

Perth & Kinross

Local Agreements : Revised Disciplinary Framework for Teachers[March 2003]

PERTH AND KINROSS COUNCIL

Joint Negotiating Committee for Teaching Staff - 31 March 2003

REVISED DISCIPLINARY FRAMEWORK FOR TEACHERS

REPORT BY THE DIRECTOR OF EDUCATION AND CHILDREN'S SERVICES

ABSTRACT

This report presents the revised disciplinary framework for teachers including the locally negotiated arrangements.

1 RECOMMENDATIONS

It is recommended that the Committee:

- i) Approves the revised disciplinary framework.
- ii) Instructs the Director of Education & Children's Services to circulate the revised policy to all staff through head teachers.
- iii) Instructs the Director of Education & Children's Services to circulate the revised disciplinary framework to other appropriate central staff.
- iv) Instructs the Director of Education & Children's Services to monitor the implementation of the revised framework and report back as appropriate to the Joint Negotiating Committee.

2 BACKGROUND

2.1 The Scottish Negotiating Committee for Teachers (SNCT) recently reached an agreement on the revised disciplinary framework to replace Section 15.1 in the Scheme of Salaries and Conditions of Service.

2.2 This is a national framework, however at a local level, it is for the Joint Negotiating Committee to agree specific time limits and other minor amendments to the framework.

3 PROPOSALS

3.1 It is recommended that the enclosed disciplinary procedure for teachers be adopted across Perth & Kinross from August 2003. (Appendix 1)

3.2 The policy should be widely distributed amongst head teachers and their teaching staff as well as Service Managers and other appropriate central staff.

3.3 The roles and responsibilities of head teachers should be clearly disseminated at forthcoming head teachers' meetings to ensure a clear understanding of the revised disciplinary procedures.

4 RESOURCE IMPLICATIONS

There will be no financial implications arising from the introduction of these revised procedures.

5 STRATEGIC PRIORITIES

This proposal relates to the strategic priority of

" provide effective and efficient services which deliver quality and value for money.

6 CONSULTATION

The professional associations, Director of Human Resources and all primary and secondary head teachers have been fully consulted in preparation of this report.

7 CONCLUSION

7.1 The acceptance of this report will bring Perth & Kinross Council in line with the agreed national disciplinary framework for teachers as agreed by the SNCT.

7.2 These proposals will replace the current arrangements from August 2003.

GEORGE WADDELL
DIRECTOR OF EDUCATION AND CHILDREN'S SERVICES

BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

Appendix 1 - Revised Disciplinary Framework for Teachers

PERTH AND KINROSS DISCIPLINARY PROCEDURE FOR TEACHERS

1.1 Where a teacher's performance or conduct is such as to give rise to serious concern, disciplinary action may be taken by the authority in accordance with this locally agreed disciplinary procedure. As the aim of the disciplinary procedure is to seek improvement in performance or conduct, assistance to enable improvement to occur is essential. These procedures conform with the National Disciplinary Framework for Scottish Teachers agreed through the Scottish Negotiating Committee for Teachers and issued as SNCT/18.

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 should be made aware of the standards of conduct and performance expected of them. In particular teachers should be made aware of what constitutes gross misconduct for example, sexual offences, assault or dishonesty. Induction procedures for probationer teachers within schools should incorporate, as appropriate, advice and guidance to staff with regard to these issues. All problems involving minor misconduct and poor performance should be dealt with, at least in the first instance, through the use of informal advice, guidance and counselling. It is essential that all problems of this nature are fully discussed and that appropriate 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. This support and counselling should be available to teachers within school but, if necessary, can include the involvement of centrally-based staff as appropriate.

2.3 Where the concern relates to the performance of an individual's teaching the procedures must comply with the General Teaching Council Scotland Code of Practice on Competence. 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 Code of Practice of Teacher Competence(see Appendix 2).

2.4 If formal disciplinary process is considered necessary, the agreed procedure will comply with the following principles:

- (a) The initiation of disciplinary actions/sanctions should be accompanied by appropriate support mechanisms.
- (b) No disciplinary action will be taken until the matter has been fully investigated 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 should not be heard by the same person who issued the disciplinary sanction.
- (c) Apart from gross misconduct, no teachers shall be dismissed for the first breach of discipline.
- (d) There shall be a right of appeal against all disciplinary sanctions.
- (e) No disciplinary action will be initiated against a trade union representative until the matter has been discussed with a full-time official of the union concerned.
- (f) A teacher shall have the right to be represented at all stages of the disciplinary process, including investigatory meetings.

3.1 In situations where either a complaint has been received or where a teacher's conduct or performance has given cause for concern, the authority will appoint an investigating officer. This should, normally, be a member of the Senior Management Team of the school in which the teacher is employed. The investigating officer should, 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 should then produce a report which will enable another representative of the authority (normally the headteacher of the school) to decide whether the matter should be further progressed through the formal disciplinary process. It is preferable that this decision is not taken by the investigating officer and the investigating officer must not 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 at an early stage that a complaint or concern has been lodged, of the nature of any complaint, of the process which will be followed and of the right to be represented. Where the complaint or concern relates to a headteacher the process will be conducted with the involvement of the appropriate Service Managers. In the case of teachers in small schools without a Senior Management Team advice should be sought from the Lead Officer (Staffing Services).

3.2 The investigatory process should be conducted as speedily as possible consistent with the principles of fairness and natural justice. In normal circumstances the investigation should take no longer than 20 working days.

3.3 All teachers should 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 or performance has given rise to the investigation will be interviewed and must be given a clear indication of the nature and purpose of the investigation and the procedures that will be followed at the interview well in advance of any meeting with the investigating officer.

3.4 Once the investigation is completed the teacher should be advised of the outcome of the investigation. Where following an investigation no further action is to be taken in terms of the disciplinary procedures then all references to the investigation should be removed from the teacher's personal file and destroyed.

3.5 Precautionary suspensions should only be used in the most serious cases of misconduct or poor performance or where the teacher's presence at the normal place of work could prejudice the investigation. Decisions to suspend a teacher should only be taken after consultation between the headteacher and the Director of Education & Children's Services or his representative. This would normally be by the Lead Officer - Staffing Services. Precautionary suspension must be on full pay and must not be associated with any assumption of guilt. All precautionary suspensions should be reviewed after a period of 10 working days and continued under review at such intervals. Consideration should be given to a temporary transfer pending the conclusion of the investigation and any subsequent disciplinary process as an alternative to precautionary suspension.

4.1 A decision to proceed with a disciplinary hearing should be based on the evidence secured during the investigatory stage but should not be taken by the person who conducted the investigation.

4.2 Once a decision has been taken to proceed to a disciplinary hearing, the teacher should be informed, in writing, about:

- details of the allegations
- the date of the hearing
- the procedures to be followed at the hearing
- the teacher's rights under the disciplinary process,

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 similar evidence that will be led in his or her defence within a reasonable time before any hearing.

4.3 The teacher should be given adequate time to prepare his or her case, if necessary in conjunction with his or her representative, and adequate notice therefore requires to be given of any disciplinary hearing. No hearing should take place less than 5 working days from the notification of the calling of a disciplinary hearing.

4.4 At the conclusion of the hearing the disciplinary officer (see 5.3 and 5.4 below) shall either announce his/her decision (to be confirmed in writing thereafter) or indicate that the decision will be communicated in writing within a maximum of 5 working days.

4.5 If it is decided that no disciplinary action is to be taken, all references to the case shall be removed from the teacher's personal file and destroyed.

5.1 All disciplinary sanctions shall be recorded in writing and shall remain in the teacher's personal file but will be disregarded after the appropriate time limits. (see 7.2 below). In being advised of the disciplinary sanction which is being applied, the teacher should be advised also

of the improvements which will be expected of them and the availability of appropriate support to allow them to achieve and maintain the improvement.

5.2 The following disciplinary sanctions shall be available:

(a) Formal Oral Warning - For minor breaches of discipline, misconduct or continued poor performance, the warning must include reference to the fact that any further breach may render the teacher open to further disciplinary action.

(b) Written Warning - For more serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a formal oral warning, the teacher must be warned that a further breach may result in further disciplinary action being taken.

(c) Final Written Warning - For serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a written warning. The teacher must be warned that any further breach may result in dismissal.

(d) Dismissal -

(i) For serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists. The teacher must be informed in writing of the effective date of dismissal and whether the dismissal is summary or with notice.

(ii) The following punitive sanctions are available in conjunction with a final written warning as an alternative to dismissal: demotion, transfer or suspension of an increment. Where a teacher does not agree to the application of the punitive sanction then the Council will have no alternative but to dismiss the teacher.

5.3 The Headteacher will have overall responsibility for the management of teachers within their school and will have the power to issue oral and written warnings.

5.4 The Director of Education and Children's Services will have the power to apply all forms of disciplinary sanctions including the power of dismissal.

5.5 In cases involving performance issues the GTCS Code of Practice on Competence should be followed at all times. Before taking action for dismissal the Director of Education and Children's Services must ensure that the Code has been followed.

6.1 Teachers will have the right of appeal against all disciplinary sanctions imposed by the authority. Appeals should be heard as follows:

Nature of Warning Issued by Appeal Heard by

Oral Warning Headteacher or Director of
Nominee Education or Nominee

Written Warning Headteacher or Director of
Nominee Education or Nominee

Final Written Warning Director of Appeals Sub- Committee
Education or
Nominee

6.2 Appeals against dismissal will be to the Appeals Sub-Committee comprising elected members of the Education and Children's Services Committee. In cases of dismissal a teacher has a further right to submit a claim to an Employment Tribunal.

7.1 Aspects of Disciplinary Procedure Time Limit (Working Days)

Precautionary Suspension 10 days until each review

Notification of decision to
proceed to disciplinary hearing 10 days notice minimum
(shorter by agreement)

Notification of decision of
disciplinary hearing 5 days (maximum)

Time limit to lodge appeal 10 days (maximum) from date
of notification of decision of
disciplinary hearing

Date of notification of appeal normally no later than 20 days
from receipt of notice of appeal

Notification of outcome of 5 days (maximum)
appeal hearing

7.2 Time limits for the duration of warnings will be-

Oral Warning 6 months
Written Warning 9 months
Final Written Warning 15 months

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

