

## **Towards 2016**

### **Revised Procedures for Suspension and Dismissal of Teachers**

#### **Section 24(3) of the Education Act (1998)**

##### **1. Background**

Section 24(3) of the Education Act 1998 provides for the suspension and dismissal of teachers by boards of management. Under the terms of *Towards 2016* the parties undertook to review and revise existing procedures and to agree new procedures in time for implementation with effect from the commencement of the next school year.

The boards of management and Principal have a responsibility for the quality and effectiveness of education and the management of staff in a school as set out in the Education Act 1998.

While no procedures can be definitive about the range of circumstances which might give rise to the initiation of disciplinary procedures in general these are likely to be related to conduct, a threat to the health and safety of students and/or sustained failure to perform adequately the professional duties and responsibilities expected of a teacher.

The following agreed procedures provide for two separate and independent strands which should be utilised in appropriate circumstances:

- Procedures relating to professional competence issues
- Procedures relating to work, conduct and matters other than professional competence

The procedures apply to all teachers other than those teachers serving in a probationary capacity. In relation to teachers serving in a probationary capacity the existing probation arrangements will continue to apply.

The procedures are designed to deal solely with issues of employment and supersede all disciplinary procedures in existence prior to this agreement. This is without prejudice to appeals to patrons, where currently provided, pending any review of such appeals.

Issues relating to registration are a matter for the Teaching Council.

It will be open to any of the parties to seek a review of these suspension and dismissal procedures.

## 2. General Principles underpinning these procedures

Apart from considerations of equity and justice, the maintenance of a good industrial relations atmosphere at workplace level requires that acceptable procedures be in place and be observed. Disciplinary procedures are necessary to ensure both that discipline is maintained in the workplace and that disciplinary measures can be applied in a fair and consistent manner.

Such procedures serve a dual purpose in that they provide a framework which enables management to maintain satisfactory standards and employees to have access to procedures whereby alleged failures to comply with these standards may be fairly and sensitively addressed.

The essential elements of any procedures for dealing with disciplinary issues are that they be rational and fair, that the basis for disciplinary action is clear, that the range of penalties that can be imposed is well-defined and that an internal appeal mechanism is available.

Every teacher is personally accountable for his/her own behaviour and work performance. Early intervention at the appropriate level to address perceived inappropriate behaviour is desirable for all parties so as to minimise the risk of having to escalate sanctions as provided for in these procedures.

Every effort will be made by the Principal to address alleged or perceived shortcomings in work and conduct through informal means without invoking the formal disciplinary procedure.

Where circumstances warrant, a teacher may be placed on administrative leave with full pay pending an investigation, or pending the outcome of an investigation, a disciplinary hearing/meeting or the outcome of a disciplinary hearing/meeting.

The procedures are intended to comply with the general principles of natural justice and provide:

- *that there will be a presumption of innocence. No decision regarding disciplinary action can be made until a formal disciplinary meeting has been convened and the employee has been afforded the opportunity to respond to the allegations raised*
- *that the employee will be advised in writing in advance of a disciplinary meeting of the precise nature of the matters concerned and will be given copies of all relevant documentation. In the case of a complaint, this detail will include the source and text of the complaint as received. A complaint should be in writing.*

- *that details of the allegations, complaints or issues of professional competence be put to the teacher concerned*
- *that the right of a teacher concerned to have access to and to view his/her personnel file (to include all records in relation to the teacher in hardcopy or electronic format, held by the school) will be fully respected*
- *that the teacher concerned be given the opportunity to respond fully to any such allegations, complaints or issues of professional competence*
- *that the teacher concerned is given the opportunity to avail of representation by a work colleague or trade union representative/s*
- *that the teacher concerned has the right to examine and challenge all evidence available and to call witnesses or persons providing such evidence for questioning.*
- *that the teacher concerned has the right to a fair and impartial examination of the issues being investigated, taking into account the allegations or complaints themselves, the response of the teacher concerned to them, any representations made by or on behalf of the teacher concerned and any other relevant or appropriate evidence, factors or circumstances*
- *that the board of management, as employer, has a duty to act reasonably and fairly in all interactions with staff and to deal with issues relating to conduct or professional competence in a confidential manner which protects the dignity of the teacher.*
- *that all matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives*
- *that it will be considered a disciplinary offence for any person to intimidate or exert inappropriate pressure on any person who may be required to attend as a witness.*
- *that where a decision is taken to impose a disciplinary sanction, the sanction imposed will be in proportion to the nature of the conduct/behaviour/performance that has resulted in the sanction being imposed.*
- *These procedures are without prejudice to the right of a teacher to have recourse to the law to protect his/her employment*

Reasonable and appropriate support, training and assistance will be provided. In this context, a major focus of the work of the Support Services at primary and post Primary level will be the provision of appropriate advice and assistance to school management and teachers in the formulation of improvement plans and, where relevant, in their implementation. Arrangements will also be put in place to provide for the timely accessing of those services as required.

## **Procedures relating to professional competence issues**

### **Preamble**

As is the norm with any profession it is a matter for the individual teacher, in the first instance, to maintain appropriate standards of teaching and to personally address competence issues if and when they arise. Furthermore it is a teacher's responsibility and obligation to ensure that he or she avails fully of all opportunities of assistance towards remediation of professional competence issues.

In this context it is fully accepted that a significant majority of teachers discharge their duties in a competent and efficient way and provide a service in line with the best traditions of teaching. Accordingly any process geared to address matters of professional competence is aimed at a minority of individuals within a profession. It is also the case that any such process must recognise the reality that professional competence issues are often of a transient nature and may have their origin in issues of a personal or professional nature which are of relatively short time duration.

There may also be instances where concerns are raised regarding a teacher's professional competence through parental complaints. In such cases the concerns will be addressed by the Principal in the first instance in accordance with agreed complaint procedures. The Principal will consider the nature of the complaint before determining whether the issue falls to be considered under the procedures relating to professional competence. If the procedures relating to professional competence are subsequently invoked the parent who made the complaint will be so advised and informed of the final outcome of the process.

It follows that the approach to dealing with matters of professional competence should involve a number of stages moving from informal stages to formal stages which may at the end of the process have recourse to disciplinary action (up to and including dismissal). This must of course have regard to the right and duty of the board of management to act immediately in matters of serious misconduct or where it considers that a threat exists to the health, safety and welfare of students.

### ***Stage 1***

#### ***Informal Stage***

- 1.1 As outlined in sections 22 and 23 of the Education Act 1998, the Principal, as part of his/her day-to-day responsibility for the management of the school, has responsibility for the guidance and direction of teachers, the provision of leadership to teachers and students and the creation, together with the board of

management, of an environment which is supportive of learning among the students and which promotes the professional development of teachers. The Education Act provides also that the Principal shall have all and such powers as are necessary or expedient in that regard. The Principal is, therefore, in the best position to identify when professional competence issues arise in a teacher's work.

- 1.2 Where the Principal has concerns that there may be issues of professional competence in a teacher's work s/he will advise the teacher, orally, of the specific nature and extent of these concerns and furnish the teacher with any relevant documentation relating to the issue.
- 1.3 At this stage the teacher should be given a copy of the agreed procedures and be advised to familiarise himself/herself with the various stages of the procedures that may be invoked and the range of sanctions available to the board of management.
- 1.4 The Principal will seek to explore with the teacher the underlying cause(s) and where possible agree the steps that need to be taken to address the matter. In this context the Principal will advise the teacher of available internal and/or external supports and endeavour to assist the teacher in accessing those supports. These may include the Employee Assistance Service, the Primary Professional Development Service, Leadership Development for Schools (LDS), Second Level Support Service (SLSS) and /or other external agencies that are relevant and/or appropriate in the circumstances having regard to the nature of the particular issues.
- 1.5 It is intended that through dialogue between the Principal and the teacher the issues are resolved to the satisfaction of the Principal and that both agree that no further action is necessary.
- 1.6 It is intended that professional competence issues of a transient nature should be resolved through informal mechanisms, normally within a three month period excluding holiday periods.
- 1.7 Where a teacher has failed to engage positively with the processes and the Principal continues to have concerns that there are professional competence issues of a sustained nature, the Principal will notify the teacher of his/her intention to refer the matter to the board of management with a view to the initiation of the formal process

## ***Stage 2***

### ***Initiation of the formal process***

- 2.1 The Principal will advise the Chairperson of the board of his/her concerns and provide a written report to the Board. The teacher will be given a copy of the report simultaneously, and will be afforded an opportunity to provide a written response as part of the process of consideration of the matter.

- 2.2 At this stage it is open to the teacher to invoke Stage 3 of these procedures within 10 school days of receipt of the report. Where the teacher adopts this course of action it is on the strict understanding that he/she cannot then seek to revert to any earlier stage of the process and that the Principal and board of management may proceed to the next stage as appropriate.
- 2.3 Alternatively where the teacher does not take up this option the board will consider the report of the Principal and any written response provided by the teacher as soon as is practicable. At this stage the teacher will be provided with an opportunity to address the board of management on the matter if he/she so wishes. The board of management will then make a decision on how to proceed. This decision may involve the board finding that:
- There are insufficient grounds to conclude that there is an issue of professional competence,
  - There are sufficient grounds as to warrant the initiation of the formal process.
- 2.4 Where the Board is of the view that there are sufficient grounds it will charge the Principal with defining the required improvement plan for the teacher in question.
- 2.5 The Principal will meet with the teacher concerned to discuss the improvement plan.
- 2.6 The plan will specify in writing the perceived deficiencies in the teacher's professional competence and the required improvement expected of that teacher. It will also set out the range of supports and training available to the teacher and suggestions as to which should be availed of by the teacher in the context of improving his or her performance. The improvement plan will also set out a timeframe within which the required improvement should be put into effect. Appropriate supports will be made available to the Principal in drawing up the Improvement plan.
- 2.7 While bringing about the improvement in his or her performance is the primary responsibility of the individual teacher the Principal/board of management will support and facilitate that teacher in bringing about the required improvement.
- 2.8 Normally, it would be expected that the required remediation of professional competence issues would take place within the timeframe set down in the improvement plan which should be no less than a three month period excluding holiday periods. This period may be extended by the Principal, subject to the agreement of the board of management, to allow the teacher further time to implement the improvement plan.
- 2.9 Following the conclusion of the time period provided for improvement, the Principal will furnish a written report to the Board and the teacher setting out his/her views on the outcome.

- 2.10 Where the Principal reports that the required improvement has been brought about the Board will inform the teacher in writing confirming its intention to conclude the formal process.
- 2.11 Where the Principal reports to the Board that the required improvement in teaching performance has not been brought about following the conclusion of the period allowed for this process, the Board will consider the matter further, as provided for below.
- 2.12 The teacher will be given an opportunity to provide an oral and written response to the Principal's report as part of the process of the board considering the matter.
- 2.13 Following consideration of the Principal's report and the teacher's response the Board may decide that
- Sufficient progress has been made by the teacher and that the procedure is being brought to a conclusion
  - The improvement plan should be modified
  - the required improvement has not being brought about by the teacher

### **Stage 3 External Review**

- 3.1 Where the board of management decides that the required improvement has not been brought the Board will request the Chief Inspector to arrange for a review of the work of the individual teacher. The teacher will be so informed by the board of management in such instances. The request for a review should include details of the nature of the Board's concerns, the supports offered to the teacher, the extent to which these supports were availed of by the teacher and the outcomes.
- 3.2 Before approving the review the Chief Inspector\* will satisfy himself/herself that the 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. The Chief Inspector may seek further information from the school as s/he deems necessary. Where a teacher has availed of the option at Stage 2 to invoke Stage 3 of the process the Chief Inspector will satisfy himself/herself of this fact before initiating the review.
- 3.3 All documentation provided by the board of management to the Chief Inspector shall also be furnished to the teacher by the Board of Management.
- 3.4 The function of carrying out an external review which is vested in the Chief Inspector is in consequence of this agreement and is separate from and without

prejudice to the statutory function of the Chief Inspector as set out in Section 13 of the Education Act 1998.

- 3.5 Where the Chief Inspector agrees to the request he/she may assign such and so many personnel to conduct the review as appears to him/her to be necessary. In assigning a person or persons to the conduct of this task the Chief Inspector will have regard to the requirement that any individual/s so assigned have a competence which is relevant to the review.
- 3.6 The review may involve a series of visits to the teaching and learning situation and will normally be carried out by a member/members of the Inspectorate. The person/persons assigned by the Chief Inspector will have whatever access to the teaching and learning situation as is necessary by them in order to provide a professional view on the competence of the teacher. There may be instances, having regard to the nature of a particular case, where the member/members of the Inspectorate may be accompanied by a person with particular expertise relevant to the issues of concern raised by the board of management. In all instances the review process will be led by a member of the Inspectorate.
- 3.7 The teacher, who is the subject of an external review, shall cooperate in full with the review process and any failure to so cooperate will, in itself, be a disciplinary matter. Any such lack of cooperation may also be taken into account when those conducting the review, on behalf of the Chief Inspector are formulating their conclusions.
- 3.8 The person/persons assigned by the Chief Inspector will present a report to the Chief Inspector who, in turn, will make this report available to the school's board of management and to the teacher. The report will set out the conclusions reached in relation to the concerns raised by the board of management.
- 3.9 The board of management will provide the teacher with an opportunity to make a written response to the Chief Inspector's report within 15 school days of receipt of the report by the teacher.
- 3.10 The board of management will meet to consider the report of the Chief Inspector and the written response from the teacher within 10 school days of receipt of the written response from the teacher. The board of management may decide:
  - that no further action is warranted
  - to proceed to a disciplinary hearing

Where it is decided that no action is warranted the teacher will be so informed in writing within five school days

*\*The reference to the Chief Inspector includes members of the Inspectorate to whom this function is delegated by the Chief Inspector.*



## Stage 4

### *Hearing*

- 4.1 The teacher will be provided with an opportunity to attend at a meeting of board of management accompanied by his/her trade union representative/s or a colleague subject to an overall maximum of two.
- 4.2 The teacher will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and the fact that disciplinary action may be considered.
- 4.3 At the meeting the teacher will be given an opportunity to make his/her case in full and to challenge any evidence that is being relied upon for a decision.
- 4.4 Following the hearing the board of management will make its judgement on the matter. In formulating its judgement the board of management will take account of the conclusions set out in the report of the Chief Inspector, any other evidence and the teacher's representations (if any) thereon.
- 4.5 Following the hearing, the Board will notify the teacher of its decision and any intended disciplinary action, if that be the outcome of its deliberations.
- 4.6 If it is decided to take disciplinary action, the board of management may avail of any of the following range of sanctions:
  - Final written censure
  - deferral of an increment
  - withdrawal of an increment or increments
  - Suspension (for a limited period and/or specific purpose) with pay
  - Suspension (for a limited period and/or specific purpose) without pay
  - Dismissal.

The board of management will act reasonably in all cases when deciding on the appropriate disciplinary action. The nature of the disciplinary action should be proportionate to the nature of the issue of professional competence.

Where disciplinary action short of dismissal is proposed the case will be reviewed by the board of management within a specified time period to consider whether further disciplinary action, if any, is required

## **Stage 5**

### **Appeal**

- 5.1 It will be open to the teacher to appeal against the proposed action of the board of management. Such an appeal will be heard by an independent appeal panel appointed by the board of management.
- 5.2 The procedures for appealing to the independent appeal panel are as set out in Appendix A.

### **Notification to Department of Education and Science and the Teaching Council**

The board of management will inform the Department of Education and Science of the nature of the disciplinary action and will comply with any requirements of the Teaching Council in accordance with the provisions of Section 37 of the Teaching Council Act 2001.

# **Disciplinary procedures for teachers in primary, voluntary secondary, and community and comprehensive schools**

## **Preamble**

This disciplinary procedure for teachers employed in primary, community and comprehensive, and voluntary secondary schools was developed and agreed following discussions between the Department of Education and Science, school managerial bodies and recognised teacher unions representing teachers in these sectors. It takes account of employment legislation and the Labour Relation Commission's Code of Practice on Disciplinary Procedures. This disciplinary procedure supersedes all existing local and national disciplinary procedures. Principals, teachers and boards of management will be made aware of and be made fully conversant with this procedure and adhere to its terms

## **Introduction**

As is the norm with any profession it is a matter for the individual teacher, in the first instance, to maintain appropriate standards of work and conduct and to personally address such issues if and when they arise. Furthermore it is a teacher's responsibility and obligation to ensure that he or she avails fully of all opportunities of assistance towards remediation of such issues.

In that context it is fully accepted that a significant majority of teachers discharge their duties in a competent and efficient way and provide a service in line with the best traditions of teaching. Accordingly any process geared to address matters of work and conduct is aimed at a minority of individuals within the profession. It is also the case that any such process must recognise the reality that such matters are often of a transient nature and may have their origin in issues of a personal or professional nature which are of relatively short time duration. Isolated issues or omissions of a minor nature will where possible be dealt with informally.

It follows that the approach to dealing with matters of work and conduct should involve a number of stages moving from informal stages to formal stages which may at the end of the process have recourse to disciplinary action (up to and including dismissal). Although disciplinary action will normally follow the progressive stages the procedure may be commenced by the school at any stage of the process if the alleged misconduct warrants such an approach.

## **Scope**

This procedure relates to work and conduct issues and matters other than professional competence and applies to all teachers other than those serving in a probationary capacity. Issues of professional competence are outside the scope of this procedure, and should be addressed through the *Procedures Relating to Professional Competence*.

Allegations in respect of child abuse as defined in the Child Protection Guidelines for Primary and Post-Primary Schools are dealt with in the first instance under those guidelines

## **Informal Stage**

It is intended that problems relating to work and conduct are resolved, where possible, through informal means. To this end the Principal will discuss any unsatisfactory conduct with the teacher concerned and inform him/her of the required improvements. The teacher will be given an opportunity to offer explanation and comment. Where an improvement might be effected without recourse to disciplinary action guidance will be provided as appropriate and due attention will be given to whether the shortcoming is due to personal, health or domestic circumstances. In such cases help and advice will be given where possible. The teacher will also be informed that unless the necessary improvement is made the matter may proceed to the formal disciplinary procedure

Where a teacher's work or conduct does not meet the required standards despite informal intervention as set out above the matter will be dealt with under the following disciplinary procedure.

### **Stage 1:**

#### **Verbal Warning**

A formal disciplinary meeting with the teacher will be convened by the Principal. The teacher will be given at least five school days' written notice of the meeting, the notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The teacher concerned may be accompanied at any such meeting by his/her trade union representative or a work colleague.

At the meeting the teacher will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision. Having considered the response the Principal will decide on the appropriate action to be taken. Where it is decided that no action is warranted the teacher will be so

informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the Principal will inform the teacher that he/she is being given a verbal warning. Where a verbal warning is given it should state clearly the improvement required and the timescale for improvement. The warning should inform the teacher that further disciplinary action may be considered if there is no sustained satisfactory improvement. The teacher will be advised of his/her right to appeal against the disciplinary action being taken and the appeal process

A copy of the verbal warning will be retained on the personnel file by the Principal and a copy will be given to the teacher. The verbal warning will be active for a period of 6 months and subject to satisfactory service will cease to have effect following the expiry of the 6 months period. The record will be removed from the file after the six months period subject to satisfactory improvement during the period.

There may however be occasions where an employee's work or conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where such a pattern emerges and there is evidence of an undermining of the disciplinary process, the employee's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.

## **Stage 2:**

### **Written Warning**

If, having received a verbal warning, the teacher's conduct is perceived by the Principal to be less than satisfactory in relation to that required at Stage 1 a meeting will be arranged between the teacher and the Principal and a nominee of the board of management. The teacher will be given at least seven school days written notice of the meeting, the notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The teacher concerned may be accompanied at any such meeting by his/her trade union representative/s or a colleague/s subject to an overall maximum of two.

At the meeting the teacher should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The teacher will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision and be given an opportunity to respond. Having considered the response the Principal and nominee of the board of management will decide on the appropriate action to be taken. Where it is decided that no action is warranted the teacher will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the teacher will be informed that he/she is being given a written warning. Where a written warning is given it should state clearly the improvement required and the timescale for improvement. The written warning should inform the teacher that further disciplinary action may be considered if there is no sustained satisfactory improvement. The teacher will be advised of his/her right to appeal against the disciplinary action being taken and the appeal process

A copy of the written warning will be retained on the personnel file by the Principal and a copy will be given to the teacher. The written warning will be active for a period not exceeding 9 months and subject to satisfactory service will cease to have effect following the expiry of the 9 month period. The record will be removed from the file after the nine months period subject to satisfactory improvement during the period.

There may however be occasions where an employee's work or conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where such a pattern emerges and there is evidence of an undermining of the disciplinary process, the employee's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.

### **Stage 3:**

#### **Final Written warning**

If having received a written warning, the Principal perceives that the teacher's conduct remains less than satisfactory or there is an occurrence of a more serious offence a meeting will be arranged between the teacher and the Principal and a nominee of the Board of Management. The teacher should be given at least seven school days' written notice of the meeting. The notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The teacher concerned may be accompanied at any such meeting by his/her trade union representative/s or a colleague/s subject to a maximum of two

At the meeting the teacher should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The teacher will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision and be given an opportunity to respond. Having considered the response the Principal and the nominee of the board of management will decide on the appropriate action to be taken. Where it is decided that no action is warranted the teacher will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the teacher will be informed that he/she is being given a final written warning. Where a final written warning is given it should state clearly the improvement required and the timescale for improvement. The final written warning should inform the teacher that further disciplinary action may be considered if there is no sustained satisfactory improvement. The teacher will be advised of his/her right to appeal against the disciplinary action being taken and the appeal process.

A copy of the final written warning will be retained on the personnel file by the Principal and a copy will be given to the teacher. The final written warning will be active for a period not exceeding 12 months and subject to satisfactory service will cease to have effect following the expiry of the 12 month period. The record will be removed from the file after the twelve month period subject to satisfactory improvement during the period.

#### **Stage 4:**

If it is perceived that the poor work or conduct has continued after the final written warning has issued or the work or conduct issue is of a serious nature a comprehensive report on the facts of the case will be prepared by the Principal and forwarded to the board of management. A copy will be given to the teacher.

The board of management will consider the matter and will seek the views of the teacher in writing on the report prepared by the Principal. The board of management shall afford the teacher an opportunity to make a formal presentation of his/her case. The teacher should be given at least ten school days' written notice of the meeting. The notice should state the purpose of the meeting and the specific nature of the complaint and any supporting documentation will be furnished to the teacher. The teacher concerned may be accompanied at any such meeting by his/her trade union representative/s or a colleague/s subject to a maximum of two. The teacher will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision and be given an opportunity to respond. Having considered the response the board of management will decide on the appropriate action to be taken. Where it is decided that no action is warranted the teacher will be so informed in writing within five school days. Where following the hearing it is decided that further disciplinary action is warranted the board of management may avail any of the following options;

- deferral of an increment
- withdrawal of an increment or increments
- demotion (loss of post of responsibility)
- other disciplinary action short of suspension or dismissal
- suspension (for a limited period and/or specific purpose) with pay
- suspension (for a limited period and/or specific purpose) without pay
- dismissal.

The board of management will act reasonably in all cases when deciding on appropriate disciplinary action. The nature of the disciplinary action should be proportionate to the nature of the issue of work or conduct issue that has resulted in the sanction being imposed.

Where disciplinary action short of dismissal is proposed the case will be reviewed by the board of management within a specified time period to consider whether further disciplinary action, if any, is required

## **Gross Misconduct**

In the cases of serious misconduct at work or a threat to health and safety to children or other personnel in the school the stages outlined above do not normally apply and a teacher may be dismissed without recourse to the previous stages.

The following are some examples of gross misconduct offences for which any or each of stages 1 to 3 of the disciplinary procedure may not apply depending on the gravity of the alleged offence:

- Theft
- Deliberate damage to school property
- Fraud or deliberate falsification of documents
- Gross negligence or dereliction of duties
- Refusal to comply with legitimate instructions resulting in serious consequences
- Serious or persistent incapacity to perform duties due to being under the influence of alcohol, unprescribed drugs or misuse of prescribed medication.
- Serious breach of health & safety rules
- Serious abuse/misuse of the schools property/equipment
- Serious breaches of confidentiality
- Serious bullying, sexual harassment or harassment against an employee, student or other members of the school community
- Violent/disruptive behaviour
- Downloading/disseminating pornographic material from the internet
- Circulation of offensive, obscene or indecent e-mails or text messages.

**Note: the above list is not exhaustive.**

For the purposes of this section gross misconduct may also relate to an act which took place or allegedly took place outside the school where such act, or alleged act, gives rise to a serious concern on the part of the board of management in relation to the health and safety of students and/or staff of the school.

If there is an allegation of serious misconduct, the teacher may be suspended on full pay pending an investigation and the conclusion of any appeal process.

In the course of investigation the teacher concerned has the right to have the allegations brought to his/her attention and he/she has the right to respond to all allegations. If the investigation upholds a case of serious misconduct the normal consequence will be dismissal.



## **Stage 4**

### **Appeal**

It will be open to the teacher to appeal against the proposed disciplinary action. In the case of a sanction being imposed at stage 1 the appeal will be to a nominee of the board of management. In the case of a sanction being imposed at Stage 2 and/or Stage 3 of these procedures such an appeal will be heard by the board of management. In the case of a sanction being imposed under stage 4 of the procedure an appeal will be to a disciplinary appeal panel appointed by the board of management.

The procedures for appealing are as set out in Appendix A

### **Notification to Department of Education and Science and the Teaching Council**

The Board of Management will inform the Department of Education and Science of the nature of the disciplinary action and will comply with any requirements of the Teaching Council in accordance with the provisions of Section 37 of the Teaching Council Act 2001.

## **Appendix A**

### **Teachers Disciplinary Appeal Panel**

1. The board of management shall appoint a Teachers Disciplinary Appeal Panel which shall comprise;
  - An independent Chairperson from a panel nominated by the Minister for Education and Science
  - A representative of the recognised management body
  - A nominee of the relevant teacher union
2. No member shall be appointed to the Panel to consider a case referred to the Panel who has had any prior interest in or dealings with that particular case.

### **Appeal Process**

3. A teacher may seek a review of disciplinary proceedings by the Panel on one or more of the following grounds:
  - i. the provisions of the agreed procedures were not adhered to
  - ii all the relevant facts were not ascertained
  - iii all the relevant facts were not considered or not considered in a reasonable manner
  - iv the teacher concerned was not afforded a reasonable opportunity to answer the allegation
  - v the teacher concerned could not be reasonably be expected to have understood that the behaviour alleged would attract disciplinary action
  - vi the sanction recommended is disproportionate to the underperformance or misconduct alleged
4. A teacher who has been notified that it has decided to take disciplinary action against him or her may, within 10 school days of receiving the notification of the decision, request in writing that the disciplinary proceedings be reviewed by the Panel.
5. If no such request is received from the teacher concerned within the period of ten school days the appropriate authority may proceed to implement the disciplinary action proposed.

6. Where a teacher requests that disciplinary proceedings be reviewed by the Panel the following submissions shall be made;
  - i a written statement by the teacher concerned of the grounds on which the review is being sought, to be furnished to the Panel and the employer within 10 school days of the submission of the request for an appeal referred to above.
  - ii a written counter statement by the employer, to be submitted to the Panel and the teacher concerned within 10 school days of the receipt by the employer of the teachers statement referred to above
  - iii any other submission which the Panel may request from the teacher concerned or the appropriate authority, to be furnished in such form and within such time as the Panel may specify in its request
7. The Panel may reject a request for a review of disciplinary proceedings where;
  - i the teacher concerned fails to make a submission required under paragraph 6 i above within the prescribed time limit, or
  - ii the Panel, having considered any submissions made under paragraph 6 i above , is of the opinion that the case made by the teacher concerned is frivolous, vexatious, or without substance or foundation.
8. Where a request is rejected by the Panel the employer may proceed in accordance with the terms of this procedure as though the request had not been made.
9. Where the Panel has decided to review the disciplinary procedures having considered the submissions it shall set a date for a hearing within 20 school days of receipt by the Panel of the request for an appeal.
10. The Panel may, at its sole discretion, invite any person to give evidence orally or in writing. The Panel shall consider and decide on any request from a party to the procedure to give evidence orally or in writing.
11. The teacher making the appeal is entitled, if he or she wishes, to make oral submissions to the Panel either in person or through a serving teacher, a wholetime official/s of the union holding recognition for his or her grade or other such person as the Panel agrees may be present for that purpose.
12. Where the Panel meets for the purpose of taking oral evidence or hearing oral submissions the following are entitled to be present;
  - i the teacher concerned
  - ii any person/s in accordance with paragraph 11 above who is entitled to make submissions on behalf of the teacher concerned

- iii The chair of the board of management and a serving member of the Board, or Principal, designated to assist the Chair of the Board of Management
  - iv any other person whom the Panel agrees may be present
13. Proceedings before the Panel shall be informal
14. Having made such enquiries as it considers necessary and having considered any submissions made or evidence given the Panel shall form an opinion as to whether or not grounds for a review of the case have been established and shall issue its opinion within ten school days of the hearing to the Chair of the board of management, the teacher concerned and their representative.
15. Where that opinion is to the effect that such a case has been established by the teacher concerned, the Panel may, at its sole discretion, recommend to the board of management that;
- i no further action should be taken in the matter, or
  - ii the disciplinary action decided by the board of management should be amended in a specified manner, or
  - iii the case should be re-considered by the board of management to remedy a specified deficiency in the disciplinary procedures (in which event the provisions of this Code shall continue to apply)
16. Where that opinion is to the effect that such a case has not been established the board of management will proceed with the disciplinary action.
17. A decision to take disciplinary action should be notified in writing to the teacher concerned and his/her representative. Where no further action is to be taken the allegation will be deemed to have been withdrawn.
18. The final decision in respect of the appeal panel recommendation rests with the board of management which shall set out in writing the basis for its decision.