

Capability Policy

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Capability policy: document provenance

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Policy owner	School and college trust leader: people
Policy authors	Head of HR centre of excellence
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Summary of changes in this review	<ul style="list-style-type: none">• Changes to nomenclature and reporting line but no other significant changes
Related policies and documents	<ul style="list-style-type: none">• How to improve performance through constructive feedback• Professional conduct policy• Teachers' Standards

Unless there are legislative or regulatory changes in the interim, the policy will be reviewed as per the review cycle. Should no substantive change be required at this point, the policy will move to the next review cycle.

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1.0 Policy statement

Our trust is committed to providing high-quality teaching and learning. Through our workforce, we aim to provide opportunities for all of our students, whatever their ability. Each employee will therefore be given support to help them continually improve their performance and develop to their full potential, which will in turn help improve outcomes for our young people.

Having an effective performance management process in place is one of the ways we can support our employees and deal with performance matters as they arise.

This policy sets out the arrangements that will apply when an employee falls below the levels of competence and performance that are expected of them, and serious concerns have been raised, which it has not been possible to address informally.

This policy has been designed to comply with current legislation and the ACAS Code of Practice on Disciplinary and Grievance Procedures. The policy has been formally adopted by the Trust Board.

This policy does not form part of any employee's contract of employment and may be amended at any time.

2.0 Scope and purpose

- 2.1 The purpose of this policy is to provide a framework within our trust can work with employees to improve and maintain a good standard of performance where significant concerns have been raised.
- 2.2 This policy will be applied when informal support, as set out in the internal document How to Improve Performance through Constructive Feedback, has been provided and the required improvement has not been made.
- 2.3 This policy applies to all employees of our trust, including teachers and associate staff, excluding those who are in the probationary period. It does not apply to agency or casual workers.

3.0 Notification and procedure for formal meetings

- 3.1 An employee will be given at least five working days' written notice if required to attend any formal meeting under this procedure.
- 3.2 The written notification will also contain:
 - sufficient information about the performance concerns and their possible consequences, (including either issuing a warning or dismissal), to allow the employee to prepare to answer the case
 - copies of any written evidence
 - copies of witness statements and details of witnesses attending, (if appropriate)
 - details of the time and place of the meeting
 - your right to be accompanied (see paragraph 3.4)
- 3.3 Formal meetings will be conducted by the relevant school and college trust leader, principal, functional lead or other nominated senior leader, delegated this responsibility by the relevant school and college trust leader or principal, and a member of our HR Centre of Excellence will also be present.
- 3.4 An employee has the right to be accompanied to any formal meeting under this procedure by a companion, who may be a colleague or a trade union representative.
- 3.5 Relevant witnesses may be called by the person conducting the meeting and an employee may request that relevant witnesses be called to any formal meeting.
- 3.6 A formal meeting under this procedure will:
 - identify performance shortcomings
 - allow an employee to respond to those concerns, ask questions, and make any relevant representations, which may provide new information or a different context to the evidence already collected
 - identify what action (including support provided) has been taken to date and what the outcome was
 - where appropriate, identify and explain any support that will be available to help the employee improve performance
 - where appropriate, warn an employee formally that failure to improve within the set period could lead to dismissal
 - confirm the timescales for the monitoring and review period, which will follow a formal meeting where a warning is issued. The timetable will depend on the circumstances of the individual case, but the period will be reasonable and



proportionate and should provide sufficient opportunity for an improvement to be made. Formal monitoring, evaluation, guidance, and support will continue during this period

- 3.7 The person conducting the meeting may adjourn the meeting, for example, for further investigation or to consider if additional information is required.
- 3.8 If at any stage the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease, and normal line management and professional growth coaching will re-start.
- 3.9 Following a formal meeting, the matters covered in paragraph 3.6 and any other relevant points will be confirmed in writing. Where a warning has been issued, the letter will set out the length of the monitoring and review period and the procedure and time limits for appealing against the warning.
- 3.10 Minutes will be taken of all formal meetings, and employees will be sent a copy with the outcome of the meeting.

4.0 Formal capability meeting (stage 1)

- 4.1 If, having taken the steps identified in managing performance through constructive feedback, we consider that there are still significant performance concerns, you will be invited to a formal capability meeting to establish the facts. If it is felt necessary a warning may be issued at this stage.
- 4.2 Where a warning is issued, this will usually be a first written warning. However, in very serious cases, or in cases where performance issues have been dealt with previously under the formal capability procedure, this could be a final written warning.
- 4.3 The warning will normally remain active for 12 months from the end of the monitoring and review period. During this time, any further performance concerns will be considered at the next stage of the process, Stage 2. After the active period, the warning will remain on your personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

Monitoring and review period (1)

- 4.4 The standard set length of the monitoring and review period following the formal capability meeting is normally six weeks. However, in some cases it may be appropriate for a shorter period of four weeks to be set. In exceptional circumstances, this period can be extended up to a maximum of ten weeks.
- 4.5 At the end of the monitoring and review period, if significant performance concerns remain, you will be invited to a formal review meeting, unless you were issued a final written warning, in which case you will be invited to a decision meeting. If there are no significant performance concerns outstanding, then normal line management and professional growth coaching would resume.

5.0 Formal review meeting (stage 2)

- 5.1 Performance since the formal capability meeting will be reviewed at this meeting and, if the person conducting the formal review meeting decides that some progress has been made and there is the confidence that more is likely, it may be appropriate to extend the monitoring and review period up to a maximum of four additional weeks.
- 5.2 If no, or insufficient, improvement has been made during the monitoring and review period, you will receive a final written warning. A further monitoring and review period will then follow in accordance with paragraph 4.4.
- 5.3 The warning will normally remain active for 12 months from the end of the further monitoring and review period. During this time, any further performance concerns will be addressed at the next stage of the process, Stage 3. After the active period, the warning will remain on your personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

Monitoring and review period (2)

- 5.4 At the end of the further monitoring and review period, should significant performance concerns remain, you will be invited to a decision meeting. If there are no significant performance concerns outstanding, then normal line management and professional growth coaching would resume.
- 5.5 At this stage, and with your agreement, instead of progressing to a decision meeting, it may be appropriate to consider whether there is a vacant post, and if so, whether this may be more suited to your capabilities. If there is a vacant post, which we agree with you is suitable, this would be a permanent change in role and, if the alternative post is at a lower salary level, the substantive lower salary would apply. The capability procedure would cease when you start in the new post, and normal line management and professional growth coaching would resume.



6.0 Decision meeting (stage 3)

- 6.1 The decision meeting will usually be conducted by the relevant school and college trust leader, principal or functional lead if they have not been involved in the formal monitoring. If they have been involved in the earlier monitoring stages, then a suitable individual will be appointed by the relevant school and college trust leader in consultation with our HR Centre of Excellence. The employee must be informed that dismissal is a possible outcome of a decision meeting.
- 6.2 Performance since the formal review meeting will be reviewed at this meeting and if performance is deemed to have improved but not reached the required standard, a further monitoring and review period can be imposed. There will be a further decision meeting at the end of that extended monitoring and review period.
- 6.3 If performance remains unsatisfactory, a decision will be made that you should be dismissed or required to cease working at our trust.
- 6.4 You will be informed in writing as soon as possible of the dismissal, the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice, and your right of appeal.

7.0 Appeal

- 7.1 If an employee feels that the decision to dismiss them, or other action taken against them (including warnings), is wrong or unjust, they may appeal. They should appeal in writing to the individual identified in their outcome letter, setting out the grounds for appeal within a calendar week of the decision.
- 7.2 Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and the right to be accompanied by a companion will apply as set out in Section 3.
- 7.3 The appeal will be dealt with impartially and, wherever possible, by someone at least as senior as the original decision maker. They will not previously have been involved in the case in line with our trust's arrangements for appeals. A member of our HR Centre of Excellence will be present and the outcome will be communicated in writing.
- 7.4 There is no further right of appeal against the sanction or dismissal within our trust.

8.0 Sickness

- 8.1 If at any stage long-term sickness absence appears to have been triggered by the commencement of this procedure, the case will be dealt with in accordance with our trust sickness absence monitoring policy.
- 8.2 The employee will be referred immediately to the occupational health service to assess their health and fitness for continued employment, and the appropriateness, or otherwise, of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and / or formal procedures to continue during a period of sickness absence.

9.0 Review of policy

This policy has, at its formation, been subject to consultation with recognised trade unions, unless there are legislative or regulatory changes in the interim, this policy will be reviewed annually; this will include consultation on any changes with recognised trade unions. Should no substantive change be required at this point, the policy will move to the next review cycle.

