

# **Disciplinary Code Policy and Procedure**

## **Teachers and Associated Professionals**

### **Version: 2**



# Contents

## Section 1: [Discipline Policy & Procedure for Teaching Staff](#)

### 1.1 [Introduction](#)

## Section 2: [Code of Discipline for Teaching Staff](#)

### 2.1 [Aims](#)

### 2.2 [Responsibilities](#)

### 2.3 [Principles](#)

### 2.4 [Notice](#)

### 2.5 [Listing Offences](#)

### 2.6 [Gross Misconduct](#)

### 2.7 [Unsatisfactory Conduct](#)

### 2.8 [Role of Management](#)

### 2.9 [Role of the HR Adviser](#)

### 2.10 [Role of Legal Adviser](#)

## Section 3: [Disciplinary Procedure](#)

### 3.1 [Scope](#)

### 3.2 [General](#)

### 3.3 [Trade Union Officials](#)

### 3.4 [Immediate Suspension from Duty](#)

### 3.5 [Investigation](#)

### 3.6 [Representation](#)

## Section 4: [Informal Procedure](#)

### 4.1 [Recording](#)

## Section 5: [Formal Procedure](#)

### 5.1 [Action Following Formal Hearing](#)

### 5.2 [Permitted Penalties within Formal Procedure](#)

## Section 6: [Appeal Procedure](#)

### 6.1 [Levels of Authority Applying to Formal Disciplinary Penalties](#)

### 6.2 [Employment Tribunals](#)

## Related HR Documents

- HR Guide – Investigating Officers – Teachers
- HR Guide – Subject to Investigation - Teachers
- HR Guide – Witnesses – Teachers
- Stage 2 Support Plan – Teachers Competence
- Formal Disciplinary Invite – Teachers
- Invite to Investigatory Interview – Employee – Teachers
- Invite to Investigatory Interview – Witness – Teachers
- Letter advising disciplinary allegations
- Letter appeal hearing – Teacher
- Letter dismissal notice to be worked – Teacher
- Letter Extension of Suspension on full pay – Teacher
- Letter Final Written Warning – Teacher
- Letter Oral Warning – Teacher
- Letter Outcome of appeal not upheld – Teacher
- Letter Outcome of appeal upheld – Teacher
- Letter Payment in lieu of notice – Teacher
- Letter Rearranged Hearing Failed to Attend – Teacher
- Letter Rearranged Hearing – Teacher
- Letter Summary Dismissal – Teacher
- Letter Suspension on full pay – Teacher
- Letter Written Warning – Teacher

All of the template letters and forms referenced in this document are available on the Councils Intranet site '[Connects](#)'.

## Version Control

Version Number	Effective Date	Details of Last Revision
Version 2	17.02.21	Updated and put onto accessible version
Version 1	15.02.10	

**Prepared by: HR Team**

# 1. Discipline Policy and Procedure for Teaching Staff

## 1.1 Introduction

The Code of Discipline is necessary for the fair and consistent treatment of all employees and in conjunction with the Disciplinary Procedure, sets standards of conduct and behaviour at work. The Code and its related procedures have been jointly agreed between the Council and appropriate Trade Unions.

The Disciplinary Policy and Procedure is not used to address sickness absence which should be addressed under the Maximising Attendance Procedure.

# 2. Code of Discipline for Teaching Staff

## 2.1 Aims

The purpose of this Code is to provide:

- a sound basis for the maintenance of discipline for all employees of the council;
- a clear understanding between management and employees of the need for discipline; and
- a mutually acceptable and well-publicised procedure for dealing with breaches of discipline.

## 2.2 Responsibilities

The formulation of disciplinary rules, including the classification of offences, has been undertaken as a Management responsibility.

Director/Head of Service will be responsible for ensuring that the rules and accepted standards of conduct are made known to all employees.

Employees, for their part, are required to familiarise themselves with the rules and standards and to abide by them.

## 2.3 Principles

The Code outlines the essential features of a fair and reasonable disciplinary procedure.

The underlying thrust of the Code is that discipline need not always be punitive; it is also meant to raise the level of understanding, bring employees' alleged shortcomings to their attention and provide an opportunity for corrective action to be

taken. Before any action, the matter should be thoroughly investigated and the employee should be made aware of the cause for complaint and be given an opportunity to state their case.

The principles enshrined in this code are:

- To encourage the employee whose conduct or standard of work is unsatisfactory to take corrective action.
- To deal with disciplinary issues as quickly as possible, consistent with thorough investigation of the facts at each stage.
- To ensure that employees are fully informed of the complaint(s) against them prior to a formal disciplinary hearing.
- To provide that an employee suspended pending investigation or formal hearing must be entitled to full pay.
- To ensure that the employee is made aware of their alleged shortcomings and given the opportunity to state their case at the disciplinary hearing before disciplinary action is taken.
- To ensure that the employee is informed in writing of any disciplinary action taken and the reason for it, the right of appeal, how to lodge an appeal and the timescales applied.
- To ensure that an employee will have the right of appeal against all disciplinary decisions.
- To ensure that the employee has the right at any stage of the procedure to be represented by a trade union representative or other appropriate work colleague of their choice.
- To ensure that the level of management authorised to impose each form of disciplinary action is clearly specified.
- To allow for both parties to maintain, independently, a written record of proceedings.

To recognise that, following any preliminary investigation, it may become clear to the investigating officer that no formal procedure is required but that one or more employees involved in the investigation may require guidance as to their method of work or general conduct. Such guidance or counselling is part of normal supervision and is not part of the disciplinary procedure.

## 2.4 Notice

Employees will not normally be dismissed for a first offence but cases of Gross Misconduct will lead to summary (instant) dismissal without any prior warning, oral or written.

If employment is terminated in those circumstances, the employee has no entitlement to notice or payment in lieu of notice under the Employment Rights Act 1996. Types of offences which constitute Gross Misconduct are outlined below.

In circumstances where dismissal, other than summary dismissal, occurs, payment in lieu of notice will be made or, if appropriate, the employee will be required to work the period of notice.

## 2.5 Listing Offences

Whilst it is not possible to list all offences or to specify the nature of the disciplinary action in each case, every offence must be carefully considered and if disciplinary action is to be taken, due weight must be given to the gravity of the offence, the employee's record and mitigating circumstances.

## 2.6 Gross Misconduct

The definition as to whether the employee's conduct can be construed as Gross Misconduct will be dependent on the full consideration of all the facts and circumstances.

Gross misconduct is generally seen as misconduct serious enough to make any further working relationship and trust between the employee and employer untenable.

The following list of examples of gross misconduct offences is intended only to ensure that employees and management recognise the nature and seriousness of breaches of discipline which **MAY** be regarded as gross misconduct: -

Fighting, Theft, Fraudulent salary/wage or other payment claims, Deliberate falsification of records, Assault on another person, Deliberate damage to Council property, harassment, and serious breach of Health and Safety Procedures.

The above list is neither exhaustive nor exclusive.

## 2.7 Unsatisfactory Conduct (other than Gross Misconduct)

Instances of failure to observe and maintain discipline, which are less serious than offences constituting Gross Misconduct, are termed Unsatisfactory Conduct. These will lead to warnings which is action short of dismissal.

Examples of offences under this heading may include: -

Bad Timekeeping, Unauthorised Absence from work, Unacceptable standard of work performance and misuse of Council equipment.

The above list is neither exhaustive nor exclusive.

## **2.8 Role of Management**

In accordance with the code of Discipline, the Council has delegated to the Executive Director responsibility for ensuring the maintenance of disciplinary standards. It is recognised, however, that it is appropriate for the Director to delegate this authority to nominated officers under their control. It will be for the Director to determine the nominated officers and the limit of their authority and in doing so, account should be taken of special requirements for staff based in locations where appropriate senior officers may not always be available or in attendance. The Director and Heads of Establishment shall ensure that appropriate records of investigations, disciplinary hearings and appeals are held.

## **2.9 Role of the HR Adviser**

The Head of People & ICT or delegated HR Adviser is available to offer advice to Management in the consideration of matters under the Code and Procedures. Although local management is responsible for the investigation and conduct of the hearings, the HR Team has up-to-date and expert knowledge which will assist in interpreting the Code and Procedures, in terms of the practice throughout the Council, standards set by case law, external codes of practice etc.

## **2.10 Role of the Legal Adviser**

The Head of Service (Democratic) may, at the request of Heads of Service, appoint a legal adviser to provide advice to the Director or Heads of Service where considered appropriate and assist in the preparation of any Employment Tribunal cases or issues that require a response in a potential legislative context.

# **3. Procedures**

## **3.1 Scope**

3.1.1 This procedure covers Teaching staff and all other education staff governed by the SNCT, (hereinafter referred to as “Teacher”) in North Ayrshire Council whether employed as employees or workers as defined in the Employment Rights Act, 1996.

3.1.2 This procedure, which is developed from the Disciplinary Framework in the SNCT Handbook, Part 2: Appendix 2.11, the General Teaching Council for Scotland (GTCS) Framework on Teacher Competence and the ACAS Code of Practice Disciplinary and Grievance Procedures, sets out the actions to be taken in the event that a Teacher’s performance or conduct give rise to serious concern.

3.1.3 “Performance” may also encompass issues of competence that have been heard in accordance with the Informal and Support Stages of the GTCS Framework on Teacher Competence set out in [Appendix 2.12](#) of the SNCT Handbook. “Performance” may encompass issues of Incapability.

3.1.4 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 as contained in the current [GTCS Standards for Leadership and Management](#).

3.1.5 The procedure for exercising a right of appeal against Formal Disciplinary action is included below.

## 3.2 General

3.2.1 Disciplinary issues must be dealt with as quickly as possible, consistent with thorough investigation of the facts and diligent application of the procedure.

3.2.2 The Teacher concerned must be made aware of their alleged shortcomings as soon as possible and given the opportunity to state their case at an investigatory interview before disciplinary action is taken under either the Informal or Formal procedures. When disciplinary action is taken, wherever possible, there shall be appropriate support mechanisms put in place.

3.2.3 This procedure includes certain time limits for the holding of interviews and Hearings. These should normally be adhered to but because of practical difficulties that may arise in securing the attendance of persons essential for a Hearing, time limits can, in exceptional circumstances, be extended by mutual agreement.

3.2.4 The use of tape recorders by any party at any point in the procedure is forbidden.

## 3.3 Trade Union Officials

3.3.1 Disciplinary action shall not be taken against a Teacher who is an official of a recognised Trade Union until there has been discussion of the case with a full-time officer of the Union. In cases of immediate suspension (see below), the full-time officer shall be advised by the Head Teacher at the time or as soon as possible thereafter of the suspension and the circumstances concerned.

## 3.4 Immediate Suspension from Duty

- 3.4.1 Immediate suspension from duty shall only occur in exceptional circumstances where the Head Teacher (and in appropriate circumstances, the Head Teacher in consultation with the Head of Service) consider(s) the alleged misconduct to be inconsistent with the Teacher's continued attendance at work or to allow a proper investigation of the incident/situation to take place.
- 3.4.2 As an alternative, it may be appropriate to temporarily transfer a Teacher to another establishment. There is no appeal against the decision for an immediate suspension or transfer. However, in exceptional circumstances, a Teacher may be able to seek a review of the decision to suspend. This review shall be carried out by the Head of People and ICT.
- 3.4.3 A formal Disciplinary Investigation shall be completed as soon as possible (but in most cases normally within a maximum of 15 working days) and the Teacher advised of any action to be taken under the Informal or Formal procedures as noted below. Notwithstanding this, a Teacher's suspension shall be reviewed within ten working days, commencing with the working day after the Teacher was suspended, and subject to review each ten working days thereafter.
- 3.4.4 A Teacher suspended pending/during investigation or Disciplinary Hearing shall receive full pay and maintenance of conditions.

## 3.5 Investigation

- 3.5.1 Prior to any disciplinary action under either the Informal or Formal Procedures noted below, the Head Teacher responsible – referred to as the "Responsible Manager" shall arrange for the incident(s) to be investigated thoroughly and promptly. He/she shall appoint a Depute Head Teacher or appropriate nominated officer - referred to as the "Investigating Officer"- to establish the facts and circumstances of the incident (or series of incidents). The nature of the incident shall determine who requires to be involved, and the depth of and the time required for the investigation. Nevertheless, the investigation should be completed as soon as possible consistent with proper and thorough investigation.
- 3.5.2 The Teacher whose conduct is being investigated shall be given a clear indication of the nature and purpose of the investigation and procedures to be followed at the interview in advance of the interview with the Investigating Officer.
- 3.5.3 This Investigating Officer shall report back to the Responsible Manager on the findings of the investigation and this date shall be recorded formally as the completion date of the investigation. The Responsible Manager shall decide on the action to be taken based on the report of the Investigating Officer.

3.5.4 During the investigation, it may become clear to the Investigating Officer that it would be more appropriate to deal with the matter under the Informal Procedure outlined below.

3.5.5 Where the Responsible Manager considers that there is no complaint to be answered, the employee shall be seen and advised accordingly and all matters pertaining to the investigation shall be expunged from the Teacher's personal file.

3.5.6 Where the Responsible Manager considers that there is a complaint to be answered, action shall be taken under the disciplinary procedures as noted below.

3.5.7 If prior to or during the course of the investigation the Investigating Officer becomes aware that the Teacher's actions may either involve police enquiries, result in criminal charges or be the subject of a court case, the information shall be reported to the Responsible Manager. The Responsible Manager shall report this to the HR Adviser and appropriate Head of Service before any further action is taken.

3.5.8 Following discussion with the HR Adviser, the Head of Service shall decide on the action to be taken which may result in the Council investigation being temporarily suspended in the light of police enquiries. Where it is agreed that the investigation shall continue, the Investigating Officer shall proceed with and complete the investigation.

## 3.6 Representation

3.6.1 A Teacher shall have the right to be represented at all stages of the disciplinary process, including investigatory meetings by a single companion who is either a: -

- Fellow employee; who is another North Ayrshire Council employee; or
- A full time trade union official employed by a trade union, or a lay trade union official so long as they have been reasonably certified in writing by their union as having experience of or has having received training in acting as a worker's companion at a disciplinary Hearing.

3.6.2 Reasonable time off with pay shall be given to allow the Teacher, the fellow employee or lay representative both to prepare before the Interview or Hearing and for the actual Interview or Hearing.

3.6.3 When meeting within the Informal Procedure or at a Formal Hearing, a Teacher can offer an alternative hearing date where the representative cannot attend on the date proposed by the Responsible Manager. However, the Hearing shall normally be re-arranged within five working days beginning with the working day after the day proposed by the Responsible Manager.

## 4. Informal Procedure

- 4.0.1 The Informal Procedure is available to allow support and guidance of a Teacher and is separate from the Formal Procedure.
- 4.0.2 The Informal Procedure may be appropriate where, for example there is a minor breach of rules or conduct that if left unchecked, could lead to more serious misconduct or where there is a need to take action as a direct consequence of an investigation. There will, however, be a genuine management belief that the Teacher's behaviour/actions can be best resolved without recourse to the Disciplinary Procedure and within an informal environment - such environment being more conducive to preventing further repetition of the Teacher's action(s). This action does not require pre investigation, but action under this procedure shall be supported by the necessary relevant information.
- 4.0.3 The Informal Procedure may also be appropriate for addressing issues of temporary under-performance as defined by the GTCS Framework on Teacher Competence; and as an alternative to Formal Procedures in dealing with other performance issues.
- 4.0.4 However, where the incident or conduct is of a more serious nature, the matter must be referred directly to the Formal Procedure and the Teacher shall not require to have been through the Informal Procedure as a pre-requirement of action under the Formal Procedure.
- 4.0.5 Under the Informal Procedure, the Head Teacher or nominated officer shall advise the Teacher that they are being seen under the Informal Procedure and make him/her aware of and discuss with the employee their shortcomings. Following discussion if there is no case to answer, the Teacher shall be so advised and all matters pertaining to the case shall be expunged from the Teacher's personal file.
- 4.0.6 If as a result of the discussion, it is clear that an improvement in the Teacher's conduct is required, the Teacher shall be made fully aware of this and, where appropriate, the timescales over which such improvement shall be reached and thereafter maintained. The Teacher shall also be made aware that if there is no improvement in their performance or conduct, then the next stage shall be instigated, and the Teacher dealt with under the Formal Procedure.
- 4.0.7 Progress towards the expected improvement in conduct shall be jointly reviewed and confirmed in writing to the Teacher by the Head Teacher or nominated officer. Appropriate support mechanisms and/or Professional development opportunities must be made available to the Teacher.
- 4.0.8 During discussion it may become obvious that the matter (i.e. the same issue) for which the Teacher is being seen under the Informal Procedure is more serious and should be dealt with under the Formal Procedure. In such circumstances, the interview shall be terminated, and the Teacher advised that

the matter shall be dealt with under the Formal Procedure which requires an investigation.

## 4.1 Recording

- 4.1.1 Records of all formal disciplinary proceedings (including the Computerised Human Resource Computer system (CHRIS)) shall be retained at Service level. It shall be the responsibility of the Executive Director/Heads of Service to designate an officer (henceforth known as the “Designated Officer”) who shall maintain such records.
- 4.1.2 The record of formal disciplinary hearings and their outcome shall be contained within the CHRIS system and this will be the responsibility of the Designated Officer. The Executive Director/Heads of Service through the Designated Officer shall have access to their own employees’ records.

## 5. Formal Procedure

- 5.0.1 Where after investigation, it is the view of the Responsible Manager that an incident or series of incidents justifies action beyond the Informal Procedure, disciplinary action shall be taken under the Formal Procedure.
- 5.0.2 The Responsible Manager may either deal with or refer any disciplinary action to the Executive Director or appropriate Head of Service for attention. The officer who deals with disciplinary action under the Formal Procedure shall be known as the “Disciplinary Officer.”
- 5.0.3 Where it is considered to be appropriate and/or practicable, the Responsible Manager shall meet with the Teacher concerned. At this meeting the Teacher shall be advised of the alleged misconduct, told of the requirement to attend a Formal Disciplinary Hearing conducted by the Disciplinary Officer and be advised of their right to be represented at that Hearing. No other matters shall be discussed or considered at that meeting.
- 5.0.4 Irrespective of the meeting noted above being held, the nature of the alleged misconduct must then be described in writing to the Teacher (and their representative if the Teacher so wishes) within five working days commencing with the working day following the official date of completion of the investigation.
- 5.0.5 The written notification shall also include the time, date and venue on which the Formal Hearing shall be heard. The Teacher shall be given a minimum of ten working days’ notice of the Formal Hearing, although this period may be varied by mutual agreement in individual cases. The period of notice will commence with the working day following the official completion date of the investigation.
- 5.0.6 The Teacher shall be provided with copies of evidence that will be used during the Hearing including any written evidence and the names of any witnesses to be called. The Teacher shall also provide the Disciplinary Officer with similar

evidence that will be used in their defence within a reasonable period of time before the Hearing. However, where such information or documentation could compromise confidentiality or vulnerable parties, the Disciplinary Officer shall discuss this with the teacher and their representative and agree the appropriate action.

5.0.7 The Formal Hearing shall be conducted by the Disciplinary Officer who shall consider the case presented by management, the Teacher and their representative if present. The Disciplinary Officer shall decide to either award a penalty or not. If no action is taken, all matters pertaining to the case shall be expunged from the Teacher's personal file.

5.0.8 Where, as a result of or during the Formal Hearing, a Teacher admits to an alcohol or drug dependency problem that is material to the misconduct involved, action shall be taken based on the facts of the case. However, any disciplinary action shall be suspended from the date of the Hearing, and the matter dealt with under the Council's Policy on Alcohol, Drug and Gambling.

5.0.9 This policy provides for management to arrange an initial appointment with an appropriate help agency. Where the Teacher is accepted by the help agency as having an alcohol, drug or gambling addiction, the Teacher shall undergo a period of treatment with the agency. Regular reports shall be received by the Disciplinary Officer to monitor the progress of the Teacher with their treatment.

5.0.10 Where it is not accepted by the appropriate agency either that the Teacher has an addiction problem, or if the Teacher refuses treatment or, if at any point the Teacher fails to comply with the period of treatment, the Disciplinary Officer, shall be advised immediately. The Teacher shall then be advised immediately that the disciplinary penalty suspended at the Hearing shall be reviewed and if considered appropriate, the original or revised penalty imposed.

5.0.11 Where the Teacher successfully undergoes a recovery period of treatment, the Disciplinary Officer shall advise the Teacher that no action will be taken, and the penalty imposed deleted from the record. However, the Teacher shall also be advised that any further misconduct shall be dealt with strictly on the facts and no further referrals shall normally be available.

## **5.1 Action Following Formal Hearing**

5.1.1 At the Formal Hearing the Disciplinary Officer shall consider all the facts and advise the Teacher of their findings. The Teacher shall be advised whether or not any penalty has been awarded and where a penalty is awarded, the details and terms of that penalty. The Teacher shall also be advised of the action that will result if he/she repeats the misconduct or performance is not improved; and the availability of appropriate support to allow him/her to achieve and maintain improvement. If no action is taken, all matters pertaining to the case shall be expunged from the Teacher's personal file.

- 5.1.2 The decision of the Disciplinary Officer shall be recorded in writing to the Teacher specifying the breach of conduct, the penalty and the action that may or shall be taken if a further breach occurs. A copy of the letter shall be retained in the Teacher's personal file.
- 5.1.3 Where a penalty is awarded, the Teacher's right of appeal and to whom the appeal is sent shall also be advised to the Teacher and shall be clearly stated in the letter.
- 5.1.4 The Designated Officer shall ensure that the penalty awarded is recorded on CHRIS.
- 5.1.5 The permitted penalties that can be awarded are given below. Apart from gross misconduct, a Teacher shall not normally be dismissed for the first breach of discipline. The penalties which shall have immediate effect are also detailed below.
- 5.1.6 At the expiry of a disciplinary action period, the record shall be disregarded for determining the penalty for any future misconduct. However, the record shall be kept from the expiry of the disciplinary action period until a further period of five years has elapsed. Thereafter, the record shall be expunged from the Teacher's personal file.

## 5.2 Permitted Penalties within Formal Procedure

- 5.2.1 There are three levels of penalties that can be awarded, and these are not necessarily imposed in a strictly hierarchical or sequential way. There may be occasions when, depending on the seriousness of the offence, it will be appropriate to enter the procedure at a level up to and including a Final Written Warning. However, this is subject to incidences of gross misconduct being dealt with by dismissal without notice.
- 5.2.2 There may be occasions when a Teacher's conduct is satisfactory throughout the period a warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, the Teacher's disciplinary record shall be borne in mind by the Disciplinary Officer in deciding how long any current warning shall last. A pattern shall be defined as three or more occasions of misconduct of a similar nature in a period of five years.

### First Warning

- (i) The First Warning shall be either an oral warning or a written warning depending on the seriousness of the offence. Minor offences shall result in an oral warning and more serious offences shall result in a written warning.
- (ii) An oral warning shall be retained in the Teacher's personal file for a period of six months, and a written warning for a period of nine

months. A warning shall be disregarded after either this six or nine month period has elapsed, as appropriate, and after a further period of five years has elapsed, the record shall be expunged from the Teacher's personal file. Evidence of such disciplinary action can be used during the period it is retained in the Teacher's personal file in the case of subsequent disciplinary action.

## Final Written Warning

- (i) The Final Written Warning is for serious breaches of discipline, misconduct or continued poor performance following receipt of a written warning. The warning to the Teacher must specify that further misconduct may lead to dismissal.
- (ii) The warning shall be retained in the Teacher's personal file for a period of 12 months. A final written warning shall be disregarded after this 12 month period has elapsed and after a further period of five years has elapsed, the record shall be expunged from the Teacher's personal file.
- (iii) Where the misconduct relates to a breach of the Council's child protection policies, the warning may be retained for an indefinite period or for a period as determined by the Disciplinary Officer and this shall be made clear to the Teacher.
- (iv) Evidence of such disciplinary action can be used during the period it is retained in the Teacher's personal file in the case of subsequent disciplinary action.

## Action Short of Dismissal

- (i) Where, during the currency of a final written warning, the Teacher's misconduct is serious but is considered that in all the circumstances does not merit the sanction of dismissal, the Disciplinary Officer can award the punitive sanction of Action Short of Dismissal (see below).
  - Demotion (with the pay associated with the new post),
  - Transfer (with the pay associated with the new post), or
  - Suspension of an increment.

Such sanction shall also include a final written warning that further misconduct may lead to the Teacher's dismissal.

- (ii) The record of the penalty shall be retained in the Teacher's personal file for a minimum period of 12 months from the date of

the Disciplinary Hearing, the total period to be decided by the Disciplinary Officer and this shall be made clear to the Teacher.

- (iii) However, where the misconduct is of such a serious nature that it cannot be disregarded for future disciplinary purposes, the Disciplinary Officer may direct that the warning is to be retained indefinitely and this shall be made clear to the Teacher. However, this indefinite warning shall be subject to review by the Disciplinary Officer.
- (iv) Action short of dismissal warning shall be disregarded after the period determined by the Disciplinary Officer has elapsed. After a further period of five years has elapsed, the record shall be expunged from the Teacher's personal file. (NB This does not refer to indefinite warnings except when the review referred to above has resulted in an end date being set for the warning period).

## Dismissal

- (i) Dismissal is available 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.

5.2.3 Where a penalty is awarded as above, the Teacher shall be notified in writing of the penalty within five working days commencing with the day following the Hearing.

5.2.4 Where the penalty is awarded under action short of dismissal outlined above, such penalty shall not necessarily have immediate effect. However, the Teacher shall be notified of the penalty within five working days commencing with the day following the Hearing, stating the reasons for its imposition and the arrangements that will apply in any interim period. At the same time, the Teacher shall be notified of the right of appeal and to whom such an appeal should be made (see paragraph 12 below).

5.2.5 Where it is considered inappropriate for the Teacher to return to their existing post prior to the transfer, consideration shall be given to suspension with full pay until a suitable position is identified and notified to the Teacher. Identification of a suitable position shall be made within ten working days following the date of the Hearing.

## 6. Appeals

- 6.0.1 There is a right of appeal against disciplinary action as set out below and there shall be one level of appeal within North Ayrshire Council.
- 6.0.2 An appeal can be made against (i) the decision resulting; (ii) the penalty awarded at a Formal Disciplinary Hearing if the teacher (appellant) disputes the facts of the case as presented.
- 6.0.3 The appeal against a decision or penalty shall be made in writing by the appellant or, on behalf of the appellant, by their representative. Normally, the appeal must be made within 14 calendar days commencing with the day following the date on which the letter is sent by management notifying the appellant of the result of the Formal Disciplinary Hearing. Consideration will, however, be given where the Teacher, because of exceptional circumstances, cannot respond within the 14 day timescale, e.g. school holiday period. In such cases, the written statement setting out the grounds of the appeal can be submitted separately from the appeal letter provided it is submitted no later than five working days following the re-commencement of the school.
- 6.0.4 The appeal, stating the grounds on which it is made, shall be sent to the management official stated in the notification of the penalty who shall be responsible for the arrangements of the appeal except for appeals against Action Short of Dismissal and Dismissal which shall be sent to the Head of People and ICT.
- 6.0.5 The appeal shall be heard by the Executive Director or nominated Head of Service, the principle being that it shall be held by an officer who is senior to the Disciplinary Officer issuing the penalty. This shall apply to all appeals except for appeals against Action Short of Dismissal and Dismissal or where the Disciplining Officer is the Executive Director, in which event the Appeal shall be heard by the Appeals Committee of North Ayrshire Council.
- 6.0.6 The level of appeal shall be dependent upon the penalty. Details of management officials who are authorised to hold disciplinary hearings/issue penalties and those who shall hear appeals are detailed as noted below.
- 6.0.7 The appellant shall be given notice in writing of the time and place of the appeal. This shall be not less than seven days in advance commencing with the day following the date on which the notice was sent, unless otherwise mutually agreed.
- 6.0.8 At the appeal, the Appeals Committee of North Ayrshire Council or the Higher Management Official as appropriate shall have the power to revoke, confirm or vary the decision and/or penalty previously imposed.

6.0.9 Where the penalty is confirmed or varied, the penalty shall remain on the Teacher’s personal file as determined by the Disciplinary Officer or Appeals Committee as appropriate. At the expiry of the disciplinary action period the record shall be disregarded/expunged as noted above. Where an appeal is upheld and the original disciplinary sanction is revoked, any written reference shall be expunged from the Teacher’s personal file and the Teacher notified accordingly.

6.0.10 The result of the appeal shall be notified in writing to the appellant and their representative within 14 days commencing with the day following the appeal. This notification shall be provided by or on behalf of the Chair of the Committee in respect of the Appeals Committee of North Ayrshire Council Hearing or by the Higher Management official for all other appeals.

6.0.11 The necessary time off with pay, etc, shall be granted to witnesses at an Appeal Hearing but it is the responsibility of the appellant and the representative to call and to arrange for the attendance of any witnesses for the appeal that they require. The appellant shall also ensure that where witnesses are Council employees, they have received authorisation to leave their place of work from their Head Teacher or nominated officer.

6.0.12 The Designated Officer shall record the outcome of the Appeal on CHRIS.

## 6.1 Levels of Authority Applying to Formal Disciplinary Penalties

The table below sets out the levels of authority for Formal Disciplinary action and Appeals against such action.

<b>Penalty</b>	<b>Disciplinary Officer</b>	<b>Appeal Hearing Officer or Appeals Committee</b>
First Warning (Oral or Written)	Executive Director*, Heads of Service Head Teacher or nominee	Executive Director Heads of Service
Final Written Warning	Executive Director, Heads of Service or nominee	Appeals Committee of North Ayrshire Council

(i) Punitive Sanction of Action Short of Dismissal, or, (ii) Dismissal	Executive Director or Heads of Service	Appeals Committee of North Ayrshire Council
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\* Where the Executive Director is the Disciplining Officer, the Appeal shall be heard by the Appeals Committee of North Ayrshire Council.

## 6.2 Employment Tribunals

An appellant may be able to apply to an Employment Tribunal and should seek independent advice.