

**DNCT/2**

**DISCIPLINARY PROCEDURES FOR TEACHERS AND  
ASSOCIATED PROFESSIONALS**

March 2016

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## DNCT/2

### DISCIPLINARY PROCEDURES FOR TEACHERS AND ASSOCIATED PROFESSIONALS

#### 1. Introduction

- 1.1 Where a teacher's performance or conduct is such as to give rise to serious concern, disciplinary action may be taken by the authority in accordance with the following agreed disciplinary procedures. 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. It is therefore important that the following guidance be strictly observed when dealing with disciplinary concerns.

#### 2. Principles

- 2.1 All teachers should be made aware of the standards of conduct and performance expected of them. It is anticipated that 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 teachers to improve. It is also 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.
- 2.2 [Appendix 1](#) provides an indicative list of disciplinary matters from the ACAS Code of Practice that may constitute gross misconduct and, therefore, summary dismissal (without notice). Further information is also available at [www.acas.org.uk](http://www.acas.org.uk)
- 2.3 Teachers should also have due regard to the GTCS Code of Professionalism and Conduct ([Appendix 6](#)). Further information is also available at [www.gtcs.org.uk](http://www.gtcs.org.uk)
- 2.4 Where the concern relates to the performance of an individual's teaching the procedures should be consistent with the GTCS Framework on Teacher Competence ([Appendix 3a](#)). Where the concern relates to the performance of an administrative or managerial function of a promoted post the procedures must comply with similar principles and processes to those contained in the GTCS Framework on Teacher Competence ([Appendix 3a](#)). Reference may also be made to the GTCS Code of Practice on Professionalism and Conduct when dealing with such matters ([Appendix 6](#)).
- 2.5 If formal disciplinary process is considered necessary, the following principles will apply:
- (a) The initiation of disciplinary actions/sanctions should be accompanied by appropriate support mechanisms.
  - (b) No disciplinary action will be taken until the matter has been fully investigated. Any subsequent decision to convene a disciplinary hearing and thereafter impose a disciplinary sanction must not be taken by the person who conducted the initial investigation. Therefore, in almost all circumstances, investigations should not be undertaken by Head Teachers but delegated to Depute Head Teachers (where applicable) who at the conclusion of the investigation will submit a report including any recommendations to the Head Teacher. In schools without Depute Head Teachers, the Head Teacher will be expected to carry out any investigation, with conclusions and recommendations being submitted to an Education Manager. In some circumstances it may be appropriate to seek support from a Depute or Head Teacher from another establishment or an Education Officer. In addition any appeal will not be heard by the same person who issued the disciplinary sanction.

- (c) Apart from gross misconduct, no teacher shall be dismissed for the first breach of discipline.
  - (d) There shall be a right of appeal against all disciplinary sanctions.
  - (e) No disciplinary action will be initiated against a trade union representative until the matter has been discussed with a full-time official of the union concerned.
  - (f) A teacher shall have the right to be represented by a Trade Union representative or a work colleague at all stages of the disciplinary process, including investigatory meetings.
- 2.6 Where a teacher is persistently unable or unwilling to attend a disciplinary hearing without good cause the hearing will go ahead in the teacher's absence and a decision will be made on the evidence available. In these circumstances the teacher can request a trade union representative or work colleague to attend the hearing on their behalf and/or make a written submission to be considered by the chair.
- 2.7 Where a teacher raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues within the same process.

### 3. The Investigatory Stage

- 3.1 Unless the matter has a child protection dimension (see [Appendix 5](#)), the teacher involved must be advised at an early stage that a complaint or concern has been lodged, of the nature of any complaint, of the process which will be followed and of the right to be represented.
- 3.2 In situations where either a complaint has been received or where a teacher's conduct or performance has given cause for concern, reference should be made to the departmental guidelines on dealing with complaints/allegations made against teachers ([Appendix 4](#)) and Dundee City Council's Complaints Procedure ([Appendix 7](#)). The departmental guidelines give guidance on the appointment of an Investigating Officer who should, if possible, interview all of the parties involved (including the teacher in question) and, if appropriate, prepare signed and dated statements from all parties. In regard to the teacher in question, the Investigating Officer will record the response/explanation provided at the investigatory meeting. This is applicable when an investigation is proceeding to a formal disciplinary hearing only, or if it will aid the process. The teacher will be provided with an opportunity to approve or amend that written record before signing it as accurate. In the event that the teacher does not agree the record, he/she should produce their own version for the Investigating Officer. The teacher must be advised that both versions of the document may be considered and referred to.
- 3.3 The Investigating Officer should then produce a report summarising the investigatory process, the information gathered, together with any findings/conclusions and recommendations. This report will be provided to the Head Teacher or appropriate senior manager to enable a decision to be made about whether the matter should be further progressed through the formal disciplinary process. This decision is not taken by the Investigating Officer and they must not have any function at a future disciplinary hearing other than presenting the facts of the investigation to that hearing.
- 3.4 The investigatory process should be conducted as speedily as possible, in most cases, no longer than 15 working days. Stage 1 of the Council's Complaints Procedure indicates that a complainant will be advised of any decision within 5 working days, and within 20 working days at Stage 2. If the investigation is expected to take longer than the target number of days, the complainant should be advised and a revised timescale agreed. NB: It should be noted that where the investigation is being undertaken in accordance

with the Child Protection guidelines ([Appendix 5](#)), the investigation timescale may be longer as other outside agencies are involved e.g. Police and Social Work.

- 3.5 All teachers should be entitled to be represented (as outlined in 2.5f above) at all hearings and meetings as part of the disciplinary process including investigatory meetings. In addition, in most cases, the teacher whose conduct or performance has given rise to the investigation will be interviewed and must be given a clear indication of the nature and purpose of the investigation and the procedures that will be followed at the interview well in advance of any meeting with the Investigating Officer.
- 3.6 Once the investigation is complete the teacher should be advised of the outcome of the investigation and this will be confirmed in writing. Where following an investigation no further action is to be taken in terms of the disciplinary procedures then all references to the investigation shall be retained in the teacher's personal file for 12 months. A record of any formal complaint, findings of the investigation and any form of redress for the complainant will be retained electronically in a separate file for 5 years, in accordance with the Council's Complaints Procedure. No reference will be made to any action taken against the teacher as a result of the complaint. However, where the matter investigated is a child protection issue and where the outcome has fallen short of requiring formal action but has been judged to be a cause for sufficient concern to warrant advice being provided to the teacher, then consideration will be given to retaining a note on the teacher's personal file recording the allegation and outcome.
- 3.7 This procedure also includes reference to "precautionary suspension", which must comply with the following principles:
- (a) The precautionary suspension must be on full pay and must not be associated with any assumption of guilt.
  - (b) Precautionary suspensions should only be used in the most serious cases of misconduct or poor performance or where the teacher's presence at the normal place of work could prejudice the investigation. Consideration could be given to a temporary transfer pending the conclusion of the investigation and any subsequent disciplinary process.
  - (c) All precautionary suspensions should be reviewed at agreed regular intervals (normally 10 working days).
- 3.8 For any allegation that indicates child protection concerns, the Child Protection guidelines ([Appendix 5](#)) will be used.

#### 4. **The Disciplinary Hearing**

- 4.1 A decision to proceed with a disciplinary hearing should be based on the evidence secured during the investigatory stage but should not be taken by the person who conducted the investigation. The purpose and format of disciplinary hearings is set out in Appendix 2.
- 4.2 Once a decision has been taken to proceed to a disciplinary hearing, the teacher should be informed, in writing, about:
- details of the allegations,
  - the date for the hearing,
  - the procedures to be followed at the hearing,
  - any rights under the disciplinary procedure, and

be provided with copies of the evidence that will be used during the disciplinary hearing including the Investigating Officer's report, any written evidence and the names and statements of any witnesses that will be called. The teacher should also provide the

employer with any such evidence that will be led in his or her defence within a reasonable time before any hearing. Written evidence, including witness statements, submitted for use in the disciplinary hearing should only contain matters relevant to the allegations to be considered at the hearing.

- 4.3 The person who is to receive the Investigating Officer's report (and, if different, the person who is to chair any subsequent disciplinary hearing), must remain independent of the investigation and should not seek or be provided with information on the case other than that contained in the Investigating Officer's report and associated written evidence, as described above.
- 4.4 The teacher (and/or trade union representative or a work colleague) 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.
- 4.5 The trade union representative or work colleague can address the hearing to put and sum up the teacher's case, respond on behalf of the teacher to any views expressed at the meeting and confer with the teacher during the hearing.
- 4.6 At the conclusion of the hearing, the chair (see 5.3 to 5.6 below) shall either announce his/her decision (to be confirmed in writing thereafter) or indicate that the decision will be communicated in writing within the agreed time limits (see 7.1 below).
- 4.7 If it is decided that no disciplinary action is to be taken, the teacher will be informed of this in writing. The investigation findings shall be retained in the teacher's personal file for 12 months. A record of any formal complaint, findings of the investigation and any form of redress for the complainant will be retained electronically in a separate file, for 5 years in accordance with the Council's Complaints Procedure. No reference will be made to any action taken against the teacher as a result of the complaint. However, where the matter investigated is a child protection issue and where the outcome has fallen short of requiring formal action but has been judged to be a cause for sufficient concern to warrant advice being provided to the teacher, then consideration will be given to retaining a note on the teacher's personal file recording the allegation and outcome.

## 5. Disciplinary Sanctions

- 5.1 All disciplinary sanctions shall be recorded in writing and shall remain in the teacher's personal file during the period of currency of the warning (see 7.2 below). In being advised of the disciplinary sanction which is being applied, the teacher 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.
- 5.2 The following disciplinary sanctions shall be available:
  - (a) Formal Oral Warning - for minor breaches of discipline, misconduct or continued poor performance. The warning must include reference to the fact that any further breach may render the teacher open to further disciplinary action.
  - (b) Written Warning - 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. The teacher must be informed that a further breach may result in further disciplinary action being taken.
  - (c) Final Written Warning - for serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a written warning. The teacher must be warned that any further breach may result in dismissal.

(d) Dismissal -

- (i) For serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists. The teacher must be informed in writing of the effective date of dismissal and whether the dismissal is summary or with notice.
- (ii) The following punitive sanctions are available in conjunction with a final written warning as an alternative to dismissal: demotion, transfer or suspension of an increment. Where a teacher does not agree to the application of the punitive sanction then the Council will have no alternative but to dismiss the teacher.

5.3 Head Teachers and Heads of Establishments will have overall responsibility for the management of teachers within their schools/establishments and will have the power to issue oral and written warnings.

5.4 Education Managers will have the power to issue oral, written and final written warnings.

5.5 Heads of Service will have the power to issue oral, written and final written warnings and in addition will have the power to dismiss a teacher in the circumstances set out in paragraph 5.7 below.

5.6 The Executive Director of Children and Families Service will have the power to issue all disciplinary sanctions available under these procedures, including dismissal.

5.7 The potential exercise of the power of dismissal will be governed by the following provisions:

- potential gross misconduct cases will be heard by the Executive Director of Children and Families Service, unless agreement can be reached that a Head of Service can substitute;

repeated misconduct cases, competence and capability cases will be heard by a Head of Service, unless it is agreed that a case is so complex, or so sensitive, or of such high profile that it should be heard by the Executive Director of Children and Families Service

5.8 In cases involving performance issues the GTCS Framework on Teacher Competence (Appendix 3a) should be followed at all times. Before taking action for dismissal, the Executive Director of Children and Families Service (or Head of Service as per paragraph 5.7) must ensure that the Code has been followed.

6. **Appeals**

6.1 Teachers will have the right of appeal against all disciplinary sanctions imposed by the authority. The table below outlines the appropriate level at which appeals should be heard:

<b>Nature of Warning</b>	<b>Issued by</b>	<b>Appeal Heard By</b>
Oral warning	Executive Director of Children and Families Service Head of Service Education Manager Head Teacher	Personnel Appeals Sub Committee Executive Director of Children and Families Service Head of Service/Director Education Manager/Head of Service/Director
Written warning	Executive Director of Children and Families Service Head of Service Education Manager Head Teacher	Personnel Appeals Sub Committee Director Head of Service/Director Education Manager/Head of Service/Director
Final Written Warning	Executive Director of Children and Families Service Head of Service Education Manager	Personnel Appeals Sub Committee Executive Director of Children and Families Service Head of Service/Director
Dismissal	Director Head of Service	Personnel Appeals Sub Committee Personnel Appeals Sub Committee

6.2 The final right of appeal against dismissal (or any punitive sanction issued as an alternative to dismissal) will be heard by the Personnel Appeals Committee.

## 7. Time Limits

7.1 The following time limits have been agreed for the Children and Families Service disciplinary procedures for teachers. Any time limits set should not prejudice a teacher's rights in cases of dismissal to submit a claim to an Employment Tribunal.

Aspects of Disciplinary Procedure	Normal Time Limit (Working Days)
Precautionary suspension	10 days until each review
Notification of decision to proceed to disciplinary hearing	10 days notice (minimum) but could be shorter by agreement in individual cases
Notification of decision of disciplinary hearing	5 days (maximum)
Time limit to lodge appeal	10 days (maximum) from receipt of written notification of decision of disciplinary hearing
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)
Investigation procedure	15 days

7.2 The following time limits must also be acknowledged in relation to the Council's Complaints Procedure:

Aspects of Procedure	Normal Time Limit (Working Days)
Stage 1	5 days
Stage 2	20 days

7.3 Other than the exception below all warnings will be expunged (i.e. removed from the teacher's personal file) at the expiry of the respective time limit. The only exception will be warnings issued for breach of the council's child protection policies. In those cases the warning will be disregarded for any future disciplinary purposes after the expiry of the respective time limit but will remain as a matter of record on a teacher's personal file. The investigation findings will be retained in the teacher's personal file for 12 months. In addition, a record of any formal complaint, findings of the investigation and any form of redress for the complainant will be retained electronically in a separate file for 5 years, in accordance with the Council's Complaints Procedure. No reference will be made to any action taken against the teacher as a result of the complaint.

7.4 The following time limits have been agreed for sanctions:

	Time Limit (Months)
Oral warning	6 months
Written warning	9 months
Final written warning	12 months

7.5 If an appeal is successful and the original disciplinary sanction withdrawn, any written reference to the disciplinary sanction shall be expunged from the teacher's personal file and the teacher notified accordingly. The investigation findings, however, will be retained on the teacher's personal file for 12 months. A record of any formal complaint, findings of the investigation and any form of redress for the complainant will be retained electronically in a separate file for 5 years, in accordance with the Council's Complaints Procedure. No reference will be made to any action taken against the teacher as a result of the complaint.

#### 7.6 Referral to the General Teaching Council for Scotland

The Children and Families Service must notify the General Teaching Council for Scotland immediately when a teacher:

- i. is dismissed on grounds of misconduct or incompetence
- ii. resigns or abandons her/his position in circumstances where otherwise
  - (s)he would have been dismissed on the grounds of misconduct or incompetence or
  - his/her dismissal would have been considered on grounds of misconduct or incompetence or
- iii. resigns or abandons her/his position, after being informed by the Children and Families Service that a disciplinary hearing is to be held in respect of the teacher's alleged misconduct or incompetence.

In such cases the Children and Families Service will provide the GTCS with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.