



# Teacher Capability Policy 2017

STATUTORY	
Reviewed by:	Trust
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## Policy for dealing with capability Issues

### Purpose

This policy sets out the framework and the arrangements that will apply when teachers fall below the levels of competence that are expected of them.

### Application of the policy

This policy sets out the formal capability procedure, applies only to teachers (Including the Head Teacher) about whose performance there are serious concerns that the appraisal process has been unable to address. *The term teacher applies to all teachers Including Headteachers and Executive Headteacher.*

# Capability Procedure

This procedure applies only to teachers or Head Teachers, including Executive Headteacher, about whose performance there are serious concerns that the 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 teacher 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 teacher 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.

## Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Trustees (for Executive Head Teacher capability meetings), Executive Headteacher (for any Headteacher capability meetings) or Head Teacher (for other teachers). The meeting allows the teacher, 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 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 standards expected of teachers are not being met,*
- give clear guidance on the improved standard of performance needed to ensure that the teacher 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 teacher 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 (*insert time period- e.g. between four and ten weeks. It is for the school 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 teacher 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 teacher 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.

## Monitoring and review period following a formal capability meeting

A performance monitoring and review period of 6 weeks 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).

### 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 teacher 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 teacher has made sufficient improvement, the capability procedure will cease and the appraisal 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 teacher 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 teacher will be invited to a decision meeting.

### 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 teacher 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 Board of Trustees, will be made that the teacher should be dismissed or required to cease working at the school.

The teacher 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.

### Decision to dismiss

The power to dismiss staff within the Trust has been delegated to the Head Teacher.

In the case of dismissal of a Headteacher this is delegated to the Executive Headteacher and in the case of dismissal of the Executive Headteacher this is the responsibility of the Board of Trustees who will appoint a dismissal committee.

## **Dismissal**

Once the decision to dismiss has been taken, the Executive/Headteacher or Trust will dismiss the teacher with notice.

## **Appeal**

If a teacher 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 teacher.

The appeal will be dealt with impartially and in the case of a teacher will be heard by the Executive Headteacher and in the case of the Executive Headteacher will be heard by a panel of governors/trustees that were not involved in the original decision to dismiss.

The teacher 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 capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Executive/Headteacher and Board of Trustees to quality-assure the operation and effectiveness of the capability system.

### **Consistency of Treatment and Fairness**

The Board of Trustees is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The Board of Trustees is aware of the guidance on the Equality Act Issued by the Department for Education.

### **Definitions**

Unless indicated otherwise, all references to "teacher" include the Head Teacher and Executive Headteacher.

### **Delegation**

The Board of Trustees reserve the right to delegate functions to a Local Governing Body in line with the latest agreed scheme of delegation that is available from the Company Secretary.

## 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.

## 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 appropriate absence policy and will be (e.g. referred immediately to the occupational health service to assess the member of staff's health and 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 Board of Trustees and Executive/Headteacher will monitor the operation and effectiveness of the school's capability arrangements.

## Retention

The Board of Trustees and Executive/Headteacher will ensure that all written capability records are retained in a secure place for six years and then destroyed.

## Review

This policy will be reviewed every three years and amended as necessary.

Date of this policy: Sep 2017

Review date: Sep 2020

Signature of Executive Headteacher:.......... Date: 06/10/17

Signature of Chair of Trustees ..... Date:.. 06/10/17

