

Probationary Hearing Protocol

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PROTOCOL FOR PROBATIONARY HEARING

Introduction

The Chairperson will:

- Introduce those people present
- Explain briefly the reasons the hearing has been convened (i.e. the perceived on-going unsatisfactory performance / conduct / attendance of the employee during their probationary period)
- Explain the way in which the hearing will be conducted

Presentation of Management's Evidence

The Headteacher / relevant manager will present the management case including relevant evidence in support of it. Any witnesses called by the Headteacher / relevant manager will be:

- Questioned by the Headteacher / relevant manager
- Questioned by the employee and his / her representative
- Questioned by the Probationary Panel
- Questioned by the Headteacher / relevant manager to clarify any particular points but not to introduce new evidence.

At the conclusion of the Headteacher / relevant manager's submission he / she may be questioned by the employee and his / her representative and by the Probationary Panel.

Employee's Response

The employee and / or their representative may respond to the management case and may introduce evidence in their defence. Any witnesses called by the employee and / or representative will be:

- Questioned by the employee and his / her representative
- Questioned by the Headteacher / relevant manager
- Questioned by the Probationary Panel
- Questioned by the employee and / or representative to clarify any particular points but not to introduce new evidence.

At the conclusion of the employee's / representative's submission he / she may be questioned by the Headteacher / relevant manager and by the Probationary Panel.

Summing-Up

The Headteacher / relevant manager will be asked to sum up his / her case but not to introduce new evidence.

The employee and / or representative will be asked to sum up his / her response but not to introduce new evidence.

Decision

The Probationary Panel will adjourn in order to consider the case before giving a decision. The Panel must consider all the facts and decide what action to take, bearing in mind all the relevant factors which will include the following:

- the seriousness of the concerns / shortfall regarding performance / conduct / attendance
- the employee's general record.
- the School's Probationary Policy in relation to the likely outcome given the circumstances of the case
- the consequences to the school of the shortfall in performance / conduct / attendance
- the outcome in any similar cases in the past

Conclusion of Probationary Hearing

When a decision has been reached, the Chairperson will draw up a statement setting out the Panel's finding and decision. The Probationary Hearing will be reconvened and the employee and Headteacher / relevant manager informed of the Panel's decision. Details of the appeals procedure will also be outlined.

The outcome of the Hearing will be confirmed in a letter to the employee within 5 working days of the Probationary Hearing. The letter will state clearly:-

- The panel's conclusions in relation to the evidence presented.
- The nature and seriousness of any shortfall in performance / conduct / attendance.
- The decision of the Panel [and where relevant any time limits involved].
- * The standard of performance / conduct / attendance expected in future and the likely consequences for the employee if this is not met. [*** Include only if relevant**]
- * Any support to be provided by the school to assist the employee. [*** Include only if relevant**]
- * The way in which the employee may exercise his / her right of appeal against any sanction that has been issued. [*** Include only if relevant**]

Guidance Notes

Confidentiality

Hearings should not be conducted in public. Care must be taken over any announcement of the conclusion: any statement that is strictly necessary (including to the full Governing Body) should be confined to the outcome only, all participants in the hearing should exercise great caution over discussing the case in order to avoid prejudice.

Persons sitting on a Panel should have no personal connection with the employee, the presenter of the management case or witnesses since this might prejudice a fair hearing.

Role of the Local Authority Representative

In maintained schools where the Local Authority is the employer (that is Community and Voluntary Controlled (VC) schools), a representative of the Local Authority has the right to attend all proceedings where dismissal might be an outcome. In the case of schools where the Local Authority is not the employer (Voluntary Aided (VA), Foundation and Trust schools and Academies) a representative of the Local Authority can attend by invitation of the Governors.

The role of the Local Authority Representative (who will be someone from Schools Human Resources) is to give advice on procedure to the Panel.

Requests for Adjournment

The Panel may be asked by either side for an adjournment. They will need to assess the reasons for such a request and decide accordingly. Any reasonable request of this nature should not be refused.

Witnesses

In hearings, witnesses must withdraw as soon as questions to them are concluded. It may be necessary to recall them, otherwise they may be released.

APPENDIX B5 - NOTE ON THE PROTOCOL FOR THE APPEAL HEARING

In the case of appeals the employee's side will normally make the initial presentation and this will set out the grounds for appeal.

The response will then be made by the Headteacher / manager

An appeal is not a re-run of the first hearing but is an opportunity for the employee to set out reasons why, in their view, the initial decision was inappropriate.

It will, of course, be necessary for the Governors' appeal panel to have access to all documentation from the first hearing and in some circumstances it may be appropriate for a representative of the first Governors panel to make an introductory presentation in order to summarise previous events and decisions taken.