

## PROCEDURES FOR DEALING WITH PRINCIPALS, TEACHERS AND VICE PRINCIPALS WHOSE WORK IS UNSATISFACTORY

### GUIDANCE NOTES

#### 1. GENERAL

- 1.1 Previously the matter of teachers' competence was essentially dealt with through the Department of Education withdrawing a teacher's recognition to teach, effectively leading to the dismissal of the teacher concerned and rendering him/her disqualified from teaching. The Department of Education has decided to discontinue this practice and the new procedure provides Boards of Governors with the mechanisms for dealing with principals, teachers and vice-principals whose work is deemed to be unsatisfactory.
- 1.2 The procedures have been drawn up jointly by the Northern Ireland Employing Authorities in consultation with the Department of Education and ratified by Teachers' Salaries and Conditions of Service Negotiating Committee (Schools).
- 1.3 The procedures, which take effect from 1 November 1997, should be formally adopted by each Board of Governors.

#### 2. APPLICATION OF THE PROCEDURES

- 2.1 The matters causing concern to school management and/or employing authorities and which give rise to the initiation of the procedures, may relate to matters of pedagogic competence (e.g. quality of classroom teaching, lesson planning and preparation, quality of relationships) or other aspects of professional duties such as planning, management or leadership. All of these matters are subsumed in the term "unsatisfactory work" as used in the documents.
- 2.2 The test to be applied in determining whether the procedure/s should be invoked is whether the standard of work or the nature and extent of the deficiencies are having, or likely to have, a detrimental effect on the educational progress of the pupils and/or on the effective functioning of the school.
- 2.3 Boards of Governors should be careful to distinguish between a question of capability and a disciplinary matter. Unsatisfactory work means not doing the job to the standards required because of a lack of capability or skills. If the principal, vice-principal or teacher will not co-operate with the support programme offered under the procedure, then appropriate disciplinary action will have to be considered.
- 2.4 The procedures provide that, in exceptional circumstances, a Board of Governors may decide to temporarily suspend a principal, vice-principal or a teacher.

### **3. INDICATORS OF UNSATISFACTORY WORK**

- 3.1 The application of the procedures may take effect from, for example, concern relating to the performance of the school, lack of professional vision, poor management, the outcome of the professional assessment by the principal\* or other line manager, a visit by the Inspectorate, the persistent under achievement by pupils directly in the teacher's care or from regular/frequent complaints from parents.
- 3.2 The actual/potential impact on the education and development of the pupils is especially important. Where possible, quantitative indicators of relative performance of similar groups of pupils or similar schools should be established to assist the process of identifying unsatisfactory work.
- 3.3 In evaluating the work of a principal, vice-principal or teacher, those involved may wish to use Evaluating Schools 1992 as a guide. Where practice is giving cause for concern some or indeed all of the following features may be apparent:

#### **School Management**

- No clear aims and objectives.
- Little evidence of planning by Senior Management, Heads of Department etc.
- Poor communication
- Inadequate procedures for dealing with areas such as discipline, pastoral work and parents.
- Little or no staff development planned or taking place.
- Staff not involved in the decision making process.
- Absence of decision making process.

#### **Pupil Related Matters**

- Pupils' work unmarked
- Pupils' progress records not maintained
- Pupils' reports inadequate
- Poor relationship with pupils
- Pupils do not listen or follow instructions.

#### **Assessment of Pupil Performance**

- Pupils perform badly in tests compared with other similar classes in year group/form or in comparison with results for similar groups in previous years.

#### **Work Preparation**

- Written planning and preparation for teaching lacks clear and appropriate

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\* The Principal's role in this context will be consistent with the provisions of the Teachers' (Terms and Conditions of Employment) Regulations (NI) 1987, other provisions of the Education Orders, Regulations and

objectives.

- Teaching resources and equipment not prepared/organised in advance and/or may not be properly managed when in use.
- Teaching does not take account of the requirements of the NI Curriculum and/or the overall school curriculum policies and planning.
- Teaching not matched to the age, ability and interests of the pupils.

#### **4. IMPLEMENTATION OF THE PROCEDURES**

- 4.1 It is recognised that the new arrangements contained in the procedures are complex, constitute a cultural change within the education service and place new responsibilities on employing authorities and Boards of Governors. For these reasons and to provide for consistency Boards of Governors are asked to seek the advice and guidance of the employing authority when considering implementing the procedures.
- 4.2 Problems of unsatisfactory teaching seldom arise suddenly and the early identification of unsatisfactory work is essential so that positive action can be taken to support the teacher and to provide reasonable opportunity for him/her to effect improvement to a satisfactory standard of performance.
- 4.3 The procedures should be applied in a fair and sensitive manner consistent with the Equality of Opportunity Policy Statement for Teachers.
- 4.4 The employing authority advises Boards of Governors to request a second inspection under the provisions of Paragraph 7.6 of the Procedures.
- 4.5 The procedures will be monitored during the first three years of operation and will be reviewed in the light of experience gained.

### **PROCEDURES FOR DEALING WITH PRINCIPALS WHOSE WORK IS UNSATISFACTORY**

#### **1.0 INTRODUCTION AND BACKGROUND**

- 1.1 This procedure has been drawn up jointly by the Northern Ireland Employing Authorities in consultations with the Department of Education. It is based on the principles expressed in paragraph 2 and provides for the involvement of the Education and Training Inspectorate as set out in paragraph 7.
- 1.2 As the schools' lead professional, the principal provides the professional vision, leadership and direction, ensuring that the school is managed and organised to meet its aims and objectives. Working with the Board of Governors, the principal is responsible for securing highly effective teaching and learning to enable all pupils to achieve their maximum potential.
- 1.3 Given this central role, the early identification of unsatisfactory work by the principal is essential so that positive action can be taken to help him or her. Every effort will be made to give the principal reasonable time, opportunity and assistance to address

- 1.4 A principal's work covers the duties set out in the Teachers' (Terms and Conditions of Employment) Regulations (NI) 1987 and also includes other provisions of the Education Orders, Regulations and Determinations made under them, for example a school's statutory scheme or management. Therefore, this procedure applies to teaching and non-teaching duties. Where a principal's work is deemed to be unsatisfactory the steps to be followed by Boards of Governors and employing authorities will include an informal stage followed, if necessary, by a formal stage, and will usually take up to one year to complete.
- 1.5 For the purposes of this procedure, "Principal" means a teacher appointed to the post of principal and employed as such in a grant-aided school. "Teaching Colleague" means a colleague or peer from the same or another school.
- 1.6 This procedure is separate from the Staff Development and Performance Review Scheme.
- 1.7 The employing authority proposes to monitor the procedure during the first three years of its operation and to review it in light of experience gained.

## **2.0 PRINCIPALS**

### **Roles and Responsibilities**

- 2.1 Issues relating to the quality of a principal's work need to be dealt with in a fair, sensitive and consistent manner in the interests of the pupils, the staff and the principal.
- 2.2 Boards of Governors are responsible in law for securing the effective education and well-being of the pupils in their schools and ensuring that the requirements of the statutory curriculum are met. In addition, they have a responsibility for the welfare and the professional development of all their teachers, including the principal. In fulfilling their responsibilities they must address any issues related to the education of the pupils in their care and, where there are concerns about a principal's work, they should ensure that there is access to appropriate support and training.
- 2.3 The Board of Governors is responsible for dealing with the principal whose work is unsatisfactory and, in exercising this responsibility, it must be able to demonstrate that action taken by it and/or on its behalf to support the principal and to provide reasonable opportunity for him or her to become effective.
- 2.4 Problems of unsatisfactory work seldom arise suddenly so every effort should be made to discover the cause of unsatisfactory performance before invoking the procedure. A Board of Governors should always make sure that it is dealing with a question of capability and not, for example, a welfare matter. Incapability means not doing the job effectively because of a lack of ability or skills.

### **Consideration of Reports**

- 2.5 In assessing all the available evidence, the Board of Governors should take account of the advice of the employing authority.
- 2.6 Reasonable efforts shall be made to ensure that all reports are objective and comprehensive in their content and include references, as appropriate, to satisfactory work demonstrated by the principal.
- 2.7 A principal who has received an unsatisfactory report during the informal/formal stages will have the right to make representations to the Board of Governors. The principal will have full access to all documentation related to the procedure.
- 2.8 In considering the dismissal of a principal whose work remains unsatisfactory, the Board of Governors must demonstrate that a suitable support and monitoring programme has been provided and it must consider relevant reports from the Inspectorate made available under the procedure, and any other relevant documentation, including any reports by the employing authority.

### **Support Programme and Monitoring**

- 2.9 Where there are concerns regarding a principal's work, the Board of Governors, in consultation with the employing authority, will ensure that arrangements are made for a support programme designed to address those aspects of the work which have been deemed unsatisfactory. The employing authorities, in consultation with the Education and Library Boards/RTU, will seek to develop a modular course in key areas such as:
  - Strategic direction and development plans for the school;
  - Learning and teaching in the school;
  - Relationships within the school and between the school and the community;
  - Development and deployment of people and resources; and
  - Accountability for the efficiency and effectiveness of the school.
- 2.10 The programme of support will be drawn up in consultation with the principal concerned, implemented within a specified time frame and monitored over a period to be determined by the prevailing circumstances.
- 2.11 It is anticipated that this process should be completed within 3 months (i.e. 60 working days)

### **Appeals**

- 2.12 If the Board of Governors decides to terminate the principal's employment on the grounds of unsatisfactory work, the principal will have access to an appeal hearing before an independent appeal panel.
- 2.13 The principal will have the right to be accompanied by a teacher union representative, a teaching colleague or peer.
- 2.14 The procedure will be conducted in an open and transparent manner and the principal and his or her representative shall have full access to all documentation related to the procedure.

### **3.0 PURPOSE**

- 3.1 The procedure is designed to assist Boards of Governors and employing authorities to adopt a consistent approach in instances where the work of a principal is considered to be unsatisfactory. It does so by providing a framework for sensitive and constructive exchanges between the principal, who may be accompanied by his/her trade union representative, a teaching colleague or peer, and the representatives of the Board of Governors and employing authorities.
- 3.2 Its primary aim is to effect improvement where there is poor performance so that the principal becomes effective. The early identification of unsatisfactory work is, therefore, essential so that positive action can be taken to help.
- 3.3 However, if on completion of the support programme and the process of monitoring and evaluating the principal's work, it is determined that the principal's work remains unsatisfactory and sufficient improvement is considered unlikely, it is the responsibility of the Board of Governors to determine the range of sanctions available to it and, where necessary, to initiate the procedures to terminate the principal's contract of employment.

### **4.0 PROCEDURE**

#### **Informal Stage**

- 4.1 As a wide range of demands are placed on schools and principals, there will inevitably be issues over which unanimity of all interests will not be possible. It is imperative therefore to decide if the matters of concern justify raising questions of capability before invoking the procedure. In the first instance, the Board of Governors should appoint, from within its membership, a sub-group which should decide if there is sufficient reason to come to an initial view that a weakness in performance is having, or is likely to have, a detrimental effect on the educational progress of the pupils in the principal's care and/or on the effective functioning of the school. The chairperson of the Board of Governors should normally take the advice of the employing authority when considering the matter.
- 4.2 Where the sub-group is satisfied that there is a body of evidence to show that aspects of a principal's work are unsatisfactory it should advise the principal, in writing, of the specific nature of those concerns, making it clear that the informal stage has been initiated. This notice will include an assurance that reasonable efforts will be made to give the principal reasonable time, opportunity and assistance to identify the cause of the difficulty and to undertake a programme of support designed to effect sufficient improvement. In order to maintain the informal perspective of this stage the full Board of Governors or the trade union representative should not be involved at this point. Although trade unions only become involved at the formal stage, it is advised, however, that a principal should let his or her union representative know that the informal stage has begun in order to avail of any support there from.
- 4.3 The sub-group should ensure that arrangements are made for the support programme. Where appropriate, it should involve the Education and Library Board's Curriculum

Advisory and Support Service (CASS), of which the Regional Training Unit (RTU) is an integral part, or any other agencies, as necessary. The sub-group should discuss the nature and the purpose of the programme and the process of monitoring and evaluating the principal's work with the principal before they are finalised. The length, format and intensity of this programme will depend upon the nature and seriousness of the identified weakness(es) in the principal's work.

- 4.4 Normally, the informal stage should be completed within one term.

## **5.0 EXCEPTIONAL CIRCUMSTANCES**

- 5.1 The Board of Governors may decide to proceed directly to the formal stage where it considers it necessary that there is sufficient prima facie evidence to suggest that the principal's work is unsatisfactory to such an extent as to be seriously detrimental to the pupil's safety, welfare or educational progress. In such cases, the Board of Governors, following consultation with the employing authority, may temporarily suspend the principal from his or her duties.

## **6.0 FORMAL STAGE**

### **Final Written Notice**

- 6.1 Where, following the informal stage and after reviewing the available evidence, the sub-group concludes that the principal's work continues to be unsatisfactory it will report to the Board of Governors. An opportunity will then be provided for the principal, who may be accompanied by his or her trade union representative, a teaching colleague or a peer, to make representations to the Board of Governors. If following these representations, the Board of Governors decides to invoke the formal procedure, it should inform the employing authority and issue a formal written notice to the principal.
- 6.2 As well as setting out the areas of work that are unsatisfactory, the formal notice should explain that a programme of support, including the process of monitoring the evaluating the principal's work, will be discussed with the principal before they are finalised and that arrangements will be made in consultation with the employing authority to help the principal to improve but that failure to become effective may result in dismissal. This programme will take account of any new issues/areas identified during the informal stage.
- 6.3 Where a Board of Governors has proceeded directly to the formal stage, a support programme tailored to address the specific identified weakness(es) will be drawn up in consultation with the employing authority, CASS/RTU or other agencies, as appropriate. The nature and purpose of the programme and the process of monitoring and evaluating the principal's work should be discussed with the principal before they are finalised.

- 6.4 It is the principal's responsibility and obligation to ensure that he/she avails fully of such opportunities for support and training. The principal will be asked to confirm in writing to the Board of Governors within five days of receiving the notice that he/she is willing to take part in the programme of support. If he/she does not co-operate with the support programme disciplinary action will have to be considered.
- 6.5 On completion of the support programme and the process of monitoring the evaluation of principal's work, the Board of Governors will consider reports by all who have been involved in the evaluation of the principal's work throughout the process, including the support programme. If the principal is assessed as effective and it is considered that his or her performance is likely to be sustained, the Board of Governors should inform the principal in writing that no further action is being taken while this level is maintained.

### **Notice of Termination**

- 6.6 Where the reports show that the principal's work remains unsatisfactory, and that sufficient improvement is considered unlikely, then the Board of Governors will provide an opportunity for the principal, who may be accompanied by his or her trade union representative, a teaching colleague or peer, to make representations to it. If, after considering the representations, the Board of Governors decided to initiate the procedures to terminate the principal's contract of employment because of lack of capability, it should notify the employing authority and the principal in writing of its decision, or determination in the case of controlled and maintained schools with delegated budgets.
- 6.7 Normally, the formal stage should be completed within two terms.

### **Independent Appeal**

- 6.8 The principal will be informed of his or her right to appeal against the decision/determination to an independent appeal panel and may be assisted in the appeal by a trade union representative, a teaching colleague or peer.
- 6.9 The Appeal Panel shall consist of an independent chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the employing authority, the other nominated by the Northern Ireland Teachers' Council.
- 6.10 If the appeal is unsuccessful, the principal's contract of employment should be terminated with notice or payment in lieu of notice.

## **7.0 EDUCATION AND TRAINING INSPECTORATE INVOLVEMENT**

- 7.1 Whilst there is no requirement to involve the Inspectorate in the procedures to address unsatisfactory work, a Board of Governor's judgement of the evidence of deficiencies may be corroborated by comments from the Inspectorate. These could arise from the evaluation of a principal's work during a general or focused inspection, another

inspection visit or an inspection at the specific request of the Board of Governors. Requests for an inspection will only be considered when submitted by the Board of Governors and with the knowledge of the principal.

### **Unsatisfactory Work Identified During Inspections**

- 7.2 Unsatisfactory work, whether in teaching or school management, which is identified in the course of a general, focused or other inspection visit, should often be apparent already to the Board of Governors with action already in train to address the needs. The Inspectors will comment only on the principal's work as examined during the inspection. The decision on the course of action to be taken remains a matter for the Board of Governors and the employing authority.
- 7.3 The inspectors will report orally on the quality of work examined at the time of the inspection. Where the inspectors are of the view that the work observed is unsatisfactory, the Department of Education will then issue a written report to the principal, the chairperson of the Board of Governors and the employing authority. The report will indicate the areas of weakness but will not make recommendations about the action to be taken. It is the responsibility of the Board of Governors, action in consultation with the employing authority, to initiate such action by way of support and retraining, as it deems appropriate. The principal's work will be examined again at the time of the follow-up inspection and the findings will again be reported orally. If the work is unsatisfactory then a written report will be issued to the principal, the Board of Governors and the employing authority, unless the principal's contract of employment has been terminated prior to the follow-up inspection.

### **Requests for the Inspection of the Work of a Principal**

- 7.4 Where there has been no inspection within the previous two terms, the Board of Governors may request an inspection of the work of the principal. Such a request should be made to the Chief Inspector by the chairperson of the Board of Governors and with the knowledge of the principal. It should include details of the concerns, a record of action taken to date and an evaluation of the outcomes.
- 7.5 The timing of the request for the inspection of the work of a principal will be a matter for the Board of Governors to determine, but it should come after action has been taken by the school to help the principal to improve the quality of teaching and learning. Before approving the inspection, the Chief Inspector will have to be satisfied that appropriate support has been offered to the principal and that, despite this, the principal's work is still considered to be unsatisfactory. Where the Chief Inspector agrees to the request, an inspection visit will take place and the report of the findings will provide an assessment of the principal's work as examined during the visit. The Board of Governors should notify the principal in advance, in writing, of the reason for the inspector's visit. The inspector will report his/her findings orally to the principal. A written report will be issued by the Department of Education to the principal, the chairperson of the Board of Governors and the employing authority. Any subsequent action will be a matter for the Board of Governors, and where appropriate, the employing authority.

### **Transitional Arrangements**

- 7.6 Outside the standard arrangements for inspection (as in paragraph 7.2) the Inspectorate would normally inspect the work of a principal on only one occasion. However, in the initial period of operation of the new arrangements the Chief Inspector shall be prepared to consider a request from the Board of Governors for a second inspection, the timing of which shall be a matter for the Board of Governors to determine.
- 7.7 In seeking approval for a second inspection the Board of Governors would need to make clear why it considers a second inspection to be necessary. The circumstances in which a request for a second inspection might be considered necessary should only arise where there is doubt, which can be specified, that the principal's work remains unsatisfactory.
- 7.8 The need for a second inspection of a principal's work and the action taken prior to and in response to such visits will be monitored over the first three years of operation of the procedure. The intention is to reduce the involvement of the Inspectorate to one visit only, if requested by the Board of Governors and agreed by the Chief Inspector.

## **INDEPENDENT APPEAL**

- 1 In addition to any statutory right there shall be the right of appeal against any determination/decision to an independent appeal panel. An appeal, setting out the grounds, must be made in writing to the Appeals Committee within five working days of the date of the determination/decision.
- 2 Appeal hearings should be heard as soon as is practicable and no later than 20 working days from the receipt of the appeal unless extended by mutual agreement.
- 3 The result of an appeal should be notified in writing to the teacher within 10 working days of the appeal hearing.
- 4 An Appeal Committee:
  - (i) dismiss the appeal; or
  - (ii) up-hold the appeal.

## **5.0 INDEPENDENT APPEALS COMMITTEE**

- 5.1 References to the Labour Relations Agency in this procedure should not be construed in any way as creating a contractual relationship between the Labour Relations Agency and any person or organisation. Such references are merely indicative of the role of the Agency in providing an independent administration for appeals on behalf of the employing authority.
- 5.2 Management and Teachers' Side have agreed not to have legal or professions industrial relations consultations representing the two parties at an appeal.
- 5.3 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the Teachers' Side and one nominated by the Management Side of the Teachers' Salaries and

Conditions of Service Committee (Schools). Neither member should have had a direct interest or involvement in the case.

- 5.4 The Agency will appoint a Secretary to the Appeals Committee who shall be responsible for the setting up and operation of the Committee.
- 5.5 The Secretary, in conjunction with the Chairperson, will fix a date for the Committee's hearing of the appeal, inform the parties accordingly and invite nomination to the Committee.
- 5.6 The Secretary will also invite parties to make written submission to the Committee, such submissions to be received not later than ten days before the date of the hearing. The Secretary will distribute copies of the submissions to the Committee members and to the other party not later than five days before the date of the hearing.
- 5.7 The Committee will normally meet the parties to hear the appeal within twenty working days of the matter being referred to the Labour Relations Agency. The Chairperson of the Committee will determine the order of the oral presentations to the Committee. All notes taken by Committee members should be kept for one year.
- 5.8 The work of the Appeals Committee will not be invalidated by the absence of one or other of the parties.
- 5.9 The decision of the Appeals Committee will be given in writing to both parties within ten working days of the hearing.

## **PROCEDURES FOR DEALING WITH TEACHERS, INCLUDING VICE PRINCIPALS, WHOSE WORK IS UNSATISFACTORY**

### **1.0 INTRODUCTION**

- 1.1 This procedure has been drawn up jointly by the Northern Ireland Employing Authorities in consultation with the Department of Education. It is based on the principles expressed in paragraph 2 and provides for the involvement of the Education and Training Inspectorate as set out in paragraph 7.
- 1.2 As problems of unsatisfactory teaching seldom arise suddenly, the early identification of unsatisfactory work is essential so that positive action can be taken to help the teacher to achieve a satisfactory standard of work. Every effort will be made to give the teacher reasonable time, opportunity and assistance to address the difficulties and to reach a satisfactory standard of work.
- 1.3 Where the teacher's work is deemed to be unsatisfactory the steps to be followed by the Board of Governors and employing authorities will include an informal stage followed, if necessary, by a formal stage and will usually take up to one year to complete.
- 1.4 For the purposes of this procedure, "teacher" means a teacher employed in a grant-aided school and includes a teacher appointed to the post of vice principal. "Teaching

duties set out in Schedule 3 of the Teachers' (Terms and Conditions of Employment) Regulations (NI) 1987, other provisions of the Education Orders, Regulations and Determinations made under them.

- 1.5 This procedure is separate from the Staff Development and Performance Review Scheme.
- 1.6 The Employing Authorities propose to monitor the procedure during the first three years of its operation and will review it in the light of experience gained.

## **2.0 PRINCIPLES**

### **Roles and Responsibilities**

- 2.1 Issues relating to the quality of a teacher's work need to be dealt with in a fair, sensitive and consistent manner in the interests of the pupils and the teacher.
- 2.2 Boards of Governors are responsible in law for securing the effective education of the pupils in their schools and the welfare and professional development of their teachers. In fulfilling their responsibilities they must address any issues related to the education of the children in their care and, where there are concerns about a teacher's work, they should ensure that there is access to appropriate support and training.
- 2.3 The Board of Governors is ultimately responsible for dealing with any teacher whose work is unsatisfactory and, in exercising this responsibility, must be able to demonstrate that action has been taken on its behalf to support the teacher and to provide reasonable opportunity for him or her to effect improvement to a satisfactory standard of performance.
- 2.4 The principal is responsible for evaluating the standards of teaching and learning in the school, ensuring that proper standards of professional performance are established and for advising the Board of Governors on matters relating to the professional evaluation of teacher's work.

### **Consideration of Reports**

- 2.5 In deciding if a teacher's work is unsatisfactory, the Board of Governors must consider a written report provided by the principal, together with recent/relevant inspection reports and, where appropriate, reports by the employing authority.
- 2.6 Reasonable efforts will be made to ensure that all reports are objective and comprehensive in their content and will include references, as appropriate, to areas of satisfactory work demonstrated by the teacher.
- 2.7 A teacher who has received an unsatisfactory report during the informal/formal stages will have the right to appeal in writing to the Board of Governors. The teacher will have full access to all documentation related to the procedure.
- 2.8 In considering the dismissal of a teacher whose work remains unsatisfactory, the Board of Governors must demonstrate that a suitable support and monitoring

programme has been provided and must consider the written professional evaluation of the teacher's work by the principal, together with relevant reports from an inspector made available under the procedure and any other relevant documentation.

### **Support Programme and Monitoring**

- 2.9 Where there are concerns regarding a teacher's work, the principal, where appropriate, and in consultation with the employing authority, will arrange a support programme designed to address those aspects of work which have been deemed unsatisfactory.
- 2.10 The programme of support will be drawn up in consultation with the teacher concerned, implemented within a specified time frame and monitored over a period to be determined by the prevailing circumstances.
- 2.11 It is anticipated that the process should be completed within 3 months (i.e. 60 working days).

### **Appeals**

- 2.12 If a Board of Governors decides to terminate a teacher's employment on the grounds of unsatisfactory work, the teacher will have access to an appeal hearing before an independent appeal panel.
- 2.13 The teacher will have the right to be accompanied by a teacher union representative or a teaching colleague.
- 2.14 The procedure will be conducted in an open and transparent manner and the teacher and his/her representative shall have full access to all documentation to the procedure.

## **3.0 PURPOSE**

- 3.1 The procedure is designed to assist Boards of Governors and employing authorities to adopt a consistent approach in instances where the work of the teacher is considered to be unsatisfactory. It does so by providing a framework for sensitive and constructive exchanges between the teacher, who may be accompanied by his or her trade union representative or a teaching colleague, and the representative of the Board of Governors and employing authorities.
- 3.2 Its primary aim is to effect improvement to a satisfactory standard of work. The early identification of unsatisfactory work is, therefore, essential so that positive action can be taken to help the teacher to achieve a satisfactory standard of work.
- 3.3 However, if on completion of the support programme and the process of monitoring and evaluating the teacher's work, it is determined that the teacher's work remains unsatisfactory and improvement to a satisfactory standard is considered unlikely, it is the responsibility of the Board of Governors to determine the range of sanctions available and, where necessary, to initiate the procedures to terminate the teacher's contract of employment.

## **4.0 PROCEDURE**

## **Informal Stage**

- 4.1 As part of the day-to-day responsibility for the management of the school and the evaluation of the quality of teaching and learning and standards being attained by the pupils, the principal or members of the school's senior management should normally be in the best position to identify the aspects of the teacher's work that are unsatisfactory.
- 4.2 Where there is a body of evidence to show that aspects of a teacher's work are unsatisfactory, the principal will advise the teacher, in writing, of the specific nature and extent of his/her concerns, making it clear that that informal stage has been initiated. This notice will include an assurance that reasonable efforts will be made to give the teacher reasonable time, opportunity and assistance to identify the cause of the difficulty and to undertake a programme of support designed to effect improvement to a satisfactory standard of work. When the principal has taken this action, he/she should advise the chairperson of the Board of Governors accordingly and the employing authority in the case of controlled and maintained schools. Although trade unions become involved only at the formal stage, it is advised that a teacher should let his or her union representative know that the informal stage has begun in order to avail of any support there from.
- 4.3 The principal should arrange a support programme designed to effect improvement to a satisfactory standard of work and where appropriate, he/she should involve the Education and Library's Board Curriculum Advisory and Support Service or other agencies. The nature and purpose of the programme, the process of monitoring the evaluation of the teacher's work and the role of the principal and/or line manager in this process should be discussed with the teacher before they are finalised. The length, format and intensity of this programme will depend upon the nature and seriousness of the weakness(es) in the teacher's work.
- 4.4 Normally, the informal stage should be completed within one term.

## **5.0 EXCEPTIONAL CIRCUMSTANCES**

- 5.1 The principal may decide to advise the Board of Governors to proceed directly to the formal stage where he/she considers that there is sufficient prima facie evidence to suggest that the teacher's work is unsatisfactory to such an extent as to be seriously detrimental to the pupil's safety, welfare or educational progress. In such cases, the Board of Governors, following consultation with the employing authority, may temporarily suspend the teacher from class contact and associated duties.

## **6.0 FORMAL STAGE**

### **Final Written Notice**

- 6.1 Where, following the informal stage and after reviewing the available evidence, the principal concludes that the teacher's work continues to be unsatisfactory; he or she will inform the Board of Governors accordingly. The Board of Governors will establish a sub-committee, consisting of three of its members, to which the teacher,

who may be accompanied by his/her trade union representative or a teaching colleague, may make representations. If following these representations, the sub-committee decides to invoke the formal procedure, it should inform the employing authority and issue a formal written notice to the teacher.

- 6.2 As well as setting out the areas of work that are unsatisfactory, the formal notice will explain that a programme of support, including the process of monitoring and evaluating the teacher's work, will be discussed with the teacher before they are finalised, that arrangements will be made in consultation with the employing authority to help the teacher to achieve a satisfactory standard of work and that failure to reach that standard may result in dismissal. This programme will take account of any new issues/areas identified during the informal stage.
- 6.3 The teacher may appeal this decision to the Board of Governors, excluding those Governors who are members of the sub-committee, and will have the right to be accompanied by his or her trade union representative or a teaching colleague.
- 6.4 Where a Board of Governors has proceeded directly to the formal stage, a support programme tailored to address the specific weakness(es) as identified, will be drawn up in consultation with the employing authority, the Curriculum Advisory and Support Service or other agencies, as appropriate. The nature and purpose of the programme and the process of monitoring and evaluating the teacher's work should be discussed with the teacher before it is finalised.
- 6.5 It is the teacher's responsibility and obligation to ensure that he or she avails fully of such opportunities for support and training. The teacher will be asked to confirm in writing to the Board of Governors that he or she is willing to take part in the programme of support. If a teacher does not co-operate with the support programme disciplinary action will have to be considered.
- 6.6 On completion of the support programme and the process of monitoring and evaluating the teacher's work, the Board of Governors will consider reports by all who have been involved in the evaluation of the teacher's work throughout the process, including the support programme. If the teacher's work is assessed as satisfactory and it is considered that this standard is likely to be maintained the Board of Governors should inform the teacher in writing that no further action is being taken while this level is sustained.

### **Notice of Termination**

- 6.7 Where the reports show that the teacher's work remains unsatisfactory and that improvements to a satisfactory standard is considered unlikely, the Board of Governors will provide an opportunity for the teacher, who may be accompanied by his/her trade union representative or teaching colleague, to make representations to it. If, after considering the representations, the Board of Governors decided to initiate the procedures to terminate the teacher's contract of employment because of lack of capability, it should notify the employing authority and the teacher, in writing, of its decision, or determination in the case of controlled and maintained schools with delegated budgets.
- 6.8 Normally, the formal stage should be completed within two terms.

## **Independent Appeal**

- 6.9 The teacher will be informed of his or her right of appeal against the decision/determination to an independent appeal panel and may be assisted in the appeal by a trade union representative or a teaching colleague.
- 6.10 The appeal panel shall consist of an independent chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the employing authority, the other nominated by the Northern Ireland Teacher's Council. For details of the appeal procedure see Appendix 1.
- 6.11 If the appeal is unsuccessful, the teacher's contract of employment should be terminated with payment in lieu of notice.

## **7.0 EDUCATION AND TRAINING INSPECTORATE INVOLVEMENT**

- 7.1 Whilst there is no requirement to involve the Inspectorate in the procedures to address unsatisfactory work, a school's assessment of deficiencies may be corroborated by Inspectorate comments. These could arise from the evaluation of a teacher's work during a general or focused inspection, another inspection visit or an inspection at the specific request of the Board of Governors. Requests for an inspection of a teacher will only be considered when submitted by the Board of Governors and with the knowledge of the teacher.

### **Unsatisfactory Work Identified During Inspections**

- 7.2 Unsatisfactory work, whether in teaching or school management, which is identified in the course of a general, focused or other inspection visit, should often be apparent already to the school with action already in train to address the needs. The Inspectorate will comment only on the teacher's work as observed during the inspection. The decision on the course of action to be taken remains a matter for the Board of Governors and the employing authority.
- 7.3 The inspectors will report orally on the quality of work observed at the time of the inspection. Where the inspectors are of the view that the work observed is unsatisfactory, the Department of Education will then issue a written report to the teacher, the chairperson of the Board of Governors and the employing authority. The report will indicate the areas of weakness but will not make recommendations about the action to be taken. It is the responsibility of the Board of Governors, acting on the advice of the principal and in consultation with the employing authority, to initiate such action by way of support and retraining, as it deems appropriate. The teacher's work will be examined again at the time of the follow-up inspection and the findings will again be reported orally. If the work is unsatisfactory then a written report will issue to the teacher and the school, unless the teacher's contract of employment has been terminated prior to the follow-up inspection.

### **Request for the Inspection of the Work of a Teacher**

- 7.4 Where there has been no inspection within the previous two terms, the Board of Governors may request an inspection of the work of an individual teacher. Such a request should be made to the Chief Inspector by the chairperson of the Board of Governors and with the knowledge of the teacher concerned. It should include details of the concerns, a record of action taken to date and an evaluation of the outcomes.
- 7.5 The timing of the request for the inspection of the work of an individual teacher will be a matter for the Board of Governors to determine, but it should come after action has been taken by the school to help the teacher to improve the quality of teaching and learning. Before approving the inspection, the Chief Inspector will have to be satisfied that appropriate support has been offered to the teacher by the school, and that, despite this, the teacher's work is still considered to be unsatisfactory. Where the Chief Inspector agrees to the request, an inspection visit will take place and the report of the findings will provide an assessment of the teacher's work as observed during the visit. The Board of Governors should notify the teacher in advance, in writing, through the principal, of the reason for the inspector's visit. The inspector will report his/her findings orally to the teacher and the principal. A written report will be issued by the Department of Education to the teacher, the principal, the chairperson of the Board of Governors and the employing authority. Any subsequent action will be a matter for the Board of Governors and, where appropriate, the employing authority.

### **Transitional Arrangements**

- 7.6 Outside the standard arrangements for inspection (as in paragraph 7.2), the Inspector would normally inspect the work of a teacher on only one occasion. However, in the initial period of operation of the new arrangements, the Chief Inspector shall be prepared to consider a request from the Board of Governors for a second inspection, the timing of which will also be a matter for the Board of Governors to determine.
- 7.7 In seeking approval for a second inspection the Board of Governors would need to make clear why they consider a second inspection to be necessary. The circumstances in which a request for a second inspection might be considered necessary should only arise where there is doubt, which can be specified, that the teacher's work remains unsatisfactory.

### **INDEPENDANT APPEAL**

1. In addition to any statutory rights there shall be the right of appeal against a determination/decision to an independent appeal panel. An appeal, setting out the grounds, must be made in writing to the Appeals Committee within five working days of the date of the determination/decision.
2. Appeal hearings should be heard as soon as is practicable and no later than 20 working days from the receipt of the appeal unless extended by mutual agreement.
3. The result of an appeal should be notified in writing to the teacher within 10 working days of the appeal hearing.
4. An Appeal Committee may:

- (i) dismiss the appeal: or
- (ii) up-hold the appeal.

## **5.0 INDEPENDENT APPEALS COMMITTEE**

- 5.1 References to the Labour Relations Agency in this procedure should not be construed in any way as creating a contractual relationship between the Labour Relations Agency and any person or organisation. Such references are merely indicative of the role of the Agency in providing an independent administration for appeals on behalf of the employing authority.
- 5.2 Management and Teacher's Side have agreed not to have legal or professional industrial relations consultations representing the two parties at an appeal.
- 5.3 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the Teacher's Side and one nominated by the Management Side of the Teachers' Salaries and Conditions of Service Committee (Schools). Neither member should have had a direct investment or involvement in the case.
- 5.4 The Agency will appoint a Secretary to the Appeals Committee who shall be responsible for the setting up and operation of the Committee.
- 5.5 The Secretary, in conjunction with the Chairperson, will fix a date for the Committee's hearing of the appeal, inform the parties accordingly and invite nominations to the Committee.
- 5.6 The Secretary will also invite the parties to make written submissions to the Committee, such submissions to be received not later than ten days before the hearing. The Secretary will distribute copies of the submissions to the Committee members and to the other party not later than five days before the date of the hearing.
- 5.7 The Committee will normally meet the parties to hear the appeal within 20 working days of the matter being referred to the Labour Relations Agency. The Chairperson of the Committee will determine the order of the oral presentations to the Committee. All notes taken by Committee members should be kept for one year.
- 5.8 The work of the Appeals Committee will not be invalidated by the absence of one or other of the parties.
- 5.9 The decision of the Appeals Committee will be given in writing to both parties within ten working days of the hearing.