



Drawn From, The Key, Staff Capability  
Policy and Procedure 2022

# Capability Policy & Procedure

This policy is applicable to all regardless of gender, sexuality, religious belief or none, culture, ethnicity, ability or disability, individuals with protected characteristics and those with none; it does not determine to discriminate against any individual whilst ensuring the smooth operation of our school.

Approved by Governing Body	<b>Full Governing Body</b>
Date:	Summer 2022
Review Date:	Summer 2023

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### **Update Information**

This model policy will be subject to ongoing review and may be amended prior to the scheduled date of the next review in order to reflect changes in legislation, statutory guidance, or best practice (where appropriate).

## 1. Aim and Scope

The aim of this policy is to clearly detail the procedure setting 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.

A lack of capability resulting from a lack of knowledge, skill, ability, experience, or health. Poor performance due to lack of application, or wilful carelessness or negligence should be dealt with as misconduct through the school's Disciplinary Procedure.

(Note: Attendance issues resulting from sickness absence are dealt with through the school's Managing Attendance Policy, however on occasions poor health where the employee is at work may result in capability issues. Headteachers and line managers are advised to take advice from Schools HR if this seems to be the case).

The procedure does not apply to support staff during their probationary period, or to Early Career Teachers (ECTs) during their two school year induction period.

The recognised trade unions have been consulted.

## 2. Policy, Legislation and Guidance

This policy is based on:

- [The School Staffing \(England\) Regulations 2009](#) (regulation 8)
- [The School Staffing \(England\) \(Amendment\) Regulations 2012](#)
- [The Education \(School Teachers' Appraisal\) \(England\) Regulations 2012 \(the Appraisal Regulations\)](#)

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](#).

This policy provides a fair and consistent process to support an employee to improve their performance to acceptable and agreed standards.

## 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 headteacher, teachers and support staff, unless indicated otherwise.

It is important to recognise that genuine incapability is not misconduct and should be treated supportively. It can occur for a variety of reasons such as: previous learned skills have now been overtaken by new technology; reorganisation or changing patterns of work; increased complexity; revised working methods; increased expectations; revised standards etc.

## 4. Roles and Responsibilities

Where the member of staff subject to the procedure is the headteacher, the chair of governors 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 teacher or to assist in monitoring the effectiveness of the policy. Where this happens, responsibilities will be made clear in advance.

There is an expectation that all employees are provided with the appropriate support, assistance, and training to develop new skills to fulfil their duties and responsibilities.

Where capability issues may be attributed to disability, the school must seek to provide reasonable adjustments. Advice should be sought from Schools HR and, where appropriate, from Occupational Health.

This policy provides for a range of appropriate actions to be taken according to the significance and seriousness of the performance issue. Redeployment, demotion or dismissal should only take place following a Stage 3- Capability Review Hearing (see paragraph 7.4 below.)

The continued success of the school is dependent on its employees achieving and maintaining high standards of performance in their roles, and it is the responsibility of every Senior Leader and Lead Teachers to: -

- Regularly monitor performance of employees through the school's performance appraisal/management processes.
- Ensure that required standards of performance are achieved
- Ensure that their employees have up to date job descriptions
- Deal with and seek to remedy any performance issues promptly and effectively

Employees are entitled to: -

- Be informed of the specific areas of work where there are concerns about performance
- Be offered the opportunity to fully discuss and respond to the issues
- Be given an opportunity to improve with appropriate support in place
- Be accompanied by a trade union representative or a work colleague, at the formal meetings and hearing within this procedure. If the employee's representative cannot reasonably attend the meeting, there is an obligation on the school to rearrange the meeting on one occasion. In such circumstances, another date can be put forward so long as it is within **5 working days** after the original date. If the employee is not a member of a trade union and is unable to find a suitable work colleague to support them, they can make a request to the school to bring a friend.
- Be treated fairly and consistently with any decisions taken being the result of a fair and reasonable process
- Have the consequences of any failure to meet the required standards fully explained at each stage of the procedure
- To appeal against a warning or a decision to dismiss.

## **5 Confidentiality**

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

If at any stage in the process poor work performance is attributed to misconduct such as wilful negligence, laziness, carelessness or other wilful acts, the school's Disciplinary Procedure should be invoked.

## 6 Reducing the Risk of Poor Performance

To minimise the risk of problems arising relating to capability, managers and supervisors should ensure that:

-

- Job descriptions accurately describe the main purpose, scope, tasks and responsibilities of the job and should be current and relevant.
- Recruitment and selection is thorough to ensure that only those with the necessary skills and abilities to do the job are appointed.
- Standards of performance are set and explained with arrangements in place for training and supervision and that the employee understands what is expected of them.
- Where a probationary procedure applies, performance must be carefully monitored during the probationary period to identify specific development needs and check that performance is developing as expected.
- Performance is discussed regularly with each employee so that they are aware of how they are doing. There should be no surprises at any performance review meeting as any concerns in performance should be discussed with the employee at the earliest opportunity. It must be noted that performance reviews carried out as part of the performance appraisal/management process should not be considered as a formal stage of this procedure.
- Consequences of not meeting the required standard are fully explained to the employee.
- Where standards change because of a management decision, such as the introduction of new technology or new methodologies etc., the employee is informed, trained as required and made fully aware of their new obligations and the required standards.
- Workloads are manageable and resources sufficient.
- The needs of an employee with a disability are discussed with them in relation to possible impact on performance. Advice may be sought from Occupational Health/Schools HR to consider any reasonable adjustments that may overcome potential difficulties.
- Care and consideration is given to ensuring that employees, for whom English may not be their first language, understand instructions and expected standards and targets.

## 7 Capability Procedure

Performance is monitored on a day-to-day basis by line managers. Through informal daily observations of staff performance and professional discussions; senior teachers and leaders reflecting on staff engagement and understanding of curriculum aims/weekly planning and staff meetings; half termly family group team meetings lead by the lead teacher for the family group and through annual appraisal.

Formal capability procedures will begin when line management support and the appraisal 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.

### 7.1 Formal capability meeting

At least 5 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

It will be conducted by the chair of governors for headteacher, and the headteacher for other members of staff.

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.

### **7.1.1 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 Teachers' Standards or other relevant standards, career stage expectations and/or 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 lead to dismissal

### **7.1.2 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

## **7.2 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 7.4, below).

## **7.3 Formal Capability review meeting**

At least 10 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 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 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.

## 7.4 Decision meeting

At least 5 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 appraisal process will re-start.

If the staff member's performance does not improve to a sufficient standard, a decision, or recommendation to the governing board, 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

## 7.5 Dismissal

The power to decide that members of staff should no longer work at this school rests with the governing board.

Once the decision that the staff member should no longer work at the school has been taken, the chair of governors will notify the local authority of its decision and the reasons for it. Where staff work solely at this school, the local authority must dismiss them within 14 days of the date of the notification. Where they work in more than one school, the local authority must require them to cease to work at this school.

# 8 Right to Appeal

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

Appeals will be heard without unreasonable delay (within 6 working weeks of receipt of the appeal letter) 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 or governors 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 10 working days.

An employee has the right to appeal against:

- A warning given following the Stage 1 Formal Capability Meeting
- A warning given following the Stage 2 Formal Review Meeting
- The decision taken at the Stage 3 Capability Review Hearing.

The Appeal Hearing Panel will consist of three (3) governors who have had no previous involvement in the case and who are not staff and, ideally, not parent governors.

The employee will be entitled to be accompanied by a trade union representative or a work colleague.

### 8.1 How to Appeal:

If an employee wishes to appeal, they must submit their appeal in writing within 10 working days of receipt of the letter notifying them of the warning or the decision of the Capability Review Hearing. The employee must state in the letter their grounds for appeal which can be:

- The severity of the action and/or
- The finding of the Formal Capability Meeting/Formal Review Meeting/Capability Review Hearing on a point of fact and/or
- A failure to adhere to agreed procedure.

## **9 Consistency of treatment and fairness**

The governing board 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 governing board is aware of the guidance and provisions of the Equality Act 2010.

## **10 Monitoring Arrangements**

The effectiveness of this policy will be monitored by the headteacher and governing board.

This policy will be reviewed every annually but can be revised as needed.

This policy will be approved by full governing board.

## **11 Links with other Policies**

This policy links to our policies on:

Staff code of conduct

Teachers' appraisal

Staff grievance procedures

Staff disciplinary procedures

Equality information and objectives

Targets and review periods must be realistic and reasonable taking account of the nature of the job, extent of the failure to achieve the required performance standards and available training and support. For example, a job with few and simple tasks, a review period of no less than 10 working days may be reasonable, particularly where the lack of capability is in a task which is fundamental to the job. Where the job is complex and effectiveness cannot be assessed in a short time, a longer review period may be necessary. However, review periods should not exceed 30 working days.

When setting review periods, a consistent approach needs to be applied considering the nature of the job role and the extent of the underperformance.

The review period following a Final Written Warning can be reduced to no less than 20 working days where the Headteacher can demonstrate that the concerns are significantly serious and that the work of the employee is having a serious effect on the school's overall performance and/or is seriously jeopardising the children's education. Advice should be sought from Schools HR.



## **12 Warnings within the Procedure**

The Headteacher can issue the following warnings at the Stage 1 Formal Capability Meeting or at the Stage 2 Formal Review Meeting, where performance remains unsatisfactory:

- 12** Written warning to remain on record for a period of twelve months
- 13** Final written warning to remain on record for a period of two years

The decision about which level of warning to issue will depend on the seriousness of the capability in question. If performance is unsatisfactory a written warning will normally be issued at a Formal Capability Meeting and will invoke a review period not exceeding 30 working days. However, in cases of particularly serious concerns, where the education of the children is in jeopardy, it would be reasonable to move directly to a final written warning and possibly invoking a shorter review period of no less than 20 working days.

The period of notice for support staff is one week's pay for each year of service in the post up to a maximum of 12 weeks. The notice period starts from the date when the employee is informed that they are to be dismissed.

The period of notice for teachers must be as stated in the Conditions of Service for School Teachers (Burgundy Book). Notice to terminate employment must be given by the specified dates (by 31st October to end employment on 31st December, by 28th February to end employment on 30th April and by 31st May to end employment on 31st August) and notice pay will be to the end of that term. Teachers who have over 8 years continuous employment are entitled to longer notice based on their total continuous service, which is calculated based on one week for every complete year of service up to a maximum of 12 weeks. Employees are not required to work their period of notice.

## **13 Suspension**

If, at any stage during the procedure, the manager, following advice from Schools HR, considers the education of pupils to be jeopardised may consider suspending the employee.

Suspension would be decided by the headteacher or Chair of Governors, depending upon the status of the employee in question. Suspension should be a last resort and if possible should be avoided except where, in the considered opinion of the headteacher and professional advisers, the employee's continued presence would place the education of pupils in jeopardy.

The school may consider suspension following a Decision Meeting, where the decision is to recommend dismissal to a Governor panel at Capability Review Hearing, for the period until a Capability Review Hearing is convened.

Both the Headteacher and the Governing Body have authority to suspend an employee but only the Governing Body has the authority to end a suspension.

The employee will be notified in writing of the suspension giving reasons for the suspension. See template letter in Appendix 10.

## **14 Reverting to the Performance Appraisal/Management Process from Capability**

The Capability Procedure will end if the Headteacher is satisfied that the employee is at the desired standard of performance and the appraisal/performance management process will recommence.

Warnings within the Capability Procedure are time limited e.g., 12 months for a written warning and two years for a final written warning. Where a warning has been issued and there are further concerns around the employee's performance within the period of warning, Section 6 of the procedure must be followed before reverting to the formal Capability procedure. Where this is the case, it is expected that the next stage of the Capability Procedure will apply. For example, if the process ended previously at Stage 1 – Formal Capability Meeting, then you would proceed to Stage 2 – Formal Review Meeting when returning to the formal Capability Procedure within the period of the warning.

## **15 Grievances**

Where a member of staff raises a grievance during the Capability Procedure, the procedure may be temporarily suspended to deal with the grievance. The school should seek advice from Schools HR.

## **16 Sickness Absence**

If long term sickness absence appears to have been triggered by the formal action taken under the Capability Procedure, the matter will be dealt with in accordance with the school's Managing Attendance Procedure. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence. The school should seek advice from Schools HR.

## **17 Employment References to Prospective Employers**

### **17.1 Teachers**

Under The School Staffing (England) (Amendment) Regulations 2012 a school must pass on to a prospective employer, on request, information about whether a teacher is or has been subject to capability in the preceding two years. The information provided should include written details of the concerns which gave rise to this, the duration of the proceedings and their outcome.

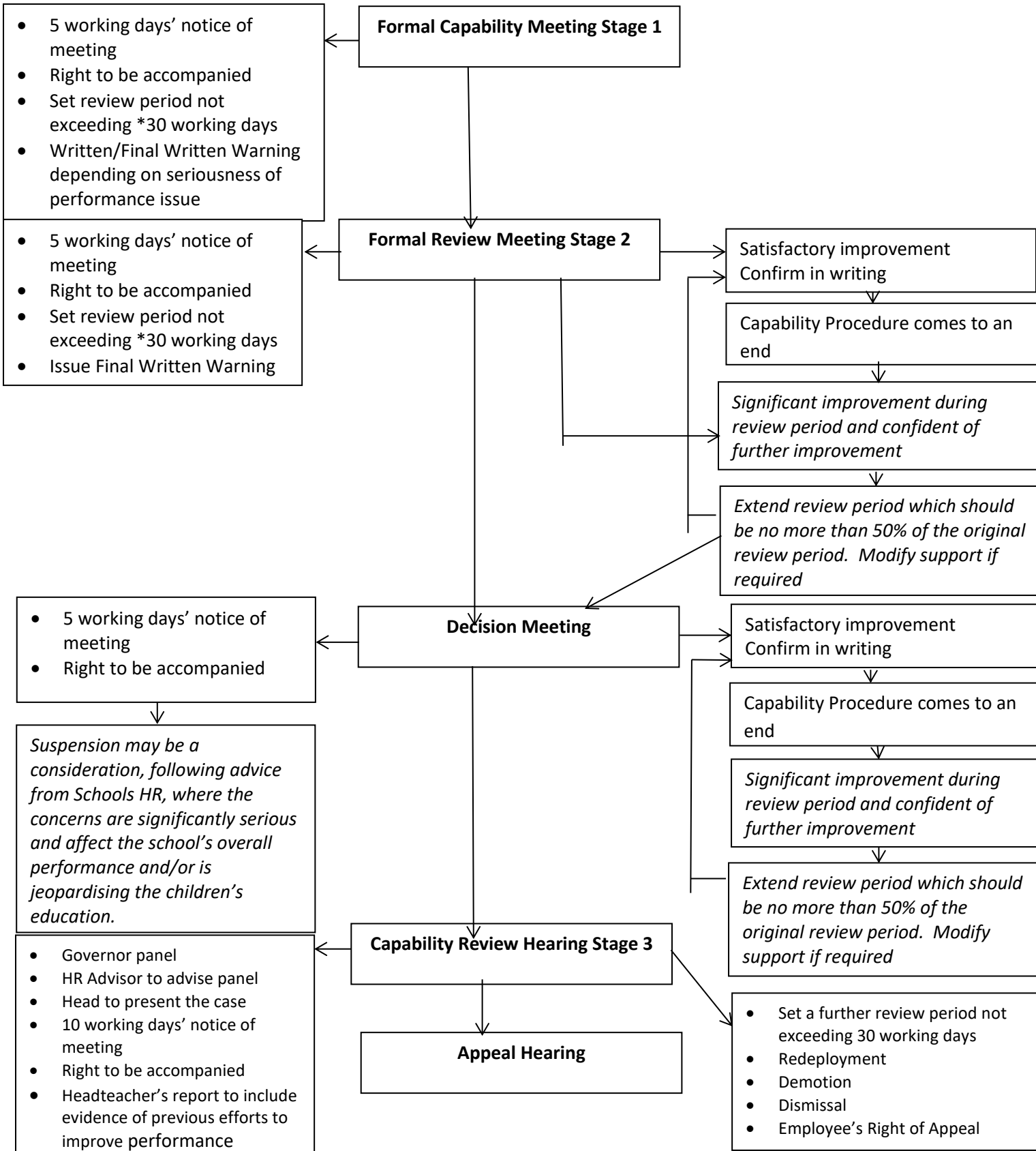
It is considered that this will prevent the recycling of poor teachers from school to school.

### **17.2 Support Staff**

When the school is providing a reference to a prospective employer on behalf of an employee, the reference should only disclose details of capability issues if the employee is undergoing capability procedures at the time of writing the reference. Where the employee has previously undergone capability procedures but the issue has been resolved at the time of writing the reference, this should not be disclosed in the reference unless there is an unspent warning on the employee's file which has been issued relating to capability.

# Capability Procedure Flowchart

## Appendix 1



**\*The review period following a Final Written Warning can be reduced to 20 working days where the concerns are significantly serious and that the work of the employee is having a serious effect on the school's overall performance and/or is seriously jeopardising the children's education**

**Model Letter: Notification of Formal Capability Meeting (Stage 1)**

Dear

**Formal Capability Meeting**

In accordance with the school's Capability Procedure, I would like you to attend a meeting with me on (date) at (time) in (place) to discuss the concerns about your performance which are detailed below and explore ways in which the school may be able to support you in reaching the required standard in the areas identified.

*State clearly the areas of concern here*

- 1.
- 2.
- 3.
- 4.

I attach copies of evidence from the Feedback stage of the *Performance Appraisal/Management Procedure* which will be considered at the meeting. These include *(list what is being attached e.g., the objectives and support plan agreed for the Feedback stage, notes from review meetings, observations, details of support provided etc.)*.

At the meeting you have will have the opportunity to present your case and any acceptable reasons in response to the allegation of poor performance.

If during the meeting there is evidence that the poor performance is due to wilful carelessness or negligence on your part, the meeting will be adjourned and the matter will be dealt with in accordance with the school's Disciplinary Procedure.

You have the right to be accompanied to the meeting by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the meeting and to arrange for them to have a copy of the paperwork.

I enclose a copy of the Capability Procedure for your information.

I appreciate that this may be an anxious time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details)* and/or *I enclose a leaflet...*

Please inform me directly if you require any clarification about the process.

Yours sincerely,

Headteacher

**Model Letter: Notification of Outcome of Formal Capability Meeting (Stage 1)**

Dear

**Outcome of Stage 1 Formal Capability Meeting**

I refer to the Formal Capability Meeting held on *(date)* and write to confirm the outcome.

We discussed the areas of concern in your performance which are as below:

- 1.
- 2.
- 3.
- 4.

You explained that *(insert any explanation that the employee gave about their perception of their own performance and any reasons given for the performance issues raised)*

After full consideration of the points raised, it was agreed that the following action will be taken in an attempt to *resolve these difficulties/assist you to reach the required standard*: -

*(insert details of constructive action to be taken by the manager and/or employee to address the performance issues i.e., details of performance standard to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc.)*

A review period of *(enter number of working day for review period)* is being set from *(date of meeting)* and your performance will be reviewed at a Stage 2 Formal Review Meeting on *(date)*.

OR

In view of the poor performance it is my decision that you should receive a written warning to remain on your record for 12 months. I must inform you that if you fail to achieve the required standard and the matter was to progress to the Stage 3 Capability Review Hearing stage consideration will be given to your dismissal on the grounds of capability.

I attach a copy of the notes of the meeting for your information.

You have the right to appeal against the written warning in accordance with the School's Capability Procedure. If you wish to appeal, you must submit a written statement of appeal to me within 10 working days of receipt of this letter. The letter should clearly state the grounds of the appeal, which should be based on any or all the following:

- The severity of the action and/or
- The finding of the Formal Capability Meeting on a point of fact and/or
- A failure to adhere to agreed procedure

Any appeal will be heard by an Appeal Panel of three Governors.

Yours sincerely  
Headteacher

**Model Letter – Notification of Formal Review Meeting (Stage 2)**

Dear

**Stage 2 Formal Review Meeting**

I would like you to attend a Formal Review Meeting on (date) at (time) in (Venue). The purpose of this meeting is to review your performance over the 30 working day review period agreed at the Formal Capability Meeting on (date).

I attach written evidence obtained during the review period for consideration at the meeting and this includes:

*(List supporting evidence to be considered at the meeting)*

You have the right to be accompanied to the meeting by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the meeting and for them to have a copy of the paperwork.

I appreciate that this may be an anxious time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details)* and/or I enclose a leaflet.

Please inform me directly if you require any clarification about the process.

Yours sincerely

Headteacher

**Model Letter - Notification of Outcome of Formal Review Meeting (insufficient improvement)**

Dear

**Outcome of Formal Review Meeting**

I refer to the Formal Review Meeting on (date) and write to confirm the outcome.

Following the meeting and review of the evidence obtained during the set review period I must inform you that there has been no/insufficient improvement in your performance.

*Points discussed should be entered here around how the previous review period has gone*

In view of no/insufficient improvement achieved, it is my decision that you should receive a final written warning to remain on your record for 2 years.

This invokes a further review period of 30 working days to be set and your performance will be reviewed at a Decision Meeting to be held on (date).

*During the review period (insert details of constructive action to be taken by the manager and/or employee to address the performance issues i.e., details of performance standard to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc.)*

I must inform you that if you fail to achieve the required standard and the matter was to progress to Capability Review Hearing, consideration will be given to your dismissal on the grounds of capability.

I attach a copy of the notes of the meeting for your information.

You have the right to appeal against the final written warning in accordance with the School's Capability Procedure. If you wish to appeal, you must submit a written statement of appeal to me within 10 working days of receipt of this letter. The letter should clearly state the grounds of the appeal, which should be based on any or all the following:

- The severity of the action and/or
- The finding of the Formal Capability Meeting on a point of fact and/or
- A failure to adhere to agreed procedure

Any appeal will be heard by an Appeal Panel of three Governors.

Yours sincerely

Headteacher

## Model Letter – Notification of Decision Meeting

Dear

### Decision Meeting

I would like you to attend a Decision Meeting on (date) at (time) in (Venue). The purpose of this meeting is to review your performance over the 30 working day review period agreed at the Formal Review Meeting on (date).

I attach written evidence obtained during the review period for consideration at the meeting and this includes:

*(List supporting evidence to be considered at the meeting)*

You have the right to be accompanied to the meeting by a trade union representative or a work colleague.

I appreciate that this may be an anxious time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details)* and/or *I enclose a leaflet.*

Please inform me directly if you require any clarification about the process.

Yours sincerely

Headteacher



**Model Letter - Notification of Outcome of Decision Meeting (insufficient improvement)**

Dear

**Outcome of Decision Meeting**

I refer to the Decision Meeting on (date) and write to confirm the outcome.

Following the meeting and review of the evidence obtained during the set review period I must inform you that there has been no/insufficient improvement in your performance.

*Points discussed should be entered here around how the previous review period has gone*

In view of no/insufficient improvement achieved it is my decision that the matter should progress to the Capability Review Hearing stage where dismissal may be a consideration.

The Capability Review Hearing will be held in accordance with the school's Capability Procedure and you will be informed about the details once these have been finalised.

I attach a copy of the notes of the meeting for your information.

Yours sincerely

Headteacher

**Model Letter – Notification of Confirmation of Improvement in Performance**

Dear

Following the Formal Capability/Formal Review/Decision meeting on *(date)* to review your performance I am pleased to inform you that your performance has improved to the required standard and, consequently, I do not intend to take any further action under the Capability Procedure.

Your performance will revert to being managed under the school's Performance Appraisal/Management Procedure.

I must inform you that should any further problems in your work performance arise further action under the Capability procedure may be necessary.

I would like to congratulate you on the effort you have put in to improve the standard of your work in the areas specified. I hope that you will be able to sustain this improvement and would encourage you to seek help immediately should you experience any problems with your work in the future.

I attach a copy of the notes of the meeting for your information.

Yours sincerely

Headteacher

**Model Letter - Notification of Extension of Review Period Following Formal Capability/Formal Review/Decision Meeting**

Dear

I refer to the Formal Capability/Formal Review/Decision meeting held on *(date)* when your performance at work was discussed.

I am very pleased to confirm that you have achieved the expected standard of performance in the following areas: -

*(state the areas where the expected performance standards have been achieved)*

I would like to congratulate you on the effort you have put in to achieving the required standard in the areas specified.

However, as discussed, concerns remain in respect of the following: -

*(state here the areas of concern which remain, these should be very specific detailing in what way performance standards have not reached so that the employee is left in no doubt)*

You explained that *(insert any explanation that the employee gave about their perception of their own performance and any reasons given for the performance issues raised)*

After full consideration of the points raised, it was agreed that the following action would be taken in an attempt to resolve *these difficulties/assist you to reach the required standard: -*

*(insert details of constructive action to be taken by the manager and/or employee to address the performance issues i.e., details of performance standard to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc.)*

In the circumstances the current review period will be extended by a further *(number of working days, this should be no more than half the original review period)* days to enable you to achieve the expected standard in the area(s) specified. Therefore, a Formal Review Meeting/Decision Meeting to consider your performance will be held on *(date)*.

I must inform you that if you fail to achieve the required standard and the matter was to progress to the Capability Review Hearing, consideration will be given to your dismissal on the grounds of capability.

I attach a copy of the notes of the meeting for your information.

Yours sincerely

Headteacher

**Model Letter – Notification of Suspension**

Dear

I am writing to confirm the decision taken under the Schools' Capability Procedure to suspend you from work with effect from ..... until further notice. Your suspension is without prejudice and on full pay.

The reason for your suspension *is to facilitate a full investigation into the allegation of poor performance (state details of poor performance)/is that your poor performance at work is considered to jeopardise the education of pupils and will be until a Capability Review Hearing is convened to consider your continued employment at the school.*

It is expected that the investigation will be concluded by *(enter date) / It is expected that the Capability Review Hearing will be convened by (enter date).* However, if due to unforeseen circumstances, it has not been possible to *complete the investigation / convene the Capability Review Hearing* by the given date, you will be informed of any extension to your suspension.

Please do not return to the school unless it is with my express agreement.

The decision to suspend will be reviewed regularly and may be reconsidered at any time in the light of new evidence during the investigation. As suspension can be lifted at any time, during this time you are regarded as being available for work or to attend for any other reason.

Following the investigation, if it is considered that you have a case to answer, the *School's Disciplinary Procedure/School's Capability Procedure* will be followed and you will be notified accordingly.

(Name of designated person) will be your designated point of contact at the school during the period that you are away from the school. He/she will keep you informed of general activities and news at the school. If you wish to contact the school for any reason please telephone (name of designated person) on (insert telephone number). I must ask you not to contact any other member of staff, pupil at the school or any member of the Governing Body whilst the suspension is in force.

If you wish to collect any personal belongings at the school, please contact (name of designated person) who will make the appropriate arrangements.

I appreciate that this will be a difficult time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details) and/or I enclose a leaflet....*

Yours sincerely

Headteacher/Chair of Governors

## Model Letter - Notification of Capability Review Hearing

Dear

### Capability Review Hearing

I write to inform you that in accordance with the School's Capability Procedure you are required to attend a Capability Review Hearing in relation to your performance at work.

The Capability Review Hearing will be held on *(date)* at *(time)* at *(place)*. The Capability Review Panel will consist of: -

*List the names of the 3 governors*

The purpose of the Capability Review Hearing is to review your employment with the school as *(enter job title)* following unsatisfactory assessments of your capability for the post. The following areas have been identified where you have failed to reach the required standard.

(i)

(ii)

(iii)

The purpose of the Capability Review Hearing is also to confirm that all the appropriate procedures have been followed and that any proposed action is reasonable in all the circumstances. This will include that you have previously been advised that there will be consideration given to your dismissal if you do not meet the standards required for the post which you are employed to.

You have the right to be accompanied to the Hearing by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the hearing.

I enclose the 'bundle of documents', which includes a copy of the school's Capability Procedure, for consideration at the Capability Review Hearing. It is your responsibility to arrange for your representative to have a copy of the paperwork.

I would be grateful if you could confirm your attendance as soon as possible. If you wish to submit any documentation to be considered at the Hearing please forward this no later than 3 working days before the Hearing.

I appreciate that this may be an anxious time for you and would like to inform you that the school's free employee counselling service is available if you require support at this time. You can contact them on *(insert contact details)* and/or I enclose a leaflet....

Yours sincerely

Chair of Governors

**Model Letter – Notification of Outcome of Capability Review Hearing (Dismissal)**

Dear

I refer to the Capability Review Hearing on *(date)* and write to inform you of the decision on behalf of the Capability Review Panel.

The panel considered all the information presented which included: -

*(enter information considered which can include the following)*

- *Nature and level of the job*
- *Level of incapability and the impact on the job*
- *Likely level of improvement and whether this is sufficient*
- *Actions taken to date to resolve the difficulties, whether these are sufficient and further possible actions*
- *A pattern where capability remains satisfactory throughout the review period only to lapse soon afterwards.*
- *Any other relevant factors (these need to be specified)*

The panel are of the view that you have been given sufficient opportunity and assistance to improve your performance to the required standard but you have failed to reach this standard. Consequently, I have no alternative but to dismiss you on the grounds of capability. You are entitled to ..... weeks' notice with pay. You are not required to work your period of notice.

A copy of the notes of the hearing are attached for your information.

You have the right to appeal against your dismissal. If you wish to appeal, please let me know in writing within 10 working days of receiving this letter stating your grounds for appeal which can be:

-

- The severity of the action and/or
- The finding of the Capability Review Hearing on a point of fact and/or
- A failure to adhere to agreed procedure

In the meantime, if you should have any queries please contact me.

Yours sincerely

Chair of Capability Review Hearing Panel

### Appendix 13: 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 APPRAISER	DATE