



DISCIPLINARY POLICY

INDEX

	Page Number
Policy Statement	3
Scope	4
Links to other policies	4
General Notes	5
Disciplinary Procedure	6
Underperformance due to work capability	6
Informal Stages	6
Formal Stages	6
Disciplinary Hearing	8
Formal Disciplinary Sanctions	9
Serious Action, including Dismissal for all employees Except Teachers	10
Serious Action, including Dismissal for Teachers	11
Suspension	12
Trade Union Representatives	12
The Life of Warnings	12
Rights of Appeal for All Employees Except Teachers	13
Lodging of Appeals	13
Rights of Appeal for Teachers	14
Lodging of Appeals	14
Appeals Hearing	15
Role of Director of Personnel & ICT	15
Date of Implementation	15
Provisions	15
Appendix 1	17

ABERDEENSHIRE COUNCIL

POLICY: DISCIPLINARY

1. Policy Statement

- 1.1 It is the view of Aberdeenshire Council that a well motivated and highly effective workforce is essential for the effective performance and conduct of the Authority's affairs, and for the safety and well-being of employees and of others affected by the Council's activities. An appropriate disciplinary procedure is necessary to help ensure these aims can be achieved.
- 1.2 The Council expects its employees to be aware of and conduct themselves within the law, any code of practice, competence, or ethics associated with their profession or trade; any rules specifically relating to the employee's professional responsibilities or activities and within generally accepted standards of social and moral behaviour.
- 1.3 The Council will assist employees so far as practicable in achieving acceptable standards of conduct by bringing to their attention rules of the workplace and by providing such training as is deemed necessary to assist them in undertaking their work effectively and safely. All problems involving minor misconduct and poor performance should be dealt with, at least in the early stages, through the use of informal advice, guidance and counselling. Apart from serious or gross misconduct, no employee will be dismissed for the first breach of discipline.
- 1.4 The Council will initiate appropriate counselling, disciplinary or serious action, if an employee fails to meet required standards of conduct or behaviour generally referred to in 1.2 above. In order to ensure the fair and equitable treatment of employees subject to disciplinary action, the procedure will be used as required and will apply to all employees.
- 1.5 The Service Director is responsible for the management and discipline of their Service. The Service Director must ensure that all employees are made aware of the standards of conduct, safety, and of any disciplinary rules applying to them, and is ultimately responsible for any disciplinary action taken against the employees of the Service. He/she should discuss with the Director of Personnel & ICT and the Director of Law & Administration, or their nominated representatives, any proposal to take serious action, including dismissal.
- 1.6 In the case of possible dismissal the Director of Personnel & ICT, in consultation with the Director of Law & Administration, or their nominated representatives, shall advise Service Directors on the operation of the procedure in order to achieve, as far as is reasonably practicable, a fair and consistent approach to action taken under the procedure.

- 1.7 Service Directors and the Director of Personnel & ICT will be responsible for arranging appropriate training and briefing on the use of the procedure and the maintenance and updating of records, within services and centrally, sufficient to facilitate the smooth operation of the procedure.

2. *Scope of Policy*

- 2.1 The procedure will apply to all employees of the Council covered by the following National Schemes of Conditions of Service:

SJC for Local Government Employees
Scottish Negotiating Committee for Teachers (SNCT)
SJNC for Local Authorities' Service – Craft Operatives
SJNC for Local Authorities' Service – Chief Officials

- 2.2 The procedure conforms with the revised Disciplinary Framework for Scottish Teachers (SNCT/18) and Scottish Social Services Council (SSSC) codes of conduct. It should be noted that the provisions of the Disciplinary Framework for Teachers (SNCT/18) also applies to educational psychologists and music instructors.
- 2.3 In agreeing to the introduction of this procedure, Aberdeenshire Council and the trade unions have taken account of the provisions of the relevant national schemes of conditions of service, and this will be reviewed as required.
- 2.4 Notwithstanding the fact that trade union representatives are subject to this disciplinary procedure, no formal disciplinary action should be taken against a trade union representative until the circumstances of the case have been discussed with a full-time officer of the union concerned.

2.5 *Links to other policies*

- 2.5.1 This Policy links to other associated policies, agreements, legislation and procedures including:

- Dignity of the Individual at Work Policy
- Grievance Policy and Procedure
- Acceptable Use Policy and associated Code of Practice and Code of Practice for Monitoring and Investigation of Employees
- Disciplinary Framework for Scottish Teachers (SNCT18)
- Code of Practice on Teacher Competence (Appendix 1)
- The Protection of Children (Scotland) Act 2003
- Scottish Social Services Council Codes of Conduct
- Health and Safety at Work Act 1974
- Employee Relations Act 1999
- ACAS Code of Practice on Discipline at Work
- Disclosure of Information Policy
- Anti Fraud & Corruption Policy
- Financial Regulations

3. GENERAL NOTES

- 3.1 The aim of the disciplinary process is to seek improvement in an employee's conduct. The operation of the procedure in a satisfactory manner will depend upon the adoption of certain principles, which are in accordance with recognised good personnel practice:
- 3.2 Except in the case of serious or gross misconduct, the principal purpose of disciplinary action should be to counsel the employee and to provide appropriate assistance to enable improvement to occur.
- 3.3 The procedure takes account of the guidance contained in the ACAS Code of Practice on Discipline at Work. In particular, it provides for the right to be accompanied at any investigatory meeting/hearing and representation at each formal stage of the formal procedure and for rights of appeal against warnings and serious action.
- 3.4 Under the Disciplinary Framework for Scottish Teachers (SNCT/18), teachers have the right to be represented at all stages of the procedure, including investigatory meetings.
- 3.5 All employees including line managers/head teachers have the responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare at work of him/herself and others. This includes any disease and any impairment of a person's physical or mental condition.
- 3.6 The application of this procedure will not infringe employees' statutory rights, e.g. of appeal to an Employment Tribunal, where they meet the necessary qualification criteria.

4. DISCIPLINARY PROCEDURE- All employees (unless otherwise stated)

4.1 The procedure consists of a number of stages and is described in the following paragraphs.

4.2 UNDERPERFORMANCE DUE TO WORK CAPABILITY

4.2.1 Cases of under-performance should be dealt with in a supportive and equitable manner. Such cases should also be dealt with in accordance with any related procedures agreed by the Council. For teachers the agreed procedure is the GTC Code of Practice on Competence For Teachers (Appendix 1).

4.3 INFORMAL STAGES

4.3.1 Advice, Guidance & Counselling

Counselling of employees is the responsibility of line managers / head teachers and should be a regular feature of the employee and line manager / head teacher relationship. For teachers this should be within a supportive quality assurance framework. Underperformance will be addressed at an early stage.

4.3.2 A commitment to establishing effective working relationships should be demonstrated. This commitment should be shown throughout the process of advice, support, and implementation of improvement. Wherever possible, problems should be resolved without recourse to the formal procedure.

4.3.3 Employees have no rights of appeal at this stage.

4.3.4 Employees (except teachers) have no rights of representation at this stage.

4.4 FORMAL STAGES

4.4.1 Investigation

4.4.2 No disciplinary action will be taken until the matter has been fully investigated. An investigating officer will be appointed. The investigating officer must notify the employee involved in writing at an early stage that a complaint or concern has been lodged. The investigating officer must indicate the nature of the complaint, the process which will be followed and the right to be accompanied / represented. The investigating officer should, if possible interview all relevant parties (including the employee in question). Where it is appropriate the investigating officer will prepare signed and dated statements from all parties interviewed.

4.4.3 Line managers/head teachers should notify Personnel Services prior to investigating an allegation under the informal and formal procedure of the Disciplinary Policy. This is to ensure that the Council meets the requirements for data monitoring under equal opportunities legislation.

- 4.4.4 Where the investigatory officer is required to inform a specialist officer (e.g. Child Protection Officer, Chief Internal Auditor, Information Security Officer) of the Council, the investigation procedure for that area should be instigated. That investigation should be concluded and reported back to the investigatory officer.
- 4.4.5 Investigations into a disciplinary matter should take no longer than 21 calendar days. If this time scale is not possible the reason for the delay should be notified to the employee and their representative within the original time scale. Unless otherwise mutually agreed, the investigation should not be extended for more than a further 21 calendar days.
- 4.4.6 On conclusion of the investigation, the investigating officer will submit a brief written report to the appropriate line manager / head teacher outlining his /her recommendations as to whether or not the matter should proceed to a disciplinary hearing. Thereafter, any decision to impose a disciplinary action must not be taken by the person who conducted the initial investigation. The same person who issued the disciplinary action should not hear any appeal.
- 4.4.7 The employee should be notified in writing of the decision to proceed or otherwise to a disciplinary hearing no later than 7 calendar days following the conclusion of the investigation.
- 4.4.8 Where on conclusion of an investigation it is decided that no further action is to be taken in terms of the disciplinary procedure no reference to the investigation should be placed on the employee's personnel file.
- 4.4.9 Where on conclusion of an investigation it is decided to proceed to a disciplinary hearing, the employee should be provided with copies of the evidence that will be used during the disciplinary hearing, including signed and dated statements. The employee should be informed of the following in writing:
- Details of the allegations
 - Date of the hearing
 - The procedure to be followed at the hearing
 - Any rights under the disciplinary procedure
 - Names of witness being called
- 4.4.10 The employee should submit evidence that will be used in his/her defence to the Chair of the hearing at least 2 calendar days prior to the date of the disciplinary hearing.

4.5 DISCIPLINARY HEARING

- 4.5.1 At all stages of the procedure, the employee should be given a fair hearing and have the opportunity to explain the reasons for his/her alleged failure to meet the required standards, call and question witnesses, and to sum up his / her case. A warning should never be given without a hearing being held. Unless, otherwise mutually agreed a disciplinary hearing should take place no later than 14 calendar days following the conclusion of a disciplinary investigation.
- 4.5.2 The Council recognises that there may be very sensitive issues raised. Accordingly at all stages, information discussed will be held in the strictest confidence and the Council will deal with any malicious disclosure, by any party, under the Disciplinary Procedure.
- 4.5.3 Where the concern relates to performance and competence of a teacher, procedure must comply with the revised Disciplinary Framework for Scottish Teachers and the Code of Practice on Teacher Competence (SNCT/18).
- 4.5.4 An accurate note of any disciplinary hearing and sanction taken should be recorded (subject to the provision of section 5 relating to the Life of Warnings).
- 4.5.5 All time scales are defined in calendar days to avoid confusion for employees who work part-time and for those whose working week is Sunday to Monday. Any related correspondence indicating time scales must be defined in calendar days.
- 4.5.6 The procedure allows for a series of stages, ranging from counselling through to dismissal. Frequently, a counselling session or the issue of a warning will resolve the problem. In other circumstances it may be necessary over a period of time to pursue several or all of the stages of the procedure in order to resolve the matter. On other occasions, an instance of serious or gross misconduct will require the immediate application of an advanced stage of the procedure including at times dismissal, which may be with or without notice as appropriate.
- 4.5.7 As an indication, the following types of misconduct could, after due inquiry as detailed elsewhere in this procedure, lead to dismissal without notice:
- theft of Aberdeenshire Council property
 - theft of property left on Council premises
 - refusal to obey the reasonable instructions of a line manager
 - physical assault on another employee or on a person in the care of the Authority

- breach of Health and Safety regulations
- sexual offences
- inappropriate relationship between children to whom services are provided by Aberdeenshire Council
- indecent behaviour
- misuse of the internet/e-mail (refer to Aberdeenshire Council's Acceptable Use Policy and associated Code of Practice and Code of Practice for Monitoring and Investigation of Employees)
- harassment/bullying

This list is prepared for the purposes of illustration, and is not intended to be exhaustive.

4.5.8 Criminal offences outside employment should not be treated as automatic reasons for dismissal regardless of whether or not the offence has any relevance to the duties of the individual as an employee. The main considerations should be whether the offence is one that makes the individual unsuitable for his or her type of work (for example, a breach of child protection legislation) or which damages irreparably the relationship of trust and confidence between the employee and the employer. Employees should not be dismissed solely or automatically because a charge against them is pending or because they are absent through having been remanded in custody.

5. FORMAL DISCIPLINARY SANCTIONS

- 5.1 The formal stages of the procedure, short of serious action, consist of a series of warnings described below.
- 5.2 For all employees except teachers the authority to issue such warnings will be delegated by each Service Director, but will not normally be issued by the Service Director himself/herself.
- 5.3 Head teachers will have overall responsibility for the management of teachers within the school and will have the power to issue initial and written warnings. The Director of Education & Recreation or his nominated Head of Service will have the power to apply all forms of disciplinary action described in this section and to dismiss a teacher under this disciplinary procedure.
- 5.4 In each case, the employee should be made fully aware of the reasons for the warning and of the consequences of a repetition. In being advised of the disciplinary sanction which is being applied, the employee should be advised also of the improvements which should be expected of them and the availability of appropriate support to allow them to achieve and maintain the improvement.

5.5 Initial Warning

An initial warning is given for minor breaches of discipline and/or misconduct, and should be issued orally and confirmed in writing within 7 calendar days. The warning must also include reference to the fact that any further breach may render the employee open to further disciplinary action, any appropriate support mechanisms, and notification of their right of appeal.

5.6 Written Warning

A written warning is given for more serious breaches of discipline, misconduct or a failure to improve conduct following receipt of an initial warning. The warning should be issued orally and confirmed in writing within 7 calendar days. The employee must also be informed that a further breach may result in further disciplinary action being taken, any appropriate support mechanisms, and notified of their right of appeal.

5.7 Final Written Warning

A final written warning is given for serious breaches of discipline, misconduct or a failure to improve conduct following receipt of an initial or written warning. The warning should be issued orally and confirmed in writing within 7 calendar days. The employee must also be informed that any further breach may result in dismissal, any appropriate support mechanisms, and notified of their right of appeal.

5.8 Written confirmation of the aforementioned warnings must be marked personal and confidential and sent by recorded delivery post.

6. SERIOUS ACTION, INCLUDING DISMISSAL FOR ALL EMPLOYEES EXCEPT TEACHERS

6.1 Serious action as an alternative to dismissal means a final written warning including the imposition of a transfer and / or demotion of the employee, or financial penalty. Serious action may be appropriate where formal action under section 5 has failed to resolve the problem or in the case of misconduct where action beyond a final written warning is required.

6.2 The Protection of Children (Scotland) Act 2003 requires Aberdeenshire Council to refer any employee to the Disqualified from Working with Children List, if he/she harms a child or puts a child at risk of harm and are dismissed or moved away from access to children as a consequence.

6.3 The type of serious action taken, including dismissal, will depend upon the circumstances of the case. Serious action may only be taken by the Service Director or a nominated Head of Service, following a full enquiry and hearing which shall, from the Council's side, also be attended by the Director of Personnel & ICT Services or his nominated representative and a representative from the Legal section of Law & Administration Service.

- 6.4 Serious action includes:
- (a) dismissal, with or without notice;
 - (b) demotion to a lower graded post (paid at the maximum of the salary scale of the demoted post)
 - (c) suspension of an annual increment;
 - (d) transfer to another post;
 - (e) demotion to a lower graded post and transfer to another post.
- 6.6 Where an employee has had an unapproved absence from work or owes money to Aberdeenshire Council, serious action following a disciplinary hearing may include repaying any monies owed to the Council.
- 6.7 Serious action, short of dismissal, may also be linked with a final warning under 5.8 above. Serious action must be confirmed in writing within 7 calendar days with the letter specifying the action taken, the reasons for it and the employee's right of appeal.
- 6.8 If following an appeal, the employee does not agree to the application of the punitive action, the Director of the Service will dismiss the employee.

7. SERIOUS ACTION, INCLUDING DISMISSAL FOR TEACHERS

- 7.1 For serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists. The teacher must be informed in writing of the effective date of dismissal and whether the dismissal is summary or with notice.
- 7.2 The following punitive sanctions are available in conjunction with a final written warning as an alternative to dismissal:
- (a) demotion;
 - (b) or transfer;
 - (c) or suspension of an increment.

Where a teacher does not agree to the application of the punitive sanction then the Council will have no alternative but to dismiss the teacher.

- 7.3 The Protection of Children (Scotland) Act 2003 requires Aberdeenshire Council to refer any employee to the Disqualified from Working with Children List, if he/she harms a child or puts a child at risk of harm and is dismissed or moved away from access to children as a consequence.

- 7.4 In cases involving performance issues for teachers the GTC Code of Practice on Competence (Appendix 1) should be followed at all times. Before taking serious action including dismissal the Director of Education or his/her nominated Head of Service must ensure that the Code has been followed.
- 7.5 The type of serious action taken, including dismissal, will depend upon the circumstances of the case. Serious action may only be taken by the Service Director or a nominated Head of Service, following a full enquiry and hearing which shall, from the Council's side, also be attended by the Director of Personnel & ICT Services or his nominated representative and a representative from the Legal section of Law & Administration Service.
- 7.6 Where an employee has had an unapproved absence from work or owes money to Aberdeenshire Council, serious action following a disciplinary hearing may include repaying any monies owed to the Council.
- 7.7 Serious action must be confirmed in writing within 7 calendar days with the letter specifying the action taken, the reasons for it and the employee's right of appeal.

8. SUSPENSION

- 8.1 In certain cases, where serious action is a possibility, it may be necessary to suspend the employee on full pay pending the completion of investigations into the facts surrounding the complaint. Alternatives to suspension, including a temporary transfer will be considered wherever possible. Such a suspension will reflect the severity of the allegation, permit enquiries to proceed unhindered by the continued presence of the employee at his workplace and enable the employee to arrange representation if he/she so wishes.
- 8.2 The serious nature of a decision to suspend is fully acknowledged and should only be taken to protect the employee and the Council whilst matters are investigated. Under no circumstances should it be concluded that the action implies assumption of guilt. Any suspension will be reviewed within 21 days. If the suspension is extended beyond the initial 21-day period it will be reviewed every 14 calendar days thereafter.
- 8.3 If, during a period of suspension an employee provides a medical certificate, the suspension will cease and, if necessary, recommence following the completion of the certified period of absence. During the certified period of absence the employee will receive the appropriate sickness allowance.

9. TRADE UNION REPRESENTATIVES

- 9.1 In all cases where an employee is a trade union representative no formal action should be taken until the circumstances of the case have been discussed with the appropriate full time trade union official.

10 THE LIFE OF WARNINGS

10.1 Records should be kept, detailing the nature of any breach of disciplinary rules, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records should be carefully safeguarded and kept confidential.

10.2 These records should be expunged at the conclusion of the warning period. This period will be clearly explained to the employee and will be used as a period during which any further breach could lead to action under the next stage of the procedure. A record will be expunged after the following periods:

Initial Warning	6 months
Written Warning	9 months
Final Written Warning	12 months

10.3 Any disciplinary sanction which has been imposed and which relates to a breach of the Council's Child Protection Policy will remain on an employee's file for a longer period of time than defined in 10.2.

11 RIGHTS OF APPEAL FOR ALL EMPLOYEES EXCEPT TEACHERS

11.1 Rights of appeal exist against initial and written warnings and serious action including dismissal.

11.2 An appeal against an initial or a written warning (excluding a final written warning) should be made to the employee's Head of Service.

11.3 An appeal against a final written warning should normally be made to the Service Director.

11.4 An appeal against serious action including dismissal should be intimated to the Director of Law and Administration.

11.5 An employee shall have the right to be represented by a trade union representative or work colleague at any appeal hearing.

11.6 Should any appeal against disciplinary action be successful and the action subsequently withdrawn, any written reference shall be expunged in the employee's record and the employee notified in writing.

11.7 LODGING OF APPEALS

11.7.1 An appeal against disciplinary action should be made by the individual or, where appropriate, through the employee's trade union representative in the manner specified in the letter confirming the disciplinary action taken.

11.7.2 An appeal against any level of warning or punitive action should be lodged in writing within 14 calendar days of receipt of notification of the action.

11.7.3 An appeal hearing shall normally be arranged within 28 calendar days of receipt of the notice of appeal, unless otherwise mutually agreed.

11.8 APPEALS HEARING

11.8.1 Appeals against initial or written warnings will be heard by a nominated officer from outside the employee's own reporting relationships.

11.8.2 Appeals against a final written warning will be heard by a Service Director other than the employee's own Service Director.

11.8.3 Appeals against serious action including dismissal will be heard by the Appeals Committee.

11.8.4 Notification of the outcome of an appeal hearing should be confirmed in writing to the employee within 5 calendar days.

11.8.5 Line managers should notify Personnel Services on receipt of any appeal regarding the outcome of a disciplinary hearing. This is to ensure that the Council meets the requirements for data monitoring under equal opportunities legislation.

12. RIGHTS OF APPEAL FOR TEACHERS

12.1 Rights of appeal exist against initial and written warnings and serious action including dismissal.

12.2 An appeal against an initial or a written warning (excluding a final written warning) should be made to the Director of Education & Recreation.

12.3 An appeal against a final written warning should be intimated to the Director of Law and Administration.

12.4 An appeal against serious action including dismissal should be intimated to the Director of Law and Administration.

12.5 A teacher shall have the right to be represented by a trade union representative or a work colleague at any appeals hearing.

12.6 Should any appeal against disciplinary action be successful and the action subsequently withdrawn, any written reference shall be expunged in the teacher's record and the teacher notified in writing.

12.7 LODGING OF APPEALS

12.7.1 An appeal against disciplinary action should be made by the individual or, where appropriate, by the teacher's trade union representative in accordance with the procedure outlined in the confirmation of the warning.

12.7.2 An appeal should be lodged in writing within 14 calendar days of receipt of notification of the action.

12.7.3 An appeal hearing shall normally be arranged within 28 calendar days of receipt of the notice of appeal, unless otherwise mutually agreed.

12.8 APPEALS HEARING

12.8.1 Appeals against initial or written warnings will be heard by the Director of Education & Recreation or his nominee.

12.8.2 Appeals against a final written warning will be heard by the Council's Appeals Committee.

12.8.3 Appeals against serious action, including dismissal, will be heard by the Appeals Committee.

12.8.4 Notification of the outcome of an appeal hearing should be confirmed in writing to the employee within 5 calendar days.

12.8.5 Line managers should notify Personnel Services on receipt of any appeal regarding the outcome of a disciplinary hearing. This is to ensure that the Council meets the requirements for data monitoring under equal opportunities legislation.

13. ROLE OF DIRECTOR OF PERSONNEL & ICT

13.1 The Director of Personnel & ICT will be informed of any case which is likely to lead to serious action, including dismissal.

13.2 He/she, or his/her senior nominated representative, shall participate in any enquiries or interviews to the extent considered necessary.

13.3 The Director of Personnel & ICT and his/her staff will be pleased to offer advice at any stage on any disciplinary matter.

14 DATE OF IMPLEMENTATION

14.1 This revised procedure will be effective from 11th November 2004

15 PROVISIONS

15.1 This policy will be reviewed annually



**Code of Practice on
Teacher Competence**



September 2002

The General Teaching Council for Scotland

The General Teaching Council for Scotland (“the Council”) was set up under the Teaching Council (Scotland) Act 1965. It was the first such body for teachers in the United Kingdom and, indeed, one of the first teaching councils in the world. One of the fundamental principles underlying the work of the Council is that of professional self-government.

The public interest is represented on the Council. Its membership of 50 consists of 26 elected registered teacher members; 18 appointed members representing local authorities, directors of education, directors of social work, further and higher education institutions, the churches and the Scottish Council of Independent Schools; and 6 members nominated by Scottish Ministers.

The Council is an advisory non-departmental public body (NDPB), but differs from other NDPBs in that it is funded from the annual registration fees paid by registered teachers and not from the public purse. With regard to the public interest, policy statements and general advice issued by the Council are made available to the public and Minutes of meetings of the Council are made available to the press and on the Internet, subject to confidentiality in the Council’s case work.

The Standards in Scotland’s Schools etc Act 2000 made a number of important changes to the functions of the Council. In the light of these changes this Code of Practice on Teacher Competence is intended to illustrate how the Council defines teacher competence and the proposed procedure for dealing with cases of under-performance.

The principal aims of the General Teaching Council for Scotland are:

- ❖ To contribute to improving the quality of teaching and learning;
- ❖ To maintain and to enhance professional standards in schools and colleges in collaboration with partners including teachers, employing authorities, teacher education institutions, parents and the Scottish Executive Education Department;
- ❖ To be recognised as a voice and advocate for the teaching profession;
- ❖ To contribute to the development of a world-class educational system in Scotland.

The Council's key functions are:

- ❖ To maintain and enhance the quality of teaching in Scotland;
- ❖ To maintain standards of professional conduct and competence in teaching;
- ❖ To provide advice on the entry requirements for initial teacher education and the supply of teachers;
- ❖ To enhance the status and standing of teaching and the teaching profession;
- ❖ To develop the strengths of Council staff;
- ❖ To run an effective and cost-efficient organisation.

The General Teaching Council for Scotland

1 Introduction

The Code of Practice on Teacher Competence provides the definition of competence in terms of the Standard for Full Registration (SFR) and explains the steps in the process for dealing with cases of short-lived under-performance and long-running under-performance. This Code is part of the Council's procedures for maintaining standards of professional conduct and competence in teaching. It is important to note that this Code will be kept under continuous review and will be updated regularly. It should be noted that where the alleged under-performance relates to administrative/managerial duties of a promoted teacher, similar procedures may be applied, but in the knowledge that the power of the Council, at the end of the day, to remove the name of a teacher from the register for long-running under-performance relates to teaching competence not administrative/managerial competence.

2 Definition of Teacher Competence

Teacher competence is described in terms of the SFR and applies to teachers who have gained full registration with the General Teaching Council for Scotland.

The Standard describes the:

- professional knowledge and understanding
- professional skills and abilities
- professional values and personal commitment

which all fully registered teachers should be able to demonstrate in their professional activities.

Professional Knowledge and Understanding

Registered teachers:

- (a) have detailed knowledge and understanding of the relevant areas of the pre- school, primary or secondary school curriculum;
- (b) have sufficient knowledge and understanding to fulfil their responsibilities for literacy and numeracy; personal, social and health education; and ICT. (As appropriate to the sector and stage of development.);
- (c) understand the nature of the curriculum and its development;
- (d) have sufficient knowledge and understanding to meet their responsibilities to teach cross curricular aspects;
- (e) have a broad, critical understanding of the principal features of the education system, educational policy and practice, and of their part in it;
- (f) have detailed working knowledge of their sector, of the school(s) in which they teach, and of their professional responsibilities within them;
- (g) can articulate their professional values and practices and relate them to theoretical principles and perspectives;
- (h) have research-based knowledge relating to learning and teaching and a critical appreciation of the contribution of research to education in general.

Professional Skills and Abilities:

Registered teachers:

- (a) are able to plan coherent and progressive teaching programmes which match their pupils' needs and abilities, and they can justify what they teach;
- (b) communicate clearly, making skilful use of a variety of media, and interact productively with pupils, individually and collectively;
- (c) use a range of teaching strategies and resources which they can evaluate and justify in terms of curriculum requirements and of the needs and abilities of their pupils;

- (d) set and maintain expectations and pace of work for all pupils;
- (e) work co-operatively with other professionals and adults;
- (f) organise and manage classes and resources to achieve safe, orderly and purposeful activity;
- (g) manage pupil behaviour and classroom incidents fairly, sensitively and consistently, making sensible use of rewards and sanctions, and seeking and using the advice of colleagues when necessary;
- (h) understand and apply the principles of assessment, recording and reporting;
- (i) use the results of assessment to evaluate and improve their teaching, and the learning and attainment of the children they teach.

Professional Values and Personal Commitment

Registered teachers:

- (a) learn from their experience of practice and from critical evaluation of relevant literature in their professional development;
- (b) convey an understanding of practice and general educational matters in their professional dialogue and communication;
- (c) reflect on and act to improve their own professional practice, contribute to their own professional development, and engage in the process of curriculum development;
- (d) should show in their day-to-day practice a commitment to social justice and inclusion;
- (e) take responsibility for their professional learning and development;
- (f) value, respect and are active partners in the communities in which they work.

3 Procedures for Dealing with Under-Performance

The procedures assume that the teacher has been performing at a competent level up to the point at which temporary under-performance is first identified.

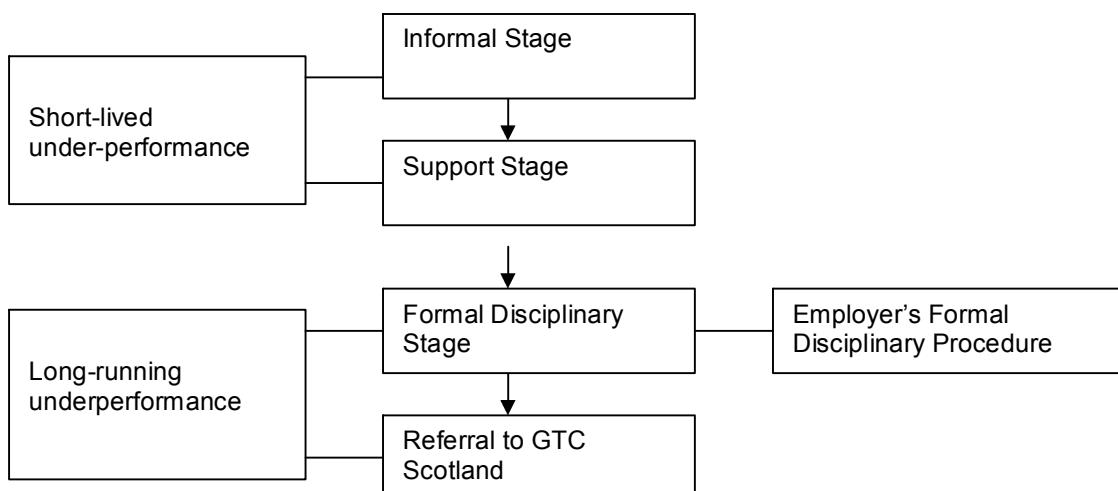
Short-lived under-performance may be caused by many different factors such as illness, personal circumstances, lack of understanding of current methodology,

loss of confidence or external factors beyond the control of the teacher. In stages 1 and 2 of the following procedures it is assumed that the teacher's problem is one of short-lived under-performance.

Long-running under-performance is the term used to describe the problem when stage 3 of the procedures is implemented. By this stage, 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 Standard for Full Registration.

(Note: This advice is in line with relevant provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures as revised in September 2000, ref: para 8, para 22.)

There are four stages in the procedures:



Stage 1 : Informal

- (a) The informal stage does not form part of the employer's formal disciplinary procedures.
- (b) It is assumed, at this stage, that the problem is one of short-lived under-performance.
- (c) Teachers are encouraged to invite a colleague or a representative from their Professional Association to accompany them to any meetings.

- (d) Informal discussions should be held between the teacher and senior colleagues to discuss identified areas of under-performance. During these informal discussions 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 senior colleagues to support improvement.
- (e) At the conclusion of the first informal discussion a date should be agreed by the teacher and senior colleagues to review performance. Depending on the context of the situation a reasonable length of time should be given for the teacher to reach the required standard.
- (f) At the conclusion of the meeting to review performance, ie whether or not the required standard has been achieved, an oral report should be given to the teacher indicating the outcome. Two outcomes are possible:

Outcome 1:

Where improvements have been made to the required standard, no further action will be taken. The teacher should be informed of this decision in writing.

Outcome 2:

Where improvements have not been achieved to the required standard, the teacher should be informed that the matter will be referred to the headteacher who will consider whether the second stage of the procedures should be implemented. The teacher will be informed of the headteacher's decision and the underpinning reasons in writing.

Stage 2 : Support

- (a) The support stage does not form part of the employer's formal disciplinary procedures.
- (b) It is assumed, at this stage, that the problem is still one of short-lived under-performance.
- (c) Teachers are encouraged to invite a colleague or a representative from their Professional Association to accompany them to any meetings.
- (d) The teacher should be informed by the headteacher of:
 - the specific aspects of the SFR which are to be addressed;
 - the proposed mechanisms which will be put in place to support the teacher;
 - appropriate professional development opportunities which can be

accessed.

- (e) Discussions should be held between the teacher and headteacher to agree the way ahead. During these discussions the teacher should be encouraged to address the issues openly in order to:
- clarify the areas of under-performance;
 - suggest forms of support which he/she would find helpful;
 - agree appropriate professional development opportunities.

Sympathetic consideration should be given to all reasonable requests made by the teacher.

At the conclusion of these discussions the headteacher should give a broad indication of the support mechanisms and professional development opportunities which will be made available. Dates for an Interim Review meeting and a Final Review meeting will be confirmed.

As soon as possible after the discussion the headteacher should confirm in writing:

- the improvements to be made;
- the support mechanisms and professional development package to be provided;
- confirmation of the review dates.

Depending on the context of the situation a reasonable length of time should be given for the teacher to reach the required standard.

- (f) At the conclusion of the Final Review meeting the teacher should be informed of the outcome.

Two 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. The teacher should be informed of this discussion in writing.

Outcome 2:

Where improvements have not been achieved to the required standard, the teacher should be informed that formal disciplinary procedures will be implemented. This decision and the underpinning reasons should be communicated to the teacher in writing.

The teacher should be advised of their statutory and contractual rights to be accompanied at stages 3 and 4.

Stage 3: Disciplinary

- (a) This stage comprises the employer's formal disciplinary procedures.
- (b) The problem is now considered to be one of long-running under-performance.
- (c) The teacher should be advised of their statutory and contractual rights to be accompanied.
- (d) A comprehensive statement should be produced by the headteacher indicating:
- (e)
 - 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 support stage;
 - the teacher's performance at the end of the support stage.
- (e) The above information will be considered:
 - at subsequent stages in the employer's formal disciplinary proceedings;
 - if the case is referred to GTC Scotland.

Stage 4 : Referral to the General Teaching Council for Scotland

- (a) A case is referred to the Council under the terms of Section 9B of the Teaching Council (Scotland) Act 1965 as amended, ie where a case culminates in:
 - the dismissal of the teacher;
 - the resignation of the teacher in the context of a possible dismissal.
- (b) Relevant information from the Disciplinary stage will be sent to the Council.
- (c) Information relating to the Council's procedures for dealing with such cases can be found in the Council's Code of Practice on the Exercise of its

Appendix 1

Disciplinary Functions and in the Conduct, Competence and Disciplinary Rules.