

Procedures for Principals relating to their work, conduct and matters of professional competence in their role as principals

Background

Under the terms of *Towards 2016* the parties undertook to review and revise existing procedures for the suspension and dismissal of teachers comprehended by Section 24(3) of the Education Act 1998. The parties noted that the provisions of Section 24 of the Education Act 1998 do not apply to teachers of a school established by a vocational education committee and that sequential discussions would be required in the vocational education sector on revisions to procedures in that sector that would have regard to the discussions and developments in relation to other teachers.

This disciplinary procedure for Principals employed in vocational education committees 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 and VECs 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 Principal, 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 Principal'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 Principals discharge their duties in a competent and efficient way and provide a service in line with the best traditions of school leadership. 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

The scope of these procedures includes all aspects of the role of Principal as set out in the Education Act 1998 and other relevant Acts of the Oireachtas. The Education Act 1998 provides, inter alia, that a Principal shall;

- have responsibility for the instruction provided to students in the school and shall contribute, generally, to the education and personal development of students in that school,
- encourage and foster learning in students, regularly evaluate students and periodically report the results of the evaluation to the students and their parents,
- promote co-operation between the school and the community which it serves, and subject to the terms of any applicable collective agreement and their contract of employment, carry out those duties that are assigned to him or her by the board of management,
- be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable for that management,
- provide leadership to the teachers and other staff and the students of the school,

- be responsible for the creation, together with the board, parents of students and the teachers, of a school environment which is supportive of learning among the students and which promotes the professional development of the teachers,
- under the direction of the board and, in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school and monitor the achievement of those objectives, and
- encourage the involvement of parents of students in the school in the education of those students and in the achievement of the objectives of the school.

Issues of professional competence as a teacher are outside the scope of this procedure.

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.

There may also be instances where concerns are raised regarding a Principal's work or conduct through parental complaints. In such cases the concerns will be addressed by the CEO or other senior officer designated by the CEO in the first instance in accordance with agreed complaint procedures. The CEO or other senior officer designated by the CEO 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.

Informal Stage

It is intended that problems relating to work and conduct are resolved, where possible, through informal means. To this end, the EO/designated officer will discuss any unsatisfactory conduct with the Principal concerned and inform him/her of the required improvements. The Principal 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. The EO/designated officer will advise the Principal of available internal and/or external supports and endeavour to assist the Principal 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.

The Principal will also be informed that, unless the necessary improvement is made, the matter may proceed to the formal disciplinary procedure.

Where a Principal'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 Principal will be convened by the EO/designated officer. The Principal 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 Principal concerned may be accompanied at any such meeting by his/her trade union representative or a work colleague.

At the meeting, the Principal 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 EO/designated officer will decide on the appropriate action to be taken. Where it is decided that no action is warranted, the Principal will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the EO/designated officer will inform the Principal 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 Principal that further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process

A copy of the verbal warning will be retained on the personnel file by the EO/designated officer and a copy will be given to the Principal. 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 Principal's conduct is perceived by the EO/designated officer to be less than satisfactory in relation to that required at Stage 1, a meeting will be arranged between the Principal and the EO/designated officer and other senior officer nominated by the CEO. The Principal 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 Principal 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 Principal should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The Principal 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 EO/designated officer and the senior officer nominated by the CEO will decide on the appropriate action to be taken. Where it is decided that no action is warranted the Principal 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 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 Principal that further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process

A copy of the written warning will be retained on the personnel file and a copy will be given to the Principal. 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 EO/designated officer and other senior officer nominated by the CEO perceives that the Principal's conduct remains less than satisfactory or there is an occurrence of a more serious offence, a meeting will be arranged between the Principal and the EO/designated officer accompanied by a senior officer nominated by the CEO. The Principal 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 Principal 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 Principal should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The Principal 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 EO/designated officer and the senior officer nominated by the CEO will decide on the appropriate action to be taken. Where it is decided that no action is warranted, the Principal 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 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 Principal that further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process.

A copy of the final written warning will be retained on the personnel file and a copy will be given to the Principal. 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 and forwarded to the CEO. A copy will be given to the Principal.

In accordance with the provisions of the Vocational Education Committee (Amendment) Act 2001 suspension and dismissal of staff are reserved functions of the VEC and Minister respectively. Consequently, the following procedures will apply.

- 4.1 If the CEO decides to proceed to a disciplinary process within his/her remit, the Principal will be provided with an opportunity to attend at a meeting with

the CEO accompanied by his/her trade union representative/s or a colleague subject to an overall maximum of two.

The Principal will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and that disciplinary action may be considered.

At the meeting the Principal 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.

Following the hearing, the CEO will make his/her judgement on the matter. In formulating his/her judgement the CEO will take account of the report from the EO/designated officer and nominee of the CEO and any other evidence and the Principal's representation (if any) thereon.

The CEO shall notify the Principal of his/her decision in the matter and if, in his/her view, disciplinary action is warranted.

The CEO shall notify the Principal of his/her decision and any intended disciplinary action, if that be the outcome of his/her deliberations. If it is decided to take disciplinary action, the CEO may avail of any of the following range of sanctions.

- Final written censure
- deferral of an increment
- withdrawal of an increment or increments
- demotion (loss of Principals allowance)

Where disciplinary action is proposed, the case will be reviewed by the CEO within a specified time period to consider whether further disciplinary action, if any, is required.

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

- 4.2 If the CEO considers that the matter needs to be referred to the VEC, as a reserved function, he/she shall do so. The Principal will be provided with an opportunity to attend at a meeting of a sub-committee of the VEC accompanied by his/her trade union representative/s or a colleague subject to an overall maximum of two.

The Principal will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and that disciplinary action may be considered.

At the meeting the Principal 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.

Following the hearing, the sub-committee of the VEC will make a report to the VEC. A copy of the report will be given to the Principal.

- 4.3 The VEC will consider the report. The Principal will be provided with an opportunity to attend at a meeting of the VEC accompanied by his/her trade union representative/s or a colleague subject to an overall maximum of two.

The Principal will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and that disciplinary action may be considered.

At the meeting the Principal 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.

Following the hearing, the VEC shall make its judgement on the matter. In formulating its judgement the VEC will take account of the report of the sub-committee of the VEC, any other evidence and the Principal's representation (if any) thereon. The VEC may decide:

- to refer the matter to the CEO
- to impose a disciplinary sanction.

In the event that the matter is referred to the CEO the procedures set out in paragraph 4.1 above will apply.

The VEC shall notify the Principal of its decision and of any intended disciplinary action, if that be the outcome of its deliberations. If it is decided to take disciplinary action, the following range of sanctions may be availed of.

- i. Suspension (for a limited period and/or specific purpose) with pay
- ii. Suspension (for a limited period and/or specific purpose) without pay
- iii. Suspension in accordance with the terms of the Vocational Education Acts

Where disciplinary action short of suspension, in accordance with the terms of the Vocational Education Acts (4.3.iii above), is proposed, the case will be reviewed by the VEC within a specified time period to consider whether further disciplinary action, if any, is required.

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

Gross Misconduct

In the case 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 Principal may be dismissed without recourse to the previous stages.

The following are some examples of gross misconduct for which any or each of Stage 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, inappropriate behaviour, sexual harassment or harassment against an employee or customer, including students.
- 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 CEO/VEC in relation to the health and safety of students and/or staff of the school.

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

In the course of investigation, the Principal 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 5

Appeal

It will be open to the Principal to appeal against the proposed disciplinary action.

In the case of sanctions being imposed at Stage 1, the appeal will be to an officer (officers) nominated by the CEO.

In the case of sanctions imposed at Stages 2 and 3 of these procedures such an appeal will be to the CEO. 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 VEC as set out in Appendix A.

The procedures for appealing are as set out in Appendix A.

Notification to Department of Education and Science and the Teaching Council

The CEO 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

Principal Teachers Disciplinary Appeal Panel

1. The VEC shall appoint a Principal Teachers Disciplinary Appeal Panel which shall comprise the following.
 - 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 Principal 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 Principal concerned was not afforded a reasonable opportunity to answer the allegation.
 - v The Principal 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 Principal, who has been notified that it has been 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 Principal concerned within the period of ten school days, the appropriate authority may proceed to implement the disciplinary action proposed.
6. Where a Principal requests that disciplinary proceedings be reviewed by the Panel, the following submissions shall be made.
 - i A written statement by the Principal 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 Principal concerned within 10 school days of the receipt by the employer of the Principal's statement referred to above
 - iii Any other submission which the Panel may request from the Principal 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 Principal 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 Principal concerned is frivolous, vexatious, or without substance or foundation.
8. Where a request (for an appeal hearing) 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 Principal 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 wholtime official 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 Principal concerned.
 - ii Any person in accordance with paragraph 11 above who is entitled to make submissions on behalf of the officer concerned.
 - iii The CEO, EO and the Chair (or nominee) of the VEC.
 - 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 CEO or VEC as appropriate, the Principal concerned and his/her representative.

15. Where that opinion is to the effect that such a case has been established by the Principal concerned, the Panel may, at its sole discretion, recommend to the CEO or VEC as appropriate that:
 - i no further action should be taken in the matter, or
 - ii the disciplinary action decided by the CEO or VEC as appropriate should be amended in a specified manner, or
 - iii the case should be re-considered by the CEO or VEC as appropriate 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 CEO or VEC as appropriate will proceed with the disciplinary action.
17. A decision to take disciplinary action should be notified in writing to the Principal concerned and his/her representative. Where no further action is to be taken the allegation will be deemed to have been withdrawn.
18. Subject to the provisions of the Vocational Education Acts, the final decision in respect of an appeal panel recommendation rests with the CEO or VEC as appropriate which shall set out in writing the basis for the decision.