



# **CHILDREN AND YOUNG PEOPLE SERVICE**

## **COMPETENCE OF TEACHERS**

### **CODE OF PROFESSIONAL PRACTICE**

# KIRKLEES COUNCIL

## CODE OF PRACTICE PROFESSIONAL COMPETENCE OF TEACHERS

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# GUIDELINES

## 1. **When Should the Procedures Start?**

It is often difficult to know when to begin competence procedures - there can often be a build up of problems until it is realised that lack of competence is the main cause; or sometimes an observation or inspection will highlight a problem. Formal inspections may identify problems which have not been confronted. Sometimes the lack of competence is because of personal problems, sometimes for medical reasons or sometimes for organisational reasons. (Note: If the competence procedure is begun the teacher may go off sick and it may then become a medical problem). *Any absence will be supported through the Good Attendance Strategy with the competency procedure re-commencing upon the Teacher's return to work.*

The main question to ask before beginning the competence procedure is -has everything else been tried eg. training, advice, counselling, procedural or organisational adjustments? Is it a medical problem? In which case use the medical referral process. However difficult it is to begin, the earlier lack of competence is confronted the better.

## 2. **How Do You Begin the Process?**

Before commencing with the Competency Procedure the Teacher needs to be made informally aware of the Head Teacher's concerns and have the opportunity to respond, and to address, those concerns.

It is important that you read the Competency Procedure before commencing the process and advisable that you contact the *School Improvement Officer* in the *Learning Service* for guidance and assistance on the application of it.

The Head Teacher should first address the issues and raise concerns at the preliminary stage with the aim of resolving those issues and concerns before going into the informal or formal stages. However, the Teacher must be told that the procedure is being invoked – it is necessary for notes and records to be kept of all meetings (See Specimen Letter A). At all stages the teacher is entitled to have a union representative present and should be encouraged to do so. Where the Teacher is a Union Representative then an Officer of the Trade Union must be informed at the outset.

At every stage you should clearly identify a problem, determine the needs of the Teacher, work out a support programme and monitor progress (See Specimen Letter B). It is possible that you may need to have further meetings if the investigation stage throws up other issues. You will also need a meeting to discuss whether the support programme has been successful. (See Specimen Letter C).

### 3. **When Do You Move To the Formal Procedures?**

If the support programme has not showed any significant improvement in performance over the agreed period for monitoring then the formal part of the procedure should be invoked (paragraph 5 of the procedure). It is very important at this stage that all the recording and monitoring undertaken at the informal stage is well documented. It is better to spend more time with the support programme than to push on too fast into the formal procedure. Specimen letter D invites the teacher into a meeting under the formal procedure.

Specimen letter E outlines the procedure after the meeting and specimen letter F is the final letter informing the teacher of the recommendation to the Governing Body.

### 4. **Confidentiality**

Confidentiality must be maintained at all times, especially if it is a high profile case. Head Teachers must be careful not to discuss any aspect of the case with the Governing Body, as an impartial hearing is important if it comes to a recommendation to dismiss, or if the teacher lodges a grievance against the Head Teacher during the procedures.

### 5. **Head Teachers**

Where these procedures are being actioned in respect of a Head Teacher the Chair of Governors together with a representative of the *Learning Service* will undertake the Head Teacher role in the process.

The draft letters will need amending accordingly addressing them to the Head Teacher from the Chair of Governors.

The process otherwise remains the same.

# KIRKLEES COUNCIL

## CODE OF PRACTICE

### PROFESSIONAL COMPETENCE OF TEACHERS

#### 1. INTRODUCTION

- 1.1 This Code of Practice gives guidance to Head Teachers and Governing Bodies on the procedures (both informal and formal) that should be followed where issues of professional competency arise.

The definition of incompetence refers to situations where an individual appears to fail consistently over a period of time to carry out his/her professional duties as outlined in the Teachers' Pay and Conditions document and in the duties and responsibilities which could reasonably be expected of the teacher within the school structure. Advice from the *Learning Service (School Improvement Officer)* must be sought before actioning the formal stages of this procedure.

- 1.2 The school recruitment, selection, induction, in-service training and staff development procedures for teaching staff are intended to minimise the risk of poor performance of teachers.

Under-performance should not necessarily be regarded as incompetence as under-performance can affect teachers at all levels during their career and such teachers are entitled to sympathetic consideration from their head teachers and the Authority. Before this procedure needs to be invoked, counselling and advice will normally have been given by the Head Teacher and/or School Improvement Officer and this is often sufficient to correct poor performance. Where this has happened, and has failed, the informal procedures should be followed; and finally, if there is no improvement, formal procedures will need to be invoked.

If poor performance is considered to be due to ill health then medical referral procedures will be used in the first instance as an alternative to the Competency Procedure.

Where it is agreed that a satisfactory improvement in performance has been achieved by the teacher during any stage of this procedure then no further action under the procedure will be taken providing such improvement is maintained.

- 1.3 At all stages of this procedure teachers should be informed of their right to trade union, or other, representation, which has been found to be helpful.

Where the procedure involves a Trade Union Representative then an Officer of the Trade Union must be informed at the outset.

Confidentiality must be maintained throughout this procedure by all those involved in it.

## 2. PRELIMINARY STAGE

- 2.1 The Head Teacher needs to make the Teacher aware of sustained under performance and to discuss it with the Teacher. The Head Teacher needs to make the Teacher aware of their concerns, with specific details, which should include discussions with the *School Improvement Officer*.
- 2.2 There may be personal reasons for temporary under performance, in which case the Head Teacher should take a sympathetic view, offer any appropriate help and support – which could, under certain circumstances require a referral to the Employee Healthcare Unit – and guide and assist the Teacher to regain a previously sustainable level of competence.
- 2.3 When it is established that the level of performance has declined to a level when the Head Teacher feels it necessary to bring this to the attention of the Teacher concerned discussions should take place with the objective of identifying the areas of performance which need improvement and to agree on an improvement plan of action. This will require setting targets with timescales for improvement and review.
- 2.4 Hopefully such actions will be sufficient to bring the Teacher's performance back "on track" and that their performance will then return to satisfactory.
- 2.5 Should performance not return to a satisfactory level within a reasonable period of time **OR** under certain circumstances where it becomes apparent that competence is seriously below the level expected, it will then be necessary to go to the Informal Stage of the Competency Procedure to achieve a return to full performance.

## 3. INFORMAL PROCEDURES

### 3.1 Determining Needs

3.1.1 Where complaints or criticisms of a teacher's professional competence over a period of time occur, it is necessary as the first step to investigate and examine the criteria to identify any specific problems being experienced by the individual.

- 3.1.2 Before proceeding further it is important to clarify whether some or all of the problems are due to the organisation of the school eg. ill health, relationships within school etc. and not solely due to the perceived incompetence of the teacher.
- 3.1.3 There are a number of approaches that can be used to identify the nature of a teacher's difficulty. Observation within the classroom situation or in other aspects of the job by the head teacher or *School Improvement Officer* might assist in clarifying the precise nature and origin of the difficulties. The method used should be arranged with the teacher.
- 3.1.4 The problems, once identified, should be discussed with the teacher to determine the origin of the difficulties and to agree appropriate support action.
- 3.2 Where a support programme is required the following sequence should be followed as soon as possible:
  - 3.2.1 Following the investigation of the problems (set out in 4.1 of the procedure) the details of any concerns or complaints about professional performance should be brought to the teacher's attention as soon as possible by the head teacher and an explanation sought. Where it is apparent that difficulties are being experienced, the teacher must be informed of the concerns by the head teacher, in writing, and reminded of his/her responsibility to achieve the required standard.
  - 3.2.2 Arrangements to establish a support programme should be agreed with the teacher and confirmed in writing. An initial period not normally exceeding one full term should be allowed to effect the required improvement.
  - 3.2.3 There should be monitoring at regular intervals and all essential information should be recorded in writing at each stage of the agreed programme.

The teacher concerned should be given the opportunity at each stage to comment, respond and contribute to the further development of the support programme. Monitoring under the terms of this procedure supersedes other monitoring which would normally have been undertaken during this time.

3.2.4 Meetings arranged with the head teacher and *School Improvement Officers*, where appropriate, to review and discuss the progress of the support programme should provide for the teacher to be accompanied by a trade union representative or work colleague not involved in the case.

The teacher should be supplied with copies of all reports issued and records kept and given the opportunity to challenge any statements relating to their competency/performance.

3.2.5 It should be noted that if at any stage of this procedure the teacher regards what is happening as unreasonable or has a grievance relating to the process, this should be raised and resolved as part of the process wherever possible. That a grievance was raised and the actions which were taken in an attempt to resolve it must be clearly recorded. If not resolved the matter may be raised by the Teacher at the appeal stage of the process.

#### 4. FORMAL PROCEDURES

4.1 When problems continue after the informal procedure has been exhausted, or when the teacher shows unwillingness to co-operate reasonably with the support programme, it will be necessary to specify in writing the particular problems which are being encountered and which are a cause for concern.

This letter constitutes a warning and must indicate the areas of unsatisfactory performance, summarise the support offered to date and invite the teacher to attend a formal meeting to discuss these issues, accompanied by a trade union representative or *work colleague not involved in the case*.

All reports and relevant documents should accompany the letter.

4.2 At this meeting, the head teacher should formally put the concerns to the teacher. The head teacher will then invite the teacher and/or representative to respond. An agreed record of the meeting should be produced and a copy provided for the teacher as soon as is practicable after the meeting. Should there be a failure to agree the record of the meeting then any differences should be clearly identified and recorded.

4.3 The support programme should then be reviewed. The head teacher should point out the necessity to follow and co-operate with a further formal plan of development and support accompanied by a continuing monitoring procedure. This support programme should be arranged in consultation with the *School Improvement Officer*.

- 4.4 After the meeting the head teacher should prepare a detailed written statement for the teacher, including:
- a) The formal support programme proposed;
  - b) A clear summary of the future performance expectation;
  - c) Specific guidance, where appropriate, upon the improvements considered necessary;
  - d) Details of arrangements for reviewing progress, including the time-scale to be observed.
  - e) A reminder that relevant records will be kept;
  - f) A further warning that if the performance does not reach the required standard, one or more of the following actions will be contemplated:
    - i) a variation in the job description, contract or type of employment;
    - ii) transfer within the school;
    - iii) Formal action up to and including dismissal.
- 4.5 Thereafter, at any meetings held to review progress, the teacher will be given the opportunity to comment and contribute to the further development of the support programme, and will be supplied in advance of the meeting with a copy of any formal reports prepared.
- 4.6 If, at any stage of this formal procedure, the teacher regards the steps taken or proposed as unreasonable, he/she may raise such concerns during the process. If such matters remain unresolved they may be raised by the Teacher at the appeal stage of the process.

## 5. **FAILURE TO REACH IMPROVEMENT AFTER THE INFORMAL AND FORMAL STAGES HAVE BEEN INVOKED**

- 5.1 Where there is a failure to achieve a significant and sustained improvement, the head teacher will afford the teacher an opportunity to offer an explanation.

- 5.2 It may be appropriate at this stage to consider re-deployment within the school to a post and time-table more suitable to the capability of the teacher; or the teacher may be recommended to seek guidance from an officer within the *Learning Service* who could offer counselling and/or careers advice about other opportunities for employment within or outside the Authority.
- 5.3 Where the failure to improve is considered wilful on the Teachers part the matter should be dealt with under the Disciplinary Procedure and the Competence Procedure is discontinued.
- 5.4 Where the performance of the teacher has not improved to satisfactory levels and other measures have not been appropriate and the head teacher considers that the incompetence is judged to be fundamental and irremediable, the head teacher, in consultation with the *Learning Service*, may either issue a final written warning and give a further period during which the teacher must demonstrate improvement, or recommend to the Governing Body the Teacher's dismissal.
- 5.5 It is expected that the above formal procedure will normally be concluded within a timescale of no more than two terms.
- 5.6 The Governing Body should call a formal hearing and listen to the response from the Teacher in respect of the Head Teacher's recommendation and determine appropriate action accordingly.
- 5.7 In extreme cases, where it is clear at the onset of these formal procedures that the Teacher's incompetence is fundamental and irremediable and furthermore that the education of pupils is being jeopardised then a maximum timescale of four (4) weeks is considered appropriate for concluding this procedure.

## 6. **APPEALS PROCEDURE**

- 6.1 The Appeals Procedure applicable to the Disciplinary Procedure will apply to appeals against action taken under the Competence Procedure.

Those hearing an Appeal shall have had no involvement in the original action taken under the Competence Procedure.

**Invoking the Informal Stage of the Procedure**

Dear *(Teacher)*

We have discussed the difficulties concerning your performance on a number of occasions *(be specific here)*. Unfortunately, although you have been trying to improve the situation I still have serious concerns about your performance.

At this stage, therefore, I have decided to initiate the informal stage of the Competence Procedures to try to address these problems. The Procedure is designed to help, support and guide you to improve your performance and will be used positively to help you.

I would like you to attend a meeting in my office on *(Date)* to discuss your needs and how these can be identified and supported. *(Name)* from the *Learning Service* will be in attendance. You are advised to bring a Professional Association / Trade Union representative or *work colleague not involved in the case*.

Yours sincerely

Head Teacher

**Confirming the Outcome of the Initial Meeting under the Informal Procedure**

Dear *(Teacher)*

At our meeting on *(Date)* it was agreed that the informal stage of the Competence Procedure should be used, and that the following plan should be put into action.

**1. It was agreed that the areas of were:**

*(List Areas of Concern)*

The standards I expect in these areas are *(List Standards)*

- \*2 You were of the opinion that** *(state areas)* areas were being delivered appropriately and we agreed that the *School Improvement Officer (or other appropriate person)* would investigate, observe or work with you to clarify whether or not there were any difficulties here. We agreed to meet again on these areas when the *School Improvement Officer* had prepared a report.
3. We agreed that the following support programme would be offered to you *(show programme, including details of who and what is involved including the commitment from the Learning Service and the School)*.
4. We agreed that there would be an interim progress report on *(Date)* and that a formal review would be held on *(Date)*.

I hope that the support programme will assist your development in the areas identified and that a satisfactory outcome will be achieved.

Yours sincerely

Head Teacher

\*Paragraph 2 is optional

**Interim Review Meeting before the Formal Stage is Invoked**

Dear *(Teacher)*

At our meeting on *(Date)* under the informal stage of the Competence Procedure, the areas of concern were detailed, the standards expected of you explained and a support programme was offered.

I now wish to meet with you to discuss whether appropriate progress has been made. I invite you to a meeting in my office on *(Date)*.

You are advised to bring a Trade Union/Professional Association representative or a *work colleague not involved in the case to the meeting.*

Yours sincerely

Head Teacher

**Invoking the Formal Stage of the Procedure**

Dear *(Teacher)*

At our meeting on *(Date)* the concerns I had about your performance were discussed, and we agreed a support programme to help you to address those problems - in order to help you meet the required standards. The support offered to date has been *(List Here)*. I regret, however, that the monitoring of your performance does not indicate that those standards have been achieved.

The areas of concern are as follows:

*(List Areas of Concerns)*

You have improved in **(?)** Areas

*or*

There are no areas in which improvements have been made.

In these circumstances, I regret that it is now necessary to move to the formal stage of the Competence Procedure and I invite you to a meeting in my office on *(Date)*. You are advised to bring a Trade Union/Professional Association representative or a *work colleague not involved in the case to the meeting*.

Yours sincerely

Head Teacher

**Confirming the Outcome of the Meeting Held under the Formal Procedure**

Dear *(Teacher)*

Following our meeting on *(Date)* under the formal stage of the Competence Procedure I write to explain the standards of performance that I expect, the steps by which I hope this will be achieved, and the further action that I will have to take if there is no improvement.

*(The text of the letter should follow the steps set out in Paragraph 5.4 of the procedure).*

We will meet again on *(Date)* to discuss what has been achieved. I hope that substantial improvement will be made.

Yours sincerely

Head Teacher

**Informing the Teacher that a Recommendation to Dismiss will be made**

Dear *(Teacher)*

I am writing to confirm the outcome of our meeting on *(Date)* which was to review the progress you had made under the formal stage of the Competence Procedure.

I regret to inform you that despite the support and assistance you have had under the support programme no substantial improvement has been made in your performance, and neither I nor the *School Improvement Officer* are convinced that you are able to reach the standard that is required. The concerns that I highlighted to you in my letter of *(Date - Letter D)* still remain, and I regretfully believe that you are fundamentally and irremediably incapable of undertaking the job of *(state actual post)*.

In these circumstances I have no alternative but to call a meeting of the School's Staffing Dismissals Committee and recommend that you be dismissed from employment at this School. You will be contacted about the date and time of the meeting and be given a full opportunity to present your case. I would strongly advise you to discuss this with your Trade Union or Professional Association representative who will be able to advise you accordingly.

Yours sincerely

Head Teacher

*(Note: In the meeting to discuss the lack of capability you may have discussed other options eg. redeployment or voluntary resignation, in which case you may need to refer to these).*