

Sir James Knott Nursery School



Capability of Staff Policy

“Creating strong and lasting foundations for learning”

Certified as reviewed and approved by the Governing Body: 8th February 2017

Next review date: At the discretion of the Governing Body



Capability of staff at Sir James Knott Nursery School

This policy and procedure is aligned with the objectives and principles contained within the Schools Managing Staff Performance - Policy Statement.

Purpose and Scope

- This policy sets the arrangements that will apply when employees fall below the levels of competence that are expected of them.
- The policy applies to all categories of employees directly employed by school who work under a contract of employment except where such employees are undergoing a probationary period of employment.
- The purpose of this policy is to assist employees whose performance gives cause for concern to achieve the necessary improvement.
- This policy will be applied fairly and consistently regardless of a person's values, beliefs or individuality.

Application of the Policy

The policy relates exclusively to the capability of employees where there are serious concerns regarding performance that the separate appraisal process has been unable to address.

Where circumstances lead to the capability policy being accessed the employee's appraisal cycle will be suspended and the employees will be notified in writing by the Headteacher of this action. The letter will advise that the employees' performance will now be managed under the school capability procedure and the implications of this action.

It is strongly advised that you speak to your schools link HR advisor when considering the use of this policy and in cases relating to teaching and learning it may also be beneficial to seek advice from an external advisor.

Where through this policy the identified concerns are successfully addressed and are eliminated the capability procedure will cease and the appraisal process will re-start.

Capability Procedure

1 Entry into capability

Where through the schools appraisal process the appraiser has identified serious concerns in performance, that the appraisal process is unable to address, they will refer the matter to the Headteacher. Where the case relates to the Headteacher the Governing Body will access advice from their external advisor or Manager of the HR advisory service. In such circumstances should the procedure be used then the lead role will be carried out by a designated person.

Based on the information received the Headteacher will either;

- Advise the appraiser of additional supportive actions that can be taken within the appraisal cycle or;
- Determine there is a cause for concern requiring the appraisal policy to be suspended and the capability policy and procedure to be invoked. See guidance on the procedure when proposed is Headteacher.

- The employee will be notified in writing by the Headteacher that the appraisal system will be suspended and the implications of this action, confirming their performance will instead be managed under the capability procedure. In addition the employee will be reminded of their ability to contact their Trade union or professional association for advice.
- It is expected that cases will enter this procedure at the informal stage.
- It is recognized that in extreme circumstances it may be necessary to enter at the formal stage of this procedure. (e.g., jeopardy of pupils education or risk to organisation)
- This action should not take place without first seeking advice and giving full consideration to the circumstances.

2 Informal measures

- The first steps in attempting to improve performance are to identify the reasons or causes of the problem and consider any positive support that can be provided. Where applicable, information relating to the problem identified may be obtained from the school appraisal arrangements.
- Informal measures of providing additional management support can be beneficial in addressing concerns about and employees' performance; therefore this option should be explored before moving to formal measures.
- It is for the Headteacher to determine this time period. It should be reasonable and proportionate but not excessively long and should provide sufficient opportunity for an improvement to take place.
- Additional management support could include the facility to observe good practice, advice from an experienced colleague or line manager, having a mentor or access to appropriate training or resources. The employee may be able to suggest other methods of support they feel would assist them. This list should not be seen as exhaustive or a requirement but gives an indication of the types of support a Headteacher may consider providing.
- An initial meeting should be arranged to allow discussions between Headteacher and employee to take place in an open and constructive atmosphere and should be regarded as part of the normal working routine. However, where the employee requested may be accompanied by their trade union.
- The specific aim of these discussion will be to identify ways in which the employee can be encouraged and helped to improve performance. The employee should be provided with a copy of this Policy document.

The meeting will provide an opportunity for:

- the Headteacher to clearly identify and illustrate the areas of concern;
- the employee to respond to the concerns outlined;
- the employee to acknowledge their own responsibility to fully engage with the procedure and improve their own performance;
- the Headteacher to outline the standards of performance required to exit the capability procedure;
- identification of any difficulties which may be preventing satisfactory performance;
- confirmation of the level of support which will be provided during the period of review;

- agreement of a reasonable timescale for monitoring and date for a performance review.
- Support or guidance external to the school may be enlisted if deemed appropriate by the Headteacher.
- The Head teacher should confirm in writing to the employee the required improvements and how they will be measured, a programme of support, as well as the timescale over which improvement is to be achieved. In addition any points raised by the employee will be recorded. The details should also be collated into the form of an action plan.
- Regular improvement and feedback should take place during the period given for improvement with the manager meeting with the employee at least fortnightly. At the end of the agreed review period the Headteacher should meet with the employee concerned to discuss the extent to which the performance has improved the need to sustain the performance and any outstanding areas of concern. A brief written record of this meeting and outcomes arising from it should be kept.
- It is likely that the vast majority of cases will be resolved with this Informal Stage and it will only be necessary to proceed to the formal stage in those cases where advice and additional management support have not achieved the required improvement.
- Where it has not been possible to eliminate concerns about an employee's performance by informal means of improvement has not been sustained, formal measures may be taken.
- The decision to move on from informal measures lies with the Headteacher. It is recommended that advice be sought from the school HR advisor before moving to the formal stage. It may also be appropriate to consult with the school's external advisor dependent on the nature of the concern.

3 Notification of formal capability meeting

- A letter should be issued to the employee on behalf of the Headteacher providing a minimum of 5 standard working days' notice to the formal capability meeting. The letter of notification will contain sufficient information to enable the employee to prepare to answer the case at a formal capability meeting:
 - the concerns about performance and its impact
 - copies of any written evidence
 - the details of the time and place of the meeting; and
 - their right to be accompanied by a work colleague or a trade union

4 The Formal Capability Meeting

- Intended to establish the facts relating to the concerns contained within the letter to the employee. Conducted by the Headteacher, HR advisor may be in attendance at this meeting.
- Allows the employee to respond to concerns about their performance and to make relevant representations. This may provide new information or a different context to the information/evidence collected.
- May be adjourned if decided that further investigation is needed or that more time is needed in which to consider any additional information
- During the meeting the Headteacher will:
 - identify the shortcomings in performance
 - give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures

- explain any support, training or guidance that will be available to help the employee 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 six and twelve weeks. It is for the Headteacher 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;
- remind the employee that unsatisfactory improvement within the set period will mean the continuation of the stages within the procedure.
- the setting of revised action plan 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
- ensure notes are taken of any formal meetings and a copy sent to the employee alongside a letter detailing the outcome of the meeting.
- On conclusion, employee will be informed in writing (within 5 working days) of the matters covered and give information about timing and handling of the review stage.

5 Monitoring and Review Period following 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 employee will be invited to a formal review meeting.

6 Formal Review Meeting

- As with initial capability meetings at least 5 standard working days written notice will be given and will give details of time and place of meeting. It will advise right to have a work colleague or Trade Union representative in attendance. The school HR advisor may be in attendance at this meeting.
- If the Headteacher is satisfied that the employee has made sufficient improvement the capability procedure will cease and the appraisal process will re-start.
- 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.
- In insufficient improvement has been made during the monitoring and review period then the employee will be advised that the matter will be referred to governors for consideration.
- As before, notes will be taken of formal meetings and a copy sent to the employee and Trade Union. Once the meeting has concluded the employee will be informed in writing (within 5 working days) of the matters covered at the meeting providing information about any additional further monitoring and review period proposed.
- Should the outcome of the review be a referral to governors the employee will be invited to a decision meeting as set out below.

7 Decision meeting

- The Governing Body have determined to delegate the power to make decisions at this decision meeting.
- At least 10 standard working days' written notice will be given and the notification will give details of the time and place of the meeting and will advise the employee of their right to be represented by a work colleague or a Trade Union/Professional Association representative.
- Once the meeting has concluded the employee and where applicable Trade Union/Professional Association representative, will be informed in writing (within 5

standard working days) of the matters covered at this meeting, outcomes arising from it, as well as accompanying action plan as follows

- the elements of the employees performance that remain a concern
 - any improvements that have been made and the need to sustain them
 - decision reached including any sanctions, any action plan, further review if appropriate
 - reasons for reaching this decision
 - right to appeal
- Where earlier sanctions have been applied or serious concerns around performance are evidenced, a decision may be made that the employee should be dismissed or required to cease working at the school. Before the decision to dismiss is made the matter will be discussed with the school HR advisor.
 - Where dismissal is the outcome the written correspondence will also contain
 - reasons for dismissal
 - date on which employment ended
 - appropriate period of notice
 - right to appeal
 - An employee wishing to appeal must do so in writing to the Clerk to Governors c/o the school within 5 standard working days of receiving the letter confirming the outcome of the decision meeting. This correspondence from the employee will set out at the same time the grounds for such an appeal.
 - The employee should take care to outline the grounds for their Appeal to ensure there is no undue delay in organising an Appeal Hearing. Where there is insufficient clarity as to the grounds of the Appeal, the Chair of the Appeal Panel reserves the right to seek such clarification, prior to arranging the Appeal Hearing. It is the responsibility of the Chair of the Appeal Panel, working with their supporting HR Advisor, to communicate (via the Clerk to Governors) in writing with the employee, where further clarification is required.

8 Appeal

- The appeal will be dealt with impartially by 3 members of the Governing Body in relation to any formal sanctions (including that of dismissal) issued through this procedure.
- At least 10 standard working days' written notice will be given and the notification will give details of the time and place of the appeal meeting and will advise the employee of their right to be represented by a work colleague, a Trade Union/Professional Association representative.
- Options for the Appeal Panel to consider as an outcome arising from an Appeal are as follows;
 - appeal is unfounded, no further action is required, original outcome from earlier decision meets standards.
 - that after thoroughly exploring the issues raised at the Appeal Hearing the Panel believe it is appropriate to change the previous decision issued, perhaps on grounds of information not available at the original/earlier Hearing, the level of sanction given, or inconsistency.
- The employee will be informed in writing of the results of the appeal hearing as soon as possible (within 5 standard working days) of the matters covered at this meeting and their outcome. The decision of the appeal panel is final.

9 Re-entry to capability measures at a later date

- Employees who have been subject to this policy and procedure may be re-entered into the procedure at the stage previously reached. This may occur in cases where the employee's performance falls below the agreed standard during a 12-month period from the date the procedure was halted.

10 Capability of Trade Union/Professional Association Representatives

- Although the same capability standards will apply to trade union/professional association representatives as are applied to all other employees, no formal action should be taken until a senior trade union/professional association representative (or permanent official) has been informed of the circumstances of the case.

11 Employee support

- In cases of capability it is important that consideration be given to appropriate support for the employee, for example the use of a mentor to support the employee in their efforts to improve. The mentor's role must be distinct and not be part of the monitoring progress. In addition employees should be encouraged to access support outside of that available from the school such as their trade union/professional association.

12 Sickness absence during procedure

- If sickness absence appears to have been triggered by the commencement of capability procedures the case should be referred to the Occupational Health Unit. In a case of long term absence it may be necessary to run the attendance management procedure in parallel with the capability procedure.
- Absences should not cause unreasonable delay to any part of the procedure. Steps should be taken to enable the employee to attend. However, where the employee is unable to attend, these meetings may proceed in the employee's absence. In these circumstances a full account, including the information considered and conclusions reached, should be confirmed in writing to the employee.

13 Confidentiality

- All parties taking part in proceedings will, in accordance with this Policy & Procedure, maintain confidentiality at all times during the process.

Designated Member of Staff:- Mr J. Croft, Headteacher

This policy will be formally reviewed by the Governing Body as and when deemed necessary.