



Holyhead

Teach What Matters

Dismissal for Some Other Substantial Reason (SOSR) Policy

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Dismissal for Some Other Substantial Reason (SOSR) Policy

1. Introduction

The following procedures have been adopted by the Governing Body of Holyhead School to enable it to discharge its functions under the School Staffing (England) Regulations 2009 (the “Regulations”) in relation to the potential dismissal of employees other than for reasons of conduct, capability, expiry of a temporary or fixed-term contract, or redundancy. They apply to everyone employed to work at the school in accordance with those regulations, i.e. excluding staff employed by a contractor (including the authority acting as a contractor). Decisions taken under this procedure will be taken fairly on the balance of probability rather than, as would be the case in a criminal court, beyond reasonable doubt.

This Policy applies to all employees of Holyhead School. It does not form part of your contract of employment and may be varied from time to time by the Governing Body.

If you have less than 24-months continuous service, the school reserves the right to dismiss you for unsatisfactory attendance levels without following the SOSR Procedure.

The circumstances in which these procedures may be used include failure to complete satisfactorily statutory induction (for school teachers) or probation (for support staff), failure to meet the conditions specified in a conditional offer of employment, failure to comply with relevant statutory regulations (such as the requirement for teachers of visually impaired or hearing impaired pupils to obtain specified additional qualifications within three years of appointment), irretrievable breakdown in personal relationships damaging the operation of the school. This list is not exhaustive. This procedure excludes dismissals on the grounds of ill-health capability, unsatisfactory attendance related to sickness absence.

If an employee makes a complaint relating to this procedure the separate grievance procedure which the governing body has established in accordance with paragraph 7 of the School Staffing (England) Regulations will not apply and the complaint will be dealt with through this procedure.

2. Evidence Gathering

The employee who is the subject of this procedure should be informed of the circumstances that have been brought to the attention of the SLT, the circumstances under review and the possibility of termination of employment.

In certain circumstances, such as failure of statutory induction on the part of a teacher, or certain medical conditions, the employee may be withdrawn from certain duties or suspended (see Section 3 below).

Where there is a view that an employee could be dismissed for Some Other Substantial Reason, The Senior Leader will gather the relevant evidence to present at a hearing. That may be a desk top review of numerous complaints, a review of records, (for example qualifications) or an investigation interview.

The investigation will be undertaken by someone of appropriate experience. Where no suitable person can be identified internally, the school may commission an external investigator. The investigator will prepare a report to be presented at a dismissal hearing.

The employee who is the subject of the concern must be informed as soon as practicable what the concerns are, that an investigation is taking place, the reason for it and when it is to start.

If there is relevant information from external agencies (*such as correspondence on statutory induction*) this information must be obtained at the earliest opportunity.

When the investigation is complete the Principal (or other senior person) shall consider the results and decide whether the facts:

- do not warrant further action; or
- amount to a situation which can be resolved by other means; or
- warrant a hearing in accordance with these procedures.

When the Principal is due to hear the case a nominated senior member of staff (or suitable person from outside the school) shall consider the results of the investigation and take the above decisions.

All information collected during investigations shall remain confidential to the person(s) directly involved.

3. Suspension

The governing body recognises that suspension is not a sanction but a neutral act, without loss of emoluments. Suspension is normally only considered under this procedure in cases when statutory regulations require the employee to be removed from the school or relevant activity or for the safety and welfare of pupils or employees. Advice should be taken from HR as to whether any other action, such as a temporary direction to undertake other duties, might be more appropriate than suspension to the particular circumstances of the case.

Suspension should normally take place in a special meeting called in accordance with these procedures, but in the absence of the employee other arrangements should be made (advice is available from HR).

When the Principal or Senior Leader becomes aware of circumstances which might lead to suspension he or she (having taken advice as necessary) will take the employee aside, explaining that there is a serious matter to discuss and asking the employee to accompany him or her to his or her office or other suitable place, where they will explain that a short meeting is to be called to tell the employee about a serious matter, that the employee is entitled under this procedure to choose a witness able to attend at short notice, because it might be necessary to suspend the employee, and that the employee will have the right not to say anything in response to what the head teacher will disclose, although refusal to respond will probably make suspension inevitable.

The employee will be requested to wait in a nearby room whilst the witness, either someone on the school staff or within a few minutes' journey, is asked to come to the meeting.

Unless a meeting is impractical (due to the employee's absence on sick leave or other good reason) the employee will be informed in a meeting of the decision to suspend and written confirmation of the decision shall be sent immediately after the suspension is notified.

The Principal or Senior Leader will outline the circumstances and invite the employee to give an explanation if they wish. Depending on the response, the Principal or Senior Leader may or may not adjourn the meeting before deciding whether or not to suspend the employee. The head teacher should then tell the employee of his or her decision and, when the decision is to suspend, should arrange for the employee to leave the premises.

When suspension of a Principal takes place the chair of governors or a governor with appropriate delegated authority shall proceed in accordance with this section.

The Principal or Senior Leader should keep the case under review throughout the period of suspension and maintain contact (through an agreed named person) between the school and the employee, who must be kept informed of progress.

The employee must not return to school until the decision to end the suspension is communicated to the employee in writing.

4. Procedures For Hearings

4.1 When, following investigation, it has been determined that the facts warrant a hearing under this procedure, a hearing shall be arranged as set out below. Where power to hear cases under this procedure has been delegated to the Principal, then the Principal can hear cases under

this procedure, unless the Principal has had prior involvement with the case or considers that the case should be heard by the committee with delegated authority to hear cases referred to it under this procedure. Otherwise the case shall be heard by the committee.

- 4.2 A formal notice to an employee to attend a hearing by the committee or by the Principal should be issued in writing, with an explanation of the hearing's purpose and its place in this procedure. The letter should not only state the reason for the hearing but should also attach copies of any documents to be used at the hearing, remind the employee of the right to be accompanied and/or represented, explain the procedures to be followed at the hearing and give the names of the person(s) hearing the case.
- 4.3 The employee should be asked to confirm that he/she will attend the hearing in person and to indicate whether he/she wishes to be accompanied by a representative (who must be either a trade union official or another of the employer's employees) and to call witnesses; he or she should be asked both to provide documentation and give the names of witnesses whom he or she has asked, or intends to ask, to appear on his or her behalf, at least three working days before the hearing. Names of any witnesses from both sides should be circulated in advance and all witnesses should be asked to provide a written statement for inclusion with the documents to be used at the hearing. A second set of papers should be enclosed for the employee's representative.
- 4.4 In order to ensure that the employee has enough time to prepare his or her response reasonable notice of the hearing should be given. This should be at least five working days. The employee may suggest an alternative time and date as long as it is reasonable and is not more than five working days after the original date. The committee or Principal may reject this suggestion but will do so only if it is unreasonable, when they may proceed to hear the case in the absence of the employee or the employee's representative and will take advice from the HR Manager on what is unreasonable.
- 4.5 The employee shall be asked both to provide documentation in his or her defence and give the names of witnesses whom he or she has asked, or intends to ask, to appear on his or her behalf, at least three working days before the hearing. Where the hearing is before a committee of the governing body the clerk to the governing body is required to ensure that all parties to the hearing, receive copies of all documents at least three working days before the hearing. There is no requirement on the employee to submit any documentation, other than a statement from any witness who may be called by the employee. However, if the employee does not intend to submit any documentation there should be a positive statement from the employee or the employee's representative to this effect. Neither side will be able to use at the hearing any evidence not previously provided.

- 4.6 The hearing will follow the procedure set out in the toolkit.
- 4.7 The Principal or the committee, as the case may be, has the following options and shall decide on one of them:
- take no further action in relation to the employee;
 - determine that a further defined period for improvement, or for allaying the concerns that gave rise to the hearing as the case may be, should be allowed if appropriate to the circumstances of the case, on the understanding that if the employee does not make that improvement or allay those concerns by the specified date the matter will be referred to the appropriate committee for further consideration;
 - determine that the employee should be dismissed from the school.
- 4.8 The Principal or committee shall announce the decision to the parties in person or subsequently in writing as the committee shall determine. An oral announcement shall be confirmed in writing within five working days, including the right of appeal.

5. Appeals

- 5.1 An employee has the right of appeal against a decision to dismiss them. An appeal shall be to the appeal committee established by the governing body.
- 5.2 An employee may appeal by giving written notice of the appeal and of all the grounds on which it is made to the clerk to the governing body within ten working days of the confirmation of the decision. The grounds for the appeal should be accompanied by any additional evidence to be presented in support of the appeal. If the employee so wishes there is no requirement to submit any documentation, other than a statement from any witness who may be called by the employee. However, if the employee does not intend to submit any documentation there should be a positive statement from the employee or the employee's representative to this effect and the employee will not be able to use at the hearing any evidence not previously provided.
- 5.3 The clerk to the governing body will arrange an appeal committee hearing as quickly as possible, to take place. The employee may suggest an alternative time and date as long as it is reasonable and is not more than five working days after the original date. The committee may reject this suggestion if it is unreasonable and may proceed to hear the case in the absence of the employee or the employee's representative, but also has the discretion to defer the date of the hearing in order to reach mutual agreement on a convenient date, having particular regard to the availability of the employee's representative.

5.4 The clerk to the committee shall give at least five working days' formal notice of the hearing to all the participants, and in the same letter shall set out the order of the proceedings, remind the employee of the employee's rights at the hearing, including the right to request to be accompanied by a representative of his or her choice who is either a union official or another of the employer's employees, list the members of the appeal committee, give the names of witnesses, and confirm the options for action which the appeal committee may take. All documents relevant to an appeal hearing shall be enclosed with the letter. The witnesses may include, as appropriate to the circumstances of the case, the Principal and/or a member of the committee which took the decision against which the employee is appealing, or the person who presented the case if that person was not the Principal.

5.5 The normal procedure for an appeal hearing is set out in The Toolkit.

5.6 The appeal committee may

- dismiss the appeal
- uphold the appeal

6. The Principal As Subject Of This Procedure

6.1 The decision shall be confirmed in writing by the clerk to the governing body within five working days of the hearing. If an appeal against dismissal is upheld, the letter of notification will include a withdrawal of the dismissal and reinstatement without a break in service.

6.2 Any requirement to investigate the position of the principal under this procedure shall be referred, through the chair of the governing body. If suspension of the principal is appropriate it shall be undertaken in accordance with the provisions of this procedure.

6.3 The chair of the governing body may present the case to the committee, calling on the investigator to give evidence.

7. Trade Union Officers

7.1 Normal employment requirements should apply to trade union officers. However, dismissal of a trade union officer can be misconstrued as an attack on the union. Such problems can be avoided by early discussion with a full-time official or senior trade union representative.

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