

## Appraisal and Capability Policy

**This policy should be read in conjunction with:**

- Pay Policy
- Induction and Probation Policy and Procedure
- CPD Policy
- PPDR process

### **SECTION A: Appraisal**

#### **1.0 Aims**

1.1 This policy aims to:

- Set out the arrangements for appraising all staff, including the process and the responsibilities of individuals
- Ensure consistency and fairness across the Trust
- Create a process where staff's professional and personal development is supported and encouraged
- Ensure staff have the opportunities to develop the skills and knowledge (referencing Pi learning characteristics) that they need to fulfil and excel in their role and provide an excellent education/environment to our pupils

1.2 The policy applies to all staff employed by the Trust, except those on contracts of less than one year, those undergoing induction and probation and those undergoing capability procedures (see Section B for more information).

#### **2.0 Legislation and guidance:**

2.1 As a Trust, we are free to determine our own appraisal arrangements. However, where a contract specifically incorporates conditions from [The Education \(School Teachers' Appraisal\) \(England\) Regulations 2012](#), these will continue to apply due to [The Transfer of Undertakings \(Protection of Employment\) \(TUPE\) Regulations 2006](#), which protect employees' terms and conditions when a maintained school becomes an academy.

2.2 We have based this policy on the [model policy](#) produced by the Department for Education (DfE). This policy complies with our funding agreement and articles of association.

#### **3.0 The appraisal period:**

3.1 The appraisal period will run for 12 months beginning on the first day of the autumn term. Initial Appraisal meetings will be held during the autumn term.

3.2 For staff on fixed-term contracts of less than 12 months, the appraisal period will be determined by the duration of their contract, following the same pattern as laid out in the PPDR process.

3.3 Staff who start at or leave the Trust during the standard appraisal period can have a longer or shorter appraisal period in that appraisal round and the length will be agreed at their initial appraisal meeting, following the successful completion of their probationary period. In any event staff will join the pay review cycle at the next review point after the probationary period. A minimum of 12 months employment is required before a formal pay review as detailed in the pay policy.

3.4 In a scenario, where multiple staff join Consortium as part of a TUPE process, it may be necessary for the substantive process currently in place in the joining school/s to continue until the end of that academic year.

3.5 It is intended that all staff will take part in the appraisal process in accordance with the timeline below:

**4.0 Appraisal timeline:**

Date	Action
First day of autumn term	Appraisal cycle begins
September – 31 October	Initial Appraisal meeting held for all staff to discuss and agree targets, referencing the job description and professional standards (where available) which their performance and development will be assessed against during this period.
By end of Jan	Interim Meeting held to review progress-
By end of April	Interim Meeting held to review progress
Throughout the year	A range of monitoring (both formal and informal) will take place, along with coaching and feedback, with the aim of supporting colleague's development.

**5.0 Setting targets during the initial appraisal meeting:**

5.1 The Academy Heads, Central Team, Directors and Heads of Service targets will be set by the CEO (or delegated to an appropriate person) in consultation with the Trust Board where appropriate. The CEO targets will be set and reviewed with a panel of Trustees, who will discuss evidence of impact through a variety of sources, examples include but not restricted to, external views and a 360.

5.2 Targets will be set during the initial appraisal meeting and, where relevant to their continuing development, may link to a colleague's previous cycle.

5.3 Targets will:

- Contribute to improving the education and environment of pupils across the Trust and the implementation of any improvement plans, in relation to school development plans if appropriate or personal. To ensure this happens, the appraiser will quality assure all targets against the improvement plan.
- Be generated by collaborative and professional conversations between appraiser and appraisee and driven primarily by the appraisee, with an appropriate level of coaching support from the appraiser where necessary.
- Be specific, measurable, achievable, realistic and time-bound (SMART)
- Be appropriate to the role, career experience and reflect professional development needs of the individual.
- Be revised if circumstances change throughout the year

5.4 There are no set number of targets for each colleague but they will be reasonable and realistic. Targets will be within the areas of personal/learning characteristics, professional and wellbeing targets where appropriate. It may be that one body of work generates targets for all the areas.

5.5 When targets are set, staff will also be informed of the standards their performance will be judged against.

- 5.6 The appraiser and staff member will seek to agree the targets but, if that is not possible, the appraiser will determine the targets and reasons why they cannot be agreed will be recorded.
- 5.7 During the initial appraisal meeting, professional development needs will be considered and discussed. This might take many forms and would probably involve an element of Trust wide collaborative opportunities.
- 5.8 Any career progression or aspirations will also form part of the discussion and the appraiser is expected to share this information with key colleagues across the Trust, if no suitable role or position is available within their present setting, in order to consider wider options for progression.

**6.0 Standards:**

- 6.1 Teachers' performance will be assessed against the Teacher's Standards and any career stage expectations that we have developed and are in force at the time.
- 6.2 Classroom Support Staff will be assessed against the TA/HLTA Standards and any career stage expectations that we have developed and are in force at the time.
- 6.3 Administration, and ancillary and any other staff will be assessed against professional or technical standards and any career stage expectations that we have developed and are in force at the time.

**7.0 Reviewing performance:**

- 7.1 A range of evidence may be used to evaluate development and progression for example but not limited to:

- Formal and informal observations of practice
- Observations and results from wider school activities, including drop ins and coaching, if applicable
- Performance of their pupils, reviews of planning and marking, if applicable
- Parent and pupil voice, if applicable
- 360 and other feedback tools
- Monitoring of reports and records

- 7.2 Protocol for teaching and learning visits:

We believe that teaching and learning visits are an important way of monitoring the development of staff performance. They can help identify a colleague's strengths and areas for improvement and can help us identify areas of good practice that can be shared across the Trust. There will be both formal and 'drop in' visits. Staff with responsibilities outside the classroom will also have these responsibilities observed.

- 7.3 All visits will:

- Be carried out in an objective, fair, professional and supportive manner using instructional coaching approaches
- Be carried out by appropriately experienced staff for the role
- Provide constructive feedback, modelling strategies and practical applications to support development
- Be followed up by further monitoring and support to ensure that development has taken space
- Remain confidential to those who need to know details as part of their jobs but will be proportionate and not excessive.

- 7.4 'Drop in' visits (staff engaged in teaching and learning): Drop-in visits will be conducted by senior, more experienced colleagues or those with subject lead responsibilities in order to monitor the quality of teaching and learning.
- 7.5 As a Trust we operate an open door policy and therefore no notice of 'drop in' visits will be given. An ethos of collaboration and supportive feedback is promoted in all our settings as is encouraged as part of everyday practice.
- 7.6 They will often be relatively short visits and may involve the observer talking to pupils and looking at their work.
- 7.7 The frequency will depend on the individual member of staff and the school's needs at the time but will be proportionate and not excessive. Generally, verbal face to face feedback will be given as soon as is practically possible.
- 7.8 We will use all reasonable endeavours to provide feedback on the day or during the coaching session.
- 7.9 Please note that we also carry out drop-in visits where fellow teachers observe a lesson for their own professional development. Observations gathered will not be used as part of the appraisal process.
- 7.10 **Formal visits** (staff engaged in teaching and learning):  
The purpose of formal visits-are partly to evaluate the teacher's performance, development and progress against their targets and the relevant standards. The number of formal visits will be appropriate and proportionate and will be determined by the teacher's individual circumstances and the needs of the school at the time.
- 7.11 For example, ECTs and less experienced teachers who have recently started at the school will receive a number of formal visits to establish their strengths and areas for development. A very experienced teacher may receive fewer observations.
- 7.12 Additional visits (staff engaged in teaching and learning):  
Additional formal visits will take place if:
- The staff member requests them
  - There are documented concerns that the staff members performance is not up to standard and the staff member is aware of.
  - The staff member is subject to formal capability proceedings
- 7.13 The above protocols will still apply to these visits.
- 7.14 Recordings of online lessons will not be used as part of the appraisal review process.
- 8.0 Final evaluation meeting:**
- 8.1 Performance will be reviewed and addressed on a regular basis throughout the year in regular meetings with the staff member's line manager. Each member of staff is responsible for their own process.
- 8.2 The appraisal meeting is the end point of the annual appraisal process and will take place by the end of June. In this meeting, the appraisee and appraiser will:
- Review the relevant evidence of professional and personal development
  - Review the individual's job description and any associated guidelines
  - Assess development and performance in the appraisal period against the relevant standards
  - Assess the developmental journey and performance in the appraisal period against targets and discuss the second appraisal mapping exercise.

- Continue to discuss wellbeing, career aspirations and any difficulties they may be facing
- If necessary, discuss underperformance and put a plan in place to address it. They should also inform the teacher that if performance does not improve, capability proceedings may begin, where applicable

#### **9.0 Conducting annual appraisal meetings:**

- 9.1 The relevant line manager will decide who will appraise team members. Unless there is a good reason not to, this will normally be the direct line manager. By way of example, a 'good reason' could be a poor or deteriorating working relationship between the appraisee and appraiser, including where a formal grievance has been lodged by the staff member citing their line manager.
- 9.2 All appraisers will be provided with appropriate training, including non-directive coaching training.
- 9.3 Appraisal meetings will take place within normal working hours and sufficient time and timetabling will be allocated for these meetings.

#### **10.0 Appraisal document (Personal and Professional Development Review, PPDR):**

- 10.1 Staff will have access to an electronic copy of their appraisal and will be able to access it regularly. The report will be completed by the person who conducted the appraisal. We will use all reasonable endeavours to complete this within 5 working days.
- 10.2 This will include:
- An appraisal map, where both appraisee and appraiser evaluates where current development is in terms of a colleague's conduct and performance, using reference resources, including assessment of performance against the relevant standards
  - An agreement between appraiser and appraisee of the targets and actions detailing how the colleague's development needs will be supported
  - An assessment of training and development needs, including opportunities to collaborate with colleagues across the Trust and the actions support them
  - Ongoing references to the support of wellbeing with colleagues and the Trust both playing a part in this
  - A discussion around career progression
  - Where relevant, a recommendation on pay progression
- 10.3 At all points in the PPDR process, the member of staff will input their comments, ideas, research and feedback and will be driving the process, with Line Manager in a collaborative and supportive role wherever possible.  
After the initial appraisal meeting and developmental target setting, we will hold review meetings where staff can discuss their progress and developments.
- 10.4 Staff will sign the appraisal document to say they agree with its content. Staff can appeal, if they disagree with the contents of the document and the pay recommendation it makes.
- 10.5 A template personal & professional development record can be found in Staffzone on the website or via this link:  
[https://docs.google.com/document/d/1cP5XLTf7PBnOC9pMb80HfCVOCDZq59-Z/edit?usp=drive\\_link&oid=112431342770618585114&rtpof=true&sd=true](https://docs.google.com/document/d/1cP5XLTf7PBnOC9pMb80HfCVOCDZq59-Z/edit?usp=drive_link&oid=112431342770618585114&rtpof=true&sd=true)

**11.0 Concerns about performance:**

Academy Heads need to ensure that HoS People is aware of any capability process when it begins, for a member of staff.

**Action plans (informal process)**

- 11.1 If it becomes clear a staff member is having difficulties at any point during the appraisal period, they will be provided with additional support, specifically with ongoing directive coaching, to get them back on track, this may be captured in an action plan with specific SMART and short-term targets. The plan and targets will be reviewed weekly by the Academy Head and will usually last for the period of 4 weeks.
- 11.2 This will begin with a meeting with their line manager, where the issues will be discussed and potential solutions identified.
- 11.3 The nature of the support will be based on the individual's circumstances. For example, staff whose difficulties are linked to a long-term health condition may be referred to the occupational health service. Staff new to the school or to a role may be given a mentor or coach. Targets may be changed as a reasonable adjustment due to a disability.
- 11.4 If the targets within the action plan have been met and achieved successfully, then the appraisal process will continue as usual.
- 11.5 If the staff member is unable to achieve the targets, then the appraisal process will be halted and formal proceedings will begin in the form of PPIP (Professional and Personal Improvement Plan).
- 11.6 If the initial concerns may be of a nature that would usually involve beginning the capability procedure. In these cases, refer to our capability policy (in section B).

**Professional and Personal Improvement Plan (PPIP) (Formal process) see Capability section B**

**12.0 Confidentiality:**

- 12.1 The appraisal process and relevant documents are strictly confidential. Only staff members who need the information in order to do their jobs will have access to the information.
- 12.2 Appraisal information will be anonymised when information is reported to the Trust Board.
- 12.3 Appraisal records will be kept securely in a shared Google folder during the appraisal process to enable it to be a working document and then in the personnel file, on the MIS platform once the appraisal cycle is complete.

**13.0 Monitoring arrangements:**

- 13.1 The Trust Board and where appropriate Locality Committees will monitor and review the effectiveness of the appraisal arrangements.

## **SECTION B: Capability**

### **1.0 Aims:**

- 1.1 Every job carries standards of performance that employees are expected to achieve, but occasionally an employee's performance may fall short of the standards expected.
- 1.2 This Trust seeks to provide each employee with the direction, development and support necessary to assure a productive and rewarding career. This procedure ensures that the Trust has a fair and consistent framework for dealing with capability matters effectively, consistently and in a timely manner to ensure that no individual is discriminated against.
- 1.3 This policy sets out the procedure that must apply in cases of capability. Its emphasis is one of support and development and it is important that the right procedure is used according to the situation under review.
- 1.4 The capability procedure is designed to:
  - Encourage staff to meet agreed standards of behaviour, conduct and job performance
  - Deal fairly and consistently with staff who do not improve to meet those standards and identify ways to help them improve
  - Be applied in a consistent, fair, prompt and supportive way.
- 1.5 For a variety of reasons, the performance of an employee may give rise to concern because the evidence suggests that they are unable to carry out the duties and responsibilities of their post to a professionally acceptable standard, through lack of capability, aptitude, skill or ability and not through any lack of willingness or effort on their part. Where the employee concerned fails to carry out their duties and responsibilities to a reasonable and acceptable standard for reasons of their capability, the procedure set out in this document should be used. One important factor will be the impact of the employee's performance on pupils' achievement, progress and wellbeing.
- 1.6 Another reason for concerns about performance may be genuine but unacceptable absence due to ill-health. This may affect the long-term ability for employees to continue to carry out the requirements of the role and may have a detrimental effect upon service delivery. In such circumstances, the issues should be addressed in accordance with the absence management policy.
- 1.7 This policy has been subject to full and meaningful consultation with the recognised Trades Unions. The policy will be reviewed as may be required by legislative or organisational change.
- 1.8 The policy takes account of the latest Ofsted inspection framework.
- 1.9 For specific advice and guidance, Academy Heads and/or managers should refer to the Trust's Head of Service People.

### **2.0 Scope:**

- 2.1 This procedure applies to all teaching and non-teaching staff in Trust schools and establishments (including those seconded to other schools or organisations).
- 2.2 Where the concerns relate to the Academy Head, the CEO will manage the procedure and, where concerns persist, will convene a Special Committee of the Trust Board (which should not include any Trust Board members from the Appeals Committee) to determine what action should be taken. The Committee will proceed in all other stages of this procedure. The Chief Executive Officer as outlined in

the Scheme of Delegation will make the final decision on the outcome of the 'Special Committee's' recommendations. The committee will carry out those functions normally undertaken by the Academy Head/line manager. An Academy Head who is the subject of this procedure will have all the rights accorded to other employees at the various stages.

- 2.3 It also applies to Trust central staff. This policy will specify where there are differences from schools-based staff, for example, in relation to the decision to dismiss and the route for any subsequent appeal against the decision.
- 2.4 An employee working within a school but employed on another organisation's terms and conditions of employment should be managed under their appropriate policy/procedure.

### **3.0 Exclusions:**

- 3.1 Disciplinary procedures exist to deal with misconduct, wilfully deficient performance, refusal to follow instructions, negligence and other similar situations, and should be used where such considerations form a significant part of any complaints.
- 3.2 The assessment and treatment of employees undergoing an induction or probationary period (including Early Career Teachers), or similar, will be dealt with according to the terms of their probationary period, unless the employee's performance falls so far below professionally acceptable standards as to require immediate action.
- 3.3 Separate guidance also exists for dealing with problems arising from alcohol dependence. However, this procedure may be applied where this or substance abuse have a significant effect on the employee's performance.

### **4.0 Purpose:**

- 4.1 While it is important to deal with capability issues fairly and effectively, it is just as important to look at ways of preventing problems escalating in the first place, for example, through:
  - Careful recruitment, selection and training
  - Clear standards, expectations and effective communication
  - Use of coaching to identify need and support development
  - Regular supervision and professional and performance development reviews
  - Identification and, where appropriate, support in resolving underlying problems
- 4.2 Many factors can contribute to poor performance, including those which are not directly related to the workplace. Assistance with resolving underlying issues could include reference to:
  - The Trust's wellbeing service
  - Referral to Occupational Health (where appropriate)
  - Employees own GP or other health professional (where appropriate)
- 4.3 Good performance management is an all-year process, with regular supervision and feedback. Concerns about performance should be addressed promptly and not left until formal review meetings.
- 4.4 Where a Line Manager has identified performance to be below the threshold line at the initial Personal and Professional Development mapping appraisal meeting, that cycle of PPDR will be paused and the processes within this Capability policy will begin.



- 4.5 In many cases, appropriate methods of coaching and other forms of support such as supported professional development visits to other practitioners, may be all that is needed to address poor performance. Academy Heads and/or managers must, in the first instance, seek improvement through normal performance management. This should include two-way discussion, using a coaching style approach, with the objective of encouraging and helping the employee to improve and for the improvement to be sustained.
- 4.6 If the targets in a short term action plan, using the above approaches and regular weekly reviews, have been unable to address developmental and performance issues satisfactorily, then a PPIP (Performance Improvement Plan) will be put in place.

Although there is no right for the employee to be accompanied at this stage, it may be helpful for the employee's Trades Union representative to be involved at an early stage; the Trust encourages early Trade Union/Professional Association engagement. Additional training, coaching or advice may be agreed.

- 4.7 The purpose of the capability procedure is to:
1. Positively and constructively support employees to improve their performance through advice, guidance and support, when it is identified that they are not performing to the required standard.
  2. Ensure that all employees are treated in a fair, consistent, understanding and timely manner and in accordance with all relevant legal requirements.
  3. Contribute towards the improvement of the performance and effectiveness of the school and the Trust.
  4. Support Academy Heads and/or managers in carrying out their responsibilities for the maintenance of high standards of work performance by all employees.
  5. Ensure the employee is aware of each stage of the procedure and the possible outcomes.
  6. Ensure all customers receive services of the highest standard.

## **5.0 Application of the procedure: Normal Performance Management Arrangements**

- 5.1 Informal feedback on performance does not form part of this procedure as this should be given through 'normal performance management arrangements' i.e. coaching and feedback, personal and professional performance review meetings, one to one meetings, Performance Improvement Plans (PPIPs) etc.
- 5.2 Feedback through normal performance management arrangements must include positive, proactive feedback on performance and constructive feedback when performance is not at the required standard – this must include:
- confirmation of the required standard
  - the standard the employee is currently performing at
  - an agreement of how the required standard will be achieved
  - the consequences if standards are not achieved
  - an agreed time frame for improvement and review
- 5.3 Every effort should be made to resolve performance issues on an informal basis.

5.4 Where concerns continue, discussions should include clear advice about the improvements needed, support available and how and when the employee's performance will be reviewed. This should be confirmed in writing and, where appropriate, may be linked to the Personal and Professional Performance Development Review process and pupil progress evaluation processes. Use of SMART principles may assist in objective setting, i.e.:

- **Specific** – they are well defined;
- **Measurable** – both quantitatively and qualitatively;
- **Achievable** – they are not set too high to make it impossible to achieve them;
- **Resourced** – the resources necessary are readily available;
- **Time Bound** – the timescales set are reasonable;

## **6.0 Timescales: refer to Appendix 1**

6.1 Capability issues should normally be resolved within ten to twelve weeks, however, it is acknowledged that there may be circumstances when the process will take longer to complete. These may include annual leave, working patterns or physical and mental ill-health and wellbeing, where reasonable adjustments need to be made under the Equality Act 2010. Where this is anticipated, advice must be obtained from the Trust HR Team.

6.2 The period of monitoring under a first or final written warning will not normally exceed six weeks, (excluding school closure periods where appropriate), according to the needs of the individual and the school. Whilst every effort should be made to agree the appropriate length of this period of monitoring, where agreement cannot be reached, it will set by the Academy Head or relevant line manager.

## **7.0 Progressing to the next stage of the procedure:**

7.1 Before action under the formal stages of this procedure is considered, the employee should be informed in writing with 5 days' notice that this will be considered if there is no improvement within the agreed review period and invited to a meeting to discuss the evidence in more detail, it is made clear to the employee that they are entitled to be supported by a Trade Union/Professional Association Representative or work colleague at the meeting.

7.2 In many circumstances, significant evidence will have already been gathered possibly through; pupil progress monitoring, normal performance management and the additional support provided, which the school or establishment will then simply collate and summarise as evidence.

7.3 The collated evidence will clearly indicate the support and advice offered to date and make a recommendation for one of the following:

- No further action;
- Further support as part of normal performance management;
- Formal action under this procedure.

7.4 In all cases, the outcome will be confirmed in writing to the employee.

7.5 Where the decision is made to take formal action under this procedure because the employee has made insufficient improvement despite the support and monitoring, the employee will be invited to a formal meeting under Formal Stage 1 of the procedure.

- 7.6 All employees should progress through each stage of the procedure, and in accordance with agreed timescales.
- 7.7 Exceptions can apply in the following circumstances and consequently, Academy Heads and/or line managers can decide to progress them to the next stage of the procedure earlier than agreed:
1. Deterioration in performance
  2. Not meeting the targets in the agreed Professional and Personal Improvement Plan.

**Formal stage 1 – Meeting (written Warning):**

**a. Purpose**

The purpose of Formal Stage 1 is to support the employee in improving their performance to meet the required standard against an agreed Professional and Personal Improvement Plan

**b. Procedure**

At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the performance concerns and their possible consequences to enable the employee 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 employee of their right to be accompanied by their accredited Trades Union Representative, or a work colleague.

This meeting is intended to establish the facts. It will be conducted by the CEO for Academy Head capability meetings or the Academy Head (or other senior school leader/the employee's line manager) for other employees. The meeting allows the employee 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.

This is the start of the performance monitoring and review period. Formal monitoring, evaluation, guidance and support will continue during this period. The employee 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).

**At the meeting the CEO/Academy Head/Manager will:**

1. Confirm that the employee has the right to representation;
2. Confirm that the meeting is being held under the Trust's capability procedure and explain the process that will be followed and the possible outcomes;
3. Confirm the expected standard of performance and the standard at which the employee is currently performing, i.e. identify the professional shortcomings, e.g. for teachers, which of the standards expected of teachers or pupil progress targets are not being met;
4. Ensure the employee has the opportunity to respond to and explain any factors affecting their current performance and consider this when determining the appropriate course of action (it is not anticipated that any information that was not shared during normal performance management arrangements will be disclosed);
5. Confirm the risks to the Trust, school and pupils of the underperformance;

6. Confirm the options available to support the employee in improving their performance (i.e. support, development, training, etc.);
7. Ensure the employee is aware of what support is available to them e.g. the Trust's wellbeing helpline, Trades Union support, etc.;
8. Confirm that Formal Stage 1 constitutes a 'written warning' which if no further action is taken, will remain active for 6 months from the end of Formal Stage 1.

On occasion, the CEO, Academy Head and/or manager may decide to adjourn the meeting if they decide that further investigation is needed, or that more time is need in which to consider any additional information.

**At the meeting the CEO/Academy Head and/Manager and Employee will discuss and agree:**

- 1) The employee's current and expected levels of performance;
- 2) The targets for the development plan, how they will be achieved, the timescales for achieving them and when progress against each objective will be reviewed;
- 3) The reasons the employee is not meeting the expected standards (which may be as a consequence of personal issues);
- 4) When review meetings will be held;
- 5) Warn the employee 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);
- 6) Write, agree and sign the development plan;
- 7) Any agreed reasonable adjustments to be made under the Equality Act 2010.

**At the end of the meeting the CEO/Academy Head and/or manager will:**

- 1) Summarise the meeting;
- 2) Ensure the employee understands what is expected of them, the process that will be followed and the possible next stages of the procedure, including the right of appeal against the warning (any appeal must be lodged, in writing, within 14 working days of the date of the letter issuing the warning. The grounds of the appeal must also be detailed at this stage);
- 3) Agree what support, development and reasonable adjustments (if appropriate) will be put in place

**After the meeting the CEO/Academy Head and/or manager will:**

- 1) Confirm the outcome of the meeting in writing, including that a written warning has been issued;
- 2) Ensure that the employee receives the support agreed in the development plan;
- 3) Ensure that the agreed review meetings and any further review meetings deemed necessary take place;
- 4) Continue to monitor the employee's progress against the development plan and progress the employee through the procedure as appropriate and in line with this procedure;
- 5) Ensure that any agreed support, development or reasonable adjustments are put in place in a timely manner.

**After the meeting the employee will:**

- 1) Make every effort to meet the targets agreed in the development plan;
- 2) Attend the agreed review meetings and any further review meetings deemed necessary;
- 3) Give honest feedback on their current performance and progress against the development plan and pupil progress targets.

**c. Formal Review Meeting**

The letter confirming the outcome of the first formal meeting and a copy of the development plan will be sent to the employee and will invite the employee to a formal review meeting at the end of the agreed review period (***this can be brought forward if necessary***).

The employee has the right to be accompanied at the formal review meeting by their accredited Trades Union Representative, or a work colleague.

At the formal review meeting, the **CEO/Academy Head/manager** and employee will review the employee's progress against the development plan and the **CEO/ Academy Head/manager** will confirm one of the outcomes stated below.

**Possible Outcomes of Formal Stage 1**

The **CEO/Academy Head** and/or manager will confirm one of the following outcomes:

**1) The required standard of performance has been met**

The employee's performance will be managed under normal performance management arrangements and the written warning will remain active for 6 months from the date of the Formal Review Meeting;

**2) The required standard of performance has not been met or significant progress has not been made towards meeting the required standards**

The employee will be progressed to Formal Stage 2 of the procedure (see section 7) and a 'final written warning' will be given. Until the hearing takes place, the employee will continue to be supported to meet the requirements of the development plan.

The outcome of the formal review meeting will be confirmed to the employee in writing. If the employee has been progressed to Formal Stage 2 of the procedure, the letter will include an invitation to a hearing and confirmation that a final written warning has been issued, which if no further action is required, will remain active for 12 months from the end of Formal Stage 2, and warning the employee that failure to achieve an acceptable standard of performance (within the set timescale) may result in dismissal. The letter will also give information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning.

**Formal stage 2 – Decision Meeting:**

As with the 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 employee of their right to be accompanied.

**d. Purpose**

The purpose of Formal Stage 2 is to determine:

- a) If the Trust / school has exhausted all options in supporting the employee to improve their performance;
- b) What the outcome of the procedure should be;

**e. Procedure**

The procedure for the hearing will follow the procedure set out in Schedule 2 Procedure for a Hearing, within the Disciplinary Procedure.

**f. Possible Outcomes**

**The outcome of the hearing will be one of the following:**

**1) The required standard of performance has been met:**

The employee is performing to the required standard and will be managed under normal performance management arrangements.

**2) The required standard of performance has not been met but it has been determined that the required standard can be met within a short period**

A further review period (it is recommended this is no more than two working weeks from receipt of the development plan) and development plan will be implemented (under Formal Stage 2 of this procedure).

**In these circumstances:**

a) The additional support to be given to the employee and the duration of the extended review period will be explained to the employee verbally at the meeting and a development plan detailing this will be forwarded to them with the letter confirming the outcome of the meeting;

b) A review meeting will take place at the end of the extended review period and one of the three outcomes set out within Section 7.2 will be determined;

**(i) The required standard of performance has not been met and the panel has determined:**

**(ii) The required standard cannot be met within a short period**

**(iii) The employee is capable of performing at the required standard but does not due either to negligence or carelessness or idleness, or a combination of some or all of these.**

If performance remains unsatisfactory, a decision, or recommendation to the Trust Board / Locality Committee will be made that the employee should be dismissed or required to cease working at the school / Trust. The employee is dismissed with notice (unless their performance has been so negligent so as to amount to gross misconduct, in which case they may be dismissed without notice). However, it may be agreed that the employee will not return to work at the school / Trust in a capacity which directly affects the education of pupils or running of the Trust/school, or they may be granted paid leave for the duration of their notice period.

The outcome of the hearing will be confirmed to the employee in writing as soon as possible, and will include information about the employee's right of appeal. If a further review period has been granted (see outcome 2 above), the letter will include an invitation to the review further hearing.

**Returning to earlier warnings:**

If there is evidence within six months of the procedure ceasing (for a first written warning or within twelve months for a final written warning) that the employee has not sustained the level of performance required, the procedure may be resumed at any stage up to and including that stage previously reached.

**Exceptional circumstances:**

In exceptional cases where the level of performance could have serious consequences successive warnings may not be appropriate. For example;

- where the employee's performance falls so far short of an acceptable standard, that improvement to an acceptable level may reasonably be deemed impossible; or
- where a lack of competence has a seriously detrimental effect on the education of pupils and students; or
- where the employee's lack of competence could have other serious consequences e.g. safety considerations

In such circumstances, the school / Trust may proceed directly to consideration of a final written warning or dismissal, as appropriate. Schools should seek advice from the Head of Service - People before taking such a decision.

**Appeals:**

Employees have the right to appeal against the first written warning, final written warning and any outcome of the Formal Stage 2 decision meeting. The procedure for any appeal will follow that set out in Schedule 2, "Procedure for a Hearing", within the Disciplinary Procedure

If an employee feels that a decision to dismiss them, or other actions taken against them, is wrong or unjust, they may appeal in writing against the decisions within five working days of the decision, setting out at the same time, the grounds for appeal.

**Academy Heads:**

In the event that there are concerns about the capability of the Academy Head, it would clearly be inappropriate for him/her to carry out the roles normally assigned to the Academy Head in this procedure. This section sets out how these roles may be appropriately reassigned, within the spirit and intent of this procedure.

Concerns about the performance of an Academy Head may emerge from external sources such as Ofsted inspection or the Trust in its monitoring role.

The CEO may discuss concerns about the Academy Head performance as part of the normal dialogue between the Academy Head and CEO. Such discussions will precede the informal stages detailed in this procedure.

The CEO may consult the Trust Head of Service – People and arrange for help and support to be provided. Consultation with the Academy Head's trade union may also assist the process. However, if the matter is, or becomes, sufficiently serious, the Academy Head should be advised that if the identified deficiency persists, it may be necessary to convene a committee of the Trust Board to consider the matter under the formal stages of this procedure. This possibility should be set out in writing.

If the help and support which has been provided within the normal management processes do not lead to the required improvement, the CEO will request the Trust to investigate the nature of the problem, its level of seriousness and causes, through a formal investigation

When this investigation is complete, the CEO will convene a Special Committee of the Locality Committee (which should not include any members from the Appeals Committee), to receive the report and determine what action is appropriate.

The Committee will consider the report and proceed as described in all other stages of this procedure. The Committee will carry out those functions normally undertaken by the Academy Head/line manager. The Trust, through different professional officers as necessary, will provide appropriate advice, support and monitoring for the Special Committee.

An Academy Head who is the subject of this procedure will have all the rights accorded to other employees at the various stages.

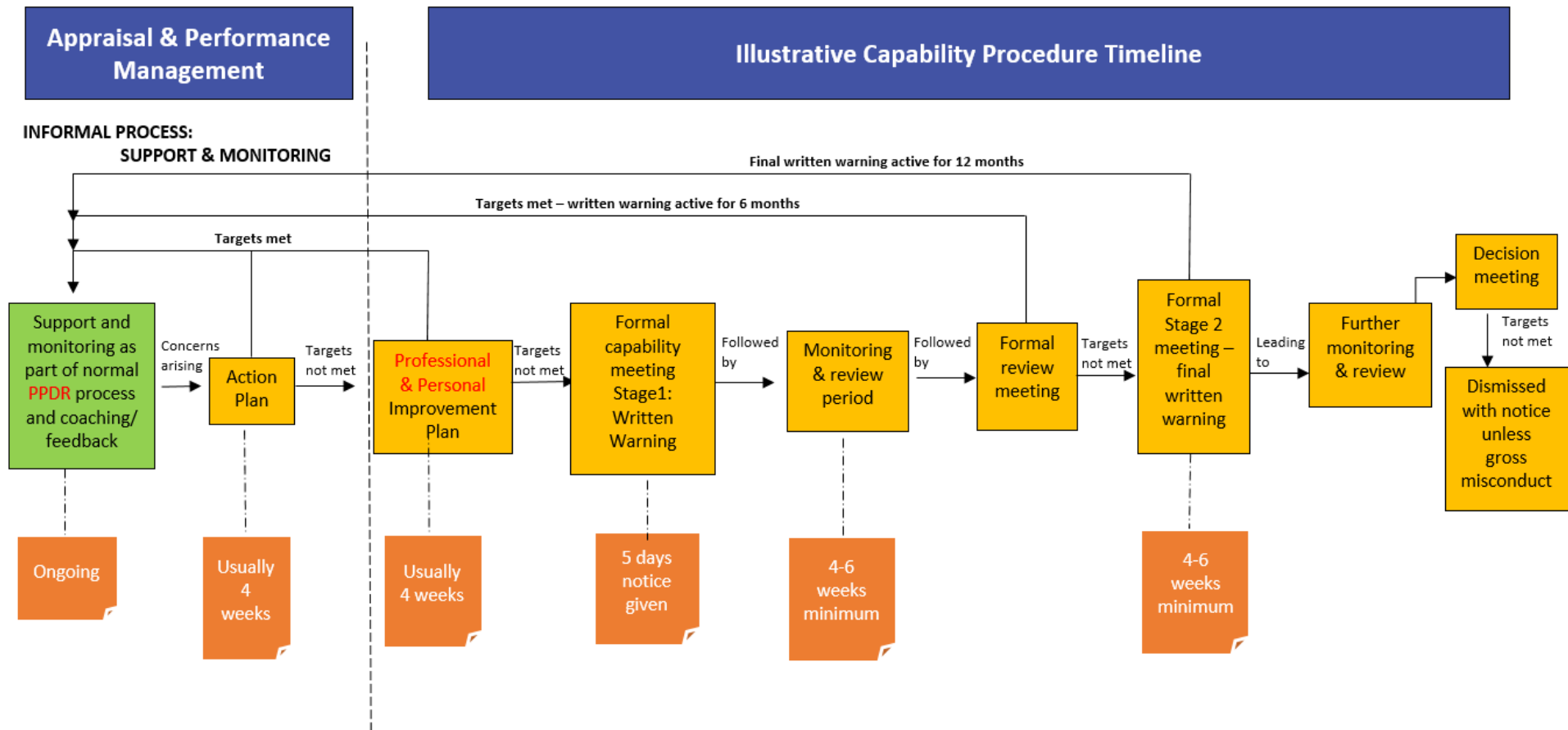
The Scheme of Delegation outlines the obligations and scope of the Chief Executive Officer's powers of intervention and this must be read in conjunction with this policy.



## Capability Procedure Timeline

## Appendix 1

It is anticipated that most cases of capability will be resolved within ten to twelve working weeks (including informal feedback as part of normal performance management arrangements). However, it is acknowledged that there may be circumstances when the process takes longer to complete. Where this is anticipated, advice must be obtained from HR.



## General Principles Underlying this Policy

### ACAS Code of Practice on Disciplinary and Grievance Procedures

This procedure will be implemented in accordance with the provisions of the ACAS Code of Practice.

#### **Confidentiality**

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Academy Head and Locality Committee to quality-assure the operation and effectiveness of the appraisal system. This may be achieved, for example, by the Academy Head or appropriate colleague reviewing all teachers' targets and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. Academy Head might also wish to be aware of any pay recommendations that have been made.

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

The Locality Committee and Trust is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

#### **Definitions**

Unless indicated otherwise, all references to "staff" include all staff including the Academy Head.

#### **Delegation**

Normal rules apply in respect of the delegation of functions by the Trust, Locality Committee and Academy Heads.

#### **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 school's absence policy and will be (*e.g. referred immediately to the occupational health service to assess the member of staff's health and potential 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 Trust Board and CEO along with the Locality Committee and Academy Head will monitor the operation and effectiveness of the school's appraisal arrangements.

#### **Retention**

The Trust Board and CEO along with the Locality Committee and Academy Head will ensure that all written appraisal records are retained in a secure place for six years and then destroyed.

## Document Control

### Changes History

Version	Date	Amended By	Details of Change
V2	22/05/17	Principal/CEO	Annual review – minor tidying amendments
V3	22/02/2018	Principal/CEO	Annual review – minor tidying amendments
V4	24/08/2018	Principal/CEO	Minor tidying amendments
V5	03/10/19	Principal/CEO	Scheduled review, updated local governance terminology, reference to HoS People and clarification of the role 'line manager' which includes the Academy Head
V6	07/05/2020	Principal/CEO	Scheduled review, complete re-write including an emphasis on 'appraisal'
V7	18/03/2021	Principal/CEO	Annual review Clarify that appraisal and pay review cycle aligns with the academic year Confirm that a complete 12 months is required before pay review is considered Update governance terminology and delegations Explicit acknowledgement that recordings of online learning is not reviewed as part of the appraisal process
v8	11/05/2022	HoS Curriculum/HoS People	Annual review. Significant rewrite for clarity. Amended to be in line with new PPDR process and coaching and development culture Clarification as to how probationary period links to appraisal cycle
V9	9/05/2023	HoS Curriculum/HoS People	Minor changes to PPIP (from PIP) terminology and reference to TUPE. Need to notify HoS People regarding capability process.
V9.1	6/9/2023	HoS Curriculum	Link to revised PPDR form updated.
V10	23/04/2024	HoS People	Minor tidying amendments and minor suggested clarifications of timelines.

### Approval

Name	Job Title	Signed	Date
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	22/12/2016
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	22/12/2016
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	18/3/2021
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	18/3/2021
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	30/6/2022
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	30/6/2022
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	29/6/2023
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	29/6/2023
Andrew Aalders-Dunthorne	CEO	Electronic signature	11/07/2024
Steve Martin	On behalf of the Trust Board	Electronic signature	11/7/2024

This policy will be reviewed annually by Head of Service People or as required by changes in legislation. At every review, this policy will be approved by Finance & Resources Trust Board Committee.

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