Staff Capability Policy

Henry David Learning

Woodfield School

Agreed by the Proprietor: **August 2024**

Review date: **August 2027**

Policy Purpose:
This policy sets out the procedure for dealing with staff competency where, following application of the school's appraisal policy, a member of staff's performance has fallen below the levels of competence that are expected.

Stage 1: Formal capability meeting
At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and the possible consequences to enable the member of staff to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

The formal capability meeting is intended to establish the facts. It will be conducted by the principal. The school may also invite the Senior HR Administrator to attend. The meeting allows the member of staff, accompanied by a companion if they wish, 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.
Following consideration of all the facts and the evidence presented, the person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end and the appraisal process restarted.

In exceptional circumstances the person conducting the meeting may also adjourn the meeting, for example, if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- Identify the professional shortcomings, for example which of the standards expected of the member of staff are not being met
- Give clear guidance on the improved standard of performance needed to ensure that the member of staff can be removed from formal capability procedures (this may include the setting of new objectives 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)
- Explain any support that will be available to help the member of staff improve their performance
- Set out the timetable for improvement and explain how performance will be monitored and reviewed. The formal review period will be made up of two review periods, each of a maximum of 8 weeks. The total formal review period will not exceed 16 weeks. In serious cases where the safety and education of children is significantly at risk, the timescale may be shortened to 4 weeks
- Issue a formal warning that failure to improve within the set period could lead to dismissal.
- In very serious cases, this warning could be a final written warning.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the member of staff will be informed in writing within 3 working days of the matters covered in the bullet points above and given information about the timing and handling of the review stage.

The member of staff will be given the right of appeal which should be submitted in writing within 7 days of receipt of the written notification of the warning.

The appeal hearing will be considered by a panel of Managers not previously involved in this stage of the procedure and, wherever possible, will be heard within 14 days of the receipt of the written appeal from the member of staff. In the case of the principal, it will be heard by Zamir Lal proprietor.

Appeal hearings will not delay the capability procedure, which will continue whilst the appeal is being considered. The member of staff will have the right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. It should not be a relative or legal representative.

Monitoring and review following a formal capability meeting
The first performance monitoring and review period of up to 8 weeks will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. At the end of the specified first review period the member of staff will be invited to a formal review meeting. In cases where the member of staff was previously issued with a final written warning, that meeting will be a decision meeting.

Stage 2: Formal review meeting
As with formal capability meetings, at least 7 days' notice will be given and the notification will give details of the time and place of the meeting and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.
If the person conducting the meeting is satisfied that the member of staff has made sufficient improvement, that the relevant standards are now met and that performance is at the required level, the capability procedure will cease.
If no, or insufficient improvement has been made during the monitoring and review period to demonstrate that the relevant standards are now met and that performance is at the required level, the member of staff will receive a final written warning. Review periods will not be extended if some, but insufficient improvement has been made during the review period.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale) may result in dismissal and given information about the handling of the further monitoring and review period.

The member of staff will be given the right of appeal which should be submitted in writing within 5 days of receipt of the written notification of the warning. The appeal hearing will be considered by a panel of managers not previously involved in this stage of the procedure and, wherever possible, will be heard within, 14 days of the receipt of the written appeal from the member of staff. In the case of the principal, it will be heard by Zamir Lal.
Appeal hearings will not delay the capability procedure which will continue whilst the appeal is being considered.
The member of staff will have the right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. It should not be a relative or legal representative.

At the end of the specified review period following a final written warning the member of staff will be invited to a decision meeting.

Stage 3 Decision meeting
As with formal capability meetings and formal review meetings, at least 7 days' notice will be given and the notification will give details of the time and place of the meeting, and will advise the member of staff of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. It should not be a relative or legal representative.

Unless an acceptable standard of performance has been achieved during the further monitoring and review period, the decision will be made that the member of staff should be dismissed or required to cease working at the school.

Where, following the decision meeting it is decided that there should be a recommendation to Zamir Lal for dismissal, the member of staff will be notified in writing and will be immediately suspended pending the meeting.
The member of staff will be informed in writing within 3 working days of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Dismissal
Senior HR Administrator will issue a formal written notification to the employee, with notice.

Appeal
If a member of staff feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within 7 days of the decision, setting out at the same time the grounds for appeal.
Appeals will be heard without unreasonable delay, wherever possible within 21 days of receipt of the written appeal and within the period of notice given to the member of staff. As with other formal meetings, notes will be taken and a copy sent to the member of staff. The appeal will be heard by a panel of managers who have not previously been involved in this stage of the case.
The member of staff will have the right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.
The member of staff will be notified in writing of the outcome of the appeal hearing within 7 days of the date of the decision.

Sickness
If long term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the monitoring and formal capability procedures will continue in line with the timescales outlined in the policy. However, in such cases there will be a referral to the school's occupational health provider to determine how the school may most appropriately engage with the member of staff during their absence as part of the formal capability procedure. It is therefore recognised that the member of staff may, because of the nature of their illness, find it difficult to attend meetings required as part of the formal procedure and therefore the opportunity will be given for the member of staff to submit written documentation and/or to be represented by a colleague or trade union representative at the formal review meetings. Other than in exceptional circumstances (e.g., emergency hospitalisation, close family bereavement) the capability procedure will not be suspended due to sickness absence.

Grievances
Where a member of staff raises a grievance during the capability procedure the grievance will be dealt with urgently, in accordance with the school's grievance procedure, and will run concurrently with the formal capability procedure. Where the grievance relates to the application of the formal capability procedure and is upheld following investigation under the agreed procedure, the capability procedure may be suspended.

Where, following a formal review period, it has been decided that the member of staff's performance has improved to the required level against all the appropriate standards, and that formal capability procedures should cease, the member of staff will return to performance monitoring through the school's formal appraisal process. However, during the first 12 months following a formal capability procedure, the member of staff's appraisal will be undertaken in accordance with the arrangements set out in the school's appraisal policy for dealing with circumstances in which concerns have been identified about a member of staff's performance against the relevant standards.
If at any time during that 12 month period the member of staff's performance deteriorates to a level which causes concern about their overall performance against the required standards, the appraisal process will cease and the member of staff will move back into the formal capability procedure at an appropriate point up to and including (but, other than in very serious cases affecting children's' safety/education, not exceeding) the stage at which they were previously at in the formal capability procedure.

Retention and data protection
The principal will ensure that all written records are retained in a secure place. As part of the application of this policy, the Woodfield School may collect, process and store personal data in accordance with our data protection policy.

We will comply with the requirements of the Data Protection Legislation (being (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 Staff Privacy Notice, our Records Management Policy and in line with the requirements of the Data Protection Legislation.