

## AURORA ACADEMIES TRUST

<b>Policy Title:</b>	Appraisal and Capability Policy
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<b>Function:</b>	For Information and Guidance/ <b><u>Statutory</u></b>
<b>Audience:</b>	Regional Directors, Executive Headteachers, Headteachers, Heads of School, Teachers, Support Staff, as necessary
<b>Ownership/Implementation:</b>	The Trustees/LAB Governing Body (as required) have overall responsibility for ensuring that this policy is implemented
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## **Preamble**

This **staff appraisal policy** sets out the broad content of our policy; the policy aims to comply with the prevailing legislative framework and incorporate good practice.

As a principal change to schools' current appraisal arrangements, the teachers' standards, introduced in September 2012, must now be incorporated into a school's appraisal arrangements.

## **Introduction**

Under statutory regulations, appraisal arrangements for all teachers in maintained schools in England were changed from 1 September 2013.

*The Education (School Teachers' Appraisal) (England) Regulations 2012*, made under the Education Act 2002, came into force on 1 September 2012 and replaced *The Education (School Teacher Performance Management) (England) Regulations 2006*. The 2012 regulations can be found at [www.legislation.gov.uk/ukSI/2012/115/pdfs/ukSI\\_20120115\\_en.pdf](http://www.legislation.gov.uk/ukSI/2012/115/pdfs/ukSI_20120115_en.pdf).

The 2012 regulations apply to any teacher employed for one school term or more.

The regulations place a legal obligation on qualifying schools to have an appraisals procedure in place for all teachers and a capability procedure in place for all staff.

The regulations do not apply to a teacher whilst that teacher is undergoing an induction period or whilst a teacher is the subject of a formal capability procedure.

Support staff are not covered by the regulations but it is the Trust's policy for the head teacher to implement the same or a broadly similar staff appraisal policy for non-teaching staff.

## **Guiding principles**

In its oversight of the appraisal system, the local academy board is committed to ensuring consistency of treatment and fairness and to stay within the prevailing legal framework applicable to all employers; for example, the Equality Act 2010, the Employment Rights Act 1996, the Part-Time Workers Regulations 2000, the Fixed Term Employees Regulations 2002 and the Data Protection Act 1998.

The head teacher/head of school will moderate a sample of the planning statements (more on those later) to check that the agreed plans are consistently weighted between employees who have similar levels of responsibility and that the plans comply with the school's appraisal policy.

The appraisal process and the supporting documentation will be treated with strict confidentiality at all times. Only those who need access to such information will be granted access to enable them to discharge their responsibilities as directed by the school. The local academy board will monitor the operation of the appraisal system and review it at appropriate intervals.



## **Purpose**

This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers and support staff and for supporting their development needs within the context of the school's improvement plan.

## **The appraisal**

The Regional Directors/Executive head teachers will be appraised by the CEO.

The Regional Directors/Executive Head teachers will appraise the performance of the head teacher/head of school. In turn, the head teacher/head of school is responsible for ensuring the review of the performance of every other school leader, teacher and member of support staff employed at the school.

Appraisal meetings should be held during normal working hours and should be scheduled for at least one hour or longer if necessary.

The purpose of the appraisal meeting is to review the employee's current job, their performance and their future plans. More specifically, the meeting will also be an opportunity to discuss how the employee can contribute to the wider work of the school and to agree and set a number (typically three) of objectives (there is no minimum or maximum number of objectives however).

## **The appraisal period**

The appraisal period will be for 12 months and will begin on 1 September; it must be completed by 31 October. The cycle will begin with a planning meeting (IPDP – Individual Performance Development Plan) and will end with a review meeting. Mid-year review meetings will be held.

Where a teacher starts their employment or transfers to a new post within the school part way through a performance management cycle, the head teacher, or in the case where the employee is the head teacher, the local academy board, shall determine appraisal arrangements for the remainder of the appraisal period, with a view to bringing their appraisal arrangements into line with the cycle as soon as possible.

Where a school leader or teacher is employed on a fixed term contract for a period less than 12 months, the length of the appraisal period will be determined by the duration of the contract.

## **The appraisers**

All appraisers will be provided with appropriate training.

### **For the Regional Director/Executive head teacher and other Trust senior managers**

The CEO is the appraiser for the Regional Directors/Executive head teachers and other Trust senior managers



### **For the head teacher/head of school**

The Regional Director/Executive Head teacher is the appraiser for the head teacher/head of school, and to discharge this particular responsibility on behalf of the Board of Directors of Aurora Academies Trust (AAT).

### **For all other employees**

The head teacher/head of school is responsible for the appraisal of all other employees but may delegate this responsibility to others who will normally have line management responsibility for those that they appraise.

Teaching staff should be able to object to the appointment of an appraiser, on professional grounds, in writing to the head teacher, who will consider the objection and make a decision. Where the objections are rejected by the head teacher, the teacher should be advised in writing.

### **Objective setting**

The setting and agreement of objectives is fundamentally important to the effective operation of a performance management system that aims to link individual performance to pay progression. The job description can be a particularly useful place to begin the process of identifying relevant objectives for each individual job holder. However, the job description is just one 'reference document' that can be helpful context to the process of setting and agreeing objectives. Other useful 'reference documents' may include the school improvement plan, the school's business plan, the Ofsted school inspection report, the School self-evaluation form (SEF) and the teachers' standards.

In addition, it may be prudent to allow for some flexibility in the setting and agreement of objectives to enable objectives to be set and agreed around issues that are emerging for the school and that require some dedicated attention that is best articulated as one or as a set of objectives. On the grounds that emerging issues are unlikely to be known at the outset of an appraisal period, objectives may need to be adjusted throughout the appraisal period so that they remain relevant to the performance of the individual and to the priorities of the school. This is considered to be perfectly standard practice; the ideal outcome for all parties is that the overall weight of objectives is broadly or proportionately the same at the conclusion of any subsequent 'objectives' discussion.

Objectives should be CSMART

- C = Challenging
- S = Specific
- M = Measurable
- A = Achievable
- R = Relevant
- T = Timed



Objectives should also be fair and equitable when judged across employees with similar roles and responsibilities. However, appraisal objectives will normally become more challenging as a teacher progresses up the main pay scale.

The head teacher/head of school must, before, or as soon as practicable after, the start of each appraisal period, in relation to every teacher employed at that school, inform the teacher of the standards against which their performance will be assessed and set objectives for the teacher for the appraisal period. Head teachers may delegate this responsibility to the line manager cohort.

The objectives must be set such that they will contribute to the improvement of a school's educational provision and performance and appraisers will therefore be expected to align individual objectives with the school's priorities.

Objectives should focus on the priorities for the school or individual for the duration of the appraisal cycle. Normally, staff should expect to have no more than (typically) three objectives but there is no actual minimum or maximum number.

Objectives will be set out in a planning statement, along with details of any training and support which have been agreed. The planning statement should also specify the evidence that will be collected to support the review of performance.

Objectives may be revised if circumstances change.

### **Teachers' standards**

Under the appraisal arrangements that took effect from 1 September 2013, the performance of all teachers, regardless of their career stage, will be assessed against the teachers' standards. The standards define the minimum level of practice expected of trainees and teachers from the point of being awarded QTS.

The standards against which performance must be assessed in respect of a teacher are the set of standards articulated in the teachers' standards document and any other set of standards relating to teachers' performance published by the Secretary of State.

In order to meet the teachers' standards, a teacher will need to demonstrate that their practice is consistent with the definitions set out in part one (teaching) and part two (personal and professional conduct).

### **Applying the teachers' standards**

Teachers make the education of their pupils their first concern and are accountable for achieving the highest possible standards in their work and their conduct. Teachers act with honesty and integrity, have strong subject knowledge and are self-critical. They forge positive professional relationships with those around them and work with parents in the best interests of their pupils.



## Teachers

The teachers' standards effectively set out a 'code' of good teaching practice and professional conduct and as such, it would seem to be perfectly reasonable for schools to expect all teaching staff to meet the expectations set out in the standards document. Teachers should therefore be evaluated against all the elements set out in the teachers' standards and it is for schools to put appropriate arrangements in place to achieve a fair and equitable process of evaluation.

## Head teachers/Heads of School

Teachers' standards must also be applied to head teachers/heads of school and school leaders as well as to all other teachers. However, on the grounds that only a proportion of head teachers and school leaders spend part of their scheduled week teaching, appraisers should exercise particularly careful judgement when assessing such staff against the teachers' standards.

A full version of the teachers' standards can be found at <http://media.education.gov.uk/assets/files/pdf/t/teachers%20standards%20information.pdf>.

## Maintaining public confidence

In addition to the standards detailed above, teachers should maintain public trust and confidence in the Trust, its Academies and in the profession by:

- 1.1 demonstrating honesty and integrity;
- 1.2 understanding and upholding their duty to safeguard the welfare of children and young people;
- 1.3 maintaining reasonable standards of behaviour whether inside or outside of normal school hours and whether on or off the Trust's premises; and
- 1.4 maintaining an effective learning environment.

## Gathering the evidence

As part of the overall appraisal process, it will be critically important for all members of staff who are subject to the school's staff appraisal policy to be clear about the evidence that will be required by their appraiser to enable the appraiser to assess their performance and make a substantiated and evidence-based pay recommendation to the 'decision maker'.

Judgements relating to performance should be supported by evidence, agreed at the beginning of the performance cycle. Evidence should show and demonstrate a contribution towards:

- a positive impact on pupil progress;
- a positive impact on wider outcomes for pupils;
- improvement in specific elements of practice, eg lesson planning; and
- a positive contribution to the work at the school.



The evidence gathered by the school and the member of staff will largely be determined by the nature and scope of the agreed objectives and/or the teachers' standards. Examples of evidence may include:

- Classroom observations
- Task observations
- Reviews of assessment results
- Reviews of lesson planning records
- Internal tracking
- Moderation within and across schools
- Pupils' voice
- Parents' voice
- Head teachers' walkabouts
- Evidence supporting progress against teachers' standards.

Any classroom or task observations will be carried out in accordance with the school's classroom and task observation protocol. Classroom observation will be carried out by qualified teachers. At least five working days' notice of the date and time of the observation will be given and verbal feedback will be provided by the end of the next school day in a suitable private environment. Written feedback will be provided within five working days. The appraisee has the right to append written comments to the feedback document.

For appraisal purposes, the local academy board is committed to ensuring that classroom and task observation is developmental and supportive and that those involved in the process will:

- carry out the role with professionalism, integrity and courtesy;
- evaluate objectively;
- report accurately and fairly; and
- respect the confidentiality of the information gained.

The arrangements for classroom/task observation will be stated in the appraisal planning statement and will include observation, specify its primary purpose, any particular aspects of the employee's performance which will be assessed, the duration of the observation, when, during the appraisal cycle, the observation is likely to take place and who is likely to conduct the observation.

Where evidence emerges about the appraisee's performance, which gives rise to concern during the cycle, additional observations may be arranged during the cycle.

A head teacher has a duty to evaluate the standards of teaching and learning and to ensure proper standards of professional performance are established and maintained throughout the school and may therefore determine that it is necessary to collect additional evidence to help inform the evaluation of teaching standards and school improvement strategies. This additional evidence may include walkabouts, task observation, reviews of assessment results and lesson planning records. It may not be practicable to provide advance notice of these additional monitoring activities.



## **Ofsted**

As part of their overall inspection framework, Ofsted wishes to see evidence in schools that the appraisal procedure is used effectively and enables school improvement; if appraisal evidence is not available, this is likely to impact negatively on the Ofsted inspection grade for leadership and management.

It is therefore prudent for schools to generate and retain as much reasonable 'appraisal system' evidence as practicably possible and discharge the school's budget to differentiate appropriately between high and low performers. Where a teacher's performance is less than good, inspectors will seek evidence that this is rigorously managed and that appropriate training and support are provided. Where a teacher's performance is good, inspectors will expect to see evidence that this is recognised through the appraisal system.

Ofsted inspectors may ask to have sight of anonymised data from the last three years that illustrates the numbers of teaching staff who have:

- progressed along the main pay range;
- progressed to and through the upper pay range;
- progressed along the leadership scale; and
- received additional responsibility payments such as TLRs and SEN allowances.

Inspectors will expect to see a correlation between the pattern of pay progression and the improvements made to the overall quality of teaching and learning; where there is no or little correlation, the inspectors will want to investigate the reasons for this. However, inspectors will take account of the length of time the head teacher has been in post.

## **Reviewing performance and the annual assessment**

At the end of the cycle, assessment of performance will be on the basis agreed at the beginning of the cycle.

In determining an appraisal, the governing body or head teacher must assess the performance in the appraisal period, apply the relevant 'standards', assess performance against the agreed objectives and assess the professional development needs and identify any action that should be taken and, finally, include a recommendation relating to pay.

The cycle of performance management is based upon our IPD programme and GLI (Global Leadership Institute). In their school inspection handbook, Ofsted also provide some useful 'grade descriptors' that schools may find helpful in determining the overall assessment of teachers' performance.

A written appraisal report must be provided at the conclusion of the appraisal process – ideally by 31 October for school leaders, teachers and support staff, or as soon as possible thereafter.

Good progress towards the achievement of a challenging objective, even if the performance criteria have not been met in full, may still be assessed favourably. (As a rule if 80% is met) If agreement



cannot be reached, especially on the outcomes of an appraisal meeting, the teacher may appeal to the head teacher or the head teacher may appeal to the CEO, whose decisions will be final.

The overall assessment of performance and its subsequent performance rating for individual members of staff will be subject to a process of moderation, arrangements for which will be put in place by the Trust.

The final version of the appraisal documentation will be placed on the employee's file and a copy of their CPD made available to the school's CPD coordinator. The sharing of such information is governed by the data protection principles set out under the Data Protection Act 1998.

The Chief Executive Officer, Regional Director/Executive Head teacher and head teacher/head of school will ensure that all written appraisal records are retained in a secure place for 6 years and then destroyed.

### **Continuing professional development**

The school's CPD programme will be informed by the training and development needs identified through the appraisal procedure. The head teacher/head of school will ensure in the budget planning, that, as far as possible, appropriate resources will be made available for any agreed training, support and continuing professional development.

Support to meet individual or collective development needs should be provided within the context of the school's improvement plan.

### **Conflict of interest**

In any circumstances where an individual believes that their participation in any part of the appraisal process amounts or may amount to a 'conflict of interest' they should declare this to their appraiser and/or absent themselves from any part of the appraisal process where they believe that a 'conflict of interest' would or is likely to prevail.

### **Pay progression linked to performance**

Each academy will present recommendations to the Senior Executive team which will consider annually whether or not to increase the salary of teachers who have completed a year of continuous employment since the previous annual pay determination and, if so, to what salary within the relevant pay ranges.

All pay recommendations should be clearly attributable to the performance of an employee.



The relevant body must decide how pay progression will be determined, subject to the following:

- a. The decision, whether or not to award pay progression, must be related to a teacher's performance
- b. A pay recommendation must be made in writing as part of a teacher's annual appraisal report
- c. Where a teacher is not subject to either the 2012 or the 2011 regulations, the relevant body must determine through what process the teacher's performance will be assessed and a pay recommendation made for the purposes of making its decision on pay
- d. Continued good performance, as defined by an individual school's pay policy, should give a classroom or an unqualified teacher an expectation of progression to the top of their respective pay ranges
- e. A decision may be made not to award pay progression, whether or not the teacher is subject to capability proceedings.

The head teacher/head of school will be responsible for ensuring that appropriate arrangements are put in place to support the links between performance and pay and that agreed rates of pay progression are affordable and comply with prevailing legislation (e.g. equal pay).

Where teachers are eligible for pay progression, the recommendation made by the appraiser will be based on an assessment of performance against agreed performance objectives. The decision made by the relevant decision-making body will be based on the statutory criteria and guidance set out in the STPCD and the relevant teacher standards.

To move up the main pay range, one point at a time, teachers will need to have made good progress towards achieving their objectives, at least 80% of the targets set, and have demonstrated that they are competent in all elements of the Teachers' Standards. Teaching should be consistently 'good', as defined by Ofsted.

If the overall appraisal evidence shows that a teacher has demonstrated exceptional performance, the governing body will consider awarding enhanced pay progression. Teaching should be 'outstanding', as defined by Ofsted.

The head teacher/head of school will consult with staff and union representatives on the establishment of appraisal and pay policies and will ensure that appraisers have the knowledge and skills to apply procedures fairly.

Teachers will work with their appraisers to ensure that there is sufficient evidence to support pay recommendations. Teachers will also refer to their IPDP and keep records of objectives and review them throughout the appraisal period.

### **Applications to be paid on the upper pay range**

From 1 September 2013, any qualified teacher can apply to be paid on the upper pay range. All applications should include the results of appraisals; where such information is not available, a written statement and summary of evidence that sets out how the applicant has met the assessment criteria



will be sufficient. Teachers who have been absent through sickness, disability or maternity may cite written evidence from previous years in support of the application.

To be assessed successfully, a teacher will be required to meet the criteria set out in the school teachers' pay and conditions document (STPCD):

- The teacher is 'highly competent' in all the elements of the teachers' standards
- The teacher's achievements and contribution to the school is 'substantial' and 'sustained'.

### **Highly competent**

The teacher's performance is assessed as having excellent depth and breadth of knowledge, skills and understanding of the teachers' standards in the particular role they are fulfilling and the context in which they are working.

### **Substantial**

The teacher's achievements and contribution to the school are significant, not just in raising standards of teaching and learning in their own classroom but also in making a significant wider contribution to school improvement which impacts on pupil progress and the effectiveness of staff and colleagues.

### **Sustained**

The teacher must have had two consecutive successful appraisal reports and have made good progress towards their objectives; they will have been expected to have shown that their teaching expertise has grown over the relevant period and is consistently good to outstanding.

### **Leading practitioner role**

Typically, the additional duties of a leading practitioner role will include:

- A leadership role in developing, implementing and evaluating policies and practices in a school that contribute to school improvement
- The improvement of teaching within school which impacts significantly on pupil progress
- Improving the effectiveness of staff and colleagues, particularly in relation to specific areas eg lesson planning.

The head teacher/head of school will agree appraisal objectives for the leading practitioner, who, in turn, must demonstrate that, they:

- have made good progress towards their objectives;
- are an exemplar of teaching skills which should impact significantly on pupil progress within school and within the wider school community;
- have made a substantial impact on staff and colleagues, including any specific elements of practice that have been highlighted as in need of improvement;
- are highly competent in all aspects of the teachers' standards; and



- have shown strong leadership in developing, implementing and evaluating policies and practices in their workplace that contribute to school improvement.

### **Staff, especially teachers, experiencing difficulties**

When a member of staff is experiencing difficulties, support and guidance will be provided through the appraisal process. Where it is clear that a member of staff's personal circumstances are leading to difficulties at work, appropriate support should be offered at the earliest opportunity.

If long-term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school's absence policy and will be referred to the occupational health service who will assess the member of staff's health and fitness for continued employment and whether either continuing with informal monitoring or formal procedures is deemed to be appropriate.

If the appraiser identifies through the appraisal process or through other sources of information, parental complaints for example, that the difficulties experienced by a teacher are such that, if not rectified could lead to the capability procedure, the appraiser will, as part of the appraisal process, meet the member of staff to:

- give clear written feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment on and discuss the concerns;
- give the teacher at least five working days' notice that a meeting will be held to discuss targets for improvement alongside a programme of support and remind the teacher that they have the right to be accompanied by a work colleague or trade union representative at any future meetings where capability will be discussed;
- agree and establish, in consultation with the teacher, an action plan with support that will help to remedy specific concerns;
- make clear, how progress will be monitored and when it will be reviewed; and
- explain the implications and process if no, or insufficient, improvement is made.

The teacher's progress will continue to be monitored as part of the appraisal process and a reasonable time given for the teacher's performance to improve. During this monitoring period, the teacher will be given regular feedback on progress and arrangements will be made to modify the support programme if appropriate.

If sufficient progress is made, the teacher should be informed of this at a formal meeting and the appraisal process will continue as normal.

If no, or insufficient improvement has been made, the teacher will be invited to a transition meeting to determine whether formal capability proceedings will be invoked.

As a final check and balance to invoking the capability procedure, it is advised that line managers ensure that the following have been put in place:



- The employee has undergone an appropriate period of induction to their role
- An up to date job description has been issued to the employee
- Professional standards and overall expectations of performance have been made clear
- The employee's performance has been monitored and feedback has been provided.

### **Transition to capability**

Performance concerns should be dealt with through the staff appraisal policy but if progress towards addressing performance concerns is insufficient or the concerns are sufficiently serious, a 'transition meeting' should be held; the expectation is that this meeting will reduce the likelihood of invoking the capability procedure or triggering a prolonged period of sickness absence. In this event, further support should be granted through the appraisal procedure.

A meeting of this nature does not amount to part of the formal capability procedure.

The employee, their line manager and the head teacher/head of school (CEO and/or chair of the LAB, where the capability of the head teacher is in question) will be present at the meeting. As the outcome of the meeting may have serious consequences, the employee should be encouraged to be accompanied by a work colleague or a trade union representative.

Guiding principles to the overall approach to the meeting:

- Ensure that practical support, advice and guidance is provided to the employee
- Training should be provided where this is a reasonable expectation
- Performance criteria should be clear and monitored within agreed time schedules
- The employee's shortcomings are clearly set out in writing.

The meeting will consider the following matters:

- The evidence that has given rise to the specific concerns about the employee's performance
- The seriousness of the concerns and their impact on the performance of the school
- The support that has been provided to date
- The time for which the concerns have persisted
- The degree of improvement that has been achieved and whether or not this has been sustained
- The extent to which the employee has shown insight and has engaged with the support provided throughout the appraisal process
- Any mitigating factors.

Once these matters have been considered, the chair should close the meeting and reflect on the findings, take advice and reach a decision. The employee will be informed of the decision in writing and normally within five working days. The decision will be either to continue with the appraisal process or to invoke the capability procedure by convening a formal capability meeting.



The transition to the capability procedure will not normally be made unless there is evidence that:

- Under-performance against agreed objectives and / or standards has prevailed for some time; and
- The underperformance is either serious or has persisted despite the provision of support.

### **Capability procedure**

The principal purpose of a capability procedure is to support and ensure that staff are able to perform their duties and to deal with under-performance on a formal basis. The aim is to deal with those cases, where, despite appropriate management support (normally provided through the appraisal process), a member of staff is deficient in key areas of ability, skill, competence or knowledge and is consequently unable to carry out their required duties to an acceptable standard.

It is important that under-performance is managed to ensure that the quality of teaching and learning is unaffected and that the overall performance of the school is not compromised. The overall approach to capability should be supportive, constructive and helpful to the employee.

This procedure complies with the provisions of the ACAS code of practice.

The capability procedure applies only to teachers and head teachers where there are serious concerns about their performance that are not able to be addressed by the appraisal procedure. The purpose of a capability meeting is to establish the facts and will usually be chaired by either the chair of the LAB, Executive Head teacher or the head teacher. The subject of the capability meeting will be able to respond to concerns about their performance and to present any relevant evidence.

Employees should be made aware that whilst they are and remain the subject of the capability procedure; the normal appraisal arrangements will be suspended. Employees are expected to cooperate constructively with arrangements that are put in place to address under-performance. Where an employee believes that they are being unfairly treated, they may raise an informal complaint or a formal grievance as appropriate.

As is the case in all formal procedures, the chair of each meeting should ensure that clear written records are kept, in particular, the management concerns about the employee's performance.

### **Timescales**

Under the procedure, timescales may be adjusted as appropriate:

- this procedure proposes a period of between three and eight weeks for the implementation of the informal stage where a member of staff is typically supported by a support plan or what may also be known as an action plan. The agreed period may be adjusted to suit the merits and circumstances in each individual case; for example, you would expect an experienced teacher or other member of staff to make improvements in a short period of time whereas you may wish to grant a longer period of time to an employee at early career stage



- In particularly serious cases where the education, health or wellbeing of pupils may be at risk, a shorter period for monitoring is, in all likelihood, going to be more appropriate (e.g. where a teacher's control of the class is poor or where pupil progress is inadequate, despite support)
- If the implementation of the capability procedure triggers an episode of sickness absence, the case should be immediately referred to the school's occupational health service to assess the employee's health and fitness for continued employment; the length of time a school should wait for an employee's health to improve before considering whether to terminate the employment on health grounds should be subject to ongoing occupational health guidance.

### Formal capability meeting

The first meeting under the capability procedure, often referred to as the formal interview initiates the capability procedure. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about performance concerns and the possible consequences to enable the teacher to prepare to present their case at the meeting. The notification of a capability meeting will be accompanied by copies of written evidence, details of the date and time of the meeting and will confirm the teacher's entitlement to be accompanied by a companion who may be a work colleague or a trade union representative.

The following will be considered and discussed with you at the meeting:

- 1.1 concerns relating to your performance;
- 1.2 your response;
- 1.3 the respects in which your performance has fallen short of the required standards;
- 1.4 suggestions as to any appropriate support / training / supervision which could improve your performance;
- 1.5 the time in which performance must improve and the method by which your performance will be monitored;
- 1.6 the likely consequence of further instances of poor performance or a failure to improve within a specified time.

Notes will be taken of the formal meeting and a copy sent to the member of staff.

There are three possible outcomes from the formal capability meeting:

- A written warning requiring improvement:** if your performance is not meeting the required standard, the Headteacher/Head of School will write to you indicating the details of the poor performance and the time period for improvement. You will be advised that it constitutes the first stage of the formal procedure;
- B final written warning:** in the event of a more serious failing, if you fail to improve within the time referred to in the previous written note or you are found to have fallen short of the required standard in any other respect, you will be given a final written warning which will set out the details of poor performance and the time period for improvement.



- C Dismissal:** if you fail to improve within the time specified in the final written warning or you have fallen short of the required standards in any other respect, you may be dismissed immediately with notice.

**Communication of decision:** You will be notified of the Trust's decision in writing as soon as reasonably practicable. If the concern is upheld, you will be informed of the outcome and your right to appeal the decision.

**Currency of warnings:** All written notes requiring improvement which are issued following a Capability Meeting will remain in effect for a period of 12 months from the date of issue unless otherwise advised to you. A final written warning will remain in effect for a period of 24 months from the date of issue unless you are otherwise advised. Copies will be placed on your personnel file.

## Appeal

**Right of appeal:** You have the right to appeal to an Appeal Panel against any decision made following the Capability Meeting if you are dissatisfied with it. You should notify the Headteacher/Head of School in writing within five working days of being notified of a decision, giving full details of why you wish to appeal.

**Appeal procedure:** The Appeal Panel will arrange a review meeting or a fresh capability meeting which will take place as soon as reasonably practicable and you will be informed in advance of its timing and location. You must take all reasonable steps to attend the appeal meeting. There shall be no right to appeal from the decision of the Appeal Panel. The Appeal Panel will be entitled to reach a different conclusion and impose a different outcome (although not greater) than that imposed after the Capability Meeting.

**Appeal panel:** The Appeal Panel shall not include anyone previously involved in the Capability Meeting and may comprise one or more persons. As far as reasonably practicable, the person chairing the Appeal Panel will be someone holding a more senior position than the person chairing the Capability Meeting. You will be informed in writing of the Appeal Panel's decision as soon as reasonably practicable.

**Right to be accompanied:** You may be accompanied to the appeal hearing by a colleague or trade union official.

**Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that the period of notice began at the date given in the dismissal decision. If having been dismissed you are reinstated on appeal, your continuity of employment will be unaffected.



### **Monitoring and review period following a formal capability meeting**

A performance monitoring and review period will follow the formal capability meeting. This period will include regular task/classroom observation, performance evaluation and monitoring, training, management support and guidance.

### **Formal review meeting**

Following the conclusion of a monitoring and review period, the member of staff will be invited to a formal review meeting. At the formal review meeting, if the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will end and the appraisal process will re-start. 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 teacher will receive a final written warning.

A further monitoring period will be set and a subsequent and final review meeting will be scheduled. If, following a final written warning, performance does not improve to an acceptable standard; the case will be referred to the CEO and/or an appropriate panel of executives and LAB members, typically three.

### **Decision meeting**

At the decision meeting, if an acceptable standard of performance has been achieved during the monitoring and review period, the capability procedure will end and the appraisal process will re-start.

If performance remains unsatisfactory (ie where sufficient improvement cannot be achieved despite comprehensive support or where performance concerns are of particular gravity), a decision, or recommendation to the CEO and Local Academy Board, will be made that the teacher should be dismissed or required to cease working at the school as soon as possible.

### **Dismissal**

Once the decision to dismiss has been taken, the CEO of the Academy Trust will dismiss the teacher with notice or once the Local Academy Board has decided that the teacher should no longer work at the school. The CEO must dismiss the teacher within 14 days of the date of the notification.

### **Appeal**

If a teacher feels that the decision to dismiss them is wrong or unjust, they may appeal in writing against the decision, setting out the grounds of the appeal. The teacher will be informed in writing of the results of the appeal hearing without unreasonable delay.

The appeals panel should be made up of three impartial members who have had no involvement or have no knowledge of the case in which the appeal has been brought.

The decision of the appeals panel is final.



## **Management guidance: applying the procedures**

### **Role of local academy board**

The local academy board should not normally be involved with a capability procedure before the dismissal stage unless the head teacher/head of school is the subject of the capability procedure.

### **Role of the head teacher/head of school**

The head teacher/head of school will be responsible for taking the decision to invoke the capability procedure, unless of course, they are the subject of the procedure.

### **Employee representation**

If the employee's chosen companion is not available at the time proposed for the interview, meeting or hearing and the employee proposes an alternative date and time that is reasonable and falls within 5 working days of the original date, this should be given careful consideration and advice should be sought to ensure that revised arrangements can be made.

### **Monitoring arrangements**

Any monitoring undertaken should be across the range of principal job responsibilities so that a balanced view can be reached to support the evaluation of performance.

### **Written records**

Formal warning should be disregarded after a specified period of satisfactory performance.

First written warning - 12 months

Final written warning - 24 months.

### **Grievances**

Where an employee raises a grievance that relates to the capability procedure and its management and/or implementation, it may be appropriate to suspend the capability procedure until the grievance can be considered but such a delay should only be considered where there is a strong indication that the employee has been mistreated.

