

POLICY: Capability Procedure	REF: ESD010 Employment & Staff Development	VERSION: 1
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LEAD PERSON:		
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1. 22/03/2017	Multi Academy Trust Board	New Policy
2.		

Capability Procedure

This document sets out a procedure for addressing issues of poor work performance by employees of Activate Learning Education Trust. It sets out principles and processes to be used in cases of poor performance and incorporates both good practice, the relevant ACAS Code of Practice on Disciplinary and Grievance Procedures and has regard to Statutory Guidance issued by the relevant Secretary of State for maintained schools. Recognised trades unions will be consulted on any changes to the procedure.

The aims of any action taken under the Capability Procedure are threefold:

- to provide support to help an employee overcome any difficulties and ensure an immediate and sustained improvement in performance;
- to understand any reasons for the under-performance (e.g. health, other personal reasons) so that corrective action is appropriate and takes these factors into account;
- to provide a framework within which performance can be monitored, recorded and evaluated and, if performance does not improve to a satisfactory level, to take steps which could lead to dismissal;

The scope of this procedure extends to all employees where there are serious concerns about performance that the appraisal process has been unable to address.

Where there are concerns about the performance of the Headteacher the procedure will be conducted by the Chair of Governors or CEO of the Trust and supported by a suitably skilled and/or experienced external adviser who has been appointed for that purpose.

Transition to Capability

If following a period of support and monitoring under the Appraisal Policy the appraiser/headteacher is not satisfied with progress, the employee will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the Capability procedure. He/She will be invited to a formal capability meeting.

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 their possible consequences to enable the employee 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 employee 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.

This meeting is intended to establish the facts. It will be conducted by the Chair of the Board of Governors (for a capability meeting relating to the Principal) or the Principal or delegated to another member of the Leadership Team where the Principal deems this to be appropriate. The meeting allows the employee, 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.

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. 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 are not being met;
- give clear guidance on the improved standard of performance needed to ensure that the employee 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 employee improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in straightforward cases could be between four and ten weeks.; and
- warn the employee formally 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 employee. Where a warning is issued, the employee will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

Monitoring and review period following a formal capability meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The school employee 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 below).

Formal review meeting

As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the employee 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 employee 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, the employee will receive a final written warning.

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 and the procedure and time limits for appealing against the final warning. The employee will be invited to a decision meeting.

Decision meeting

As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the employee 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 an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start. If performance remains unsatisfactory, a decision, or recommendation to the Board or Governors, will be made that the employee should be dismissed or required to cease working at the school.

The employee 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 and their right of appeal.

Decision to dismiss

The power to decide that school employees should no longer work at the school rests with the Principal or the Board of Governors. See statement of delegated authority.

Dismissal

Once the decision to dismiss has been taken, the Principal will dismiss the employee with notice.

Appeal

If an employee 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 five days of the decision, setting out at the same time the grounds for appeal.

Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

The employee will be informed in writing of the results of the appeal hearing as soon as possible.

Provision of Information About Teacher or Headteacher Capability

Where a teacher or headteacher applies for a teaching post at another school, the governing body must, on request, advise in writing whether the teacher or headteacher has, in the preceding two years, been subject to capability procedures. If this is the case, they must provide written details of the concerns which gave rise to capability procedures, the duration of the proceedings and their outcome.

Other Relevant Policies and Procedures

Appraisal Policy for Teachers and Headteachers.

Monitoring and Evaluation

The Trust and Principal will monitor the operation and effectiveness of the Capability Procedure.

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