



CAPABILITY POLICY

Reference this policy is aligned to with LCC	V2019 – MA1
Agreed with Support Staff Trade Unions	xx.xx.xx
Adopted by the Governing Body	Sep 2020
Next Review Due	Sep 2021
Agreed with Teacher Trade Unions and Professional Associations	xx.xx.xx

This procedure applies to support staff, Teachers and the Principal based at Welland Park Academy and should be read in conjunction with the associated Capability Guidance.

Purpose

The Academy must ensure that they have effectively undertaken performance management and provided sufficient opportunities for additional training and/or support to be put in place to enable an employee to reach the required standard of performance **before** progressing to the Formal Capability Policy.

This policy outlines the formal process to be followed when an employee continues to fall short of the expected performance for their role. The process is designed to be a fair and consistent one, which focuses on continuing to assist and support an employee to improve to a satisfactory level of performance. However, where insufficient improvement is seen, this may lead to formal action being taken.

Principles

Roles & Responsibilities:

Where there are concerns regarding the Principals performance, the Chair of Governors will be responsible for overseeing this process. It is also recommended that the Academy's External Educational Adviser be involved in managing this process if they have assisted previously with the performance management process.

For all other staff, the process will be undertaken by either the Principal or another manager.

Right to be Accompanied

At all formal meetings, and at any subsequent hearing, the employee will be formally advised of their right to be accompanied by either a work colleague or a Trade Union representative.

Right of Appeal

Individuals will have the right to appeal the decision. Appeals are to be made in accordance with the Academy's Appeals Procedure.

Pay Progression

For teaching staff, if the capability policy has been invoked the individual will not receive pay progression whilst being managed under this policy.

Formal capability meeting

The purpose of the Formal Capability meeting is to present the facts, to allow the employee to respond to concerns about their performance and for the manager to decide how to proceed with the case.

Five working days' written notification of this meeting will be given and will outline management's concerns about the employee's performance. A copy of all evidence to be presented at the meeting should also be included with this letter.

The person conducting the meeting will:

- Identify which standards are not being met and give clear guidance on the standard of performance required;
- Explain any supportive actions that have already been put in place to assist the employee to improve their performance;
- Ask the employee to respond to the concerns being presented.

The employee will:

- Produce evidence that supports their position.
- Explains reasons for the shortfall in performance.

At this point, management will need to consider the employees response before deciding how to proceed. A decision will then be taken, based on all of the information presented at the meeting that either:

- There are insufficient grounds for pursuing the capability issue(s). The capability procedure will cease and the remaining concerns may be addressed through the performance management process; **OR**
- An adjournment is necessary (e.g. for further investigation or to consider any additional information); **OR**
- There are capability issues that still need to be addressed, which may warrant a final warning if the required improvements are not made following the review period. In these circumstances, a further support plan should be put in place, or the original plan reviewed to assist the employee. Timescales for review should also be agreed at this point (usually no longer than 4 to 8 weeks), along with a date for the Formal Review Meeting.

Formal review meeting

Five working days' notice will be given of the review meeting, which will be held at the end of the review period.

Both the person conducting the meeting and the employee will have an opportunity to present evidence to support their position.

The potential outcomes of the meeting are:

If the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart; **OR**

If some progress has been made and more is likely, it may be appropriate to extend the review period. In the majority of cases it will be appropriate to extend the review period just once; **OR**

If no, or insufficient, improvement has been made, the employee will receive a final written warning which will remain on their file for 12 months a further review period set (which may be the same or less than the previous review period) and a final review meeting scheduled. The employee will be informed in writing of the specific matters covered, the timing and their right to appeal against the warning. They should also be informed that failure to achieve an acceptable level of performance in the next review period may lead to dismissal.

Where the process is to be continued a further support plan should be put in place, outlining expectations and timescales to be achieved by the review date. A date for the Final Review Meeting (see Section 5) should be agreed at this point.

The employee should receive a written outcome of the meeting, along with a copy of the support plan and the notes from the meeting.

Final review meeting

Five working days' notice will be given of the final review meeting.

Both the person conducting the meeting and the employee will have an opportunity to present evidence to support their position.

The potential outcomes of the meeting are:

Where the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart; **OR**

Where no, or insufficient, improvement has been made, the employee will be advised that a hearing will be convened to consider the case and that a potential outcome of that hearing is dismissal. This should be confirmed in writing to the employee.

Capability hearing

Five working days' written notification will be given to the employee to attend a Formal Capability hearing. This notification should clearly detail:

- The reason(s) for the hearing.
- The employee's right to be accompanied at the hearing by a work colleague or Trade Union representative.
- That a potential outcome of the hearing is dismissal.
- Employees should also receive copies of relevant documentation (e.g. formal improvement plan(s), notes of meetings, etc.) that will be provided by management at the hearing.
- A request for the employee to submit any evidence to support their case.

Delegation of authority

The person(s) or panel responsible for hearing the case will depend on who has been given the delegated authority to do so. This will either be a panel of Governors or the Principal.

If the person hearing the case is the Principal, they may be supported by another member of the Senior Management Team/a Governor/or an External Educational Adviser. It would not be appropriate for the Head Teacher to make the decision if they have managed the case.

The potential outcomes of the hearing are:

- Where the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart; **OR**
- Where no, or insufficient, improvement has been made, the employee will be dismissed with notice.

Dismissal

The Governing Body or delegated person, will dismiss the employee with notice. The Academy will have the option for an employee to work their notice or to be paid in lieu of notice, if this is deemed to be appropriate. This should be discussed and agreed with the employee and their representative.

The employee will be notified of the outcome of the hearing in writing, within 3 days of the hearing. This letter will outline the reason(s) for the dismissal and date the employment was terminated. The letter will also include details of the employees right to appeal.

Extreme circumstances

Where it is deemed that the lack of capability jeopardises the education and/or health, safety and wellbeing of pupils, the timescale of review periods may be shortened. If after this shortened review period an acceptable level of progress has not been made and/or it is concluded that the lack of capability continues to jeopardise the education and/or health, safety and wellbeing of pupils then it may be appropriate to proceed directly to a hearing. In these extreme circumstances, it may be appropriate to suspend the employee on full pay pending a formal hearing.

Right of appeal

Individuals will have the right to appeal the decision, and appeals are to be made in accordance with the Academy's Appeals Procedure.

Pay progression

For teaching staff, if the capability policy has been invoked they will not receive pay progression whilst being managed under this policy.