Staff Capability Policy

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Woodland Rise School

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1. Aims

The aim of our staff capability policy is to set out a clear and consistent process for when a member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

2. Legislation and guidance

This policy is based on the Department for Education's model policy and guidance, and the Acas code of practice on disciplinary and grievance procedures.

When carrying out capability procedures, we will ensure we abide by the Equality Act 2010.

3. Definitions

Lack of capability is defined as:

- A staff member failing to perform their role at the level of competence expected of them and that their job requires

References to **'staff'** include the Heads of Centre, teachers and support staff, unless indicated otherwise.

4. Roles and responsibilities

Where the member of staff subject to the procedure is the Heads of Centre, the Proprietor will be responsible for coordinating the procedure.

Where the member of staff subject to the procedure is not the Heads of Centre, the Heads of Centre or a nominated member of senior staff will be responsible for coordinating the procedure.

Where appropriate, other members of staff may be asked to provide additional support to the member of staff or to assist in monitoring the effectiveness of the policy. Where this happens, responsibilities will be made clear in advance.

5. Capability procedure

Performance is monitored on a day-to-day basis by line managers. Formal capability procedures will begin when line management support and the appraisal process have been unable to bring about satisfactory performance or improvements in the staff member's work.

An informal period of support, put in place and monitored by the line manager, will have been in place before formal capability procedures are triggered. Evidence of this will be available before the process begins.

Where an early career teacher (ECT) is subject to capability procedures, we will continue the induction process in parallel with the capability procedure and inform the appropriate body.

5.1 Stage 1 - Formal capability meeting

At least 7 working days' notice will be given of the formal capability meeting, and will explain:

- The concerns about performance and possible consequences
- Any written evidence
- The time and place of the meeting
- The possible consequences of the underperformance
- That the staff member has the right to be accompanied by a work colleague or trade union representative

It will be conducted a member of the school leadership team or the Heads of Centre. The school may also invite the Senior HR Administrator.

The purpose of the meeting is to establish the facts, and to allow the staff member to respond to the concerns and make relevant representations.

5.1.1 Possible outcomes

The meeting may establish that there are no grounds to pursue the capability issue. In this case, the procedure will come to an end and the issues will continue to be addressed through the appraisal process.

The meeting may be adjourned if further investigation is needed, or if more time is needed to consider additional information presented.

If the meeting continues, the person conducting the meeting will:

- Explain the expected standards that are not being met based on the Teachers' Standards or other relevant standards, career stage expectations and/or job description
- Give clear guidance on the standard of performance needed to end the procedures
- Explain the support available to help the staff member improve their performance
- Set out the timetable for improvement and explain how performance will be monitored and reviewed
- Warn the staff member that failure to improve within this timetable could lead to dismissal

5.1.2 After the meeting

The staff member will be sent formal meeting notes. If a formal warning has been issued, the staff member will also receive:

- A written record of the bullet points above
- Information about the timing and handling of the review stage
- Information about the procedure and time limits for appealing against the warning

5.2 Monitoring and review period

A performance monitoring and review period consisting of formal monitoring guidance and support will follow the formal capability meeting.

The performance 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.

The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see 5.4 below).

Where, following a performance monitoring 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.

If at any time during the 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.

5.3 Stage 2 - Formal review meeting (at 8 weeks of the monitoring period)

At least 7 working days' notice will be given of the formal review meeting, and will explain:

- The time and place of the meeting
- That the staff member has the right to be accompanied by a work colleague or trade union representative

If the person conducting the meeting is satisfied that the staff member has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.

In other cases:

- 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, or in very serious cases, the staff member will receive a final written warning, which could lead to dismissal

Notes will be taken of formal meetings and a copy sent to the member of staff.
In cases where the member of staff was previously issued with a final written warning, the meeting will be a decision meeting.
The final written warning will be issued within 3 days and will mirror any previous warnings. 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. They will be given information about the further monitoring and review period, the procedure and time limits for appealing against the final warning.
The staff member will be invited to a decision meeting.

5.4 Stage 3 - Decision meeting (at 16 weeks of the monitoring period)

At least 7 working days' notice will be given of the decision meeting, and will explain:

- The time and place of the meeting
- That the staff member has the right to be accompanied by a work colleague or trade union representative

If an acceptable standard of performance has now been achieved, the capability procedure will end and the appraisal process will re-start.

If the staff member's performance does not improve to a sufficient standard, a decision, or recommendation to the Proprietor may be made that the staff member should be dismissed or required to cease working at the school.

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.

The staff member will be informed as soon as possible of:

- The reasons for the dismissal
- The date on which the employment contract will end
- The appropriate period of notice
- Their right of appeal

5.5 Dismissal

The power to decide that members of staff should no longer work at this school rests with the Proprietor.

Once the decision to dismiss has been taken the Senior HR associate will dismiss the staff member with notice.

6. Right to appeal

If a staff member feels that a decision to dismiss them is wrong or unjust, they may appeal in writing against the decision within 7 working days of the decision, setting out at the same time the grounds for appeal.

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 and at an agreed time and place. In the case of the Heads of Centre, it will be heard by the Proprietor, who may be supported by a panel of managers.

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.
Notes will be taken and a copy sent to the staff member.
Appeal hearings will not delay the capability procedure, which will continue whilst the appeal is being considered.
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.

7. Confidentiality

The capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Heads of Centre and governing board to quality assure the operation and effectiveness of the system. The Heads of Centre will ensure that all written records are retained in a secure place. As part of the application of this policy, Woodland Rise 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.

8. 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.

9. Consistency of treatment and fairness

The governing board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate.

The governing board is aware of the guidance and provisions of the Equality Act 2010.

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.

10. Monitoring arrangements

The effectiveness of this policy will be monitored by the Heads of Centre.

This policy will be reviewed every 4 years, but can be revised as needed.

This policy will be approved by the Proprietor.

10. Links with other policies

This policy links to our policies on:

- Staff Disciplinary policy
- Staff Appraisal
- Staff grievance procedures
- Equality information and objectives