

SUPPORT STAFF CAPABILITY POLICY

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Next Review Due: May 2021

Introduction

Academy leaders have a responsibility to ensure that pupils receive the best educational opportunities available to them. One of the key elements to learning is the quality of teaching provided ensuring that all staff are performing to professionally acceptable standards. This policy sets out the Trust's formal capability procedure which is used to address any general concerns that are raised about a member of staff's performance and to provide a more tightly focussed strategy of support and assessment. It applies only to members of support staff about whose performance there are concerns that informal support has been unable to address.

This policy has been provided as a Trust level resource for BDAT and does not form part of an employee's terms and conditions of employment.

Policy

The Trust adopted this policy and procedure after consultations with the recognised trade unions. It will review it in 12 months. with the JCNC

The use of this policy is intended to be a supportive and developmental process which is designed to ensure that staff have the skills and support they need to carry out their role effectively. It is intended to help to ensure that staff are able to improve their professional practice and to develop in their professional roles.

The Trust is committed to ensuring consistency of treatment and fairness in the operation of its performance management and Capability Policy

Purpose

The Trust believes that it can only be fully effective in delivering a service to pupils and the community if it has well trained motivated, committed and competent staff.

In support of these aims this policy and procedure sets out the arrangements that will ordinarily apply when staff are experiencing difficulties in meeting the standards that are expected of them.

The Capability Policy will ordinarily be used to address any general concerns that are raised about a member of staff's performance and to provide a more tightly focussed strategy of support and assessment.

Application of the policy

This policy is intended to apply to all support staff outside of their Probationary Period. However, the Trust reserves the right to depart from the terms of this policy where it deems it appropriate to do so including (without limitation) within the first two years' of a member of staff's employment with the Trust. The policy is part of a suite of policies (Managing Attendance, Disciplinary etc) and will not prejudice the outcome of any procedure under other policies.

Where the Academy has identified concerns regarding an employee's performance, it will endeavour to address the concerns by putting informal support in place following a discussion with the employee's line manager. Following the completion of a period of informal support in accordance with the Performance Management Policy, where informal support has been unsuccessful, or the concerns are of a serious nature, the formal capability procedure below will apply.

Formal Capability Procedure

The formal stages of this policy should be used in circumstances where the informal support has been unable to address concerns regarding their performance.

The right to be accompanied by a trade union representative or work colleague applies at all of the meetings listed under all of the stages of this procedure.

Stage 1 - Formal Capability meeting

The written notification of the meeting, together with the evidentiary documents and a copy of the procedure, should be supplied to the staff member normally at least 5 working days ahead of the meeting. The notification letters should make it clear the range of formal outcomes that could come from the procedure.

This meeting is intended to establish the concerns about the performance of the staff member. It will be conducted by a member of SLT. 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 informal support. In such cases, the formal capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting if, for example, 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 held under the formal stage of the policy which could lead to a formal warning being issued, the person conducting the meeting should:

1. identify the professional areas for development to enable performance standards to be met, (for example which of the standards expected are not being met);
2. give clear guidance on the improved standard of performance needed to ensure that the staff member has every reasonable opportunity to improve their performance. This may include the setting of new objectives focused on the specific areas of development 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;
3. the staff member may request a short adjournment at any point in order to consider the management proposals and develop alternative or additional suggestions;
4. explain any support that will be available to help the staff member to improve their performance;
5. 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. In

straightforward cases this could be between four to six weeks depending on the time required for support and assessment processes. It is for the Academy to determine the set period. For staff with a Trust-wide responsibility it may be appropriate for the Trust to extended timescale in order to overcome the concerns. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place;

6. Where there are serious concerns, where (for instance) the progress of pupils is being jeopardised or where there are concerns on the grounds of health and safety a warning could be a written/final written warning being issued with a four-week period for improvement being given;
7. advise the staff member formally that failure to improve within the set period could lead to dismissal. Normally, a warning will be issued where applicable and a review date will be set.

Where a warning is issued, the member of staff will be informed in writing in addition to 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.

There is a right of appeal. Details of the appeal should be provided in writing within 5 working days of the decision being communicated.

Stage 2 – Formal Capability meeting

This stage will commence when, as a result of the review meeting held under stage 1, the Trust believes that insufficient progress has been made at the stage 1 and the decision taken to move to stage 2. The written notification of the meeting, together with the evidentiary documents and a copy of the procedure should be supplied to the staff member at least 5 working days ahead of the meeting.

Stage 2 will follow the same format as Stage 1

If the person conducting the meeting (SLT) is satisfied that the staff member has made sufficient improvement, the formal stage of the capability procedure will cease. In other cases:

1. 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 for up to 4-6 weeks;
2. if, in the opinion of the person conducting the meeting, no, or insufficient improvement has been made during the monitoring and review period, the staff member may receive a final warning.

Where a warning is issued, the member of staff will be informed in writing in addition to 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. The warning should usually 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.

There is a right of appeal. Details of the appeal should be provided in writing within 5 working days of the decision being communicated.

At the end of the improvement period there will be a formal review with the member of staff and their trade union or work colleague at which progress towards improvement will be discussed. If the outcome of the meeting is that concerns remain about the performance of the member of staff, then the staff member will be invited by letter to a Stage 3 final capability meeting at which dismissal can be considered. The staff member should be advised that dismissal is a possible outcome of the Stage 3 meeting.

Stage 3 – Final capability decision meeting

This meeting will be held by a panel of Governors (Trustees for central staff). The Trust has the overall decision-making authority.

As with formal capability meetings and formal review meetings, at least 5 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 their right to be accompanied by a work colleague or trade union representative. They also have the right to submit evidence/information in support of their case ahead of the meeting for consideration by the decision makers

The Stage 3 meeting will follow the same format as the Stages 1 and 2 meetings.

If the Stage 3 meeting finds that an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end.

If performance remains unsatisfactory, the person hearing the case may make a decision to dismiss the employee on the grounds of lack of professional capability.

The panel also has the power to order a further period of improvement if they believe that there has been some progress and that there is a likelihood of the staff member being able to reach the required standard of performance with additional support and time for improvement. In this case the meeting will be adjourned for a period of time (no more than four working weeks) when it will reconvene to consider whether an appropriate standard of work has been achieved or whether to go ahead with a decision to cease the procedure or recommend the dismissal of the employee.

NOTE: *In Multi Academy Trusts the Trust is the employer but the power to dismiss can be delegated to a member of SLT, to one or more governors, or to one or more governors acting with the Principal/Head of School.*

Where there is a recommendation for dismissal, the employee will be informed within 5 working days 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. Any Appeal will be heard by an Appeals Committee.

Appeal

If an employee 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 5 working days of the decision, setting out at the same time the grounds for appeal.

Appeals will be heard by the Head of School, Headteacher / Principal, Executive Headteacher, a Director, member of the local governing body or a Trustee without unreasonable delay. The same arrangements for notification, right to produce evidence and right to be accompanied by a work colleague or trade union representative will apply.