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**East Dunbartonshire Council**

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## **Education Procedure Manual 2/18**

# **Disciplinary Procedures** for

## **Teachers and Employees on Scottish Negotiating Committee for Teachers (SNCT) Conditions of Service**

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## **Appendix 1            The Toolkit for Managers**

- **Standard Letters**
- **Standard Forms**
- **Guidance Notes**
- **Authorisation Levels and Time Limits**

### **Monitoring and Review**

This policy will be reviewed in accordance with:

Legislative change

Changes to SNCT national conditions of service

Other external factors

Feedback on the effectiveness of the policy

Requests for review by Elected Members, Trade unions and/or Management.

### **Alternative Formats**

All Education Procedure Manuals can be found on The Hub. The Procedure Manual and the associated Appendix can also be made available, on request, in a variety of formats. These can be requested from the Customer Services and Transformation team by contacting 0141 578 8471. Information will be made available in accordance with the Council's Accessible Information Policy.

## **1.0 Introduction**

- 1.1 Incidences of minor cases of misconduct and performance may be dealt with through an informal approach which allows the employee the opportunity to improve without recourse to the formal procedures described herein. However, where an employee's performance or conduct gives rise to serious concern, disciplinary action may be taken in accordance with these Disciplinary Procedures. The aim of the disciplinary process is to provide guidance in seeking improvement in the employee's conduct.
- 1.2 In addition to the principles of natural justice, these procedures are informed by the following documents:
- Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service: Disciplinary Framework
  - General Teaching Council for Scotland (GTCS) Code of Professionalism and Conduct
  - East Dunbartonshire Council (EDC) Procedure Manual 2/28 : Procedures for Implementing the GTCS Framework on Teacher Competence
  - East Dunbartonshire Council Discipline at Work Policy and Procedures
  - Advisory, Conciliation and Arbitration Service (ACAS) Disciplinary and Grievance Procedures Code of Practice
- 1.3 Where the concern relates to the performance of an individual's teaching, the procedures must comply with EDC Procedure Manual 2/28 –Framework on Teacher Competence. Where the concern relates to the performance of an administrative or managerial function of a promoted post, the procedures may comply with similar principles and processes as contained in the current GTCS Framework on Teacher Competence but always in the knowledge that GTCS procedures and Fitness to Teach Panel outcomes can relate only to teaching competence and not to administrative or managerial competence.
- 1.4 A Toolkit for Managers is appended to this paper and contains standard letters, forms, guidance notes, levels of authorisation and time limits. It is designed to assist managers to implement the Disciplinary Procedures consistently and effectively. Advice and support is also available from the Resource Planning Team.
- 1.5 The term 'Head Teacher' will be used in this Procedure Manual to include Education Support Service Managers. The term 'teacher' will be used to refer to all employees on SNCT Conditions of Service.

## **2.0 Principles**

- 2.1 Disciplinary rules and procedures are necessary for promoting orderly employment relations and fairness and consistency in the treatment of individuals. These rules and procedures enable organisations to influence positively the conduct of employees and allow problems of poor performance and attendance to be addressed in the correct manner. Rules set standards of conduct and performance at work; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.
- 2.2 All employees must be made aware of the standards of conduct and performance expected of them. Employees should be aware of what constitutes gross misconduct as outlined in the GTCS Code of Professionalism and Conduct. Section 4.0 of this paper outlines examples of actions which could be deemed to be gross misconduct

- 2.3 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. It is essential that problems of this nature are fully discussed and that support is provided with the objective of encouraging and helping the employee to improve. Section 3.0 of this paper outlines examples of actions which could be deemed to be misconduct.
- 2.4 It is essential that employees are aware that support and counselling are available at all times from the Employee Welfare Service, even during disciplinary action undertaken through the relevant procedures.
- 2.5 Where formal disciplinary process is considered necessary, the following principles must be adhered to.
- 2.5.1 The initiation of disciplinary actions/sanctions should be accompanied by appropriate support mechanisms as outlined in the EDC Wellbeing at Work Policy.
- 2.5.2 No disciplinary action will be taken until the matter in question has been fully investigated. Any decision to then impose a disciplinary sanction must not be taken by the person who conducted the initial fact finding. In addition, no appeal should be heard by the same person who issued the disciplinary sanction.
- 2.5.3 Apart from the occurrence of conduct that is deemed as gross misconduct, no employee shall be dismissed for the first breach of discipline.
- 2.5.4 There shall be a right of appeal against all disciplinary sanctions.
- 2.5.5 No disciplinary action will be initiated against a trade union representative until the matter has been discussed with a full-time official of the trade union concerned.
- 2.5.6 An employee shall have the right to be accompanied by a companion at all stages of the disciplinary process, including fact finding meetings. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee's responsibility to make arrangements to ensure they are accompanied, if they so desire.
- 2.5.7 All interviews will take place during the normal working day of the employee concerned unless a request is received from the employee for the interview(s) to take place outwith this period e.g. during school holidays.

### **3.0 Misconduct**

- 3.1 Instances of failure to observe and maintain discipline may lead to formal warnings. Repeated misconduct may result in action up to and including dismissal, depending on the employee's disciplinary record. Although not an exhaustive list, the following are examples of unsatisfactory conduct:
- Poor time keeping
  - Unacceptable levels of absence
  - Unauthorised absence
  - Unacceptable standard of work performance in relation to the GTCS Standards. In all cases of underperformance, reference should be made to EDC Procedure Manual 2/28 - Procedures for Implementing the General Teaching Council Scotland: Framework on Teacher Competence.
  - Negligence
  - Refusal to carry out a reasonable instruction

#### **4.0 Gross Misconduct**

4.1 A decision of whether gross misconduct has occurred will be dependent on full consideration of all the facts and circumstances. Gross misconduct may lead to summary dismissal. This would also require referral to the GTCS and possible removal from the GTCS Register. Although not an exhaustive list, the following are examples of gross misconduct:

- Fraudulent salary/wage claims and falsification of official documents
- Theft from employer, fellow employees or pupils
- Physical violence
- Serious bullying, harassment or abusive behaviour towards colleagues, pupils and/or the public or customers of the council, including matters of an equalities nature
- Serious offences against the interests of the council, including wilful injury to others and wilful damage to council property
- Serious insubordination/persistent refusal to comply with a reasonable instruction or order
- Serious misuse or abuse of email and/or internet facilities provided by the council
- Criminal convictions having a material bearing on employment and in particular, any which result in a teacher being placed on the Sex Offenders' Register
- Consumption of alcohol or illegal drugs while at work
- Incapacity on duty due to the effect of alcohol or illegal drugs
- Neglect of duty resulting in serious consequences
- Failure to obey critical safety rules (eg fire evacuation procedures)
- Serious breaches of the council's Child Protection policies

4.2 Where an allegation of emotional, physical or sexual abuse is made by or on behalf of a child in receipt of client services against an employee of the Council, the Head Teacher or his/her nominee must contact the Director of Education and Children's Services. The fact finding shall then be undertaken within the terms of the Council's Child Protection Guidelines. If, after the initial assessment, the matter is deemed not to fall within the terms of the Child Protection Guidelines, the fact finding process, as detailed in section 6 of this Procedure Manual, shall be followed.

4.3 In certain circumstances, the misconduct may require the involvement of the police. No approach should be made to the police except by the Director of Education and Children's Services.

#### **5.0 Precautionary Suspension**

5.1 In some circumstances it may be necessary to apply a precautionary suspension because the employee is considered to be creating a danger to him/herself or others (eg the employee is suspected to be under the influence of alcohol or drugs, or is alleged to be involved in fighting or other abusive behaviour). In cases where it is felt necessary to implement a precautionary suspension, The Director of Education and Children's Services should be informed..

5.2 In circumstances where there is no option other than to implement a precautionary suspension, the suspension must comply with the following principles:

5.2.1 Precautionary suspensions should only be used in the most serious cases of misconduct or where the employee's presence at the normal place of work could prejudice the fact finding. Consideration could be given to a temporary transfer, of the employee, pending the conclusion of the fact finding and any subsequent disciplinary process.

5.2.2 The Director of Education and Children's Services, the Chief Education Officer, a Head Teacher or a member of the school Senior Management Team has the authority to apply a precautionary suspension.

- 5.2.3 Where possible the employee will be informed of the precautionary suspension in the presence of a fellow worker, a trade union official or a member of the Resource Planning Team, but only if such a person is readily available.
- 5.2.4 In all cases of suspension, the employee must be notified that the action of suspension is a precautionary measure and does not imply that disciplinary action has or will be taken in respect of the allegations made.
- 5.2.5 The precautionary suspension must be confirmed in writing as soon as possible and certainly within 5 working days of the start of the suspension, using **Standard Letter PM2/18/ 1a**, contained in **The Toolkit for Managers**.
- 5.2.6 The precautionary suspension must be on full pay and must not be associated with any assumption of guilt.
- 5.2.7 As the suspension is a precautionary measure there is no right to an appeal process.
- 5.2.8 All precautionary suspensions should be reviewed at agreed regular intervals, normally 10 working days, as per advice in SNCT Conditions of Service.
- 5.2.9 Extensions to a suspension period should only be made in exceptional circumstances. A letter should be sent to the employee indicating the reasons for the extension to the suspension period using **Standard Letter PM2/18/1b**, contained in **The Toolkit for Managers**.

## **6.0 Formal Disciplinary Procedures    Fact Finding Stage**

- 6.1 The purpose of a fact finding is to establish a fair and balanced view of the facts relating to any allegations against an employee, before deciding if there are grounds to proceed with a disciplinary hearing.
- 6.2 The fact finding process should be conducted as soon and as quickly as possible after an allegation has been made or an incident has been alleged to occur, consistent with the principles of fairness and natural justice. In most cases the fact finding should take no longer than 20 working days. However, depending on the complexity of the case, it may take longer. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.
- 6.3 If a Trade Union Representative is subject to fact finding, the matter must be discussed with the full time official of that Trade Union before proceeding.
- 6.4 The Director of Education and Children's Services, the Chief Education Officer or Head Teacher will appoint a Fact Finding Officer to establish the facts of the circumstances surrounding the incident or complaint.
- 6.5 The Fact Finding Officer must not be involved in the allegation, incident or complaint. In cases of misconduct, the Fact Finding Officer will normally be appointed from the Depute Head Teachers within the school, a member of the SMT of another school or an officer from the centre.  
In cases of gross misconduct, the Fact Finding Officer will normally be the Head Teacher of the school, a Head Teacher from another school or an officer from the centre. If an allegation is against a Head Teacher, the Chief Education Officer will appoint a Fact Finding Officer.
- 6.6 The Fact Finding Officer can seek advice and support on any aspect of the fact finding process from the Resource Planning Team.

- 6.7 The Fact Finding Officer must inform the employee at an early stage that a complaint or concern has been lodged. He/she should issue **Standard Letter PM2/18/2**, contained in **The Toolkit for Managers**, in private, to the employee to indicate the nature of the allegations, the purpose of the fact finding and the procedures that will be followed at the interview. This should be delivered in advance of any meeting with the Fact Finding Officer. The employee should be made aware that the issue may result in disciplinary procedures being invoked
- 6.8 Throughout the process, all employees involved in the fact finding should be made aware of the support mechanisms which the Council can offer.
- 6.9 When arranging meetings, consideration should be given to the timing and location to take account of individual circumstances.
- 6.10 All employees are entitled to be accompanied at *all* hearings and meetings as part of the disciplinary process *including* fact finding hearings. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee's responsibility to make arrangements to ensure they are accompanied, if they so desire.
- 6.11 Questions to be asked at interviews should be prepared in advance. Questions should for the most part be open, although closed questions may be appropriate where clarity to an answer is required. Examples of open questions are included within the **Guidance Notes in The Toolkit for Managers**.
- 6.12 The Fact Finding Officer must appoint a note taker to attend the fact finding meetings. He/she must not be involved in the allegation, incident or complaint.
- 6.13 The purpose of note taking is to summarise what is discussed at the meetings. The note should be a true reflection of the content of the meeting but will not be a verbatim report. Some advice on effective note taking is included within the **Guidance Notes in The Toolkit for Managers**.
- 6.14 The Fact Finding Officer should, if possible, interview all of the parties involved, including the employee in question and prepare signed and dated statements from all of these witnesses using the Fact Finding Recording Form: **Standard Form PM 2/18/1**, contained in **The Toolkit for Managers**.
- 6.15 Fact finding meetings should follow a standard format in order to ensure consistency and fairness. The format is outlined within the **Guidance Notes in The Toolkit for Managers**.
- 6.16 No recording devices should be used during any fact finding meetings.
- 6.17 Disciplinary action cannot be taken under **any** circumstances at a fact finding meeting
- 6.18 It is good practice to consider an adjournment when interviewing to allow for information to be reviewed and for any further questions to be considered to ensure as much information as possible is gathered. Adjournments should be mutually agreed and used in situations where, for example,
- The employee gets upset or confrontational within the meeting
  - Further fact finding is required into issues raised
  - The employee or representative requests an adjournment
  - The Fact Finding Officer requests an adjournment
  - More time is required to assess the information presented
- Further information on adjournments is given within the **Guidance in The Toolkit for Managers**.
- 6.19 Arrangements will be made for employees and witnesses to review statements and where required, clarify points with a view to signing off statements. These arrangements may require all or any of the parties involved to be recalled to clarify original statements.

- 6.20 Signed and dated statements, whether agreed or with areas of dispute clearly indicated, will be returned to the Fact Finding Officer from the employee and any witnesses.
- 6.21 The employee should be advised to retain a copy of her/his final statement, and must maintain confidentiality in respect of its contents.
- 6.22 The Fact Finding Officer will not make a decision on further action or any outcomes of the process but will merely report on the facts of the issue(s).
- 6.23 On conclusion of the fact finding, the Fact Finding Officer should produce a report using the Fact Finding Report Form: **Standard Form PM 2/18/2**, contained in **The Toolkit for Managers**.
- 6.24 The report should present the findings of the fact finding stage and should give as much information as possible but must *not* make any recommendations of any further action to be taken.
- 6.25 All relevant information should be attached to the Fact Finding Report including the Fact Finding Recording Forms.
- 6.26 The report will be used in all subsequent meetings or hearings associated with the case.
- 6.27 The report will be submitted to the Head Teacher or other nominated officer (he /she will be known as the Disciplinary Officer) to allow him/her to decide whether the matter should be further progressed through the formal disciplinary process. If the Head Teacher is subject to the fact finding, the report should be submitted to the Chief Education Officer
- 6.28 The fact finding must be concluded before moving onto any disciplinary processes being invoked.
- 6.29 Where, following a fact finding, no further action is to be taken in terms of the disciplinary procedures, the relevant employee(s) will meet with the relevant manager to discuss the conclusion and any other factors within the case which are relevant. Employees will then be formally notified of this outcome within 10 working days, as per SNCT Conditions of Service, using **Standard Letter PM2/18/3** contained in **The Toolkit for Managers**.
- 6.30 If no further action is to be taken in terms of the disciplinary procedures, all references to the fact finding should be removed from the employee's personal file and destroyed.
- 6.31 A decision to proceed with a disciplinary hearing will be based solely on the evidence contained within the fact finding form. This decision should not be taken by the person who conducted the fact finding.
- 6.32 Section 1 of the Record of Discipline Form - **Standard Form PM 2/18/3**, attached in **The Toolkit for Managers**, should be completed by the Disciplinary Officer. Disciplinary Officers can contact Resource Planning Team for assistance in completing the form.

## **7.0 The Disciplinary Hearing**

- 7.1 The purpose of a disciplinary hearing is to allow the Disciplinary Officer to consider all information presented, including representations at the hearing itself, and to make a decision as to whether disciplinary or other action is justified and reasonable in the circumstances.
- 7.2 The hearing with the employee should be held normally within 14 working days of the conclusion of the fact finding. In exceptional circumstances this may be subject to extension due to the nature of the



case. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

- 7.3 The Disciplinary Officer will be the Head Teacher, a member of the Senior Management Team or an appropriate nominee in an equivalent post. If the allegation is against a Head Teacher, then the Chief Education Officer, the Director of Education and Children's Services or nominated member of the senior management team outwith the school/corporate management team will assume this role.
- 7.4 The Disciplinary Officer can seek advice and support on any aspect of the disciplinary process from the Resource Planning Team.
- 7.5 Once a decision has been taken to proceed to a disciplinary hearing then Section 2 of the **Record of Discipline Form - Standard Form PM 2/18/3** - attached in **The Toolkit for Managers**, should be completed and the employee should be informed, in writing, using **Standard Letter PM2/18/4**, attached in **The Toolkit for Managers**, about:
- 7.5.1 details of the allegations;
  - 7.5.2 the date, time and venue for the hearing (at least a minimum of 7 working days' notice or shorter by agreement in individual cases);
  - 7.5.3 the procedures to be followed at the hearing;
  - 7.5.4 any rights under the disciplinary procedure, including the right to be accompanied by a companion. A companion may be a fellow worker or a trade union official.  
A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee's responsibility to make arrangements to ensure they are accompanied if they so desire
  - 7.5.5 potential consequences following the meeting
- 7.6 At the same time the employee should be provided with copies of any evidence that will be used during the disciplinary hearing including any written evidence and the names of any witnesses who will be called.
- 7.7 It is the responsibility of the employee to call any witnesses. Contact with the witnesses must only take place once the date for the disciplinary hearing has been set and once the Fact Finding stage is complete.
- 7.8 The employee also provide the employer with all documentation that will be used in his/her defence and the names of any witnesses who will be called upon, not less than 2 working days before any hearing. Any documentation or names submitted later than two days prior to the hearing will only be permissible after approval by the Disciplinary Officer. If witnesses are unavailable this may delay progress.
- 7.9 All employees are entitled to be accompanied at **all** hearings and meetings as part of the disciplinary process. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee's responsibility to make arrangements to ensure they are accompanied if they so desire.
- 7.10 Throughout the process, all employees involved in the disciplinary process should be made aware of the support mechanisms which the Council can offer.

- 7.11 The Disciplinary Officer must appoint a note taker to the disciplinary hearing. He/she must not be involved in the allegation, incident or complaint.
- 7.12 The purpose of note taking is to summarise what is discussed at the meetings. The note should be a true reflection of the content of the meeting but will not be a verbatim report. Some advice on effective note taking is included within the **Guidance in The Toolkit for Managers**.
- 7.13 Disciplinary hearings should follow a standard format in order to ensure consistency and fairness. The format is outlined within the **Guidance in The Toolkit for Managers**.
- 7.14 No recording devices should be used during any disciplinary hearings.
- 7.15 The Disciplinary Officer should be accompanied by an HR Representative
- 7.16 The employee (and/or the person accompanying) must be given every opportunity to present his/her case, to provide additional documents for the hearing, to call and question witnesses and to sum up his/her case.
- 7.17 If the employee (and or the person accompanying) wishes to provide additional documents, or call and question additional witnesses, at the time of the hearing, then an adjournment may be necessary for all papers to be considered.
- 7.18 Where either party requires a hearing to be rescheduled, this request will be accommodated as far as possible. Rescheduling of hearings should be agreed with reference made to the reasons given. Employees will be given the opportunity to reschedule normally within 5 working days.
- 7.19 Employees will be given up to a maximum of two rescheduled hearings. Where, without good cause, an employee is persistently unable or unwilling to attend a disciplinary hearing, the relevant officer should make a decision on the evidence available. The decision should then be confirmed in writing normally within 5 working days.
- 7.20 If an employee has submitted a Fit Note and has been deemed 'Fit for some work', the employee will be assumed to be fit to attend a hearing unless an Occupational Health report confirms that this is not suitable.
- 7.21 If an employee raises a grievance during a disciplinary process, there may be a requirement to suspend the process temporarily to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both in tandem.
- 7.22 In making decisions on the appropriate outcome, the Disciplinary Officer will consider all information presented and any mitigating factors that were highlighted. He/she will make a decision as to whether disciplinary or other action is justified and reasonable in the circumstances.
- 7.23 At the conclusion of the hearing, the Disciplinary Officer shall either announce his/her decision (to be confirmed in writing using recorded delivery if necessary) or indicate that the decision will be communicated in writing, using the appropriate standard letter, as per paras 7.23 or 8.7, within 5 working days. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.
- 7.24 If it is decided that no disciplinary action is to be taken, the employee shall be informed using **Standard Letter PM 2/18/5**, attached in **The Toolkit for Managers**. All references to the case and paperwork shall be removed from the employee's personal file and destroyed.

8.0 **Disciplinary Sanctions**

- 8.1 All disciplinary sanctions shall be recorded in writing and shall remain in the employee's personal file during the period of currency of the warning.
- 8.2 Time limits for warnings or sanctions to remain live are indicated later in this section and are also attached in **The Toolkit for Managers**. Any disciplinary sanction which has been imposed and which relates to a breach of the council's Child Protection policies can remain on an employee's file for a longer period of time than defined in paragraphs 8.7.1 – 8.7.3 .
- 8.3 The Head Teacher will have overall responsibility for the management of employees within their school and will have the authority to issue oral and written warnings on conclusion of due process. If the Head Teacher is subject to disciplinary sanctions, this will be carried out by the Chief Education Officer, the Director of Education and Children's Services or nominated member of the senior management team outwith the school/corporate management team.
- 8.4 The Chief Education Officer and Director of Education and Children's Services will have the authority to apply all forms of disciplinary sanction described in this section and to dismiss an employee under the agreed disciplinary procedures of the authority.
- 8.5 In cases involving performance issues, Education Procedure Manual 2/28 which incorporates the GTC Scotland Framework on Teacher Competence should be followed at all times. Before taking action for dismissal, the Chief Education Officer must ensure that the correct process as outlined in the Procedure Manual has been followed.
- 8.6 In being advised of the disciplinary sanction that is being applied, the employee should be advised also of the improvements which will be expected of them and the availability of appropriate support to allow them to achieve and maintain the improvement. A Personal Improvement Plan , using **Standard Forms PM 2/18/4a** and **PM 2/18/4b**, may be required and if so, will be discussed and agreed at a date following the hearing.
- 8.7 The following disciplinary sanctions shall be available.

8.7.1 **Formal Oral Warning**

This can be used for minor breaches of discipline, misconduct or continued poor performance. **Standard Letter PM 2/18/6a**, attached in **The Toolkit for Managers**, should be used to inform the employee and must include reference to the fact that any further breach may render the employee open to further disciplinary action.

A formal oral warning will remain active for 6 months. At the end of this period, all references to the case shall be removed from the employee's personal file and destroyed

8.7.2 **Written Warning**

This can be used for more serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a formal oral warning. **Standard Letter PM 2/18/6b**, attached in **The Toolkit for Managers**, should be used to inform the employee and must include reference to the fact that any further breach may render the employee open to further disciplinary action.

A written warning will remain active for 9 months. At the end of this period, all references to the case shall be removed from the employee's personal file and destroyed.

8.7.3 **Final Written Warning**

This can be used for serious breaches of discipline, misconduct, continued poor performance, a failure to improve conduct or performance following receipt of a written warning. **Standard Letter PM 2/18/6c**, attached in **The Toolkit for Managers**, should be used to

inform the employee and must include reference to the fact that any further breach may result in dismissal.

A final written warning will remain active for 12 months. At the end of this period, all references to the case shall be removed from the employee's personal file and destroyed

**8.7.4 Punitive Sanction**

Punitive sanctions may be appropriate in conjunction with the disciplinary warning, for example, demotion or transfer.

Where a punitive sanction is used in conjunction with a final written warning as an alternative to dismissal and where an employee does not agree to the application of the punitive sanction, then the council will have no alternative but to dismiss the employee.

**8.7.5 Dismissal**

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 employee must be informed, in writing, using **Standard Letter PM 2/18/7a** or **Standard Letter PM 2/18/7b**, attached in **The Toolkit for Managers**, of the effective date of dismissal and whether the dismissal is summary or with notice.

8.8 A case must be referred to GTC Scotland if the teacher is dismissed or if the teacher resigns or leaves his/her post in the context of a possible dismissal.

**9.0 Appeals**

9.1 Employees will have the right of appeal against all disciplinary sanctions imposed by the authority, where they feel that the action taken or level of action is unfair in the circumstances.

9.2 Employees must be made aware that the sanction imposed at a disciplinary hearing may increase at appeal level.

9.3 All appeals will be dealt with by an individual who is impartial and has not been involved in the case at any stage. The appropriate levels at which appeals should be heard are indicated in the table below.

<b>(a) Nature of warning</b>	<b>(b) Issued By</b>	<b>(c) Appeal heard by</b>
Oral warning	Head Teacher or nominee	Chief Education Officer, Director of Education and Children's Services or nominee
Written warning	Head Teacher or nominee	Chief Education Officer, Director of Education and Children's Services or nominee
Final written warning	Director of Education and Children's Services or nominee	Education Appeals Board
Dismissal	Director of Education and Children's Services or nominee	Education Appeals Board

9.4 Appeals will be considered based on the information presented by the employee on The Notification of Disciplinary Appeal Form, **Standard Form PM2/18/5**, attached in **The Toolkit for Managers**. This should be completed and sent to the nominated person as indicated in column (c) of the table at paragraph 9.3.

9.5 The Notification of Disciplinary Appeal Form should be lodged within 10 working days from the date of notification of decision of the disciplinary hearing.

- 9.6 An appeal hearing will normally be arranged to take place within 20 working days of receipt of the notice of appeal. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.
- 9.7 The employee should be given at least five working days' notice, in writing, of the appeal hearing using **Standard Letter PM 2/18/8**, attached in **The Toolkit for Managers**.
- 9.8 The employee shall have the right to be accompanied by a companion at all stages of the disciplinary process. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee's responsibility to make arrangements to ensure they are accompanied if they so desire.
- 9.9 Appeal hearings should follow a standard format in order to ensure consistency and fairness. This format is outlined within the **Guidance in The Toolkit for Managers**.
- 9.10 The decision shall, if possible, be made known to the employee at the end of the appeal hearing and shall in any case be confirmed in writing within 5 working days, using **Standard Letter PM2/18/9a** or **Standard Letter PM2/18/9b**, attached in **The Toolkit for Managers**.
- 9.11 The officer hearing the appeal shall confirm, may amend or withdraw the original disciplinary action.
- 9.12 If an appeal is successful and the original disciplinary sanction withdrawn, any written reference shall be removed from the employee's personal file and destroyed. The employee should be notified in writing within 5 working days, as per paragraph 9.10.
- 9.13 Following conclusion of this process, the internal appeals procedures will be exhausted. No further rights of appeal will apply
- 9.14 If, after the internal procedures have been exhausted and employees wish to make a claim to an employment tribunal, they must notify ACAS first and complete an Early Conciliation Notification Form, available from [www.acas.org.uk](http://www.acas.org.uk). ACAS will provide parties the opportunity to use Early Conciliation which is aimed at resolving or settling workplace disputes without going to court. Anybody who wishes to lodge a claim with an Employment Tribunal will have to provide an ACAS Early Conciliation reference Number.

