

SUPPORT STAFF CAPABILITY PROCEDURE

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Contents

SUPPORT STAFF CAPABILITY PROCEDURE	1
RELEVANT LEGISLATION	2
RELATED POLICIES	2
INTRODUCTION	2
INFORMAL CAPABILITY PROCEDURE	2
Stage 1.....	2
Stage 2 – Review meeting.....	3
Stage 3 - Formal Capability Procedure	3
First formal capability meeting	3
Second formal capability meeting	4
Final formal capability meeting	5
STAGE 4 - HEARING	5
OFFERING ALTERNATIVE EMPLOYMENT	5
APPEAL.....	5
GENERAL PRINCIPLES UNDERLYING THIS POLICY.....	6
Confidentiality	6
Consistency of Treatment and Fairness	6
Monitoring and Evaluation	7
Retention and Data Protection	7
STAGES OF SUPPORT/MEETINGS FLOW CHART	8
INFORMAL SUPPORT PLAN TEMPLATE (EXAMPLE, PLEASE EDIT FOR NEED)	9

RELEVANT LEGISLATION

- General Data Protection Regulation
- Data Protection Act

RELATED POLICIES

- Support Staff Pay Policy

INTRODUCTION

The trust aims to ensure that employees are able to achieve and maintain a high standard of performance in their work. To this end it will ensure that standards are established, performance monitored and employees are given appropriate training and support to meet these standards.

The procedure applies to all support staff. The aim is to ensure a consistent and fair treatment for all.

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

INFORMAL CAPABILITY PROCEDURE

Stage 1

When it has been identified that an employee has been under performing, this should be addressed informally in the first instance.

The line manager will meet with the employee and the aim of the meeting is to highlight areas of concern regarding performance and to jointly identify workable solutions that might prevent the formal procedure being invoked.

The line manager will set up a performance improvement plan(PIP) to help improve the employee's performance.

This will include setting smart objectives along with the support and training and additional supervision. Time scales for improvement will be added, recommendation of up to 8 weeks before stage 2. This will be recorded on the performance improvement plan (PIP)

Regular meetings with the line manager and employee will need to be set up, ideally every 2 weeks to review the employee's progress.

The aim of these meetings is to provide support and encourage improvement. The right of the employee to be represented by a trade union representative or colleague is not applicable.

However, this does not preclude the employee from seeking advice from a trade union representative or colleague.

Stage 2 – Review meeting

The employee is invited to a review meeting to discuss the performance to decide which measures should be taken next.

The outcome of the meeting may be to:

- A decision to take no further action if the employee has achieved the objectives and standards of performance.
- Move to the formal capability procedure, Stage 3 if the employee has not reached the desired performance and standards within the agreed timescales.

Stage 3 - Formal Capability Procedure

If the performance is unacceptable, as agreed at stage 2 meeting, the formal capability will commence.

First formal capability meeting

A formal performance review meeting will be arranged providing 5 working days' notice. The employee will be advised in writing of the areas of concern and where objectives are not being met. The employee will be informed that they may be accompanied by a trade union representative or a workplace colleague.

The aims of the first formal meeting will be to:

- Explain clearly the shortfall between the employee's performance and the required standard
- Identify the cause(s) of the inadequate performance and to determine if any action is required, i.e. training, retraining support etc.
- Set a reasonable period for the employee to reach the standard and agree a monitoring programme during that period – with a minimum of 4 weeks and a maximum of 8 weeks.
- Inform the employee that dismissal is a possible outcome if the standard is not met
- Advise the employee of Care First.

The employee should be given the opportunity to provide their explanation for the areas of unsatisfactory performance.

The line manager will consider the employee's explanation and any other mitigating circumstances and determine the action to be taken.

This may be:

- That no further formal action will be taken. Recommendation will be implemented and the employee's performance will be reviewed on a regular ongoing basis
- That the outcome of the review is unsatisfactory and the employee will be given a first written warning. This is the first formal stage of the capability procedure and failure to improve could lead to a final written warning and ultimately dismissal.

The outcome of this meeting will be recorded in writing and put in a letter for the employee. The employee has the right to appeal against the written warning.

Second formal capability meeting

This is to take place at the agreed review period.

A formal meeting will be arranged with 5 days working notice and to inform the employee that they can be accompanied by a trade union representative or work colleague.

At this meeting the line manager will review the employee's performance against the set objectives and the employee will be given the opportunity to state their views.

The following action will be taken:

- If the line manager is satisfied that performance has improved to the required standard, they will advise the employee that no further formal action will be taken and future performance will be managed through the normal appraisal process.

If the review is unsatisfactory, the employee will be given a final written warning, warning the employee that failure to improve could lead to dismissal.

The line manager will send a letter confirming the final written warning, along with the unsatisfactory performance as discussed, the required standards to improve, time scales (which would be a minimum of 4 weeks and a maximum of 8 weeks) training and support offered. The employee has the right to appeal against the written warning.

Final formal capability meeting

Following the final written warning, a third performance reviewing meeting will be arranged, with 5 working days' notice given.

At this meeting the line manager will review the employee's performance against set objective and the employee will be given the opportunity to state their views.

The following action will be taken:

- If the line manager is satisfied that performance has improved to the required standard, they will advise the employee that no further formal action will be taken and future performance will be managed through the normal appraisal process.
- If there has been no or insufficient improvement and it is considered that additional support, the manager will explain to the employee that they have failed to improve and a hearing will be arranged to consider possible dismissal. The employee will receive at least 5 working days' notice of the hearing and be advised on their right to union representation.

STAGE 4 - HEARING

The Headteacher/Governor Panel will hear the case and make the decision to dismiss or consideration will be given if there are suitable vacancies that the employee would be competent to fill with a reasonable level of training and support. The employee will receive the decision in writing and the employee has the right to appeal against the decision.

OFFERING ALTERNATIVE EMPLOYMENT

If appropriate and depending on the circumstances, at all stages, suitable alternative employment can be mutually agreed at the discretion of the trust.

Alternative employment does not have to be equivalent in terms and conditions to the current post and it may take the form of a less senior position in the same work area. The employees' current terms and conditions will not be protected,

APPEAL

An employee has a right of appeal against a sanction issued under stages 3 or 4 of this procedure. A request for an appeal should be sent in writing to the Headteacher within 5 working days of receiving the dismissal letter and set out the grounds on which the employee believes that the decision was flawed or unfair.

The request should be sent within seven days of the employee receiving written confirmation of the sanction imposed on them by the organisation.

An appeal hearing will be convened to consider the matter. It will be chaired by a Senior Manager, CEO or Trustee than the manager who conducted the original hearing, together with the head of HR. The employee will be entitled to be accompanied by a fellow employee or a trade union official. At the hearing, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.

The result of the hearing will be either to confirm the sanction, or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed on the employee.

The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final. Acas code of practice on disciplinary and grievance procedures, and related guidance

Paragraph 1 of the “Acas code of practice on disciplinary and grievance procedures” anticipates that the same procedure is used for both conduct and capability issues. That may be a suitable approach for straightforward cases or for small employers, but larger employers or employers facing complicated performance issues that require more than just a straightforward warning are likely to benefit from a separate procedure. The code states that where a separate procedure is used, the basic principles of fairness set out in the code should still be followed (and adapted where necessary).

GENERAL PRINCIPLES UNDERLYING THIS POLICY

Confidentiality

The capability process will be treated confidentially. However, the desire for confidentiality does not override the need for the Headteacher and Academy Trust Board to quality assure the operation and effectiveness of the appraisal system. In this Trust, the Executive Headteacher/Headteacher, in conjunction with the Senior Leadership Team, is responsible for reviewing objectives and written appraisal records, to check consistency of approach and expectation between different appraisers.

Consistency of Treatment and Fairness

Royal Wootton Bassett Academy Trust are committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make

reasonable adjustments for disabled employees. The Trust is aware of the guidance on the Equality Act issued by the Department for Education.

Monitoring and Evaluation

The Governing Body and Headteacher will monitor the operation and effectiveness of the capability process. In developing, applying and evaluating this policy we will monitor the impact on different groups of people with protected characteristics in line with the Trust's Equality & Diversity Policy. This will ensure that what we do is done fairly.

Retention and Data Protection

All written appraisal records will be retained in a secure place. It is your manager's responsibility to ensure the HR manager has a copy of all relevant documents. As part of the application of this policy, the Trust may collect, process and store personal data in accordance with our Data Protection Policy. We will comply with the requirements of Data Protection Legislation:

- (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then
- (ii) any successor legislation to the GDPR or the Data Protection Act 1998). Records will be kept in accordance with our Privacy Notice, our Retention and Erasure Policy and in line with
- (iii) the requirements of Data Protection Legislation.

STAGES OF SUPPORT/MEETINGS FLOW CHART



Stage 1 - Employee invited to an informal capability meeting to discuss performance.

Following the meeting the manager may choose to:

1. Take no further action
2. Issue an informal PIP guidance support, coaching, training on what they need to do to improve the performance. Targets and timescales given for improvement can be anything from 4-8 weeks which will move to a Stage 2 review.



Stage 2 - Employee invited to a PIP review meeting to discuss performance and decide next steps.

The outcome might be to:

1. Take no further action
2. To extend the review
3. Recommend to move to formal capability stage 3.



Stage 3 - Employee invited to a formal capability initial meeting (this must be with the Headteacher or Exec Team member.

The outcome might be to:

1. Take no further action (if improvements made)
2. To offer alternative employment (if suitable)
3. Issue the first written warning (and invite to review in 4-8 weeks)

Employee invited to a second formal capability meeting.

The outcome of this might be to:

1. Take no further action (if improvements made)
2. To offer a suitable vacancy or issue final written warning (and invite to a meeting in 4-8 weeks).

Final Formal Capability Meeting

The outcome of this might be to:

1. Take no further action (if improvements made)
2. To offer a suitable vacancy or invite to a Hearing



Stage 4 – Hearing Meeting

The Headteacher/Panel make the decision to dismiss or redeploy to a suitable vacancy.

Right of Appeal will be offered.

INFORMAL SUPPORT PLAN TEMPLATE (EXAMPLE, PLEASE EDIT FOR NEED)

Name:

Duration:

Start date:

Line Manager:

End Date:

Leadership Link:

KEY AREA	RELEVANT STANDARDS/JOB TITLE	TARGETS/ACTIONS (PLEASE USE SMART TARGETS)	TIME FRAME	SUCCESS INDICATOR
i.e refer to Job Description				
Personal, Behaviour & Welfare				

Summary of support already offered

PIP Example

- Providing a coach
- Weekly meetings with Line Manager

Items to be carried forward via on-going Line Management Meetings from