



# Disciplinary Procedures

All Teachers and other professionals covered by SNCT terms and conditions

Date of implementation

Human Resources  
Employment Policies



## CONTENTS

<b>SECTION</b>	<b>TITLE</b>	<b>PAGE NOS.</b>
1.	INTRODUCTION	4
2.	SCOPE	4
3.	RESPONSIBILITIES	4-6
4.	KEY PRINCIPLES	6-8
5.	APPLICATION OF POLICY AND PROCEDURES	8-9
6.	LEGISLATIVE/POLICYFRAMEWORK	9
7.	DISCIPLINARY PROCEDURE	9
8.	MEDIATION	9
9.	INFORMAL ACTION	9-10
10.	SUSPENSION	10-12
11.	INVESTIGATION	12-13
12.	INFORMING THE EMPLOYEE OF THE PROBLEM	13
13.	HOLDING THE DISCIPLINARY HEARING	13-15
14.	RIGHT TO BE ACCOMPANIED / REPRESENTED	15
15.	DISCIPLINARY ACTION	15-16
16.	DISCIPLINARY SANCTIONS	16-17
17.	RIGHT OF APPEAL	17-18
18.	REVIEW AND MONITORING	18-19

## **DISCIPLINARY PROCEDURE – TEACHING STAFF**

### **1. Introduction**

- 1.1 The Council recognises that the maintenance of discipline is essential for the conduct of the Authority's affairs and for the safety and well being of teachers, pupils and others affected by the Council's activities.
- 1.2 In order to maintain discipline, teachers are expected to conduct themselves within the law GTCS Code of Practice of Teacher Competence. The Council will assist teachers in achieving the required standard of job performance or conduct by providing such training as is necessary to assist them in carrying out their work effectively and safely.
- 1.3 This policy is designed to ensure that there is equitable, fair, transparent and consistent treatment of all West Dunbartonshire Council teachers in relation to disciplinary sanctions.
- 1.4 The policy and procedure has been developed in line with the recommendations of the ACAS Code of Practice 1 Disciplinary and Grievance Procedures (6 April 2009) and in consultation with recognised trades unions.

### **2. Scope**

- 2.1 The policy and procedure will apply to all teachers and others within the Council covered by the Scottish Negotiating Committee for Teachers (SNCT).
- 2.2 In agreement to the introduction of this procedure, both the Council and the Trades Unions have taken account the provisions of the Revised Framework (SNCT/Appendix 2.11 Disciplinary Framework).
- 2.3 The Council will ensure that good equal opportunities practice underpins the operation of this policy and will apply to all colleagues irrespective of age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

### **3. Responsibilities**

- 3.1 In order to ensure fair and consistent application of the Policy and Procedure, all parties have responsibilities as follows:

#### The Council

- Will delegate responsibility to Executive Directors for ensuring maintenance of disciplinary standards within their department.

#### Head Teachers / Managers

- Head Teachers are responsible for the management and discipline of the school and have a shared responsibility for any disciplinary action

taken against the teachers of the school. They must ensure that all teachers are made aware of the standards of conduct, safety and job performance required of them, and of any disciplinary rules applying to them.

- Head Teachers / Managers must consult with Directorate and Employee Relations HR Section in the event of any investigation or disciplinary hearing being proposed. Advice shall be given on the operation of the procedure throughout, both generally and in specific cases, in order to achieve a fair and consistent approach.
- Head Teachers / Managers in conjunction with HR&OD Services will be responsible for arranging appropriate training and briefing on the use of the procedure and the maintenance and up-dating of records; both departmental and central, sufficient to facilitate the smooth operation of the procedure.
- Ensure fair, effective, transparent and consistent treatment of employees and act reasonably in a discipline situation, applying the procedures of the policy.
- Encourage improvements in employees' performance and behaviour in a proactive and supportive manner.
- Ensure necessary investigations are carried out to establish the facts of the case.
- Inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
- Allow employees to be accompanied at both formal and informal stages of any disciplinary hearing.
- Allow the employee the opportunity to appeal against any formal decision.
- Ensure that at the end of the disciplinary warning period, all reference to the disciplinary action is removed from the employee's personal file (manual and electronic) and destroyed.
- Departmental Directorate and Employee Relations HR Section in advising Head Teachers / Managers will do so in consultation with Legal Services where appropriate.

#### Teachers / others covered by SNCT Terms and Conditions

- Accept and understand the terms and conditions of the policy and procedure.
- Familiarise themselves with rules and standards of conduct expected and abide by them.
- Must meet any regulatory requirements or adhere to statutory requirements for the post, for example membership of the Protection of Vulnerable Groups Scheme.
- Co-operate with management during investigations and throughout the disciplinary process.

#### HR&OD

- Will support Head Teachers / Managers in the process and provide advice and guidance on disciplinary issues, and facilitate processes.
- Will provide corporate training courses on disciplinary procedures.
- Will monitor disciplinary action taken within departments on an equality and diversity basis.

### Trades Unions

- Provide support, guidance to their members
- Represent members at disciplinary meetings if requested by member.
- Work within the processes provided by the Policy and Procedure.

## **4. Key Principles**

4.1 The satisfactory operation of the procedure depends upon the adoption of general principles, which are in accordance with the recognised good personnel practice and guidance provided by the Advisory Conciliation and Arbitration Service (ACAS). Performance issues must comply with the General Teaching Council Scotland (GTCS) Code of Practice on Teacher Competence:

- (i) Except in the case of gross misconduct, the principal purpose of disciplinary action should be to help and encourage improvement by teachers whose conduct, attendance or standard of work is unsatisfactory. 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 all problems of this nature are fully discussed and that support is provided with the objective of encouraging and helping teachers to improve. It is essential that teachers are aware that support and counselling are available at all times even where it has been necessary to take disciplinary action under the procedures.
- (ii) Head Teachers, Managers and teachers must raise and deal with issues promptly and must not unreasonably delay meetings, decisions or confirmation of decisions.
- (iii) Disciplinary matters must be treated by Head Teachers, managers trade unions and all teachers / employees involved at any stage of the process, with the highest degree of confidentiality.
- (iv) Disciplinary action will not be considered until allegations have been fully investigated. Wherever practicable, the investigation should be undertaken by a member of promoted staff other than the Head Teacher.
- (v) Where there is a disciplinary case to answer, teachers / employees will be notified of this in writing, providing sufficient information to enable them to answer the case at a hearing. Copies of written evidence,

including witness statements will be issued with the notification. Both parties involved in the hearing are entitled to call and question witness.

- (vi) Head Teachers / Managers must seek advice from Employee Relations HR section at the very earliest stages of any disciplinary situation. HR must also be advised of any potential suspension prior to the suspension taking place, or as soon after the suspension as possible.
- (vii) At all stages, the teacher should be given the opportunity to explain the reasons for his/her alleged failure to meet the (GTCS) Code of Practice on Teacher Competence. A formal warning under this procedure should never be given without a disciplinary hearing being held, even if the factual evidence appears indisputable.
- (viii) Before any disciplinary hearing is held, the teacher must be informed in writing of the complaints against them, be given all relevant evidence, and allowed adequate time to prepare a case.
- (ix) No teacher will be dismissed for a first breach of discipline, except in cases of gross misconduct.
- (x) The teacher / employee should also be given notice of the right to be accompanied/represented by a Trade Union representative or fellow worker other than an Elected Member of the Council or member of the Children's Services Committee at all stages of the process.
- (xi) An accurate written report and any action taken must be maintained and a copy provided to the employee. Any warnings that are issued will be confirmed in writing within 5 working days. Records should be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act 1998 and all documentation will be removed from all files following the expiry of a warning.
- (xii) Throughout the disciplinary process teachers will be kept fully advised of any new developments.
- (xiii) No disciplinary action may be taken against a Trade Union representative until the circumstances of the case have been discussed with a full time official of the union concerned.
- (xiv) It is recognised that it is in the interests of all parties that all procedures connected with this process are exercised as expeditiously as possible.
- (xv) Teachers / employees have the right to appeal against any disciplinary penalty imposed and will be advised of this.
- (xvi) Head Teachers / Managers will be trained and / or supported in the application of the policy and procedures to ensure fairness of treatment and consistency of approach.

- (xvii) Misconduct relating to matters involving employees occurring outside working hours may also result in disciplinary action if it is likely to adversely affect performance at work or bring the Council into disrepute.
- 4.2 The procedure allows for a series of stages, ranging from counselling and warnings through to dismissal according to the circumstances of each case. Frequently, a counselling session or the issue of a warning will resolve the matter. On other occasions, an instance of gross misconduct will require the immediate operation of an advanced stage of the procedure, including at times dismissal, which may be with or without notice as appropriate.
- 4.3 All teachers should be made aware of the standards of conduct and performance expected of them. In particular teachers should be made aware of what constitutes gross misconduct for example sexual offences, assault or dishonesty. 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 all problems of this nature are fully discussed and that support is provided with the objective of encouraging and helping teachers to improve. It is essential that teachers are aware that support and counselling are available at all times even where it has been necessary to take disciplinary action under the procedures.
- 4.4 Criminal charges or convictions outside employment must not be treated as automatic reasons for dismissal, regardless of whether the offence have any relevance to the duties of the individual as a teacher. The main consideration should be whether the offence is one that makes the individual unsuitable for his/her type of work. In all cases, the facts must be considered and a decision made as to whether the conduct is sufficiently serious to warrant initiating the disciplinary procedure. Teachers must not be dismissed or penalised solely or automatically because a criminal charge against them is pending.
- 4.4 The procedure takes account of the guidance contained in the ACAS Code of Practice on Disciplinary Procedures. In particular, it provides for rights of representation at each formal stage of the procedure and for rights of appeal against disciplinary action.

## **5. Application of Policy and Procedure**

- 5.1 Discipline need not be punitive. It should bring teachers' shortcomings in conduct or performance to their attention and encourage sustained improvement. Where disciplinary action is invoked the discipline procedure should be followed.

### Additional Aspects

- 5.2 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. No disciplinary action may be taken against a Trade Union representative until the circumstances of the case have been discussed with a

full time official of the union concerned, after obtaining the teacher's agreement.

- 5.3 If an teacher is charged with or convicted of a criminal offence, this is not necessarily in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on the teacher's suitability to do the job and their relationship with their employer, work colleagues and pupils.

## **6. Legislative / Policy Framework**

- 6.1 The Policy and Procedure complies with the Employment Right Act 2008 and the ACAS Code of Practice 1 – Disciplinary and Grievance Procedures (6 April 2009).
- 6.2 Performance issues must comply with the General Teaching Scotland (GTCS) Code of Practice on Teacher Competence.

## **7. Disciplinary Procedure**

### Introduction

- 7.1 The Disciplinary Procedure has been developed to provide guidance and support to Head Teachers, Managers and teachers in the effective implementation of the policy.
- 7.2 The procedure provides a clear framework and outlines the steps to be taken at an early stage to tackle any problem identified in order to prevent the situation deteriorating into a disciplinary matter. Where this has not been successful the procedure outlines the process to be followed when undertaking disciplinary action.

## **8. Mediation**

- 8.1 An independent third party or mediator can sometimes help resolve disciplinary issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute and not the mediator.
- 8.2 Where mediation is deemed to be an appropriate method of resolving the issue the discipline procedure can be held in abeyance. In-house trained mediators will be used.
- 8.3 While mediation is voluntary to resolve issues management intervention such as facilitated meetings may be appropriate.

## **9. Informal Action**

- 9.1 Head Teachers / Managers should develop trusting relationships with their teachers to encourage them to discuss freely any problems that arise. Wherever possible, problems should be resolved without recourse to the



formal procedure. This should be regarded as a two way process through which employees have the opportunity to raise and discuss any difficulties they are experiencing.

- 9.2 This informal stage does not form part of the formal disciplinary procedure.
- 9.3 Any follow-up actions/resolutions to the problem, which have been agreed, will be recorded with details and timescales. This will be reviewed throughout the agreed period to ensure its effectiveness and/or revise any solutions if necessary.

9.4 Counselling (In the form of advice, support and guidance)

Counselling teachers is the responsibility of promoted staff and should be a feature of the Teacher/Management relationship. It is important that any shortcoming in performance or behaviour is brought to the teacher's attention at an early stage. Problems should be discussed with the objective of encouraging and helping the teacher to improve. It is important that the teacher understands what needs to be done, how performance or conduct will be reviewed and over what period. The teacher should also be made aware of what action would be taken if he/she fails to improve. Records of counselling should be added to the teacher's file as a point of reference for either the teacher or the Manager.

- 9.5 In the event that no agreement to resolve the problem is achieved, then formal actions/ steps will be required.
- 9.6 Where the problem has been resolved, any information pertaining to this will be destroyed (after a period of 6 months). However, where there is no resolution to the problem and further action/steps are required, the record(s) may be used for investigative purposes.
- 9.7 Where an informal discussion takes place, a document reflecting the content and agreed outcomes of the discussion will be signed by both the Head Teacher and teacher. This document will be retained by the Head Teacher / manager and the teacher for the duration of the agreed resolution period i.e. until the issue is resolved or improved, and then must be destroyed.

**10. Precautionary Suspension**

- 10.1 In certain circumstances suspension from duty may be appropriate while an investigation is being carried out.
- 10.2 Suspension will only be imposed after careful consideration and a teacher being suspended will be clearly advised that suspension is not an assumption of guilt and is not considered a disciplinary sanction. Consideration should be given to a temporary transfer, pending the conclusion of the investigation and any subsequent disciplinary process.

It will normally take place pending investigation where, for example:

- There are reasonable grounds to believe that a teacher may have committed gross misconduct.
  - In cases falling short of gross misconduct, there is evidence to suggest the continuation of a teacher on duty would significantly affect the ability to investigate the allegation(s).
  - There are risks to a teacher's or the Council's property or where we identify responsibilities to other parties.
  - Where relationships have broken down.
  - Where there are reasonable grounds for concern that evidence has or may be tampered with, destroyed or witnesses pressurised.
  - Teacher's are under investigation for or charged with the alleged commission of a criminal offence and the alleged offence is such that it may have relevance to the type of work that they undertake or affect the employment relationship.
- 10.3 Under normal circumstances suspension will be carried out by Head Teacher or above. In exceptional circumstances however, where an immediate suspension requires to be applied, authority to undertake suspension can be delegated to an appropriate Line Manager, for example a Deputy Head Teacher. The employee relations team within Human Resources must also be advised of any potential suspension prior to the suspension taking place, or as soon after the suspension as possible. Where possible an HR Adviser should be in attendance. If the timescales and circumstances of the suspension permit, then the teacher may request to be accompanied at the suspension and this request will not be unreasonably denied.
- 10.4 Suspension will be on full pay which will include all contractual earnings.
- 10.5 Teachers on suspension must remain contactable. Once contacted he/she must be able to return to their place of work within 24 hours. Head Teachers will act reasonably with regard to situations where annual leave has previously been booked, or where there are other legitimate reasons for absence. Any teacher who has been suspended will not be allowed on West Dunbartonshire Council premises during the suspension period, unless with authorisation.
- 10.6 At the suspension interview, teachers will be informed why the suspension is taking place and given the opportunity to give a statement should they wish. Notification of the suspension and the reasons for suspension must also be conveyed in writing to the teacher either after the suspension interview or as soon as possible, normally within 2 working days.
- 10.7 The formal letter of suspension will include the following:
- The reason for the suspension
  - The date and time from which it took effect
  - The duration of the initial suspension
  - A statement outlining the rules of the suspension.

- 10.8 Where teachers are not on duty at the time an alleged offence justifying suspension comes to light, they will be required to attend a suspension interview as soon as it is possible.
- 10.9 Suspension should initially be for a period of not more than 7 days but may be extended if the investigation has not been finalised. The suspension should be kept under review to ensure it is not unnecessarily protracted. Head Teachers will undertake to ensure that all investigations are full and complete and that, as far as possible, all relevant witnesses are interviewed.
- 10.10 There is no right of appeal against suspension as it is a means of ensuring that the procedure is followed and not considered a formal disciplinary sanction.

## **11. Investigation**

- 11.1 In situations where either a complaint has been received or where an employee's conduct or performance has given cause for concern, the Head Teacher should appoint an investigating officer.
- 11.2 The investigating officer should, if possible, interview all of the parties involved (including the teacher in question) and, if appropriate, prepare signed and dated statements from all of those witnesses.
- 11.3 When investigating a disciplinary matter care must be taken to deal with the teacher in a fair and reasonable manner. All investigations will be undertaken thoroughly, objectively and expediently and should be confined to establishing the facts of the case.
- 11.4 The teacher(s) concerned will be informed as soon as is practicable that an investigation is being carried out and the reasons for it.
- 11.5 The investigation officer will be concerned only with establishing the facts of the case, defining the problem, the persons affected by the problem and obtaining all relevant facts and information. Witnesses will be asked to provide a written statement and to sign and date their statements. The investigating officer will also wish to interview the teacher in order to establish the facts. The teacher or witnesses should be informed of their right to be accompanied at the meeting but this should not unreasonably inhibit the progress of the investigation.
- 11.6 The investigatory process should be conducted as speedily as possible consistent with the principles of fairness and natural justice and time limits. It is recommended that, in most cases, the investigation takes no longer than 15 working days.
- 11.7 The investigating officer should then produce a report that will enable another representative of the employer to decide whether the matter should be progressed through the formal disciplinary process. This decision should not be taken by the investigating officer, who must not have any function at a

future disciplinary hearing other than presenting the facts of the investigation to that hearing.

### Deciding on Appropriate Action following Investigation

- 11.8 On completion of the investigatory stage, the Head Teacher will decide whether or not there is a disciplinary case to answer and if the teacher should be asked to attend a disciplinary hearing, the teacher should be advised of the decision in writing. In all cases where, following an investigation, there is no case to answer, the Head Teacher and the HR Adviser will, ensure that all documentation is destroyed and records should be treated as confidential and will be kept no longer than necessary in accordance with the Data Protection Act 1998. The teacher should be informed of this in writing.
- 11.9 It should be acknowledged that the disciplinary process can be an anxious time for the teacher / employee involved and all adequate support should be provided. This is relevant even in circumstances where the teacher / employee is advised that there is no case to answer. They may still require and should receive adequate support and guidance.

## **12. Informing the Teacher of the Problem**

- 12.1 Where it is decided that there is a disciplinary case to answer the teacher must be notified of this in writing. The letter should contain sufficient information about the alleged misconduct and its possible consequences to enable the teacher to prepare to answer the case at the disciplinary hearing.
- 12.2 A teacher / employee will be given a minimum of 10 working days notice of a Disciplinary Hearing and also be given a copy of the investigation report, witness statements and copies of any other written evidence. The Head Teacher may anonymise witness statements to protect witnesses **only** where there are legitimate concerns that the provision of a signed witness statement may result in injury to persons or property.
- 12.3 The notification should also give details of the time and venue for the disciplinary meeting and advise the teacher of their right to be accompanied at the meeting.
- 12.4 Any documentation which the employee wishes to present or have considered at the hearing must be submitted to the Disciplining Officer / Head Teacher at least 5 working days in advance.

## **13. Holding the Disciplinary Meeting**

- 13.1 The disciplinary meeting must be held without unreasonable delay whilst allowing the teacher reasonable time to prepare their case.
- 13.2 An HR Adviser will be in attendance at all disciplinary meetings to ensure disciplinary procedures are being adhered to and to advise Head Teachers on equitable employment practice and consistency of approach.

13.3 No disciplinary action will be taken without a disciplinary meeting being held at which the employee will have the opportunity to state their case. Teachers / employees and their companion should make every effort to attend the meeting. However, where a teacher / employee is persistently unable or unwilling to attend a disciplinary meeting without good cause a decision will be made by the Head Teacher / Manager on the evidence available. In taking this decision the Head Teacher / Manager will act reasonably.

In exceptional circumstances, a representative may attend a disciplinary meeting on an employee's behalf, if the employee agrees.

13.4 In the event that the teacher / employee under investigation either refuses to participate in the disciplinary investigation, or behaves in such a way as to impede the setting up of an investigation or hearing, or refuses to attend the disciplinary hearing then the Head Teacher / Manager will progress with the hearing in their absence.

13.5 If a disciplinary situation arises which also involves a police investigation, it will not prevent the disciplinary meeting taking place, provided sufficient information is available to enable the Head Teacher / Manager to make a decision.

13.6 Each side will be advised of the other side's witnesses and a list will be provided to each party as soon as possible, but at least 2 working days in advance of the meeting. Each side is responsible for ensuring that its witnesses attend and subject to operational requirements and notice being given to Managers, potential witnesses will be released from duty.

13.7 At the meeting the Head Teacher / Manager should explain the alleged misconduct against the teacher / employee and go through the evidence that has been gathered. The Investigating Officer will normally present the findings of the investigation report.

13.8 The teacher / employee or their representative will be then allowed to set out their case and answer any allegations which have been made. The teacher / employee or their representative will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. Questions will always be presented through the Head Teacher / Manager as the chair of the meeting. The teacher / employee or their representative will also be given an opportunity to raise points about any information provided by witnesses concerning the facts of the matter. It is understood that in exceptional circumstances and for reasons of sensitivity, this may not be the case.

13.9 Either party may request an adjournment of the Hearing at any time and the Head Teacher / Manger will not unreasonably refuse such a request.

13.10 Where the Head Teacher / Manager considers that further information or evidence is required he/she may adjourn at any time and require the Investigating Officer to carry out such further investigations as considered

necessary. In such circumstances the Hearing may require to be reconvened and any additional information shared with the teacher / employee and their representative. Any new information to be considered should be given to the teacher / employee and their Representative at least 3 working days before the reconvened hearing.

- 13.11 When all the evidence has been presented the Head Teacher / Manager will carefully consider all the facts of the matter and any mitigating circumstances, and on this basis, decide what disciplinary action, if any, requires to be taken.

Following adjournment, the teacher / employee and their representative will be informed of the decision. This decision will be confirmed in writing within 3 working days of the date of the decision. In circumstances where the decision cannot be made at the meeting the teacher / employee will be notified in writing of the decision, normally within 3 working days of the meeting.

- 13.12 In all cases where, following the disciplinary meeting, no disciplinary penalty has been imposed the Head Teacher / Manager and the HR Adviser involved, will, to the best of their ability, ensure that all documentation is destroyed. This should also be communicated to the teacher in writing.

#### **14. Right to be Accompanied / Represented at the Disciplinary Meeting**

- 14.1 Teachers / employees have a statutory right to be accompanied at the disciplinary meeting by a companion who may be:
- A fellow worker
  - An official employed by a trade union
  - A workplace trade union representative, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at disciplinary hearings. Certification may take the form of a card or a letter.
- 14.2 It will not be acceptable to request a specific companion who would not be able to attend the hearing, where this would prevent the hearing taking place within a reasonable timescale, if an alternative companion is more readily available.
- 14.3 If the companion cannot attend on the proposed date, the teacher can suggest an alternative date and time so long as it is reasonable and it is not more than 5 working days after the original date.
- 14.4 The companion will be allowed to address the meeting, to put and sum up the teacher's case, respond on behalf of the employee to any views expressed at the meeting and to confer with the teacher during the meeting. The companion, however, cannot answer questions on behalf of the teacher / employee or address the meeting if the teacher / employee does not wish it.

## 15. Disciplinary Action

- 15.1 In every case when determining disciplinary action, and/or deciding whether a disciplinary penalty is appropriate and what form it should take, the Head Teacher / Manager must bear in mind the need to satisfy the test of reasonableness in all circumstances. So far as is possible, account shall be taken of the teacher's current disciplinary record and all other relevant factors.

### Content of Letter

- 15.2 Following a warning at any stage of the procedure a letter confirming the level of warning issued will be sent to the teacher together with details of:
- The reason for action taken
  - The improvement required, where appropriate
  - The name of the person giving the warning, and their designation
  - The time period after which it will be removed from file
  - Which stage of the disciplinary procedure it constitutes and the right of appeal

All correspondence will be sent to teachers by recorded delivery.

## 16. Disciplinary Sanctions

- 16.1 The overall responsibility and authority to issue oral and written warnings rests with the Head Teacher / Manager. The Director of Educational Services or nominee has the authority to apply all forms of disciplinary sanctions, with the exceptions of dismissal which rests solely with the Director of Educational Services. It is important that, in each case, the Teacher is made fully aware of the reasons for the warning and the consequence of a repetition or failure to improve to the required standard.

- 16.2 In cases involving performance issues, the GTCS Code of Practice on Teacher Competence should be followed at all times. Before taking action for dismissal, the Director of Educational Services, or nominee, must ensure that the code had been followed. This code of practice dovetails into the disciplinary framework.

### 16.3 Recorded Verbal Warning

This will be used where the teacher's / employee's performance or conduct is unsatisfactory and where either the teacher / employee has already been subject to the informal stage or where it is appropriate to advance to the formal stages in the first instance. The warning must include reference that any further breach or misconduct of a similar level of seriousness within 6 months of the verbal warning may render the teacher open to further disciplinary action. Following the hearing the warning should be confirmed in writing detailing the reason for it and the teacher's right of appeal without delay and certainly within 5 working days of the hearing, using the model format in Appendix II.

#### 16.4 First Written Warning

This will be used where the teacher / employee has not improved to the required standard or has repeated an act or omission within the time limit of an oral warning, or for a first breach of discipline, which merits a stage beyond an oral warning. Following the hearing the warning should be confirmed in writing detailing the reason for it and the teacher's right of appeal without delay and certainly within 5 working days, using the model format in Appendix III. The teacher must be informed that a further breach within 9 months of the first written warning may result in further disciplinary action being taken.

#### 16.5 Final Written Warning

This will be used where previous warnings have failed to achieve their purpose, or for serious breaches of discipline, misconduct or a failure to improve conduct or performance. The warnings should be confirmed in writing detailing the reason for it and the teacher's / employee's right of appeal without delay and certainly within 5 working days of the hearing, using the model format in Appendix IV. This written confirmation should leave the teacher in no doubt that the consequence of a further breach within 12 months of the warning may result in dismissal.

16.6 The Head Teacher / Manager will notify the teacher / employee accordingly in writing, two weeks prior to the expiry of the warning, with a copy passed to the HR Services.

16.7 Any disciplinary sanction which has been imposed and which relates to a breach of the Council's Child Protection Policies can remain on a teacher's / employee's file for a longer period of time than defined in 16.3, 16.4 and 16.5 above,

#### Punitive Action

16.8 Punitive action normally means action, which imposes a demotion, transfer of the teacher, withholding or suspending increments or termination of employment. It will be appropriate where warnings have failed to resolve the problem or in the case of serious misconduct where a step beyond a warning is required.

#### Punitive Action – Excluding Dismissal

16.9 The type of punitive action taken will depend upon the circumstances of the case. Punitive action will only be taken by the Director of Education and Cultural Services (or nominated Senior Officer) following a full investigation and disciplinary hearing. Punitive action, short of dismissal, may also be linked with a final written warning. Punitive action must be confirmed in writing within 5 working days of the hearing, with the letter specifying the action taken, the reason for it and the teacher's right of appeal. (See model letter in Appendix V).



### Punitive Action – Dismissal

- 16.10 For serious repeated misconduct or poor performance during the currency of 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. (See model letter in Appendix VI). In cases involving performance issues, the GTCS Code of Practice on Competence should be followed at all times. Before taking action for dismissal the Director of Educational Services must ensure that the Code has been followed.
- 16.11 The teacher / employee will be provided, as soon as is reasonably practicable, with the following information, which will be contained within the dismissal letter:
- Written reasons for dismissal
  - The date on which employment will terminate
  - The appropriate period of notice or payment in lieu of notice
  - Information regarding the right of appeal

### **17. Right of Appeal**

- 17.1 Rights of appeal exist against all formal stages of the disciplinary procedure. The rights are detailed in the table in Appendix I. In the case of an oral and written warning, however, the right of appeal will end at the Director of Educational Services or nominee, unless the warning is given by Director, in which case the right of appeal will end at the Chief Executive.
- 17.2 The Director of Educational Services or nominee will consult with Employee Relations HR team before hearing any appeal and a representative from HR&OD shall attend appeal hearing in an advisory capacity. The format of an appeal hearing shall be as detailed in Appendix VII.
- 17.3 In the case of a final warning, punitive action or dismissal, the right of appeal will be to West Dunbartonshire Council's Children's Services Grievance and Disciplinary Appeals Sub Committee which shall hear the appeal in accordance with the agreed procedure.
- 17.4 Where a teacher / employee does not agree to the application of the punitive sanction then the Council will have no alternative but to dismiss the teacher / employee.
- 17.5 A teacher / employee shall have the right to be represented by a Trade Union representative or any other person other than an Elected Member of the Council or member of the Children's Services Committee at any appeal hearing.
- 17.6 The appeal hearing will consider whether the investigation and procedures have been carried out fairly and properly. It will also consider whether the

Head Teacher acted reasonably in taking the disciplinary action, given the evidence before him/her.

- 17.7 Should any disciplinary action be effectively withdrawn as a result of reconsideration, any written reference thereto shall be expunged from the teacher's record and the teacher notified accordingly.
- 17.8 An appeal against disciplinary action should be made in writing by the teacher on or his/her behalf by a Trade Union or other representative within 5 working days of notification of action, in the manner specified in the letter confirming the disciplinary action taken. Consideration will be given to late appeals in exceptional cases.
- 17.9 Agreement shall normally be reached within 10 working days in the date of an appeal hearing. Such hearings shall be arranged as expeditiously as possible and not normally later than 20 working days from the date of receipt of the appeal.

## **18. Review and Monitoring**

- 18.1 The policy and procedure will be reviewed on an annual basis after implementation, or earlier if legislative changes are required. Any amendments to the policy will be implemented after full consultation with the trades unions and the West Dunbartonshire Council Local Negotiating Committee for Teachers.
- 18.2 All disciplines will be monitored by HR&OD. Managers therefore are required to ensure that their Employee Relations HR Adviser is provided with copies of all correspondence and information relating to the discipline and this will include:
- Date of disciplinary hearing
  - Date of any suspension and reason
  - Reason for any delay
  - Date investigation undertaken if appropriate
  - Date outcome notified and outcome
  - Date any appeal lodged
  - Outcome of appeal

**APPENDIX I****DISCIPLINARY PROCEDURE**

<b><u>Stage</u></b>	<b><u>Action by*</u></b>	<b><u>Written Record</u></b>	<b><u>Right of Representation</u></b>	<b><u>Right of Appeal</u></b>	<b><u>Appeal To</u></b>
<b><u>Informal Stage</u></b> Counselling	Head Teacher / Manager	Keep notes of any counselling and put a copy in teacher's personal file.	Yes	No	N/A
<b><u>Formal Stages</u></b> <b>STAGE 1:</b> Oral Warning	Head Teacher / Manger	Confirmatory note on personal file and to teacher within 5 working days of the hearing. Copy to Head of HR&OD Services. <i>Use model in App.II</i>	Yes	Yes	In writing to the Director of Educational Services within 10 working days of receipt of notification.
<b>STAGE 2:</b> Written Warning	Head Teacher / Manager	Confirmatory note on personal file and to teacher within 5 working days of the hearing. Copy to Head of HR&OD Services. <i>Use model in App III</i>	Yes	Yes	In writing to the Director of Educational Services within 10 working days of receipt of notification.
<b>STAGE 3:</b> Final Written Warning	Director of Educational Services or Nominee	Confirmatory note on file and to teacher within 5 working days of the hearing. Copy to Head of HR&OD Services. <i>Use model in App IV.</i>	Yes	Yes	West Dunbartonshire Council Children's Services Grievance and Disciplinary Appeals Sub Committee by application in Writing to the Head of HR&OD Services within 10 working days of receipt of notification. Hearing to be arranged by the Head of Legal, Administrative & Regulatory Services as expeditiously as possible.
<b>STAGE 4:</b> Punitive Action – Demotion/Transfer	Director of Educational Services or nominee	Letter specified action, terms and conditions to be sent recorded deliver, within 5 working days of the hearing. Copy of Head of HR&OD Services. <i>Use Model in App.V</i>	Yes	Yes	West Dunbartonshire Council Children's Services Grievance and Disciplinary Appeals Sub Committee by application in Writing to the Head of HR&OD Services within 10 working days of receipt of notification. Hearing to be arranged by the Head of Legal, Administrative & Regulatory Services as expeditiously as possible.
Dismissal	Director of Educational Services or nominee	Letter specifying action to be sent Recorded Delivery within 5 working ways of the hearing. Copy to Head of HR&OD Services. <i>Use model in App. VI</i>			

**APPENDIX II**

**MODEL CONFIRMATION OR ORAL WARNING**

Dear

I refer to the disciplinary hearing which took place on .....(Date) in the presence of .....when you were given a formal oral warning for the following reason(s):-

This warning constitutes a formal stage within the terms of the agreed Disciplinary Procedure and has been recorded on your personal file. It will remain in force for a period of six months.

You have the right of appeal against this warning to your (next level of management) within 10 working days. You also have the right to be accompanied and advised by your own Trade Union representative or a fellow work colleague, other than an Elected Member of the Council or Member of the Children's Services Committee at any appeal hearing.

If your conduct/performance improves within (the life of this warning) this disciplinary action will be expunged from your record.

Yours sincerely

**NOTE:** This is a model letter

**APPENDIX III**

**MODEL WRITTEN WARNING**

Dear

I write to confirm the outcome of the disciplinary hearing held on ..... in the presence of ..... When we discussed the complaints about your conduct and/or work performance.

The specific nature of the complaints was that (insert details of events leading to warning, with relevant dates).

You will recall that it was agreed that to rectify this situation, you must take the following actions. (List actions to be taken to improve conduct and work performance including any actions/training to be taken by the department).

This warning constitutes a formal stage within the Council's disciplinary procedure and has been recorded on your personal file. It will remain in force for a period of 9 months, during which time a considerable and sustained improvement in your work performance, as outlined above, will be expected.

If your conduct/performance improves within (the life of this warning) this disciplinary action will be expunged from your record. However, I must warn you that failure to achieve the improvements specified will be likely to lead to further disciplinary action.

I would like to assure you that the Council will make every effort to provide you with any support you might require to achieve the improvement required.

You have the right to appeal against this warning to the Director of Educational Services within 10 working days. You also have the right to be accompanied and advised by your Trade Union representative or fellow work colleague, other than an Elected Member of the Council or Member of the Children's Services Committee at any appeal hearing.

Yours sincerely

**NOTE:** This is a model letter.

## APPENDIX IV

### **MODEL FINAL WRITTEN WARNING**

Dear

I write to confirm the outcome of the disciplinary hearing held on.....in the presence of ..... When we discussed how, over the past ..... months, you have failed to meet the standards required by the Council in the following respects (List areas in which performance or conduct had fallen below the required standards).

As discussed with you, we have agreed to give you until .....(insert date) to meet the required standard. This means that you will need to take the following actions (list actions to be taken to meet the required standard of performance).

This warning constitutes a formal stage within the Council's Disciplinary Procedure and has been recorded on your personal file. It will remain in force for a period of 12 months during which time a considerable and sustained improvement in your conduct/work performance, as outlined above, is expected.

Your conduct and/or work performance will be monitored over this period and I must warn you that, in view of the previous warnings you have been given, if you fail to achieve the standard of performance/conduct required by the Council by the above date, this will lead to further disciplinary action being taken which may lead to dismissal.

You have the right to appeal against this warning to the Council's Children's Services Grievance and Disciplinary Appeals Sub Committee through the Head of HR&OD within 10 working days. You also have the right to be accompanied and advised by your Trade Union representative or fellow work colleague, other than an Elected Member of the Council or Member of the Children's Services Committee at any appeal hearing.

Yours sincerely

NOTE: The above format has been worded for specific purposes. Where it is felt that the format is inappropriate, departments should consult the Employee Relations HR Team.

APPENDIX V

**MODEL LETTER OF PUNITIVE ACTION SHORT OF DISMISSAL**

Dear

I refer to the disciplinary hearing held on .....(date) in the presence of .....(HR Adviser and Trade Union representative).

I now confirm that with effect from .....(date) you will be demoted/ downgraded//transferred to

.....

The reasons for taking this action are as follows:-

(Details of recent offence(s) along with previous disciplinary action including (dates). This action is taken in terms of the Council's Disciplinary Procedure and a similar act or omission by you will result in your dismissal from the Councils employment. This letter will remain on your file for an indefinite period.

You have the right to appeal against this decision by writing to West Dunbartonshire Council Children's Services Grievance and Disciplinary Appeals Sub Committee through the Head of HR&OD within 10 working days of receipt of this letter. You are also reminded of your right to be represented at any appeal hearing by your Trade Union representative, fellow work colleague or legal representative, other than an Elected Member of the Council or Member of the Children's Services Committee.

Yours sincerely

NOTE: The above format has been worded for specific purposes, although punitive action would invariably be combined with a final written warning. Where it is felt that the format is inappropriate, departments must consult the Head of HR&OD Services.

**APPENDIX VI**

**MODEL LETTER OF DISMISSAL**

Dear

I refer to the disciplinary hearing held on ..... (Date) in the presence of .....(departmental and Trade Union representatives).

I now confirm that with effect from .....(date) you will be dismissed. (With immediate effect/with effect from ..... (date)

The reasons for taking this action are as follows:

(Details of recent offence(s) along with previous disciplinary action including dates). This action is taken in terms of the Council's Disciplinary Procedure. This letter will remain on your file for an indefinite period.

You have the right to appeal against the decision by writing to West Dunbartonshire Council Children's Services Grievance and Disciplinary Appeals Sub Committee through the Head of HR&OD within 10 working days of receipt of this letter. You are also reminded of you right to be represented at any appeal hearing by your Trade Union representative, fellow work colleague or legal representative, other than an Elected Member of the Council or Member of the Children's Services Committee.

Yours sincerely

Director of Educational Services

NOTE: The above format has been worded for specific purposes, although punitive action would invariably be combined with a final written warning. Where it is felt that the format is inappropriate, departments must consult the Head of HR&OD Services.



**APPENDIX VII****CONDUCT OF A DISCIPLINARY AND APPEAL HEARING**

<b>Action</b>	<b>Action By</b>
Introduce all those in attendance	Chairperson
An initial explanation of the reason for the hearing/a summary of the allegations	Chairperson
A summary of the proposed conduct of the hearing	Chairperson
Presentation of the Management case against the teacher	Management representative
Questioning of Management on the content of their presentation by Chairperson	Chairperson
Questioning of Management on the content of this presentation by Trade Union Representative/Chairperson	Trade Union Representative/Teacher
Management may add further comments to conclude their case	Management representative
Presentation of the employee response to Management complaint	Trade Union Representative/Teacher
Questioning of Trade Union Representative/Teacher on the content of their presentation by Chairman	Chairperson
Questioning of Trade Union Representative/Employee on the content of their presentation by Management representative	Management representative
Trade Union Representative/Teacher may add further comments to conclude their case	Trade Union Representative/Teacher
Management will provide a summing up statement	Management Representative
Trade Union Representative/Teacher will provide a summing up statement	Trade Union Representative/Teacher
Chairperson may ask final questions and then conclude the initial part of the hearing	Chairperson
Adjournment to consider evidence presented	Chairperson/HR Service/Legal Services (in advisory capacity)
Meeting recommences for Chairperson to indicate his conclusions and deliver findings	Chairperson
Chairperson concludes the hearing	Chairperson

Please note that witnesses can be called and questioned at a number of appropriate stages of the process.

**APPENDIX VIII****APPEALS\***

<b>Nature of Warning</b>	<b>Issued by</b>	<b>Appeal Heard by</b>
Oral warning	Headteacher or nominee	Director of Education or nominee
Written Warning	Headteacher or nominee	Director of Education or nominee
Final Written Warning	Director of Education or nominee	Appeals Sub Committee or other appropriate sub committee
Dismissal	Director of Education	Children's Services Grievance and Disciplinary Appeals Sub Committee

\* If an appeal is successful and the original disciplinary sanction is withdrawn, any written reference shall be removed from the teacher's personnel file and the teacher notified accordingly.

**APPENDIX IX****TIME LIMITS**

<b>Aspects of Disciplinary Procedure</b>	<b>Suggested Time Limit (Working Days)</b>
Precautionary suspension	10 days until each review
Notification of decision to proceed to disciplinary hearing	10 days notice (minimum) or shorter (by agreement in individual cases)
Notification of decision of disciplinary hearing	5 days maximum
Time limit to lodge appeal	10 days (maximum) from date of notification of decision
Date of notification of appeal hearing	No later than 20 days from receipt of notice of appeal
Notification of outcome of appeal hearing	5 days (maximum)

## **APPENDIX X**

### **Code of Professionalism and Conduct (COPAC)**

The Code of Professionalism and Conduct sets out key principles and values for registered teachers in Scotland.

It sits within the wider framework of GTCS standards, including the Standard for Full Registration for example. However CoPAC is different in that it speaks not only to the profession, but to members of the public about the standard of conduct and competence expected of registered teachers.

CoPAC does not set out to address every possible circumstance in which teachers might find themselves, it is intended that teachers are mindful of CoPAC in relation to the judgements which they will be called upon to make in situations which may occur within and out with the classroom.

Although the behaviours described in CoPAC will be unthinkable to the vast majority of registered teachers and members of the public, the GTCS has a duty to identify them so that the boundaries of professional behaviour and conduct are clear.

For full details of the code please access the link below:

[GTC\code-of-professionalism-and-conduct](#)