

Guidance for Schools

Probation - Policy and Procedure

Support Staff in Schools

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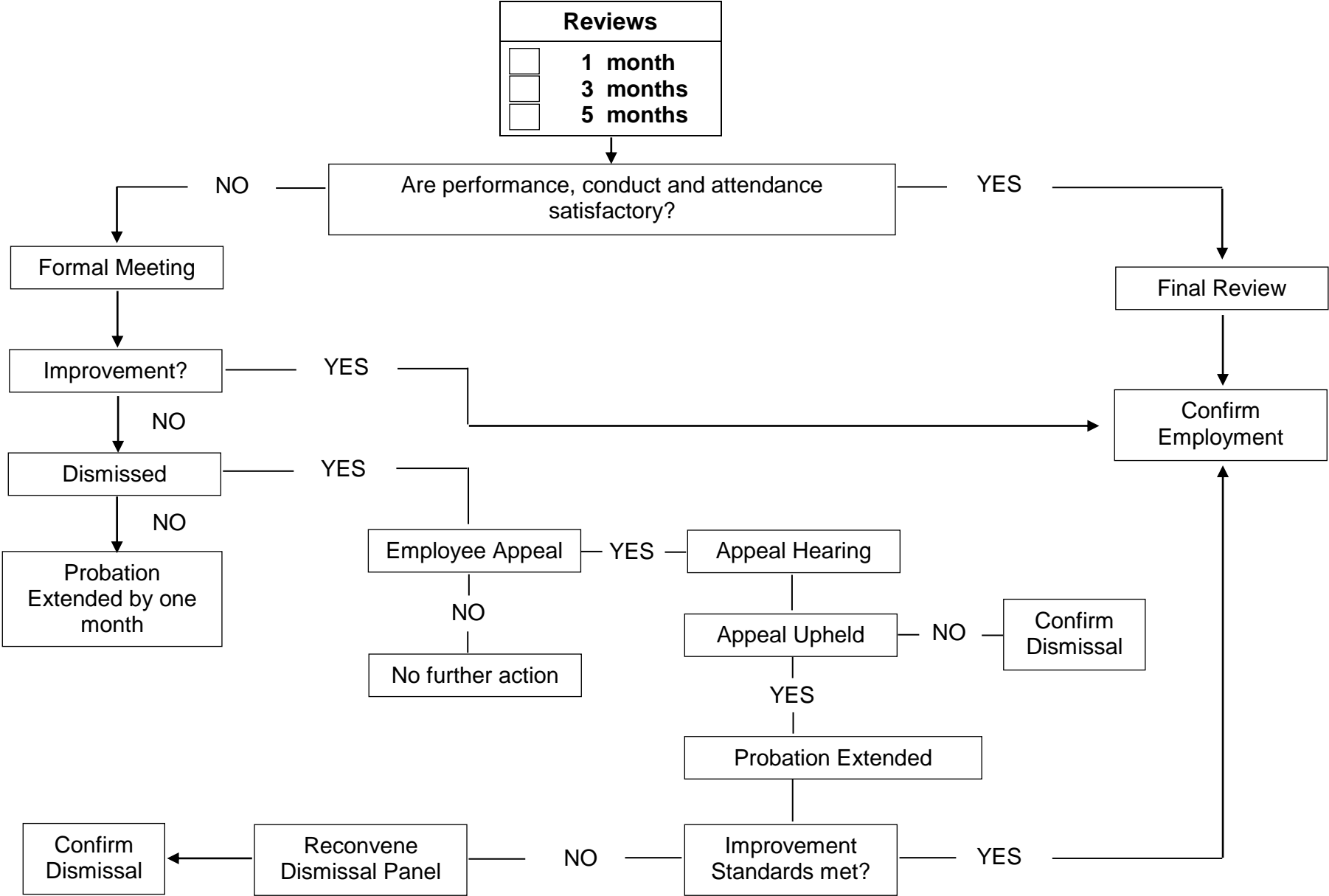
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PROBATION PROCEDURE FLOWCHART



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SUPPORT STAFF IN SCHOOLS

PROBATION - POLICY AND PROCEDURE

1. Introduction

- 1.1. The purpose of the 6 month probationary period is to ensure that employees understand and are encouraged to achieve and maintain the standards of performance, conduct and attendance required by the school and Local Authority within a reasonable timescale.
- 1.2. This procedure applies to support staff joining Worcestershire Maintained schools from another employer including from an Academy or Academy Trust. It excludes staff joining from other employment with Worcestershire County Council, including other Maintained schools.

Although the probationary period does not apply to staff joining schools from other employment with Worcestershire County Council, schools should ensure that new starters receive an appropriate induction, including support and guidance within the role. Any serious concerns or difficulties would need to be dealt with under the appropriate Performance, Disciplinary or Absence Procedures.

- 1.3. Staff joining on fixed-term contracts should be included to ensure that probation is not overlooked in the event that their contract is extended or renewed.
- 1.4. It is anticipated that the majority of staff will complete probation successfully and will be so advised. However, if an employee is unable to achieve and maintain acceptable standards of performance, conduct and attendance their contract may be terminated without recourse to the full Capability, Disciplinary or Absence Procedures.
- 1.5. Human Resources Advisers from HR Consultancy for Schools will be available to provide advice if Line Managers have concerns at any point in the probationary period and to support the Decision-Maker/s at either a dismissal hearing or appeal hearing.
- 1.6. School holiday periods should be taken into account when determining the length/dates of review periods and/or any extension to the probationary period.

2. Line Managers' responsibilities

- 2.1. Line Managers should ensure that employees receive sufficient guidance, support and training during their probationary period to enable them to settle in to their new role. Ideally an Induction programme should be developed and followed. Work objectives must be set and training and development needs identified and progressed. More regular supervision meetings during the probationary period may be appropriate.
- 2.2. Line Managers should review the performance, conduct and attendance of employees subject to a probationary period. Regular supervision meetings are an important part of any performance management process. They help identify at an early stage if there are any concerns about performance, conduct or attendance and re-establish expectations. Line Managers are also responsible for the reviewing the probationary period more formally (see below).

- 2.3. In most cases, the Line Manager will be the person with day-to-day supervision of the employee, e.g. the Office Manager; Deputy Headteacher; SENCo, etc., rather than the Headteacher.

3. Employees' responsibilities

- 3.1. Employees are required to advise their Line Manager of any information which could impact upon their performance; particularly any difficulties in accessing guidance and support. Employees are required to attend all meetings detailed in this policy.

4. Reviewing progress

- 4.1. In addition to regular supervision meetings, it is recommended that the Line Manager arranges to review the employee's performance, conduct and attendance on a number of occasions within the probationary period, ideally at 1 month; 3 months and 5 months, ensuring that dates are logged in the diary. For employees starting near the end of the Summer Term, bear in mind the need to do the final review before the end of the Autumn Term (as six weeks of the probationary period falls within school summer holiday.) Meetings should allow for input from both parties. This allows the Line Manager to be aware at an early stage of any difficulties and to ensure that sufficient support is given throughout the period. It also allows for action to be taken to terminate contracts within the designated probationary period. Should an extension be required the period of the extension should commence at the start of the next term and the holiday period would not be counted.
- 4.2. Reviews can take place at any time, if necessary, and if issues need to be addressed, managers should discuss concerns with the employee as they arise rather than wait until pre-planned reviews or the end of the probationary period. The employee must be advised what improvement is expected. Line managers may wish to seek advice about any aspect of an employee's performance, conduct and attendance with HR at an early stage, particularly if health or disability issues may be a factor. **It is particularly important that any concerns arising in the latter stages of the probationary period are addressed and dealt with decisively.**
- 4.3. If concerns are identified with the employee, it is good practice to provide written clarification to the employee of the concerns, required standards, timescales and any support offered.
- 4.4. A template for performance reviews within the probationary period is available at *Annex 3*.

5. Successful completion of probationary period

- 5.1. The majority of employees will complete their probationary periods successfully and will continue in post as a valued member of staff. Even where this is the case and no problems are identified, it is recommended that the Line Manager meets with the employee for the planned reviews to confirm that standards are being met and to give the employee the opportunity to discuss any queries they may have.
- 5.2. Following the final review meeting within the 6 month probationary period, it is good practice for the Headteacher to confirm the successful completion of the probationary period in writing to the employee.

- 5.3. Line Managers and Headteachers should be aware that if the 6 month probationary period concludes with no reviews, no concerns acted upon and no extension to the period the employee will be deemed to have successfully completed the probationary period and any concerns after this time would have to be dealt with through the full Capability, Managing Sickness Absence or Disciplinary Policies.

6. Unsatisfactory performance, conduct or attendance

- 6.1. If issues have been raised and addressed but no improvement is forthcoming, the Line Manager must call the employee to a formal meeting without delay. **This formal meeting may take place at any stage of the probationary period, so long as sufficient evidence is available. The purpose of this meeting is to discuss the concerns, what improvements are expected and the consequences if they are not achieved.** As the eventual outcome could be termination of their contract, the employee has the right to be accompanied and/or represented by a trade union representative or work colleague at this and any further meeting. Therefore, 5 working days' notice should be given to ensure the availability of an appropriate representative. See *Model Letter 1 (Invitation to Formal Meeting)*.
- 6.2. Any formal meeting must be followed up immediately by a letter reminding the employee of any remaining concerns, confirming what improvement is expected, and the timescale in which it must be achieved. They should also be advised that if the required improvement is not achieved, their contract will be terminated with a minimum of 7 calendar days' notice, or in a case of gross misconduct dismissal without notice. See *Model Letter 2 (Formal Review of Probation)*.
- 6.3. Improvements should be immediate unless there is a justifiable reason why further time should be allowed, e.g. if further training or coaching is necessary and depending upon the complexities of the role. Progress should be monitored over a period of 4 working weeks for probationary purposes.
- 6.4. If improvements have not been made and demonstrably sustained at the end of this review period the employee's contract may be terminated - see section 8 - or the review period extended by a further period of 4 working weeks.
- 6.5. It is not necessary to wait until the end of the probationary period to consider termination of the contract. However, if the formal meeting (in 6.1 above) is taking place near the end of the 6 month probationary period, an extension to the review period may necessitate an extension of the probation period. Probation periods should only be extended where managers feel that there is a realistic prospect that the employee will reach the required standard within the extension period. In certain exceptional circumstances it may be appropriate to extend the probationary period for other reasons. Such cases should be discussed with a Schools HR Adviser.

Where concerns have not come to light until near the end of the probationary period, the period should be extended to allow for a formal meeting to be held and an opportunity to demonstrate improvement given.

- 6.6. **Serious misconduct** – if an instance of serious misconduct occurs during probation, it may be appropriate to proceed straight to a dismissal hearing under this procedure and in cases of gross misconduct this may lead to dismissal without notice.

- 6.7. Any salary progression, e.g. the 6 month increment where appropriate, should be withheld if performance, conduct or attendance is unsatisfactory during the probation period.

DISMISSAL DECISION

7. Delegation of Authority to dismiss

- 7.1. Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that any person employed or engaged by the Local Authority to work at the school should cease to work there (Community, Voluntary Controlled, Community Special and Maintained Nursery) or to dismiss its staff (Foundation, Voluntary Aided, Foundation Special) to:
- (a) one or more Governors and the Headteacher (which may be called a Staff Dismissal Committee)
 - (b) one or more Governors
 - (c) the Headteacher.
- 7.2. For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel. The Headteacher may not sit on the Dismissal Appeal Panel.
- 7.3. For ease of understanding, those who have delegated authority to dismiss will be referred to in these proceedings as 'Decision-Makers'.
- 7.4. The Line Manager will have taken the lead on discussions with the employee throughout the probationary period. Where the Line Manager is not the Headteacher, it is appropriate for the Headteacher to hear representations against dismissal (so long as the powers have been delegated to him/her). If the Headteacher has taken decisions throughout the process, then it may be more appropriate to involve one or more Governors.

8. Dismissal decision process

- 8.1. The Decision-Maker/s will hold a meeting to consider the proposal to dismiss and will hear evidence from the Line Manager and the employee. The employee will be entitled to be represented at this meeting by a trade union representative or work colleague and will be given at least 5 days' notice of the meeting to allow representation to be arranged. *See Model Letter 3 (Invitation to Dismissal Decision Hearing) and Annex 1 (Recommended Procedure for Dismissal Decision Hearing).*
- 8.2. The Decision-Maker/s may, in light of the evidence presented, determine that the employee should be offered an extension of no more than four working weeks if he or she believes that there is a genuine likelihood the employee can achieve and maintain acceptable standards. However, if the required standards are not achieved and sustained throughout the remaining period, the dismissal decision meeting should be reconvened and the dismissal confirmed.

- 8.3. If the decision to dismiss is taken, the employee must be advised that their contract is to be terminated with a minimum of 7 calendar days' notice from the date of the meeting (or with no notice in cases of gross misconduct – examples of gross misconduct can be found in the School's Code of Conduct). They must also be told of their right of appeal. A letter confirming the decision and right of appeal must be sent no later than the following working day. The employee must indicate their intention to appeal in writing to the Headteacher within 5 working days. *See Model Letter 4 (Following Decision to Dismiss).*
- 8.4. The hearing of any appeal in respect of a decision that a person should cease to work at the school shall be delegated to a committee, known as the Dismissal Appeal Committee. This committee must have a minimum of three Governors and must exclude any Governors involved in the dismissal hearing. The committee hearing the appeal may uphold the dismissal, or give an extension of four working weeks to the review or probationary period to allow the employee to reach an acceptable standard. This may necessitate reinstating the employee if their contract has already been terminated. Reinstatement would take effect from the date of dismissal so there is no break in service and any period between cessation and reinstatement would be paid and count as reckonable service. *See Model Letter 5 (Outcome of Appeal Hearing).*
- 8.5. Where a probationary employee's performance, attendance or conduct remains unsatisfactory following management support and intervention taken as the result of a successful appeal, the dismissal decision hearing is to be reconvened and, other than in the most exceptional circumstances, must invariably confirm the decision to dismiss. There is no further right to appeal.
- 8.6. It is essential that any problems should be addressed and resolved within the probationary period and, where possible, an appeal against dismissal should be heard within the 6 month period. Where an extension to a review or probationary period has been given by a Line Manager and/or on appeal the total probationary period should not exceed 9 months.
- 8.7. The dismissal decision must detail the reason for the dismissal. This cannot simply be failure to satisfactorily complete a probationary period as this does not fall under one of the potentially fair reasons for dismissal as defined by the Employment Rights Act 1996 as amended:
- Conduct
 - Capability (this covers performance and absence)
 - Redundancy
 - Statutory duty prohibiting employment
 - Some other substantial reason (SOSR)
- 8.8. In cases where the employee has failed to complete a probationary period the reason for dismissal will usually be either conduct or capability. Capability could be due to excessive absence as well as failure to perform satisfactorily. Please contact Human Resources for advice on the reason for the dismissal.

MODEL LETTERS

Model Letter 1

Invitation to Formal Meeting

Dear

I am writing to inform you that, following review/s of your progress during your probationary period and issues of concern raised with you, it is necessary to invite you to a formal meeting. The meeting will be held on **[date / time]**.

The purpose of this meeting is to discuss the concerns, what improvements are expected and the consequences if they are not achieved.

You have the right to be accompanied or represented at this meeting by a trade union representative or work colleague. If you intend to be accompanied, please notify me of the name and role of you representative.

Yours sincerely,

Line Manager.

Model Letter 2

Formal Review of Probation

Dear

Further to our formal meeting on **[date]** **[add any comments re who they were accompanied by if appropriate]** held as a result of concerns raised during review of your probationary period, I am writing to confirm that your **[performance / conduct / attendance]** will be reviewed again on or before **[date – around 4 working weeks]**.

In particular **[explain why performance / conduct / attendance has not been satisfactory – i.e. what has happened and what the expected standards are]**.

As you will know from your appointment letter, you are required to undergo and successfully complete a probationary period, and our aim is to support you in doing this. This review period will give an opportunity to assess whether you will be able to achieve and maintain standards of **[performance / conduct / attendance]** acceptable to the school. However, if you are unable to do so, it could lead to the termination of your contract with 7 calendar days' notice and, therefore, I have enclosed a copy of the Probationary Procedures which may be followed in the event of continuing unsatisfactory standards of **[performance / conduct / attendance]**.

I will continue to meet with you on a **[weekly / fortnightly – probably weekly]** basis, so that we can discuss your **[performance / conduct / attendance]** against set targets and objectives **[refer to targets and any support being offered]**.

I hope that you will be able to respond positively to these concerns and successfully complete your probationary period. I will continue to offer all reasonable support in this but, if you need additional help that we have not discussed, please let me know without delay. Similarly, please contact me if you have any queries about the content of this letter or process.

I enclose two copies of this letter. Please sign and return one copy to confirm you have read and understood the contents.

Yours sincerely,

Line Manager.

I have read and understood the contents of this letter

Signed **Date**

Model Letter 3

Extension of Probationary Period

Dear

Following our meeting on **[date]** I am writing to confirm your probationary period has been extended for **[period of extension]**.

As discussed at the meeting the extension is the result of concerns raised during review of your probationary period, I am writing to confirm that your **[performance / conduct / attendance]** will be reviewed again on or before **[date]**.

In particular **[explain why performance / conduct / attendance has not been satisfactory – i.e. what has happened and what the expected standards are]**.

I will continue to meet with you on a **[weekly / fortnightly – probably weekly]** basis, so that we can discuss your **[performance / conduct / attendance]** against set targets and objectives **[refer to targets and any support being offered]**.

As you are aware your employment is subject to satisfactory completion of a probationary period and failure to meet the required standards during your extended probationary period may lead to the termination of your employment with 7 days' notice.

I hope that you will be able to respond positively to these concerns and successfully complete your probationary period. I will continue to offer all reasonable support in this but, if you need additional help that we have not discussed, please let me know without delay. Similarly, please contact me if you have any queries about the content of this letter or process.

Yours sincerely,

Line Manager.

Model Letter 4

Invitation to Dismissal Decision Hearing – unsatisfactory probationary period

Dear

During the meetings already held between you and your Line Manager, you have been informed that your **[performance / conduct / attendance]** during your probationary period has been unsatisfactory **[give reasons why]**. Despite these concerns being raised with you, we have not seen sufficient improvement.

Therefore you are required to attend a hearing at which I **[amend to suit if Governors are the Decision-Makers]** will formally consider whether or not your appointment should be terminated. At the hearing, you will have the opportunity to raise any questions and/or provide information you feel is relevant before a formal decision is taken. I enclose a copy of the recommended procedure for the hearing.

The hearing will take place on **[date]** at **[time]** at **[place]**. **[Name of Line manager]** will be attending and a member of Human Resources will be present. You have the right to be accompanied or represented by a work colleague or trade union representative. If you wish to be accompanied you will need to make the necessary arrangements and advise me at least 2 working days before the hearing of the name and role of your representative.

During the hearing, I will consider information you and your manager put before me. I enclose a copy of the documents which will be referred to in the meeting.** If you wish to refer to any other documents at the hearing, please provide a copy of them to me at least 2 working days beforehand.

If you do not attend this hearing for any reason you should be aware that it may go ahead in your absence and could reach a conclusion to terminate your employment with the school. If a decision to terminate employment is reached, you would be given 7 calendar days' notice following the meeting/you should be aware that the allegations about your conduct, if substantiated would constitute gross misconduct and may lead to the termination of your contract with no notice.

If you or your colleague/representative have any queries relating to this letter or to this stage of the procedure, or if either of you are unable to attend on the date stated, please contact me or **[named contact in Human Resources]** without delay.

Yours sincerely,

Headteacher.

Enc: Dismissal Decision Hearing Recommended Procedure
Other documents to be referred to at the meeting

** These documents should include performance action plans, notes of review meetings, etc.

Model Letter 5

Letter following Decision to Dismiss

PRIVATE & CONFIDENTIAL

Dear

Following the hearing held on **[date]**, I have to confirm that, having considered all the information provided, I have decided that you should cease to work **[Foundation/Aided schools: be dismissed from your post as]** at **[name of school]** with effect from **[date - a minimum of 7 calendar days' notice or the date of the hearing in the case of gross misconduct]**.

*You are entitled to 7 calendar days' notice. This reflects the statutory period set out in the Employments Rights Act 1996. / *You have been summarily dismissed from your post for gross misconduct and are not entitled to a period of notice.

The reason for this decision is that your **[conduct / performance / attendance]** was unsatisfactory during your probationary period. You are therefore dismissed on the grounds of **[conduct / capability]**.

You are entitled to appeal against the decision to dismiss you. If you wish to appeal, you must lodge the appeal in writing to me by **[date - allow 5 working days from receipt of this letter]**, setting out your reasons for appeal.

If you do appeal, the Appeal Panel will consider whether to uphold the decision to terminate your employment or whether to extend the probationary period for a further 4 working weeks to allow you to reach an acceptable standard. If probation is extended, your employment will be reinstated to the point of dismissal.

I hope that this is clear but if you have any queries, please get in touch. In the meantime, I wish you well for the future.

Yours sincerely,

Headteacher / Chair of Decision-Makers. **[as appropriate]**

c/c: TU representative if individual accompanied at Hearing.

Model Letter 6

Invitation to Appeal Hearing following Decision to Dismiss

Dear

Appeal Hearing

Further to your appeal against the decision that you should cease to work **[Foundation/Aided schools: be dismissed from your post as]** at **[name of school]**, I am writing to invite you to attend a hearing so that your appeal can be considered. The appeal will be heard by a panel of three Governors of the school. At the hearing, you will have the opportunity to raise any questions and/or provide information you feel is relevant to your appeal. I enclose a copy of the recommended procedure for the hearing.

The outcome of the appeal will be either that the original decision that you should **[cease to work / be dismissed from your post]** is confirmed or that you are given a further period in which to achieve and maintain acceptable standards of **[performance / conduct / attendance]**.

The hearing will take place on **[date]** at **[time]** at **[place]**.

In addition to myself, **[name of Line manager]** will be attending and a member of Human Resources will also be present to advise the panel. You have the right to be accompanied or represented by a work colleague or trade union representative. If you wish to be accompanied you will need to make the necessary arrangements and let me know, no later than 2 working days prior to the hearing, the name and role of your representative.

During the hearing, the panel will have copies of the documents referred to at the dismissal hearing. If there are any additional documents which you would wish to be considered, please provide a copy to me at least 2 days beforehand.

If you or your colleague/representative have any queries relating to this letter or to this stage of the procedure, or if either of you are unable to attend on the date stated, please contact me or **[named contact in Human Resources]** without delay.

If you do not attend this hearing for any reason, you should be aware that it may go ahead in your absence and could reach a conclusion on either of the outcomes referred to above.

A letter confirming the decision will be sent to you within 5 working days of the hearing taking place and will be final.

Yours sincerely,

Headteacher.

Enc: Appeal Hearing Recommended Procedure

Model Letter 7

Outcome of Appeal Hearing

Dear

Outcome of the Appeal Hearing

Following the Appeal hearing held on [date],

EITHER (a)

I have to confirm that, having considered all the information provided, the Appeal Panel has confirmed the decision that you should cease to work **[Foundation/Aided schools: be dismissed from your post as]** at **[name of school]**.

The reason for this decision is **[give reason]**.

This means that the arrangements set out in **[name of person who chaired the Dismissal Decision Hearing]**'s letter dated **[date]** still stand. There is no further avenue of appeal available to you under the school's Probationary Procedures.

OR (b)

I am writing to confirm that the Appeal Panel has decided that your probationary period should be extended by 4 working weeks, to **[date]**, to give you a further opportunity to demonstrate that you can meet the standard of **[performance / conduct / attendance required]**. I must advise you that, should you fail to achieve and maintain acceptable standards of performance, conduct and attendance within this period, a further dismissal hearing will be held to determine whether the original proposal to terminate your appointment should be confirmed.

I can confirm that you that you will be reinstated to the post of **[job title]** with effect from **[date of dismissal]** and that no break in service will be recorded for pay and pension purposes.

Yours sincerely,

Chair of the Appeal Panel.

c/c: TU representative if individual accompanied at Hearing.

RECOMMENDED PROCEDURES

Annex 1

Dismissal Decision Hearing unsatisfactory completion of probationary period

Present: **Decision-Maker/s**
 HR Adviser*
 Employee and Representative
 Line Manager
 Clerk

1. Introductions and outline of purpose by person chairing the hearing.
2. Line Manager to outline the case for dismissal – the reason(s) probation has not been completed satisfactorily, support extended to probationer, summary of meetings held and outcomes, proposed end date for contract, etc.
3. Employee/representative to ask questions of manager.
4. Decision-Maker/s to ask questions/seek clarification from the manager.
5. Employee/representative to outline case against dismissal or make general statement.
6. Manager to ask questions of employee.
7. Decision-Maker/s to ask questions/seek clarification from the employee.
8. Manager to make concluding statement (*no new evidence*).
9. Employee/representative to make concluding statement (*no new evidence*).
10. Meeting to adjourn leaving Decision-Maker/s to determine whether dismissal should, or should not, be confirmed. The HR Adviser will remain to advise the Decision-Maker/s. The parties should reconvene or, where this is not practical, be notified by telephone of the decision as soon as possible. In either case, written confirmation and appeals process (if decision to dismiss is made) will be sent on the working day following the decision.

(In certain circumstances, the Line Manager or Employee may wish to invite a witness. Where this is the case, the witness will be called as required and will be present only during the time in which they give their evidence and answer questions.)

* The HR Adviser to the Decision-Maker/s may ask questions at any point and advise the Decision-Maker/s as appropriate, including during adjournment.

Appeal Hearing following Decision to Dismiss

Present: **Appeal Panel**
 HR Adviser*
 Employee and Representative
 Headteacher and/or Line Manager
 Clerk

1. Introductions and outline of purpose by person chairing the hearing.
2. Employee/representative to give specific reason(s) for appeal against dismissal.
3. Line Manager/Headteacher to ask any questions of employee.
4. Panel to ask questions/seek clarification from the employee.
5. Line Manager to convey case for dismissal giving reason(s) probation has not been completed satisfactorily and details of support extended to probationer, summary of meetings held and outcomes, proposed end date for contract, etc.
6. Employee/representative to ask questions of Line Manager/Headteacher.
7. Panel to ask questions/seek clarification from the Line Manager/Headteacher.
8. Line Manager to make concluding statement (*no new evidence*).
9. Employee/representative to make concluding statement (*no new evidence*).
(N.B. This is the reverse order to the presentation of the appeal so that the employee has the final opportunity to state his or her case.)
10. Meeting to adjourn leaving the Panel to determine whether previous dismissal decision should, or should not, be confirmed. The HR representative will remain to advise the Panel. The parties should reconvene or, where this is not practical, be notified by telephone of the decision as soon as possible. In either case, written confirmation will be sent on the working day following the decision.

* The HR Adviser to the Appeal Panel may ask questions at any point and advise the Appeal Panel as appropriate, including during adjournment.

Probation Report (1 / 3 / 5 months)

Name of new entrant:

Job title:

Start date:

1. Has all induction action, including training, been completed? YES / NO
(If 'NO', please indicate how any omissions are going to be addressed)

2. Have work objectives and training needs been set? YES / NO
(If 'NO' please indicate how and when this will be addressed)

3. (a) Number of days sickness absence accrued to date, with reasons:

3. (b) Do you regard this as satisfactory? YES / NO
(If 'NO', please explain how this has been addressed)

4. Has their performance, attendance and conduct been satisfactory?
(please tick and delete as applicable)

| | | |
|--------------|--|--|
| GREEN | On target, satisfactory progress is being achieved | |
| AMBER | Partly off target, some concerns about performance / conduct / attendance | |
| RED | Significantly off target, performance / conduct / attendance is unsatisfactory | |

- 4.(a) If performance / conduct / attendance has been assessed as 'amber' or 'red', please detail concerns and explain how they are being addressed:

Name: Date:
(Line Manager)

(please return to Headteacher upon completion)

I have read and understood the content of this review

Name: Date:
(Employee)