

PROFESSIONAL COMPETENCE OF TEACHERS

Date of Issue

To

Purpose of Document

Summary of Main Points - Appropriate reference to Performance Management and associated arrangements and implications for Formal Competence Procedures.
- A new Appendix providing guidance on the management of absence in relation to the application of Competence Procedures.
- A new Appendix detailing the support available for Competence Procedures from the LEA either as part of its EDP (free of charge) or as part of its traded services.

This document supersedes:

- The LEA's recommended policy on the Professional Competence of Teachers Version 1, July 1998.
- Supplementary advice "Guidance on the Management of Absence in relation to the Application of Competence Procedures" issued by letter dated January 2000.

This policy has been discussed with and agreed by the recognised Teachers' Professional Associations.
Governing Bodies are recommended to adopt this revised Policy at the earliest opportunity."/>

Contact/ Further Information

Advice and Guidance

DERBYSHIRE LEA

**PROFESSIONAL
COMPETENCE OF
TEACHERS**

[*NAME OF*] SCHOOL

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PROFESSIONAL COMPETENCE OF TEACHERS

1. Purpose and Definition

1.1 A teacher's competence can be questioned in various ways and may even call into question the continued employment of the teacher concerned. It is essential, therefore, to have procedures which:

- are soundly based in law, and
- balance the rights of the individual with those of the pupils and with the needs of the school.

1.2 This document is intended to give clear guidance to all concerned where issues of professional competence are to be addressed. The document has been produced after consultation with the recognised Teachers' Associations and is the basis on which the Authority can provide support.

1.3 **A definition of competence**

It is important at the outset to define "competence" which is regarded as the ability of a teacher to discharge his/her duties to a professionally acceptable standard. Therefore, the competence procedures are appropriate where, due to lack of capability and/or application a teacher fails consistently and over a period of time to discharge his/her duties to the professionally acceptable standard. A distinction is made between this and "misconduct".

"Misconduct" is an act or omission by a teacher which is considered to be unacceptable professional behaviour. It can also have very serious dimensions, including those involving criminal behaviour.

Misconduct may be considered so serious as to merit direct application of the disciplinary procedure, and is therefore to be dealt with under the school's discipline procedures. The issue of competence is to be dealt with under the competence procedures which may lead to dismissal on the grounds of competence.

1.4 **Child Protection**

Where complaints are made against teachers by parents or others which involve child protection issues, then the Authority's Child Protection Procedures must always be followed in the first instance.

2. Introduction

- 2.1 Teachers, as professionals, are constantly striving to improve their knowledge, skills and expertise in order to develop their effectiveness. In this task, they may draw upon support available within the schools and from the network of professional services provided by the Authority and from their own Associations.
- 2.2 The prime responsibility for the assessment of performance and the management of the process rests with the headteacher. The responsibility of the governing body, except in the case of the competence of the headteacher, rests in ensuring that the school has adopted the local Authority's competence procedure or amended it following consultation with the recognised teacher trade unions and professional associations. Any Performance Management Policy adopted by the Governing Body should meet statutory requirements and be reviewed annually.
- 2.3 At school level, teachers may look to the advice, support and encouragement available from colleagues, particularly their team leader under performance management, those with professional leadership roles such as senior members of staff, Deputy Head and Headteachers.
- 2.4 Within the Authority a range of professional support services exist, including the County Advisers, School Support Officers, the County's Psychology Service. In addition, there is a wide-ranging programme of in-service training for teachers.
- 2.5 These services and facilities are designed to support the professional needs of all teachers regardless of length of service, experience or seniority. It is recognised, however, that there are particular points in a teacher or headteacher's career where additional or concentrated advice and/or support is necessary:
- Teachers entering the profession have special requirements which are met through specific induction arrangements based on guidelines from the Department for Education and Skills and from the Authority which are reflected in their Entry Profile.
 - Experienced teachers taking up new posts require induction support, particularly where changed or additional responsibility is involved.

- Further developments in the curriculum which require appropriate INSET support programmes.
- To address issues of professional competence, however these may be identified.

These everyday processes of support, training and advice are fundamental to professional effectiveness and wherever possible any difficulties should be resolved informally in the spirit of personal development and advice, including the performance management framework of review, objective setting, and continuing professional development.

3. **Scope**

- 3.1 The guidance on policy and procedure applies to all teachers, including Headteachers, Deputy Headteachers, and Assistant Headteachers employed at the school whether they be full-time or part-time.
- 3.2 Teachers with health problems or those experiencing stress may also require particular support. Where health may be a factor and it impairs performance through absence from work separate Attendance Management procedures, published by the LEA in agreement with the teacher associations, are to be followed.

Governors will wish to use their agreed Capability Procedures relating to ill health, published by the LEA in agreement with the teacher associations, to address any significant issues which arise where it is appropriate to do so.

- 3.3 These competence guidelines are concerned with situations where a teacher is experiencing significant difficulty in discharging his/her professional responsibility to the extent that additional structured support is necessary. This support will be designed to identify the causes of the difficulties and to determine an appropriate response. They deal both with assistant teachers and headteachers, the specific procedures for each being referred to in the appendices.

4. **The Competence Procedures**

All teachers

- 4.1 A policy/statement of intent on Teachers' Professional Competence is contained in Appendix 1 for adoption by the Governing Body. This must be agreed by the Governors before any revised procedures are used.

- 4.2 These competence procedures should not, however, be used until such time as any problems can no longer be resolved informally through the performance management framework and the everyday processes of discussion, advice and support for teachers, including Headteachers, Deputy Headteachers and Assistant Headteachers. This will include ongoing regular management supervision as well as the advice and support that is available to all teaching staff from managers, peers, the LEA and in-service training.

A Formal Competence Procedure, including identifying the problems and determining a structured support programme, is contained in Appendix 2, (for Assistant Teachers) and Appendix 3 (for Headteachers).

These are recommended for adoption by the Governing Body.

- 4.3 Teachers and Headteachers are entitled to be accompanied by a friend or Trade Union representative at any meeting convened under these procedures.

Advice and guidance on investigation of complaints should be sought from the Chief Education Officer or nominee.

Assistant Teachers (including Deputy Headteachers and Assistant Headteachers)

- 4.4 It is the responsibility of the Headteacher, following investigation, to consider whether in a particular case:

- i) No further action is necessary,
- ii) There should be further management supervision and counselling,
- iii) The Formal Competence Procedures should be invoked.

Should it be felt necessary the Headteacher should consult the school's Adviser and the Chief Education Officer or nominee as appropriate. Where it is decided to invoke Formal Competence Procedures, the Headteacher is responsible for informing the teacher and for advising him/her to consult his/her Professional Association and for providing a copy of the procedure.

The teacher will be informed in writing and this will be a formal notification of the Date of Entry to Formal Competence Procedures. It is expected the teacher will demonstrate significant improvement within two terms of this date or in extreme cases four weeks after the date of the formal notification. In normal circumstances this is a maximum timescale.

- 4.5 A teacher has the right to be accompanied by a friend or representative of his/her Professional Association at the formal meeting convened to invoke or as part of the Formal Competence Procedures. The Chief Education Officer or nominee will also be present to advise on procedure and appropriateness of outcomes.
- 4.6 Where having followed a programme of structured support in the Formal Competence Procedure, a teacher's professional performance continues to give cause for serious concern, consideration shall be given to appropriate subsequent action which may include:
- i) A further period of structures support.
 - ii) Dismissal on the grounds of Competence.

Where dismissal is being considered the Governors will have regard to the ACAS Code of Practice in following an appropriate dismissal procedure which fulfils the teachers' rights of representation and appeal.

Headteachers

- 4.7 Concern over the professional competence of the Headteacher will normally be within those areas of his/her role which involve teaching competence or management, leadership and other statutory professional duties. Deficiencies in these areas can have a serious impact on the efficiency and morale of the school community as a whole, but as with all staff, the first concern must be to ensure that the Headteacher has access to appropriate levels of assistance, support and training, including those within the performance management framework.
- 4.8 Where complaints are made against the Headteacher by parents or other persons outside the school, the Chair of Governors will immediately notify the Chief Education Officer or nominee. Equally, the Chief Education Officer or nominee will inform the Chair of Governors in writing when complaints are made to the Education Department. If, on advice of the Chief Education Officer or nominee, the Chair of Governors requires further investigation, then this will be carried out by the Chief Education Officer or nominee if requested to do so. At the conclusion of the investigation the Chair of Governors should inform the Headteacher, in writing, of the outcome and of any subsequent action.

This may be:

- i) No further action,
- ii) There should be further management supervision and counselling,
- iii) The Formal Competence Procedures should be invoked.

Where it is decided to invoke Formal Competence Procedures, the Chair of Governors is responsible for informing the Headteacher and for advising him/her to consult his/her Professional Association and for providing a copy of the procedure.

The Headteacher will be informed in writing and this will be a formal notification of the Date of Entry to Formal Competence Procedures. It is expected the Headteacher will demonstrate significant improvement within twenty six teaching weeks (equivalent to two terms) of this date or in extreme cases four weeks after the date of the formal notification. In normal circumstances this is a maximum timescale.

- 4.9 The role of the Chair of Governors in the formal stages of competence procedures for the Headteacher is set out in Appendix 3.
- 4.10 Where having followed the programme of structured support in the Formal Competence Procedures for Headteachers, professional performance continues to give cause for concern, consideration shall be given to formal action leading to dismissal on the grounds of competence. Normally, the Chief Education Officer or nominee will be asked to present the necessary report to the Governing Body, having determined beforehand with the Chair of Governors the point at which to proceed to dismissal on the grounds of competence. Neither the Chair of Governors nor the person appointed by the Governing Body by virtue of earlier involvement in the Competence Procedures (or Appointed Governors for Performance Management) shall be eligible to participate in any deliberations, discussions or decisions of any Committee of the Governing Body, except to give evidence.

Appendix 1

POLICY/STATEMENT OF INTENT ON TEACHERS' PROFESSIONAL COMPETENCE

The Governing Body recognises its obligation to pupils, parents and staff to maintain a competent and skilled teaching force.

Teachers, including Headteachers, Deputy Headteachers and Assistant Headteachers, who are experiencing performance difficulties will, following appropriate discussions, be provided with a programme of support and monitoring.

The aim is to help a teacher who is experiencing such difficulty to identify and overcome any shortcomings and to contribute positively to their own professional development, and thus to circumvent the need for disciplinary action. It is expected that any teacher will be positive in refining, developing and expanding his/her skills.

The Governing Body intends that:

- job descriptions will accurately reflect the main purpose and scope of each post and the tasks involved and the standards of performance expected;
- the school has a process where job descriptions will be the subject of regular review and discussion with the postholder and any variations will normally be by consent;
- teachers will be made aware from the outset of their employment of the Performance Management Policy and procedures plus support and review arrangements as well as the consequences of failing to meet normal standards of competence;
- the formal procedures which will be used to support and monitor progress operate in a climate where immediate and consistent feedback is accepted as the norm;
- not only does positive feedback provide reinforcement of good performance it is easier for a teacher to accept negative feedback when necessary.
- The normal measure of competence will be the Teacher Training Agency standards for the employee's specific level of responsibility.

Appendix 2

FORMAL COMPETENCE PROCEDURES INCLUDING STRUCTURED SUPPORT FOR TEACHERS

1. Under-performance or lack of competence can affect teachers at all levels any time in their careers and such teachers are entitled to sympathetic consideration and active support from colleagues in the school. This procedure deals with identifying the nature of the problems, the needs of the teacher and establishing an appropriate support programme.
2. The nature of concern about performance or omission, its level of seriousness and cause(s), must be communicated at the outset to the teacher, investigated and identified by structured information gathering and systematic recording.
3. The Headteacher will need to ensure that the teacher concerned is involved in determining an appropriate support programme. It should be stressed that the aim of the support programme is to help the teacher in the better performance of his/her duties in the interests of both the teacher and the school.
4. Advice on the formal stages of these procedures will be sought from the Chief Education Officer or nominee as appropriate, at this stage.
5. **Identifying the Problems**
 - 5.1 Where there is any concern about a teacher's professional performance it is necessary at the outset to identify any specific problems being encountered by the teacher.
 - 5.2 Where there is evidence from a G.P. and the Authority's Occupational Health Physician that health may be a factor impairing work performance, the procedures relating to professional competence will not proceed. Where entry into Formal Competence Procedures results in the teacher's absence on health grounds consideration will be given to whether the procedures relating to professional competence should proceed or the School's Ill Health Capability Procedures should be invoked. Advice on the application of Competence Procedures in cases where absence due to ill health occurs is set out in Appendix 4.

5.3 There are several approaches to identifying the nature of a teacher's difficulty.

- The school's performance management process may provide information from a performance review that **contributes** to evidence of a concern and the decision to investigate further. It is acknowledged, however, that this is only one aspect of a teacher's overall performance.
- Evidence of unsatisfactory teaching from an Ofsted Inspection, HMI visit, or LEA Review may initiate further investigation of the teacher's performance. It may also **contribute** to evidence of a concern and the decision to investigate further. It is acknowledged, however, that this is only one aspect of a teacher's performance.
- Observation within the teaching situation by a senior member of staff and/or an Adviser may assist in clarifying the precise nature and origin of the difficulties. This will be arranged in consultation with the teacher concerned wherever possible.

Any problems must be discussed with the teacher with a view to identifying the origin of the difficulties and, thereafter, devising an appropriate support programme.

5.4 It is important therefore that it is clear at the outset what the performance of a teacher is expected to be.

The teacher must know:

- the responsibilities of the job;
- the standards expected in the job;
- the person to whom he/she is responsible for the job (the Line Manager).

There must be a clear job description in order for the teacher and the Headteacher to know where performance is not reaching the required standard. This will help in identifying competence requirements in terms of knowledge, skills and experience.

6. **Timescale**

The timescale adopted will be in accordance with the seriousness of the lack of alleged competence of the teacher. The period given for improvement will normally have an upper limit of twenty six teaching weeks after the Date of Entry into the Formal Competence Procedures. This may be shortened in appropriate circumstances. In extreme cases

where the education of pupils is jeopardised - e.g. where there is an irreparable breakdown of class discipline where no learning can take place or where the safety of pupils is at risk - the period given for there to be evidence of significant improvement after the date of a formal notification may be no more than four weeks.

7. Action by the Headteacher

- 7.1 Having identified any concerns about performance through everyday staff management, a teacher should have the opportunity to explain the reasons for the concerns and have an opportunity to address the situation.
- 7.2 Details of any concern about performance will be brought to the teacher's attention. The Headteacher will record any action taken and the teacher's response when explanation is sought. Where it is apparent that difficulties are being encountered, the teacher will be informed that he or she has a responsibility to achieve a professionally acceptable standard. The teacher will be informed what is required, how their performance will be reviewed, the period of review, what support will be available and that Formal Competence Procedures will be implemented if there is insufficient improvement. Subsequent advice may achieve the desired and agreed changes in performance.
- 7.3 It is anticipated that most concerns will be dealt with through this informal management process.
- 7.4 Where the cause of the criticism or complaint concerning a teacher's professional competence continues further action will be necessary to deal with the specific problems which are being encountered by the teacher and which are a cause of concern. If the teacher has not been willing to co-operate in addressing the concerns this may be regarded as misconduct, leading potentially to action under the school's discipline procedures.
- 7.5 The period of informal support and counselling should not go on for too long. The period of informal support should therefore be no longer than 13 weeks and in most cases is expected to be less than this. There should be a clear indication of improvement. After a period of review and assessment, involving observation, a firm conclusion should be reached and the outcome will be either:
- i) No further action
 - ii) Extend the period of informal support to allow time for further improvement.
 - iii) Convene a formal review meeting to consider the implementation of Formal Competence Procedures.

8. Entry to Formal Competence Procedures

- 8.1 In the circumstances of continuing concern in respect of competence, the Headteacher will inform the teacher, in writing, of:-
- the areas of unsatisfactory performance; and
 - details of the support offered to date.
- 8.2 The teacher will be given five working days notice to attend a formal meeting to discuss these issues. The teacher may be accompanied by a friend or representative of his/her Professional Association. The Headteacher may also be accompanied by an appropriate senior member of staff in order that a note of the meeting can be taken.
- 8.3 At this meeting the Headteacher will formally put the professional concern to the teacher. The Headteacher will invite the teacher to respond. An agreed record of any response will be made. If new information arises from the meeting it may be adjourned to allow for further investigation
- 8.4 Having considered the teachers' response the Headteacher will decide which of the four potential outcomes of the review meeting is appropriate:
- i) No further action
 - ii) Further management supervision and counselling (except where it has already taken place without improvement)
 - iii) Written warning
 - iv) Final written warning

The decision on which level of warning to issue will depend on the seriousness of the problem.

The first two options are only appropriate if new information or a different interpretation of existing information suggest that the situation is not as serious as it first seemed.

If performance is unsatisfactory a written warning of entry into Formal Competence Procedures will normally be the next step and will initiate an assessment period of up to twenty six weeks.

Where it becomes clear that an acceptable level of improvement is beyond the ability of the person assessed or where there is lack of co-operation with reasonable measures to achieve improvement the process may be shortened and the issuing of a final written warning considered.

In cases of particularly serious concern, where the education of pupils is jeopardised eg where there is an irreparable breakdown of class discipline, where no learning can take place, or where the safety and welfare of pupils is at risk, the outcome may be to issue a final written warning. In these circumstances the period given for there to be evidence of significant improvement after the date of a formal notification may be no more than four weeks.

- 8.5 A decision will be made after all the facts and representation from the teacher have been considered. The Headteacher should adjourn the meeting briefly to consider the appropriate option before delivering a decision to the teacher. The teacher will receive written confirmation of the decision within twenty four hours.
- 8.6 Having decided to apply Formal Competence Procedures, a programme of structured support, including a timetable of review meetings, at which the teacher may be accompanied by a friend or representative of his/her Professional Association, will be agreed.
- 8.7 At this formal meeting, the Headteacher will point out the need to follow and cooperate with the support programme indicating that regular monitoring will be specified and undertaken and the period of time over which this will take place. The first review period will normally be thirteen teaching weeks, but the actual period will be dependent upon the nature of the problem and the needs of the teacher and the pupils.
- 8.8 **Formal notification of the outcome of this meeting will be the Date of Entry to Formal Competence Procedures and will be issued to the teacher within twenty four hours of the formal review meeting.**

Teachers may appeal against written warnings and final written warnings. Any appeal must be made within five working days and should be heard within 10 working days of notification of appeal.

The processes initiated as a consequence of the application of the Formal Competence Procedure should continue whilst an appeal is pending.

Appeals should normally be restricted to considering the reasonableness of the decision made, any relevant new evidence, or procedural irregularities. The test of reasonableness will be whether no other Headteacher, acting with proper regard to his/her responsibilities, would have reached the same conclusion.

A teacher will be given the opportunity to be accompanied by a friend or professional association representative.

Appeals may be heard by an individual governor, and he/she will seek advice from the Chief Education Officer or nominee. More governors

may be used but this should not compromise the availability of governors for potential future dismissal and appeal committees. The appeal decision should be confirmed in writing within twenty four hours and the teacher informed that there is no further appeal.

Where an appeal is upheld the matter should be referred back to the Headteacher to be reconsidered.

9. After the meeting the Headteacher will make available to the teacher and his/her representative a written statement setting out:

- the areas of unsatisfactory performance;
- clear statements of the expectation of future performance and guidance about the necessary improvement needed to end competence procedures;
- the proposed development/support arrangements and how performance will be monitored over the following weeks;
- which records will be kept by the Headteacher because they may be used as a basis for formal reports;
- The timetable for improvement and agreed date for the next or final evaluation meeting;
- a clear statement that failure to improve may lead to dismissal.

This written statement should be sent to the teacher as soon as practicable after the Formal Review meeting, and within 10 days.

Copies will be retained by the Headteacher and should be made available to the Chief Education Officer or nominee.

10. 10.1 If after a period of thirteen teaching weeks or earlier, the teacher has achieved the acceptable standard of performance, the Headteacher should notify the teacher in writing.

10.2 If at any point during the thirteen weeks circumstances suggest a more serious problem than was originally thought, a decision may be taken to move directly to a final written warning. This may include a shortened period for review of no more than four weeks.

10.3 In the event of continuing concern in respect of competence beyond the first period of thirteen weeks, the Headteacher will inform the teacher, in writing of:

- the continuing areas of unsatisfactory performance

- details of the support offered to date
- proposed revised targets/performance standards
- proposed revised time period for improvement

10.4 The teacher will be given five working days notice to attend a formal review meeting to discuss these issues and be given the opportunity to be accompanied by a friend or representative of his/her Professional Association. The teacher will have the opportunity to make representations to the meeting. The Headteacher may also be accompanied by an appropriate senior member of staff in order that a note of the meeting can be taken.

10.5 If the decision of the Headteacher is to continue the application of Formal Competence Procedures the teacher will receive written confirmation of the final written warning within twenty four hours of the meeting.

The period to enable the teacher to achieve the required standard, with confidence that it can be maintained, would normally be thirteen teaching weeks. The teacher will be informed of the consequence of not doing so, including potential dismissal.

10.6 As soon as possible after the formal review meeting and at least within ten working days the Headteacher will confirm in writing:

- the areas of concern;
- standards/performance to be secured;
- details of the support programme;
- timescale for the improvements.

10.7 A final evaluation meeting to report the assessment of performance over the previous weeks will be held with at least 5 working days notice and the teacher may be accompanied by a union representative or colleague.

10.8 If performance has been satisfactory and there is sufficient confidence that it can be maintained, the competence procedure can be ended. After one year of satisfactory performance the record will be removed from the teachers' personal file.

10.9 If satisfactory improvement has not taken place the matter will be considered by a Governors' Committee convened specifically for the purpose leading potentially to dismissal of the teacher. The Governors will provide the right of representation and for appeal against any decision of that Committee.

10.10 Written confirmation of the final evaluations will be sent to the teacher as soon as possible and at least within ten working days. This will include:

- The outcome of the assessment:
- The main points of the meeting
- The date of the hearing if appropriate

10.11 Periods of absence may extend the timescales for Formal Competence Procedures but could have implications for the exercise of the School's Attendance Management/Ill Health Capability Procedures. Specific advice on the application of Formal Competence Procedures in cases where the teacher is absent due to ill health is set out in Appendix 4.

11. **Determining a Support Programme**

11.1 It is essential that an appropriate support programme is drawn up to match the difficulties identified. The procedure, under the supervision of the Headteacher, is as follows:

11.2 An appropriate support programme will be arranged by the Headteacher, with the involvement, and agreement if possible, of the teacher concerned, to match the difficulties identified. Consideration could be given, for example, to organisational/timetable/class changes, observation in other classes, in-service and/or other support from senior school staff and external support. Those supporting the teacher should be identified and their roles defined. An Adviser will be involved in this process.

11.3 The teacher will be given a copy of the support programme, any instructions and advice, and any subsequent changes or variations as a result of a review.

11.4 The teacher will be allowed an initial period of thirteen teaching weeks to effect the required improvement. The teacher will be required to demonstrate significant improvement in that time. Where appropriate a second review period of thirteen teaching weeks may be necessary. In normal circumstances these will be maximum timescales. If however, there are special circumstances which arise during the period which materially affect the programme, the periods may be varied. If it becomes clear that satisfactory progress is not being made the review period may be shortened.

11.5 Regular monitoring of progress will be specified in the support programme and a written report made by the Headteacher at each stage of the support programme with a copy being given to the teacher. These processes will be undertaken in partnership with the teacher concerned who at each stage will be given the opportunity to comment, respond and contribute to the further development of the support programme.

11.6 A review of the support programme may be requested by the teacher or Headteacher at any stage.

12. Copies of all reports made under this procedure will be issued to the teacher at the time they are prepared.

13. If no significant improvement has been forthcoming the matter will be considered by a Governors' Committee convened specifically for the purpose, leading potentially to dismissal of the teacher on the grounds of competence with an appropriate notice period. The Governors will provide the right of representation and appeal against any decision of that Committee.
14. In these circumstances or where there is a continued irreparable breakdown of class discipline which is preventing learning from taking place, or where the safety and welfare of children is at risk, the lack of improvement will lead to suspension without prejudice pending formal action.
15. Periods of absence may extend the timescales for Formal Competence procedures but could have implications for the exercise of the school's Attendance Management/Ill Health Capability Procedures. Specific advice concerning the application of Formal Competence Procedures where the teacher is absent due to ill health is set out in Appendix 4.

Appendix 3

FORMAL COMPETENCE PROCEDURE INCLUDING STRUCTURED SUPPORT FOR HEADTEACHERS

1. Where criticism or complaint concerning the Headteacher's professional competence is notified to the Chair of Governors, he/she will first consult the Chief Education Officer or nominee. Equally, any complaint received direct to the Education Department will be the subject of consultation with the Chair of Governors. A written report from the LEA will be sent to the Chair of Governors and a copy will be sent to the Headteacher.
2. The Chair of Governors will receive advice and support at all stages of these procedures from the Chief Education Officer or nominee.
3. The Chair of Governors shall notify the LEA in writing, of the action which he/she proposes in the light of the Authority's report.
4. Following such consultation the Chair of Governors will make arrangements to draw the attention of the Headteacher to the situation indicating the source, content and context of the concerns expressed.
5. Where allegations concerning competence are made, the Headteacher will be advised to consult his/her Professional Association.
6. The Chair of Governors by virtue of his/her involvement cannot participate in any deliberations, discussions or decisions at the formal stages. Other Governors should take care to avoid any discussion of the concerns to avoid their becoming prejudiced and thus unable to act as a member of a Governors' or Appeals Committee.
7. **Professional Advice and Support**
The source of professional support available to all teachers within the Authority are also available to the Headteacher who may call upon these services and facilities for support and help. The role of the school's Adviser is particularly important as a first line of professional guidance and assistance. The Chief Education Officer or nominee may also be able to provide support and/or advice. The procedures set out below are not designed to replace the informal processes of professional dialogue, advice and support, which will take place in the normal course of events and which will normally have taken place before the Formal Competence Procedure is invoked.

8. Identifying the Problem

The needs of the Headteacher and establishing an appropriate support programme rely on identifying the nature and extent of the problem. In determining an appropriate support programme the Headteacher will be involved. The aim is to help the Headteacher in the better performance of his/her duties in the interests of both the Headteacher and the school.

- 8.1 Where there is any concern about the Headteacher's professional performance it is necessary at the outset to identify any specific problems. The School's Adviser and the Chief Education Officer or nominee as appropriate, will assist in this process.
- 8.2 Where there is evidence from a G.P. and the Authority's Occupational Health Physician that health may be a factor impairing work performance the procedures relating to professional competence will not proceed. Where entry into Formal Competence Procedures results in the Headteacher's absence on health grounds consideration will be given to whether the procedures relating to professional competence should proceed or the School's Ill-Health/Capability Procedures should be invoked. Advice on the application of Competence Procedures in cases where absence due to ill health occurs is set out in Appendix 4.
- 8.3 There are several approaches to identifying the nature of a Headteacher's difficulty.
- The school's performance management process may provide information from a performance review that **contributes** to evidence of a concern and the decision to investigate further. It is acknowledged, however, that this is only one aspect of a Headteacher's overall performance.
 - Evidence of unsatisfactory leadership and management and/or teaching from an Ofsted Inspection, HMI visit, or LEA Review may initiate further investigation of the Headteacher's performance. It may also **contribute** to evidence of a concern and the decision to investigate further. It is acknowledged, however, that this is only one aspect of a Headteacher's overall performance.
 - Observations by the school's Adviser and/or the Chief Education Officer's nominee may assist in clarifying the precise nature and origin of the difficulties. This will be arranged in consultation with the Headteacher concerned wherever possible.

These problems will be discussed with the Headteacher with a view to identifying the nature and origin of the difficulties and, thereafter, devising an appropriate support programme.

- 8.4 It is important therefore that it is clear at the outset what the performance of the Headteacher is expected to be.

The Headteacher must know:

- The responsibilities of the job.
- The standards expected in the job.
- The person to whom he/she is responsible to for the job

There must be a clear job description in order for the Headteacher and the Chair of Governors to know where performance is not reaching the required standard. This will help in identifying competence requirements in terms of knowledge, skills and experience.

9. **Timescale**

The timescale adopted will be in accordance with the seriousness of the lack of alleged competence of the Headteacher. The period given for improvement will normally have an upper limit of twenty six teaching weeks after the Date of Entry into the Formal Competence Procedures. This may be shortened in appropriate circumstances. In extreme cases where the education of pupils is jeopardised - e.g. where there is an irreparable breakdown of performance or where the safety and welfare of pupils is at risk - the period given for there to be evidence of significant improvement after the date of a formal notification may be no more than four weeks.

10. **Action by the Chair of Governors**

- 10.1 Having identified any concerns about performance, a Headteacher should have the opportunity to explain the reasons for the concerns and have the opportunity to address the situation.
- 10.2 Details of any concern about performance will be brought to the Headteacher's attention. The Chair of Governors will record any action taken and the Headteacher's response when explanation is sought. Where it is apparent that difficulties are being encountered, the Headteacher will be informed that he or she has a responsibility to achieve a professionally acceptable standard. The Headteacher will be informed what is required, how their performance will be reviewed, the period of review, what support will be available and that Formal Competence Procedures will be implemented if there is insufficient improvement. Subsequent advice may achieve the desired and agreed changes in performance.

10.3 It is anticipated that most concerns will be dealt with through this informal management process.

- 10.4 Where the cause of the concern about the Headteacher's professional competence continues, further action will be necessary to deal with the specific problems which are being encountered by the Headteacher and which are a cause of concern. If the Headteacher has not been willing to co-operate in addressing the concerns this may be regarded as misconduct, leading potentially to action under the school's discipline procedures.
- 10.5 The period of informal support and counselling should not go on for too long. The period of informal support should therefore be no longer than 13 weeks and in most cases is expected to be less than this. There should be a clear indication of improvement. After a period of review and assessment, involving observation, a firm conclusion should be reached and the outcome will be either:
- i) No further action
 - ii) Extend the period of informal support to allow time for further improvement
 - iii) Convene a formal review meeting to consider the implementation of Formal Competence Procedures.

11. Entry to Formal Competence Procedures

- 11.1 In the circumstances of continuing concern in respect of competence, the Chair of Governors will make arrangements, assisted by the School's Adviser/Chief Education Officer or nominee as appropriate to inform the Headteacher in writing of:-
- the areas of unsatisfactory performance, and
 - details of the support offered to date.
- 11.2 The Headteacher will be given five working days notice to attend a formal review meeting to discuss these issues. The Headteacher may be accompanied by a friend or representative of his/her Professional Association. An appropriate person will be present in order that a note of the meeting can be taken.
- 11.3 At this meeting the professional concern will be put to the Headteacher and the Headteacher will be invited to respond. An agreed record of any response will be made. If new information arises from the meeting it may be adjourned to allow for further investigation.

11.4 Having considered the Headteacher's response the Chair assisted by the School's Adviser/Chief Education Officer or nominee will decide which of the four potential outcomes of the review meeting is appropriate:

- i) No further action
- ii) Further management supervision and counselling (except where it has already taken place without improvement)
- iii) Written warning
- iv) Final written warning

The decision on which level of warning to issue will depend on the seriousness of the problem.

The first two options are only appropriate if new information or a different interpretation of existing information suggest that the situation is not as serious as it first seemed.

If performance is unsatisfactory a written warning of entry into Formal Competence Procedures will normally be the next step and will initiate an assessment period of up to twenty-six weeks.

Where it becomes clear that an acceptable level of improvement is beyond the ability of the person assessed or where there is lack of co-operation with reasonable measures to achieve improvement the process may be shortened and the issuing of a final written warning considered.

In cases of particularly serious concern, where the education of pupils is jeopardised eg where there is an irreparable breakdown of performance, or where the safety and welfare of pupils is at risk, the outcome may be to issue a final written warning. In these circumstances the period given for there to be evidence of significant improvement after the date of a formal notification may be no more than four weeks.

11.5 A decision will be made after all the facts and representation from the teacher have been considered. The Chair should adjourn the meeting briefly to consider the appropriate option before delivering a decision to the Headteacher. The Headteacher will receive written confirmation of the decision within twenty four hours.

11.6 Having decided to apply Formal Competence Procedures, a programme of structured support, including a timetable of review meetings, at which the Headteacher may be accompanied by a friend or representative of his/her Professional Association, will be agreed.

11.7 At this formal meeting, the Chair will point out the need to follow and co-operate with the support programme indicating that regular monitoring will be specified and undertaken, and the period of time over which this will take place. The first review period will normally be thirteen teaching

weeks, but the actual period will be dependent upon the nature of the problem and the needs of the Headteacher and the school.

11.8 Formal notification of the outcome of this meeting will be the Date of Entry to Formal Competence Procedures and will be issued to the Headteacher within twenty four hours of the formal review meeting.

The Headteacher may appeal against written warnings and final written warnings. Any appeal must be made within five working days and should be heard within 10 working days of notification of appeal.

The processes initiated as a consequence of the application of the Formal Competence Procedure should continue whilst an appeal is pending.

Appeals should normally be restricted to considering the reasonableness of the decision made, any relevant new evidence, or procedural irregularities. The test of reasonableness will be whether no other Chair, acting with proper regard to his/her responsibilities, would have reached the same conclusion.

A Headteacher will be given the opportunity to be accompanied by a friend or professional association representative.

Appeals may be heard by an individual governor, and he/she will seek advice from the Chief Education Officer or nominee. More governors may be used but this should not compromise the availability of governors for potential future dismissal and appeal committees.

The appeal decision should be confirmed in writing within twenty-four hours and the Headteacher informed that there is no further appeal.

Where an appeal is upheld the matter should be referred back to the Chair of Governors to be reconsidered.

12. After the meeting the Chair, assisted by the School's Adviser/Chief Education Officer or nominee, as appropriate, will make available to the Headteacher and his/her representative a written statement setting out:-

- the areas of unsatisfactory performance;
- clear statements of the expectation of future performance and guidance about the necessary improvement needed to end competence procedures;
- the proposed development/support arrangements and how performance will be monitored over the following weeks;

- which records will be kept because they may be used as a basis for formal reports;
- The timetable for improvement and agreed date for the next or final evaluation meeting;
- a clear statement that failure to improve may lead to dismissal.

This written statement will be issued to the Headteacher as soon as possible and at least within ten working days.

Copies will be retained by the Chair of Governors and should be made available to the Chief Education Officer or nominee.

- 12.1 If after a period of thirteen teaching weeks (equivalent to one term) or earlier, the Headteacher has achieved the acceptable standard of performance, the Chair of Governors should notify the Headteacher in writing.
- 12.2 If at any point during the thirteen weeks circumstances suggest a more serious problem than was originally thought, a decision may be taken to move directly to a final written warning. This may include a shortened period for review of no more than four weeks.
- 12.3 In the event of continuing concern in respect of competence beyond the first period of one term, the Chair of Governors will inform the Headteacher, in writing of:
- the continuing areas of unsatisfactory performance
 - details of the support offered to date
 - proposed revised targets/performance standards
 - proposed revised time period for improvement
- 12.4 The Headteacher will be given five working days notice to attend a formal review meeting to discuss these issues and be given the opportunity to be accompanied by friend or representative of his/her Professional Association. The Headteacher will have the opportunity to make representations to the meeting. The Chair of Governors may also be accompanied by an appropriate person in order that a note of the meeting can be taken.
- 12.5 If the decision of the Chair of Governors is to continue the application of Formal Competence Procedures, the headteacher will receive written confirmation of the final formal warning within twenty four hours of the meeting.

The period to enable the Headteacher to achieve the required standard, with confidence that it can be maintained, would normally be thirteen

teaching weeks. The headteacher will be informed of the consequences of not doing so, including potential dismissal.

- 12.6 As soon as possible after the formal review meeting and at least within ten days the Chair of Governors will confirm in writing:
- The area of concern;
 - Standards/performance to be secured;
 - Details of the support programme;
 - Timescale for the improvements
- 12.7 A final evaluation meeting to report the assessment of performance over the previous weeks will be held with at least 5 working days notice and the Headteacher may be accompanied by a union representative or colleague.
- 12.8 If performance has been satisfactory and there is sufficient confidence that it can be maintained, the competence procedure can be ended. After one year of satisfactory performance the record will be removed from the Headteachers' personal file.
- 12.9 If satisfactory improvement has not taken place the matter will then be considered by a Governors' Committee convened specifically for the purpose leading potentially to dismissal of the Headteacher. The Governors will provide the right of representation and for appeal against any decision of that Committee.
- 12.10 Written confirmation of the final evaluations will be sent to the Headteacher as soon as possible and at least within ten working days. This will include:
- The outcome of the assessment:
 - The main points of the meeting
 - The date of the hearing if appropriate
- 12.11 Periods of absence may extend the timescales for Formal Competence Procedures but could have implications for the exercise of the School's Attendance Management/Ill Health Capability Procedures. Specific advice on the application of Formal Competence Procedures in cases where the Headteacher is absent due to ill health is set out in Appendix 4.

13. **Determining a Support Programme**

- 13.1 It is essential that an appropriate support programme is arranged to match the difficulties identified. This will be drawn up by the School's Adviser/Chief Education Officer or nominee, as appropriate, on behalf of the Chair of Governors, after discussion with the Headteacher and other appropriately experienced officers and advisers, if necessary.

- 13.2 The Headteacher will be given a copy of the support programme, any necessary instructions and advice, and any subsequent changes or variations as a result of a review.
- 13.3 The Headteacher will be allowed an initial period, normally thirteen teaching weeks, to effect the required improvement. The Headteacher will be required to demonstrate significant improvement in that time. Where appropriate a second review period of thirteen teaching weeks may be necessary. In normal circumstances these will be maximum timescales. If there are special circumstances which arise during the period which materially affect the programme, the period may be varied. If it becomes clear that satisfactory progress is not being made the review period may be shortened.
- 13.4 Regular monitoring of progress will be specified in the support programme and a written report made by the School's Adviser/Chief Education or nominee, as appropriate, at each stage of the support programme with a copy being given to the Headteacher and to the Chair of Governors. These processes will be undertaken in partnership with the Headteacher, who at each stage, will be given the opportunity to comment, respond and contribute to the further development of the support programme.
- 13.5 A review of the support programme may be requested by the Headteacher, Chair of Governors or School's Adviser/Chief Education Officer or nominee, as appropriate, at any stage.
14. Copies of all reports made under this procedure will be issued to the Headteacher at the time they are prepared.
15. If no significant improvement has been forthcoming the matter will be considered by a Governors' Committee convened specifically for the purpose leading potentially to dismissal of the Headteacher with an appropriate period of notice. The Governors will provide the right of representation and appeal against any decisions of that Committee.
16. In these circumstances or where there is a continued irreparable breakdown of performance or where the safety and welfare of children is at risk, the lack of improvement will lead to suspension without prejudice pending formal action.
17. Periods of absence may extend the timescales for Formal Competence Procedures but could have implications for the exercise of the school's Attendance Management Procedures. Specific advice concerning the application of Formal Competence Procedures in cases where the Headteacher is absent due to ill health is set out in Appendix 4.

APPENDIX 4

Guidance on the Management of Absence in relation to the application of Competence Procedures.

This guidance assumes that the Governing Body has adopted both the Model Competence Procedure and the Attendance Management/Ill Health Capability Procedure produced by the Authority. The guidance was first issued to schools in a letter “Competence Procedures and Ill Health” dated 17 December 1999. Throughout this appendix the word “teacher” applies to all employees subject to School Teachers’ Pay and Conditions of Service.

A number of situations have arisen where a teacher has been signed off long term sick either immediately before entry to, or during, Formal Competence Procedures. The Authority has discussed this with the County Secretaries of the Teacher Associations and all are keen to work co-operatively with schools to address these situations in a reasonable and appropriate way. **Detailed advice will be available from the LEA as and when situations arise and you should discuss this with the Officer advising the school about Competence Procedures.** The LEA has, however, agreed to provide the following advice to all schools:

A. Absence Before or at the Outset of Formal Competence Procedures

Where a teacher is absent due to ill health in advance of entry into Formal Competence Procedures clearly those procedures cannot begin until the teacher returns. It should, however, be made clear to the teacher that Formal Competence Procedures will begin, after a suitable settling in period of no longer than four weeks, after the teacher returns.

It will be necessary to take account of the potential effects ill health has had, or may have, on the teacher’s performance. It may be that ill health was a substantial reason for underperformance in which case it may not be appropriate to proceed with Formal Competence Procedures at this time. If Competence Procedures do proceed you must ensure that no action by you could contribute to a recurrence of ill health and therefore make any subsequent decisions subject to potential challenge. The agreed programme of support should, therefore, include arrangements to address and minimise those potential effects. If the absence persists you and the Governing Body may feel it is appropriate to implement Absence Control Management and ultimately Ill Health Capability Procedures.

B. Absence in the Early Stages of Formal Competence Procedures

The aim of Formal Competence Procedures is to improve performance through targeted support and should last for up to 26 weeks. Where a teacher is absent due to ill health in the early stages of Formal Competence Procedures – up to 13 weeks – the procedure can not continue until the teacher returns regardless of the available evidence. Formal Competence Procedures will need to be

postponed but it should be made clear to the teacher that they will continue, after a suitable settling in period of no longer than four weeks, when the teacher returns. Short absences of up to 2 weeks should not delay any part of Formal Competence Procedures.

In these circumstances you will need to take account of the potential effects ill health has had, or may have, on the teacher's performance. The agreed programme of support will need to include arrangements to address and minimise those potential effects to avoid action which might cause a recurrence of ill health and potential challenges to subsequent decisions. You and the Governing Body may also feel it is appropriate to implement Absence Control Management and Ill Health Capability Procedures.

C. **Absence in the later stages of Formal Competence Procedures**

As already stated, Formal Competence Procedure should last for up to 26 weeks. Where a teacher is absent due to ill health towards the end, or in the later stages - the second 13 weeks - of Formal Competence Procedures what action is taken will depend on the teacher's progress so far. The decision may be easier where the 26 week period has almost run its course and Formal Competence Procedures are close to a conclusion.

Reasonable steps should be taken to enable the teacher to attend evaluation meetings. Where the teacher is unable to attend these may proceed in their absence, if delay would otherwise compromise the maximum timescale set aside for the procedure. The teacher's Professional Association Representative will be invited to attend and make a statement or representations on their behalf. A full and detailed record of the review should be provided in the letter confirming the decision taken.

If the teacher has made significant progress, and there is evidence to support this, they may be removed from Formal Competence Procedures.

If no significant sustainable progress has been made, or this is limited, and there is substantial evidence to support the view that Formal Competence Procedures will result in potential dismissal the Procedure should continue on this basis. In these circumstances the Headteacher, in the case of other teachers, or Chair of Governors, in the case of the Headteacher, must decide what action should be taken.

The options are to:

1. Postpone Formal Competence Procedures until the teacher returns and implement Absence Control Management and Ill Health Capability Procedures.
2. Continue Formal Competence Procedures.

In reaching a decision the Headteacher, in the case of other teachers, or Chair of Governors, in the case of the Headteacher, will need to consider:

- The likelihood of significant sustainable progress being made during the remaining weeks of Formal Competence Procedures.
- The impact that a prolonged period before the situation is resolved will have on the effective, efficient management and operation of the school.
- The extent to which known ill health has now, or previously, affected the teacher's performance.

Particular attention should be paid to the last of these as this is a potential source of significant challenge to a decision to continue Formal Competence Procedures.

If the decision is to postpone Formal Competence Procedures it should be made clear to the teacher that Formal Competence Procedures will continue, after a suitable settling in period of no longer than four weeks, when they return. As already indicated it will be necessary to take account of the potential effects of ill health on the teacher's performance. The agreed programme of support should, therefore, include arrangements to address and minimise those potential effects to avoid action that may lead to a recurrence of ill health and therefore potential challenges to subsequent decisions.

If the decision is to continue Formal Competence Procedures the matter should be referred to a Committee of Governors for a decision on the outcome of Formal Competence Procedures as set out in the Competence Procedure adopted by the Governing Body. The Committee will need to be presented with all the available evidence and circumstances before deciding whether to:

1. Postpone Formal Competence Procedures until the teacher returns and implement Absence Control Management and/or Ill Health Capability Procedures.
2. Dismiss the teacher on the grounds of competence.

If the decision is to dismiss this will probably be challenged. The Governing Body will therefore need to be satisfied and confident it can demonstrate there is substantial evidence to support its decision. Particularly, that any further period of structured support, monitoring and review would not have led to significant and acceptable improvement in performance. Also, the Governing Body must ensure that employment rights to representation and appeal are met before the LEA will issue the dismissal notice.

You will appreciate from this advice that ill health absence complicates situations where Formal Competence Procedures are being used and should be dealt with sympathetically. You will also appreciate that ill health absence is not a way of avoiding Formal Competence Procedures and may in itself have the same potential

outcomes if Ill Health Capability Procedures are implemented. It is, however, important to manage both situations in a supportive way with a view to ensuring teachers are able to fulfil their duties and responsibilities effectively and efficiently. As already indicated the LEA and County Secretaries of the Teacher Associations want to work co-operatively with Headteachers and Governors to achieve outcomes which are in the best interests of the school and its pupils whilst ensuring individual circumstances are considered and taken into account.

Appendix 5

Support from the LEA

1. As part of the LEA's Education Development Plan a senior officer, as nominee of the Chief Education Officer, and where appropriate a member of the Advisory and Inspection Service, will provide advice on procedure to Headteachers or Chairs of Governors when concerns about a teacher's or headteacher's competence are raised.

This will be free of charge and may include:

- Advice and guidance on the investigation of concerns relating to a teacher's or headteacher's performance.
- Advice and guidance on issues of record keeping, issuing letters and formal warnings.
- Advice on support programmes.
- Representing the Chief Education Officer at governors' meetings specifically held to consider dismissal and appeal, including legal advice.
- Advice and guidance on target setting and support programmes.

2. In addition the LEA can provide support for the implementation of Formal Competence Procedures.

This may include:

- Investigation on behalf of a Chair of Governors when concerns are raised in relation to a Headteacher's performance.
- Attendance at formal review meetings and any appeal hearings against formal warnings.
- Support in identification of the concerns
- Support for the monitoring role of the Headteacher in validating their judgements through observation of teaching.

Depending on the outcome of consultation on delegation of funding for 2002/2003 this support may be traded in that and subsequent financial years.

3. As part of its traded consultancy services to schools the LEA can also provide the following:
 - The production of all documentation and written communications in connection with Formal Competence Procedures.
 - Development opportunities and feedback for a teacher or Headteacher as part of their support programme.
 - Access to scheduled in-service training opportunities.
 - Coaching or mentoring for a teacher or Headteacher.

4. There are other LEA services which may be appropriate to access on a traded or consultancy basis.
 - Behaviour Support Service
 - Special Educational Needs Support Services
 - The Psychology Service
 - Employee Welfare Service