



Summit Learning Trust

Capability Policy for Teaching Staff

Approved by:	Board of Trustees (delegated to P&R Committee)	Date: July 2019
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Monitoring & Review	People & Resources	
Links	Teachers' Pay Policy, Staff Code of Conduct, Performance Review Policy	
Staff responsible	HR Director	

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1. Rationale

This document must be read in conjunction with the Performance Management Policy for Teachers.

2. Application of the Policy

The Capability Policy will apply to all members of staff about whose performance there are serious concerns that the informal support process has been unable to address. When the capability policy is invoked, the performance management process will cease, and the individual concerned will no longer be eligible for automatic increment in the following pay round.

Policy Statement

3. Invitation to Meeting

The member of staff whose performance is causing concern will be invited in writing to attend a formal capability meeting, with at least five working days' notice. The notification will contain sufficient information about the concerns about performance and the possible consequences to enable the member of staff to prepare to answer the case at the 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 the 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.

4. Procedure for Meeting

This meeting is intended to establish the facts. It will be conducted by the Principal or other suitable manager nominated by the Principal unless the meeting is about the Principal in which case the meeting will be conducted by the Chair of The Local Governing Body, or the Education Director, supported by the Trust HR team. 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 through the formal process and that it would be more appropriate to continue to address the remaining concerns through informal support 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 standards expected of a member of staff 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 will 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). The employee will also be provided with a copy of the performance improvement action plan (**see Appendix 1**)
- 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 (all contained within the performance improvement action plan). The timetable will depend on the circumstances of the individual case. It is for the academy 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.

5. Monitoring and Review

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. At the end of it 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).

6. 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 review process will re-start. However, it is unlikely that the individual will be awarded an automatic increment in line with the performance management policy, unless the Principal (or other line manager) feels that exceptional progress has been made. In other cases:

- if some progress has been made and there is confidence that more 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.

In either of these cases, the individual will remain outside the Trust performance review process.

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.

7. 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 performance management process will restart. However, it is unlikely that the individual will receive an automatic increment in this case. If performance remains unsatisfactory, a decision, or recommendation to the Capability Panel will be made that the **member of staff** should be dismissed or required to cease working at the academy. The Capability Panel will consist of three people; a member of the Local Governing Body, a Principal and an Executive Team member.

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.

8. Decision to Dismiss

The power to decide that a member of staff should no longer work at an academy, rests with the Capability Panel. Once the decision to dismiss has been taken, the Capability Panel will dismiss the member of staff with the appropriate notice.

9. 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 working 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 by an Appeals Panel. The Panel will consist of three people; a Governor and two member of the Trust Leadership Team i.e. Principal/Executive Director. The appeal chairperson will be advised by a member of the Trust HR Team. The same arrangements for notification and right to be accompanied by a companion will apply as with the 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 and wherever possible, by managers and Directors who have not previously been involved with the case.

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

10. Confidentiality

The capability process will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Principal and Governing Body to quality-assure the operation and effectiveness of the appraisal system.

11. Consistency of Treatment and Fairness

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

12. 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 may be appropriate to deal with both issues concurrently.

13. Sickness

If long term absence appears to have been triggered by the commencement of monitoring or formal capability procedure, the case will be dealt with in accordance with the school's absence management policy. In such cases a detailed referral to the Occupational Health Service will be made at the earliest opportunity, normally within the first three weeks of non-attendance, to assess

the members of staff health and fitness in regards to consideration of a return to work and continuation with the formal procedure.

14. Retention of Records

The Principal will ensure that all documents referred to as part of the capability procedure are retained in a secure place for the appropriate period and then destroyed. For instance performance review records must be retained for six years, whilst a warning issued may be removed after the stipulated period. Where dismissal is the outcome it is advised that all documents relating to the process are retained for six years and then destroyed.

Appendix 1

PERFORMANCE IMPROVEMENT ACTION PLAN

Name:

Date:

Issue	Action required	Review date	Evidence presented	Date of completion of action or reasons for non-completion	Further action required

This Action Plan will be reviewed on (date)

Signed (Manager): **Date:**

Signed (Employee): **Date:**