



Guidance on Managing Probation

Autumn 2020

Introduction

National Society contracts include the following clause in all contracts for teaching and support staff:

'The Post will be subject to a probationary period of 1 term, during which time either party may give to the other not less than 1 week's written notice of termination. The Employer may extend the Employee's probationary period unilaterally for such further period as it sees fit, provided always that the total probationary period shall not exceed 2 consecutive terms (save in exceptional circumstances).'

The aim of this guidance is to help schools to make effective use of this provision while remaining legally compliant. Even though new employees do not have enough service to accrue employment rights, schools should still follow a fair and consistent process as employees have the right to make an application to an employment tribunal of unfair dismissal based on race, gender and disability.

In light of Covid-19 in some cases selection may not have been as robust with a reliance on remote interviewing, therefore, it is more important than ever that probation is managed effectively.

Step 1

On appointing new members of staff ensure that they have an up to date job description and understand the requirements of their role within your particular school. If there were areas at interview which were slightly weaker, you may decide to address this by providing training or coaching from an experienced member of staff.

A clear induction plan during the first week is a helpful tool to enable a dialogue to evolve between staff and management. It is important that new members of staff are able to ask questions to help them to settle into their new role. If possible, regular weekly 'catch ups' with their line manager should be established. It's important that any area of concern is addressed immediately with a short meeting followed by an email or memo confirming what was discussed. This is helpful, in the event that probation is not ultimately successful.

Performance targets should be considered at this point in line with those of other staff within the school. In view of Covid-19 and the impact on teacher training and recruitment those mentoring NQT's may need to be especially mindful of providing support and addressing any weaknesses within the first term so that any necessary action can be taken sooner rather than later.

Step 2

Before or shortly after the first half term break (or at around 6 weeks), a mid-term review should be scheduled to discuss performance and any areas of development, or to confirm that the employee is successfully carrying out the role.

The school may decide, at this point, that they wish to extend the period of probation, especially if absence has interrupted the initial period of employment or there are a number of concerns which have been highlighted already.

A model template for the meeting is attached one copy should be retained by management and one by the employee. **(Appendix 1)**.

Step 3

About two weeks before the end of term either:

- Meet and/or write to the employee confirming that the employee has successfully passed their probation (**Appendix 2**)
- Meet with the employee to confirm that their period of probation is being extended and explain the reasons why. This should be followed by a letter confirming this and setting out the reasons for the decision and explaining that the previous steps will be repeated during the following term (**Appendix 3**)
- A meeting with the Headteacher where the employee is informed that they have not successfully completed their period of probation and confirming that their contract of employment is being terminated. This should be followed up in writing setting out the reasons for the decision and stating that the employee has a right to appeal to a panel of governors in the presence of their trade union representative. (**Appendix 4**)

Exceptions to this process

Sickness – if an employee has had poor attendance during the probation period due to sickness, it can be extended to ensure that they are in work for the equivalent of one term before making an assessment on their suitability. Extended sickness absence should be handled under the sickness absence procedure to protect the school from accusations of discrimination under the Equality Act 2010 on the grounds of disability.

Existing Employees - There may be occasions when an existing member of staff undertakes a new role on different terms and conditions within the school and governors decide to use their discretion and retain the period of probation clause in their new contract (ie a teacher may be promoted to Headteacher or a TA may join the admin team). Under these circumstances the employee may well have full employment rights due to their length of service and unsatisfactory performance during this period should be addressed under the school's capability procedures.

Support staff have been subject to a period of probation in their contracts for many years and fortunately examples of failing to meet the requirements are rare. As long as the school has raised concerns throughout the period and don't wait until the 'last minute', ending employment is straightforward.

Appendix 1

1st/2nd/3rd/4th Probation Review Meeting – Date.....

Name of manager conducting review:

Name of Employee:.....Start date:.....

Job title:

Overall Conduct (punctuality, relationships with staff etc)

Overall performance and effectiveness (Refer to performance targets)

Areas of Improvement

I agree that this is an accurate record of the meeting: Signed.....

Appendix 2

Letter confirming that the period of probation has been successfully completed

Date

Dear.....

Job title

I am pleased to confirm that you have successfully completed your period of probation and I can formally confirm your appointment to the above post.

I would like to thank you for your contribution to xxxxxx school so far and hope that you enjoy working with us going forward.

Yours sincerely

Executive Headteacher, Headteacher, Head of School or SLT Member

Appendix 3

Extension of probation period

Date

Dear

Job Title

Following your review meeting on where the areas of improvement listed below were identified I can confirm that your period of probation has been extended until to give you an opportunity to improve and to reach the standard of performance required to successfully carry out the role.

List areas of Concern with any agreed training or action to facilitate an improvement.

A further review will take place on..... to discuss your progress. If you have any questions please do not hesitate to let me know.

Yours sincerely

Executive Headteacher, Headteacher, Head of School or SLT Member

Appendix 4

Unsuccessful probation

Date

Dear.....

Job Title

Following your review meeting on I am writing to confirm that, as discussed, you unfortunately have failed to make the necessary improvements in the areas listed below and I am unable to confirm your appointment to the above post.

List areas of concern and any training or action taken to address them

In line with 5.2 of your contract of employment you are entitled to one weeks paid notice (*or we have decided to use our discretion and pay you notice until the last day of term/holiday*).

You have the right to appeal against this decision. If you wish to do so please contact the Chair of Governors by(*5 working days*) in writing stating the ground on which you are appealing. You will be invited to a meeting with a panel of three governors and may be accompanied to that meeting by a trade union representative or work colleague.

If you have any other questions, please let me know.

Yours sincerely

Executive Headteacher, Headteacher, Head of School or SLT Member