

PERRYFIELDS PRIMARY PRU



PERFORMANCE MANAGEMENT, CAPABILITY AND DISCIPLINARY POLICY

Review Date	Developed and Reviewed Date	Reviewer (Who?)	Approved By Name and Date
October 2020	October 2020	Education Sub Committee	Ratified by Management Committee 12.12.2020
February 2023	January 2023	Education Sub Committee Chair SLT	Management Committee 07.02.2023
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Signature of Chair	

1. Statement of intent

This policy sets out the framework for clear and consistent assessment of the overall performance of teachers, including the headteacher. It is designed to support teachers' development, within the context of the school's plan for improving educational provision and performance, and the standards expected of teachers.

Additionally, it sets out the arrangements that will apply when teachers fall below the expected levels of competence, whether that be capability or disciplinary.

The main purpose of the disciplinary procedure is to encourage an employee, whose standard of work or conduct is unsatisfactory, to improve. The procedure serves to ensure that this is done in a fair and consistent manner.

The disciplinary procedure is not contractual and may be varied by the school. Perryfields Primary PRU expressly reserves the right to depart from the terms of the disciplinary procedure in circumstances where the employee does not have two years' qualifying service.

The disciplinary procedure is strictly confidential and all aspects, including all documentation and records, shall be treated as such. In line with this policy, the following will be adhered to:

- In minor cases of alleged misconduct, the manager should initially seek to resolve the matter informally by discussion with the employee.
- The disciplinary procedure is to be used where an employee's work or conduct is alleged to be unsatisfactory.
- Each step and action under the procedure must be taken without unreasonable delay, by either the school or the employee.
- The timing and location of meetings must be reasonable.

Please note: Disciplinary actions that relate to allegations of abuse about a member of staff will also be managed in line with the Allegations of Abuse Against Staff Policy.

Unless indicated otherwise, all references to "teacher" include the headteacher.

2. Legal framework

2.1 This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- The School Staffing (England) Regulations 2009 (as amended)
- The Education Act 2011
- DfE (2011) 'Teachers' Standards'
- The Education (School Teachers' Performance management) (England) Regulations 2012
- The Teachers' Disciplinary (England) Regulations 2012
- DfE (2014) 'The Equality Act 2010 and schools'
- DfE (2020) 'Governance handbook'

- DfE (2019) 'Teacher performance management and capability: A model policy for schools'
- DfE (2020) 'Teacher misconduct: disciplinary procedures for the teaching profession'
- DfE (2021) 'Staffing and employment advice for schools'
- DfE (2019) 'Implementing your school's approach to pay'
- ACAS (2015) 'Code of practice on disciplinary and grievance procedures'
- DfE (2022) 'Teacher misconduct: the prohibition of teachers'
- DfE (2023) 'Keeping children safe in education 2023'

2.2 This policy operates in conjunction with the following school policies:

- Data Protection Policy
- Whistleblowing Policy
- Teachers' Pay Policy
- Staff Absence Policy
- Staff Code of Conduct
- Safeguarding and Child Protection Policy
- Grievance Policy
- Allegations of Abuse Against Staff Policy
- School Development Plan

3. Roles and responsibilities

3.1 The Management Committee is responsible for:

- Ensuring the effectiveness of this policy by monitoring and reviewing it annually.
- Ensuring that the performance management process is managed in a way that avoids increased workload for all parties concerned.
- Ensuring that all members of staff have read and understood the provisions in this policy.
- Appraising the headteacher and setting their objectives, with advice from an appropriate external adviser.
- Ensuring all objectives contribute towards the School Development Plan and improve the education of pupils at the school.
- Taking advice from an external adviser on the assessment of the headteacher's performance.
- Providing the headteacher with their agreed performance management report.
- Ensuring all members of the board are informed that the performance management process has taken place.
- Ensuring all members of the board are informed that that the review process has taken place.
- Making a recommendation on headteacher's pay, where relevant.
- Ensuring consistency of treatment and fairness, and abiding by all relevant equality legislation.
- Ensuring all delegated responsibilities are carried out.

- Determining the performance management period that applies to teachers (including the headteacher).
- Ensuring that performance management evidence informs other decisions, including decisions related to professional development and pay.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Conducting formal capability meetings where there are concerns about the headteacher's performance.
- Initiating disciplinary action and deciding the appropriate level of action where an allegation is made against the headteacher.
- Ensuring a culture is established where employees are supported and assisted in achieving and maintaining the required standards of conduct.
- The dismissal of staff and for delegating the hearing of appeals to a sub-committee, if necessary.
- Once a decision to dismiss has been taken, dismissing the teacher or headteacher in question with notice. This will be done with the support of the LA.

3.2 The headteacher is responsible for:

- The day-to-day implementation of this policy.
- Ensuring that the performance management process is managed in a way that avoids increased workload for all parties concerned.
- Deciding who will appraise teachers.
- Informing teachers of the standards against which their performance in the set performance management period will be assessed.
- Conducting drop-in observations, where necessary, to evaluate standards of teaching and ensure high standards of professional performance are maintained.
- Providing teachers with their performance management reports or delegating this task, as appropriate.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Conducting formal capability meetings where there are concerns about a teacher's performance.
- Initiating disciplinary action and deciding the appropriate level of action.
- Ensuring records are kept of all disciplinary meetings and communications with employees.
- Ensuring that all documentation relating to disciplinary issues is retained in accordance with the schools Data Protection Policy.
- If a matter progresses to a disciplinary hearing, presenting details of the employee's failure to meet and maintain the required standards of conduct.
- Communicating the outcomes of disciplinary procedures to employees.
- If a matter concerns a safeguarding issue, ensuring the DSL has been notified.

3.3 Teaching staff and other employees are responsible for:

- Improving their teaching through proactive engagement in appropriate CPD opportunities.
- Voicing concerns where they believe the performance management process is causing unnecessary challenges, e.g. in terms of wellbeing or workload.
- Attending performance reviews whether that be regarding performance management or capability.
- Familiarising themselves with the standards outlined in the Staff Code of Conduct.
- Adhering to the provisions outlined in this policy and cooperating with the disciplinary procedure.
- Attending all meetings, interviews and hearings that take place in accordance with this policy and its associated procedure.
- Lodging appeals to the headteacher within five working days of receiving a decision.
- If choosing to be accompanied to a disciplinary or appeal hearing, notifying the disciplinary officer who their chosen companion is, in good time before the hearing.
- Adhering to this policy at all times.

4. General principles underlying this policy

4.1 Confidentiality

The performance management process will be treated with confidentiality; however, the desire for confidentiality does not override the need for the headteacher and the Management Committee to quality-assure the operation and effectiveness of the performance management, capability or disciplinary systems.

This will be achieved by the headteacher and Management Committee:

- Personally reviewing a sample of teachers' performance management records for consistency.
- Being informed of any pay recommendations that have been made and the rationale behind these.

4.2 Consistency of treatment and fairness

The Management Committee is committed to ensuring consistency of treatment and fairness throughout the performance management, capability or disciplinary process.

It is also committed to ensuring that all teachers, regardless of their protected characteristics, are treated fairly, and recognises that identical treatment and evaluation processes may not be fair for all teachers. The Management Committee will ensure that reasonable adjustments are made to the performance management, capability or disciplinary process where appropriate and necessary, e.g. for teachers with disabilities.

The Management Committee are aware of the guidance on the Equality Act 2010 issued by the DfE.

4.3 ACAS 'Code of Practice on Disciplinary and Grievance Procedures'

The capability procedure section of this policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

4.4 Definitions

Unless indicated otherwise, all references to "teacher" include the headteacher.

4.5 Delegation

Normal rules (as set out in The School Staffing (England) Regulations 2009) apply in respect of the delegation of functions by the Management Committee and headteacher.

4.6 Grievances

Where a teacher raises a grievance during the capability procedure, the procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently. Grievances should be handled in accordance with the school's Grievance Policy.

4.7 Sickness

If long-term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school's Staff Absence Policy. The case will be referred immediately to the occupational health service, to assess the teacher's health and fitness for continued employment. Additionally, the suitability of continued monitoring or formal procedures will be evaluated in relation to the teacher's health. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of absence.

4.8 Delegation

Normal rules (as set out in The School Staffing (England) Regulations 2009) will apply in respect of the delegation of functions by the Management Committee and headteacher.

5. Performance Management

5.1 This section of the policy applies to the headteacher and to all teachers employed by the school, except those on contracts of less than one term, those undergoing induction and those who are subject to capability procedures.

Performance management at this school will be supportive, and the developmental process is designed to ensure that all teachers have, or will fully develop, the skills and access to support they need to carry out their role effectively – it will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers. Performance management outcomes will be used to inform pay progression decisions.

5.2 The performance management period

For teachers and other staff the performance management period will run for 12 months from 31.10.23 to 31.10.24.

For the headteacher the performance management period will run for 12 months from 01.12.23 to 01.12.24.

Teachers who are employed on a fixed-term contract of less than one year will have their performance managed in accordance with this policy. The length of this period will be determined by the duration of their contract.

The school will amend the performance management period's length in certain circumstances. Where a teacher starts their employment at the school during the course of a performance management period, the headteacher, or Management Committee in the case of a new headteacher, will determine how long their performance management process will be. The aim will be to ensure that all teachers are brought onto the same performance management cycle as soon as is practicable.

5.3 Appointing appraisers

The headteacher will be appraised by a panel of the Management Committee, ideally an odd number but a minimum of three, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Management Committee for that purpose.

The headteacher will decide who will appraise other teachers on a case-by-case basis; however, all appraisers of teachers will be suitably trained and have QTS.

5.4 Setting objectives

The headteacher's objectives will be set by the Management Committee after consultation with the external adviser, taking into account the headteacher's work-life balance. These objectives will be agreed by the headteacher.

Teachers' work-life balance will be taken into consideration when objectives are set. Teachers' objectives will take into account the length of their contract to ensure objectives are realistic and fair.

Teachers will be informed by the headteacher or their line manager of the standards against which their performance in the set performance management period will be assessed. The standards used in relation to performance management are the '**Teachers' Standards**'.

Objectives for each teacher will be set before, or as soon as practicable after, the start of each performance management period. The objectives set for each teacher will be SMART (specific, measurable, achievable, realistic and time-bound), and will be appropriate to the teacher's role and level of experience. Objectives will take note of a teacher's individual needs in relation to their professional development and the targets identified on the School Development Plan and Self Evaluation Form.

Objectives and performance management discussions will not be based on teacher-generated data and predictions, or entirely on assessment data for a single group of pupils. Objectives may be set in relation to robust assessment data, but these will not be used in isolation and additional factors will always be considered when making pay progression decisions.

The appraiser and teacher will seek to agree on the objectives. Objectives may be revised if circumstances change.

The school will take a considered approach to circumstances where a teacher's objectives are challenging, measuring progress towards objectives as well as completion.

The school will generally set no more than four performance management targets, and will not set sub-targets, save for in exceptional circumstances.

5.5 Observation

The school believes that observation of classroom practice and other responsibilities is important, both in assessing teachers' performance to identify any particular strengths and areas for development they may have, and for gaining useful information which could inform improvement. Observation can also enable teachers to learn from each other and collaborate.

The following guidelines will be adhered to:

- The number of official observations will not exceed three sessions per year
- Observations will not exceed one hour per session
- The focus and timing of annual observation sessions will be agreed in consultation with the teacher
- Observations will be conducted with professionalism, integrity, courtesy and objectivity
- Observation reports will be accurate and fair
- The confidentiality of the information in the report will be respected
- Observations will not add to teachers' overall workload
- At least five working days' notice will be given of the date and time of the observation
- Verbal and/or written feedback will be provided in a suitable time frame set by the observer and teacher - normally within five working days.

The Management Committee will determine whether teaching staff can refuse to share their lesson plans during observations – this decision will be communicated to all teaching staff and their appraisers. Classroom observation will be carried out by those with QTS.

5.6 Evidence

The range and level of evidence collected for the purposes of performance management and pay determination will always be proportionate and the impact on workload will be minimal.

Evidence used will relate directly to the pre-agreed objectives. The form of the evidence will be agreed with the teacher in advance, and will be material, or contain material, which is readily available from day-to-day practice.

5.7 Development and support

Performance management is a supportive process which will be used to inform CPD. The school encourages a culture in which all teachers take responsibility for improving their teaching through appropriate professional development.

Professional development will be linked to improvement priorities in the School Development Plan where possible, and to the ongoing professional development needs and priorities of individual teachers.

5.8 Feedback

Teachers will receive constructive, supportive feedback on their performance throughout the year and as soon as practicable after observation has taken place, or when other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that require attention. Teachers will also receive an assessment of their professional development requirements and any action that should be taken to address them.

Where there are concerns about any aspects of the teacher's performance, the appraiser will meet the teacher formally to:

- Give clear feedback to the teacher about the nature and seriousness of the concerns.
- Give the teacher an opportunity to comment and discuss the concerns.
- Agree any support that will be provided to help address those specific concerns.
- Make clear how, and by when, the appraiser will review progress.
- Explain the implications and process if no or insufficient improvement is made, for example, the impact on pay progression and the potential for movement into formal capability proceedings.
- Set clear objectives to be met to achieve the required improvement.

When progress is reviewed, if the appraiser is satisfied that the teacher has made or is making sufficient improvement, the performance management process will continue as normal, with any remaining issues continuing to be addressed through that process.

5.9 Annual assessment

Each teacher's performance will be formally assessed in respect of each performance management period. In assessing the performance of the headteacher, the Management Committee will consult the external adviser. This assessment is the final stage of the annual performance management process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings and a mid-term review.

The teacher will, as soon as practicable, receive and have the opportunity to comment on a performance management report – this may be written in hard copy format or made available online. Teachers will receive their performance management reports by 01.11.2022 and the headteacher by 01.01.2023. The performance management report will include:

- Details of the teacher's objectives for the performance management period in question.
- An assessment of the teacher's performance of their role and their responsibilities against their objectives and the relevant standards.
- An assessment of the teacher's professional development needs and identification of any action that should be taken to address them.
- A recommendation on pay progression where that is relevant.

The assessment of performance and of professional development needs will inform the planning process for the following performance management period.

6. Transition to Capability Procedures

6.1 If the appraiser is not satisfied with the teacher's progress, the teacher will receive formal written notification that their performance will be managed under the capability procedure instead of the performance management system and will be invited to a formal capability meeting. The capability procedures will be conducted in accordance with this policy (the following information).

At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about performance-related concerns and their possible consequences to enable the teacher to prepare a defence for the formal capability meeting. Teachers are entitled to request an alternative date which is within five days of the original date.

The notice will also contain copies of any written evidence, the details of the time and place of the meeting, and will advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

6.2 Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the chair of governors (for headteacher capability meetings) or headteacher (for other teachers). The meeting allows the teacher to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information or evidence already collected.

The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the performance management process, in line with the school's Teacher Performance Management Policy. In such cases, the capability procedure will come to an end.

The person conducting the meeting may also adjourn the meeting if they decide that further investigation is needed, or more time is needed to consider additional information. In other cases, the meeting will continue.

During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- Identify the professional shortcomings of the teacher.
- Give clear guidance on the improved standard of performance needed to ensure that that the teacher can be removed from formal capability procedures.
- Explain any support that will be available to help the teacher to improve their performance.
- Outline the timetable for improvement and explain how performance will be monitored and reviewed.
- Formally warn the teacher that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.

Notes will be taken of formal meetings and a copy sent to the teacher. Where a warning is issued, they will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage, and the procedure and time limits for appeals.

6.3 Monitoring and review period following a formal capability meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period.

The teacher will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting.

6.4 Formal review meeting

As with formal capability meetings, at least five working days' notice will be given. The notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the performance management process will restart, in line with the school's Teacher Performance Management Policy. In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period.
- If no or insufficient improvement has been made during the monitoring and review period, the staff member will receive a final written warning.

As before, notes will be taken of formal meetings and a copy sent to the teacher. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the teacher will be informed in writing that failure to achieve an acceptable standard of performance within the set timescale may result in dismissal. They will also be given information about the handling of the further monitoring and review period, and the procedure and time limits for appealing against the final warning. The teacher will be invited to a decision meeting.

6.5 Decision meeting

As with formal capability meetings and formal review meetings, at least five working days' notice will be provided, and the notification will give details of the time and location of the meeting. The notice will also advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the performance management process will restart, in line with the school's Teacher Performance Management Policy. If performance

remains unsatisfactory, a decision or recommendation to the governing board will be made that the teacher should be dismissed or required to cease working at the school.

Before the decision to dismiss is made, the school will discuss the decision with the LA. The LA has the right to attend any dismissal related meetings.

The teacher will be informed as soon as possible of the reasons for their dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

6.6 Decision to dismiss

The power to dismiss staff in the school rests with the Chair of the Management Committee, The Vice Chair of the Management Committee and the Headteacher.

6.7 Dismissal

Once the decision to dismiss has been taken, the Management Committee or delegated authority will dismiss the teacher with notice.

6.8 Appeals

If a teacher feels that a decision to dismiss them, or another action taken against them, is wrong or unjust, they may appeal in writing against the decision within five working days, setting out the grounds for appeal at the same time. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place.

The same arrangements for notification and the right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the teacher.

The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

The teacher will be informed in writing of the results of the appeal hearing as soon as possible.

7. Disciplinary Procedures

7.1 The school has delegated powers to the following levels (or above) of staff:

Sanction	Disciplinary officer	Appeal officer
Level 1: First warning	Deputy headteacher	Headteacher
Level 2: Written warning	Deputy headteacher	Headteacher
Level 3: Final warning	Deputy headteacher	Headteacher
Level 4: Dismissal.	Headteacher	Chair of Management Committee

Where the employee is employed by the school at the level of the appointed disciplinary officer, then the next level of management up will ordinarily deal with the matter; for example, where an allegation is raised regarding an assistant headteacher, a deputy headteacher will ordinarily be the disciplinary officer and the headteacher will ordinarily be the appeal officer.

For allegations regarding the headteacher, the Vice Chair shall have the authority to be the disciplinary officer and the Chair of the Management Committee will hear the appeal. For allegations regarding the Chair of the Management Committee, a nominated governor will have the authority to be the disciplinary officer and any appeal will be to another nominated governor.

In a case where the person who would normally be the disciplinary officer is compromised through existing circumstances is significantly involved in the investigation, or does not have the resource to deal with the matter at that time, the case will normally be dealt with by an alternative at the same level or the next level of management, i.e. another deputy headteacher or headteacher within the school.

Before any disciplinary decision is made, the employee will be advised of the allegations against them and will be given the opportunity to state their case. The employee will be notified in writing of the allegations to be answered, plus any documentary evidence, before the disciplinary hearing.

The employee must make every effort to attend an investigative interview or disciplinary hearing and failure to attend, without good reason, may be treated as misconduct in itself. If the employee fails to attend without good reason, or if they are persistently unable to do so (for example, for health reasons), the school may have to take a decision based on the available evidence.

Investigatory meetings will not, by themselves, result in any disciplinary action.

At any disciplinary hearing or appeal hearing, the employee will have the right to put forward their case. The school will only consider evidence presented by the employee which is relevant to the allegations.

The school shall be entitled to manage the time and resources allocated to a disciplinary matter, including managing the time of a disciplinary hearing and allocating time within a disciplinary hearing. This may result in limiting the amount of time allocated to an employee to present their case.

The decision and the reasons shall be communicated in writing to the employee. An employee will be advised of their right of appeal and how to exercise that right.

7.2 The right to be accompanied

The employee may bring a companion to any disciplinary or appeal hearing under this procedure. The companion may be either a trade union official, a trade union representative or a work colleague not involved in the matter. The employee must tell the disciplinary officer who their chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties, without loss of pay, but no one is obliged to act as a companion if they do not wish to do so.

If the choice of companion is unreasonable, the school may ask for the employee to choose someone else. For example:

- If in the school's opinion the employee's companion may have a conflict of interest or may prejudice the hearing.
- If the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards.

The school may, at its absolute discretion, allow the employee to bring a companion who is not a work colleague or union representative (for example, a member of family) if this will help the employee overcome barriers to effective participation caused by a disability.

At a hearing, the companion may make representations to the school and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a hearing.

7.3 Trade union representatives

Although normal disciplinary standards will apply to the conduct and performance of trade union representatives as employees, no disciplinary action or suspension will be taken until the circumstances of the case have been discussed with an appropriate trade union official. In the case of suspension, this may not be practical and should not prevent leaders taking action.

7.4 Suspension

In certain circumstances, consideration may be given to suspending the member of staff from their place of work at the outset of the investigation or at any stage during the course of the investigation. The school will consider and document why suspension is necessary before making this decision, and will consider alternatives to suspension, where possible.

The suspension will be for no longer than is necessary and the school will confirm the arrangements to the employee in writing.

The decision to suspend may only be taken by a headteacher. If the headteacher is unavailable, the decision may be delegated to a nominated deputy headteacher, who must make every effort to contact the headteacher, to discuss the case and be authorised to make the decision.

Where the headteacher is suspended, the chair of the Management Committee only has the power to do so and must notify the full governing board.

While the employee is suspended, they should not visit the school site or contact any of its pupils, parents, governors, members or colleagues, unless the employee has been authorised to do so by the headteacher.

While suspended, the school will provide the employee with a named contact with whom they can liaise to support them through the investigation.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive their salary during the period of suspension. Every effort will be made to avoid lengthy periods of suspension. The decision to suspend, and the conditions of suspension, will be reviewed periodically and the employee will be updated as, and when, necessary.

7.5 Investigations

The purpose of an investigation is for the school to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any relevant witnesses, and/or reviewing relevant documents.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. An employee does not have the right to bring a companion to an investigative interview; however, the school may, in its absolute discretion, allow an employee to bring a companion if it helps the employee to overcome barriers to effective participation caused by a disability or in exceptional circumstances.

The employee must cooperate fully and promptly in any investigation. This will include informing the school of the names of any relevant witnesses, disclosing any relevant documents to the school and attending investigative interviews if required. Any failure to comply may lead to disciplinary action. It is incumbent on the employee, during the investigation stage, to raise details of additional witnesses whom the school should interview during the investigation.

The school will make every effort to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. Where an employee has been accused of misconduct by a pupil, the school ensures that no material is published or made public that could identify the employee as the subject of the allegation.

Reporting restrictions will remain in place until the employee is charged with an offence or until the Secretary of State publishes information on the outcome of the investigation. Reporting restrictions will be disapplied if the employee waives their right to anonymity by going public themselves or by giving their written consent for another to do so, or if the restrictions are lifted by a judge.

7.6 Criminal charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction, the school will investigate the facts before deciding whether to take formal disciplinary action.

The school will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the school may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the school considers that it is relevant to the employee's employment.

7.7 Procedure at disciplinary hearings

At the beginning of the hearing, the disciplinary officer will introduce those present and the purpose of the meeting. The employee will be reminded of their right to be accompanied (if the employee has not chosen to be accompanied by a trade union representative or a work colleague). The disciplinary officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any relevant evidence.

Witness evidence (save for additional matters that the employee wishes to raise) is provided through witness statements. There is no right for either the school or the employee to call witnesses to the disciplinary hearing. As such, there is no power for the school or the employee to cross-examine witnesses (albeit that the disciplinary officer may ask questions of the employee). Should the employee wish to question the evidence provided by another witness in the investigation then this should be raised by the employee during the investigation or upon receipt of the investigation documents.

The employee will be given a full opportunity to ask questions and put forward any mitigating factors which they believe are relevant to the allegations. Once the employee has been afforded an opportunity to explain their position, the disciplinary officer will do either of the following:

- Give the decision and explain the reasons for the decision, and confirm as soon as possible in writing
- Inform the employee that the decision will be given in writing as soon as possible

The disciplinary officer may adjourn the disciplinary hearing if the school needs to carry out any further investigations in light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider and comment on any new information obtained before a decision is given.

7.8 Levels of disciplinary action

There are four stages, each of which is designed to cover the varying seriousness of the cases. The stages give a proper sequence for persistent cases. Where the case is of sufficient importance or seriousness to use the procedure, disciplinary action will be taken at whatever stage appears appropriate to the circumstances. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.

The following decisions will be confirmed in writing:

- **Level 1:** A first warning may be given where the case is of sufficient importance or seriousness to bring to the attention of the employee formally. The time limit shall be six months (excluding the Summer holiday) from the date of the decision.

- **Level 2:** A written warning may be given where the case has already involved a first warning and insufficient improvement has been made, where further misconduct has occurred, or where the case is of sufficient importance or seriousness. The time limit shall be nine months (excluding the Summer holiday) from the date of the decision.
- **Level 3:** A final warning may be given where the case has already involved a written warning and insufficient improvement has been made, where further misconduct has occurred or where the case is of sufficient importance or seriousness. Also where gross misconduct may not warrant dismissal, for example due to mitigating circumstances. The time limit shall be 12 months (excluding the Summer holiday) from the date of the decision; however, in exceptional circumstances, misconduct may be so serious that if repeated at any time in the future, the likely consequence is dismissal. The individual/s making the decision may impose a final written warning and specify that such a warning will remain in force for a longer period of time.
- **Level 4:** Dismissal. An employee is likely to be dismissed where the case has already involved the final warning and insufficient improvement has been made or where further misconduct has occurred or where the case is so serious as to constitute gross misconduct or where there is some other substantial reason.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct, but will remain permanently on the employee's personnel file.

7.9 Alternatives to dismissal

In some cases, the school may, at its discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include the following:

- Demotion
- Transfer to another job
- A period of suspension without pay
- Reduction in pay
- Loss of future pay increment

7.10 The decision letter

A letter detailing the decision will be given to the employee and a copy placed on their personnel file, if a warning is issued. Following the outcome of the hearing, the decision letter will state:

- The reason for the decision.
- The course of action to be followed by the employee.
- The timescale in which improvement is required, if applicable.
- Where assistance is required, the assistance which will be made available to the employee (e.g. training and guidance).

- The date on which the warning will elapse.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right.

If the warning is a final, it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct, it may lead to dismissal.

7.11 Time limit for warnings

The time limits for warnings are as follows:

- **First warning:** the time limit shall be 6 months (excluding the Summer break) from the date of the decision
- **Written warning:** the time limit shall be 9 months (excluding the Summer break) from the date of the decision
- **Final warning:** the time limit shall be 12 months (excluding the Summer break) from the date of the decision

In exceptional circumstances, misconduct may be so serious that if repeated at any time in the future the likely consequence is dismissal. The individual/s making the decision may impose a final written warning and specify that such a warning will remain in force for a longer period of time.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct, but will remain permanently on the employee's personnel file.

7.12 Right of appeal

All employees have the right of appeal. Appeals must be lodged in writing to the headteacher within five working days of the decision being communicated to the employee, i.e. usually within five days of the date of the outcome letter.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal; however, if the appeal is successful, the employee will be reinstated with no loss of continuity of pay.

If the employee raises any new matters in their appeal, the appeal officer may need to carry out further investigations. If any new information comes to light, the appeal officer will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The school will give the employee written notice of the date, time and place of the appeal hearing. The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the school's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as

impartially as possible. Where possible, the appeal hearing will be conducted impartially by a more senior manager who has not been previously involved in the case. The employee may bring a companion to the appeal hearing.

The appeal officer may adjourn the appeal hearing if the school needs to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before a decision is given.

The appeal officer may do any of the following:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

The appeal officer will inform the employee in writing of the final decision as soon as possible. There will be no further right of appeal.

7.13 Referrals to the Teaching Regulation Agency and DBS

Allegations of serious professional misconduct by a teacher may be referred to the Teaching Regulation Agency (TRA). A referral is appropriate if the alleged misconduct is so serious, it warrants a decision on whether a teacher should be prevented from teaching.

If an individual may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm, a referral to the DBS must be made by the employer. In these cases, advice should be sought from the school's HR advisor.