hearing Officer believes that a performance hearing was so flawed as to render the decision unsafe OR that important evidence was either not available or not appropriately considered at the original hearing AND feel unable to rehear the case and/or substitute a new decision for the original then the case may be remitted for a new hearing subject to the agreement of all parties to cooperate); or
- To deny the appeal and confirm the demotion/dismissal.

The decision of the Appeal Hearing Panel will be final.

On reaching their decision the Panel should immediately convey it to the school's representative and employee verbally and confirm in writing within 5 working days. If, because of time constraints, the employee and their representative have left before the Panel's decision is reached, the employee should be informed by telephone of the decision at the first suitable opportunity or through their representative if so agreed.

Where an appeal or relegation is not upheld, the effective date of the sanction is that of the original decision.

Where an appeal is upheld either wholly or in part, pay and continuous service will be reinstated effective from the date of the original decision.

Where the action/outcomes are rescinded, all records will be removed from the employee's personnel file and destroyed except in cases involving children. A copy of the investigation will be retained in accordance with Human Resources record keeping practices.

Sources of Support / Advice available:

Occupational Health ext 7400
Employee Assistance Programme (Carefirst)

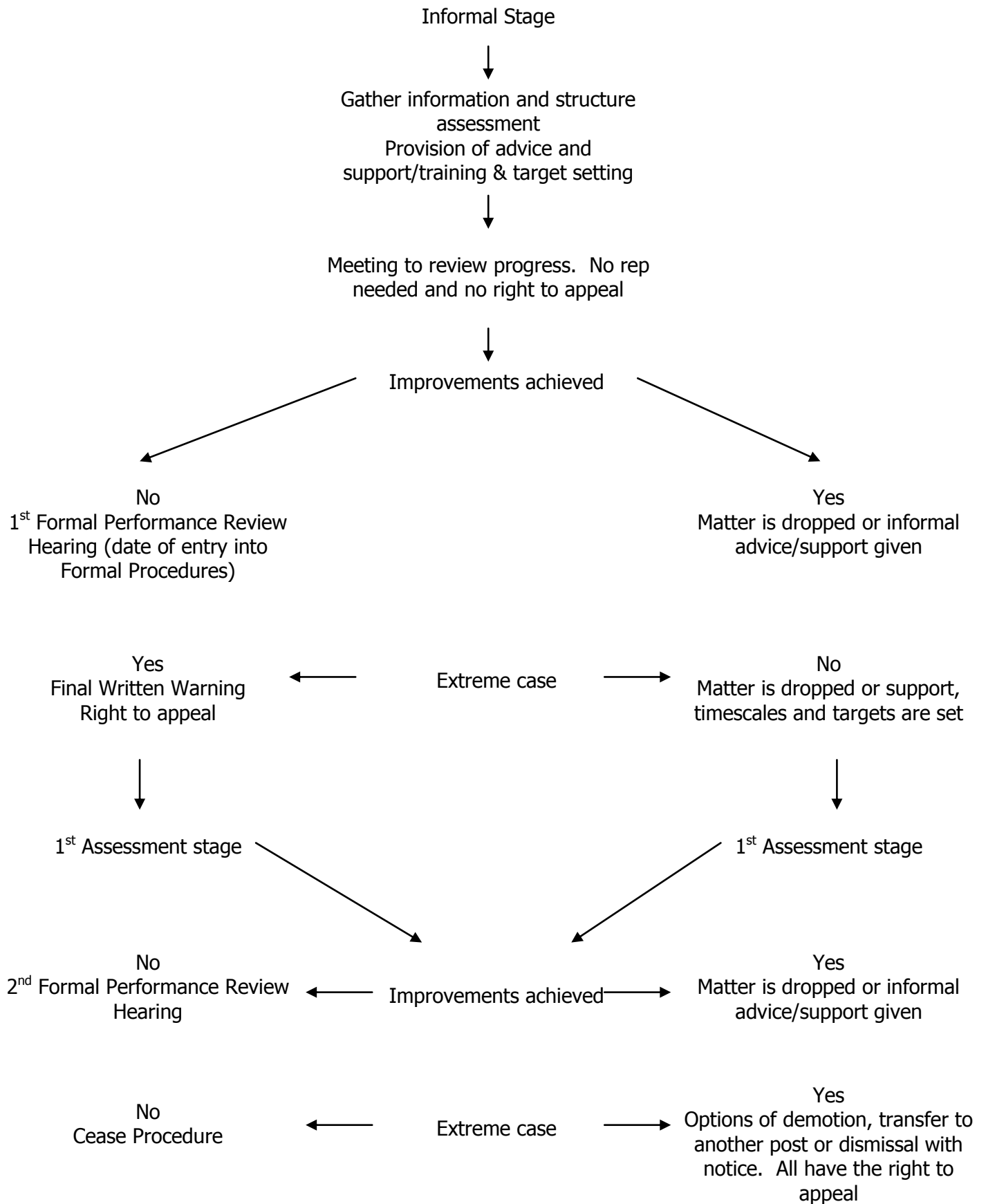
Unions (please speak to HR for contact details)

Your HR provider

Issue	Cause for concern	What is expected	What support is being offered and by whom	Timescale for improvements	Review monitoring process and by whom

Appendix 2

Capability Procedure Flowchart



Appendix 3

Private and Confidential

Name
Address

Date

Dear

Final Written Warning

I am writing to confirm my decision following the First Formal Capability Hearing with you on (date). The interview was convened to consider:-

.....
.....

.....(details of unsatisfactory performance).

I gave serious and careful consideration to all of the evidence presented to me and decided that you should be issued with a final written warning in accordance with section 9, paragraph 9 of the schools adopted Managing Unsatisfactory Performance procedure. You are required to:

.....
.....

(details of any performance requirements required, timescale for improvement and any support/training to be provided where necessary).

You are hereby warned that should you fail to meet the improvements required it could lead to your dismissal.

You have the right of appeal against this decision. If you wish to exercise this right, you should confirm in writing the grounds or basis for the appeal to me at the school, within 5 working days of receipt of this letter. The appeal will be considered by the Governing Body Appeals Panel.

A copy of this warning will be placed in your personnel file. You may, following a period of 12 months from the date of this letter, submit a request to the Head Teacher for the deletion of this record.

Yours sincerely

Head Teacher

Appendix 4

Draft – Letter of Demotion or Dismissal

Personal and Confidential

Name
Address

Date

Dear

Letter Confirming Demotion or Dismissal

I am writing to confirm my decision following my Second Formal Capability Hearing with you on (date). The interview was convened to consider:

.....

.....

..... (details of unsatisfactory performance).

I gave serious and careful consideration to all of the evidence presented to me and decided that you should be demoted to/dismissed from your post in accordance with section 9.4, paragraph 2 of the school's adopted Managing Unsatisfactory Performance procedure. You are required to:

.....

.....

.....

(details of demotion process or dismissal and notice period).

You have the right of appeal against this decision. If you wish to exercise this right, you should confirm in writing the grounds or basis for the appeal to me at the school, within 5 working days of receipt of this letter. The appeal will be considered by the Governing Body Appeals Panel.

A copy of this warning will be placed in your personnel file.

Yours sincerely

Head Teacher