

Capability of Staff Policy

Approved by:	Colin Phillips
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Capability Procedure

This procedure applies only to members of staff about whose performance there are serious concerns that the performance development /appraisal process has been unable to address.

At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the member of staff to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

B1. Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Head of Provision or member of the SLT. The meeting allows the member of staff, accompanied by a companion if they wish, to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.

The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the performance development /appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings, for example which of the national standards are not being met;
- give clear guidance on the improved standard of performance needed to ensure that the member of staff can be removed from formal capability procedures (this may include the setting of new objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);
- explain any support that will be available to help the member of staff improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case, but in straightforward cases could be between four and ten weeks. It is for the provision to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and
- warn the member of staff formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the member of staff will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

B2. Monitoring and review period following a formal capability meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

B3. Formal review meeting

As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the member of staff has made sufficient improvement, the capability procedure will cease and the performance development /appraisal process will re-start. In other cases:

- if some progress has been made and there is confidence that further progress is likely, it may be appropriate to extend the monitoring and review period;
- if no, or insufficient improvement has been made during the monitoring and review period, the member of staff will receive a final written warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The member of staff will be invited to a decision meeting.

B4. Decision meeting

As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start. If performance remains unsatisfactory, a decision, or recommendation to the Head of Provision (only if another member of SLT conducted the formal capability meetings), will be made that the member of staff should be dismissed or required to cease working at the school.

Before the decision to dismiss is made, the school will discuss the matter with the local authority in respect of its role as the Compensatory Authority in future proceedings.

The member of staff will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

B5. Decision to dismiss

The power to dismiss staff at Teenage Kicks has been delegated to the head of provision in the case in question.

B6. Dismissal

Once the decision to dismiss has been taken, the Head of Provision (those with delegated authority as above) will dismiss the member of staff with appropriate notice. The member of staff may be suspended from duties during the notice period.

B7. Appeal

If a member of staff feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the member of staff. The appeal will be dealt with impartially by an independent person.

The member of staff will be informed in writing of the results of the appeal hearing as soon as possible.

General Principles Underlying this policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

This policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The performance development /appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Head of Provision to quality-assure the operation and effectiveness of the performance development/appraisal system. All appraisal records are annually reviewed by the SLT in order to check consistency of approach and expectation between different reviewers. The Head of Provision will retain overall responsibility for making pay recommendations to the Performance and Pay Related Committee for approval.

Consistency of Treatment and Fairness

The Head of Provision is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

Definitions

Unless indicated otherwise, all references to "member of staff" include the Head of Provision.

Grievances

Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it will be appropriate to deal with both issues concurrently.

Sickness

If long term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school's Improving Attendance policy. Occupational health advice may be appropriate at this stage to determine fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

Monitoring and Evaluation

The Head of Provision will monitor the operation and effectiveness of the provision's appraisal arrangements.

Retention

The head of provision will ensure that all written performance development and appraisal records are retained in a secure place for six years and then destroyed.