

Probation Periods

For Support Staff in Schools Guidance

A model for Schools



CHANGES – SEPTEMBER 2005

5. The Procedure	Revised Paragraph 5.6 – formal invitation to final review meeting if contemplating termination – to comply with Statutory Dispute Resolution Regulations
7. Failed probationers and dismissal	Updated in line Statutory Dispute Resolution Regulations
Appendix 3	New model letter – invite to final review meeting
Appendix 4	New model letter – outcome of review meeting –decision to dismiss
Appendix 5	New model letter – invite to dismissal appeal hearing

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Probationary Periods Procedure (Support Staff)
Guidance for Schools

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1. INTRODUCTION

- 1.1 Managers in schools have many responsibilities relating to the recruitment, management and dismissal of staff. One such responsibility is that of ensuring that newly appointed staff receive appropriate induction and training to enable them to properly carry out their duties and quickly become a valued member of the school community.
- 1.2 An important part of this process is to monitor the performance of new employees to ensure that they are able to fulfil their new roles and responsibilities before confirming the appointment at the end of the probationary period of service and that the school is providing the right support and training to enable them to do so.
- 1.3 The following advice has therefore been provided to help managers to monitor the performance of new support staff and to provide the additional support, as part of the induction process, that all such staff need when first appointed.
- 1.4 In addition to the advice included in this booklet, the Schools' H. R. Advisory Service staff will be pleased to discuss any problems relating to the probation of newly appointed staff in the school.

2. LEGAL POSITION

- 2.1 Even though new employees may be subject to a probationary period, their appointments should be on a permanent basis unless they are temporary or fixed-term for some other reason unrelated to their period of probation. Although it may sometimes seem attractive, it is rarely fair or reasonable to make an appointment temporary just to see how good a new employee is, before making them permanent. The probationary period can work to the benefit of both the employer and employee and form the basis for on-going reviews of performance and discussions about an individual's training and development needs.
- 2.2 It is important to note that the probation period also appears in the conditions of service for individuals employed on fixed term contracts, and that the probation process should therefore apply in these cases.
- 2.3 Although it is unlikely that employees dismissed because they have failed their probationary periods would qualify to claim unfair dismissal to an Employment Tribunal (the qualifying period of employment is one year), there is no qualifying period needed to bring a claim of discrimination on the grounds of race, sex, disability, sexual orientation or religion.

3. TO WHOM PROBATIONARY PERIODS APPLY

3.1 Teaching Staff

Historically, all newly qualified teachers were subject to a probationary period usually of one year and not passing their probation usually meant the end of their teaching career.

The Secretary of State for Education abolished the probationary year of service for newly qualified teachers several years ago and left something of a hiatus for both new teachers and their Headteachers until 1999 when a new system of statutory induction was introduced. Separate advice is available through the Advisory and Inspection Service on this process.

*** (Optional Clause for Foundation Schools)*

As a Foundation School we have chosen to include a probation period in the conditions of service for our teachers. This is an entirely separate process from that applied to the statutory induction year for newly qualified teachers. The guidance contained in this document will apply to teachers during their probation period.

3.2 Support Staff

The Schools' H. R. Advisory Service recommended model contracts and further particulars provide a contractual requirement of 6 months' probationary period for all new support staff employees, as defined below:

In Community and Voluntary Controlled schools, a new employee is an employee who is new to the employment of the County Council. Therefore, an employee moving between one Community/Controlled school and another would not be subject to a probationary period at the second school.

In Foundation and Voluntary Aided schools, a new employee is an employee who is new to the employment of that Governing Body.

It should be noted that only contracted weeks will count towards the probation period.

It is important to inform applicants, where appropriate, at the interview stage that their appointment will be subject to a probationary period.

4. WHAT SHOULD HAPPEN DURING THE PROBATIONARY PERIOD?

- 4.1 It is very costly to recruit and train new staff, both in financial terms and the amount of time taken by managers and other staff at the school. It is therefore important not only to have good recruitment and selection techniques, but also a sound induction programme to ensure, as far as possible, that the new recruit stays!

- 4.2 Probation is inescapably linked with induction and the underlying theme of both is to enable new employees to integrate quickly and effectively into their posts and the school.
- 4.3 Most schools probably already have an effective induction package, but the following checklist may prove to be a useful reminder of what to include:
- Organisation (about the school, buildings, facilities).
 - Copies of relevant documents/procedures (policies, procedures, health and safety, handbooks etc).
 - Introduction to staff/governors etc.
 - Information of staffing structure and relationships, including a clear understanding of line management responsibilities.
 - Job description and person profile.
 - General nature of work and standards expected.
- 4.4 The probationary period provides the opportunity to make a judgement about whether employees are competent and motivated sufficiently to perform the duties of their job and it is only within the context of all of the elements listed above being communicated and understood, that new employees can be reasonably monitored and assessed.
- 4.5 The Employment Appeal Tribunal has found that a general term is to be read into the contracts of all employees on probationary service to the effect that the employer is obliged to take reasonable steps to maintain appraisal of the probationer throughout the period of probation, giving guidance by advice, or warning when this is likely to be useful or fair. Accordingly, it is important that a probationary procedure is not only followed but is well documented.

5. THE PROCEDURE

- 5.1 Induction begins on the employee's first day and will of course be appropriate, even if the employee is not subject to a probationary period. If issues of concern arise, they should be discussed with the employee immediately and advice and guidance given. This should be documented. A new employee must be reminded, as part of the induction process, that they are on probation and the headteacher should confirm the expiry date of the probation period.
- 5.2 The first probation review should take place around the **eighth week of service** and will usually be undertaken by the employee's immediate line manager. The review should take the form of a meeting at which the employee's progress, performance, competency, attitude/behaviour, attendance etc should be discussed. This should be a two-way discussion and should be handled in a sensitive manner.
- 5.3 If the report is unsatisfactory, the line manager and/or the Headteacher should:
- 5.3.1 Discuss with the employee the areas in which he/she is failing, e.g. competence, attitude to/behaviour at work, absence record. This interview

should be recorded and signed by the manager(s) handling the meeting and the employee. A copy of the report should be placed on the employee's file and one given to the employee (a model probation report is attached at Appendix 1).

- 5.3.2 Having identified the areas in which the employee needs to improve, arrange for some further training, advice or whatever else is appropriate in the circumstances. The employee should be involved in these arrangements and the decisions about how the desired improvement in his/her performance can best be achieved. Getting an understanding at this stage about what the problems are, is essential.

In most cases there should have been regular and frequent support and supervision of the new member of staff and it is important to give the employee constructive and timely feedback on their performance.

- 5.4 A further review should take place on or about the **16th week of service**. Again, this should usually be with the employee's immediate line manager. If there are still concerns about the employee's performance (or concerns have arisen since satisfactory performance up to the 8th week), the following action should be taken.

- 5.4.1 Detail the areas in his/her performance where he/she is not meeting the required standards and (again) discuss ways of improving performance. At this stage it is important to warn the employee that failure to improve sufficiently could bring about the non-confirmation of their employment. A record of this interview (see Appendix 1) should be made and signed by the manager(s) attending the meeting and the employee. A copy of the report should be placed on the employee's personal file and one given to the employee.

NB This procedure is a two way process and the reports on performance should always be shared with the employee.

- 5.5 If, after all appropriate help and support have been given to an employee there is still insufficient improvement at week 16, the options are to continue to support and monitor performance over the remaining 4 weeks and make an assessment at the final review meeting, **or** in exceptional circumstances where the employee is clearly not going to be able to reach the expected standard, to inform the employee that it will be necessary to end the employment as described in paragraph 7. below.

- 5.6 A final review meeting should take place **at 20 weeks**.

- 5.6.1 If progress has been satisfactory, the probation period can be formally signed off. A letter should be sent to the employee (immediately following the end of probation review) informing them that they have passed their probationary service and confirming their appointment to the established staff of the school.

- 5.6.2 If however it is judged that the employee's progress has not been satisfactory, the employee should be formally invited to this review meeting, which should

be with the headteacher (see model letter at Appendix 3) and s/he will be entitled to be accompanied by a trade union representative or friend. Please see Paragraph 7.

Occasionally there may be circumstances when managers wish to extend probation beyond 26 weeks, as described in the following paragraphs.

6. EXTENSIONS TO THE PROBATIONARY PERIOD

- 6.1 Usually, if an employee has not made sufficient progress by the end of the probationary period he/she will be dismissed with due notice. However, there may occasionally be circumstances when managers may wish to consider extending the probationary period to enable a final decision to be made about a particular employee. This would usually only be where the employee had been absent for a considerable amount of time during the probationary period and therefore had been unable to demonstrate their suitability for confirmation of appointment.
- 6.2 It will be necessary to inform the employee at the final review meeting that (for whatever reason) it is not possible to confirm their appointment but that an extension of the probationary period is suggested. This possibility may already have been raised at the 16 week review if appropriate.
- 6.3 If the member of staff is willing to agree to the extension of his/her probationary period, they should be asked to sign a statement agreeing to the variation to their contract of employment by permitting an extension of their probationary period from 6 months to whatever length is agreed. (A model agreement with the employee is attached as Appendix 2). Extensions will not normally exceed 3 months. NB timescales, including any notice, should not exceed 12 months.
- 6.4 If the employee does not agree to the extension, a decision should be made on the basis of his/her performance to date, whether his/her services should be ended in accordance with Paragraph 7 below.
- 6.5 Where an extension to the probationary period is contemplated, advice should be sought from the school's H. R. Adviser.

7. FAILED PROBATIONERS AND DISMISSAL

- 7.1 If the employee has either made insufficient progress leading up to the final review or after an extension to the probationary period it will be necessary to terminate his/ her employment.
- 7.2 Technically, the termination of a contract under probationary arrangements would be on the basis of 'non-confirmation of appointment due to an unsuccessful probationary period', and this would be likely to be classed as 'a dismissal for some other substantial reason'.

- 7.3 Where it is intended to terminate employment, the employee should be given at least 7 working days notice of the date of the final review meeting. At the meeting the headteacher should describe the reasons for determining that the employee should not pass his/her probationary period, including providing copies of the 8 and 16 week (or extension period) reports and other documentation where appropriate. The employee should then be given an opportunity to make representations verbally and in writing.
- 7.4 Following the meeting, the headteacher has the option to confirm appointment; extend the probation period; or determine a non-confirmation of employment.

A letter (see Appendix 4) should be sent to the employee within 3 working days of the date of the meeting to inform him/her of the decision. Where the decision is non-confirmation the letter should also give notice of termination of employment (see 7.7) and the right of appeal, which is to be exercised within 5 working days of receipt of the letter.

- 7.5 All appeals will be heard by the School Dismissal Appeals Committee. The employee should be given 5 working days notice of the appeal hearing and informed of their right to be accompanied (see Appendix 5).
- 7.6 The decision of the Dismissal Appeals Committee will be final.
- 7.7 Employment will normally be terminated with paid notice according to an individual's conditions of service and employment law. The period of notice will normally not exceed one month.
- 7.8 In exceptional circumstances, a decision may be made to terminate employment prior to the end of the six month period (see paragraph 5.5). There should in all cases have been a period of monitoring, review and assessment and the employee must have been given adequate support and guidance. The procedures in 7.3 – 7.6 should be followed in all circumstances.
- 7.9 If a decision to dismiss an employee is reached (at any stage of the procedure), advice should be sought from the school's H. R. Advisers before taking action to ensure safe practice in relation to dismissal procedures and the appropriate wording of letters.

APPENDIX 1

CONFIDENTIAL

Report at*

8 weeks		16 weeks		20 weeks		end of extension period	
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**tick appropriate report*

PROBATIONARY PERIOD REPORT FORM FOR SCHOOL-BASED STAFF

To be completed immediately following 8, 16, and 20 weeks service

School: _____

Name of Employee: _____

Date of Appointment: _____

Designation of Post: _____

Expiry Date of Probation _____

PART A - to be completed by line manager

1. How well do you consider the employee does his/her job?
Very well/satisfactory/needs to develop further/unsatisfactory*

Please comment on your answer: _____

2. How effective is he/she in relationships with other people in his/her work?
Very effective/satisfactory/needs to develop further/unsatisfactory*

Please comment on your answer: _____

3. Please comment on the employee's punctuality/attendance

4. Please identify any areas of the employee's performance which need attention.

6. Are there any training needs or any other form of support required for the employee in the short term? If so, please identify.

7. i) **(To be completed at the 8 week assessment)**

I am/am not* satisfied with the progress this employee is making
Set date for 16 week Review _____

Signed: _____ Date: _____

Designation: _____

ii) **(To be completed at the 16 week assessment)**

Indicate one of the following options:

- (a) progress to date has been satisfactory*
- (b) progress remains unsatisfactory/deteriorated*
- (c) proceed to non-confirmation of appointment*

Set date for final review meeting _____ (for options a & b)

Signed: _____ Date: _____

Designation: _____

iii) **(To be completed at the final assessment (20 week or 6 weeks prior to end of extension period))**

Indicate one of the following options:

- (a) confirmation of appointment*
- (b) probation period to be extended until _____*
- (c) termination of appointment*

Signed: _____ Date: _____

Designation: _____

IMPORTANT - THIS REPORT SHOULD BE DISCUSSED WITH THE EMPLOYEE AND PART B COMPLETED. THIS REPORT SHOULD BE PASSED TO THE HEADTEACHER IF COMPLETED BY ANOTHER LINE MANAGER

PART B - To be completed by the employee

I confirm that I have seen the contents of this report and have the following/no comments* to make on the remarks made:

(Continue on a separate sheet if necessary)

Signed: Date:

*delete as necessary

APPENDIX 2

AGREEMENT TO VARY THE CONTRACT OF EMPLOYMENT

Name of Employee

Post

I agree to the variation in my contract of employment allowing an extension of the probationary period

for Weeks, expiring on

Signed Date

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APPENDIX 3

MODEL LETTER OF INVITATION TO FINAL REVIEW MEETING TO CONSIDER ENDING EMPLOYMENT

Dear

I am writing to you following previous discussions regarding your probationary period as a (post) at this school.

You are aware that there have been serious concerns about your performance and these have been discussed with you at previous meetings. Prior to making a final decision under provisions contained in the probationary procedure, I invite you to a meeting to consider this matter.

You are entitled to be accompanied at the meeting by a friend, colleague or trade union representative and you will be given the opportunity to make written and/or verbal representations.

You should be aware that an outcome of this meeting could be that your employment is terminated.

If you have any questions regarding this process, please do not hesitate to contact me.

Yours sincerely

Headteacher

APPENDIX 4

OUTCOME OF FINAL REVIEW MEETING DECISION TO END EMPLOYMENT

Dear

Further to our meeting on (date and time), I am writing to confirm my decision that your employment be terminated due to the fact that your performance in post has not been of the required standard.

This letter therefore gives you notice of termination of employment, which expires on (date – max 4 weeks hence) which will be your last day of employment with the school. You will/will not* (*delete as applicable) be required to attend for work during this period

You have the right of appeal against this decision. Should you wish to exercise this right you should notify me in writing of your reasons by (date – 5 working days hence). Any appeal will be heard by the School Dismissal Appeals Committee.

If you have any questions regarding this process, please do not hesitate to contact me.

Yours sincerely

Headteacher

APPENDIX 5

MODEL LETTER OF INVITATION TO DISMISSAL APPEAL HEARING

Dear

Further to your letter of (date) in which you appealed against the decision to terminate your contract due to unsatisfactory completion of your probationary period, you are invited to attend a hearing with the Governing Body Dismissal Appeals Committee on (date – 5 working days hence) at (time/venue)

You are entitled to be accompanied at the meeting by a friend, colleague or trade union representative and you will be given the opportunity to make representations to the committee.

I will be accompanied by (name/position) and the committee will be independently advised by (name/position). You also have the right to present witnesses.

Please confirm by (date – 2 days before hearing) whether you intend to attend the meeting, the name and status of any representative and details of any witnesses you intend to call and an outline of the evidence they shall give. Should you wish to submit any papers in support of your appeal, please do so to the Chair of the Appeals Committee by (date – 2 days before hearing).

If you have any questions regarding this process, please do not hesitate to contact me.

Yours sincerely

Headteacher

For further information, additional copies of this document or to pass on your comments, please contact:

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