

Support Staff Competence Procedure

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Document information

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Purpose	This formal procedure is intended to be used in those situations where an employee fails consistently to perform their duties to an acceptable standard and continues to do so after informal steps have been taken.		

Document accessibility

If you would like this information in another language or format please speak to your Headteacher/Principal.

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1. Introduction

- 1.1 It is important that suitable rules and procedures are in place within schools/academies which will promote fairness and consistency in the treatment of individual employees and which reflect both the relevant policy on equal opportunities and legislation on the avoidance of discrimination.
- 1.2 This Competence Procedure is separate and distinct from Disciplinary, Grievance and Sickness Absence Management Procedures, however the particular circumstances of an individual case may also involve action under one of these procedures.
- 1.3 The procedure will be initiated by the Headteacher/Principal within the school. Advice can be sought from your HR Consultant at any stage in this procedure and it is recommended that advice is sought prior to any action being taken in accordance with the formal procedure.
- 1.4 The procedure aims to ensure that any employee who is subject to action under this procedure is dealt with as speedily as practicable and in a fair and supportive manner. A copy of the procedure is available to all support staff and any employee who becomes subject to this procedure shall be provided with a copy.
- 1.5 Any employee who is subject to this procedure at either the informal or formal stage should be advised that they are entitled to be accompanied by a trade union representative or work colleague.

2. Competence

- 2.1 Lack of capability in most cases leads to unsatisfactory performance. Where an employee fails consistently to perform their duties to an acceptable, competent standard, it is due to lack of skill, experience or inadequate training, for which some sort of action under this procedure will normally be appropriate.
- 2.2 There is a difference between not being capable and a lack of performance attributed to willful refusal to work satisfactorily. If an employee's performance fails as a result of their carelessness, negligence or idleness, this could be regarded as misconduct.
- 2.3 The following list gives examples of issues relating to teaching competence and should not be regarded as exhaustive:
 - Organisation of the working area and management of resources
 - Adequate discharge of defined responsibilities
 - Reasonable co-operation with colleagues on professional matters

Potential causes of poor performance

- Lack of skills, aptitude or experience
- Poor system of work or inadequate procedures
- Lack of appropriate resources
- Inadequate support/supervision
- Change in nature and allocation of work

- Changes in technology
- Bullying or harassment
- Personal/family circumstances
- Ill Health/medication

3. Identification

- 3.1 Initial identification of an employee's failure to meet the required standards of performance often arise through normal management meetings, one to one meetings and appraisal. There are a number of reasons why an individual may be failing to perform to the required standard. It is important to understand any underlying factors that could be causing poor performance. The first step will therefore be to discuss with the employee the concerns to determine the underlying cause of the unsatisfactory performance. Concerns regarding employee performance should be clearly identified and appropriate support given at the earliest opportunity. The nature of the problem, its level of seriousness and cause(s) must be investigated, identified and recorded.
- 3.2 Following this initial investigation and assessment, the initiator must decide whether to continue with action under this procedure.

4. Reasonable adjustments

If an employee considers that a disability or health condition might be impeding their performance they should discuss this with the Headteacher/Principal or line manager as soon as possible.

This is so that consideration can be given as to whether there is a need for reasonable adjustments to be implemented to assist them and avoid disadvantage.

5. Informal Procedure

- 5.1 When a potential problem or concern has been identified with an employee's performance, before discussing with the employee, the Headteacher/Principal or designated person should collate any necessary information where appropriate, to demonstrate where the employee is not meeting the required standards of performance. This needs to happen in a timely manner so that the employee is made aware of the concern as soon as reasonably practicable. This information will enable the discussion to be factual and objective.
- 5.2 When there is concern regarding an employee's performance, the line manager will meet with the employee to draw their attention to the ways in which it is alleged that their performance is deficient and will offer guidance and support on how improvement might be made. The employee will be notified of their right to be accompanied/represented by a representative of a trade union/professional association or work colleague at the meeting.
- 5.3 During this meeting, the employee shall be given the opportunity to comment on the concerns raised and advise on improving performance. The discussion will be confirmed to them in writing and will include the following:
- Precise details of why performance is considered inadequate
 - The improvements which are required

- The support and advice that will be available to assist in achieving the required standards
- Details of arrangements for monitoring to include informal review meetings
- The timescale for achieving this standard
- A copy of the Competence Procedure

- 5.4 The employee should be given full opportunity to respond and explain any factors affecting their current performance levels. If any underlying medical issues are suggested, it may be appropriate to refer to Occupational Health.
- 5.5 Records should be kept of all meetings with employees about their performance, as well as any agreed actions and targets for improvement. A supportive action plan is recommended to be used to support the employee at the informal stage as it provides a clear plan of action and review dates. The employee should be advised that, if the difficulties remain unresolved, the formal stage of the procedure will be followed.
- 5.6 At the end of the agreed monitoring period a meeting should take place to discuss the progress and inform the employee of the outcome of the review period. If the performance level remains unsatisfactory, the employee should be invited to a formal meeting under the formal competency procedure.

6. Formal Procedure

The formal procedure is to be used in situations where an employee fails consistently to perform their duties to an acceptable standard and continues to do so after informal steps have been taken.

6.1 Formal Recorded Interview

- 6.2 This will be carried out where the Headteacher/Principal concludes that deficiencies in performance warrant formal action or further formal action where the procedure has already been implemented. The designated person will write to the employee arranging to meet with them, giving at least five working days notice of the date of the meeting and including the following points:

- Details of the concerns regarding performance
- The employee's right to be accompanied/represented throughout the procedure by a representative of a trade union/professional association or work colleague.
- Confirm that the employee will be given the opportunity to respond to the concerns raised, challenge any evidence presented and offer a statement in mitigation

- 6.3 The Headteacher/Principal should ensure that the meeting takes place in private and all parties should be reminded that the issues discussed are to be treated as confidential. At the end of the meeting, the Headteacher/Principal may require an adjournment to consider his/her decision and/or seek further advice. The employee will be advised of the decision at the end of the meeting, and this decision will be confirmed in writing at the earliest opportunity. Notes of the meeting should be taken.

The decision will be one of the following:

- a) No further action i.e. the Headteacher/Principal considers that the alleged deficiencies are unfounded and the employee is performing to an acceptable standard

b) Formal Recorded Verbal Warning

c) Formal Written Warning or

d) Formal Final Written Warning

6.4 In some circumstances, the Headteacher/Principal advised by the line manager may, at the end of the prescribed period, determine that there has been significant improvement but not to the standard that is deemed satisfactory. In this case, a further option is to extend the agreed monitoring period.

6.5 Formal action in the form of a warning will normally include the establishment of targets and/or performance standards along with an appropriate support programme and timescale for improvement. The recommended timescale for improvement is usually 4-6 working weeks (excluding school holidays). The date of the formal recorded interview when the employee is notified of such action will be regarded as the date of entry in to the formal procedure. The period given for improvement following entry in to the formal procedure will be no more than two school terms.

All warnings will be confirmed in writing and will include the following:

- The level of the warning and the length of time that it will remain in place
- Details of the employee's deficiencies as identified at the meeting
- Confirmation of the improvement in performance which is expected along with advice/instruction on how the improvement can be achieved
- The support and advice available to assist the employee in achieving the required standard of performance
- The timescale for improvement
- Details of arrangements for monitoring and review meetings
- The likely consequences of insufficient improvement
- The right of appeal

6.6 **Formal Recorded Verbal Warning**

6.7 Where the Headteacher/Principal is satisfied that there are deficiencies in the performance of the employee, a formal recorded verbal warning may be issued. The record of this warning will be retained on the personal file and expunged after a period of 6 months satisfactory performance following completion of the prescribed period. Performance will not be deemed to have been satisfactory if a further warning relating to the original deficiency has been issued within the 6 month period.

6.8 **Formal Written Warning**

6.9 In more serious cases, or where a recorded verbal warnings appear not to have had the desired effect, a formal written warning may be issued. The record of this warning will be retained on the personal file and expunged after a period of 12 months satisfactory performance following completion of the prescribed period. Performance will not be deemed to have been satisfactory if a further warning relating to the original deficiency has been issued within the 12 month period.

6.10 Formal Final Written Warning

- 6.11 A formal final written warning may be issued after more than one formal warning or in extreme cases where the education of pupils is jeopardised, whether or not any action has previously been taken. The letter to the employee must make it clear that any further unsatisfactory performance could result in dismissal. The record of this warning will be retained on the personal file and expunged after a period of 2 years satisfactory performance following completion of the prescribed period. Performance will not be deemed to have been satisfactory if a further warning relating to the original deficiency has been issued within the 2 year period.

7. Dismissal Procedure

- 7.1 The report shall be discussed with the employee through a further formal recorded interview. Following discussion, if it is the view of the Headteacher/Principal having taken HR advice, that consideration be given to dismissal of the employee, dismissal proceedings will be initiated. In order to apply a fair and objective procedure, schools are strongly advised to refer potential dismissals to a subcommittee of the Governing Body, i.e. the Staffing Committee. This is particularly important in smaller schools where the Headteacher/Principal is likely to have implemented, monitored and reviewed the various stages of the Competence Procedure.
- 7.2 Following discussion, if no further action in line with dismissal procedures is deemed necessary, the employee shall be informed in writing within five working days.
- 7.3 Referral to the Staffing Committee shall be initiated by the Headteacher/Principal, advised by HR, and the Headteacher/Principal shall notify the employee in advance in writing, giving the reasons. The employee shall be entitled to put their case to the Staffing Committee, the composition of which shall comply with the appropriate Regulations in relation to school governance.

The decision shall be one of the following:

- a) To exonerate the employee and direct that all references to the matter be removed from their personal file
- b) To find that the alleged deficiencies are proven in whole or in part and accordingly:
 - Resolve that no action be taken, or
 - Extend the period of time for improvement, supported with a warning that if improvements in performance are not achieved, Governors may reconsider dismissal, or
 - Determine that the employee ceases to work at the school

- 7.4 The employee will be advised of the decision at the end of the meeting, and this decision will be confirmed in writing.
- 7.5 In cases where the period of time for improvement has been extended, at the end of the prescribed timescale the Headteacher/Principal shall submit a report to the Staffing Committee giving details of progress made. The Staffing Committee will then reconsider the matter as described above.
- 7.6 Where a Committee has determined that an employee should cease to work at the school, the employee shall be given the opportunity of appealing against this decision.

- 7.7 The dismissal will then be actioned by the employer within 14 days of the notification being given. The employee will be given notice, or pay in lieu of notice, in accordance with their contract or with the statutory minimum, whichever is the greater.

8. Rights of Appeal

An employee will have the right of appeal. If they choose to do so, they will use the Appeals Procedure by giving the required notice in writing to the Chair of the Appeal Committee, setting out the grounds for their appeal. The decision of the Appeals Committee is final and there is no further right of appeal within the school/academy procedure.

- 8.2 Where a member of staff exercises their right to appeal against a warning, the appeal will run concurrently with any agreed supervision/monitoring that has been put in place.

9. Arrangements for Meetings of the Staffing/Appeal Committee

- 9.1 Following a decision to initiate dismissal proceedings, or notification of an appeal, the Clerk to the Governing Body shall arrange a meeting of the relevant Committee, within 15 working days, if possible. The employee subject to this procedure shall be entitled to:

- Be represented by a trade union/professional association representative or work colleague.
- Receive prior notice of the date, time and venue of the meeting
- Before the meeting, receive a copy of the report outlining the concerns over the level of performance, including sufficient detail to enable the employee to prepare a response
- Be given a copy of any written material which is to be presented at the meeting
- Be advised of the name of the presenter of the case and of any witnesses to be called

The time periods set out in this procedure may be varied by mutual agreement. The decision of the Appeal Committee is final and there is no further right of appeal.

Appendix A**Competence Procedure Stages**

This is a summary sheet only. For full details, reference should always be made to the full Competence Policy and Procedure.

Identification of work performance concerns

Investigate causes, consider any relevant health issues

Informally assess current position

Provide guidance and support

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Pre formal Procedure

Arrange to meet with employee

Invite employee to bring colleague/representative

Discuss concerns and evidence

Provide support, feedback and regular reviews

Advise that formal stage may follow

Confirm outcomes in writing, include copy of procedure

If performance reaches satisfactory level, procedure ends

If unsatisfactory, commence formal procedure

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Formal Procedure

Arrange formal interview **(1)** with employee

Always write to employee, giving 5 days notice and inviting to bring colleague/representative

Discuss concerns and evidence

Provide support, regular reviews

Set targets for improvement

Issue formal verbal warning

Confirm outcomes in writing

↓ 6 weeks

Arrange further formal interview **(2)** to review progress

If performance satisfactory, procedure ends

If unsatisfactory, repeat as above

Issue formal written warning

↓ 6 weeks

Arrange further formal interview **(3)**

Repeat as above

Issue formal final written warning

↓ 6 weeks

Arrange further formal interview **(4)**

Review progress report with employee

If unsatisfactory, refer to Staffing Committee

Points to note:

- Maximum of 2 terms allowed for improvement from date of entry to formal procedure
- (formal interview 1)
- Procedure ends at any stage if performance improves to a satisfactory level
- Once warnings have been issued, they remain on file for a specified period -
- procedure can be resumed if performance falls again within specified period
- Always confirm meetings and outcomes in writing to employee
- Recommended timescales exclude school holidays