

THE SOCIETAS TRUST



Teacher Capability Policy

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Reviewed and Agreed by	The Directors' Board
Originally Adopted on	
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Next Review Date	Autumn 2024

N.B For the purposes of clarity, references to;

- Governing Board may mean Directors' Board
- Governors may mean Directors and/or Local Academy Representatives (In accordance with the relevant Scheme of Delegation of Authority).

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Glossary:

This procedure applies to all teachers and executive leaders employed by The Societas Trust.

Unless otherwise indicated the following terms are interchangeable:

Employer – applies to The Societas Trust (“The Trust”)

Teacher – applies to Qualified teachers employed by the Trust and all staff covered by this policy

Headteacher – applies to Headteacher or Line Manager or Executive Leader

Governing Board – applies to the Local Governing Board or the Directors’ Board

Governors – applies to members of the Local Governing Board or the Directors’ Board

Appeal Governors – applies to members of the Local Governing Board or the Directors’ Board

1.0 Introduction

1.1 This procedure has been adopted by the Directors' Board on 27th May 2021 and will be reviewed annually.

2.0 Purpose

2.1. The purpose of this policy is to support teachers to improve performance through an appropriate programme of encouragement, training, monitoring, support, guidance and learning.

2.2. This policy is not intended to address issues of willful under-performance. These cases should be dealt with under the Disciplinary Procedure.

2.3. This policy is not intended to deal with cases of unsatisfactory performance due to absence. These should be dealt with under the Supporting Attendance policy.

2.4. This policy applies to all teachers employed by the Trust.

3.0 Principles

3.1. It is expected that the formal stages of this procedure will be conducted by the Headteacher. In the case of Headteachers, the formal stage of the process will be conducted by the CEO; for the CEO, the formal stage will be conducted by the Chair of the Directors' Board.

3.2. Managers are responsible for setting realistic and achievable objectives, and for ensuring staff understand what is required of them.

3.3. The capability procedure should only be implemented when, after appropriate training and supervision has been completed using the Trust's Teacher Appraisal Policy and satisfactory performance has not been achieved on the completion of the support plan.

3.4. Regular discussions with teachers about performance, either formally or informally, should help to identify any problem areas and allow remedial action to be taken promptly.

3.5. An employee has the right to be accompanied by a Trade Union Representative or work colleague to any meetings under this policy. Where it appears that formal capability procedures may be initiated, the employee should be encouraged to consult with their union and to arrange for representation at any meetings.

3.6. Those monitoring performance should offer constructive feedback and guidance to help the teacher improve their performance. If training or assistance from

colleagues would be helpful these should be arranged as soon as possible but should not interrupt the timing of the procedure.

3.7. Any disagreements or grievances about the interpretation or application of the procedure or any related matters must not delay the various elements of the procedure, nor the overall timetable determined as appropriate for handling any particular case.

4.0 Informal Capability

4.1 Where a support plan has been followed under the Appraisal process but satisfactory progress has not been made, the teacher will be informed in writing that their appraisal will now cease and that their performance will be managed under the Informal Stage of the Capability Procedure and a Performance Improvement Plan will be agreed

4.2 To commence the Informal Stage the teacher should be invited to an Informal Support Meeting. This meeting will be conducted by the Headteacher or formally nominated member of the Senior Leadership Team (or the CEO in the case of Headteacher capability; or the Chair of the Directors' Board for the CEO). Guidance on the format and content of this meeting can be found in appendix 1.

4.3 It should be noted that SMART objectives and measures implemented within the Support Plan should have regard to the Teachers' Standards.

4.4 It is suggested that the stress risk assessment (found in appendix 3) is conducted on commencement of Informal Capability procedures and is revisited as necessary throughout the monitoring and review process.

4.5 During the Informal Support Meeting a monitoring period will be set. This should be no more than six weeks. Throughout the monitoring period interim review meetings should also be agreed to allow feedback to be delivered and additional support to be discussed if required.

4.5.1 Following the monitoring period, a review meeting will be arranged (format of which is found in appendix 2). At this meeting, progress against the Support Plan will be discussed and the teacher given the opportunity to respond. Following the discussion, either party may request an adjournment to consider the information presented. The person conducting the meeting will then determine, either;

- That sufficient progress has been made, the teacher's performance will no longer be addressed using the Capability Procedure and as such they will revert back to performance management using the Appraisal Policy (in which case the employee should be advised that this is the case and that the improvement must be sustained);

Or

- That insufficient progress has been made and therefore the teacher's performance will be managed using the formal capability procedures in this policy (in

which case a formal meeting must be arranged – see 5.3)

5.0 Formal Capability

5.1 It is expected that the Capability process will take no more than twelve weeks, however each review period should be no less than four weeks to allow improvements to be made.

5.2 It is suggested that the stress risk assessment (found in appendix 3) is reviewed on commencement of formal Capability procedures and is revisited as necessary throughout the monitoring and review process.

Notification of Formal Capability Meeting

5.3 As with all Formal Meetings held under this procedure, at least five working days' notice of the Formal Capability meeting will be given in writing. This will contain sufficient evidence regarding the concerns about performance to enable the teacher to prepare for the meeting.

5.4 Prior to the Formal Capability meeting it is suggested that Headteachers contact their HR provider, who will be able to offer advice and attend the meeting, if required.

5.5 At all meetings the teacher should be encouraged to seek support, i.e. counselling, and may be accompanied by either a trade union representative or work colleague.

6.0 Formal capability meeting

6.1 This meeting will be conducted by the Headteacher (or the CEO in the case of Headteacher capability; the Chair of the Directors' Board in the case of the CEO).

6.2 The first stage of the meeting allows the teacher 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.

6.3 Once all representations have been heard either party may request an adjournment. During the adjournment the person conducting the meeting will consider the information presented and decide on how the case will progress.

6.4 The person conducting the meeting now has four options:

- 1) To conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the Appraisal process. In such cases, the capability procedure will come to an end. A further meeting may then be arranged under the appraisal process to reassess objectives and timescales.

- 2) To choose to suspend the meeting to gather more information in light of the employee's response or to give more time to consider the information. In this case a date for the reconvened meeting should be agreed within 5 working days of the date the formal capability meeting.
- 3) To decide that there is a need to continue with the Formal Capability Process. In this case a Formal Written Warning should be issued to the employee. The Formal Capability meeting will continue following the format at appendix 4 and seek to agree a Performance Improvement Plan (template found in appendix 7); if agreement on this is not possible the person conducting the meeting will determine the content of the plan.
- 4) To decide that there is a need to continue with the Formal Capability Process. However, if issues raised are deemed to be in serious breach of the Teachers' Standards, a Final Formal Written Warning should be issued immediately. As this is formal action, it is recommended that the advice of HR is sought prior to this action. Where a Final Formal Written Warning is to be issued the meeting format at appendix 6 should then be followed and should seek to agree an appropriate Performance Improvement Plan (template found in appendix 7). Where agreement is not possible the person conducting the meeting will determine the content of the plan.

6.5 The outcome of this meeting will be confirmed in writing along with details of the right to appeal the decision. This letter will also inform the teacher of the matters covered during the meeting, (and where appropriate) a copy of the Performance Improvement Plan, details of the timescales and the review stage. A template letter can be found in appendix 5.

6.6 Appeals should be made in writing to the Chair of the Local Governing Board (or Chair of the Directors' Board, in the case of Headteacher Capability; or the Chair of the Members' Board in the case of the CEO) within five working days of receipt of the letter confirming the warning being issued. Where the teacher submits an appeal, the process will continue whilst awaiting the outcome.

7.0 Monitoring and review period following a formal capability meeting

7.1 A performance monitoring and review period will follow the formal capability meeting, in line with the timescales outlined and will reflect the complexity and number of objectives set in the Performance Improvement Plan. Formal monitoring, evaluation, guidance and support will continue during this period.

8.0 Formal review meeting

8.1 On conclusion of the monitoring and review period the teacher will be invited to a formal review meeting to review their progress and improvement. If the teacher was issued with a final written warning initially, they will be invited to a Final Review meeting.

8.2 Appendix 8 details the points to be addressed during this meeting.

8.3 After reviewing the progress made against the previously agreed objectives, a decision should be made as to whether sufficient improvement has been made. There are two possible outcomes:

- 1) If the reviewer is satisfied that the teacher has made acceptable progress towards the objectives set out in the Performance Improvement Plan, the capability procedure will cease, and the Appraisal process will re-start. This decision should be confirmed in writing (appendix 9)
- 2) If the objectives in the Performance Improvement Plan have not been achieved during the monitoring and review period, the teacher will be issued with a Final Formal Written Warning.

8.4 Where a Final Formal Written Warning is issued, the teacher will receive written information about the further monitoring and review period and be informed in writing that failure to satisfy the Performance Improvement Plan, within the set timescale, may result in dismissal. This monitoring period should be determined with consideration to the objectives set in the Performance Improvement Plan. This should be a minimum of four weeks to allow sufficient time for improvements to be made.

8.5 The teacher has a right of appeal against the Final Formal Written Warning; this should be made in writing to the Chair of the Local Governing Board (or Chair of the Directors' Board for Headteachers; or the Chair of the Members' Board in the case of the CEO) within five working days of receipt of the letter confirming the warning being issued.

9.0 Final monitoring and Review Period

9.1 Following the formal monitoring and review period, a final review meeting will be held. Teachers should be given ten working days' notice of this meeting along with the right to be accompanied at the meeting by a Trade Union Representative or work colleague.

9.2 This meeting will follow the format for the Formal Review meeting as described in appendix 8.

9.3 After reviewing the progress made against the previously agreed objectives, a decision should be made as to whether the Performance Improvement Plan objectives have been met. After which, there are two possible outcomes:

- 1) If Performance Improvement Plan objectives have been met during the further monitoring and review period, the capability procedure will end, and the Appraisal process will re-start. This decision should be confirmed in writing.

- 2) If Performance Improvement Plan objectives have not been met the matter will be referred to the appropriate body for a decision to be made on whether the teacher should be dismissed on the grounds of Capability.

9.4 The outcome of this meeting will be confirmed in writing.

10.0 Decision Hearing

10.1 The teacher will be given a minimum of ten working days' notice of the decision hearing and will be given copies of any documentary evidence to be referred to during the decision hearing where possible ten days prior to the hearing. The teacher should be informed that any documentation they wish to refer to during the hearing should be sent to the Chair of the decision hearing panel no later than three working days before the hearing.

10.2 The decision hearing panel should consist of three members of the appropriate body, one of whom will act as chair to the meeting. The hearing should follow the format in appendix 10.

10.3 There are three potential outcomes of the decision hearing:

- 1) That the panel determine that the objectives stated in the Performance Improvement Plan have been met, therefore the teacher should remain in post and resume their role in the normal Appraisal process.
- 2) That the panel determine that the objectives stated in the Performance Improvement Plan have not been met due to exceptional circumstances and as such progress towards meeting those objectives will be reviewed again after an agreed period.
- 3) That the panel determine that the teacher has failed to make sufficient improvement to meet the national teaching standards, therefore the teacher should be dismissed, as the teacher has failed to demonstrate their ability to attain that standard.

10.4 Within five working days of the decision meeting, the teacher will be informed in writing of the outcome. If a decision to dismiss has been taken, the teacher will receive the appropriate contractual notice.

11.0 Appeal

11.1 A teacher has the right of Appeal against their dismissal. Any appeal should be in writing to the Chair of the Local Governing Board (or Chair of the Directors' Board for Headteachers; or the Chair of the Members' Board in the case of the CEO) within

ten working days of receiving the letter confirming the decision, stating the grounds for appeal.

11.2 Appeals will be heard without unreasonable delay and will be heard by a panel of three governors or directors who have not previously been involved in the case. The meeting will take the format as describe in appendix 11.

11.3 The teacher will be informed in writing of the outcome of the appeal hearing within five working days of the date of the appeal hearing.

11.4 The teacher should be made aware that any reference provided by the school or Trust, to a perspective employer, will refer to the fact that the teacher was subject to a formal capability process and subsequently dismissed on the grounds of capability.

11.5 There is no further recourse for appeal under this procedure.

12.0 Absence during the capability process

12.1 Where a teacher is absent during the capability process the Performance Improvement Plan will recommence from the same point, i.e. the process will not restart.

12.2 If a teacher returns after a period of absence on a phased return as advised by Occupational Health, it may be appropriate to consider whether the process should be recommenced during a phased return.

12.3 If the absence commences at the end of the support plan but prior to a review meeting being held, it may be appropriate, subject to sufficient evidence being available, to conclude the process.

Appendices

Appendix 1 – Guidance Note: Conducting an Informal Support Meeting

Appendix 2 – Guidance Note: Conducting a Review meeting under Informal stage

Appendix 3 – Generic Stress Risk Assessment: Capability Procedure in schools

Appendix 4 - Guidance Note: Conducting a Formal Capability Meeting

Appendix 5 - Outcome of Formal/Final Formal Capability Meeting Letter

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Appendix 10 – Guidance note: Conducting a meeting to consider dismissal on the grounds of capability

Appendix 11 – Guidance note: Conducting an Appeal Meeting

Appendix 1 – Guidance note: Conducting an Informal Capability Support Meeting

- Advise the member of staff that this meeting is held under the Informal Stages of the Capability Procedure and that Performance Management under the Appraisal Policy has now ceased.
- Ensure the member of staff has received a copy of this policy, if not provide them with one and allow time to read if requested.
- Review performance to date - reinforce things the teacher does well.
- Highlight clearly the specific areas of performance that are causing concern and discuss the evidence of this (this should include evidence from Support plan under Appraisal process).
- Ensure the member of staff has the opportunity to respond, provide reasons/explanation etc. for the performance shortfall.
- Ask the staff member if there are any underlying issues that may impact on performance, e.g. health, issues outside work etc.
- Re areas of concern agree SMART objectives that the teacher should work towards, agree what support the teacher feels would be beneficial and how performance will be monitored.
- Ensure that all objectives have regard for the teachers' Standards
- A monitoring period should be set, and interim review meetings agreed within this period. This monitoring period should be no more than six weeks.
- Offer a mentor if appropriate (NB: this should be someone not involved in monitoring the teacher's performance).
- Advise the teacher that if performance doesn't meet the required standards within the review period it may result in concerns being addressed under the Formal stages of the Capability Procedure.
- Encourage the teacher to consult with their trade union for further support.

Appendix 2 – Guidance Note: Conducting a review meeting under Informal stage of Capability procedure

- Advise the teacher that this meeting is a review meeting held as part of the Informal Stage of Capability Procedure.
- The person conducting the meeting should present evidence regarding the teacher's performance against the objectives specified in the initial meeting.
- The teacher should be asked for their opinion regarding their performance against the objectives.
- The teacher should be asked for their opinion on the support provided to date.
- Either party may request an adjournment to consider the discussions which have taken place.
- The Headteacher should consider the evidence and determine whether sufficient progress has been made against objectives.
- If the teacher has made sufficient improvement the teacher's performance will no longer be addressed using the Capability Procedure and as such they will revert back to performance management using the Appraisal Policy (in which case the employee should be advised that this is the case and that the improvement must be sustained);
- If the teacher has not made sufficient improvement against objectives, the teacher will be notified that their performance will now be managed under formal stages of Capability. This will be notified in writing along with a letter inviting them to the formal capability meeting.

Appendix 3 – Generic Stress Risk Assessment: Capability Procedures in schools

SCHOOL:		NAME OF ASSESSOR/LINE MGR:		<i>Once the Risk Assessment is complete a copy should be placed on the employee's Personal File. A copy should also be sent to the employee & their union representative.</i>
EMPLOYEE:		JOB TITLE:		
JOB TITLE:		DATE OF ASSESSMENT:		
SIGNATURE (EMPLOYEE):		SIGNATURE (ASSESSOR):		
N o.	Potential Hazards	Who is affected?	Control Measures to Eliminate / Minimise the Risk	Further Action Required?
1	<p>DEMANDS</p> <p>Feeling that capability procedure is an added and excessive demand.</p> <p>Feeling that the objectives are unachievable, feels they are being set up to fail.</p>	<p>Employee/colleagues</p> <p>Employee</p>	<p>Ensure objectives are agreed (wherever possible) through discussion with the employee.</p> <p>Objectives must be reasonable, in line with expectations of the post/grade.</p> <p>Encourage the employee to talk to the Headteacher at an early stage if they have concerns about the agreed objectives.</p>	
	<p>Extra demands of arranging/providing support, observing/monitoring etc.</p>	<p>Headteacher/Line Manager/Colleagues providing support/Mentor (where app.)</p>	<p>Colleagues providing support should agree when and for how long support is to be provided.</p> <p>The Headteacher may delegate observation and monitoring duties as appropriate to minimise impact on workload (with the consent of the teacher being observed).</p> <p>If a mentor is provided, they must be carefully selected to ensure they have sufficient capacity. Specific time should be set aside for mentoring duties.</p> <p>Headteacher is aware of support available from HR, LA Advisors, SIP, etc.</p>	
	<p>Feeling under pressure to meet objectives/deadlines, feeling that the workload is excessive.</p>	<p>Employee/Mentor/Line manager</p>	<p>Regular discussions regarding workload should take place between the employee and their line manager or mentor, including; volume of work, deadlines, hours worked, breaks taken etc.</p>	
	<p>Feeling that resources are insufficient, or the environment unsuitable, to meet objectives.</p>	<p>Employee/Mentor/Line manager</p>	<p>The employee should report immediately any concerns regarding resources or the environment to the Headteacher.</p>	

2	<p>CONTROL The employee feels they have no say in how the capability process is managed, e.g. how many/when observations are carried out.</p> <hr/> <p>Feeling that have no say in what objectives are set or the associated deadlines.</p>	<p>Employee</p> <hr/> <p>Employee</p>	<p>Discuss and agree (wherever possible) with the employee in the meeting exactly how performance will be monitored.</p> <p>Where appropriate agree in advance when and how observation/monitoring will take place.</p> <hr/> <p>See No. 1.</p>	
3	<p>SUPPORT Lack of knowledge of available support and how to access it.</p> <hr/> <p>Concern that the support provided/planned is not sufficient to enable satisfactory improvement.</p> <hr/> <p>Not made aware of how progressing against objectives.</p> <hr/> <p>Feeling isolated and self-conscious, may result in low self-esteem.</p>	<p>Employee/Headteacher/ Line Manager/Mentor</p> <hr/> <p>Employee</p> <hr/> <p>Employee</p> <hr/> <p>Employee</p>	<p>Ensure support is thoroughly discussed in meetings, formal or informal.</p> <p>Headteachers, managers and mentors should ensure they are aware of support options through speaking to HR and LA Advisors.</p> <p>Information about counselling services and other pastoral support options should be provided early in the process.</p> <hr/> <p>The employee should be made aware of the process for raising concern about the support provided. This would normally be through the line manager or Headteacher.</p> <hr/> <p>The employee should receive regular feedback from all involved in monitoring performance.</p> <hr/> <p>Knows how to use mentor and access support from Care first and Occupational Health. Aware of other support, e.g. Union or teacher Support Network.</p>	
4	<p>RELATIONSHIPS The employee feels bullied and/or harassed and this impacts on performance.</p>	<p>Employee/Colleagues</p>	<p>Policies are in place to address unacceptable behaviour which staff are aware of.</p>	

5	<p>ROLE Feeling that expectations are unclear or unrealistic.</p> <hr/> <p>Unclear about their role and responsibilities, potentially conflicting roles.</p>	<p>Employee</p> <hr/> <p>Headteacher/ Line Manager/Mentor</p>	<p>See No. 1. Also hold regular one-to-one meetings to discuss progress against the objectives and to offer additional clarification.</p> <hr/> <p>Clarification should be provided at the start of the process as to responsibilities to support, observe, monitor etc. Clear parameters must exist between, for example, the role of Mentor and Reviewer. Further advice should be sought from HR.</p>	
6	<p>CHANGE Unsure about how capability procedure changes daily work.</p> <hr/> <p>No influence over these changes.</p> <hr/> <p>Unsure of timing of procedure and of potential future impact.</p> <hr/> <p>Negative perception of the capability process.</p>	<p>Employee / colleagues</p> <hr/> <p>Employee</p> <hr/> <p>Employee</p> <hr/> <p>Employee</p>	<p>Clarification about role and objectives should be provided at informal and formal meetings. If any duties are changed this must be made clear.</p> <hr/> <p>See No. 2.</p> <hr/> <p>Copy of the policy provided at early stage. Timings and potential impact should be discussed in all informal and formal meetings.</p> <hr/> <p>The employee is made aware that the capability procedure is a supportive process aimed at helping them improve. They are provided with a copy of the policy at an early stage.</p>	

Appendix 4- Guidance Note: Conducting a Formal Capability Meeting

- Advise the teacher of nature of the meeting and that they have the right to be represented.
- Ensure the teacher is provided with a copy of this policy, if not already provided.
- Give clear feedback to the teacher about the nature and seriousness of the concerns
- Ensure the teacher has the opportunity to respond, provide reasons or explanation etc. for the performance shortfall.
- Ask the teacher if there are any underlying issues that may impact on performance, e.g. health, issues outside work etc. If health is a concern advise the teacher that you will arrange an appointment with Occupational Health.
- On hearing all representations either party may request an adjournment to consider information presented (refer to 13.4, Part B). Following this there are four options:
 - 1) *To conclude there are insufficient grounds to pursue capability and therefore cease Capability and resume Appraisal process.*
 - 2) *Suspend the meeting to gather more information.*
 - 3) *To instigate Formal Capability and issue a Formal Written warning – follow this format of remainder of meeting.*
 - 4) *To instigate Formal Capability however due to seriousness of concerns issue a Final Formal Written warning. Refer to format of remainder of meeting.*

If continuing Formal Capability and issuing a Formal Written Warning:

- Advise the teacher that they are being issued with a Formal Warning under this policy, and that this will be confirmed in writing.
- Advise the teacher member that they have the right of appeal against the Formal Warning, and that details of the appeal process will be confirmed to them in writing.
- Agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns, performance measures and timescales. Agree interim review meetings if appropriate.

- Advise the teacher that they may seek support from their trade union, or the Teacher Support Network (for teaching staff only) on 08000 562 561.
- Advise the teacher that if performance doesn't meet the required level within the review period they may be issued with a final written warning, and that ultimately the Capability process can lead to dismissal.

Appendix 5 – Outcome of Formal/Final Formal Capability Meeting Letter

Your reference

Our reference Letter – outcome of formal meeting

Date

[Name]

[Address]

Dear XXXX,

Outcome of *Formal/Final Formal* Capability Meeting

Thank you for attending the meeting on XXX at which you *chose/chose not* to be accompanied by your Union representative XXXX to discuss your performance. This meeting was held in accordance with the Capability Procedure for teachers.

At the meeting I explained to you that the purpose of the meeting was to discuss concerns regarding your performance and to hear your responses in relation to these.

During the meeting I explained that (*insert details of concerns and evidence*). You were given the opportunity to respond to these, you explained that (*insert details of response*).

Having considered the points raised I concluded that: (*delete as appropriate*)

- a) *That whilst there are issues with aspects of your performance, it would be more appropriate to address these concerns through the Appraisal process. As such the Capability process will now cease and you will resume the Appraisal process. A further meeting will be arranged to reassess your objectives.*
- b) *The meeting should be suspended to allow time to collect/consider further information. (*insert details of reconvened meeting*)*
- c) *That significant performances concerns exist and as such it is appropriate to continue with the Capability process as such you were issued with a Formal warning that your performance should improve.*

You have the right to appeal this decision, appeals should be made in writing to the Chair of governors within ten days of receipt of this letter.

- d) *That performance concerns exist which are serious in their nature, as such it is appropriate to continue with the Capability process as such you were issued with a Final Formal warning that your performance should improve.*

You have the right to appeal this decision, appeals should be made in writing to the Chair of governors within ten days of receipt of this letter.

In light of this decision I then explained you will be subject to a monitoring period of XX weeks (minimum 4) and discussed the Performance Improvement plan with you to highlight your objectives, measures and agreed support. (insert summary of agreed plan). A copy of the revised plan is enclosed.

Following this period you will be reviewed again. Failure to make sufficient improvements during this review period will result in you being issued with a Final Formal warning to improve performance/ your case being referred to Governors for a decision to be made on your ongoing employment.

I am sorry that this has become necessary however I would encourage you to contact me should you need any clarification on the issues raised or require additional support and hope that you will be able to make and sustain the necessary improvements.

Yours sincerely

Name
Designation

Appendix 6 - Guidance Note: Conducting a Final Formal Meeting

- Advise the member of staff of nature of the meeting and that they have the right to be represented.
- Ensure the member of staff is provided with a copy of policy, if not already provided.
- Highlight clearly the specific areas of performance that are causing concern, and discuss the evidence of this.
- Ensure the member of staff has the opportunity to respond, provide reasons/explanations for the performance shortfall
- Ask the teacher if there are any underlying issues that may impact on performance, e.g. health, issues outside work etc. If health is a concern advise the member of staff that you will arrange an appointment with Occupational Health
- Advise the teacher that they are being issued with a Final Formal Warning under this policy, and that this will be confirmed in writing.
- Advise the teacher that they have the right of appeal against the Final Formal Warning, and that details of the appeal process will be confirmed to them in writing.
- Advise the teacher that Performance Management under the PM policy is suspended pending the outcome of the informal capability procedures.
- Agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns, performance measures and timescales. Agree interim review meetings if appropriate
- Discuss the generic stress risk assessment with the teacher (see Appendix 3). Ask the employee if there are any additional actions that can be taken to support them and to help minimise stress. Record these in the additional information column.
- Advise the teacher that they may seek support from their trade union, or the teacher Support Network (for teaching staff only) on 08000 562 561.
- Agree a date for review against the objectives, minimum of four weeks.
- Advise the teacher that if performance doesn't meet the required level within the review period then the matter may be referred to the Governors with a recommendation for their dismissal.
- For teachers, advise them that if they are dismissed by the governors the matter will be referred to the teachers Standards Agency for them to consider whether the teacher should continue to practice as a teacher.

Appendix 7 – Performance Improvement and Support Plan

To be used in conjunction with the Capability Procedure

Target	Measured by	Support e.g. training, supervision, mentoring etc	Date to be achieved by/ Review Date

Once completed, a copy of the agreed Plan should be sent to the employee with a copy to their representative.

Appendix 8 - Guidance Note: Conducting a Formal Capability Review

- Advise the teacher that this meeting is a Formal Review under the Capability policy, and that they have the right to be represented.
- The Headteacher should present evidence regarding the teacher's performance against the objectives specified in the Formal Capability Meeting.
- The teacher should be asked for their opinion regarding their performance against the objectives.
- The teacher should be asked if there are any underlying reasons, health, etc., that should be taken into consideration.
- The Headteacher should adjourn the meeting at this point to consider the evidence.
- If the teacher has achieved the objectives, and the Headteacher believes this can be sustained, they should be advised that the Capability process is finishing and they should be encouraged to maintain this level of performance. A discussion may take place regarding phasing out of any support.
- A discussion should take place around the re-commencing of normal Appraisal process, and an addendum may need to be made to the Performance Management statement detailing any revision of objectives etc.
- If the teacher has not achieved the objectives they should be advised that they are being issued with a Final Formal Warning which will be confirmed in writing. Advise that they have the right to appeal the warning and that details of this will be confirmed in writing.
- Revisit performance development plan, revise as appropriate and set new objectives, measures and timescales as necessary.
- Explain that failure to make improvement after this review period will result in case being referred to Governors or Trust board for Headteacher for a Decision Meeting.

Appendix 9 – Letter following Formal/Final Formal Review Meeting

Your reference

Our reference Letter – improvement made following capability

Date

[Name]

[Address]

Dear XXXX,

Outcome of Meeting – (*Formal/Final Formal*) Capability Review

Thank you for attending the meeting on XXX at which you *chose/chose not* to be accompanied by your Union representative XXXX to discuss your performance. This meeting was held in accordance with the Capability Procedure for teachers.

At the meeting I explained to you that the purpose of the meeting was to review the progress since our *initial meeting/first formal* review meeting that took place on XXXX. At this meeting an action plan of specific performance objectives was provided to you in order to help you address those issues and enable you to perform to the required standards.

We reviewed those objectives as set out within the agreed action plan which are summarised below;

- i. Insert summary of performance improvement support plan*

You responded to the review stating xxxxxxxx (*insert summary of response*)

Following consideration of the points raised I concluded that (*delete as appropriate*)

a) That you have made sufficient improvement over the review period, as such the Capability process will now end and you will resume the usual Appraisal Process. As discussed in the meeting any remaining issues (insert detail of issues) will now be addressed using additional objectives and support in the Appraisal Process.

It is important however that these improvements are sustained, failure to sustain the required level of performance may result in you re-entering the Capability Process.

b) That you have made insufficient/no progress against the agreed objectives, as such you are issued with a Final Formal warning.

You have the right to appeal this decision, appeals should be made in writing to the Chair of Governors or Trust Board for headteacher within ten days of receiving this letter, stating your reasons for appeal.

In light of this decision I then explained you will be subject to a further monitoring period of XX weeks (minimum 4). During this period you will receive the support as agreed in your revised Performance Improvement Plan and will be assessed against the agreed objectives. A copy of the revised plan is enclosed.

Following this period you will be reviewed again. Failure to make sufficient improvements during this review period will result in your case being referred to Governors for a decision to be made on your ongoing employment.

c) That you have made little/no improvement against agreed objectives. As you have previously received a final Formal warning regarding your capability your case will now be referred to Governors for a decision to be made on your ongoing employment. You will receive a letter inviting you to this meeting in due course.

(Delete as appropriate)

I am pleased that you have been able to make these improvements and hope that you will be able to sustain these and develop further. Should you require any ongoing support please do not hesitate to contact me.

I am sorry that this has become necessary however I would encourage you to contact me should you need any clarification on the issues raised or require additional support and hope that you will be able to make and sustain the necessary improvements.

Yours sincerely

Name
Designation

Appendix 10 - Meeting to consider dismissal on the grounds of capability

1. Introduction by Chairperson; explanation of procedure.
2. The Headteacher should present the case for dismissal.
3. Employee (or representative) may ask questions of Headteacher.
4. The Chairperson/Committee members and Directors' representative (usually the CEO) may ask questions of the Headteacher.
5. Headteacher to call witness(es) if applicable.
6. Employee (or representative) may ask questions of Headteacher's witness(es).
7. The Chairperson/Committee members and Directors' representative may ask questions of the Headteacher's witness(es).
8. Employee (or representative) should present his/her case.
9. The Headteacher may ask questions of the employee (or representative).
10. The Chairperson/Committee members and Directors' representative may ask questions of the employee (or representative) and ask further questions of the Headteacher regarding the case made on behalf of the employee.
11. Employee (or representative) to call witness(es) if applicable.
12. The Headteacher/Investigating Officer may ask questions of the employee's witness(es).
13. The Chairperson/Committee members and Directors' representative may ask questions of the employee's witness(es).
14. Headteacher to sum up case.
15. The employee (or representative) to sum up case.
16. Parties to retire; the Directors' representative may remain with the Chairperson/Committee to offer advice. The Chairperson/committee to consider the cases presented. The Chairperson will notify the parties of their decision. This may be conveyed at the conclusion of the hearing but will in any case be confirmed in writing, with information on any further appeal rights where appropriate.

This procedure may be varied by agreement with all the parties.

Appendix 11 - Guidance note:
**Meeting to hear an appeal against a formal (or final formal) warning,
dismissal on the grounds of capability**

1. Introductions by Chair: explanation of procedure.
2. Appellant or representative to state his/her grounds for appeal.
3. First Committee representative/Headteacher may ask questions of appellant.
4. Appeals Committee members/Directors' representative (usually the CEO) may ask questions of the appellant.
5. Appellant to call witness(es) (if applicable)
6. First Committee representative/Headteacher may ask questions of appellant's witness(es)
7. Appeals Committee members/Directors' representative may ask questions of the appellant's witness(es).
8. First Committee representative/Headteacher to state the school's case.
9. Appellant (or representative) may ask questions of First Committee representative/Headteacher.
10. Appeals Committee members/Directors' representative may ask questions of First Committee representative/Headteacher.
11. First Committee representative/Headteacher to call witness (es) (if applicable)
12. Appellant (or representative) may ask questions of First Committee representative/Headteacher's witness (es) (if applicable)
13. Appeals Committee members/Directors' representative may ask questions of school's witness(es) (if applicable).
14. First Committee representative/Headteacher to sum up case. *
15. Appellant (or representative) to sum up case. *
16. Parties to retire. Directors' representative may remain with the Appeals Committee to offer advice.

* N.B. New evidence or material must not be allowed at this stage.

Appeals Committee to consider the case and notify the parties of their decision. This may be conveyed at the conclusion of the Appeal hearing and then confirmed in writing or confirmed in writing at a later date by the Committee.

This procedure may be varied by agreement of all the parties