

The Educational Institute of Scotland

Competency Procedures

Introduction

- 1.1 The following resolution was approved by the 2013 Annual General Meeting:

“This AGM instructs Council to investigate on the application of competency procedures (particularly in relation to teachers and lecturers suffering long term illness) across local authorities and FE Colleges and, furthermore to issue appropriate advice on dealing with such cases.”

- 1.2 Additional information was sought from the movers of the motion.
- 1.3 Information from the movers of the motion referred to a case when an individual had workplace adjustment arising from a medical condition but where there was evidence of significant breaches of confidentiality. These combined to make resolution of health and capability issues impossible.
- 1.4 The EIS has previously issued separate advice on Attendance Management procedures.

Competence Procedures

- 2.1 For teachers GTCS registration requires the teacher to attain the Standard for Registration during a probationary period.
- 2.2 Thereafter, on an ongoing basis, the teacher is expected to maintain the Standard for Registration. Where a teacher fails to maintain that standard an employer can instigate competency procedures in line with the Framework of Teacher Competence.
- 2.3 The Framework for Teacher Competence process can lead to referral to dismissal through a Council’s disciplinary procedure and referral to GTCS which can remove the teacher from the Register and set a time limit before a teacher can seek to re-apply to the Register.
- 2.4 There are no formal competency procedures in the further education sector. Each employer can pursue issues relating to alleged incompetency through formal disciplinary procedures.
- 2.5 Even when a further education lecturer has chosen to be registered with GTCS there is no corresponding GTCS procedure.

Capability Procedures

- 3.1 Where a teacher is absent from work an employer may consider commencing capability procedures through its attendance management procedures.
- 3.2 In this context the employer should take external medical advice from an Occupational Health provider and particular emphasis should be taken of any conditions which may be covered by the Equality Act 2010.
- 3.3 It should be noted, under the Employment Rights Act 1996 (S98.2), a dismissal arising from incapacity is likely to be a fair reason for dismissal.

Interaction between Capability and Competence

- 4.1 The interaction between capability and competence can be problematic. At the outset health factors may impact on performance and the converse is also true; performance difficulties can create health factors. Health issues can arise if competency procedures are involved.
- 4.2 Where both procedures interact there are a number of considerations that should be part of the management of a case.
- 4.3 This may require referral to OH and adjustments to targets and timescales in competence procedures.
- 4.4 Of paramount importance is the need for medical confidentiality. A competence procedure may involve a number of staff. However, sensitive medical information should only be shared with Headteachers or appropriate managers. This will lay an onus on the Headteacher or manager to manage both processes sensitively.
- 4.5 The EIS has experience at national level a case to GTCS where a teacher's ability to deal with performance issues was compromised by health issues. This case is ongoing and until it is concluded it is difficult to draw conclusions on the interaction of health on competence on key case.
- 4.6 However, it is difficult to offer detailed general advice where cases involve issues of capability and competence. Such cases should be handled by the EIS on an individual basis.

Conclusion

- 5.1 This report should be noted and should be copied to LA Secretaries and Branch Secretaries.