

# RIVERSIDE SCHOOL



## Capability Procedure for Support Staff

APPROVED BY GOVERNORS

RESPONSIBLE PERSON – HEADTEACHER

## CONTENTS

1. Purpose and Scope
2. Rights of Representation
3. Definitions and Authority to Initiate Action
4. Stages in the Formal Capability Procedure
  - Action Plans
  - Timetable
  - Outcomes of Monitoring and Support
5. Formal Capability Hearing
  - Preparing for the Hearing
  - Penalties
  - Decision Letters
6. Appeals
7. Dismissal

Appendix 1: Informal Supervision

Appendix 2: Procedure for conducting First Stage Hearings

Appendix 3: Procedure for conducting Appeal Hearings

## 1. Purpose and Scope

- 1.1 This procedure is designed to help and encourage all support staff employed at Riverside School to achieve and maintain good standards of job performance.
- 1.2 This procedure does not cover the normal day-to-day supervision where a Line Manager may have to counsel, train or otherwise discuss with an employee instance of poor performance. It is intended to cover those cases where an employee's work performance is below the required standard through lack of capability. It does not cover instances of misconduct or incapability due to ill-health, both of which are dealt with under separate procedures.
- 1.3 If an employee commences sick leave whilst subject to the capability procedure, the capability procedure should continue unless medical advice sought from an Occupational Health Adviser reveals an underlying medical condition, in which case the situation will be considered in the light of the facts and circumstances of the particular case.
- 1.4 The procedure is designed to provide assistance and encouragement to staff to achieve and maintain good standards of performance in their duties. With this objective in mind, the procedure provides for the employee to receive guidance, support and feedback over a reasonable period of time to meet realistic targets and standards. The employee must also accept responsibility for meeting any standards and targets set. These procedures are therefore aimed at achieving the required improvement, not punishment, but if all else fails, they will help ensure a fair dismissal.
- 1.5 As part of normal supervision and in consultation with the Headteacher, a Line Manager may have to advise an employee about the need for improvement in an area of his/her performance; this does not form part of the formal capability procedure nor does the guidance on informal supervision attached as Appendix 1.
- 1.6 Not until informal supervision, training and/or counselling have failed to produce a satisfactory improvement in job performance should this formal capability procedure be used. However, the Line Manager or Headteacher should make it clear that formal proceedings may occur if improvement does not take place. The Line Manager *must* make clear to the employee when the formal procedure is being used.
- 1.7 The procedure applies to all employees covered by the Scheme of Conditions of Service under Bromley localised pay arrangements;  
  
With the exception of:
  - (i) staff under a probationary period;
  - (ii) staff employed on a casual day-to-day basis.

## 2. Rights of Representation

- 2.1 Employees have the right to be accompanied at all stages of the formal capability procedure. They may be accompanied by a trade union representative, a work colleague or a friend of their choice.
- 2.2 Employers also have the right to be accompanied at all stages of the formal capability procedure. The Director of Education, Health and Care Services or

his/her representative has a right to attend all formal stages of the capability procedure to give advice as to the law and procedure only when a dismissal is being considered.

- 2.3 The Director of Education, Health and Care Services may also attend any other stage of the procedure to give advice as to the law and procedure as required at the invitation of the Headteacher or Governors' Committee.
- 2.4 It is also appropriate for the Chair of Governors or Headteacher to request that the LA either conducts or assists in the conduct of the investigation, and the operation of this procedure.

### **Equal Opportunities Issues**

- 2.5 If the employee is a trade union official, no formal action under the procedure should be taken until the circumstances of the case have been discussed with the appropriate branch secretary or full-time official.

## **3. Definitions and Authority to Initiate Action**

- 3.1 The following definitions will apply throughout this procedure:

In accordance with the provisions of the school staffing (England) Regulations 2003, the Governing Board may delegate its power to dismiss any member of staff to the Headteacher, an individual Governor or group of Governors with or without the Headteacher.

The Headteacher is normally expected to lead in all initial staff dismissal decisions. The Headteacher may involve other Governors in dismissal processes (ie investigations) but where responsibility for staff dismissal has been delegated to the Headteacher, the final decision on whether to terminate an individual's employment rests with the Headteacher.

Where the Governing Board has delegated responsibility for staff dismissal to a relevant committee, the provisions below regarding the constitution of such a committee shall apply.

Line Manager - anyone who has been delegated supervisory responsibilities by the Head Teacher for the operation of this procedure. Only in secondary schools may this authority be delegated by the Headteacher to those below Deputy Head Teacher.

Headteacher - Headteacher.

Committees and Appeal Committees - Committees established by the Governing Board to deal with capability matters in accordance with the provision of the Education (School Government) (England) Regulations 1999. The Governing Board may establish the committees it thinks necessary to deal with a particular function. However, the 1999 Regulations provide for Governing Boards to establish a Staff Dismissal Committee and a Staff Dismissal Appeal Committee. The Capability Committee and the Staff Dismissal Committee may be the same Committee. The Appeal Committee and Staff Dismissal Appeal Committee must be a separate Committee. An Appeal Committee should consist only of Governors who

have taken no part in the decision against which the appeal is made. All committees should comprise a minimum of three Governors unless in exceptional circumstances.

Director of Education, Health and Care Services - includes any officer or adviser with specific delegated power.

Days - working days or consecutive days if it is necessary and possible to progress matters outside term time.

3.2 Reference throughout this procedure to the Line Manager, Headteacher, Director of Education, Health and Care Services, Chair of Governors and employee shall include their personal representatives as appropriate. In most instances, the Director of Education, Health and Care Services presentative will be a member of the LA's Human Resources Consultancy Service. In some cases the Line Manager and the Headteacher may be the same person (eg smaller schools).

3.3 The following table details the maximum action which can be imposed at various levels of authority, and the various stages of the formal capability procedure applicable to these levels:

Level of Authority	Authorised to
Line Manager	<ul style="list-style-type: none"> <li>- carry out investigations and assessment and decide what action is required in consultation with the Head Teacher and any other professional adviser</li> <li>- initiate action under the formal capability procedure in consultation with the Head Teacher if s/he is not the Head Teacher</li> <li>- issue formal oral and written warnings in consultation with the Head Teacher if s/he is not the Head Teacher</li> </ul>
Headteacher	<ul style="list-style-type: none"> <li>- carry out investigations and assessment and decide what action is required.</li> <li>- initiate action under the formal capability procedure</li> <li>- issue formal and oral warnings including a final written warning</li> <li>- withhold an incremental rise</li> <li>- suspend (in consultation with the Chair of Governors)</li> <li>- refer a case to the Governors' Committee for consideration</li> <li>- dismiss (in consultation with the Director of Education, Health and Care Services)</li> </ul>
Committee	<ul style="list-style-type: none"> <li>- hear appeals against a final written warning issued by a Headteacher</li> <li>- suspend or order a Headteacher to end a suspension</li> <li>- issue formal or final written warnings or some other penalty, if appropriate</li> <li>- hear appeals against a decision not to remove a warning from the personal file</li> </ul>
Staff Dismissal Committee	<ul style="list-style-type: none"> <li>- conduct formal capability hearings where dismissal is under consideration, and also issue formal or final</li> </ul>

	<p>written warnings if appropriate where authority has not been delegated to the Headteacher or where the Headteacher has been involved in the preparation of the case</p> <ul style="list-style-type: none"> <li>- dismiss (in consultation with the Director of Education, Health and Care Services)</li> </ul>
Appeal Committee	<ul style="list-style-type: none"> <li>- hear appeals against any penalty imposed by a Committee except termination of employment</li> <li>- order an end to a suspension</li> </ul>
Staff Dismissal Appeal Committee	<ul style="list-style-type: none"> <li>- hears appeals against decisions to dismiss</li> <li>- hears appeals against the Headteacher's decision to dismiss</li> </ul>

3.4 To ensure fairness throughout the procedure, different people must participate at the original committee and appeal committee hearings. However, where the case concerns a continuing or related matter, the same committee can hear the case on subsequent occasions.

3.5 In the event that the school's delegated budget is suspended, then dismissal decisions will be taken by the Director of Education and Care Services, and any subsequent appeal will be heard by a Committee appointed under arrangements agreed by the Children and Young People Portfolio Holder. In all other cases the Staff Dismissal Committee and Staff Dismissal Appeal Committee should have regard to the LEA's financial interest in dismissals, including the requirement to consult Human Resources in such circumstances.

#### 4. Stages in the Formal Capability Procedure

4.1 This procedure applies where informal supervision has failed to bring about sufficient improvement in the employee's performance. It will also apply where the circumstances of the case are such that the informal stage is considered to be inappropriate.

The stages are as follows:

- (i) Clear identification and assessment of performance problems.
- (ii) Problems are investigated and level of seriousness assessed through structured information gathering, (eg information obtained from interviews and relevant documentation and systematic recording) and a second opinion from an appropriate adviser where this has not already been sought.

In undertaking the investigation the Line Manager/Headteacher must establish:

- (a) the level and nature of poor performance (have there been any complaints from colleagues, parents, the public?);
- (b) the timescale (has job performance recently gone into decline or has it always been below the standards required?);
- (c) any factors contributing to poor performance (eg personality clashes, inappropriate supervision, inadequate training, unclear instructions, ill-health);
- (d) any change in the standards required and whether appropriate training has been provided;

- (e) has the employee asked for assistance to overcome any problems and what was the outcome?

During the course of the investigation an employee might raise a grievance against the actions of the manager handling the case or against other senior managers. Normally this will be dealt with as part of consideration of the facts of the case. However, the manager investigating the case will seek advice from the appropriate professional adviser and, depending on the circumstances, it may be appropriate to suspend the formal capability procedure for a short period until the grievance can be considered.

- (iii) Finally, a decision must then be made as to whether
  - (a) no further action is appropriate or
  - (b) to arrange for the provision of informal counselling or support or
  - (c) to arrange for a formal interview with the employee to discuss what further action is required under the formal capability procedure. The employee will also be given copies of all relevant documents in advance of the interview.

### **Action Plans**

- 4.2 The outcome of a formal interview between the Line Manager or Headteacher and the employee under the capability procedure must be translated into a written action plan. This will include the specific targets and/or performance standards to be met, together with an appropriate support and assessment programme and structured timetable indicating dates for further review interviews and of when/how feedback on progress will be provided. This well structured written notification which shall include a formal oral or written warning and a statement of the possible consequences of failure to improve will constitute the date of entry into the formal procedure.

### **Timetable**

- 4.3 The timetable adopted for improvement will be in accordance with the seriousness of the lack of capability of the employee. Consideration must be given to whether the problem is a specific or broader difficulty or whether it is a very recent concern or spanning a longer period of time. Should the employee be absent due to ill-health this may need to be reviewed accordingly in the timescale allowed for improvement.
- 4.4 In extreme cases, the period given for improvement after the date of a final written warning will be no more than four weeks.

### **Outcomes of Monitoring and Support**

- 4.5 Following this structured period of assessment support, monitoring and evaluation, the next stage will be to arrange a further interview to review progress and outcomes. Where a satisfactory and sustained level of performance has been achieved there will be no further action under the formal procedure except to monitor the situation as part of normal management meetings. Any formal warning issued will remain on file until the Headteacher/Committee is of the view that this can be removed. In the event

that the employee has failed adequately to satisfy targets and/or performance standards set, consideration must be given to whether any of the following is required:

- (a) a further formal written warning (which may be a final written warning) and a further period of support, monitoring and evaluation.
- (b) a different balance of duties, if possible and appropriate;
- (c) an alternative suitable post in the school if possible and appropriate;
- (d) referral of the matter to a Governors' Committee for consideration of dismissal due to failure to improve, in which case consideration will also need to be given to suspension of the employee and/or alternative working arrangements. This Committee must be convened as a 'Staff Dismissal Committee'.
- (e) referral of the matter to the Headteacher where responsibility for consideration of dismissal has been delegated by the Governing Board.

## 5. Formal Capability Hearings

5.1 If the final decision is to deal with the matter under (d) or (e) above, the employee must be written to confirming the decision to refer. The letter to the employee must be received not less than **5 working or 7 consecutive days** before the hearing itself and must:

- (i) instruct the employee to attend a formal hearing;
- (ii) contain a written statement of the specific concerns against the employee (confirming the seriousness and that dismissal could be a possible outcome);
- (iii) advise the employee that the hearing forms part of the formal capability procedure (including a copy of the procedure if this has not already been provided);
- (iv) advise the employee of his/her rights of representation;
- (v) contain copies of any relevant documents to be submitted to the hearing;
- (vi) request details of any documents to be submitted and witnesses to be called by the employee.

A duplicate copy of the letter and all documentation must be included for his/her representative.

## 5.2 Preparing for the Hearing

It is good practice to agree a mutually convenient date for the capability hearing with the employee and their representative. This is to ensure that the hearing does not have to be delayed or postponed at the last minute. Where the chosen representative cannot attend the date proposed, the employee can offer an alternative date and time so long as it is reasonable and falls before the period of **5 working or 7 consecutive days** beginning with the first day after the day proposed by management.



The employee must have regard to the availability of the managers involved in the case. The location and timing of any alternative hearing should be convenient to both the employee and management.

The Head Teacher/Governing Board must arrange for a clerk to be available to take note of the key points during the hearing.

Consideration must be given to requesting the presence of appropriate LA advisers for any hearing conducted by the Head Teacher, the Staff Dismissal Committee or Staff Dismissal Appeal Committee. The Director of Education and Care Services representative has a right to attend in cases where dismissal could be the outcome. Any advice given in this respect must be considered before any decision is taken.

The Line Manager/Head Teacher presenting the case is also entitled to be assisted by an officer of the LA acting in an advisory capacity. Such an officer should at no time take part as a witness in the proceedings.

The Head Teacher/Committee will decide at the hearing whether the case for further formal action has been established after considering all the evidence presented by both sides.

### 5.3 Penalties

The possible penalties available to the Headteacher/Staff Dismissal Committee:

<b>Level of Performance</b>	<b>Possible Capability Penalty</b>
Continued failure to work to required standards after previous formal written warning(s)	Final written warning, transfer or relegation to another post, dismissal with notice

### 5.4 Decision Letters

The decision on the outcome of the formal capability hearing will be given to the employee at the end of the hearing whenever possible and in any case in writing, within **5 working or 7 consecutive days** of the hearing. At the same time as the employee is informed of the outcome of the hearing, he/she will be advised of any right of appeal.

If a penalty is to be imposed, the employee must be informed in writing, as appropriate, of:

- (i) details of the specific concerns;
- (ii) a brief summary of the findings as to the facts presented at the capability hearing;
- (iii) the nature of the penalty imposed or alternative course of action decided upon;
- (iv) the opportunity to ask for clarification of the action to be taken and from whom.

Where dismissal is not the outcome, the decision letter must state:

- (a) the level of performance required in the future;
- (b) the time scale within which the performance will be monitored and improvement assessed and who will be responsible for carrying this out;
- (c) arrangements for guidance, feedback, supervision or training, where appropriate;
- (d) what will happen if work performance fails to meet the required standards;
- (e) the specified period of time after which he/she may request removal of a warning from file and to whom;
- (f) the employee's right of appeal and how this should be presented.

5.5 A copy of this letter should be sent to the employee and his/her representative, the Director of Education, Health and Care Services, and a copy retained on file. As indicated in the letter an employee may request the Committee or Headteacher, after a specified period of time, to remove any warning letter from file for the purpose of future capability proceedings. Such a request shall be fully considered and not unreasonably refused and the Committee or Headteacher will respond in writing to this request normally within **5 working or 7 consecutive days**, giving reasons if this request is refused.

## 6. Appeals

6.1 Under this procedure an employee has the right to appeal against:

- a final written warning
- a decision not to remove a warning from the employee's file
- dismissal

6.2 In all other cases the employee is entitled to register his/her dissent against a formal warning and to have his/her reason(s) for this recorded as part of the decision letter.

6.3 The appeal will be heard by an Appeal Committee as appropriate but there will be no further right of appeal beyond a hearing by one such Committee. In the case of an appeal against dismissal the Appeal Committee must be convened as the Staff Dismissal Appeal Committee.

6.4 The Appeal hearing provides an opportunity for a rehearing of the case to determine whether the original decision was reasonable in the circumstances.

APPEAL AGAINST	RIGHT OF APPEAL
Final written warning issued by Headteacher	Committee
Headteacher's decision not to remove a warning from the personal file	Committee
Any decision of the Committee except a decision arising from an earlier appeal stage	Appeal Committee or Staff Dismissal Appeal Committee

A request for an appeal must be made to the Headteacher within **5 working or 7 consecutive days** of the receipt of the letter detailing the decision.

## 7. DISMISSAL

- 7.1 A Staff Dismissal Committee or Headteacher (where in receipt of delegated powers) is authorised to determine the dismissal of an employee (in consultation with the Director of Education, Health and Care Services). The Capability Committee and the Staff Dismissal Committee may be the same committee.
- 7.2 The decision to dismiss will be confirmed in writing to the employee, his/her representative and the Director of Education, Health and Care Services. The letter will also contain the reasons for the dismissal and the right of appeal to the Staff Dismissal Appeal Committee within **5 working or 7 consecutive days** of receipt of the letter.
- 7.3 Where the Staff Dismissal Appeal Committee decides to uphold the decision of the Staff Dismissal Committee to dismiss there will be no further internal right of appeal. This decision may be communicated verbally to the employee at the conclusion of the hearing but will in every case be confirmed in writing to the employee, his/her representative and the Director of Education, Health and Care Services within **5 working or 7 consecutive days**.
- 7.4 Within **5 working or 7 consecutive days** of the date of written notification of the decision to dismiss by the Headteacher/Staff Dismissal Committee, the Director of Education, Health and Care Services will give notice to terminate the employee's contract of employment at the school.
- 7.5 If the appeal to the Staff Dismissal Appeals Committee overturns the decision of the Staff Dismissal Committee to dismiss, the termination notice may be rescinded.

## Informal Supervision

In making appointments and considering access to training and promotion opportunities, managers should ensure that each employee is aware of the standards expected of him/her. LA advisers (eg the School's Personnel Provider, Health + Safety, Finance ) will be able to provide advice and guidance on such matters. Useful reference documents would include the following:

- Job Description
- Person Specification
- Appraisal reports
- Training Plans

It is advisable to approach all capability issues from the view that each employee has individual reasons for inadequate performance and to try to remedy the causes as this is a more positive and effective approach.

The emphasis throughout the early informal stages should be on considering support measures and monitoring their effect. Examples would include:

- (i) Training
- (ii) Counselling (accompanied, where appropriate, by additional advice and support)
- (iii) Medical assessments
- (iv) Constructive discussions (aimed at pointing out any shortcomings in job performance and encouraging improvement)
- (v) Other assistance which it is considered would facilitate improvement (eg job redesign, job shadowing, if these are possible)
- (vi) Arranging closer supervision
- (vii) Making more time available for discussions
- (viii) Using trial periods to allow time for the problem(s) to be addressed.

The individual line managing the employee should be of sufficient competence and experience to assist with his/her work. Where an employee's performance is giving cause for concern, the Line Manager will meet with him/her. The Line Manager will draw the employee's attention to the ways in which his/her performance is considered to be deficient. Any shortcomings should be discussed as specifically as possible and required standards should be made clear. It may be beneficial to the meeting to allow the employee to be accompanied by a friend.

The employee should be given reasonable opportunity to comment and explain. Appropriate remedies should be discussed with advice from any other relevant adviser. An action plan detailing objectives and any agreed support and training should be drawn up in writing.

The employee should be advised that the Line Manager will monitor his/her performance over a specified period of time and give regular feedback on progress. The period allowed should be reasonable, having regard to the action planned and the improvement required. During this period, part of the normal work programme will be to provide ongoing advice, support and feedback to the employee as necessary. The employee should also seek and accept help from other sources, as appropriate, and attend relevant training.

The Line Manager should keep management notes of action taken and of warnings issued. This record will not be placed on the employee's personal file but may be used as evidence at a later stage if further action under this procedure is necessary. It is also essential that the Headteacher is kept generally informed of such concerns where s/he is not the Line Manager.

Where progress is made during the informal stage, the Line Manager may decide, as appropriate, and following consultation with the employee and any relevant or appropriate adviser, to modify or terminate the process without the need for more formal action.

Where, however, following a **reasonable** period of support and supervision no significant improvement is evident and a second opinion has been sought from an appropriate professional adviser to confirm the existence of performance problems, the Line Manager will, in consultation with the Headteacher, formally warn the employee in writing of the need for improvement with a statement of the aspects of work which are causing concern. S/he should also be advised to consult his/her professional association. **This will constitute the date of entry into the formal procedure.**

## Procedure for Conducting Formal Hearings before a Governors Committee/Staff Dismissal Committee/Headteacher

Once a decision has been made to hold a formal hearing the employee will be sent a letter notifying him/her of the hearing (with a duplicate copy for his/her representative) to be received not less than **five working or seven consecutive days** before the hearing itself.

Reference to the Supervisor, the employee, the Director of Education, Health and Care Services and the Senior Manager shall include their personal representative as appropriate. In certain circumstances (eg small schools), the Supervisor and Senior Manager will be the same person.

1. The Senior Manager's report shall be submitted to the hearing setting out the specific concerns, together with any written statement made by the employee. Copies of the written statement(s) and any other relevant documents shall be sent to the employee and members of the panel/Head Teacher at the same time as the notice of the date and time of the meeting. The employee shall be entitled to attend the hearing and to be represented by his/her Trade Union or a fellow employee of his/her choice and to call witnesses and produce documents relevant to his/her case.
2. If the employee or his/her representative fails to turn up at the hearing, consideration will be given to:
  - (i) the employee's difficulty in obtaining a representative;
  - (ii) any difficulties and costs which may arise from reconvening the meeting;
  - (iii) the employee's medical condition.

The Senior Manager will already have determined whether the employee wishes to make representations to the Governors' Committee/Headteacher and whether s/he wishes to attend in person or send a representative or make an oral representation (see paragraph 9 of the Model Procedure).

3. Aspects of (2) above will also be considered if a witness (es) fails to attend. This would include how important that witness(es) is to the case.
4. If a Committee member fails to turn up (either at the first hearing or following an adjournment) the Committee will need to consider whether it can continue with a reduced number or whether a new Committee member will need to be appointed in accordance with adopted procedures. Where a dismissal is being considered, a minimum of three Governors (two in exceptional circumstances) must hear the case and be convened as the Staff Dismissal Committee. Where responsibility for staff dismissal has been delegated, the case may be heard by the Headteacher.
5. The Chair of the Committee/Headteacher hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed.
6. The Chair/Headteacher will establish whether witnesses are to be called by either side.

7. The evidence will be presented by the Senior Manager ensuring that the employee and his/her representative are made aware of the content of any witnesses' statements or relevant records and documents. In presenting the case, witnesses may be called as appropriate. Each witness will leave the room after giving evidence.
8. The employee may question the evidence and witnesses called by the Senior Manager.
9. The employee will present his/her evidence and call any witnesses.
10. The Senior Manager may question the evidence presented by the employee and witnesses.
11. The Headteacher/ Committee, the Director of Education, Health and Care Services' representative and any advisory officer(s) present will have the opportunity to ask questions of both sides and witnesses at any time during the proceedings outlined in paragraphs 7-10 inclusive. Late evidence can only be admitted with the agreement of the Committee/Headteacher.
12. After questioning, each witness will be asked to leave the room but possibly not the venue, in case further evidence is required.
13. The Committee/Headteacher may request an adjournment at any stage in order to seek clarification.
14. The Senior Manager will then sum up his/her case.
15. The employee or his/her representative will then sum up his/her case.
16. The Senior Manager, the employee and their representatives will then withdraw.
17. The Headteacher/Committee will then deliberate in private together with the Clerk and any advisory officer(s) present to give advice as to law and procedure as required. If it is necessary to clear any points of uncertainty on the evidence already given both sides are to be recalled together even if only one is concerned with the point giving rise to doubt. If further investigations are necessary it may be appropriate to adjourn the hearing at this stage, in which case both parties are to return and be advised accordingly by the Chair.
18. At the conclusion of the deliberations all parties shall return and the Chair/Headteacher will announce the Committee's/his/her decision and/or recommendation to both sides personally and/or in writing as appropriate. The employee will be informed of any action which will be taken and of his/her rights of appeal as appropriate. The findings shall in any case be confirmed in writing within **five working or seven consecutive days** together with the employee's right of appeal.

## Procedure for Conducting Formal Appeal Hearings before a Governors Committee/Staff Dismissal Committee

Reference to the Senior Manager, employee and Director of Education, Health and Care Services shall include their personal representatives as appropriate.

1. The employee should write to the Senior Manager requesting an appeal within **five working or seven consecutive days** of receiving a formal letter notifying the decision of the Staff Dismissal Committee/Headteacher and any action to be taken under the Procedure.
2. The Dismissal Appeal Committee will consist of members appointed by the full Governing Board excluding those Governors who have been part of a Committee which has already heard the case.
3. The Hearing will be arranged as soon as practicable. The employee will be sent a letter (with a copy for his/her representative) to be received at least **five working or seven consecutive days** before the date of the appeal hearing itself.
4. The employee may be represented by his/her trade union or a work colleague. Witnesses may be called and documents produced at the hearing by both sides.
5. If the employee or his/her representative fails to turn up at the hearing, consideration will be given to:
  - (a) the employee's difficulty in obtaining a representative;
  - (b) any difficulties and costs which may arise from reconvening the meeting;
  - (c) the employee's medical condition.
6. Aspects of (v) above will also be considered if a witness(es) fails to attend. This would include how important that witness(es) is to the case.
7. If a Committee member fails to turn up (either at the first hearing or following an adjournment) the Committee will need to consider whether it can continue with a reduced number or whether a new Committee member will need to be appointed in accordance with adopted procedures. In any case, no fewer Governors than that comprising the first Staff Dismissal Committee may hear the case.
8. The Chair of the Committee hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed.
9. The Chairman will establish whether witnesses are to be called by either side.
10. The employee will put his/her case in the presence of the Senior Manager and will call any witnesses.
11. The Senior Manager may then ask questions of the employee and witnesses.
12. The Senior Manager will put the management's case in the presence (if any) of the employee and will call any witnesses.



13. The employee may ask questions of the Senior Manager and witnesses (if any).
14. The Staff Dismissal Appeal Committee and the Director of Education, Health and Care Services' representative and any advisory officer(s) will be entitled to ask questions of the Senior Manager, the employee and the witnesses at any time during the proceedings outlined in paragraphs (10) to (13) inclusive.
15. After questioning, each witness will be asked to leave the room but possibly not the venue, in case further evidence is required.
16. The Staff Dismissal Appeal Committee may request an adjournment at any stage in order to seek clarification.
17. The employee or his/her representative will then sum up his/her case.
18. The Senior Manager will then sum up his/her case.
19. The Senior Manager and the employee and their representatives will then withdraw.
20. The Staff Dismissal Appeal Committee, with a Clerk in attendance and any advisory officer(s) present, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point giving rise to doubt.
21. The Staff Dismissal Appeal Committee will give their decision to the Senior Manager and employee and/or representative personally and/or in writing as appropriate. Their findings will in any event be confirmed in writing, together with reasons for any formal action taken within **five working or seven consecutive days**. Where notice of termination has been given the Staff Dismissal Appeal Committee may request that the LA rescinds the notice as appropriate.