



Suspension Protocol for Schools

Effective : September 2017



SUSPENSION PROTOCOL FOR SCHOOLS

INTRODUCTION

1. There may be instances where suspension from the school with pay is necessary while investigations are carried out. Examples include potential gross misconduct cases, health and safety concerns or where there are risks to an employee or pupil(s), property or responsibilities to other parties.
2. The School's HR Advisor must be consulted before a decision to suspend is made. This is especially important where there are safeguarding concerns, where specialist advice from Children's Services or other agencies e.g. Police, may be required before taking any action.
3. Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step, including undertaking a risk assessment. If the case manager is concerned about the welfare of other children in the community or the member of staff's family, those concerns should be reported to the Local Authority Designated Officer (LADO) or Police. Suspension is highly unlikely to be justified on the basis of such concerns alone.
4. In exceptional circumstances, suspension may also be considered where there are **reasonable** grounds for believing that evidence has been tampered with, destroyed or witnesses pressurised during the investigation process or prior to the disciplinary hearing.
5. Suspended employees should be advised that this is not considered as disciplinary action.
6. It is in the interests of all parties to progress the investigation and disciplinary hearing (if appropriate) as quickly as possible.

All suspensions must be kept under review and brought to a conclusion at the earliest possible opportunity. (NB: in some cases, account will have to be taken of the requirements of professional codes and standards governing children).

Only the Headteacher or the Chair of Governors may suspend a member of staff. However, that suspension may only be lifted by the Governing Body (unless this responsibility has been delegated i.e. to the Chair of Governors, the Chair of the Staff Disciplinary & Dismissal Sub-Committee or the Staff Disciplinary & Dismissal Appeals Sub-Committee). Any such delegation must be minuted.

7. If a suspension is lifted the Governing Body must immediately inform the Local Authority.

SCOPE

8. This policy and procedure will apply to staff working in the school, except those who are directly employed by the Local Authority and those working in the school via an employment agency.

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GROUNDS FOR SUSPENSION

9. Before deciding to suspend a member of staff, consideration will be given to the following factors:
- Seriousness of the allegations relating to the individual and whether the allegations relate to safeguarding issues;
 - The need to preserve the integrity of the investigation;
 - The best interests of the individual against whom the allegation is made;
 - The best interests of the School, other employees, members of the public or pupils; and
 - Consistency with former similar allegations.

Where the allegations are of a safeguarding nature, the All Wales Child Protection Procedures 2008, should be considered and a referral made to the Central Referral Team as soon as a problem, suspicion or concern about a child becomes apparent, and certainly within 24 hours. Please direct all enquiries to the Central Referral Team either via e-mail at CRTChildren@carmarthenshire.gov.uk or by telephone on 01554 742322.

10. Following these considerations the Headteacher must then decide whether a transfer (such as, undertaking work that does not involve contact with pupils or working from home) would be appropriate as an alternative to suspension. This decision should be taken in conjunction with the Local Authority.
11. Prior to any suspension being implemented, the Headteacher must seek advice from the HR Advisor. (Please refer to Suspension Checklist at Appendix 1)
12. If the Headteacher is the subject of an allegation, the Chair of Governors, acting on behalf of the Governing Body, may be delegated the authority to suspend the Headteacher. The decision of the Governing Body to delegate authority to suspend staff must be minuted. The Chair of Governors will need to consider whether suspension is necessary and should discuss the matter with the HR Advisor before taking any action. Where reference is made to the Headteacher managing the suspension please substitute this for Chair of Governors where the Headteacher is the subject of allegations.

SUSPENSION INTERVIEW

13. Where suspension is considered an interview should be arranged between the Headteacher and the member of staff. Where consideration of suspension of the Headteacher the meeting should be conducted by the Chair of Governors.
14. The Headteacher should advise any member of staff called to an interview that they have the right to be accompanied by a trade union representative or companion.
15. If the employee is a trade union representative a member of the HR Team must discuss the case, having first gained the permission of the member of staff, with a senior Trade Union representative or Permanent Union Official prior to the meeting

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taking place. From the outset it should be made clear that the action being taken is not an attack on the functions of the trade union.

16. The Headteacher / member of staff should be informed at the start of the interview that an allegation has been made and that, at the conclusion of the interview, suspension may occur. It should also be made clear to the Headteacher / member of staff at the outset that the interview is not a formal disciplinary hearing, but is for the purpose of addressing a serious matter, and could lead to consideration under the governing body's disciplinary procedures.
17. The Headteacher or Chair of Governors should give the Headteacher / member of staff as much information as it is possible to disclose without interfering with the investigation of the allegation, including the reasons for any proposed suspension. The Headteacher / member of staff should be given an opportunity to make representations concerning the suspension, and offered a brief adjournment prior to responding.
18. If, at the end of the interview, the Headteacher / Chair considers that suspension is necessary, the Headteacher / member of staff should be advised that:
 - whether they are suspended from duty, or not;
 - whether they have restricted duties, etc.;
 - written confirmation of the suspension detailing the reasons will be given, if possible within one school day of the interview; and
 - they will be offered the name of a person not involved in the investigation with whom they can discuss employment matters and any support needs.

This nominated person will not take the place of the member of staff's union.

CONFIRMATION IN WRITING

19. The Headteacher must confirm the details of the suspension in writing to the employee no later than 3 working days following the suspension. A copy of this letter should be sent to the HR Advisor and will be retained on the employee's personnel file. (See Appendix 2 - Employee Guidance, which accompanies the letter. Advice should be sought from the HR Advisor regarding the wording of the letter)

SUPPORT AND REVIEW

20. The Headteacher, or nominated representative, is responsible for providing impartial support and maintaining regular contact with the suspended employee at reasonable intervals. The Headteacher, or nominated representative, will not be involved in the investigation and should keep a record of the visits and contacts during the suspension.
21. Suspensions should be reviewed at regular intervals. It is expected that the Governing Body will delegate responsibility for these reviews to the Headteacher who will keep the Chair of Governors informed. If it is the Headteacher who is suspended,

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the Chair of Governors should review the position at regular intervals. The outcome of the suspension review should be conveyed to the member of staff in writing. If the suspension is to continue the reasons for this should be given.

SUSPENSION WITH PAY

22. All employees who are suspended will be paid normal contractual pay.

SICKNESS ABSENCE DURING SUSPENSION

23. If an employee is sick during the period of suspension the normal notification requirements of the School's Sickness Absence Policy will apply. The period of sickness absence will be recorded and sick pay provisions will apply.

MATERNITY LEAVE DURING SUSPENSION

24. If an employee commences maternity leave during the period of suspension the normal notification requirements of the School's Maternity Policy will apply.

MEDICAL SUSPENSION

25. The Headteacher must ensure that, in cases where there is doubt over the fitness of an employee to work, advice is sought from an Occupational Health Advisor and HR Advisor before a decision to suspend is made, and in line with the School's Sickness Absence Policy.
26. Before returning to work following medical suspension the employee will be referred to the Occupational Health Unit. The employee is expected to co-operate fully with any request to attend for any health assessments.

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SUSPENSION CHECKLIST FOR HEADTEACHERS

The following procedure must be followed by the Headteacher or in the case of the Headteacher being subject to allegations the Chair of Governors when deciding to suspend.

- Head to chair the meeting and ask parties to introduce themselves and their role in the meeting if applicable.
- Head to explain the reason for the meeting i.e. 'It has come to my attention that (*insert allegation / incident*) on (*insert date*). This meeting is to give you the opportunity to explain to me what happened. I must inform you that when I hear your response, I will need to consider whether a disciplinary investigation is required and also whether it is necessary to suspend you from your duties'.
- Employee to give response.
- Headteacher to ask any relevant questions.
- Once Headteacher has heard the employee's response and asked questions to clarify events, Headteacher to adjourn the meeting briefly.

ADJOURN TO CONSIDER

- ✓ Did the employee admit s/he had committed serious misconduct?
- ✓ Was his/her response reasonable and did it allay concerns?
- ✓ Does anything need to be confirmed with a third party witness? Is there a risk that possible evidence could be accessed / amended or contaminated?
- ✓ The best interests of the individual against whom the allegation is made:
 - Is there a risk that in their current position the individual would be subjected to further allegations?
- ✓ The best interests of the School, other employees, members of the public or pupils
 - Is there a risk of that the complaint / incident being alleged could continue. Is there a recommendation by Child Protection Officers? Is there Police / audit involvement?
- ✓ Consistency with former similar allegations:
 - Seek advice from the HR Advisor to ensure that as an Authority we are applying a consistent approach.

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CONSIDER A TRANSFER

Following these considerations the Headteacher must then decide whether a transfer to another area of work or within the school would be appropriate. In doing so the Headteacher should consider:

- ✓ That the employee will not be in regular contact with the complainant(s);
- ✓ That the employee will not discuss the case with colleagues;
- ✓ That the role is achievable at the proposed location;
- ✓ That any temporary restrictions on duties imposed are realistic; and
- ✓ That the employee has access to the necessary support.

In order to implement a change such as this it will inevitably be necessary for the manager to liaise with other teams in order to achieve this. This should be managed sensitively and confidentially.

THE DECISION TO SUSPEND

- ✓ HR Advisor has been informed.
- ✓ Employee is informed. This will normally be undertaken by the Headteacher or nominated officer if the Headteacher is not available.
- ✓ Explain an allegation / complaint has been received and explain what this is in relation to... (complainants / pupils identities will need to be protected during this explanation). If this is also being investigated in accordance with the All Wales Child Protection Procedures or by the Police you will need to advise the employee of this, unless the Police have requested otherwise. Also explain that the investigation is taking place in accordance with the School's Disciplinary Procedures.
- ✓ If you are unable to outline the complaint in detail at this point due to Police / Safeguarding investigation please advise this.
- ✓ Explain to the employee that they will be suspended on full pay and that this is not intended as a punishment, but as a measure to protect the parties involved.
- ✓ Please advise the employee that this matter is confidential and not to approach any other employees regarding the allegation.
- ✓ Advise they will be contacted in writing no later than 3 working days following the meeting with details of the terms of suspension.
- ✓ Advise the employee they will shortly be given access to a named officer who will be their point of contact with the School.

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- ✓ Please assist the employee to collect any of their personal belongings, ensuring that they leave the premises.
- ✓ Identify an appropriate liaison officer (the head teacher or a nominated representative) make sure they are aware they will be contacted.
- ✓ Identify an investigating Officer (Refer to Disciplinary and Dismissal Procedures for School Staff : Welsh Government Circular 002/2013).

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EMPLOYEE CONDUCT GUIDANCE FOR EMPLOYEES WHO HAVE BEEN SUSPENDED

When it is decided to suspend a member of staff it can be a traumatic experience for all those involved. This guidance information has been prepared to ensure that an employee who has been suspended fully understands:

1. Events relating to the suspension as laid down in the Schools Disciplinary Procedure;
2. What the employment status and rights of the employee are during suspension;
3. What is expected of the employee by their manager during the period of suspension;
4. What assistance the employee may wish to seek during their period of suspension.

FREQUENTLY ASKED QUESTIONS

Q Will I be paid if I have been suspended?

A You will normally continue to receive contractual pay during your suspension. However, if you are certified as unfit to attend for work, owing to ill-health or you are on maternity leave, your payments will be made in accordance with your conditions of service.

Q Will continuous service be affected by suspension?

A Suspension does not affect your employment rights. For the purposes of calculating continuous service in relation to benefits such as sickness, maternity, redundancy, pensions etc. the period of suspension counts as normal employment.

Q Do I have to stay at home during my normal working hours in case I am called back to work?

A You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work. However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

Q What happens if I wish to make a trip away from home during the period of suspension?

A You will be required to be available for work during term-time but you will not be required during school holidays. Requests should be made in writing to the Chair of Governors outlining the circumstances.

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Q Am I allowed access to my workplace and colleagues during suspension?

A The school does not wish to impede you in preparing your case. If you wish to visit your workplace during the suspension period you must first obtain the permission of the Headteacher or other nominated representative. S/he will need to be satisfied that there are reasonable grounds for your request and that your visit will not interfere with any related investigation.

The School, obviously, cannot prevent you from meeting with colleagues outside normal working hours. However, any breaches to the confidentiality of the investigation will be dealt with in accordance with the Schools Disciplinary Policy. Should Disciplinary action be taken you will not be prevented from preparing your case and any contact that you may require in order to do this will need to be approved by the Headteacher or other nominated representative beforehand.

Q How can I collect evidence to answer allegations arising from an investigation if I am not allowed access to my workplace or colleagues?

A You will normally be allowed access for this purpose. Please contact your Headteacher or nominated representative to arrange. Also if you are a member of a trade union your trade union representative will be able to help in the collection of evidence where access cannot be reasonably granted.

Q Where can I go for further advice whilst I am suspended?

A If you are a member of a trade union you are advised to seek advice from your trade union representative.

Your Headteacher or nominated representative will also keep in contact with you to both advise you of progress regarding the investigation and keep you updated with developments in connection with your job, section, department, etc. Your nominated Liaison Officer can arrange a referral to occupational health if you feel you would like to access additional support. You are strongly advised to take up any support that is available through the authority's occupational health service or your own GP.

Depending upon the nature of the investigation you may feel it appropriate to approach other outside agencies, e.g. Citizen's Advice Bureau, Legal Aid Scheme, etc.

Q How long can the suspension last?

A There are no specified time limits. However, suspension will be for as short a period as possible. Where a suspended employee is the subject of external investigations, police enquiries or charged with a criminal offence, the length of the suspension may be prolonged pending the outcome of police enquiries or legal proceedings. Where the investigation is subject to a delay the Investigating Officer will write to inform you of the delay and the reason for it.

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Q How will I know when the suspension has ended?

- A** Normally, suspension ends when, following the completion of the investigation, a decision is taken. This decision may be:
- take no action and end the suspension;
 - to proceed with formal disciplinary action;
 - to take some other form of action.

In any event, you will be notified in writing of the decision. Where disciplinary action is taken, the suspension will normally continue until the hearing takes place.

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