

## DISCIPLINARY PROCEDURES FOR ANGUS TEACHERS

### 1. Introduction

- 1.1 Where a teacher's conduct or long running underperformance is such as to give rise to serious concern, disciplinary action may be taken by the authority in accordance with the undernoted agreed disciplinary procedures. As the aim of the disciplinary process is to seek improvement in performance or conduct, assistance to enable improvement to occur is essential.

### 2. Principles

- 2.1 Disciplinary rules and procedures are necessary for promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of workers and deal with problems of poor performance and attendance, thereby assisting organisations to operate effectively. 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.
- 2.2 All teachers will be made aware of the standards of conduct and performance expected of them. Expectations for teachers are set out in the GTCS Standards for Full Registration. In particular teachers will be aware of what constitutes gross misconduct (see Appendix 1). All problems involving minor misconduct and poor performance should be dealt with, at least in the early stages, through the use of informal advice, support and counselling. It is essential that all problems of this nature are fully discussed and that support is provided with the objective of encouraging and helping teachers to improve. It is essential also 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.
- 2.3 Disciplinary procedures must comply with ACAS Code of Practice on Disciplinary and Grievance Procedures. Where the concern relates to the performance of an individual's teaching the procedures must comply with the General Teaching Council Scotland Framework on Teacher Competence. Where the concern relates to the performance of an administrative or managerial function of a promoted post the procedures must comply with AJNCT/29, Procedures for Dealing with Headteacher Competence and AJNCT/30 Procedures for Dealing with Depute Headteacher and Principal Teacher Competence.
- 2.4 If a formal disciplinary process is considered necessary, the agreed procedure will comply with the following principles.
- (a) The initiation of disciplinary actions/sanctions will be accompanied by appropriate support mechanisms
  - (b) No disciplinary action will be taken until the matter has been fully investigated and any decision, thereafter, to impose a disciplinary sanction must not be taken by the person who conducted the initial investigation. In addition any appeal will not be heard by the same person who issued the disciplinary sanction.
  - (c) Apart from gross misconduct (see appendix 1), no teacher will be dismissed for the first breach of discipline.
  - (d) There will 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 will have the right to be represented at all stages of the disciplinary process, including investigatory meetings by a work colleague or a trade union

representative or official employed by a trade union. Any request for any other representation must be made in advance of any meetings.

(g) Where a teacher raises a grievance during the disciplinary process, the disciplinary process may be temporarily suspended to deal with the grievance.

2.5 Should a teacher's poor health impact on procedures, a meeting will be arranged to discuss this and advice from occupational health will be sought, where appropriate, in discussion with Human Resources.

### **3. The Investigatory Stage**

3.1 In situations where either a complaint has been received or where a teacher's conduct has given cause for concern, the employer will appoint an investigating officer.

3.2 The investigating officer will, if possible, interview all of the parties involved (including the teacher in question) and, if appropriate, prepare signed and dated statements from all of these witnesses. The investigating officer will then produce a report which will enable another representative of the employer to decide whether the matter should be further progressed through the formal disciplinary process. This decision is not taken by the investigating officer and the investigating officer should not, as far as possible, have any function at a future disciplinary hearing other than presenting the facts of the investigation to that hearing. The teacher involved must be advised immediately 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. The relevant process is illustrated in the flowchart in Appendix 2.

3.3 The investigatory process will be conducted as speedily as possible consistent with the principles of fairness and natural justice and every effort will be made to ensure that, in most cases, the investigation takes no longer than 15 working days, as far as possible. Where the investigation is likely to take longer, the teacher will be fully informed.

3.4 All teachers will be entitled to be represented at all hearings and meetings as part of the disciplinary process including investigatory hearings. In addition, in most cases, the teacher whose conduct 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.

3.5 In cases where a teacher's long running underperformance has given cause for concern a report will be presented to the senior manager in accordance with the GTCS Framework on Teacher Competence, AJNCT/29, Procedures for Dealing with Headteacher Competence or AJNCT/30, Procedures for Dealing with Depute Headteacher and Principal Teacher Competence presenting the facts of the information gathered during that procedure. In reaching this stage the teacher will have been involved and will have been given a clear indication of nature of the underperformance and the procedures being followed in advance of any meetings.

### **4. Use of Precautionary Suspension**

4.1 Any use of "precautionary suspension" as part of the disciplinary procedure must comply with the principles and procedures set out below.

#### **4.2 Principles Underpinning Precautionary Suspension**

- precautionary suspension must not be associated with any presumption of guilt (and must therefore be on full pay)
- precautionary suspension must only be used in the most serious cases of misconduct or long running underperformance or where the teacher's presence at her/his normal place of work could prejudice the investigation
- when the allegations against a teacher relate to child protection concerns, the initial procedures set out by the Council's Child Protection Guidelines will apply – specifically in terms of whether or not precautionary suspension is appropriate

- precautionary suspensions will be authorised by a Chief Officer (Strategic Director, Head of Service, Senior Officer) of the Council
- all precautionary suspensions should be regularly reviewed throughout the period of the suspension

#### 4.3 Procedures to be Followed when a Precautionary Suspension is Effected

##### 4.3.1 Script to Advise Teacher

An agreed “script” should be followed by whoever conveys the initial decision about suspension to the teacher concerned (usually the Head Teacher). That script should include reference to:

- the nature of the complaint, without normally sharing the identity of the complainant
- assistance should be offered to the teacher to leave the premises and get home
- advice should be given on how to go about picking up any personal possessions left behind on the day
- emphasis should be laid on the precautionary nature of the suspension (including a clear statement – that suspension does not carry any presumption of guilt, and – if appropriate – that the suspension may be necessary at least partly to protect the teacher)
- the teacher should be told that he/she will be able to maintain social contact with his/her colleagues, who will be urged to refrain from discussing any aspects of the allegation including via social media
- reference should be made to the likelihood of a further meeting being arranged within two weeks (see below), and the teacher should be strongly advised to contact her/his Trade Union representative

##### 4.3.2 Script to Advise School Staff

The Head Teacher should brief orally all school staff either on the day of the suspension or (at the latest) on the working day following the suspension. This briefing will enable the staff to be advised by the Head Teacher:

- that an allegation has been made
- of the name of the member of staff involved, and an explanation given that leave of absence has been granted in accordance with agreed procedures
- that no member of staff is authorised to discuss any matter relevant to the allegation with any other individual or corporate body (eg the Press); staff should also be urged to refrain from discussing these matters amongst themselves, or via social media,
- that the teacher concerned has been advised that she/he can maintain normal social contact with colleagues on the staff and that staff are urged to refrain from discussing the specific allegations with the teacher, or via social media
- if a school produces a Daily Information Sheet which routinely lists staff absences, then the suspended teacher’s name only should appear on that list.

##### 4.3.3 Confirm Suspension in Writing

- the formal letter of suspension should be signed by a Chief Officer (Strategic Director, Head of Service, Senior Officer) of the Council; where possible that letter will be handed directly to the teacher or be sent to the teacher’s home address on the same day as the teacher is suspended.

- the formal letter of suspension should include advice to the suspended teacher that she/he ought to be in touch with her/his Trade Union representative.
- the formal letter of suspension should remind the teacher that support is available through the Council's employee assistance programme.
- the formal letter of suspension should indicate that a meeting involving the teacher and an identified Chief Officer or Senior Officer, who will not chair any potential future hearing will be arranged within 10 working days of the date of the suspension. The teacher has the right to be accompanied at this meeting.

#### 4.3.4 Suspension Review Meeting/Contact During Suspension

- a meeting should be arranged within 10 working days of the suspension having been given initial effect, the purpose of which should be simply to reiterate the contents of the original suspension letter, to emphasise the precautionary nature of the suspension, to provide an understanding of the way the legal system operates (if a police investigation is underway), to reiterate the available support, and to provide an opportunity for the teacher to seek clarification of procedural matters. This meeting cannot address any specific aspects of the allegations which are being investigated but it can and should provide an opportunity to set out, as unambiguously as possible, ways in which contact can be maintained between a teacher and her/his representative and the identified Chief Officer or Senior Officer.
- thereafter, the suspension will be kept under regular review, and the responsible Chief Officer or Senior Officer will write within 20 working days of the formal meeting (and – if necessary – every 20 working days thereafter) to make the teacher aware of the position at that time.

## 5 Investigatory Stage Outcomes

- 5.1 Once the investigatory stage is completed the teacher will be advised of the outcome of the investigatory stage
- 5.2 Where there is no foundation to the issue being investigated, no further action will be taken in terms of the disciplinary procedures and no reference will be kept on the teacher's personal file.
- 5.3 A decision to proceed with a disciplinary hearing will be based on the evidence secured during the investigatory stage.

## 6 The Disciplinary Hearing

- 6.1 A hearing cannot be chaired by the person who conducted the investigation or has been involved in the teacher's long running underperformance.
- 6.2 Once a decision has been taken to proceed to a disciplinary hearing, the teacher will be informed, in writing, about:

details of the allegations or areas of underperformance  
 the date for the hearing  
 who will chair the hearing (see 5.3)  
 the procedures to be followed at the hearing  
 any rights under the disciplinary procedure, and

provided with copies of the evidence that will be used during the disciplinary hearing including any written evidence and the names of any witnesses that will be called. The teacher should also provide the employer with any written evidence that will be led in his or her defence and the names of any witnesses within a reasonable time before any hearing. It is the teacher's (and/or representative's) responsibility to arrange for the witness/es to attend the hearing. Where relevant, witnesses should ensure they have approval to attend the hearing from their head teacher/line manager.

- 6.3 Should a possible outcome of the hearing be to dismiss a teacher, the teacher will be informed of this in writing at the time they are informed of the hearing.

- 6.4 The teacher (and/or representative) will 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.
- 6.5 At the conclusion of the hearing, the disciplinary officer (see 7.3 and 7.4 below) will 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 9.1 below).
- 6.6 The retention of information on the teacher's personal file will be dealt with in accordance with section 10.

## 7. **Disciplinary Sanctions**

- 7.1 All disciplinary sanctions will be recorded in writing and will remain in the teacher's personal file during the period of currency of the warning (see 9.2 below). In being advised of the disciplinary sanction which is being applied, the teacher should be advised also of any improvements which will be expected of her/him and the availability of appropriate support to allow her/him to achieve and maintain these improvements.
- 7.2 The following disciplinary sanctions will 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 long running underperformance 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.
- 7.3 The Head Teacher will have overall responsibility for the management of teachers within her/his school and will have the authority to issue oral and written warnings, under the agreed disciplinary procedures of the Council.
- 7.4 The Strategic Director (or nominated Chief Officer or Senior Officer) will have the authority to apply all forms of disciplinary sanction described in this section and to dismiss a teacher, under the agreed disciplinary procedures of the Council. This is included in the Scheme of Delegation which will be notified to AJNCT on an annual basis.
- 7.5 In cases involving long running underperformance issues the GTCS Framework on Teacher Competence will be followed at all times or in the case of promoted teachers, AJNCT/29, Procedures for Dealing with Headteacher Competence and AJNCT/30, Procedures for Dealing with Depute Headteacher and Principal Teacher Competence. Before taking action for dismissal the Chief Officer or Senior Officer must ensure that the GTCS Framework on Teacher Competence has been followed.

7.6 The Strategic Director (or nominated Chief Officer or Senior Officer), if required due to the circumstances, will make a referral to the GTCS and Disclosure Scotland.

## 8. Appeals

8.1 Teachers will have the right of appeal against all disciplinary sanctions imposed by the Council. 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	Head Teacher or nominee	Chief Officer
Written warning	Head Teacher or nominee	Chief Officer
Final written warning	Head Teacher or nominee	Chief Officer

8.2 Appeals procedures are set out in Appendix 2.

8.3 Appeals against dismissal will be to a Sub Committee of the Children and Learning Committee, comprising 5 Councillors who are members of the Children and Learning Committee (or their substitutes), one of whom will normally be either the Convener or the Vice Convener of the Children and Learning Committee

## 9. Time Limits

9.1 The undernoted time limits will apply. Any time limits set should not prejudice a teacher's rights in cases of dismissal to submit a claim to an Employment Tribunal.

<b>Aspects of Disciplinary Procedure</b>	<b>Time Limit (Working Days)</b>
Precautionary suspension	Formal Meeting – within 10- working days; thereafter – a review every 20 working days
Notification of decision to proceed to disciplinary hearing	10 working days notice (minimum) but could be shorter by agreement in individual cases
Notification of decision of disciplinary hearing	5 working days (maximum)
Time limit to lodge appeal	10 working days (maximum) from date of notification of decision of disciplinary hearing
Date of notification of appeal hearing	No later than 20 working days from receipt of notice of appeal
Notification of outcome of appeal hearing	5 working days (maximum)

9.2 Time limits for the duration of warnings are set out below. Warnings will normally be disregarded after the appropriate length of time, except in cases of breaches of child protection policies (see 9.4 below).

<b>Level of Warning</b>	<b>Time Limit (Months)</b>
Oral warning	6 months
Written warning	9 months
Final written warning	12 months

9.3 If an appeal is successful and the original disciplinary sanction withdrawn, any written reference will be expunged from the teacher's personal file and the teacher notified accordingly.

- 9.4 Any disciplinary sanction which has been imposed and which relates to a breach of the Council's child protection policies can remain on a teacher's file for a longer period of time than defined in 9.2 above. Record retention is outlined in 10 below.

## 10 **Records Retention**

- 10.1 The undernoted records retention schedule will apply to ensure compliance with the Data Protection Act and Scottish Council on Archives records retention schedule, Section 15 Human Resources, Administering of Employees Files.

<b>Description</b>	<b>Trigger</b>	<b>Retention Period</b>	<b>Disposal Action (at end of period)</b>
No Warning	Date of decision not to proceed with warning	Immediately	Destroy
Oral Warning	Date of Warning	6 months*	ACAS Code of Practice – Continued retention on Employee File. Disregarded for Disciplinary Purposes.
Written Warning	Date of Warning	9 months*	ACAS Code of Practice – Continued retention on Employee File. Disregarded for Disciplinary Purposes.
Final Written Warning	Date of Warning	12 months*	ACAS Code of Practice – Continued Retention on Employee File. Disregarded for Disciplinary Purposes.
Dismissal	Date of Dismissal	6 years*	Destroy
* Warnings/ Dismissals involving children	Date of Warning	25 years	Destroy

**DISCIPLINARY PROCEDURES FOR ANGUS TEACHERS**

**GROSS MISCONDUCT**

The ACAS Code of Practice on Disciplinary and Grievance Procedures recommends that staff should be made aware of what kinds of behaviour are likely to be construed as a gross misconduct. SNCT/18 also contains a requirement that teachers will be made aware of what constitutes gross misconduct (instancing as examples sexual offences, assault or dishonesty).

It is not possible to compile an exhaustive list of examples of gross misconduct and it should be emphasised that any individual serious disciplinary offence will be considered on the basis of the merits of the case. However, the undernoted provides an indication for teachers of the types of offence which Angus Council is likely to consider as possible gross misconduct.

- physical assault
- sexual offence
- theft
- fraud
- serious negligence
- serious insubordination
- deliberate damage to Council property
- serious breach of confidentiality



## ANGUS COUNCIL

## SPECIAL APPEAL SUB-COMMITTEE OF THE EDUCATION COMMITTEE

## DISCIPLINARY APPEALS - PROCEDURE

- 1 The Strategic Director, or his/her representative, shall put the Council's case, calling any witness(es) he/she may wish, in the presence of the Appellant and the Appellant's representative.
- 2 The Appellant or Appellant's representative shall have the opportunity to ask questions of the Council's representative and of any witness(es) called by the Council.
- 3 Members of the Sub-Committee shall have the opportunity to ask questions of the Strategic Director or his representative and of any witness(es) called by his or her representative.
- 4 The Appellant or Appellant's representative shall put the Appellant's case, calling any witness(es) he/she may wish, in the presence of the Strategic Director or his representative.
- 5 The Strategic Director or his/her representative shall have the opportunity to ask questions of the Appellant, Appellant's representative and of any witness(es) called by or on behalf of the Appellant.
- 6 Members of the Sub-Committee shall have the opportunity to ask questions of the Appellant, the Appellant's representative and of any witness(es) called by or on behalf of the Appellant.
- 7 The Strategic Director or his/her representative shall have the opportunity to sum up the Council's case, but in doing so cannot introduce any new material.
- 8 The Appellant or Appellant's representative shall have the opportunity to sum up their case, but in doing so cannot introduce any new material.
- 9 The Strategic Director or his/her representative and the Appellant and the Appellant's representative and any other parties present who are not members of the Sub-Committee or Advisers or Clerk to that Sub-Committee shall then withdraw.
- 10 The Sub-Committee (with their Clerk and up to two advisers) shall deliberate in private, only recalling the Strategic Director or his/her representative and the Appellant and the Appellant's representative to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point giving rise to doubt.
- 11 If practicable, the Sub-Committee shall announce its decision to the Strategic Director or his/her representative and the Appellant and the Appellant's representative at the conclusion of the Hearing. In any event, the decision shall be confirmed in writing to the Appellant and/or the Appellant's representative by the Head of Legal and Democratic Services within 10 days.
- 12 The form of the decision of the Sub-Committee to be announced under 11 shall be one of the following, as appropriate:-
  - "That the grounds of the Appeal have been substantiated, and the Appeal be upheld";
  - "That the grounds of the Appeal have been substantiated in part and the Appeal be upheld to the extent that .....";
  - "That the grounds of the Appeal have not been substantiated and the Appeal be not upheld".