

Competence Procedure for Support Staff

(This procedure is not applicable to teachers)

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Competence Procedure for Support Staff

1. Purpose

This procedure sets out the approach to managing performance when it fails to meet or falls below the expected standard.

The overriding aim of performance management is to achieve continuous improvement within a supportive framework; we recognise that there will be occasions when performance does not meet the required standards. Individual performance should be monitored and reviewed through the school's ongoing review and development processes.

The procedure has been drawn up to ensure that there is an effective mechanism for addressing problems which appear to be caused by the capability of a member of staff to perform work of a satisfactory standard. Capability refers to the skills, knowledge and aptitude of an individual that can be clearly distinguished from their conduct.

Ongoing health related issues will normally be dealt with in accordance with the relevant school's policy.

This document has been drawn up in consultation with the Trade Unions and Professional Associations representing staff and school leaders.

2. Scope

This procedure applies to all employees of the school who are employed on a contract of at least a term's duration, except those employed as teachers under the School Teachers' Pay and Conditions Document (SCTPD).

3. Key principles

This procedure is in accordance with legislative requirements and ACAS guidance. It seeks to balance the rights of the individual with those of the pupils and with the needs of the school.

- The aim of the procedure is to improve performance through support, training and review.
- It is accepted that work performance can vary from time to time. Poor performance of a sporadic or minor nature can normally be resolved by giving informal guidance and support to the staff member. Where work performance falls below expected standards, structured support, guidance

and training will be provided via this procedure in order to encourage improvement and enable the individual to meet expected standards.

- The expected standard of performance should be agreed, and progress reviewed on a regular basis, with reference to their current job profile and person specification.
- Where the employee can perform to the required standard but chooses not to, the disciplinary procedure is more appropriate.
- Competence issues need to be dealt with fairly and confidentially.
- The manager/senior member of staff must be able to provide detailed evidence that the individual is consistently, over a period of time, not meeting the required standards and raise this with the employee promptly.
- The manager should maintain full documentation throughout the application of this procedure.
- The manager must consider whether there are any underlying problems or impacting personal circumstances and provide support as appropriate.
- Reasonable adjustments should be identified and, where appropriate, implemented for employees, where relevant, in accordance with the school's Equality & Diversity Statement and guidance on supporting disabled employees.
- The employee will be involved in the formulation of action plans designed to improve their performance. Ideally the plans should be agreed with the staff member. Sufficient time should be given for the employee to demonstrate improvement in their current job.
- The employee has a right to be accompanied at formal meetings, normally by a colleague or trade union representative.

4. Roles and Responsibilities

Line managers are responsible for managing the work performance of their employees as set out in job descriptions/job profile and the school's structure plan. Senior managers and the Headteacher are advised to seek support and guidance from their HR Advisory service. Headteachers' guidance supplements this procedure.

5. Managing Underperformance

Regular meetings between managers and individual members of staff, in accordance with the school's review and development process, including induction, continuous professional development and other forms of advice, guidance and support should enable employees to develop the skills, knowledge and general capability to fulfil their role. (See Advice and Guidance) It is important that expectations of employees are clarified and feedback on performance given. Managers should review performance against any agreed objectives through regular supervision and timetabled review meetings, and any issues of under performance should be dealt at the

earliest opportunity. Ideally most should be resolved as part of the ongoing review process. Evidence of how the employee is not meeting expectations should be referenced to the job description/job profile and person specification.

Competence Procedure

Stage 1: Informal meeting

If however, there is no improvement, or insufficient improvement as defined and agreed in review meetings, the employee should be informed in writing that the concerns about performance are being considered now under the informal stage of the Competence Procedure. In accordance with the procedure a Stage 1 meeting is arranged. As this is an informal meeting there is no requirement for the employee to be accompanied by a representative or companion, however they may be accompanied if they wish. The meeting should be documented and include:

- details of the under- performance, including evidence to support the manager's view that required standards (standards as defined in the job specification, any adopted or adapted by the school) are not being met,
- the improvement required,
- the timescale for achieving this improvement,
- a date for review (up to a maximum of three months review),
- the support or training that will be provided to assist the employee, including when this will commence.

Review period

The period of review will usually be 6 to 12 weeks, dependent on agreed circumstances, during which time performance and the delivery of support will be monitored and regular feedback provided through meetings with the line manager. These meetings should be documented. Managers should provide support and training as appropriate during this period. At the end of the review period the manager should provide evidence of the standards of performance that have been demonstrated plus the support provided and confirm the outcome in writing, whether:

(1) the employee has reached the expected standard and there is no longer cause for concern,
(2) there has been some improvement but not to the required standard overall, substantiated by evidence, and the review period will be extended,
(3) there has been no, or only minimal, improvement, then the employee should be invited to a Stage 2 meeting.

In the case of (1) the employee will be informed that the routine review and development process will be re-instated. In the case of (2), Stage 1 will continue and a meeting arranged to plan the further review period.

Trade Union Representative

No action will be taken under the formal procedure in respect of a trade union representative until the circumstances of the case have been discussed with a senior representative or paid official of the trade union, with the consent of the employee. The Headteacher is advised to seek HR advice before taking any action.

Stage 2: Formal meeting

The employee should be invited with at least 5 working days' notice to attend a formal meeting to discuss the shortfall in performance with (*insert here senior member of staff, who is not providing support)*. The employee will be informed of the right to be accompanied by a representative or companion. The discussion should include:

- evidence of the lack of progress during the review period, *presented by the line manager,*
- any extenuating circumstances that may be affecting performance.

The senior member of staff conducting the meeting will consider the information provided by the line manager and the employee's response. They may refer the process back to Stage 1 of the procedure or determine that Stage 2 will be implemented. In this case the discussion will consider:

- any reasonable adjustments, if appropriate, that may be required,
- further targets for improvement,
- further support/training that may assist, including the provision of a mentor is this is appropriate,
- what will happen during the forthcoming 6 to 12 week review period,
- a warning that failure to improve performance could lead to a Competence Procedure Hearing, where the continued employment of the employee will be considered.

The decision whether or not to apply the formal Competence Procedure and action plan should be confirmed in writing to the employee and copied to their trade union or other representative.

Formal Review period

The period of review will be from 6 to 12 weeks, dependent on circumstances, during which time performance and support programme should be closely monitored and regular feedback, referenced to the standards required, provided, as a minimum on a monthly basis and be documented. At the end of the review period, the senior member of staff (ideally the same person who held the entry into Stage 2 meeting) should confirm the outcome in writing. The letter will confirm whether option 1, 2 or 3 will apply.

(1) The employee has reached the expected standard and there is no longer cause for concern.

(2) There has been some improvement, but the employee is not yet fully at the required standard and the review period will be extended by a defined period, which will be formally confirmed in writing.

In the case of (1) the employee will be referred back to the routine review and development process. In the case of (2) a meeting will be arranged within Stage 2 of the procedure to plan the extended review period. A written warning will be issued that failure to meet standards may lead to a hearing where the continued employment of the employee will be considered.

(3) If there has been no improvement, or consistent inadequate improvement, the employee should be invited to a Competence Procedure Hearing.

(If the Headteacher has been providing the support and feedback during the review period, it is advised that arrangements are made for a meeting chaired by a governor/other Trust representative to consider the information provided and to determine whether (1), (2) or (3) will apply.)

Stage 3: Competence Procedure Hearing

This should be arranged if performance has not improved to the required standard overall and stages 1 and 2 have been followed. The employee should be asked in writing to attend a formal hearing, and five working days' notice should be given. The letter should explain that dismissal is a potential outcome and provide or refer to the evidence that will be considered during the hearing.

The Hearing will be conducted by the Headteacher if they have the delegated authority to dismiss and have not been involved in the procedure so far (*or, otherwise, heard by a committee of governors or other Trust representatives.)*

The school should seek the advice of their HR Service. The decision of the Headteacher/ Committee will be notified at the hearing. Outcomes may include:

- Dismissal with notice;
- Redeployment to another role at the same level that better meets the skills and experience of the employee, where this is possible within the school structure and a vacancy is available/can be created.
- Redeployment into a job which incurs a reduction in grade, where this is possible within the school structure and a vacancy is available/can be created. This may not attract pay protection, if the Local Governing Committee or Trust decide to award pay protection this will be for a maximum of 2 years.
- Final written warning with a further review period.
- The judgement that no sanction is appropriate.

A letter confirming the outcome of the hearing will be sent to the employee within 5 working days and copied to the employee's representative.

Hearing Procedure

- The Headteacher/ Senior leader who made the decision to refer the employee to a Hearing will present the case and call the line manager who conducted the procedure as a witness. If a governor/trust representative chaired a meeting to determine that the employee would be referred to a hearing they will attend as a witness. Other witnesses may be called if appropriate.
- The employee/representative will have the opportunity to ask questions.
- The Headteacher/Governors'/Trust committee will have the opportunity to ask questions. (Any witness to then withdraw)
- The employee/representative will present their response to the performance concerns and any other relevant information. They may call witnesses, if appropriate
- The Presenting Officer will have the opportunity to ask questions.
- The Governors'/Trust committee will have the opportunity to ask questions. (Any witness to then withdraw)
- The Presenting Officer and the employee (or representative) will each have the opportunity to sum up.
- The Presenting Officer, the employee, and their representative, will all withdraw. The Governors'/Trust committee/ Headteacher will consider the case and reach a decision. The governors/Trust representatives/Headteacher may be advised by their HR Advisor.

Decision to Dismiss

In case there is a decision to dismiss the school needs to select the appropriate statement from the list below for their school.

> The power to decide that members of staff (other than teachers) should no longer work at this school has been delegated to the Headteacher acting with one or more governors.

Dismissal

Once the Local Governing Committee has decided that the member of staff should no longer work at the school, it will notify the Trust of its decision and the reasons for it. Where members of staff work solely at this school, the Trust must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the Trust must require them to cease to work at this school.

Appeal

The employee has a right of appeal:
An appeal is to a committee of three Trust representatives including the Trust CEO. The appeal must be registered with the Trust CEO *(the employee should be informed where to submit an appeal to ensure that it reaches the CEO in a timely manner)* within 5 working days of receipt of the written notification of the hearing decision.

The employee will receive a reply to the appeal letter within 5 working days, acknowledging the registering of the appeal which will take place as soon as practicable. There will be a minimum of 10 working days' notice of the appeal date.

Any statements of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal Panel and other party at least 5 working days prior to the hearing.

The employee has a right to be accompanied at the appeal. The employee will be informed of the outcome of the appeal in writing within 5 working days. That outcome is the final stage within the school's procedures.

Appeal Procedure

Normally the Headteacher/Chair of the 1st Committee will present their case first following the pattern below. Only if the employee's grounds of

appeal are restricted to certain aspects of the case, or are procedural, will the employee be asked to present their appeal first and the Headteacher/Chair of 1st committee to present their response second.

- The Headteacher, (accompanied by the Chair of the 1st committee, where appropriate) will present the case for dismissal. The Chair of the 1st sub-committee/Headteacher will explain the reasons for the (committee's) decision. Witnesses may be called, if appropriate

- The employee/representative may ask questions of the Headteacher, (Chair of 1st committee) or any witnesses called.

- The Appeal committee may ask questions of the Headteacher, (Chair of the 1st committee) or any witnesses called. (Witnesses will then leave)

- The employee/representative will present their case and may call witnesses.

- The Headteacher/Chair may ask questions of the employee and any witnesses called.

- The Appeal committee may ask questions of the employee and any witnesses called. (Witnesses will then leave)

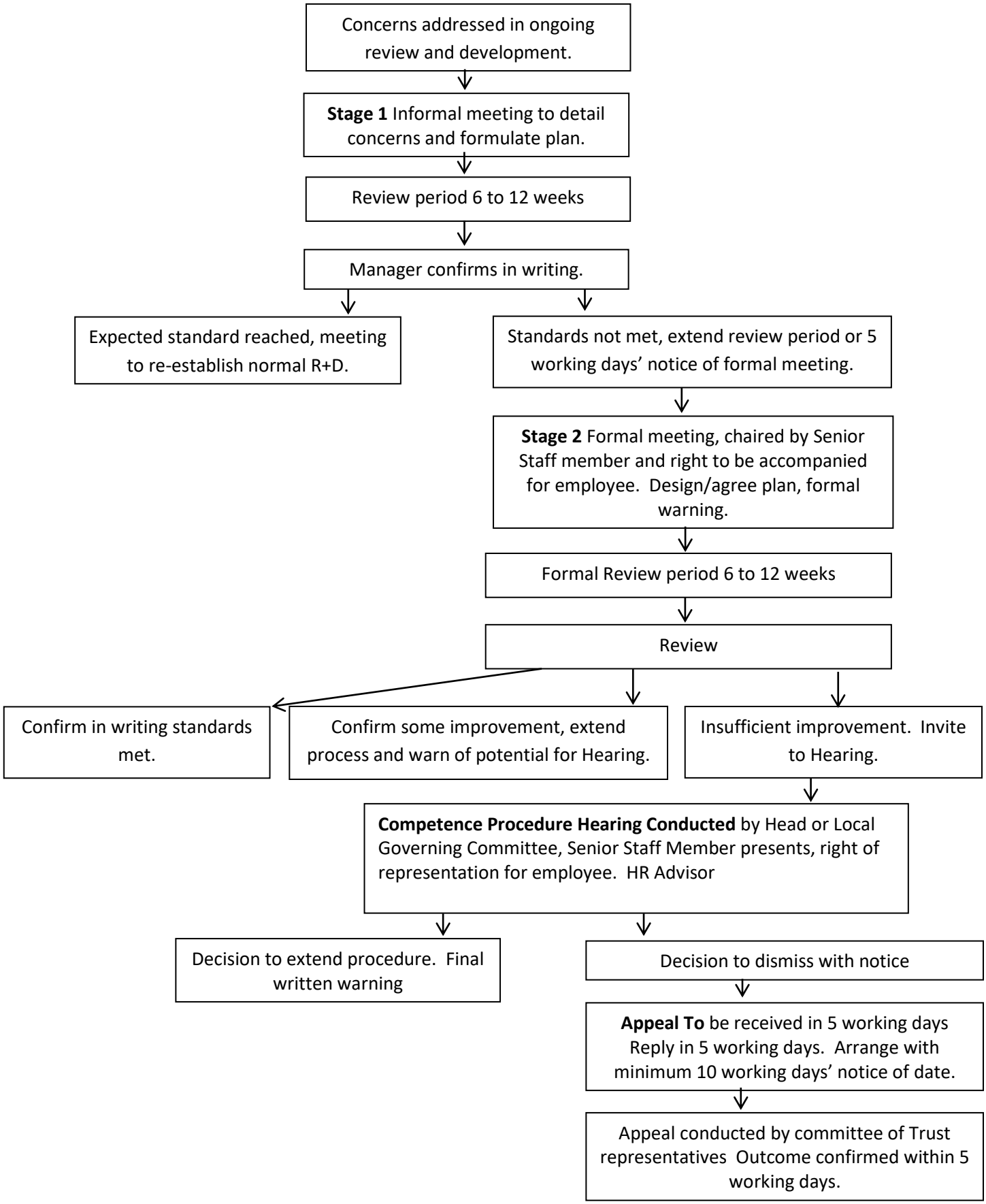
- The Headteacher (Chair of 1st committee) may sum up.

- The employee/representative will have the opportunity to sum up.

The Headteacher/Chair of 1st committee, employee and representative will all withdraw. The Appeal committee will reach a decision and will be advised by HR.

The employee will be recalled and informed of the outcome of the appeal hearing in person where possible. The outcome will be confirmed to the employee in writing within 5 working days.

Appendix 1 **Flowchart**



Appendix 2 Improvement Plan

Name _____ **Review Date** _____

Targets	Success Criteria	Training/Support	Timescale	Person Responsible
1.				
2.				
3.				
4.				

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Appendix 3

Competence Procedure for Support Staff
Advice and Guidance for
Headteachers and Local Governing Committees

Introduction

The potential for issues of under-performance to develop are minimised if the following are in place: -

- A robust and regular employee review and development process has been adopted and consistently implemented.

- The above process is monitored and evaluated by the Headteacher and Governing Board.

- The required standards and expectations for the fulfilment of the role are clearly communicated to employees.

- Continuing development for all staff is clearly linked to the key requirements of an employee's role, any targets for development and the school's priorities.

- Regular leadership development is undertaken to ensure senior staff can offer clarity of expectations and support to their teams.

- A range of methods of evaluating the effectiveness of the school are in place to inform any challenge that required standards are not being met.

- Effective measures inform the identification of areas for development, and this regularly prompts appropriate action.

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- The culture of the school supports and values all members of the school community and facilitates them in contributing to their full potential.

Preamble

1. Underperformance or lack of competence may affect staff at all levels any time in their careers and such staff are entitled to sympathetic consideration and active support from colleagues in the school.

2. The nature of concern about work performance, its level of seriousness and cause(s), must be communicated at the outset to the employee, clarified by structured information gathering and systematic recording.

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3. The employee's line manager must inform the Headteacher when they develop concerns about the performance of a staff member, such that they are contemplating a review meeting to raise the issues. Likewise, a Headteacher or senior leader who identifies significant concerns about an employee's performance should ensure the line manager is informed and that appropriate measures are taken.

4. If the competence procedure is being applied the Headteacher will need to ensure that the line manager has the necessary training, knowledge, skills and experience to determine an appropriate structured support and monitoring programme and its implementation. The Headteacher should ensure that the line manager follows the correct process by reviewing the procedure to be followed with him/her before they commence. They may consider identifying someone outside the process to mentor the line manager. He/she should be advised to assess whether:

    - the review and development process has been operated fairly and appropriately so far,
    - whether the employee has received appropriate, timely feedback and clarity on the expected standards of performance and
    - relevant CPD, through the employee review process and provision linked to school/role priorities.

    In providing this preparation to the line manager the Headteacher must ensure that they do not become involved in the details of the case.

5. The Headteacher should ensure that the staff member is involved in determining an appropriate support programme. It should be stressed that the aim of the support programme is to help the employee to improve and develop in the performance of his/her duties in their interests and those of the school as a whole. Ideally the action plan should be agreed with the employee.

<u>Identifying the Problems</u>

- Where there is any concern about an employee's work performance it is necessary, at the outset, to identify any specific problems being encountered by the employee.
- Consider whether there may be health concerns, including mental health issues. Consideration should also be given to whether there are any other school policies or procedures which are relevant to the circumstances and that they are applied appropriately. (e.g., Stress Management, Management of Sickness Absence)

- The ongoing review and development process will be the key source of information that raises any concern and prompts a decision to investigate further. In assessing how serious are the identified performance concerns, impact on pupils' and their learning will be a key consideration.
- It is important that the employee knows at the outset what is expected of them, if this has not been implemented then the procedure may be compromised. At induction and during the review and development meetings the line manager should check that the staff member is clear on:

    - the responsibilities of their job (is the Job description up to date?)
    - the required standards in the execution of the role (in as concrete terms as possible, the person specification will clarify the requirements in terms of knowledge, skills and experience),
    - the person to whom he/she is responsible (line manager)

Employees with Health Problems

Employees with health problems or those experiencing stress may require particular support.

The performance of members of staff experiencing personal difficulties, including health issues, may decline. Headteachers, Governors and the Trust will want to support such staff through difficult periods and minimise any impact on the education of pupils or on other staff. The Headteacher will need to use their professional judgement to determine, on balance, where the application of the competence procedure is appropriate and necessary, in such circumstances.

Where an employee has a disability, Headteachers should be aware of any adjustments required to support employees in the workplace. Further advice may be sought from Occupational Health when considering issues of underperformance where the employee has a disability. They are also advised to seek advice from HR to ensure the needs of staff who are covered by Equality Act 2010 are addressed in line with the School's Equality & Diversity Statement.

Where a member of staff has been diagnosed with workplace stress, a risk assessment should be conducted which is available from the HSE website. A school's policy for the management of stress/promoting wellbeing will provide further guidance. A proactive approach to identifying and responding to any sources of stress, in collaboration with the staff member, their trade union representative (where relevant), and HR adviser is recommended. Additional advice can be sought from Occupational Health on the range of support that is

available for employees with work related stress health issues, as well as other mental health issues.

It is recognised that a proposal to initiate the Competence Procedure may, in itself, be a cause of stress, therefore school leaders should plan to mitigate this effect through the quality of professional relationships, communication, positive approach and consideration for the colleague's dignity that is displayed. The Local Authority Model Management of Stress Policy provides relevant guidance and is available to schools purchasing the Children's Services HR traded service

The inclusion of mentoring that provides personal support, as well as work guidance, in the programme drawn up to facilitate improvement of the employee's performance, is recommended.

More detailed advice on managing the occurrence of ill health absence when the application of the Competence Procedure is also being considered, or already implemented, is available in the companion document, 'Ill Health Absence and the Application of the Competence Procedure for Support Staff'.

Competence Procedure for Support Staff - Making it work

<u>Identifying the Problems</u>

The following may help in determining what exactly is contributing to the performance issues and thus the considerations that should inform any action to address. Support and advice from sources external to the school may also be valuable.

- What is the wider context – the school's situation, turbulence, vulnerability to Ofsted judgement?
- New leadership in the school or new line manager? How robust/shared are the judgements.
- Individual staff member – new to school or to role? Previous assessments of effectiveness in role Is this the first time any issues have been raised in any way? Has something changed suddenly or over time? Has all feedback from various sources been accurate, fair and honest (in terms of what is included or significant omissions)?
- Personal circumstances (where shared by the employee), health issues, commitment demonstrated to their role and the school, accuracy of self-evaluation?
- What are relationships like between colleagues and what support is available within the school? Are all relevant staff clearly subject to the same expectations?

<u>Action</u>

- ✓ Headteacher ensures line manager is suitable for the circumstances and has mentor support.

- ✓ The required standards for carrying out the role are a regular reference point in the school and staff know what effective work practice looks like in their role.

- ✓ There is clarity of evidence to illustrate what needs to improve.

- ✓ An action plan format would facilitate the detailing of the necessary components of the support and monitoring process, with a range of evidence and concrete success criteria to ensure clarity of expectations for all parties.

- ✓ Any original review and development targets may be revised or elaborated and broken down into actions.

- ✓ A systematic, incremental approach is recommended, where necessary.

- ✓ Listen to what the employee thinks about the type of support/training they find most helpful in determining what, of the available choices, should be incorporated into the plan. Familiarity in the school with self-evaluation, peer working, coaching and or mentoring will be helpful, depending on the role.

- ✓ Strongly advise the staff member to consult with their trade union for support and advice/guidance on making best use of the programme of structured support and monitoring. In exceptional cases the union may have a concern about the way the process is being applied and, in these circumstances should request a meeting with the Headteacher. The Headteacher should then seek advice from their HR Advisory Service in assessing whether any revisions should be made.

- ✓ Build in regular, constructive feedback throughout the programme so that success is recognised and built upon, the effectiveness of the support is monitored, and amendments can be considered as soon as is necessary.

- ✓ Allow time for the support to be digested by the employee, for reflection with the person providing support and for further development/embedding of the improvement to practise. An initial period for improvement of around 6 weeks should be sufficient to demonstrate whether the process adopted is effective and any outstanding improvement still required is likely to be secured through a short extension to the plan.

- ✓ Ensure the employee understands that they need to cooperate with the process and are advised to take ownership of their progress.

- ✓ The role of the line manager, in setting/agreeing the plan with the employee and assessing improvement, is separate from any other staff member who is providing support, but they need to be very consistent in their understanding of the expectations sought.