



Watermill School

Staff Discipline, Conduct and Grievance Policy

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Grievance Policy

Grievance Policy Information		
Policy Author: Schools HR Business Management (Floor 2 Civic Centre S-OT) Governing Board approval date/date policy is in effect from: March 2018		
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Grievance Policy

1. INTRODUCTION

1.1 This procedure is designed to ensure that if an individual has a complaint or grievance about a specific aspect of their employment it is dealt with and resolved quickly, fairly and as closely as possible to the point of origin. This helps to prevent minor disagreements developing into more serious disputes. It is important that the details of any grievance and the desired resolution are clearly stated by the employee.

1.2 This procedure applies to all employees working in schools/academies and centrally employed teachers.

1.3 The reference to “Headteacher” means equivalent line manager in the case of centrally employed teachers and Principal in the case of academies.

1.4 The reference to Governing Body or Chair may be substituted for Trustee or board of Trustees in academies/ multi academy trusts, dependent on the scheme of delegation.

1.4 This procedure has been adopted by the Governing Body of Watermill School School/Academy On March 2018 following consultation with the recognised teachers’ and support staff trade union associations.

1.5 This procedure does not apply to those matters for which other established complaint/appeal arrangements are in place. These include but are not limited to;

- Disciplinary action (see Disciplinary Procedure for exceptions)
- The performance management process
- Action taken under Capability Procedure
- Action taken under Supporting Attendance Procedure
- Pay and Grading
- Recruitment and Selection
- Redundancy including RITSSE
- Taxation, national insurance & pension
- Public Interest Disclosure

1.6 Whilst there is no requirement to follow a grievance procedure in respect of former employees, such grievances should be referred to HR and will be dealt with on a case by case basis.

1.7 Grievances should be raised as soon as possible after the event about which the complaint is being made. The employer may, at its discretion, decline to deal with grievances which relate to matters which occurred more than three months before the grievance was raised.

- 1.8 The mediation service is available in order to try and resolve workplace disputes at the earliest opportunity. To discuss mediation please contact your usual HR Officer for information. If mediation does not resolve the issue then employees may move straight to the Formal Stage of the procedure.
- 1.9 A 24 hour independent confidential counselling service is available for employees. The Dove Service can be contacted on 01782 683155/ www.thedoveservice.org.uk. Employees may also wish to consult their professional association/trade union and/or Education Support on 08000 562561 / www.educationsupport.org.uk.
- 2.0 This procedure does not form part of employees' contracts of employment and may be amended from time to time.

2 GRIEVANCE PROCEDURE

2.1 INFORMAL DISCUSSION

Individual Grievance

- 2.1.1** When the employee's grievance is about a colleague, and the employee feels able, the employee should approach the other member of staff concerned to see whether the grievance can be resolved by informal discussion. Most concerns can usually be resolved in this way.
- 2.1.2** Where the grievance is about the Headteacher and the employee feels able, the employee should approach the Headteacher to see whether the grievance can be resolved by informal discussion. The grievance can also be brought to the Chair of Governor's attention who can arrange to resolve the matter informally.
- 2.1.3** Where the grievance is about a member of the Local Authority's staff, and the employee feels able, the employee should approach the Officer concerned to discuss their concerns, to see whether the grievance can be resolved by informal discussion.
- 2.1.4** Where an employee is aggrieved about any other matter relating to their employment, the appropriate course of action in the first instance is for the employee to discuss their concerns with the Headteacher, or the appropriate line manager. At this stage the meeting should be as informal as possible.
- 2.1.5** Should an employee request to be accompanied by their trade union or work colleague at the initial stage, this will not unreasonably be refused. It may not always be necessary for employees to be represented at the initial stage of the procedure but it is important to note that trade union representatives have an important role to play in resolving matters throughout the various stages of the procedure.
- 2.1.6** Where after every effort has been made the grievance cannot be resolved informally, it can be raised under the formal grievance procedure.

Collective Grievance

- 2.1.7** Where more than one individual raises the same grievance to the Headteacher this will normally be dealt with as a single collective grievance rather than as a number of individual complaints. In such cases either the trade union or other work based

representative can raise the matter informally on behalf of all those employees involved and can represent them through the various stages of this procedure.

2.1.8 Similarly if the grievance relates to issues across a number of schools with one employer the grievance will be dealt with as a collective grievance rather than individual complaints. The trade unions or other work based representatives should raise the matter informally in the first instance on the basis of a collective grievance. Should grievances on behalf of employees be raised separately by the trade unions or work based representatives the schools will reserve the right as appropriate to treat the grievance as a collective grievance by informing those trade unions or work based representatives, that they can represent the employees collectively through the stages of this procedure. In maintained schools, Headteachers of each respective school will form a panel advised by HR to informally address the concerns as a collective response relevant to their schools.

2.1.9 Where a grievance is brought on behalf of more than one person, the trade union or work based representative must ensure that they have the express consent to bring the grievance on behalf of the people concerned (if less than 20 employees). This information must be made available to the school where the person is employed. The information should be disclosed within five working days of any such request.

2.1.10 in exceptional circumstances, where there is a failure to resolve a collective grievance, conciliation may be sought from external agencies with the agreement of both parties. Trade Union representatives are advised to inform their Regional Officers where conciliation is sought.

2.2 FORMAL STAGE Individual grievance

2.2.1 If the employee remains dissatisfied in terms of the outcome from the informal stage of the grievance, they should submit this in writing and send to the Headteacher who will hear the grievance formally.

2.2.2 Where the employee's grievance is about the Headteacher and this has not been resolved by informal action, the grievance should be submitted in writing to the Chair of Governors/ Trust Board, or equivalent senior manager for centrally employed teachers who will hear the grievance formally. Alternatively, the Chair of Governors/ Board of Trustees could appoint an individual Governor/ Trustee at the school to hear the grievance or, make arrangements to provision the time of a Local Authority Officer (or another external third party) to hear the matter. To request the assistance of a Local Authority Officer the Chair of Governors should write to the Assistant Director Learning Services. It is also advisable that within ten working days, the Chair of Governors discuss the matter with HR who will advise on the process.

2.2.3 Where the grievance is about a Local Authority Officer the employee should submit the grievance in writing to the Assistant Director Learning Services. Within 10 working days, the Assistant Director Learning Services will appoint a suitable person to hear the grievance.

2.2.4 The written grievance must set out the nature of the grievance, clearly explaining the events, dates, facts and details of any witnesses where possible. See Appendix 1 (formal grievance notification form) as a suggested format. The grievance should also state the desired outcome that the employee seeks. Where appropriate, a copy of the grievance will be given to the named employee whom the grievance is about. In circumstances where it is not appropriate to provide an exact copy of the grievance, the

named employee will be provided with details of the complaint (unless in exceptional circumstances where it could interfere with the investigation).

2.2.5 The Headteacher or other person nominated as Hearing Officer will write (where possible within 5 working days of receipt of the grievance) to invite the employee to a meeting to discuss the matter formally. The employee will be notified in writing of their right to be represented at the meeting. In all cases every effort should be made for the meeting to be held within 10 working days of receipt of the individual's written grievance.

2.2.6 All information that is to be presented at the meeting should be provided to the Hearing Officer and their HR Officer, at least 3 working days before the meeting is to take place. This is to help ensure that the Hearing Officer has a full understanding of the issues being discussed. In exceptional circumstances information can be submitted on the day of the meeting; however this is at the discretion of the Hearing Officer. In these circumstances, depending on the amount of information submitted, it may be necessary to reschedule the meeting.

2.2.7 At the meeting the employee or representative will have the opportunity to explain the grievance in detail and say how they would like it to be resolved. Every effort will be made by the Hearing Officer to resolve the matter at this stage.

2.2.8 The employee is entitled to be represented at the meeting, if they wish, by either a trade union representative or a colleague. The trade union representative or colleague should be allowed to address the meeting, to present and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The trade union representative or colleague does not have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employee who the grievance is about from explaining their case.

2.2.9 In some circumstances, it may be necessary to gather information about the matter or to adjourn the meeting so that certain details can be looked into before discussing it further.

2.2.10 After the meeting the Hearing Officer, will respond to the grievance in writing, where possible within 5 working days, explaining the outcome and any action to be taken to resolve the grievance and the right to take the matter to the next stage. Where it is not possible to respond within 5 days, the individual should be contacted in writing and advised of the estimated timescale within which a substantive response will be provided.

2.2.11 Copies of the response should also be forwarded to the person about whom the grievance has been made.

Collective Grievance

2.2.12 In the case of a collective grievance the trade union representatives or work based representatives shall submit this in writing to the Headteacher. Where the collective grievance is about a particular school/academy, the relevant Headteacher will hear the grievance formally and investigate where necessary. Where the grievance relates to an issue/s across a number of maintained schools or academies across a multi academy trust, a panel of Headteachers/Trustees will be convened to hear the grievance. The panel will consist of one Headteacher/ Senior Leader / Trustee on behalf of each respective school.

2.2.13 The requirements set out above in section 3.2.4 to 3.2.11 should then be followed, except that in 3.2.10, the Hearing Officer should respond to the grievance in writing to all the respective parties, and not just one individual.

3. APPEAL

Individual Grievance

3.1 If the employee remains dissatisfied they can appeal to their Chair of Governors (or equivalent senior manager for centrally employed teachers). If the grievance is about the Headteacher the appeal must be addressed to the Governor's Appeal Committee. If the appeal is about a Local Authority Officer the appeal must be addressed to the Assistant Director Learning Services.

3.2 The Appeal will be heard by the Appeals Committee, and a Chair will be nominated by the panel. In the case of an appeal about a Local Authority Officer, the appeal will be heard by the Assistant Director Learning Services or another suitable nominated person.

3.3 The appeal must be made in writing within 10 working days of the date of the written response at the Formal Stage and must confirm the grounds of the appeal.

3.4 In all cases, the employee will be invited to attend a meeting to appeal against the decision. The employee will be notified in writing of their right to be accompanied at the meeting. Every effort should be made for the appeal hearing to be held within 10 working days of receipt of the individual's written appeal.

3.5 The Headteacher (or other nominated person who heard the original grievance) will be invited to the appeal in order to explain the decisions arrived at the original grievance, and to deal with any issues raised concerning the conduct of the original grievance. The individual will be informed which staff have been invited to the meeting. A representative from HR may also be in attendance at the appeal hearing to advise the Appeals Committee/Assistant Director/other nominated person.

3.6 All information that is to be presented at the appeal hearing should be provided at least 3 working days before the meeting is to take place.

3.7 Employees have the same right to be represented at appeal hearings as at the Formal Stage.

3.8 Following the appeal hearing, the Chair of the Appeal Committee, Assistant Director or other nominated person will respond to the appeal in writing, where possible within 5 working days, either upholding the appeal or turning down the appeal and thus supporting the original grievance decision. Where it is not possible to respond within 5

days, the individual should be contacted and advised of the estimated timescale within which a substantive response will be provided.

3.9 The letter will give reasons for the decision and, where the appeal is upheld, explain in what respect the original grievance decision has been varied, and what action, if any, will be taken to attempt to resolve the grievance.

3.10 The decision taken at the appeal stage will be deemed final.

Collective Grievance

3.11 If any party is dissatisfied with the outcome of the Headteacher/ Panel of Headteachers investigation of the grievance, either party may collectively request an appeal hearing. The appeal will be heard by an Appeals Committee, who will nominate a Chair to lead on proceedings. Where the grievance appeal relates to a collective issue across maintained schools a panel of governors will be convened to include a nominated representative of the governing body from each respective school. For the purposes of a collective grievance about a specific school the panel will consist of three nominated governors from the governing body. In both cases the panel will nominate a Chair to lead on proceedings.

3.12 The requirements set out above in section 3.3.3 to 3.3.10 should then be followed, except that in 3.3.9, the Chair of the Appeals Committee should respond to the appeal in writing to all the respective parties, and not just one individual.

4. THE ENHANCED SCHOOL PROCEDURE

(For maintained schools only)

This procedure will be used in those circumstances where the nature of the grievance could result in a contravention of the law. In the case of a maintained school the Assistant Director Learning Services must be notified of the position and be provided with overview of the situation.

4.1 Where it appears to the aggrieved employee (or to the Headteacher when they are made aware of the complaints) that the enhanced school procedure should apply, the Assistant Director Learning Services, must be immediately notified of the position.

4.2 If the Assistant Director agrees that the procedure applies, the Headteacher or a member of the SLT team as appropriate will be responsible for meeting with the employee with the support of a HR Officer. In cases where the grievance is about the Headteacher a LA representative shall meet with the employee with HR Support.

4.3 The procedure set out in paragraphs 3.2.1 to 3.2.11 will apply.

4.4 The appeal hearing will be held as appropriate depending on the position of the hearing officer. If it is an LA Officer the matter could be set jointly before the Assistant Director of Learning Services and the Chair of Governors (acting on behalf of the governing body). Alternatively if the hearing officer is an employee of the school the matter will be referred to a panel of three governors to hear the appeal.

5. THE GRIEVANCE PROCESS DURING SICKNESS ABSENCE

5.1 In the interests of progress for all parties, the grievance may continue to be heard during absence following consultation with the employee concerned, or their representative and Occupational Health if appropriate.

5.2 If an employee is not fit to attend meetings concerning their grievance, consideration will be given to the employee being allowed to send a representative or make written representations instead, or the matter being delayed until the employee is fit to attend.

6. GRIEVANCES ABOUT SPECIFIC INDIVIDUALS

6.1 Where grievances have been made about named employees, employees are entitled to be informed as soon as possible that a grievance has been made about them, and they will be provided with relevant details of the grievance, (unless in exceptional circumstances where it could interfere with the procedure). In order to ensure compliance with the General Data Protection Regulation, the content of an employee's grievance should only be disclosed to the subject of the grievance to the extent that it is absolutely necessary in order to conduct a reasonable and comprehensive investigation into the grievance. If the written grievance needs to be shown to the subject of the grievance, it may well be necessary to redact parts of the grievance.

6.2 Should there be a concern that working relationships may become difficult whilst the issue is being resolved, this should be discussed with HR, in order to determine what measures can be taken to attempt to relieve these difficulties and ensure fairness to both parties during the process.

6.3 Care needs to be taken that neither an employee raising a grievance nor one who may be the subject of a grievance should suffer victimisation, retribution or exclusion as a result of the grievance procedure having been invoked. Where appropriate, a stress risk assessment may be undertaken to ensure suitable support is provided.

6.4 Wherever possible the outcome of the grievance will be notified to the employee about whom the grievance is made on the same day as it is notified to the employee raising the grievance.

7. KEEPING RECORDS

7.1 Management notes should be taken at all grievance meetings. The employee raising the grievance, and the employee who has had the grievance raised about them, should be asked to sign the notes from their own meetings. Witnesses should be informed that their statements/meeting notes may be disclosed to all parties concerned.

7.2 Records will include:

- The nature of the grievance raised
- A copy of the written grievance
- The school's response
- Action taken
- Reasons for action taken
- Whether there was an appeal and, if so, the outcome
- Subsequent developments

8. REVISION OR TERMINATION OF THIS PROCEDURE

8.1 The operation of this procedure will be periodically reviewed from time to time in light of the changes to legislation and any new requirements.

Formal Grievance Notification Form

FORMAL GRIEVANCE NOTIFICATION FORM	
Employee's Name:	
School or Academy	
Name of Line Manager:	
Trade Union Representative:	
Name of person who will accompany you:	
Name and job title of the employee(s) about whom the grievance is raised (if appropriate)	
Please provide details of your grievance providing as much detail as possible particularly dates, times , locations as appropriate (Continue on a separate sheet if necessary)	
Witnesses to the above (name and job title):	
Please provide details of any attempts to resolve the matter informally and the reason for dissatisfaction with the informal process (if appropriate):	

Please state the outcome you are seeking.

Signed (employee):

Date:

Appendix 2 Procedure for Appeal Meeting

(NB: In the case of maintained schools only, the Governor's Appeal Committee may ask a representative of the Assistant Director of Learning Services to attend to offer specialist advice).

1. Introductions by Chair; explanation of procedure
2. Appellant, or their representative, to state his/her grounds for appeal.
3. Original hearing officer may ask questions of the appellant or their representative
4. Members of the Appeal Committee, HR Officer and/or representative of the Assistant Director of Learning Services may ask questions of the appellant or their representative
5. Original hearing officer to state how they made their original decision.
6. Members of the Appeal Committee and representatives of the Assistant Director of Learning Services may ask questions of the original hearing officer.
7. Appellant (or representative) may ask questions of original hearing officer.
8. Appellant or their representative, to sum up case.
9. The original hearing officer to sum up case
10. Parties retire, the Assistant Director of Learning Service's representative to remain to advise the governors.
11. Appeals Committee to consider the case and notify the parties of their decision. This may be conveyed at the conclusion of the Appeal hearing and then confirmed in writing, or confirmed in writing at a later date by the Committee.

The above procedure should be varied to reflect the process and parties to the grievance used within this procedure as reflected in the relevant process identified in previously.

The process may be varied by agreement of all parties.



Code of Conduct Information

Code of Conduct Policy Information		
Policy Author: Schools HR Business Management (Floor 2 Civic Centre S-OT) Governing Board approval date/date policy is in effect from: January 2012		
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Appendix 1

The Nolan Committees Seven Principles of Public Life

Appendix 2

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Code of Conduct Information

1.0 Introduction

The public is entitled to expect the highest standards of conduct from **Orchard Community Trust (OCT)** employees. The role of employees is to serve the **OCT and Watermill School** in providing advice, implementing its policies, and delivering services to the local community. In performing these duties, all employees must act with integrity, honesty, impartiality and objectivity. As an employee you are accountable to, and owe a duty to the **OCT and Watermill School**. You have a responsibility to act in accordance with the principles set out in this code, recognising the duty you have to discharge public functions reasonably and according to the law.

The **OCT and Watermill School** places every trust in its employees to act with integrity at all times. It is the aim of this Code to set out the roles and responsibilities that you have, and the processes that must be followed to safeguard you and help you avoid any misunderstanding or criticism.

Breaches of this Code may result in disciplinary action being taken, in accordance with **Watermill School's** Disciplinary Procedure. Guidance on how to deal with alleged breaches of this code can be obtained from your Departmental HR/**School Business Manager**.

We cannot cover all aspects of conduct within the Code but the principles set out in the NOLAN committee report on standards in public life (see Appendix 1) should influence all our actions and behaviour as Local Government employees. In essence the principles require us all to act in a professional way.

In some jobs you should also be aware of and abide by specific rules that apply, for example, standing orders and financial and contract regulations. In these circumstances your manager will explain and refer you to the appropriate regulations.

2.0 Who Does the Code Apply to?

If you are an employee of **OCT/Watermill School** irrespective of your position, then this Code of Conduct applies to you. The only exception to this is where you work in a school covered by LMS provisions and your governing body has not adopted this Code for all or some groups of staff working at the school.

It does not apply to employees of external organisations who provide services to the **OCT/Watermill School** although they should have regard to the principles set out in this guide when considering their contractual relationship with the City Council.

3.0 General Duties

Whilst your private life is your own concern you must not allow your private interests to conflict with your duty you must not misuse your official position or information acquired in the course of your employment to further your private interests or the interests of others. You must comply with the **OCT/Watermill School** rules on the declaration and recording of gifts, monetary donations, hospitality or invitations to social/recreational events. At all times you must act professionally, with integrity and you must not engage in any activity or conduct yourself in such a manner as to bring the **OCT/Watermill School** into disrepute.

4.0 Gifts and Hospitality

If we accept gifts, monetary donations, hospitality or invitations to events from people who are, or may be, dealing with the Council, the Council and its employees could be open to criticism and give rise to concerns over preferential treatment or favouritism.

The general rule must be that you should tactfully and politely refuse any offers of gifts, alcohol, monetary donations or hospitality.

4.1 Acceptance

There are certain circumstances where an offer of a gift or hospitality may be acceptable but only within the following guidelines.

4.1.1 Gifts & Monetary Donations

a) The occasional small value marketing items such as pens, diaries, calendars or modest hospitality, i.e. where their value is clearly less than £10

N.B. No gift of money, a monetary donation or alcohol must ever be accepted, regardless of the value

4.1.2 Hospitality

- a) A cup of coffee or a non-alcoholic drink during a visit to an external organisation.
- b) A working lunch of a modest standard provided to enable the parties to continue to discuss business over lunch.
- c) During attendance at functions where you are representing the **OCT/Watermill School** e.g. dinners at which you have been invited to speak, conferences, seminars, meetings of professional organisations, working groups, opening ceremonies, trade shows, non-commercial presentations and shows, charity type sponsorship etc. functions which you attend by virtue of your professional position. Whilst offers of gifts and hospitality can be accepted in the above circumstances every effort must be made to record the offers whether accepted or not.

4.1.3 Invitations to Events

A personal invitation to an event outside work can be accepted where attendance at the event is deemed to be considered part of your job role or likely to build or improve relationships with the community. Where attendance is not deemed part of your **OCT/Watermill School** role and you choose to attend then a payment to cover the cost of the event MUST be made. Where a spouse (partner or friend etc.) attends any event with you, whether it is part of your role or not, payment to cover their part of the cost of the event MUST be made.

4.1.4 Donation of gifts to charity

In cases where gifts/hospitality (other than those outlined in paragraph 4.1.1) are sent to you directly and you are unable to refuse them, they should be donated to the Lord Mayor's Charity. Any such gifts should be recorded as described in paragraph 4.3 and a letter sent to the donor to explain that the donation has been made and that the gift will be used for good causes.

4.2 Consultation

In any other circumstances or where you are unsure whether you should accept a gift, hospitality or an invitation to an event your line manager must be consulted, he/she will then discuss the matter with the **Senior Management Team (SLT)**. No decision should be made to accept any gifts or hospitality other than those listed in paragraph 4.1 without the express permission of a member of the Senior Management Team.

4.3 Recording

All offers of gifts, monetary donations, hospitality and invitations to events should be reported to a nominated officer. Where possible to enable the **OCT/Watermill School** to give appropriate consideration, the offers should be reported prior to acceptance rather than afterwards.

For recording purposes all departments will maintain a register. The register will include such details as:

- the name of the **staff member** receiving the offer,
- the date the entry was made,

-the details of the offer, an approximate value, the circumstances under which the offer was made i.e. the work being undertaken to which the offer relates), whether the offer was accepted or declined, how the offer was acknowledged (by personal thank you, letter, telephone, fax, etc).

It is important that as much information as possible is recorded within the register to enable an open and independent view to be taken as to whether the offer of either a gift, hospitality or invitation to an event was appropriate and proper.

All offers, whether accepted or declined should be reported and a record duly made as outlined above. The registers should be held in a secure place, which is easily accessible at all times and available for immediate inspection upon request. In addition, the register and its contents will be reported on a regular basis to Elected Members, detailing the number of offers received, the number accepted and those declined. Advice on the format of the register will be issued by the **OCT/Watermill School**, however if a **staff member** is in doubt regarding the extent of the detail to be recorded advice can be sought from the **School Business Manager (SBM)**.

Finally, if you are in any doubt with regard to the suitability of any offer of gifts/hospitality/events, the most appropriate course of action is to tactfully decline the offer and record the refusal.

4.4 Beneficiary of Wills

The rules relating to gifts and hospitality also apply to bequests made to employees by service users. No employee should seek to become a beneficiary of a will, nor should they witness any will of a person for whom they are involved in providing a service. Nor should they agree to become executors of estates or be actively involved in writing a will on behalf of a service user. Clearly there must never be any influence placed on a service user to include an employee as a beneficiary of a will. Where a service user indicates an intention to include a bequest to an employee in his/her will, the matter must be reported immediately to a **SLT**, who will advise the person concerned of the **OCT/Watermill School** policy in this regard. In the event that an employee is named as a beneficiary after the death of a service user, the employee must immediately report the matter and seek the advice of their senior manager.

4.4 Corruption

Under the Prevention of Corruption Acts, 1906 and 1916 it is a serious offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation of corruption is made, it is for you to demonstrate that any such rewards have not been corruptly obtained.

If you are presented with an unacceptable or inappropriate gift, you must report it to your **SLT/SBM**. Together with the appropriate Member of the Cabinet, he/she will decide whether the gift should be returned or whether it could be forwarded to some charitable or other deserving cause. **The SLT/BSM** will advise the donor of their decision.

Normally where you are required to inspect any equipment or sample products prior to a decision to purchase being made, the cost of doing so will be met by the **OCT/Watermill School** in order to avoid potentially compromising the integrity of subsequent purchasing decisions.

5.0 Sponsorship - Giving and Receiving

If an organisation wishes to sponsor an **OCT/Watermill School** activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

If the **OCT/Watermill School** sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. You must tell your **SLT/SBM** or other nominated manager of any personal interest you may have.

Similarly, if the **OCT/Watermill School** gives financial support in the community, please ensure that impartial advice is given and that there is no conflict of interest.

If you personally receive sponsorship from an external organisation e.g. to attend relevant conferences and courses etc., you **MUST** obtain permission from your **SLT/SBM** or a nominated senior manager before accepting sponsorship.

6.0 Use of OCT/Watermill School Materials, Equipment and Facilities

Employees must ensure that they use funds entrusted to the **OCT/Watermill School** in a responsible and lawful manner. Every effort must be made to ensure value for money to the **OCT/Watermill School** and the local community, therefore employees must not utilise materials, property, vehicles or other facilities of the **OCT/Watermill School** for personal use unless authorised to do so in advance by a **SLT/SBM**.

At work you have access to facilities which include office equipment, computers, stores, **OCT/Watermill School** vehicles and other forms of transport. These facilities are provided for work purposes only and you must not use them for your own purposes, unless you have specific permission from a **SLT/SBM** to do so. You must hold a current licence applicable to any vehicle you are using. (NB In most instances, the **OCT/Watermill School's** insurance does not cover private use of equipment and vehicles.)

6.1 Telephone

Ideally, private telephone calls should not be made or received at work. In practice, you may need to make or receive essential calls but these should be kept to a minimum. The procedure for making and recording the costs of personal calls is set out in the general section of the **OCT/Watermill School's** internal directory. Where possible incoming calls should be limited to urgent matters only. Except in an emergency, the use of a personal mobile phones must be in own time.

6.2 Fax Machines and Photocopiers

Fax machines and photocopiers, as a general rule, must not be used for personal use, without the permission of a senior manager. There may be circumstances where it is acceptable to use them for personal use, the following is a guide:

- A personal fax message may be dispatched to a location within Great Britain, subject to payment being made in accordance with the rules on telephone use.

- Photocopies of personal documents may be made, provided the number of copies does not exceed three and the document itself does not exceed 10 pages and subject to payment being made for the copies taken.

- Any photocopying and sending of fax messages is conducted in your own time and not work time.

In certain circumstances, with the prior agreement of **SLT/SBM**, you may use photocopying facilities in excess of the copy limit referred to above if for example, you want to produce material for a voluntary organisation of which you are a member and the photocopying is for the benefit of that organisation. (Please note that payment must still be made.)

Under no circumstances will such facilities be extended to employees where the use relates to the employees private business and/or represents a conflict of interest with the **OCT/Watermill School**.

You will be charged for any personal photocopying in accordance with the rate determined by the **SLT/SBM**. A note will be issued annually by **SBM** detailing costs and methods of payment.

6.3 Internet/E-Mail

The rights and responsibilities concerning the use of the Internet by employees are set out in the Internet Acceptable Use Policy. Further information on the Policy is available from your **Watermill School's website**. No information must be transmitted by E-mail or Team Mail, even on a „personal“ basis, which is or could be detrimental to the interests of the **OCT/Watermill School**, the community or other organisations with whom the **OCT/Watermill School** has links. Particular care should be taken that remarks or comments made cannot be misinterpreted.

Limited personal use can be made of the Internet/E-mail facilities, subject to payment for use of the facilities being reimbursed in accordance with **OCT/Watermill School** arrangements. Please note that the **OCT/Watermill School** Policy on Internet use is to be reviewed.

6.4 Use of Vehicles

If you are required to drive a vehicle as part of your job, you must ensure that you have a current licence that is applicable to the type of vehicle that you are driving. You must also advise your **SBM** if you receive any endorsements on your licence or have a medical condition that will affect your driving performance. You **MUST NOT** drink or be under the influence of alcohol (or use any substances which may affect your driving performance) whilst using **OCT/Watermill School** vehicles or using your own vehicle on **OCT/Watermill School** business. If you do, this will be considered under the **OCT/Watermill School's** disciplinary procedure. Your **role** may also have specific requirements regarding vehicles. Please seek advice from your supervisor or line manager if you are not clear about your responsibilities.

7.0 Equality Issues

In accordance with the **OCT/Watermill School's** Valuing Diversity Code of Conduct all members of the local community, customers and other employees have a right to be treated with respect, fairness and equity.

As an employee of the **OCT/Watermill School** you should ensure that you implement the **OCT/Watermill School's** anti-discrimination policies and that your conduct at all times complies with the law on nondiscrimination.

8.0 Recruitment and Appointments

The **OCT/Watermill School** is legally required to ensure that people whom it employs are appointed on merit i.e. they are the best person to undertake the specific duties and responsibilities of the post to which they have been appointed as measured by open and objective criteria.

In order to avoid any possible accusation of bias you should not be involved in an appointment where you are related to the person applying for the post or where you have a close personal relationship outside of work. Canvassing on behalf of another person by senior officers or Members of the Council will automatically disqualify that person from appointment (notwithstanding that they may provide a reference if requested to do so, as part of the recruitment process).

You should not be involved in appointments where you and the candidate are members of a “secret” organisation as defined in section 20.5 of this Code. Applicants including existing **OCT/Watermill School** employees will be asked to disclose membership of these “secret” organisations in the recruitment interview.

9.0 Discipline and Grievance

You must not be involved in decisions relating to their employment such as discipline, promotion or pay adjustments for an individual who is a relative, partner, personal friend or is a member of a “secret” organisation to which you are also a member.

10.0 Criminal Convictions

In accordance with Disclosure requirements, if your post is or has been subject to a criminal conviction check, you will be required to notify your line **SLT/SBM** if you receive a criminal conviction, caution or bind-over at the earliest possible opportunity. Such information will be treated sensitively and its relevance, the nature of your duties and matters such as your length of service will be taken in account when deciding what action, if any, needs to be taken. Failure to declare such information could in itself result in disciplinary action being taken against you.

11.0 Dress Code

As an employee you are an ambassador for the **OCT/Watermill School** therefore your standard of dress, particularly when you deal with members of the public, needs to be appropriate to the work being undertaken. Where personal protective clothing or a uniform is issued this should be worn at all appropriate times. Whilst employees may have body piercing, facial jewellery, other than earrings, should not normally be worn during work time by employees dealing with the public. However, reasonable facial jewellery may be allowed at the discretion of the **OCT/Watermill School**.

12.0 Alcohol, Drugs and Substance Abuse

The **OCT/Watermill School** has a legal obligation to safeguard the health, safety and welfare of its employees while engaged in activities as part of their employment.

In turn, employees also have a legal obligation not to do anything to prejudice their own health and safety, or that of others, which includes misuse of alcohol, drugs or other substances. There is an additional contractual obligation that employees must not make themselves unfit e.g. through drink, drugs or substance misuse, to the extent that they are unable to perform their duties effectively or their performance is adversely affected. Under no circumstances must illegal substances be brought into the workplace.

13.0 Damage to Reputation

As ambassadors for the **OCT/Watermill School** you must not undertake or engage in any actions that will or are likely to be harmful to the reputation of the **OCT/Watermill School**. Such actions may include giving false or misleading information to the press, fighting or using aggressive, threatening or lewd behaviour in a public place. If any such actions do, or could potentially, result in the **OCT/Watermill School** being brought into disrepute the individual concerned may be subject to action in accordance with the **OCT/Watermill School's** Disciplinary Procedure.

14.0 Employment with Other Organisations/Private Business Interests

The **OCT/Watermill School** does not wish to prevent employees from engaging in any private work of a voluntary or paid nature. However there may be no apparent distinction to an outside observer between the work you do as an employee and other paid or unpaid work, which brings you into contact with the **OCT/Watermill School**. Thus the **OCT/Watermill School** has a responsibility to ensure that all employees are aware of the circumstances in which private work may or may not be undertaken.

Employees above Scale 6 shall devote their whole-time service to the work of the **OCT/Watermill School** and shall not engage in any other business or take up any other additional appointment without obtaining the express prior consent of the **OCT/Watermill School**, through your **SLT/SBM** or other nominated senior manager.

Where there is a benefit to the **OCT/Watermill School** from you undertaking work for an external organisation, for example; giving a talk or lecture on a City Council issue which enables you to network and bring back useful information, then this may be considered as acceptable in work time. However, prior consent must be obtained from your manager and arrangements for the payment and retention of any fees agreed.

No employee must undertake any type of private work or engage in any private business interest which conflicts with the **OCT/Watermill School's** interests or reacts detrimentally with the **OCT/Watermill School's**

interests, or in any way weakens public confidence in the conduct of the **OCT/Watermill School's** business. Work undertaken outside of the **OCT/Watermill School** must not prevent you from fulfilling the terms of your employment. If you are in any doubt as to whether any work you intend to do may conflict with your employment with the **OCT/Watermill School**, you must seek advice in each case from your **SBM**.

As a general rule, you must not: - Do private:

- work during working hours.
- Use the **OCT/Watermill School's** premises or equipment, materials or facilities for private work.
- Undertake any private work that prevents you from carrying out your duties with the **OCT/Watermill School** including any requirements to do contractual overtime.
- Undertake private work that involves approval or consent of the **OCT/Watermill School**. If you are proposing to undertake private work for any person, firm or company, you must find out whether it will involve the **OCT/Watermill School**. If it does you must not undertake the work concerned.
- Undertake private work for any person, firm or organisation who has a contractual relationship with or who is commissioned by the **OCT/Watermill School** for any type of work.
- Undertake private work for another employee responsible for supervising you or whom you supervise.

15.0 Disclosure of Information

As an employee of the **OCT/Watermill School** you may obtain information, which has not been made public, is confidential, or is specialist knowledge that can be said to be the „intellectual property“ of the **OCT/Watermill School**. Such information should not be disclosed to a third party unless you are specifically authorised to do this. Information you have gained through or by virtue of your employment must not be used for your own personal gain or to further your own private business interests or those of a relative, friend or any other outside individual or organisation.

15.1 Confidential Reporting Procedure

In the event that you become aware of activities within the **OCT/Watermill School** that you believe to be illegal, improper, unethical or otherwise inconsistent with this Code, you should report the matter, in accordance with the **OCT/Watermill Schools** Confidential Reporting Procedure. 15.2 Confidential Information.

In particular all employees must not:

- Use information about work and/or information, which relates to a contractor, debtor or creditor of the **OCT/Watermill School**, which, is confidential, for personal gain, benefit, or pass it onto others who might use it this way.
- Give information to the media unless you are authorised to do so. (Ref. Section 15.4). (N.B. this does not affect employees' rights under the Public Disclosure Act 1998).
- Disclose confidential information, relating to employees of the **OCT/Watermill School**, to someone else, unless it is a request from an approved source, e.g., Inland Revenue, Benefits Agency and, where authorised by the employee, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing.
- Communicate information or comment on the discussions in or decisions of the **OCT/Watermill School**, or any of its Committees or Panels where they have taken place without members of the public or media being present unless permission to do so has been granted by your **SLT/SBM**.
- Use or disclose advance knowledge of an **OCT/Watermill School** decision, particularly about investment decisions or proposed developments, to benefit you or someone else.

The above list is not exhaustive and any breach of confidentiality may result in action in accordance with the **OCT/Watermill School's** Disciplinary Procedure (subject to the provisions of the Public Disclosure Act 1998).

15.2 Data Protection Act

You must use personal data in accordance with the Data Protection Act. For example, the data must be held only for specific purposes and lawful purposes and must not be used or disclosed for any other purposes.

15.3 Contact with the Media

There is a Corporate Communications Strategy, which stipulates that contact with the media must be conducted via the **OCT/Watermill School SLT**. If you are approached directly by the media you should immediately refer the caller to the **OCT/Watermill School SLT (Senior Leadership Team)** and not try to deal with the issue yourself. You **MUST** also immediately inform your **SLT** that you have been contacted. Media statements and interviews are the responsibility of the **OCT/Watermill School SLT** who may, on occasions, ask staff members working in specialist fields to take part in interviews on their behalf or prepare material for the media. Before doing this the **OCT/Watermill School SLT** must first ensure that the employee has been appropriately trained – such training is available through the Corporate Training Programme. Being asked to take part in an interview does not automatically qualify the staff member for future interviews. On each occasion the **OCT/Watermill School SLT** must deal with the request as it arises.

If asked by your **SLT** to take part in an interview you **MUST** have regard to the use of any confidential material (e.g. a report in the confidential part of a committee agenda) and obtain his/her permission to use that material. The **OCT/Watermill School SLT** will give support, training and advice to any officer nominated to take part in an interview.

These requirements apply unless you are participating in your role as trade union representative or representative of a professional body. In these circumstances you must not use any confidential material that you obtained as an employee of the **OCT/Watermill School**.

If you are invited to write an article or take part in a broadcast in a personal capacity you should advise your **SLT** or other nominated senior manager before doing so and in addition consult the **OCT/Watermill School SLT**. You must also make it clear that you are representing your personal views and not necessarily those of the **OCT/Watermill School**. You must not use confidential material.

If you are offered a fee (expenses), for example, for a published article in your own name or a personal TV or Radio appearance and all the work including preparation is done in your own time, you are entitled to retain the fee paid to you. If you wish to use **OCT/Watermill School** resources in any of the work associated with the above activities, you must obtain permission to do so beforehand from your **SLT** or other nominated senior manager. If you have done any preparation or other Code of Conduct Procedure work in respect of these activities in the **OCT/Watermill School** time or used the **OCT/Watermill School's** resources for this purpose, then any fee (or part of the fee) you receive may be required to be paid to the **OCT/Watermill School**.

16.0 Private Use of Services of Organisations dealing with the OCT/Watermill School

You should be cautious when using the services of companies you know have dealings with the **OCT/Watermill School**. You should ensure that the goods or services bought from such organisations are at a price readily available to the public.

If you think any offer of preferential terms is designed to promote a company's interest, you should not deal with that organisation.

You should not use your position with the **OCT/Watermill School** to obtain a discount. However, you may purchase goods at discount terms under a scheme or arrangement negotiated by e.g. your Trade Union or the City Council.

This is a difficult area. Please try to avoid offending anyone and if necessary, explain the **OCT/Watermill School's** policy. If you have any problem or need any help speak to your **SLT/SBM**.

17.0 Financial and Non-Financial Interests

The Local Government Act 1972, section 117, requires you to disclose, in writing to your **SLT/SBM** or other nominated manager, any direct or indirect interest in an organisation that is doing business with the **OCT/Watermill School**, which you think conflicts with your job role. Section 117 (2) forbids an employee “under colour of his office or employment” to accept “any fee or reward” whatsoever other than proper remuneration.

You may have a conflict of interest even if you have no financial interest. For instance, relationships might be seen to influence judgements and give the impression of a personal motive. For example when a Council employee, who is an Honorary Officer of an Association, and who is involved in dealing with an application for a grant by the Association; or a Council employee who is involved in dealing with planning permission requests and whose partner, son or daughter works for an organisation which is applying for planning permission from the City Council. In such cases, again you should inform your Departmental Director or other nominated senior manager.

Each **SBM** must maintain a “Register of Interests” and you should inform him/her or other nominated senior manager of any interest you may have.

18.0 Separation of Roles during Tendering

If you are involved in the internal provision of a service, which is the subject of a tendering process, you should seek guidance from your **SLT/SBM**, or other nominated senior manager, as to how the competitive tendering process is to be conducted and how the “provider” and “commissioning” responsibilities are to be discharged. Employees working for an internal provider unit or working in a commissioning role must exercise fairness and impartiality when dealing with all customers, suppliers and other contractors and subcontractors.

If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose that information to any unauthorised party or organisation. You should ensure that you comply with the relevant **OCT/Watermill School** Standing Orders and Financial Regulations insofar as selection of contractors is concerned and in respect of receipt, opening and acceptance of tenders and quotations.

19.0 Political Neutrality

Employees work for the **OCT/Watermill School** as a whole. You are therefore required, where appropriate, to work with, assist and support all Elected Members of **OCT/Watermill School** and not just those of any controlling group or particular political party.

You must act within the policies and procedures of the **OCT/Watermill School** and must not allow your own personal or political opinions to interfere with your work.

Certain employees hold politically restricted posts under sections 1, 2, and 3 of the Local Government and Housing Act, 1989 and Local Government Officers (Political Restrictions) Regulations 1990 as amended by the Local Government Officers (Political Restrictions)(Amendments) Regulations 1999. Appendix 2 of this Code provides more details on Politically Restricted Posts and in particular the 4 categories of posts, which are covered by this legislation.

If you are in a politically restricted post you are disqualified, whilst employed by the **OCT/Watermill School** from:

- being an MP (Member of Parliament) at Westminster being an MP in the Scottish Parliament or the Welsh Assembly (Local Government Officers) (Political Restrictions)(Amendment) Regulations 1999) being an MEP (Member of the European Parliament). being a Local Councillor (unless only elected to a Town or Parish Council).
- holding office in a political Party canvassing at elections speaking or writing on matters of party political controversy.

In certain circumstances if you are in a politically restricted post you can appeal against the **OCT/Watermill School's** decision to include (or omit) your post. Further information on appeals is set out in Appendix 2 of this Code.

20.0 Relationships

20.1 Councillors

Mutual respect between employees and Councillors is essential. Close personal familiarity between employees and individual Councillors can damage this relationship and also prove embarrassing to other employees and Councillors. You must be professional at all times and not allow your work and personal interests to conflict.

20.2 The Local Community and Service Users

You should always remember your responsibilities to the Community/service users and deal with the public sympathetically, efficiently and without bias. You are required to give efficient and impartial advice to all groups and individuals within that Community.

20.3 Contractors

If you have a business or private relationship with external contractors or potential contractors, you should tell your senior manager. Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown to a business run, for example, by friends, partners or relatives, in the tendering process. No part of the local community should be discriminated against. If you engage or supervise contractors or work with contractors and have formerly had or currently have an interest or relationship either in a private or domestic capacity with contractors, you should declare that relationship to your **SLT/SBM** or nominated senior manager.

20.4 Arranging Services for Relatives, Friends etc.

You should try to avoid arranging for services to be provided by colleagues or other staff employed by the **OCT/Watermill School** to members of your family, other relatives or anyone with whom you have a close personal relationship. If it is unavoidable you should advise your manager of the circumstances.

20.5 Personal Interests – Membership of “Secret” Organisations

If you are a member of any organisation which is not open to members of the public without formal membership, where a commitment of allegiance has been given and it is secret about how people can gain membership and how members are expected to conduct themselves, you **MUST** advise your **SLT/SBM** or other nominated senior manager. **SLT/SBM** who are members of such organisations **MUST** inform the Chief Executive **of the OCT**.

21.0 Fraud Detection

Evidence of fraud or suspected fraud is circulated between public bodies for example under the National Fraud Initiative. Such information will be used by the **OCT/Watermill School** for employment purposes and could result in employment being refused to an applicant for appointment.

Where an employee has committed fraud either against the **OCT/Watermill School** or outside, information will be shared within the **OCT/Watermill School** and action will be considered under the Disciplinary Procedure. Depending on all the circumstances, this could result in the employee's dismissal.

Appendix 1

The Nolan Committee's Seven Principles of Public Life Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends. Integrity Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties. Objectivity In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be open as far as possible about all decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Appendix 2

Notes on Politically Restricted Posts

1. The Law

As a result of Sections 1, 2 and 3 of the Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990, certain employees of Local Authorities are restricted from engaging in public political activity. Recently the Regulations referred to above have been amended by the Local Government Officers (Political Restrictions)(Amendments) Regulations 1999. With effect from 1st April 1999 political restrictions now apply to the Welsh Assembly and Scottish Parliament (see section 12 Political Neutrality).

Under the Act the City Council is required to prepare lists of posts which are covered by the provisions of the Act. These provisions cover four categories of post. They are: -

List 1 - Chief Executive, Departmental Directors, Assistant Directors or anyone who reports directly to the Chief Executive or Departmental Director (except in a secretarial or clerical role)

List 2 - Any employee who occupies a post which has delegated authority to discharge a function of the City Council - in effect this catches all employees who are included in the list maintained under Section 100g (2) of the Local Government Act 1972

List 3 - Those posts which are not covered by Lists 1 or 2 above but where the salary/grade for the post is or includes spinal column point 44 and above (or equivalent). (N.B List 3 does not apply to teachers)

List 4 - Posts not covered by Lists 1, 2, or 3 above but where the duties involve either or both of the following: -

- a. Giving advice on a regular basis to the Authority, to Elected Members, any Committee (which will include member panels etc.) or any Joint Committee on which the City Council is represented.
- b. Speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

Those in List 4 are known as “politically sensitive” posts. Posts are only included in one of the lists.

2. How Do I Know If My Post Is “Politically Restricted”?

If you were appointed to a post with the City Council after 1989 this information should be contained in your “Written Statement of Particulars of Terms and Conditions of Appointment”. If you transferred to the City Council under the terms of a Statutory Transfer Order on Local Government Re-Organisation in 1997 and you were notified in your previous employment with the County Council that your post was “politically restricted” then unless your job has significantly changed since your transfer you are still covered by the legislative provisions referred to above.

If you feel that your post may be subject to Political Restrictions but this has not been formally notified to you by the City Council or the County Council for STO employees you can contact your Departmental HR for advice on this matter. If your post is included in one of the 4 Lists outlined above, by Law the political restrictions outlined in section 3 below will be automatically incorporated into your contract of employment with the City Council.

As indicated earlier the City Council is required to produce information on those posts that are “Politically Restricted”. This information is up-dated on an annual basis by Strategic HR. Copies of Departmental Lists are circulated to Departmental HR. If you feel your post is wrongly included in (or omitted from) one of these Lists you may appeal to an independent adjudicator. Further information on rights of appeal is set out below.

3. Right of Appeal

There is a right of appeal for employees in certain circumstances against a decision made by the **OCT/Watermill School** under section 1, 2 and 3 of the Local Government and Housing Act 1989 and related regulations in relation to their post. Details of appeal rights and the process for exercising them are set out below.

Do I Have a Right of Appeal?

Yes, if your post is included in list 3 or list 4. There is no right of appeal for potholders whose post has been designated under List 1 or 2. (See Appendix 2) Who Do I appeal to?

An appeal against inclusion (or omission) on the register is to the Standards Committee. The address is set out below: - Chair of Standards Committee c/o Member Services **OCT/Watermill School**

OCT Offices
Watermill School
ST6 6JZ

Civic Centre
Glebe Street
Stoke-on-Trent
ST4 1RN

Who Can I Obtain Further Help and Information From?

For advice and guidance about appeals please contact the Standards Committee at the address outlined above.

For general advice and guidance about the provisions on Political Restrictions please contact HR Consultancy
(01782) 238510.



Disciplinary Policy

Disciplinary Policy Information		
Policy Author: Government Document Governing Board approval date/date policy is in effect from: May 2020		
Date: September 23 Name of reviewer/s: J Bytheway	No amendments required	September 24

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Disciplinary Policy

Introduction

- 1.1. This document sets out the procedures (“the Disciplinary Procedures”) for the regulatory system relating to teacher¹ misconduct which operates within a legislative framework which came into force on 1 April 2012².
- 1.2. The regulatory system is operated by the Teaching Regulation Agency (the TRA), an executive agency of the Department for Education, which acts on behalf of the Secretary of State as regulator of the teaching profession.
- 1.3. The Disciplinary Procedures set out what will happen at each stage of a teacher misconduct case, and are principally directed to teachers who are the subject of misconduct allegations, witnesses at professional conduct panel hearings, members of professional conduct panels and employers of teachers³.
- 1.4. In these Disciplinary Procedures (i) a reference to the Teaching Regulation Agency or the TRA is to be interpreted as a reference to officials within that agency acting on behalf of the Secretary of State
 - (ii) a reference to a teacher is to be interpreted in accordance with the definition in regulation 2 of the [Teachers’ Disciplinary \(England\) Regulations 2012](#) (“the Regulations”)⁴
 - (iii) a reference to teaching work is to be interpreted in accordance with regulation 3 of the Regulations
 - (iv) a reference to a teacher includes, where appropriate, the person or persons representing a teacher in the course of misconduct proceedings
 - (v) a requirement for the TRA or its representatives to communicate with a teacher includes a requirement to send that communication to any representative acting on behalf of the teacher
 - (vi) a reference to a teacher’s employer is, where appropriate, to be interpreted as including a reference to any person who has made arrangements for a teacher to carry out work at the request of or with the consent of a relevant employer, as defined in section 141D of the Education Act 2002⁵

¹ See the definition of “teacher” in paragraph 1.4(ii).

² Sections 141A to 141E of, and Schedule 11A to, the Education Act 2002 and the [Teachers’ Disciplinary \(England\) Regulations 2012](#).

³ Although they may also be of interest to members of the public and organisations who may consider making a referral of alleged misconduct to the Secretary of State.

⁴ It should be noted that this definition is not limited to qualified teachers.

⁵ Usually referred to as a supply agency.

- (vii) unless stated otherwise, a reference to a teacher's employer is to be interpreted as a reference to the teacher's previous employer⁵ if the teacher is no longer employed or engaged as such, and a requirement to send any document or to provide any information to the teacher's employer need only be complied with if the employer's identity is known to the TRA
- (viii) a reference to the presenting officer is to the person or persons representing the TRA in the course of misconduct proceedings⁶, and a reference to the TRA is, where the context requires, to be interpreted as a reference to the presenting officer on behalf of the TRA
- (ix) a reference to a panel is to a professional conduct panel appointed in accordance with regulation 6 of the Regulations
- (x) a reference to the chair is to the chair of a panel
- (xi) a reference to an allegation is to be interpreted, where the context so requires, as a reference to more than one allegation
- (xii) a reference to directions is to case management directions made under paragraphs 5.58 to 5.76
- (xiii) a reference to a document or material which is to be disclosed includes anything in which information of any description is recorded, including electronic documents and sound and video recordings
- (xiv) a requirement to disclose a document or material includes a requirement to provide a copy of it
- (xv) a document is deemed to have been served or received on the fourth day after it is sent if it is sent by post, on the second day after it is sent if it is sent electronically and on the day of delivery if it is delivered by hand
- (xvi) the date a document is sent is the date it is despatched, whether by post, e-mail or otherwise
- (xvii) a reference to a number of days or weeks is to a number of calendar days or weeks unless otherwise stated
- (xviii) a reference to the GTCE is to the General Teaching Council for England⁷.

1.5. Any procedures or requirements set out in the Disciplinary Procedures, except for matters which are a requirement of the Regulations, may be waived or varied if

⁵ This only applies if the teacher was employed by that employer to carry out teaching work. ⁷ See paragraph 5.20.

⁶ The GTCE was responsible for regulation of the teaching profession prior to the Regulations coming into force.

- (i) there is agreement between the TRA and the teacher prior to a professional conduct panel hearing commencing
- (ii) a panel so directs, either in the course of a professional conduct panel hearing or at a case management hearing convened to consider the matter; or
- (iii) Exceptionally, the TRA considers it necessary to do so in the interests of justice.

1.6. If there is a material difference between the provisions in these Disciplinary Procedures and the provisions in the Disciplinary Procedures that were applicable when a referral of alleged misconduct was made to the Secretary of State, the earlier provisions will apply to the case unless, in the interests of justice or the public interest, the TRA or the panel directs otherwise.

1.7. To the extent necessary in order to ensure the fairness of proceedings for the parties and the public at large, the TRA and panels shall, in making decisions and directions, take notice of the procedures followed in the Criminal Courts (under the Criminal Procedure Rules) and the Civil Courts (under the Civil Procedure Rules).

Summary table of misconduct proceedings

1.8. The following table sets out in brief the process which is followed in the course of misconduct proceedings.

The System of Teacher Regulation

Action on receipt of referrals

The TRA receives referrals from employers, the public, the police, the Disclosure and Barring Service (“the DBS”) and other regulators and interested organisations. On receipt of a referral the TRA will check

- (i) that it relates to a person who has been employed or engaged to carry out teaching work in England; and

- (ii) that the alleged conduct is capable of amounting to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence and that a prohibition order may therefore be appropriate.

If the TRA is satisfied following initial assessment of the case that either

- (i) it does not have jurisdiction; or
- (ii) the alleged conduct cannot amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence

The TRA will not carry out an investigation and the referrer and the person whose conduct has been referred will be notified.

In all other cases, the TRA will inform the teacher, the referrer and the teacher's employer and will carry out an investigation⁷.

Interim Prohibition Orders

As an initial step, the TRA will determine whether an Interim Prohibition Order ("IPO") should be considered to prevent the subject of the referral from teaching until the case is concluded.

An IPO can be made at any stage in the misconduct proceedings without the need for a hearing once the seriousness of the allegation has been established. Once the teacher is informed that the TRA is considering making an IPO, the teacher has ten working days to respond and provide any evidence that the teacher considers will be relevant to the TRA's decision.

If an IPO is made the TRA will inform the teacher, the referrer and the teacher's current employer. The employer must take action to ensure that the teacher does not carry out teaching work unless and until the IPO is lifted. The teacher may apply to the TRA for a review of the IPO within six months of the date it was made and subsequently at six monthly intervals.

If the TRA has informed the teacher that it is considering making an IPO but decides not to make one the TRA will inform the teacher. **Investigation stage**

If the TRA decides to carry out an investigation, it will formulate the allegations to be put to the teacher and inform the teacher that the teacher has 28 days to submit representations and evidence. The TRA considers the evidence, and if appropriate seeks advice from experts from the teaching, medical, legal or other professions. When the TRA has completed its investigation, it will decide whether to refer the case to a professional conduct panel hearing.

⁷ At this stage the letter may include no, or only limited, details of the matters referred to the TRA.

If the TRA decides not to refer the case to a professional conduct panel hearing, no further action is taken.

The TRA will inform the teacher, the referrer and the teacher's employer of the outcome.

Hearing and Decision

When a case is referred to a professional conduct panel hearing, the teacher and referrer are informed and invited to provide any further evidence. A panel (at least three members including at least one teacher and one non-teacher) hears evidence (from the teacher and other witnesses) and decides whether

- (i) the alleged facts have been proved and, if so,
- (ii) whether they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence and, if so,
- (iii) whether to recommend to the Secretary of State that a prohibition order should be made and, if so, whether the teacher should be permitted to apply to have the order set aside after a specified period⁸.

Where agreed, a panel may consider a case in a meeting¹⁰.

If the panel finds that the teacher is guilty of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence but the Secretary of State decides not to prohibit the teacher, the teacher, the referrer and the teacher's employer are informed in writing and the decision is published on the GOV.UK website. No further action is taken.

If the Secretary of State decides to prohibit the teacher, the teacher, the referrer and the teacher's employer are informed in writing and the decision is published on the GOV.UK website. The teacher is added to the list of prohibited teachers kept by the TRA.

If a panel does not find the facts to be proved, or finds that the facts which are proved do not amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, the panel's findings will be published only at the request of the teacher.

Review

When a teacher is prohibited, the Secretary of State may decide that the teacher can apply to have the prohibition order set aside after the minimum period specified in the order (which will be not less than two years).

⁸ See regulation 6 of the Regulations and paragraph 5.117. ¹⁰ See paragraphs 5.129 to 5.143.

Action on receipt of referrals

- 2.1. The TRA may become aware of a possible case of misconduct by a teacher from a number of sources.
- 2.2. If a teacher has been dismissed for serious misconduct, or would have been dismissed for that reason if the teacher had not resigned, the teacher's employer must consider whether to refer the case to the Secretary of State.
- 2.3 A referral may also be made by the public, the police, the Disclosure and Barring Service (DBS) and other regulators and interested organisations.
- 2.4. Local procedures for complaint resolution should usually have been exhausted before a referral is made⁹.
- 2.5. On receipt of a referral of alleged misconduct, the TRA will check
 - (i) that it relates to a person who has been employed or engaged to carry out teaching work in England; and
 - (ii) that the alleged conduct is capable of amounting to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence and that a prohibition order may therefore be appropriate.
- 2.6. The TRA will not investigate cases in which
 - (i) the Secretary of State considers that there is no reasonable prospect of establishing jurisdiction (for example, if the teacher has never taught in a relevant setting in England, even if the teacher has taught or is teaching in another jurisdiction or setting); or
 - (ii) the alleged conduct cannot amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence (for example because it is alleged that the teacher is merely guilty of incompetence).
- 2.7 If the case should have been referred to another regulatory body or organisation, the TRA will forward the relevant information to that body as soon as possible.
- 2.8 If the TRA considers that the teacher
 - (i) may be guilty of unacceptable professional conduct
 - (ii) may be guilty of conduct that may bring the teaching profession into disrepute; or
 - (iii) may have been convicted, at any time, of a relevant offence and that a prohibition order may therefore be appropriate, it will begin an investigation¹⁰.

⁹ More information about making a referral can be found [here](#).

¹⁰ A fuller description of these terms, and details of the factors that are relevant when considering whether a case should be investigated, can be found in the advice document "Teacher Misconduct: the prohibition of teachers".

- 2.9 The TRA will decide whether to carry out an investigation within three working days of receipt of a referral or as soon as possible thereafter provided it has sufficient information to do so.
- 2.10 If the TRA determines that it requires further information before deciding whether to carry out an investigation it will request it within three working days of doing so or as soon as possible thereafter.
- 2.11 When the TRA decides whether to carry out an investigation it will inform the teacher, the referrer and the teacher's current employer of its decision.
- 2.12 The teacher will, when informed of a decision to carry out an investigation, be provided with a copy of the referral form or other document in which the alleged misconduct was referred to the TRA.
- 2.13 If the TRA is unable to take the decision referred to in paragraph 2.11 within four weeks of receiving a referral it will inform the teacher that a referral has been made and that the TRA is considering it, unless it is not in the interests of justice to inform the teacher.
- 2.14 If the allegation against a teacher includes safeguarding matters, namely the risk of harm, or actual harm, to a child, the TRA will forward all relevant information to the Disclosure and Barring Service to enable it to carry out its own investigation.

Interim prohibition orders

- 3.1. If the allegation is of particularly serious misconduct, the TRA will decide whether to consider making an interim prohibition order ("IPO") prior to the investigation being completed.
- 3.2. An IPO prevents a person from being employed or engaged to carry out teaching work¹¹ until a misconduct case against the person has concluded.
- 3.3. Once a referral has been made, the TRA can impose an IPO at any time without the need for a hearing including if, at any stage during the progress of a case, the TRA receives new information justifying the imposition of an IPO.
- 3.4. In considering whether to make an IPO, the TRA will balance the public interest in doing so against the interests of the teacher and the public interest in allowing the teacher to continue to carry out teaching work.
- 3.5. In carrying out the balancing exercise referred to in paragraph 3.4 the TRA will have regard to the need for proportionality and to the adverse consequences for the practice and reputation of the teacher if an IPO is imposed.
- 3.6. If the TRA receives information which justifies the lifting of an IPO it will do so without the need for the teacher to make an application for a review in accordance with paragraph 3.16¹².

Summary table of Interim Prohibition Orders

- 3.7. The following table sets out in brief the process which is followed when an IPO is considered.

Interim Prohibition Orders

Normally within 3 working days of receipt of a referral

¹¹ See the definition of "teaching work" at paragraph 1.4(iii).

¹² The criteria for making an IPO can be found in the advice document "Teacher misconduct: the prohibition of teachers".

The TRA decides whether to consider making an IPO to prevent the teacher from carrying out teaching work until the case has concluded.

An IPO can also be made at any stage once the seriousness of the allegation has been established, without the need for a formal misconduct hearing.

Within 1 working day of that decision

If the TRA decides to consider an IPO it will send written notification to the teacher.

Within 10 working days of receiving letter

The teacher may submit written representations and additional evidence.

Within 5 working days of receipt of representations or evidence provided, or expiry of the 10 working day time limit

The TRA reviews all representations and evidence and decides whether to make an IPO.

Within 2 working days of the decision

If an IPO is made the teacher, the referrer and the teacher's employer are informed and the teacher's name is added to the list of prohibited teachers.

If the TRA decides not to make an IPO, the teacher is informed.

Within 6 months, and at further 6-monthly intervals The teacher may request a review of the IPO.

- 3.8. If the TRA decides to consider making an IPO, it will send a letter to the teacher within two working day which will
- (i) inform the teacher that consideration is being given to the imposition of an IPO
 - (ii) set out the information that has led the TRA to consider imposing an IPO, and enclose the bundle of documents which will be considered by the TRA in deciding whether to make an IPO; and
 - (iii) invite the teacher to make written representations regarding the allegation and to provide any additional evidence that the teacher wishes the TRA to consider.
- 3.9. The teacher must serve any written representations and additional evidence on the TRA within ten working days of the teacher receiving the letter referred to in paragraph 3.8.
- 3.10. Once the teacher's representations and evidence have been received or the time limit of ten working days has expired, whichever is earlier, the TRA will, within a further five working days, review all the evidence before it and decide whether to make an IPO.

- 3.11. If the TRA makes an IPO, the TRA will send written notice of it to the teacher, the referrer and the teacher's employer within two working days.
- 3.12. An IPO takes effect on the date on which notice of the IPO is served on the teacher.
- 3.13. When an employer is notified of an IPO relating to a member of its staff, it must take action immediately to ensure that the person concerned does not undertake teaching work at their establishment whilst the IPO remains in effect.
- 3.14. As soon as the IPO takes effect, the teacher's name will be added to the list of prohibited teachers kept by the TRA, which will state that the order is an interim one.

Review of an interim prohibition order

- 3.15. If an IPO is imposed, the teacher does not have a right of appeal.
- 3.16. The teacher may however make a written application to the TRA to review the IPO (i)
 - within six months after the IPO has been made; and
 - (ii) at subsequent six-monthly intervals.
- 3.17. The teacher must set out the grounds on which the application is made.
- 3.18. The TRA will consider the evidence provided by the teacher alongside other evidence from the investigation.
- 3.19. If the TRA is satisfied that it is no longer in the public interest to prohibit the teacher pending the conclusion of the case, it will lift the IPO.
- 3.20. If the TRA decides to lift the IPO
 - (i) the TRA will send written notice to the teacher, the referrer and the teacher's employer within two working days of the decision being made; and
 - (ii) the teacher's name will be removed from the list of prohibited teachers maintained by the TRA.
- 3.21. If the TRA decides that the IPO should remain in place
 - (i) the TRA will send written notice to the teacher, the referrer and the teacher's employer within two working days of the decision being made; and
 - (ii) no further application for a review may be made within six months from the date on which the decision was made.

Investigation

- 4.1. Following a decision that an allegation should be investigated, the TRA will consider all relevant information which is before it.
- 4.2. The TRA will investigate the case by considering the evidence against the criteria set out in the advice document "Teacher misconduct: the prohibition of teachers".

- 4.3. The TRA will, if it considers it necessary to assist the investigation, seek additional evidence by making reasonable requests of relevant parties for further information or documents.
- 4.4. As soon as it is reasonably able to do so the TRA will send a letter to the teacher which will
- (i) set out the allegation
 - (ii) subject to paragraphs 4.5 to 4.6, enclose copies of documentation in its possession which is relevant to the allegation, including details of any relevant criminal convictions obtained
 - (iii) invite the teacher to make written representations regarding the allegation, normally within 28 days from service of the letter, and to provide any other relevant evidence which the teacher wishes the TRA to consider; and
 - (iv) provide details of where to access the Disciplinary Procedures.
- 4.5. The TRA may be in possession of documents or other physical evidence prior to writing to the teacher which it is not appropriate or practicable to copy or send to the teacher, for example pornographic material or information stored on a computer hard drive.
- 4.6. In a case to which paragraph 4.5 applies, the TRA will provide the teacher with
- (i) a description of the evidence
 - (ii) an explanation of the reason why it is not appropriate or practicable to copy or send it to the teacher; and
 - (iii) details of the arrangements which may be made for inspection of that evidence by or on behalf of the teacher.
- 4.7. The TRA may conduct such further enquiries and carry out such further investigations as it considers appropriate until the conclusion of any professional conduct panel meeting or hearing.

Consideration of evidence and the use of experts

- 4.8. The TRA may, if it considers it necessary to assist the investigation, seek advice from a relevant expert or experts¹³.
- 4.9. The TRA may require any person to produce documents or other material evidence for the purposes of its investigation, in accordance with regulation 5 of the Regulations.
- 4.10. Subject to paragraphs 4.5 to 4.6, the TRA will send to the teacher any additional relevant documents and other evidence which it has considered in the course of its investigation which has not already been provided to the teacher in accordance with paragraphs 2.12 and 4.4.
- (i) The TRA will invite the teacher to make representations and submit further evidence within 14 days from the date of service of that invitation; or

¹³ For example from the teaching, medical or legal professions.

- (ii) If that period would expire before the 28-day period mentioned in paragraph 4.4(iii), the 28-day period will continue to apply.

4.11. If, at any stage before the decision referred to a paragraph 4.12 (“the case to answer decision”) would otherwise be taken, the TRA is satisfied that a case does not satisfy the criteria in paragraph 2.5, the TRA will close the case and will inform the teacher of that decision in writing.

Case to answer decision

4.12. When the TRA is satisfied that it has sufficient information to do so, and has complied with paragraphs 4.4 and 4.10, it will decide whether there is a case to answer.

4.13. If the TRA decides that there is a case to answer it will refer the case to a panel.

4.14. If the TRA decides that a case should not be referred to a professional conduct panel hearing, the case will be closed.

4.15. Once the TRA has made the case to answer decision, it will send to the teacher a letter (“the case to answer letter”) notifying the teacher of its decision, normally within five working days of the case to answer decision being made.

4.16. If the case has been referred to a panel the case to answer letter will

- (i) inform the teacher that an allegation has been referred to a panel
- (ii) specify the details of the allegation; and
- (iii) state that the teacher has 14 days from the date of service of the case to answer letter to provide the TRA with a written response stating whether the alleged facts are admitted and, if so, whether the teacher accepts that they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence.

4.17. The TRA will inform the referrer and the teacher’s employer of the case to answer decision in writing, normally within five working days of that meeting.

4.18. If at any time the teacher admits all of the matters specified in paragraph 4.16(iii), the teacher may request that the case be considered without a hearing and paragraphs 5.129 to 5.143 will apply.

4.19. The case will be considered at a professional conduct panel hearing if the teacher does not respond to the case to answer letter or, having done so, does not

- (i) request that the allegation be considered without a hearing
- (ii) admit all of the matters specified in paragraph 4.16(iii); and
- (iii) agree a statement of facts with the TRA and that those facts amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence.

Agreed statement of facts

- 4.20. The TRA will, normally within four weeks of receipt of a response from the teacher to the case to answer letter in which it is indicated that some or all of the allegations are admitted, send to the teacher a draft statement of facts and invite the teacher to agree to it.
- 4.21. The teacher will, within three weeks of service on the teacher of the TRA's draft statement of facts, serve on the TRA a response indicating which facts are agreed.
- 4.22. The parties will take such further steps as they reasonably can to agree a statement of facts.

Disclosure of relevant documents by the TRA

- 4.23. Subject to paragraphs 4.24 to 4.27, the TRA will disclose to the teacher any material in its possession which has not previously been disclosed to the teacher and which might reasonably be considered to be capable of
- (i) undermining the TRA's case against the teacher; or (ii) assisting the teacher's case.
- 4.24. The TRA is not obliged to disclose any material to which legal professional privilege applies.
- 4.25. If the TRA considers that to disclose material which falls within paragraph 4.23(ii) would damage the public interest, it may make an application to the panel for a direction that it shall not be disclosed.
- 4.26. On receipt of an application under paragraph 4.25, the panel will decide whether (i) to determine it without notice to the teacher; or
- (ii) to allow the teacher to make representations.
- 4.27. If the panel considers that it is in the interests of justice or the public interest to do so it may hear representations from any third party who it appears to the panel has an interest in the outcome of an application made under paragraph 4.25.
- 4.28. The duty to disclose material set out at paragraph 4.23
- (i) continues until the proceedings have come to an end
 - (ii) applies in respect of any material which the TRA becomes aware is in its possession or falls with paragraph 4.23.
- 4.29. A party to whom a document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed, except where
- (i) the document has been read to or by a panel, or referred to, at a hearing which has been held in public
 - (ii) the TRA gives permission; or
 - (iii) the party which disclosed the document and the person to whom the document belongs agree.

Professional conduct panels

Constitution

- 5.1. A panel will consist of at least three members, all of whom will have been recruited through a public appointments process.
- 5.2. If the TRA considers it to be appropriate, taking into account all the circumstances of the case, it will appoint more than three members to a panel.
- 5.3. The panel will include
 - (i) at least one member who is a teacher, or who was a teacher in the five years immediately prior to the date the member was appointed as suitable to be a member of a panel - this panellist will be referred to as a teacher panellist¹⁴
 - (ii) at least one member who has never worked as a teacher – this panellist will be referred to as a lay panellist.
- 5.4. Any or all of the remaining panel members may be
 - (i) teacher panellists
 - (ii) lay panellists; or
 - (iii) persons who have previously worked as teachers (whether or not as defined in paragraph 1.4(ii)) but do not currently meet the criteria to be a teacher panellist, and who will be referred to as former teacher panellists.
- 5.5. The TRA will appoint one panel member as the chair.
- 5.6. The TRA will take all reasonable steps to ensure that it does not appoint to a panel any member who is associated with, or has a conflict of interest with, the teacher whose case is before the panel.
- 5.7. If a panel member becomes aware of reasons why the panel member should not hear the case, the panel member must notify the TRA and withdraw from the panel.
- 5.8. If a panel member becomes aware that the panel member or another panel member might reasonably be perceived to have a conflict of interest in connection with the case, the panel member must declare this to the parties and the other members of the panel and the panel will, after taking legal advice from the legal adviser to the panel¹⁷, decide whether the panel member in question should withdraw from the panel.
- 5.9. If a panel member does not consider there to be a conflict, but the teacher does, the teacher and the presenting officer may, before the commencement of the professional conduct panel hearing, make representations to the TRA and the TRA will decide whether it is appropriate for the panel member to continue.
- 5.10. If a teacher wishes to object to a panel member once the professional conduct panel hearing has commenced, the teacher may make representations to the panel and the

¹⁴ The TRA's policy is also to require all teacher panellists to have carried out teaching work within the seven years prior to sitting on a panel. ¹⁷ See paragraphs 5.15 to 5.19.

panel will, after taking legal advice from the legal adviser to the panel, decide whether it is appropriate for the panel member to continue.

- 5.11. A panel member's membership of a teachers' trade union or professional association does not of itself constitute a conflict of interest.
- 5.12. If, in the course of a professional conduct panel hearing, a panel member is unable to continue the TRA will appoint another member in that member's place, ensuring that the new panel member is fully acquainted with all the documents previously before the panel, including a record of the proceedings.
- 5.13. Before the case resumes in front of a new panel member, the teacher may make representations if the teacher believes that there are grounds to appoint an entirely new panel, and the TRA will appoint a new panel if it is in the interests of justice to do so.
- 5.14. The TRA or Department for Education officials may attend a professional conduct panel hearing or meeting even if it is not held in public, but will not participate in the proceedings or play any role in the panel's decision-making.

Legal adviser to the panel

- 5.15. The TRA will appoint a legal adviser to the panel, who will not be a member of Department for Education or Government Legal Department staff.
- 5.16. The legal adviser will not be a person who has previously advised or addressed the panel in any capacity other than as a legal adviser
- 5.17. The legal adviser's role will be to advise the panel on
 - (i) questions of law
 - (ii) mixed questions of law and fact
 - (iii) matters of practice and procedure
 - (iv) interpretation of Departmental policy
 - (v) any relevant previous panel or court decisions; and
 - (vi) any other issues relevant to the case.
- 5.18. The legal adviser may also
 - (i) remind the panel of evidence given in the case

- (ii) ask questions of witnesses and the parties in order to clarify the evidence or arguments; and
- (iii) help the panel to formulate and record the reasons for its decisions, without taking part in the decision-making process.

5.19. If the teacher is not represented, the legal adviser will provide advice to the teacher regarding the procedure for presenting the teacher's case, without acting as an advocate for the teacher.

Appearance before the panel

5.20. The TRA will appoint a presenting officer to present the case before the panel, who may be an official of the Department for Education, a lawyer from the Government Legal Department or an external lawyer.

5.21. The teacher may be self-represented before the panel or be represented by any person of the teacher's choice, including a legal representative.

Summary table of panel decisions and recommendations

5.22. The following table sets out in brief the process for a panel reaching its decision and, if appropriate, making a recommendation to the Secretary of State.

Professional conduct panels

Following a decision to refer a case to a professional conduct panel hearing, the TRA will set a provisional date for the professional conduct panel hearing. The provisional date is normally 30 weeks from the date of the case to answer decision.

The TRA sends to the teacher a Notice of Hearing at least ten weeks before the hearing.

The teacher has four weeks from service of the Notice of Hearing to respond.

If the parties agree case management directions, the TRA may confirm those directions or apply to the panel to make them. The panel may make case management directions of its own motion.

The panel must consist of at least three members, will be comprised of teacher and lay (i.e. non-teacher) members and can include a former teacher, all of whom have been publicly appointed. A legal adviser will also be appointed to advise the panel and will be present at the professional conduct panel hearing.

If the panel finds that some or all of the alleged facts are proved and that the teacher is guilty of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, it must make a recommendation to the Secretary of State.

Once the panel has made its recommendation the Secretary of State decides whether to make a prohibition order, usually within three working days of the panel making its recommendation.

Notification of the Secretary of State's decision is sent to the teacher, usually within two working days.

In cases in which there is a decision of the Secretary of State as to whether to impose a prohibition order, that decision, the reasons for it and a summary of the evidence are published on the GOV.UK website within two weeks of the decision being made.

Notice of Hearing

5.23. The TRA will send a notice (a “Notice of Hearing”) to the teacher at least ten weeks before the date of the professional conduct panel hearing unless otherwise agreed with the teacher.

5.24. The Notice of Hearing will

- (i) specify the time and date of the professional conduct panel hearing, the address at which it will take place and the identity of the panel members
- (ii) specify the details of the allegation against the teacher which is to be pursued at the professional conduct panel hearing
- (iii) identify the witnesses, if any, that the TRA proposes to call to give evidence at the professional conduct panel hearing
- (iv) have annexed to it any relevant documents which the TRA is required to disclose pursuant to paragraph 4.23 and which have not previously been disclosed to the teacher
- (v) request the information set out in paragraph 5.29; and
- (vi) set out the requirements in paragraphs 5.35 to 5.37.

5.25. The TRA will send a copy of the Notice of Hearing, but not the annexes thereto, to the teacher’s employer.

5.26. The TRA will publish a notification of the professional conduct panel hearing on the GOV.UK website approximately one week in advance of the professional conduct panel hearing.

5.27. Any changes to the address for the hearing or the identity of panel members will not invalidate the Notice of Hearing but must be notified to the teacher as soon as possible.

5.28. If the TRA decides not to proceed with an allegation that has been notified to the teacher, it will inform the teacher, the referrer and the teacher’s employer forthwith, and any such decision will not invalidate the Notice of Hearing.

Response to Notice of Hearing

5.29. The teacher will be given four weeks from the date the Notice of Hearing is served to provide the following information, which will be requested in the Notice of Hearing

- (i) whether the teacher wishes to put forward any reason as to why the professional conduct panel hearing, or part of it, should not be held in public
- (ii) whether the teacher intends to appear in person or to be represented at the professional conduct panel hearing and, if the latter, the name and address of the teacher’s representative

- (iii) whether the teacher intends to appear in person even though the teacher has chosen to be represented at the professional conduct panel hearing¹⁵
- (iv) if the teacher does not intend to be present at the professional conduct panel hearing, whether the teacher wishes to provide any reasons for the decision not to attend
- (v) whether the teacher admits the alleged facts and, if so, whether the teacher admits that they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence
- (vi) whether the teacher intends to call witnesses and, if so, their names
- (vii) if the teacher proposes to call more than two witnesses, why the teacher considers that the evidence of more than two witnesses is relevant and necessary for the fair hearing of the case such that their expenses should be reimbursed¹⁶
- (viii) whether the teacher knows of any reason to believe that a conflict of interest may arise in relation to any member of the panel and, if so, the reason; and
- (ix) whether the teacher is currently employed or engaged to carry out teaching work and, if so, the name and address of the teacher's current employer.

5.30. The teacher may provide the TRA with any documents or other evidence, including a witness statement, on which the teacher wishes to rely with the response to the Notice of Hearing²⁰.

Standard and burden of proof

5.31. The standard of proof is that applicable in civil court proceedings, namely, proof on the balance of probabilities¹⁷.

5.32. The burden of proof is on the TRA, meaning that it is for the TRA to prove the facts of the case¹⁸.

Admissibility of evidence

5.33. The panel may admit any evidence, if it is fair to do so, which may reasonably be considered to be relevant to the case.

5.34. Evidence not disclosed in accordance with paragraphs 5.30, 5.35 or 5.37 will be admitted only with the permission of the panel at the professional conduct panel hearing.

¹⁵ A teacher who is represented may nevertheless choose to present the case to the panel and to rely on the representative for advice only.

¹⁶ A teacher is able to call more than two witnesses, however paragraph 5.98 applies in relation to the reimbursement of the expenses of additional witnesses ²⁰ See also paragraph 5.37.

¹⁷ That is, that an alleged fact is more likely to have happened than not.

¹⁸ Details of the burden and standard of proof applicable on a review of a prohibition order are set out in paragraph 6.13.

Service and Inspection of Evidence

- 5.35. In accordance with paragraph 4.23, the TRA will serve on the teacher all signed witness statements and any other evidence on which it intends to rely at the professional conduct panel hearing; subject to any case management direction to the contrary, the TRA will do so as soon as statements and evidence are available following service of the case to answer letter.
- 5.36. In any event, and subject to paragraphs 5.42 and 5.43, the TRA will serve on the teacher a complete bundle of the evidence on which it intends to rely at the professional conduct panel hearing, whether or not previously provided to the teacher, not less than ten weeks before the professional conduct panel hearing.
- 5.37. If the teacher wishes to rely upon any document or other evidence, including a witness statement, which was not annexed to or enclosed with the reply to the Notice of Hearing, the teacher must submit to the TRA and any other party to the proceedings a copy of the document or evidence at least four weeks prior to the professional conduct panel hearing.

Hearing bundle

- 5.38. The presenting officer and the teacher will, whenever possible, agree a bundle of relevant documents to be used at the professional conduct panel hearing.
- 5.39. If agreement as to the content of the bundle is reached or the presenting officer does not obtain a response from the teacher that enables agreement to be reached
- (i) the presenting officer will prepare a bundle of relevant documents and forward it to the TRA three weeks prior to the professional conduct panel hearing; and
 - (ii) the TRA will send a copy of the bundle to each panel member, the legal adviser to the panel and the teacher no later than five working days prior to the professional conduct panel hearing.
- 5.40. If there is a dispute between the TRA and the teacher in relation to the relevance or admissibility of documents
- (i) a bundle of the disputed documents will be prepared by the party who seeks to rely on them and forwarded to the TRA three weeks prior to the professional conduct panel hearing
 - (ii) the TRA will send a copy of the bundle of disputed documents to the other parties and the legal adviser to the panel no later than five working days prior to the professional conduct panel hearing; and
 - (iii) at the start of the professional conduct panel hearing, or at a case management hearing¹⁹, the party seeking to rely on the disputed documents must apply to the panel for a determination as to their relevance or admissibility.

¹⁹ See paragraphs 5.64 to 5.76.

5.41. In a case in which there are multiple or complex allegations the panel may, at a case management hearing, direct the TRA to prepare and serve on the other parties a table²⁰ of the allegations against the teacher, and the teacher's response to those allegations, in the following format

- (i) a column in which each allegation against the teacher is set out as a separate entry
- (ii) a column in which the teacher's response to each allegation is set out
- (iii) any additional columns which the panel considers would assist the conduct of the professional conduct panel hearing, such as a summary of the evidence in support of the TRA's case or the teacher's case to be completed by the TRA or the teacher, as the case may be
- (iv) a final, blank column in which the panel's findings in relation to each allegation will be recorded following the professional conduct panel hearing.

5.42. If a party wishes to rely at the professional conduct panel hearing on documents or other physical evidence which it is not appropriate or practicable to be copied or sent by post, the party in possession of the documents or other physical evidence will, at least four weeks prior to the professional conduct panel hearing, provide to the other parties

- (i) a description of the evidence
- (ii) an explanation as why it is not appropriate or practicable for the documents or other evidence to be copied or sent by post
- (iii) details of the arrangements that may be made for inspection of that evidence by or on behalf of the other parties.

5.43. The TRA will make appropriate arrangements for the documents or other physical evidence referred to at paragraph 5.42 to be inspected.

5.44. If a party wishes to inspect the original of any document disclosed in accordance with paragraphs 5.37 to 5.40, the TRA will make suitable arrangements for inspection to take place at least five working days before the date of the professional conduct panel hearing.

Absence of the teacher at a hearing

5.45. If the teacher does not attend the start of the professional conduct panel hearing, the chair will

- (i) request evidence that the Notice of Hearing was served on the teacher in accordance with paragraph 5.23 (in particular any response received from the teacher which evidences receipt); and
- (ii) ask whether any reasons for the teacher's absence have been communicated to the TRA.

5.46. If the panel is not satisfied that the Notice of Hearing was served on the teacher in accordance with paragraph 5.23 it will adjourn the professional conduct panel hearing.

²⁰ Such tables are referred to in civil court proceedings as "Scott Schedules".

5.47. If the panel is satisfied that the Notice of Hearing was served on the teacher in accordance with paragraph 5.23, and after taking into consideration any representations by the TRA, any oral representations made by the teacher's representative if present, any evidence submitted as to the reason for the teacher's absence and any written submissions made by the teacher, the panel may

- (i) proceed with the hearing in the absence of the teacher; or
- (ii) adjourn the hearing to a later date.

5.48. If the panel adjourns the hearing to a later date, the panel appointed to hear the case may consist of members other than those who decided to adjourn the case.

Rescheduling or adjourning the hearing

5.49. The parties may agree to reschedule a professional conduct panel hearing at any time before it commences, or to adjourn such a hearing after it has commenced.

5.50. If a party wishes to reschedule or adjourn a professional conduct panel hearing but cannot secure the agreement of the other parties (whether to reschedule or adjourn at all or to reschedule or adjourn to a specified date), the TRA or the panel (as applicable) will decide whether to reschedule or adjourn, and may schedule a case management hearing to determine when the professional conduct panel hearing will take place.

5.51. The panel may re-schedule a professional conduct panel hearing or, after a professional conduct panel hearing has commenced, adjourn a professional conduct panel hearing at any time for such period as it thinks fit if it is in the interests of justice to do so.

5.52. Reasons for considering rescheduling or adjourning include, but are not limited to

- (i) the submission of further evidence by a party
- (ii) a party or a party's representative being unable to attend the hearing for reasons beyond their control
- (iii) a panel member or the legal adviser to the panel being unable to attend the hearing
- (iv) it becoming apparent that the time estimate for the hearing is inadequate and that it is not in the interests of justice for the hearing to be fragmented.

5.53. No professional conduct panel hearing will be rescheduled or adjourned in accordance with paragraph 5.51 unless all parties have been given a reasonable opportunity to make representations on the matter to the TRA or the panel, as applicable.

5.54. Notice of a decision whether or not to adjourn a professional conduct panel hearing will be served on the teacher, with reasons for the decision.

5.55. When a professional conduct panel hearing has been rescheduled or adjourned the TRA will, as soon as is practicable, notify the parties of the new time and date of the hearing and the address at which it will take place or resume.

Referral back to investigation stage

- 5.56. If before the scheduled first day of a professional conduct panel hearing (i) the TRA becomes aware, whether via representations or evidence provided by the teacher or otherwise, of new evidence or any other reason that suggests that the case should not be considered at a professional conduct panel hearing; or
- (ii) the TRA becomes aware of additional matters not previously considered for referral to the panel the TRA will refer the case back to the investigation stage²¹ to enable it to consider the new matters and to re-take the decision as to whether to refer the case to a panel.
- 5.57. If (i) the purpose of the referral back under paragraph 5.56 is to consider whether to add an allegation; or
- (ii) the purpose of the referral back is to consider whether to re-take the decision as to whether to refer the case to a panel, and the TRA is nevertheless minded to continue the case the TRA will send written notification to the teacher, and will invite the teacher to make written representations, normally within 28 days of service of the written notification.

Case Management Directions

- 5.58. The parties may at any time before the commencement of a professional conduct panel hearing
- (i) agree proposed case management directions; and
- (ii) make a joint written application to the TRA or, if a panel has already been appointed, to the panel to confirm the directions as agreed and, if no panel has yet been appointed, the TRA may appoint a panel and ask it to consider the application.
- 5.59. If, on an application under paragraph 5.58, the TRA or the panel is satisfied that the proposed directions will assist in the just and efficient management of the case it will make the directions accordingly.
- 5.60. The TRA may at any time before the commencement of a professional conduct panel hearing set out steps or arrangements which the parties are to adhere to in preparing for or presenting their respective cases at a professional conduct panel hearing.
- 5.61. The TRA may not impose any sanction on a party for a failure to comply with a step or arrangement set out in accordance with paragraph 5.60.
- 5.62. In a case in which a professional conduct panel hearing has not yet commenced the TRA may, on receipt of a request from a party or if it considers it appropriate to do so, at any time up to three weeks before the scheduled date for the professional conduct

²¹ See paragraphs 4.1 to 4.19.

panel hearing invite the panel to make arrangements for making case management directions or, if no panel has been appointed, appoint a panel in order to do so.

5.63. In a case in which a professional conduct panel hearing has commenced the panel may, on an application to it by a party or if it considers it appropriate to do so, make arrangements for the making of case management directions or make such directions of its own motion.

5.64. The arrangements for making case management directions referred to in paragraphs 5.62 and 5.63 may include, but are not limited to

- (i) seeking agreement between the parties as to the case management directions which they wish the panel to make
- (ii) if agreement cannot be reached, inviting written representations from the parties
- (iii) determining whether the matter should be dealt with on the papers, by telephone, by video conference or at a hearing in person and, if appropriate, fixing a date for a case management hearing²².

5.65. A panel may make case management directions of its own motion if it considers it appropriate to do so, and a party may apply to the panel for a variation of such directions within three working days of receiving notice of them.

5.66. The matters which may be the subject of case management directions include, but are not limited to

- (i) disclosure of documents
- (ii) exchange of witness evidence
- (iii) the provision by the parties of a time estimate for the professional conduct panel hearing
- (iv) the provision by the teacher of a note indicating whether any fact, allegation or witness evidence is admitted
- (v) the preparation by the TRA of a table in accordance with paragraph 5.41
- (vi) any preliminary legal arguments with which the panel will be required to deal at the professional conduct panel hearing
- (vii) the treatment of any witness as a child or vulnerable witness in accordance with paragraphs 5.101 to 5.106
- (viii) provision for a joint hearing of the cases against two or more teachers
- (ix) provision for part or all of a professional conduct panel hearing to be held in private in accordance with paragraph 5.85

²² The list of directions referred to in this paragraph is not exhaustive.

- (x) provision for the names and identities of schools or witnesses to remain anonymous in accordance with paragraph 5.88
- (xi) provision for requiring a witness to attend or produce evidence in accordance with paragraph 5.96
- (xii) the time limit for compliance with any direction made by the panel
- (xiii) amendment or waiver of any time limit or other requirement set out in the Disciplinary Procedures
- (xiv) whether to reschedule the professional conduct panel hearing before it has commenced or to adjourn it after it has commenced
- (xv) whether to order a stay in proceedings to allow concurrent civil or criminal proceedings based on the same or similar facts to be concluded
- (xvi) any other matter in respect of which the panel may make a direction in accordance with the Disciplinary Procedures.

5.67. The panel for a case management hearing will

- (i) consist of at least three members and will be advised by a legal adviser
- (ii) be the panel for all other case management hearings in the proceedings and the professional conduct panel hearing unless it becomes necessary, whether in the interests of justice or otherwise, for one or more panel members to be replaced, and will where reasonably possible be advised by the same legal adviser throughout.

5.68. The TRA will make the arrangements for the case management hearing and will send a notice to the teacher and the presenting officer at least five working days before the case management hearing.

5.69. At least three working days before the case management hearing the teacher and the presenting officer will serve any documents in support of their proposed directions to the TRA for onward transmission to the panel and the legal adviser to the panel.

5.70. The procedure at a case management hearing will be determined by the chair.

5.71. Case management hearings will be held in private unless the panel directs otherwise.

5.72. If the parties attend the case management hearing, the panel will invite each party to make oral representations regarding the directions sought, supplementing any written representations already submitted, and will give an opportunity to every other party to respond.

5.73. When the panel has made case management directions, the TRA will provide each party with written notice of the directions within seven days of the conclusion of the case management hearing.

- 5.74. If a party fails to comply with case management directions the panel may make whatever further directions it considers appropriate in relation to the conduct of the case, including the admissibility of any evidence.
- 5.75. In the event that the panel directs during the course of a professional conduct panel hearing that a case management hearing will take place, or adjourns a professional conduct panel hearing for a case management hearing to be fixed, it will also give directions as to the provision of any relevant documents to the TRA and paragraph 5.69 will not apply.
- 5.76. If the panel considers that it is in the interests of justice or the public interest to do so it may hear representations from any third party who it appears to the panel should be permitted to make representations as to appropriate case management directions.

Procedure at a professional conduct panel hearing

- 5.77. Subject to paragraphs 5.78 to 5.84 and 5.107 to 5.118, the procedure at a professional conduct panel hearing will be determined by the chair, who will direct the parties to adopt an investigative rather than an adversarial approach.
- 5.78. At the commencement of the hearing (i) the chair will introduce the members of the panel and request confirmation of the identity of the teacher
- (ii) the chair will invite the parties to make any preliminary applications, which will be decided by the panel before the hearing proceeds
- (iii) the chair will read aloud the allegation against the teacher and ask whether the teacher admits the facts of the allegation and, if so, that they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, as applicable.
- 5.79. If the teacher admits the facts of the allegation, the chair will ask the parties whether they have agreed a statement of facts and, if they have done so, at that or another convenient point in the proceedings
- (i) the presenting officer will read out the agreed statement of facts
- (ii) the chair will invite the presenting officer and the teacher to present evidence, including written and oral witness evidence, and to make representations to the panel regarding whether the facts that have been admitted amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, as applicable; and
- (iii) the panel will retire to deliberate in accordance with paragraphs 5.107 and 5.108.
- 5.80. If material facts remain disputed
- (i) the chair will invite the presenting officer to make an opening statement about the facts in dispute
- (ii) the chair will invite the teacher to respond

- (iii) the presenting officer and the teacher may present documentary and witness evidence²³ relating to the facts alleged and whether those facts amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, as applicable
- (iv) the panel may invite the parties to sum up their respective cases
- (v) the panel will retire to deliberate in accordance with paragraphs 5.107 and 5.108.

5.81. The panel may decide, at any time, to deliberate either in public or in private.

5.82. The panel may discontinue the proceedings at any stage if it is satisfied that it is fair and appropriate to do so because

- (i) it does not remain possible for the teacher to receive a fair hearing; or
- (ii) it offends the panel's sense of justice and propriety to be asked to continue to hear the proceedings against the teacher in the particular circumstances of the case.

5.83. At any stage before making its decision as to whether the facts of the case have been proved the panel may, if it is in the interests of justice to do so, amend an allegation.

5.84. Before amending an allegation, the panel will invite representations from the parties and take advice from the legal adviser to the panel.

Public or private hearing

5.85. A panel may exclude the public from a professional conduct panel hearing or part of a hearing if

- (i) it appears necessary in the interests of justice
- (ii) the teacher makes a request for the hearing to take place in private and the panel does not consider it to be contrary to the public interest or the interests of justice for it to do so; or
- (iii) it is necessary for the protection of the interests of children or vulnerable witnesses, and those interests outweigh any other competing interests²⁴.

5.86. A party may, at the start of a professional conduct panel hearing, apply for the hearing to be held in private, and the panel will hear the application in private but will announce its decision on the application in public.

5.87. If the panel holds a hearing in private, the panel will nevertheless announce in public its decision regarding whether the facts have been proved and, if so, whether those facts amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, as applicable.

²³ See paragraphs 5.90 to 5.100 for further provisions about witness evidence.

²⁴ See paragraphs 5.101 to 5.106

5.88. A panel may, if it considers it to be in the interests of justice or not contrary to the public interest to do so, direct that

- (i) the name and identity of a school will not be disclosed during the professional conduct panel hearing or at all
- (ii) the name and identity of any individual referred to in the documents before the panel or who gives witness evidence will not be disclosed during the professional conduct panel hearing or at all
- (iii) any other details of the case will not be disclosed during the professional conduct panel hearing or at all.

Joint hearings

5.89. A panel may consider allegations against two or more teachers at a joint hearing, if

- (i) it is satisfied that there is no risk of undue prejudice to the fairness of the proceedings
- (ii) the allegations against the teachers arise from the same circumstances; and
- (iii) having invited and considered representations from the parties -
 - (a) prior to a panel being appointed, the TRA determines that a joint hearing is necessary; or
 - (b) if a panel has been appointed, the panel determines that a joint hearing is necessary.

Witnesses

5.90. Witnesses must give evidence on oath or having made an affirmation appropriate to their beliefs.

5.91. The panel will normally direct that a signed witness statement, copied to the parties at the professional conduct panel hearing, will be taken as read even though it has not been read aloud by the witness.

5.92. When a witness statement is taken as read, the panel may direct that a copy of the statement, or part of the statement, will be made available to the public but, if the panel does so, the statement or part will be available during the course of the hearing only.

5.93. The teacher, the presenting officer, the members of the panel and the legal adviser to the panel may question any witness, subject to paragraphs 5.101 to 5.106.

5.94. A witness may not be present in the professional conduct panel hearing until the witness has completed giving evidence and the panel has determined that it is unlikely to be necessary to recall the witness, unless the panel directs otherwise.

5.95. A witness may, if so directed by the panel, be recalled to give further evidence or to clarify evidence that the witness has previously given in the case.

5.96. If

(i) a party requires the attendance of, or the production of documents or other material evidence by, a witness; or

(ii) the panel considers the attendance of the witness or the production of documents or other material evidence to be necessary;

the TRA or, if authorised by the TRA, the panel may require the witness to attend or produce the evidence pursuant to regulation 10 of the Regulations.

5.97. The TRA will, at its discretion, reimburse the reasonable expenses of up to two witnesses for each other party.

5.98. If the teacher considers that the evidence of any additional witness is likely to be relevant and necessary for the fair hearing of the case and wishes the reasonable expenses of the additional witness to be reimbursed, the teacher may make representations to that effect to the TRA.

5.99. If

(i) the TRA accepts the representations made in accordance with paragraph 5.98, the TRA will agree that reasonable expenses of the additional witness will be reimbursed

(ii) the TRA does not accept such representations, the teacher may apply to the panel for a case management direction.

5.100. The expenses payable pursuant to paragraph 5.99 will be in accordance with guidance issued by the TRA from time to time²⁵.

Children and vulnerable witnesses

5.101. A child is any person who is under the age of 18 at the start of the professional conduct panel hearing.

5.102. A person is a vulnerable witness if the quality of the person's evidence is likely to be adversely affected at a professional conduct panel hearing, including by any mental or physical impairment and if the witness requires special consideration; this may include any witness

(i) with a mental disorder

(ii) whose intelligence or social functioning is significantly impaired

(iii) with a physical disability as a result of which the witness requires assistance to give evidence

(iv) who is the alleged victim of conduct which is the subject of an allegation against the teacher of a sexual nature

(v) who complains of intimidation.²⁶

²⁵ The current version can be found at <https://www.gov.uk/guidance/teacher-misconduct-hearingsclaimingexpenses>

²⁶ The list of matters referred to in this paragraph is not exhaustive.

5.103. The panel will adopt such measures as it considers appropriate in order to safeguard the interests of a child or vulnerable witness, which may include

- (i) the use of a video link
- (ii) the use of pre-recorded evidence
- (iii) the use of an interpreter, including a signer or translator
- (iv) the use of an intermediary
- (v) the hearing of evidence by the panel in private
- (vi) permitting the witness to give evidence behind a screen
- (vii) the attendance of a witness supporter.²⁷

5.104. Any party may make representations as to whether a witness is to be treated as vulnerable, and as to any measures the panel should adopt in respect of a child or vulnerable witness.

5.105. In determining whether to permit a child or vulnerable witness to give evidence the panel will balance any potential impact on the welfare of the child or vulnerable witness against the interests of justice.

5.106. If

- (i) any allegation against a teacher concerns conduct of a sexual nature and the alleged victim of the conduct gives evidence
- (ii) a child witness gives evidence in relation to any allegation

the teacher will not be permitted to examine or cross-examine the witness in question other than via a representative, and the panel may direct that examination or cross-examination of the witness will be undertaken by such means, or by such person, as the panel considers appropriate and, if it is reasonably possible, will make such a direction at least three weeks before the witness is scheduled to give evidence.

Recommendation and decision

5.107. Once the parties have closed their respective cases, the panel will retire to deliberate.

5.108. In its deliberations, the panel will

- (i) consider all the evidence available to it and the representations of the parties
- (ii) if appropriate, take into account any failure by the teacher to comply with the personal and professional conduct standards set out in part two of the [Teachers' Standards](#) published by the Secretary of State

²⁷ The list of measures referred to in this paragraph is not exhaustive.

- (iii) take account of the criteria set out in the advice document “Teacher misconduct: the prohibition of teachers”
- (iv) take into account any relevant mitigating circumstances;

5.109. The panel will decide

- (i) whether the alleged facts, or any of them, have been proved; and if so
- (ii) whether those facts that are proved amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence.

5.110. The professional conduct panel hearing will then resume, and the panel will announce its findings of fact.

5.111. If the panel decides that the teacher is guilty of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, it will ask whether the presenting officer has any evidence to produce that would be relevant to a decision as to whether to impose a prohibition order.

5.112. The panel will then ask whether the teacher has any evidence to produce or submissions to make in mitigation, including anything not previously mentioned to the panel, which would be relevant to a decision as to whether a prohibition order is appropriate.

5.113. The parties may call witnesses at this stage.

5.114. The panel will then invite submissions from the presenting officer and the teacher as to whether a prohibition order is appropriate.

5.115. The panel will then retire to decide whether to recommend to the Secretary of State that a prohibition order should be imposed.

5.116. The panel will take into account the principles set out in Section 5 of the advice document “Teacher misconduct: the prohibition of teachers” in determining whether to recommend a prohibition order.

5.117. If the panel decides to recommend a prohibition order it will also consider whether to recommend that the teacher be permitted to apply to have the order set aside and, if so, recommend the minimum period of time which must elapse before the teacher may do so.

5.118. In considering its recommendation the panel may take into account any previous disciplinary order imposed by the Secretary of State, the GTCE or any other relevant body.

- 5.119. On receipt of the panel's recommendation the Secretary of State²⁸ will decide whether to make a prohibition order and, if so, whether the teacher may apply for a review of the order and the minimum period that must elapse before the teacher may do so.
- 5.120. The Secretary of State's decision will usually be taken within three working days of the panel making its recommendation.

Notification of decision

- 5.121. Notice of the Secretary of State's decision will be sent to the teacher, normally within two working days of the decision being made and will take effect when it is deemed to have been served on the teacher²⁹.
- 5.122. On the same day as it is sent to the teacher, the decision will also be sent to the teacher's employer and any former employer known to the TRA and whom the TRA considers it appropriate to notify.
- 5.123. If the referrer or the teacher's employer has made a request to the TRA to be informed forthwith of:
- (i) the panel's announced findings of fact and decision as to whether the teacher is guilty of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence; or
 - (ii) the Secretary of State's published decision as to whether to make a prohibition order, if applicable

the TRA will forward the requested information to the person who requested it by e-mail, or by post if no e-mail address has been provided, as soon as possible.

- 5.124. The Secretary of State's decision, along with a summary of the evidence and the reasons for the decision and the other information required by regulation 15(2) of the Regulations, will be published on the GOV.UK website within two weeks of the decision being made, subject to any requirement to keep matters contained in that information confidential.

Reference to a differently constituted panel

- 5.125. Prior to reaching its final decision a panel may recuse itself and ask the TRA to refer the case to a differently constituted panel if
- (i) it appears that there has been a breach of natural justice
 - (ii) the panel was not properly constituted; or
 - (iii) there is some other reason why it would be in the interests of justice for the case to be referred to a differently constituted panel.
- 5.126. The panel will not decline to hear or determine a case because there has been a defect or deficiency in compliance with the Disciplinary Procedures which does not amount to a breach of natural justice³⁰.

²⁸ The decision is taken by a senior official of the TRA appointed to do so on behalf of the Secretary of State.

²⁹ See regulation 13(3) of the Regulations.

³⁰ Any panel member with a concern should however alert the TRA.

5.127. If a panel asks the TRA to refer a case to a differently constituted panel, the TRA will inform the teacher and other relevant parties forthwith.

Resumption of professional conduct panel hearing after adjournment

5.128. Prior to the resumption of a professional conduct panel hearing following an adjournment for a period of more than three months the TRA will serve on the teacher

- (i) a notice of resumption specifying the time and date of the hearing, which will not be less than one month from the date of service of the notice; and
- (ii) a note or transcript of the evidence considered prior to the adjournment.

Agreement to consider case in a professional conduct panel meeting

5.129. If the teacher requests that the case be considered without a hearing because the teacher admits the alleged facts and that they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence, the TRA will, within four weeks of receipt of the teacher's request, serve on the teacher a draft statement of facts in accordance with paragraph 4.20 and invite the teacher to agree to it.

5.130. The teacher will, within three weeks of service on the teacher of the TRA's draft statement of facts, serve on the TRA a response indicating which facts are agreed in accordance with paragraph 4.21, and in addition

- (i) any information which the teacher wishes to submit about the case, including in relation to mitigation; and
- (ii) any reasons why the teacher considers that the case should be considered without a hearing, if not already provided.

5.131. In accordance with paragraph 4.22, the parties will take such further steps as they reasonably can to agree a statement of facts.

5.132. If the TRA and the teacher agree

- (i) a statement of facts; and
- (ii) that the teacher is guilty of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or has been convicted, at any time, of a relevant offence, the TRA will decide whether it is appropriate for the allegation to be considered without a hearing, having taken into account
 - (a) the available evidence
 - (b) any information submitted by the teacher
 - (c) the interests of justice; and (d) the public interest.

5.133. If the TRA agrees that the case may be considered without a hearing, the case will be considered in a meeting of a panel.

- 5.134. The TRA will inform the teacher and the presenting officer in writing that the case is to be considered in a meeting, and will at the same time specify the time and date of the meeting, the address at which it will take place and the identity of the panel members.
- 5.135. The TRA will inform the teacher's employer and the referrer of the decision to consider the case in a meeting and the meeting date.
- 5.136. The TRA will send a copy of the agreed statement of facts and any representations made by the parties to the panel members prior to the meeting.
- 5.137. The panel will be constituted in accordance with paragraphs 5.1 to 5.6, and the procedure at the meeting will be determined by the chair.
- 5.138. The meeting will be held in private.
- 5.139. The process for making recommendations and decisions will be as set out at paragraphs 5.108 to 5.109 and paragraphs 5.116 to 5.124.
- 5.140. The panel may reschedule or adjourn the meeting at any stage in accordance with paragraphs 5.46 to 5.55, save that references to the hearing in those paragraphs shall be read as references to the meeting.
- 5.141. The panel will consider any evidence and submissions in relation to mitigation, including any presented to the panel at an earlier stage of the proceedings, after it has reached its decision as to whether the facts are proved and, if so, whether they amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction, at any time, of a relevant offence.
- 5.142. At any stage of the meeting, the panel may decide that, in the interests of justice or the public interest, the case should be considered at a professional conduct panel hearing and, if it does so, will make an appropriate direction.
- 5.143. In such a case the TRA will send a Notice of Hearing to the teacher, and
- (i) the hearing will proceed in accordance with paragraphs 5.78 to 5.107 and 5.128; and
- (ii) the process for making recommendations and decisions will be as set out at paragraphs 5.107 to 5.124.

Appeals, review of prohibition orders and GTCE orders

Appeals

- 6.1 A teacher may appeal against a prohibition order³¹ to the Queen's Bench Division of the High Court under regulation 17 of the Regulations within 28 days from the date that notice of the order was served on the teacher.
- 6.2 The teacher must serve a copy of the appeal notice, together with copies of such other documents filed with it in the High Court, on the Secretary of State within such period as required by the court.

³¹ A teacher may not appeal to the High Court against the imposition of an IPO.

6.3 Appeals against prohibition orders are subject to the provisions in part 52 of the Civil Procedure Rules.

Application for a prohibition order to be set aside

6.4 An application to the Secretary of State for a prohibition order to be set aside (“the application”) must be made in writing and must specify the grounds upon which it is made.³²

6.5 The teacher shall provide details of up to three referees and any other evidence in support of the application.

6.6 Provided the teacher is permitted by the terms of the prohibition order to make the application, the TRA will write to the teacher’s nominated referees enclosing a copy of the Secretary of State’s decision to impose a prohibition order and inviting the referees to provide evidence, within one month, as to the teacher’s suitability to carry out teaching work.

6.7 The TRA will normally refer the application to a panel appointed in accordance with paragraphs 5.1 to 5.19 and consisting of persons who were not members of the original panel which heard the case, to consider the application.

6.8 In exceptional circumstances the TRA may set aside a prohibition order without the need to appoint a panel, for example if a conviction of a relevant offence has been quashed³⁷.

6.9 If the application is referred to a panel, the TRA will send to the teacher a notification of the details of the hearing which will:

- (i) specify the time and date of the hearing, the address at which it will take place and the identity of the panel members; and
- (ii) have annexed to it, if available, a copy of the Secretary of State’s original prohibition decision or the decision of the GTCE Committee if the order was made by the GTCE.

6.10 The procedure prior to and at the hearing of the application will, insofar as appropriate, follow that for a professional conduct panel hearing, including in relation to the service and inspection of evidence, save that it is for the teacher to present the case for the prohibition order to be set aside and, if applicable, for the TRA to respond.

6.11 The panel will take into account the principles set out in Section 8 of the advice document “Teacher misconduct: the prohibition of teachers” in determining whether to recommend that the prohibition order should be set aside.

6.12 The panel will not re-examine the facts which were found to be proved at the professional conduct panel hearing or reconsider the Secretary of State’s decision to impose a prohibition order, but will consider whether in its judgment the teacher is suitable to be employed or engaged to carry out teaching work as at the date of the hearing of the application.

6.13 The burden of proving any material facts, on the balance of probabilities, rests on the

teacher. 6.14 Once the panel has considered the application

³² See regulation 16(2) of the Regulations. ³⁷ See also paragraph 6.22.

- (i) the panel will make a recommendation to the Secretary of State as to whether the prohibition order should be set aside and, if not, the minimum period which must elapse before the teacher can make a further application for the prohibition order to be set aside; and
- (ii) the Secretary of State will decide whether to accept the panel's recommendation.

6.15 If the application is refused, no further application may be made within twelve months of the date on which the original application was refused or such longer period as the Secretary of State may determine.

6.16 If the prohibition order is set aside the individual's details will be removed from the list of prohibited teachers held by the TRA and the previous published decision will be removed from the GOV.UK website.

6.17 Notice of the Secretary of State's decision will be sent to the teacher, normally within two working days of the decision being made, and will take effect immediately it is made.

Application to vary or revoke a condition specified in a GTCE

Conditional registration order or suspension order

6.18 In the case of a conditional registration order or suspension order against a teacher made by the GTCE, the teacher may apply to the TRA for a variation or revocation of the order by submitting a written application which

- (i) specifies the order or condition(s)
- (ii) specifies whether the teacher is seeking variation or revocation of the order or condition(s) and, in the case of variation, the terms of the variation applied for
- (iii) specifies the grounds of the application; and
- (iv) is accompanied by any documents relied on in support of the application.

6.19 On receipt of the application the TRA on behalf of the Secretary of State will consider it on the papers and decide whether to allow it in part or in full, or to refuse it.

6.20 A decision to vary or revoke an order or condition may be published on the GOV.UK website.

6.21 Notice of the Secretary of State's decision will be sent to the teacher, normally within two working days of the decision being made, and will take effect immediately it is made.

Revocation of disciplinary orders

6.22 The Secretary of State may, at any time, revoke a disciplinary order made by the GTCE or the Secretary of State if the only or main reason for making the order was that the teacher in relation to whom the order was made had been convicted of a relevant offence and, after the date the order was made, the conviction was quashed.

Compliance with GTCE conditional registration orders or suspension orders

6.23 In a case in which the GTCE made a conditional registration order or a suspension order in relation to a teacher, the TRA may make a reasonable request for information in order to determine whether the conditions have been, or continue to be, complied with.

6.24 Such information may be requested from

- (i) the teacher in relation to whom the order was made
- (ii) any person who is, at the time the request is made, the teacher's employer (iii) any other person whom the TRA believes may hold such information.

6.25 If the TRA

- (i) receives the information requested and is of the opinion that a condition has not been complied with or is not being complied with; or
- (ii) does not receive the information requested

it may refer the matter to a panel constituted in accordance with paragraphs 5.1 to 5.19, which will decide

- (a) whether the teacher has failed to comply, or is failing to comply, with a condition; and if so
- (b) whether to recommend to the Secretary of State that a prohibition order should be made.

6.26 If the TRA refers the matter to a panel, it will send to the teacher a Notice of Hearing which will

- (i) specify the address at which the hearing will take place and the identity of the panel members
- (ii) specify the time and date of the hearing, which will not be less than eight weeks after the day the notice was served on the teacher
- (iii) have annexed to it a note of the evidence given at the hearing at which the conditional registration or suspension order was made together with a record of the decision made; and
- (iv) specify the allegation which is to be considered at the hearing.

6.27 The case will be considered at a hearing, and the procedure at the hearing will, insofar as appropriate, follow that for a professional conduct panel hearing.

6.28 If the panel decides that the TRA has proved an allegation of a breach of a condition on the balance of probabilities it will make a recommendation to the Secretary of State as to whether to make a prohibition order.

6.29 The Secretary of State will decide whether to make a prohibition order and, if so, the terms of that order in accordance with paragraphs 5.119 to 5.120.

6.30 The decision of the Secretary of State as to whether to make a prohibition order will be published on the GOV.UK website.

6.31 Notice of the Secretary of State's decision will be sent to the teacher, normally within two working days of the decision being made, and will take effect when it is deemed to have been served on the teacher.



Teaching
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Appraisal Policy

Appraisal Policy Information		
Policy Author: Schools HR Business Management (Floor 2 Civic Centre S-OT) Governing Board approval date/date policy is in effect from: September 2014		
Date: September 23 Name of reviewer/s: J Bytheway	No amendments required	September 24

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Glossary:

This procedure applies to both school based and centrally employed teachers. Unless otherwise indicated the following terms are interchangeable:

- School – includes schools that are known as college or academy
- Teacher – applies to qualified teachers both those in schools and centrally employed
- Headteacher – applies to Headteacher (Principal) or Line Manager
- Governors – applies to members of the school's Governing Body or Directors or in the case of centrally employed teachers a relevant Strategic Manager
- Appeal Governors – applies to members of the schools Governing Body or in the case of centrally employed teachers a relevant Assistant Director.

Appraisal Policy

1.0 Introduction

1.1 This procedure has been adopted by the Governing Body/Board of Directors of Watermill School on 20th November 2014 for the purpose of managing Teacher Appraisal

2.0 Principles

2.1 The Appraisal process will be conducted in a positive manner and will celebrate the excellent work of teachers

2.2 Appraisal is a supportive and developmental process designed to ensure that all teachers have the skills, resources and support they need to carry out their role effectively. The process will help to ensure that teachers are aware of the required national standards and expectations of them and enable them to continue to improve their professional practice and to develop as teachers. The appraisal process should be built around open and honest discussions between appraiser and appraisee.

2.3 Appraisal is used to inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. The school aims to support teachers to achieve their professional aspirations as identified through the Appraisal process.

Professional development will be linked to school improvement priorities and to the ongoing professional development needs and priorities of individual teachers.

2.4 The National Teaching Standards apply to all qualified teachers; Headteachers will take account of these standards, with reference to the levels which individual teachers can be expected to attain.

2.5 Appraisal reports are confidential and access to them will usually be limited to the appraisee, the appraiser. The information may be shared with others with the agreement of the appraiser and appraisee.

2.6 Appraisers and appraisees should be appropriately trained in appraisal procedures.

3.0 Purpose

3.1 The purpose of these procedures is to provide a framework for the clear and consistent assessment of the overall performance of teachers, including the Headteacher. It is intended to support the development and aspirations of teachers within the school's plan for improving educational provision.

3.2 This policy is not intended to address issues of wilful under-performance; these cases should be addressed using the Disciplinary Procedure and Capability Procedure, nor will it be applied to cases of unsatisfactory performance due to absence which should be dealt with using the Supporting Attendance Policy.

3.3 This policy applies to the Headteacher and to all teachers employed by the school, except those on contracts of less than one term and those undergoing induction (i.e. NQTs).

3.4 The teaching standards referred to in this policy apply only to Qualified Teachers; for Lead Practitioners, where separate standards exist, these can also be applied.

3.5 Where there are serious concerns about performance that the appraisal process has been unable to address, those concerns will be addressed through the school's Capability Procedure.

4.0 The Appraisal Period

4.1 The appraisal period will run for a period of twelve months from 1st September until 31st August

4.2 Teachers who are employed on a fixed term contract of less than one year will have their performance appraised in accordance with the principles underpinning this policy. The appraisal period will be determined by the duration of their contract.

5.0 Appraisers

5.1 In conducting appraisals the Headteacher will delegate the role to relevant line managers. Where the role is delegated the nominated appraiser will conduct the whole of the Appraisal process.

5.2 The governors/directors/academy committees has ultimate responsibility for ensuring that the appraisal process is conducted in a fair and consistent manner; this applies both where the Headteacher is the appraiser and when the role is delegated. The Headteacher may however delegate the operational responsibility for monitoring consistency to a member of the Senior Leadership Team.

5.3 In preparation for the Appraisal discussion teachers have a responsibility to reflect on their strengths, weaknesses and professional aspirations. Both appraiser and appraisee should refer to the up-to-date information on the teacher, the past and current performance of the teacher (e.g. outcomes, standard of teaching), using it as the basis for the Appraisal discussion. Although the Teachers Standards are not a check list, they may be used to inform the setting of objectives.

5.4 Headteacher performance will be appraised/addressed using this process by the Chair of Governors in conjunction with an appropriate external advisor or Orchard Community Trust/SEL.

6.0 Commencing the Appraisal Process

6.1 Either before or as soon as practicable after the start of the Appraisal period, the appraiser and appraisee should meet for the Appraisal discussion. This meeting provides an opportunity for the appraiser and teacher to consider the context (as in 5.3) and allows the appraiser to present their assessment of the teacher's performance to date, so that they can agree objectives for the appraisal period.

6.2 The objectives set for each teacher will be linked to the national standards and school plan for improving educational provision. Objectives will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. The appraiser and appraisee will always seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives and a note made that they were not agreed. Where exceptional circumstances arise objectives may be revised.

6.3 Objectives should allow for challenge and progression of the teacher but should be achievable within the timescales provided. In determining objectives, consideration should be given to the workload implications to both the appraiser and appraisee.

6.4 In normal circumstances, it is good practice for teachers to have no more than 3 objectives. If more than 3 objectives are set, there is a responsibility to consider workloads and resources.

6.5 As well as setting objectives, the planning meeting should also make explicit the ways in which performance will be assessed.

7.0 Assessing performance

7.1 For each appraisal period, teacher's performance will be formally assessed using the measures identified on the Appraisal Evaluation form.

7.2 This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year using an appraisal review form.

7.3 Classroom observation for the purpose of Appraisal can only be carried out by those with QTS.

7.4 It is good practice to hold a pre meet with the appraisee to discuss the focus of the lesson observation in line with the teacher's appraisal objectives. The date and time of the observation should be confirmed, giving reasonable notice.

7.5 Teachers' performance will be regularly observed but formal lesson observations for the purpose of Appraisal should normally be for no more than 3 hours over the school year. If, in exceptional circumstances* this is to be exceeded, it should only be following consultation between the appraiser and the appraisee.

**Exceptional circumstances would be when there has been insufficient or inconclusive evidence acquired from the formal lesson observations that have already taken place.*

7.6 Verbal feedback to colleagues should be timely and no more than 3 days after the event. Written feedback should be provided within 7 days. The feedback will be carried out in a professional and supportive manner.

8.0 Appraisal Review Feedback

8.1 At the end of the Appraisal period, the summative review of the appraisee's performance during the Appraisal period will be agreed between the appraiser and the appraisee. Where there is not agreement, the appraiser will determine the review and a note made that there was not agreement. As soon as practicable following the Appraisal Review the appraisee will receive and have the opportunity to comment in writing on the written Appraisal report.

The appraisal report will include:

- details of the appraisee's objectives for the appraisal period in question;
- an assessment of the appraisee's performance against their objectives and the national standards with reference to the levels which individual teachers can be expected to attain.
- an assessment of the appraisee's professional development needs and identification of any action that should be taken to meet them;

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

8.3 The appraiser will make recommendations on pay which will then be referred to the head teacher before being referred to the appropriate committee.

8.4 Any appeal regarding determination of pay as a result of this procedure will be handled using the appeals process as detailed in the Whole School Pay Policy.

9.0 Concerns about Performance

9.1 Implication of insufficient progress towards annual objectives should be clearly explained to the appraisee.

9.2 Where an appraisee is found not to be making sufficient progress towards annual objectives or meeting appropriate National Teaching Standards, it may be necessary to set additional, interim objectives to ensure that the most appropriate support can be provided.

9.3 If at any point during the appraisal cycle evidence emerges which highlights concerns regarding a teacher's performance the appraiser will arrange a meeting with the teacher to discuss the concerns. The format for this meeting can be found in Appendix 4.

9.4 At this meeting the appraiser and appraisee will seek to mutually acknowledge the concern and agree a period for improvement and support; if agreement is not possible, arbitration can be sought from the line manager, but it remains the responsibility of the appraiser to ensure that a support plan is in place, the length of which should be proportionate to the required improvements but should not exceed six weeks.

9.5 During this period all agreed support should be provided to ensure that the appraisee is afforded the best opportunity to improve performance.

9.6 Following the agreed review period a Review Meeting will be held to evaluate the review period and progress made. This meeting should follow the format detailed in Appendix 5. There are two possible outcomes to this review:

- 1) If the appraiser is satisfied that the appraisee has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.
- 2) If the appraiser is not satisfied with the level of progress made, the appraisee will be notified in writing that their performance will now be managed under the School's Capability Procedure rather than Appraisal. This will trigger the commencement of the Capability Procedure.

Appendices

[Appendix 1](#) - Self assessment/appraisal evaluation form

[Appendix 2](#) – Examples: Sources of evidence to be used in appraisal process

[Appendix 3](#) – Guidance note: Conducting meeting where performance concerns are identified through appraisal process

[Appendix 4](#) – Guidance note: Conducting a review meeting where performance concerns have been identified through the appraisal process [Appendix 5](#) – Useful Links

[Appendix 1](#)

Self-assessment/appraisal evaluation form

Name:

Pay Point:

Date:

Self/School assessment:

[1. Professional practice outcomes](#)

Relevant standards

- Establish a safe and stimulating environment for pupils, rooted in mutual respect.
- Set goals that stretch and challenge pupils of all backgrounds, abilities and dispositions - Demonstrate consistently the positive attitudes, values and behaviour which are expected -Be accountable for pupils' attainment, progress and outcomes.
- Be aware of pupils' capabilities and their prior knowledge, and plan teaching to build on these.
- Guide pupils to reflect on the progress they have made and their emerging needs.
- Demonstrate knowledge and understanding of how pupils learn and how this impacts on teaching.
- Encourage pupils to take a responsible and conscientious attitude to their own work and study.
- Have a secure knowledge of the relevant subject(s) and curriculum areas, foster and maintain pupils' interests in the subject, and address misunderstandings.
- Demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of Standard English, whatever the teacher's specialist subject.
- If teaching early reading, demonstrate a clear understanding of systematic synthetic phonics.
- If teaching early mathematics, demonstrate a clear understanding of appropriate teaching strategies.
- Impart knowledge and develop understanding through effective use of lesson time.
- Promote a love of learning and children's intellectual curiosity.
- Set homework and plan other cut-of –class activities to consolidate and extend the knowledge and understanding pupils have acquired.
- Know when and how to differentiate appropriately, using approaches which enable pupils to be taught effectively.
- Have a secure understanding of how a range of factors can inhibit pupils ability to learn, and how best to overcome these.
- Demonstrate an awareness of the physical, social and intellectual development of children, and know how to adapt teaching to support pupils' education at different stages of development.
- Have a clear understanding of the needs of all pupils, including those with special educational needs; those of high ability; those with English as an additional language; those with disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them.
- Know and understand how to assess to relevant subject and curriculum areas, including statutory assessment requirements.
- Make use of formative and summative assessment to secure pupils progress.
- Use relevant data monitor progress, set targets, and plan subsequent lessons.
- Give pupils regular feedback, both orally and through accurate marking, and encourage pupils to respond to the feedback.

- Have clear rules and routines for behaviour in classrooms, and take responsibility for promoting good and courteous behaviour both in classrooms and around the School, in accordance with the School's behaviour policy.
- Have high expectations of behaviour, and establish a framework for discipline with a range of strategies, using praise, sanctions and rewards consistently and fairly.
- Manage classes effectively, using approaches which are appropriate to pupils need in order to involve and motivate them.
- Deploy support staff effectively.

Measures

- Lesson observations
- Pupil progress data
- Work scrutiny
- Planning

Career expectation for standard

Professional Area	Teacher Main Range Points 1-2	Established Teacher Main Range Points 3-4	Accomplished Teacher Main Range Points 5-6	UPS1 and 2	UPS 3
Professional Practice	Typically, most teaching is good or outstanding	Typically, almost all teaching is good or outstanding	Typically, all teaching is good or outstanding	Typically, most teaching is outstanding	Typically, all teaching is outstanding
Professional outcomes *	Most students achieve in line with School expectations	Almost all students achieve in line with School expectations	Almost all students achieve in line with School expectations; some exceed them	Almost all students achieve in line with School expectations; many exceed them	Almost all students achieve in line with School expectations; many exceed them

Professional relationships

Relevant standards

- Establish a safe and stimulating environment for pupils, rooted in mutual respect.
- Demonstrate consistently the positive attitudes, values and behaviour which are expected of pupils.
- Maintain good relationships with pupils, exercise appropriate authority, and act decisively when necessary.
- Develop effective professional relationships with colleagues, knowing how and when to draw on advice and specialist support.
- Deploy support staff effectively.
- Communicate effectively with parents with regard to pupils' achievements and well-being.

Measures

- Code of conduct
- Lesson observations
- Professional feedback

Career expectation for standard

<i>Professional Area</i>	<i>Teacher Main Range Points 1-2</i>	<i>Established Teacher Main Range Points 3-4</i>	<i>Accomplished Teacher Main Range Points 5-6</i>	<i>UPS1 and 2</i>	<i>UPS 3</i>
<i>Professional Relationships</i>	Positive working relationships with	These relationships are securely focused on improving	Professional relationships with students, colleagues and	Plays a visible & proactive role in	Plays a highly visible, proactive role in building
	students, colleagues and parents.	provision for students.	staff lead to excellent classroom provision.	building key stage or departmental teams to improve provision and outcomes.	school-wide teams to improve provision and impact on outcomes.

Professional development

Relevant standards

- Demonstrate a critical understanding of developments in the subject and curriculum areas, and promote the value of scholarship.
- Reflect systematically on the effectiveness of lessons and approaches to teaching.
- Contribute to the design and provision of an engaging curriculum within the relevant subject area (s).
- Take responsibility for improving teaching through appropriate professional development, responding to advice and feedback from colleagues.

Measures

- CPD records and feedback
- Action, impact and evaluation records
- Response to lesson observation feedback

Career expectation for standard

<i>Professional Area</i>	<i>Teacher Main Range Points 1-2</i>	<i>Established Teacher Main Range Points 3-4</i>	<i>Accomplished Teacher Main Range Points 5-6</i>	<i>UPS1 and 2</i>	<i>UPS 3</i>

<i>Professional development</i>	Able, with support, to identify key professional development needs and respond to advice and feedback	Takes a proactive role in accessing relevant support and professional development	Fully competent practitioner able to keep up to date with changes and adapt practice accordingly	Plays a visible & proactive role in leading the professional development of key stage or departmental colleagues	Plays a highly visible & proactive role in leading the professional development of colleagues across the School
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Professional Conduct

Relevant standards

- Teachers uphold public trust in the profession and maintain high standards of ethics and behavior, within and outside the School, by: treating pupils with dignity; building relationships rooted in mutual respect and at all times observing proper boundaries appropriate to a teachers professional position; having regard for the need to safeguard pupils well-being, in accordance with statutory provisions; Showing tolerance of and respect for the rights of others; not undermining fundamental British Values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs; ensuring that personal beliefs are not expressed in ways which exploit pupils vulnerability or might lead them to break the law.
- Teachers must have proper professional regard for the ethos policies and practices of the School in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Measures

- Maintain code of conduct
- Formal disciplinary/ grievance

Career expectation standards for guidance. Not to be used in isolation as check list.

<i>Professional Area</i>	<i>Teacher Main Range Points 1-2</i>	<i>Established Teacher Main Range Points 3-4</i>	<i>Accomplished Teacher Main Range Points 5-6</i>	<i>UPS1 and 2</i>	<i>UPS 3</i>

Meets all the teacher standards. Meets all appraisal objectives	Meets all the teacher standards. Meets all appraisal objectives	Meets all the teacher standards. Meets all appraisal objectives	Meets all the teacher standards. Meets all appraisal objectives	Meets all the teacher standards . Meets all appraisal objectives	Meets all the teacher standards . Meets all appraisal objectives
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Self-Assessment

- 1.
- 2.
- 3.
- 4.

Appraisers Dialogue

- 1.
- 2.
- 3.
- 4.

Appendix 2

Examples: Sources of evidence to be used in appraisal process

Lesson observations – Organised and “drop in”.

Pupil progress data

Book scan/work scrutiny

Planning documentation

Professional feedback

Evidence from extracurricular activities

Observation/scrutiny of leadership and management activities where appropriate

Appendix 3

Guidance note: Conducting meeting where performance concerns are identified through appraisal process:

- Advise the member of staff that this meeting is held as part of the appraisal process.
- Ensure the member of staff is provided with a copy of this policy.
- Reinforce things the staff member does well.
- Highlight clearly the specific areas of performance that are causing concern, and discuss the evidence of this (this should include evidence from appraisal process).
- Ensure the member of staff has the opportunity to respond, provide reasons/explanation etc. for the performance shortfall.
- Ask the staff member if there are any underlying issues that may impact on performance, e.g. health, issues outside work etc.
- With areas of concern agree SMART targets that the teacher should work towards, agree what support the teacher feels would be beneficial and how performance will be monitored.
- A review period should be set and interim review meeting agreed within this period. The length of this review period will be proportionate to the required improvements however it should not exceed six weeks.
- Offer a mentor if appropriate (NB: this should be someone not involved in monitoring the staff member's performance).
- Advise the staff member that if performance doesn't meet the required standards within the review period it may result in concerns being addressed under the capability procedure.
- Encourage the staff member to consult with their trade union for further support.

Appendix 4

Guidance note: Conducting a review meeting where performance concerns have been identified through the appraisal process

- Advise the staff member that this meeting is a review meeting held as part of the appraisal process.
- The appraiser should present evidence regarding the staff member's performance against the targets specified in the initial meeting.
- The staff member should be asked for their opinion regarding their performance against the targets.
- The staff member should be asked for their opinion on the support provided to date.
- The principal should adjourn the meeting at this point to consider the evidence.
- If the teacher has made or is making sufficient improvement the appraisal process will continue as normal with any remaining issues continuing to be addressed through that process.
- If the appraiser is not satisfied with the level of progress made, the teacher will be notified in writing that their performance will now be managed under the capability procedure rather than appraisal. This will trigger the commencement of formal capability procedure.

Appendix 5

Useful Links

STPCD 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/636389/School_teachers_pay_and_conditions_document_2017.pdf

STPCD 2017 - Teachers Standards

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283566/Teachers_standard_information.pdf

OFSTED School Inspection Handbook October 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/651801/School_inspection_handbook_section_5.pdf



Capability Policy

Capability Policy Information		
Policy Author: Schools HR Business Management (Floor 2 Civic Centre S-OT) Governing Board approval date/date policy is in effect from: September 2014		
Date: September 23 Name of reviewer/s: J Bytheway	No amendments required	September 24

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7.0	Monitoring and Review period	
8.0	Formal Review meeting	9.0 Final Monitoring and Review
10.0	Decision Hearing	
11.0	Appeal	

Glossary:

This procedure applies to both school based and centrally employed teachers. Unless otherwise indicated the following terms are interchangeable:

- Teacher – applies to qualified teachers both those in schools and centrally employed
- Headteacher – applies to Headteacher or Line Manager
- Governors – applies to members of the schools Governing Body or in the case of centrally employed teachers a relevant Strategic Manager
- Appeal Governors – applies to members of the schools Governing Body or in the case of centrally employed teachers a relevant Assistant Director.

Capability Policy

1.0 Introduction

- 1.1. This procedure has been adopted by the Governing Body of Watermill School on 20th November 2014 for the purposes of managing capability of teachers.

2.0 Purpose

2.1. The purpose of this policy is to support employees to improve performance through an appropriate programme of encouragement, training, monitoring, support, guidance and learning.

2.2. This policy is not intended to address issues of willful under-performance. These cases should be dealt with under the Disciplinary Procedure.

2.3. This policy is not intended to deal with cases of unsatisfactory performance due to absence. These should be dealt with under the Supporting Attendance policy.

2.4. This policy applies to all schools managed staff and centrally employed teachers

3.0 Principles

3.1. It is expected that the formal stages of this procedure will be conducted by the Headteacher. For centrally employed staff, it is expected that the formal stages will be conducted by the Section Head. In the case of Headteachers, the formal stage of the process will be conducted by a person delegated with the responsibility by the relevant body responsible for the governance of the school.

3.2. Headteachers/Managers are responsible for setting realistic and achievable standards and objectives, and for ensuring employees understand what is required of them.

3.3. The capability procedure should only be implemented when, after appropriate training and supervision has been completed, satisfactory performance has not been achieved on the completion of the support plan.

3.4. Regular discussions with employees about performance, either formally or informally, should help to identify any problem areas and allow remedial action to be taken promptly.

3.5. An employee has the right to be accompanied, by a Trade Union Representative or work colleague, to any meetings under this policy. Where it appears that formal capability procedures may be initiated, the employee should be encouraged to consult with their union and to arrange for representation at any meetings.

3.6. Those monitoring performance should offer constructive feedback and guidance to help the employee improve their performance. If training or assistance from colleagues would be helpful these should be arranged as soon as possible but should not interrupt the timing of the procedure.

3.7. Any disagreements or grievances about the interpretation or application of the procedure or any related matters must not delay the various elements of the procedure, nor the overall timetable determined as appropriate for handling any particular.

4.0 Informal Capability

4.1 Where a support plan has been followed under the school's Appraisal process but satisfactory progress has not been made, the teacher will be informed in writing that their appraisal will now cease and that their performance will be managed under the Informal Stage of the Capability Procedure and a Performance Improvement Plan will be agreed

4.2 Prior to the commencement of the Informal Stage the teacher should be invited to an Informal Support Meeting. This meeting will be conducted by the Headteacher or formally nominated member of the Senior Leadership Team (or the Chair of Governors in the case of Headteacher capability). Guidance on the format and content of this meeting can be found in appendix 1.

4.3 It should be noted that SMART targets and measures implemented within the Support Plan should have regard to the Teachers Standards.

4.4 It is suggested that the stress risk assessment (found in appendix 3) is conducted on commencement of Informal Capability procedures and is revisited as necessary throughout the monitoring and review process.

4.5 During the Informal Support Meeting a monitoring period will be set. **This should be no more than six weeks.** Throughout the monitoring period interim review meetings should also be agreed to allow feedback to be delivered and additional support to be discussed if required.

4.5.1 Following the monitoring period, a review meeting will be arranged (format of which is found in appendix 2). At this meeting, progress against the Support Plan will be discussed and the teacher given the opportunity to respond. Following the discussion, either party may request an adjournment to consider the information presented. The person conducting the meeting will then determine, either;

- That sufficient progress has been made, the teacher's performance will no longer be addressed using the Capability Procedure and as such they will revert back to performance management using the Appraisal Policy (in which case the employee should be advised that this is the case and that the improvement must be sustained);

Or

- That insufficient progress has been made and therefore the teacher will commence formal procedures (in which case a formal meeting must be arranged – see 5.3)

5.0 Formal Capability

5.1 It is expected that the Capability process will take no more than twelve weeks, however each review period should be no less than four weeks to allow improvements to be made.

5.2 It is suggested that the stress risk assessment (found in appendix 3) is reviewed on commencement of formal Capability procedures and is revisited as necessary throughout the monitoring and review process.

Notification of Formal Capability Meeting

5.3 As with all Formal Meetings held under this procedure, at least five working days' notice of the Formal Capability meeting will be given in writing. This will contain sufficient evidence regarding the concerns about performance. to enable the teacher to prepare for the meeting.

5.4 Prior to the Formal Capability meeting it is suggested that Headteachers contact their HR provider, who will be able to offer advice and attend the meeting, if required.

5.5 At all meetings the teacher should be encouraged to seek support, ie. counselling and may be accompanied by either a trade union representative or work colleague.

6.0 Formal capability meeting

6.1 This meeting will be conducted by the Headteacher or formally nominated member of the Senior Leadership Team (or the Chair of Governors in the case of Headteacher capability).

6.2 The first stage of 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/evidence already collected.

6.3 Once all representations have been heard either party may request an adjournment. During the adjournment the person conducting the meeting will consider the information presented and make a decision on how the case will progress.

6.4 The person conducting the meeting now has four options:

- 1) To 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 appraisal process. In such cases, the capability procedure will come to an end. A further meeting may then be arranged under the appraisal process to reassess objectives and timescales.
- 2) To choose to suspend the meeting to gather more information in light of the employee's response or to give more time to consider the information. In this case a date for the reconvened meeting should be agreed.
- 3) To decide that there is a need to instigate the Formal Capability Process. In this case a Formal Written Warning should be issued to the employee. The Formal Capability meeting will continue following the format at appendix 4 and seek to agree a Performance Improvement Plan (template found in appendix 7); if agreement on this is not possible the person conducting the meeting will determine the content of the plan.
- 4) To decide that there is a need to instigate the Formal Capability Process. However, if issues raised are deemed to be in serious breach of the Teachers Standards, a Final Formal Written Warning should be issued immediately. As this is formal action, it is recommended that the advice of HR is sought prior to this action. Where a Final Formal Written Warning is to be issued the meeting format at appendix 6 should then be followed and should seek to agree an appropriate Performance Improvement Plan (template found in appendix 7). Where agreement is not possible the person conducting the meeting will determine the content of the plan.

6.5 The outcome of this meeting will be confirmed in writing along with details of the right to appeal the decision. This letter will also inform the teacher of the matters covered during the meeting, (and where appropriate) a copy of the Performance Improvement Plan, details of the timescales and the review stage. A template letter can be found in appendix 5.

6.6 Appeals should be made in writing to the Chair of Governors/other appropriate body (or Assistant Director, Learning Services, in the case of Headteacher Capability) within five working days of receipt of the letter confirming the warning being issued. Where the teacher submits an appeal, the process will continue whilst awaiting the outcome.

7.0 Monitoring and review period following a formal capability meeting

7.1 A performance monitoring and review period will follow the formal capability meeting, in line with the timescales outlined and will reflect the complexity and number of objectives set in the Performance Improvement Plan. Formal monitoring, evaluation, guidance and support will continue during this period.

8.0 Formal review meeting

8.1 On conclusion of the monitoring and review period the Teacher will be invited to a formal review meeting to review their progress and improvement. If the Teacher was issued with a final written warning initially they will be invited to a Final Review meeting.

8.2 Appendix 8 details the points to be addressed during this meeting.

8.3 After reviewing the progress made against the previously agreed targets, a decision should be made as to whether sufficient improvement has been made. There are two possible outcomes:

- 1) If the reviewer is satisfied that the teacher has made acceptable progress towards the objectives set out in the Performance Improvement Plan, the capability procedure will cease and the appraisal process will re-start. This decision should be confirmed in writing (appendix 9)
- 2) If the objectives in the Performance Improvement Plan have not been achieved during the monitoring and review period, the teacher will be issued with a Final Formal Written Warning.

8.4 Where a Final Formal Written Warning is issued, the teacher will receive written information about the further monitoring and review period and informed in writing that failure to satisfy the Performance Improvement Plan, within the set timescale, may result in dismissal. This monitoring period should be determined with consideration to the objectives set in the Performance Improvement Plan. This should be a minimum of four weeks to allow sufficient time for improvements to be made.

8.5 The teacher has a right of appeal against the Final Formal Written Warning; this should be made in writing to the Chair of Governors/other appropriate body (or Assistant Director Learning Services for Headteachers) within five working days of receipt of the letter confirming the warning being issued.

9.0 Final monitoring and Review Period

9.1 Following the formal monitoring and review period, a final review meeting will be held. Employees should be given ten working day's notice of this meeting along with the right to be accompanied at the meeting by a Trade Union Representative or work colleague.

9.2 This meeting will follow the format for the Formal Review meeting as described in appendix 8.

9.3 After reviewing the progress made against the previously agreed targets, a decision should be made as to whether the Performance Improvement Plan targets have been met. After which, there are two possible outcomes:

- 1) If Performance Improvement Plan objectives have been met during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start. This decision should be confirmed in writing.

- 2) If Performance Improvement Plan objectives have not been met the matter will be referred to the appropriate body for a decision to be made on whether the teacher should be dismissed on the grounds of Capability.

9.4 The outcome of this meeting will be confirmed in writing.

10.0 Decision Hearing

10.1 The teacher will be given a minimum of ten working days' notice of the decision hearing and will be given copies of any documentary evidence to be referred to during the decision hearing where possible ten days prior to the hearing. Employees should be informed that any documentation they wish to refer to during the hearing should be sent to the Chair of the decision hearing panel no later than two working days before the hearing.

10.2 The decision hearing panel should consist of three members of the appropriate body, one of whom will act as chair to the meeting. The hearing should follow the format in appendix 10.

10.3 There are three potential outcomes of the decision hearing:

- 1) That the panel determine that the objectives stated in the Performance Improvement Plan have been met, therefore the teacher should remain in post and resume their role in the normal appraisal process.
- 2) That the panel determine that the objectives stated in the Performance Improvement Plan have not been met due to exceptional circumstances and as such progress toward meeting those objectives will be reviewed again after an agreed period.
- 3) That the panel determine that the teacher has failed to make sufficient improvement to meet the national teaching standards, therefore the teacher should be dismissed, as the teacher has failed to demonstrate their ability to attain that standard in this school.

10.4 Within five working days of the decision meeting, the Teacher will be informed in writing of the outcome. If a decision to dismiss has been taken, the teacher will receive contractual appropriate notice.

11.0 Appeal

11.1 A Teacher has the right of Appeal against their dismissal. Any appeal should be in writing to the Chair of Governors/other appropriate body within ten working days of receiving the letter confirming the decision, stating the grounds for appeal.

11.2 Appeals will be heard without unreasonable delay and will be heard by a panel of three who have not previously been involved in the case. The meeting will take the format as describe in appendix 11. 11.3 The teacher will be informed in writing of the outcome of the appeal hearing as soon as possible.

11.4 There is no further recourse for appeal under this procedure.

12.0 Absence during the capability process

12.1 Where a Teacher is absent during the capability process the Performance Improvement Plan will recommence from the same point, ie. the process will not restart.

12.2 If a Teacher returns after a period of absence on a phased return as advised by Occupational Health, it may be appropriate to consider whether the process should be recommenced during a phased return.

12.3 If the absence commences at the end of the support plan but prior to a review meeting being held, it may be appropriate, subject to sufficient evidence being available, to conclude the process.