



Monkhouse
Primary School

School Capability Policy

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Capability Policy

The Governing Body of Monkhouse Primary School adopted this policy and procedure on September 2017 it is subject to periodic review. This policy and procedure is aligned with the objectives and principles contained within the Schools Managing Staff Performance - Policy Statement.

1. Purpose and Scope

- 101 This policy sets the arrangements that will apply when employees fall below the levels of competence that are expected of them as set out in their job description.
- 102 The policy applies to all categories of employees directly employed by school who work under a contract of employment except where such employees are undergoing a probationary period¹ of employment.
- 103 The purpose of this policy is to assist employees whose performance gives cause for concern to achieve the necessary improvement.
- 104 It is expected that initial entry to this policy will be at the informal stage and based on evidence arising from the appraisal support plan. However, where the school has identified a significant detrimental impact on pupil education the formal stage may be instigated.
- 105 This policy will be applied fairly and consistently good practice, particularly that advocated by the Advisory, Conciliation and Arbitration Service (ACAS) and taken without regard to a person's race, age, disability, gender, sexual orientation, gender identity, religion, marital status, pregnancy/maternity, belief or position within the school.

2. Application of the policy

- 201 This policy relates exclusively to the capability of employees where there are serious concerns regarding performance that the separate appraisal process has been unable to address.
- 202 Where circumstances lead to the capability policy being invoked the employee's appraisal cycle will be suspended and the employee will be notified in writing by the Headteacher of this action. The letter will advise that the employee's performance will now be managed under the school capability procedure and the implications of this action.

¹ Note: Teachers are not subject to a probationary period.

- 203 The School may seek the advice of the Schools Link HR Business Partner when considering the use of this policy. In cases relating to teaching and learning it may also seek advice from an external advisor (i.e. member of school improvement team).
- 204 Where through this policy the identified concerns are successfully addressed the capability procedure will cease and the appraisal process will re-start.

Capability Procedure

1. Entry into Capability

- 101 Where through the schools appraisal process the appraiser has identified serious concerns in performance, that the appraisal process is unable to address, they will refer the matter to the Headteacher. Where the case relates to the Headteacher the Governing Body will access advice from their external advisor or Manager of the HR Advisory Service. In such circumstances should the procedure be used then the lead role will be carried out by a designated person.

Based on the information received the Headteacher will either;

- a. advise the appraiser of additional supportive actions that can be taken within the appraisal cycle; OR
- b. determine there is a cause for concern requiring the appraisal policy to be suspended and the capability policy and procedure to be invoked.

- 102 Where (b) is proposed the Headteacher will seek guidance on the procedure from their school link HR Business Partner.

- 103 The employee will be notified in writing by the Headteacher that the appraisal system will be suspended and the implications of this action, confirming their performance will instead be managed under the capability procedure. In addition the employee will be reminded of their ability to contact their Trade union/Professional Association for advice.

- 104 It is expected that cases will enter this procedure at the informal stage.

- 105 It is recognised that in extreme circumstances it may be necessary to enter at the formal stage of this procedure. Examples of such circumstances are jeopardy of pupils' education, risk to organisation or failure to comply with the procedure. This action should not take place without first seeking advice and giving full consideration to the circumstances.

2. Informal measures

201 The first steps in attempting to improve performance are to identify the reasons or causes of the problem and consider any positive support that can be provided. Where applicable, information relating to the problem identified may be obtained from the school appraisal arrangements.

202 Informal measures of providing additional management support can be beneficial in addressing concerns about an employee's performance; therefore this option should be explored before moving to Formal Measures.

It is for the Headteacher to determine the time period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place. A review meeting should be held at a mid point of any informal support plan.

203 Additional management support could include the facility to observe good practice, advice from an experienced colleague or line manager, having a mentor or access to appropriate training or resources. The employee may be able to suggest other methods of support they feel would assist them. This list should not be seen as exhaustive or a requirement but gives an indication of the types of support a Headteacher may consider providing.

204 An initial meeting should be arranged to allow discussions between Headteacher and employee to take place in an open and constructive atmosphere and should be regarded as part of the normal working routine. The employee should be encouraged to seek advice from their Trade Union/Professional Association. Where the employee requests they may be accompanied by their Trade Union/Professional Association.

205 The specific aim of these discussions will be to identify ways in which the employee can be encouraged and helped to improve performance. The employee should be provided with a copy of this Policy/Procedure document.

This meeting will provide an opportunity for:

- the Headteacher to clearly identify and illustrate the areas of concern;
- the employee to respond to the concerns outlined;
- the employee to acknowledge their own responsibility to fully engage with the procedure and improve their own performance;
- the Headteacher to outline the standards of performance required to exit the capability procedure;
- identification of any difficulties which may be preventing satisfactory performance;
- confirmation of the level of support which will be provided during the period of review;

- agreement of a reasonable timescale for monitoring and date for a performance review.
- 206 Support or guidance external to the School may be enlisted if deemed appropriate by the Headteacher. Example - maths consultant from LA or outstanding teacher of maths from another school.
- 207 The Headteacher should confirm in writing to the employee the required improvements and how they will be measured, a programme of support, as well as the timescale over which improvement is to be achieved. In addition any points raised by the employee will be recorded. The detail should also be collated into the form of an action plan. (An example is at Annex 3)
- 208 Regular monitoring and feedback should take place during the period given for improvement, with the manager meeting with the employee at least fortnightly. At the end of the agreed review period the Headteacher should meet with the employee concerned to discuss the extent to which the performance has improved the need to sustain the performance and any outstanding areas of concern. A brief written record of this meeting and the outcomes arising from it should be kept².
- 209 It is likely that the vast majority of cases will be resolved with this Informal Stage and it will only be necessary to proceed to the Formal Stage in those cases where advice and additional management support have not achieved the required improvement.
- 210 Where it has not been possible to eliminate concerns about an employee's performance by informal means or improvement has not been sustained Formal Measures may be taken.
- 211 The decision to move on from informal measures lies with the Headteacher. It is recommended that advice be sought from the School Link HR Business Partner before moving to the formal stage. It may also be appropriate to consult with the school's external advisor dependent on the nature of the concerns.

3. **Notification of Formal Capability Meeting**

- 301 A letter should be issued to the employee on behalf of the Headteacher providing a minimum of 5 standard working days notice to the formal capability meeting. The letter of notification will contain sufficient information to enable the employee to prepare to answer the case at a formal capability meeting;
- the concerns about performance and its impact
 - copies of any written evidence;
 - the details of the time and place of the meeting; and
 - their right to be accompanied by a work colleague or a Trade Union/Professional Association representative.

² See appendix 2 for an example review meeting outcome record sheet.

4. **The Formal Capability Meeting**

401 This meeting is intended to establish the facts relating to the concerns contained within the letter to the employee. It will be conducted by the Headteacher. The School Link HR Business Partner may be in attendance at this meeting.

402 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.

403 The meeting may be adjourned, for example if it is decided that further investigation is needed, or that more time is needed in which to consider any additional information.

404 During the meeting, the Headteacher will discuss with the employee:

- the shortcomings in performance;
- the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures
- the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in straightforward cases could be between six and twelve weeks. It is for the Headteacher to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place; and
- support, training or guidance that will be available to help the employee improve their performance;
- that unsatisfactory improvement within the set period will mean the continuation of the stages within the procedure
- the setting of revised action plan focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made;

The Headteacher will ensure notes are taken of any formal meetings and shared with all parties

405 The employee will be informed in writing (within 5 standard working days) of the matters covered in the bullet points above and given information about

the timing and handling of the review stage. This may take the form of an action plan in line with example at (appendix 2). The employee may submit additional suggestions to the plan and the Headteacher should consider their inclusion. Where the employee does not accept any points within the plan they may record their comments on the document. Final copies will be shared with all parties.

5. **Monitoring and review period following the capability meeting**

501 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The employee will be invited to a formal review meeting.

6. **Formal review meeting**

601 As with initial capability meetings, at least 5 standard working days' written 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 represented by a work colleague, a Trade Union/Professional Association representative. The school Link HR Business Partner may be in attendance at this meeting.

602 If the Headteacher is satisfied that the employee has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
- If no, or insufficient improvement has been made during the monitoring and review period, the employee will be advised the matter will be referred to governors for their consideration.

603 As before, notes will be taken of formal meetings and a copy sent to the employee and Trade Union/Professional Association representative. Once the meeting has concluded the employee will be informed in writing (within 5 standard working days) of the matters covered at this meeting providing information about any additional further monitoring and review period proposed.

Should the outcome of the review be referral to governors the employee will be invited to a decision meeting as set out below.

7. **Decision meeting**

701 Such persons or panel members as designated by the Governing Body's Standing Orders will carry out their official duties at all hearings and appeals under this policy & procedure and in accordance with relevant statutory

requirements. Advice will be sought from the appropriate service provider, such as Governor Services as necessary, to ensure compliance with these requirements.

702 At least 10 standard working days' written 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 represented by a work colleague or a Trade Union/Professional Association representative.

703 The following sanctions are available for consideration as part of the process.

Level of sanction	Period sanction remains live
Level one warning	A formal written warning which will expire after a period of 6 months
Level two warning	A formal written warning will expire after a period of 12 months.
Final warning	A formal final written warning will expire after a period of 18 months.
Dismissal	Where there is failure to improve or change in the timescale set or the matter is sufficiently serious the employee may be dismissed with appropriate notice.

704 When considering the level of sanctions the following factors should be considered

- the information presented to the panel
- the severity/impact of the underperformance
- whether the employee has any warnings in place
- any mitigating factors
- whether the proposed outcome is reasonable given all of the circumstances.

705 Once the meeting has concluded the employee and where applicable Trade Union/Professional Association representative, will be informed in writing (within 5 standard working days) of the matters covered at this meeting, outcomes arising from it, as well as accompanying action plan as follows:

- the elements of the employees performance that remain a concern;
- any improvements that have been made and the need to sustain them;
- decision reached including any sanctions, any action plan, further review if appropriate;
- reasons for reaching this decision;
- right to appeal.

706 Where dismissal is the outcome the written correspondence will also contain:

- the reasons for the dismissal,
- the date on which the employment contract will end,
- the appropriate period of notice
- right of appeal.

707 An employee wishing to appeal must do so in writing to the Clerk to Governors c/o the school within 5 standard working days of receiving the letter confirming the outcome of the decision meeting. This correspondence from the employee will set out at the same time the grounds for such an appeal.

708 The employee should take care to outline the grounds for their Appeal to ensure there is no undue delay in organising an Appeal Hearing. Where there is insufficient clarity as to the grounds of the Appeal, the Chair of the Appeal Panel reserves the right to seek such clarification, prior to arranging the Appeal Hearing. It is the responsibility of the Chair of the Appeal Panel, working with their supporting HR Business Partner, to communicate (via the Clerk to Governors) in writing with the employee, where further clarification is required.

8. **Appeal**

801 The appeal will be dealt with impartially by 3 members of the governing body in relation to any formal sanctions (including that of dismissal) issued through this procedure.

802 At least 10 standard working days' written notice will be given and the notification will give details of the time and place of the appeal meeting and will advise the employee of their right to be represented by a work colleague, a Trade Union/Professional Association representative.

803 Options for the Appeal Panel to consider as an outcome arising from an Appeal are as follows:

- Appeal is unfounded - no further action is required, original outcome from earlier decision meeting stands
- that after thoroughly exploring the issues raised at the Appeal Hearing the Panel believe it is appropriate to change the previous decision issued³, perhaps on grounds of information not available at

³ In accordance with the principles of this policy the Appeal Panel do not have the authority to increase the sanction set at the original hearing.

the original/earlier Hearing, the level of sanction given, or inconsistency.

804 The employee will be informed in writing of the results of the appeal hearing as soon as possible (within 5 standard working days) of the matters covered at this meeting and their outcome. The decision of the appeal panel is final.

9. **Re entry to capability measures at future date**

901 Employees who have been subject to this policy and procedure may be re entered into the procedure at the stage previously reached⁴. This may occur in cases where the employee's performance falls below the agreed standard during a 12-month period from the date the procedure was halted.

10. **Capability of Trade Union/Professional Association Representatives**

1001 Although the same capability standards will apply to trade union/professional association representatives as are applied to all other employees, no formal action should be taken until a senior trade union/professional association representative (or permanent official) has been informed of the circumstances of the case.

11. **Employee Support**

1101 In cases of capability it is important that consideration be given to appropriate support for the employee, for example the use of a mentor to support the employee⁵ in their efforts to improve. The mentor's role must be distinct and not be part of the monitoring progress. In addition employees should be encouraged to access support outside of that available from the school such as their trade union/professional association.

12. **Sickness absence during procedure**

1201 If sickness absence appears to have been triggered by the commencement of capability procedures the case should be referred to the Occupational Health Unit. In a case of long term absence it may be necessary to run the attendance management procedure. .

1202 Absences should not cause unreasonable delay to any part of the procedure. Supportive Steps should be taken to enable the employee to attend. However, where the employee is unable to attend, meetings may proceed in the employee's absence after seeking advice from the schools link HR Business Partner.

⁴ If procedure was previously halted at a formal stage then any subsequent re-entry in a 12 month period would begin at the formal stage, similarly if halted at the informal stage any re-entry would be at this informal stage except in exceptional circumstances outlined elsewhere in the policy.

⁵ Mentor could be useful to enable the employee to access a more experienced individual to discuss ideas/methods relating to work/environment in a supportive non judgemental manner.

13. Confidentiality

1301 All parties taking part in proceedings will, in accordance with this Policy & Procedure, maintain confidentiality at all times during the process.

Annex 1 Review Meeting Outcome

Employee Name:

Manager Name:

Date:

Assessment of the Postholder's Ability to Carry Out Duties

(including any action taken, any issues raised by the individual, any additional support and training agreed) continue overleaf if required

Targets/timescale/measurement (continue overleaf if required)

The above has been discussed with the postholder, they have been made aware of the required standard and informed of areas where improvement is sought.

Manager signature

Name

Postholder signature

(to confirm discussion took place)

Name

I agree/disagree with the comments above

Comments/Reasons

Annex 2 Sample Action Plan showing detail required

Employee Name:

Manager Name:

This action plan will cover the period from (Date) and conclude on (Date)

Cause for concern	Improvements required and target dates for improvement	How will this be measured?	Planned review dates (during monitoring period)	Support/training/development to be provided?	Have improvements been met? Y/N/Partial	Details of Measurements/Evidence used in making decision	Time-scale for ongoing review of progress
Inconsistency in planning	<ul style="list-style-type: none"> Planning to detail learning outcomes showing progression throughout the week Planning to show what teacher is doing (eg. Modeling) and how learning outcomes will be achieved 	Monitoring of planning	Friday [<i>date</i>] and every Friday thereafter until end of review period on Friday [<i>date</i>]	Support from KS1 manager and/or DHT			

Inconsistent in adhering to planning	<ul style="list-style-type: none"> Planning to be followed to ensure children are taught the skills to make progress 	Lesson observations	Every 2 weeks w/b [date] [date] [date]				
Limited differentiation in teaching and children's books	<ul style="list-style-type: none"> Learning needs of all abilities catered for especially providing suitable challenge for 'more able' Differentiation observed in lessons and pupil books Lessons graded as satisfactory or better 	Monitoring of planning	As above	Observe good and outstanding teachers both within school and in other schools in the Local Authority			
		Book scrutinies	Every 2 weeks w/b [date] [date] [date]				
		Lesson observations	As above				
Limited appropriate Assessment for Learning strategies in place	<ul style="list-style-type: none"> Learning outcomes are specific, child friendly and appropriate to task 	Lesson observations	Every 2 weeks w/b [date] [date] [date]	Observe good and outstanding teachers both within school and in other			

	<ul style="list-style-type: none"> • Success criteria linked to learning outcomes • Marking and feedback includes AFL strategies • Pupils know what they are learning, what they need to do to achieve it and how they can improve • Teacher feedback is written in school script • Lessons graded as satisfactory or better 	<p>Book scrutinies</p> <p>Discussions with children</p>	<p>Every 2 weeks w/b [date] [date] [date]</p>	<p>schools in the Local Authority</p>				
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<p>Poor time management and lack of pace in lessons</p>	<ul style="list-style-type: none"> • Lesson has appropriate pace • Enough time allocated to completion of independent tasks • Optimal balance between teaching time and independent work • Lessons graded as satisfactory or better 	<p>Lesson observations</p>	<p>Every 2 weeks w/b [date] [date] [date]</p>	<p>Observe good and outstanding teachers both within school and in other schools in the Local Authority</p>				
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Some pupils are making no progress and some are making limited progress in lesson time	<ul style="list-style-type: none"> Majority of pupils to make progress during each lesson Develop opportunities for collaborative learning through paired discussion and writing All pupils know what they are learning and how well they have achieved against success criteria Lessons graded as satisfactory or better 	Lesson observations Discussions with children	Every 2 weeks w/b [date] [date] [date]	Observe good and outstanding teachers both within school and in other schools in the Local Authority				
Lack of pupil engagement in the lesson	<ul style="list-style-type: none"> All pupils actively engaged in every part of the lesson. Lessons graded as satisfactory or better 	Lesson observations	Every 2 weeks w/b [date] [date]	Observe good and outstanding teachers both within school and in other schools in the Local Authority				

Employee Comments:

SUPPORTIVE ARRANGEMENTS

Lesson observations to observe strategies for differentiation, Assessment for learning, pupil engagement, and pupil progress.
1 hour per week peer coaching with SMT to plan and team teach a session in YXXX every week
Feedback given from lesson observations
1 hour mentoring support (*include times*) with member of SMT, with an outline of support received
1 half day visit with APP leading teacher within LA
Additional LA consultancy support 1 session every half term

MONITORING ARRANGEMENTS to begin [date]

Weekly monitoring of planning
Fortnightly pupil book scrutiny.
1 lesson observation every 2 weeks in Year XXX.

REVIEW DATES

[DATE]
[DATE]
[DATE]

TARGET DATE FOR COMPLETION: [DAY] [DD/MM/YYYY]

Signature (Manager) _____

Signature (Employee) _____

Annex 3 Trade Union and Professional Association Contacts

<p>Mr Phil Kemp Honorary Secretary NASUWT c/o Churchill Community College Churchill Street Wallsend NE28 7TN Courier No. E86 Office: 0191 234 7200 ext 306 Mobile: 07879 474 255 pk.nasuwt@btinternet.com</p>	<p>Mr Simon Kennedy Regional Officer NASUWT Regional Centre Witney Way Baldon Colliery Tyne and Wear NE35 9PE Office: 0191 519 5300 Mobile: 07968754428 rc-northeast@mail.nasuwt.org.uk</p>
<p>Jim Crinson Branch Secretary NAHT c/o Collingwood Primary Oswin Terrace North Shields Tyne & Wear NE29 7JQ Office: 0191 200 5038 james.crinson@northtyneside.gov.uk</p>	<p>Dave Marshall Regional Officer NAHT 2 Setting Stones Rickleton Washington NE38 9EU Mobile: 07971244557 dave.marshall@naht.org.uk</p>
<p>Joy Lapsley Local Representative GMB c/o Churchill Community College Churchill Street Wallsend NE28 7TN Office: 0191 234 7200 Joy.lapsley@ntlp.org.uk</p>	<p>Rob Miley Branch Secretary GMB North Tyneside Local Authority Branch Park House Park Road Wallsend North Tyneside NE28 6QY Office: 0191 643 7648 rob.miley@northtyneside.gov.uk</p>
<p>Glen Bowman National Union of Teachers c/o Longbenton High School Hailsham Avenue Longbenton Newcastle Upon Tyne NE12 8ER Home Office Mobile: 0750 7303 153 secretary@north-tyneside.nut.org.uk</p>	<p>Amy Hunt N.U.T Regional Office 3 McMillan Close Saltwell Business park Gateshead Tyne & Wear NE9 5BF Office: 0191 482 77 00 A.hunt@nut.org.uk</p>

<p>Dr John Greig Association of Teachers & Lecturers c/o George Stephenson High School Southgate Killingworth NE12 6SA Courier No E50 Office: 0191 216 1115 Mobile: 07435 789975 jgreig@atl.org.uk</p>	<p>Mr Russell Greig (Thurs- Fri) ATL Regional Officer 17 Coldwell Road Prudhoe <i>Northumberland</i> NE42 5DY Office: 0191 5290638 rgreig@atl.org.uk</p>
<p>Mrs Liz Tuck (Mon-Wed) / ATL Regional Officer 57 White Rocks Grove Whitburn <i>Sunderland</i> SR6 7LL Office: 0191 5290638 etuck@atl.org.uk</p>	<p>Mr S Payne VOICE 5 Stuart Eggborough North Yorkshire DN14 OLY Office: 01977 662436</p>
<p>John Kesterton Regional Officer North East Association of School & College Leaders (ASCL) 3 Hunters Way Dringhouse York YO24 1JL Mobile: 07730529719 Office: 01904709372 mailto:John.Kesterton@ascl.org.uk</p>	<p>Debbie Lydon Branch Secretary UNISON Suite 302 Cobalt Business Exchange Cobalt Business Park Cobalt Park Way North Tyneside NE28 9NZ Courier No. D100 Office: 0191 643 8954 debbie.lydon@northtyneside.gov.uk</p>

Annex 4 Decision meeting/Appeal meeting – Suggested Format

Introductions

The Chair introduces all parties present and explains how the meeting will be conducted and what is being considered – including adjournments, refreshment breaks, expected behaviour, documentation, etc.

i

Presentation

By the relevant manager from the School (or Chair of Decision meeting where it is an Appeal). Witnesses called as/where necessary.

Please note: where more than one witness is to be called it is important that that witness is questioned prior to their being excused.

Questions

The parties may ask questions relating to the presentation given by the manager from the School (or Chair of the Decision meeting where it is an Appeal) in the following order:

- Employee (or their work colleague or trade union/professional association representative)
- Panel Members

Presentation By the Employee (or their work colleague or trade union/professional association representative). Witnesses called as/where necessary.

Please note: where more than one witness is to be called it is important that that witness is questioned prior to their being excused.

This may result in the witness being called and questioned prior to the Employee (or their work colleague or trade union/professional association representative) concluding their presentation.

Questions

The parties may ask questions relating to the presentation given by the Employee (or their work colleague or trade union/professional association representative) in the following order:

- Manager from the School (or Chair of the Decision meeting where it is an Appeal)
- Panel Members

Final statements

Will be taken in the following order

- Manager from the School (or Chair of the Decision meeting where it is an Appeal)
- Employee (or their work colleague or trade union/professional association representative)

All parties then withdraw to allow the Panel to reach a decision. The supporting HRBP will remain during this stage as will the minute/note taker.

The parties may be asked to remain available for either clarification or to be advised of the decision of the Panel.