

# Dismissal Policy

This policy aims to ensure that headteachers conduct dismissals in a fair and equitable manner and that a fair procedure is followed to end an employee's contract.

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## 1 Who does it apply to?

This process can be used to make dismissals in the following circumstances:

- Non-renewal of a temporary contract e.g. maternity or sickness absence cover
- End of fixed term contract by reason of redundancy e.g. end of funding or completion of a specific task (but only where the employee has less than two year's continuous service)
- Unsatisfactory probationary period

**Where an employee has more than two year's continuous local government service, the headteacher should seek advice from the HR Advice and Support team before starting the process.**

If an employee is on maternity leave or absent due to sickness absence, please contact the HR Advice and Support team in advance of the contract end date for guidance on the appropriate method of conducting the consultation process.

## 2 Responsibilities

The headteacher is responsible for informing the employee that their contract is due to come to an end. They should consult with them about the proposal to terminate the contract and give them an opportunity to discuss the situation.

The headteacher is also responsible for carrying out an exit interview with the employee and ensuring the Payroll and Employee Services team are notified of the termination of the contract via the SAIL system. Please refer to the Exit Guidance available on the extranet.

## 3 Informal stage

### 3.1 Temporary/Fixed term contracts

Headteachers should review fixed term and temporary contracts on a regular basis and decide whether a contract will continue or come to an end. Ideally, this decision should be made at least three months prior to the end date of the contract to allow sufficient time for consultation with the employee to take place.

The headteacher should ensure that they informally notify the employee as soon as possible if the school is not able to renew the contract.

Where the headteacher is not sure whether the contract will cease (e.g. waiting for funding to be confirmed), they should begin the formal process and pull back on the proposal if needed, rather than fail to properly consult with the employee.

Headteachers must be aware of contractual notice periods and termination dates for teaching staff. Contact the HR Advice and Support team for further details if required.

### **3.2 Unsatisfactory probationary period (support staff only)**

Before considering using this process, it is essential for the headteacher to have raised the issue of poor performance with the employee during their probationary period and to have put the necessary support mechanisms in place to help the employee improve to a satisfactory standard.

If, despite this additional support, the employee has failed to reach a satisfactory standard of performance by the end of their six month probationary period, this process should be followed.

Contact the HR Advice and Support team for further advice if required.

## **4 Formal stage (3 step process)**

There are three main stages that should be followed when dismissing an employee using this process:

- Written statement
- Formal meeting
- Right of appeal

It is important that headteachers follow this procedure correctly, as failure to follow the process may result in an appeal or subsequent financial penalties at an Employment Tribunal if a tribunal determines that the employer acted unreasonably in the circumstances.

### **4.1 Step 1 – Written statement**

The headteacher will write to the employee advising them of the proposal to terminate their contract and detailing all the reasons and circumstances leading to this proposal. Where the dismissal is as a result of an unsatisfactory probationary period, as much evidence as possible should be included to explain why it is proposed to terminate the employment contract e.g. action plan.

The letter will include an invitation to a meeting to discuss the proposal in more detail. It is recommended that the employee is given 5 school days' notice of the meeting to provide the employee with the opportunity to prepare a response and to arrange representation, if required.

The employee has the right to be accompanied to the meeting by a trade union representative or a work colleague. If the person accompanying the employee cannot attend on the date suggested, the headteacher should offer another date, not more than 5 working days after the original date.

### **4.2 Step 2 – Formal meeting**

The headteacher will meet with the employee (and their representative, if required) to discuss the reasons for the proposal to terminate the employee's contract of employment and will give the employee the opportunity to respond to the information provided and raise any concerns.

Following the meeting, the headteacher will write to the employee confirming the outcome of the meeting and the termination date of the contract. Contractual or statutory notice must be given whichever is the greater. Payroll and Employee Services team must be notified of the termination date via the SAIL system and a copy of the letter should be included.

### **4.3 Step 3 – Right of appeal**

An employee who is dismissed under this policy can appeal the decision by following the Appeals Policy which is available on the extranet. This brings an end to the formal procedure.



This policy has been developed by the HR Advice and Support team, based on current legislation and best practice. If you would like any advice on the application of this policy, please do not hesitate to contact the team:

<b>Telephone</b>	03000 266688
<b>Email</b>	hradvice@durham.gov.uk

**Further support can be accessed by contacting (subject to SLA buy in):**

<b>Payroll and Employee Services</b>	<a href="mailto:pesschools@durham.gov.uk">pesschools@durham.gov.uk</a>
<b>Occupational Health</b>	<a href="mailto:occhealthadmin@durham.gov.uk">occhealthadmin@durham.gov.uk</a>
<b>Health and Safety</b>	<a href="mailto:hsteam@durham.gov.uk">hsteam@durham.gov.uk</a>
<b>Employee Assistance Programme</b>	<a href="http://www.healthassuredeap.com">www.healthassuredeap.com</a> Username: durham Password: council 0800 716017

<b>Author</b>	<b>Version</b>	<b>Last review</b>	<b>Next review</b>
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The school complies with all relevant statutory obligations. The school privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the school. For more information please contact the school directly.

If you have any concerns about how your data is handled, please contact either the school Data Protection Officer (details available from the school office), or the Information Commissioner's Office.