



WATERMILL SCHOOL

Capability Procedure

Procedure for Schools based and Centrally Employed Teachers

Stoke on Trent City Council
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Glossary:

This procedure applies to both school based and centrally employed teachers. Unless otherwise indicated the following terms are interchangeable:

Teacher – applies to Qualified teachers both those in schools and centrally employed

Headteacher – applies to Headteacher or Line Manager

Governors – applies to members of the schools Governing Body or in the case of centrally employed teachers a relevant Strategic Manager

Appeal Governors – applies to members of the schools Governing Body or in the case of centrally employed teachers a relevant Assistant Director.

1.0 Introduction

1.1 This procedure has been adopted by the Governing Body of Watermill School on 20th November 2014 for the purposes of managing capability of teachers.

2.0 Purpose

2.1. The purpose of this policy is to support employees 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 schools managed staff and centrally employed teachers

3. Principles

3.3. It is expected that the formal stages of this procedure will be conducted by the Headteacher. For centrally employed staff, it is expected that the formal stages will be conducted by the Section Head. In the case of Headteachers, the formal stage of the process will be conducted by a person delegated with the responsibility by the relevant body responsible for the governance of the school.

3.4. Headteachers/Managers are responsible for setting realistic and achievable standards and objectives, and for ensuring employees understand what is required of them.

3.6. The capability procedure should only be implemented when, after appropriate training and supervision has been completed, satisfactory performance has not been realised.

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

3.9. 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.

3.10. Those monitoring performance should offer constructive feedback and guidance to help the employee 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.

3.11. 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 school's 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.

4.2 Prior to the commencement of 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 Chair of Governors in the case of Headteacher capability). Guidance on the format and content of this meeting can be found in appendix 1.

4.3 It should be noted that targets 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 will commence formal procedures (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 will be given in writing of the Formal Capability meeting. This will contain sufficient information regarding the concerns about performance, copies of evidence of these concerns and their possible consequences, to enable the teacher to prepare and copies of the support programme that have been implemented prior to beginning this capability procedure.-

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

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

6.0 Formal capability meeting

6.1 This meeting will be conducted by the Headteacher or formally nominated member of the Senior Leadership Team (or the Chair of Governors in the case of Headteacher capability).

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 make a decision on how the case will progress.

6.4 Following reviewing this, the person conducting the meeting 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 employees response or to give more time to consider the information. In this case a date for the reconvened meeting should be agreed.
- 3) To decide that there is a need to instigate 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 instigate the Formal Capability Process. However if issues raised are so serious a Final Formal Written Warning should be issued. The

advice of HR must be 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 Governors/other appropriate body (or Assistant Director, Learning Services, in the case of Headteacher Capability) 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 targets, 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 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 Governors/other appropriate body (or Assistant Director Learning Services for Headteachers) 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 final monitoring and review period, a final review meeting will be held, employees 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 targets, a decision should be made as to whether the Performance Improvement Plan targets have been made. There are two possible outcomes:

- 1) If Performance Improvement Plan objectives have been achieved 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 Governing 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. Employees 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 two working days before the hearing.

10.2 The decision hearing panel should consist of three members of the governing 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 for the decision hearing:

- 1) That the panel determine that performance of the teacher, in relation to 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 performance of the teacher, in relation to the objectives stated in the Performance Improvement Plan have not been met due to exceptional circumstances and as such progress toward 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 expected in relation to the objectives set in the Performance Improvement Plan and that the teacher should be dismissed, as the teacher has failed to demonstrate their ability to attain that standard in this school.

10.4 If a decision to dismiss has been taken, the teacher will receive appropriate 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 Governors/other appropriate body 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 three Governors 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 as soon as possible.

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