Registered Charity 1171812

Staff Capability Policy

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1. Aims

The aim of our capability of staff policy is to set out a clear and consistent process for when a member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

2. Legislation and Guidance

This policy is based on the Department for Education's model policy and guidance, and the ACAS code of practice on disciplinary and grievance procedures.

When carrying out capability procedures, we will ensure we abide by the Equality Act 2010.

3. Definitions

Lack of capability is defined as:

- A staff member failing to perform their role at the level of competence expected of them and that their job requires

References to **'staff'** include the senior leaders, teachers and support staff, unless indicated otherwise.

4. Roles and Responsibilities

Where the member of staff subject to the procedure is the Chief Executive, the Board of Trustees' will be responsible for co-ordinating the procedure. Where the member of staff subject to the procedure is the Headteacher, the Chief Executive will be responsible for co-ordinating the procedure.

Where the member of staff subject to the procedure is not the Headteacher, the Headteacher or a nominated member of senior staff will be responsible for co-ordinating the procedure.

Where appropriate, other members of staff may be asked to provide additional support to the Headteacher or to assist in monitoring the effectiveness of the policy. Where this happens, responsibilities will be made clear in advance.

5. Capability Procedure

The performance of staff is continually monitored and supported through ongoing supervision and guidance.

Formal capability procedures will begin when line management support and the review process have been unable to bring about satisfactory performance or improvements in the staff member's work.

An informal period of support, put in place and monitored by the line manager, will have been in place before formal capability procedures are triggered. Evidence of this will be available before the process begins.

5.1 Formal capability meeting

At least 2 working days' notice will be given of the formal capability meeting, and will explain:

- The concerns about performance and possible consequences

- Any written evidence
- The time and place of the meeting
- That the staff member has the right to be accompanied by a work colleague or trade union representative

The formal capability meeting will be conducted by the Headteacher and a member of the Senior Leadership Team.

The purpose of the meeting is to establish the facts, and to allow the staff member to respond to the concerns and make relevant representations.

5.1.1 Possible outcomes

The meeting may establish that there are no grounds to pursue the capability issue. In this case, the procedure will come to an end and the issues will continue to be addressed through the appraisal process.

The meeting may be adjourned if further investigation is needed, or if more time is needed to consider additional information presented.

If the meeting continues, the person conducting the meeting will:

- Explain the expected standards that are not being met based on the job description.
- Give clear guidance on the standard of performance needed to end the procedures
- Explain the support available to help the staff member improve their performance
- Set out the timetable for improvement and explain how performance will be monitored and reviewed
- Warn the staff member that failure to improve within this timetable could ultimately lead to dismissal

5.1.2 After the meeting

The staff member will be sent formal meeting notes. If a formal warning has been issued, the staff member will also receive:

- A written record of the bullet points above
- Information about the timing and handling of the review stage
- Information about the procedure and time limits for appealing against the warning

5.2 Monitoring and review period

A performance monitoring and review period consisting of formal monitoring guidance and support will follow the formal capability meeting.

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 5.4 below).

5.3 Formal review meeting

At least 2 working days' notice will be given of the formal review meeting, and will explain:

- The time and place of the meeting

- That the staff member has the right to be accompanied by a work colleague or trade union representative

If the person conducting the meeting is satisfied that the staff member has made sufficient improvement, the capability procedure will cease, and the review process will re-start.

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 staff member will receive a final written warning

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. They will be given information about the further monitoring and review period, the procedure and time limits for appealing against the final warning. The staff member will be invited to a decision meeting.

5.4 Decision meeting

At least 2 working days' notice will be given of the decision meeting, and will explain:

- The time and place of the meeting
- That the staff member has the right to be accompanied by a work colleague or trade union representative

If an acceptable standard of performance has now been achieved, the capability procedure will end, and the review process will re-start.

If the staff member's performance does not improve to a sufficient standard, a decision, or recommendation to the Senior Leadership Team, may be made that the staff member should be dismissed or required to cease working at the school.

The staff member 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
- Their right of appeal

5.5 Dismissal

The power to decide that members of staff should no longer work at this school rests with the Senior Leadership Team.

Once the decision to dismiss has been taken, the staff member will be dismissed with the appropriate notice.

6. Right to Appeal

If a staff member feels that a decision to dismiss them is wrong or unjust, they may appeal in writing within 5 working days of the decision, setting out at the same time the grounds for appeal.

Appeals will be heard without unreasonable delay and at an agreed time and place. The same arrangements for notification and statutory right to be accompanied will apply as with formal capability and review meetings. Notes will be taken and a copy sent to the staff member.

The appeal will be dealt with impartially and by senior leaders who have not previously been involved in the case.

The staff member will be informed in writing of the results of the appeal hearing within 5 working days.

7. Confidentiality

The capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Senior Leadership team to quality assure the operation and effectiveness of the system.

8. Consistency of Treatment and Fairness

The Senior Leadership Team is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate. The Senior Leadership Team is aware of the guidance and provisions of the Equality Act 2010.

9. Monitoring Arrangements

The effectiveness of this policy will be monitored by the Senior Leadership Team.

This policy will be reviewed every 2 years, but can be revised as needed.

This policy will be approved by the Board of Trustees.

10. Links with other policies

This policy links to our policies on:

- Staff Code of Conduct
- Staff Disciplinary

Appendix 1: capability action plan template

This template can be used as part of the process of supporting a teacher who is underperforming. It records the outcomes of the initial capability meeting, where targets and timescales are set and agreed.

Where possible, the objectives should be linked to the relevant professional standards, appropriate to the career experience of the member of staff concerned.

Name of Staff Member	Name of Appraiser	Date of Meeting

Objective 1:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

Objective 2:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

Objective 3:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

Other Support Provided

Mentor/Coach Allocated	Yes/No (if yes give name)
Counselling to be provided	Yes/No
Occupational health referral to be made	Yes/No
[Insert any other support provided]	
Formal review date	

Signed by member of staff	Signed by reviewer	Date