

# Conatus Federation

## Capability Policy for Teaching Staff

### Introduction

The Schools' Capability Procedures are designed to help employees achieve and maintain high performance levels at work. This procedure applies only to teachers or headteachers about whose performance there are serious concerns that the appraisal process has been unable to address.

This procedure applies to teaching staff with the exception of:

- Casual or temporary employees appointed for less than 13 weeks
- Agency workers
- Where the employee is incapable of performing their duties as a result of sickness or injury, the Schools' Management of Sickness Absence policy will apply. 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 Schools' Management of Absence (*e.g. referred immediately to the occupational health service to assess the member of staff's health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures*). In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.
- Where a member of staff raises a grievance during the capability procedure, the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently.

### Guidance

- This procedure should be read in conjunction with Management Guidance on Capability for School Staff (written by Schools' HR).
- Copies of documentation, from the formal stages, should be kept on file.
- Any member of staff being taken through the Capability procedure will be excluded from the appraisal process
- Governors/headteachers can delegate the responsibility for taking formal action regarding poor performance in accordance with the procedure, up until any hearing to consider dismissal.
- Any reference to governors/headteachers, shall be construed as relating equally to their representatives, up until any hearing to consider dismissal.
- If an employee has specific needs relating to a disability then reasonable adjustments will be considered to assist them participating in any meetings/hearings.
- Governors/headteachers will seek the support of the Schools' HR Team as appropriate.

### 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 their possible consequences to enable the teacher 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 teacher 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 Governors (for headteacher capability meetings) or headteacher/Head of School (for other teachers). The meeting allows the teacher, 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. ✎

such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting *e.g. 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, *e.g. which of the expected Teaching Standards are not being met;*
- give clear guidance on the improved standard of performance needed to ensure that the teacher 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 teacher 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. (*It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place*);
- Warn the teacher 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.

Where a warning is issued, the teacher 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 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 below).

### **Stage 2**

#### **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 teacher 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 teacher 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 teacher will receive a final written warning.

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 teacher will be invited to a Decision Meeting. In

### **Stage 3**

#### **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 teacher 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 Governing Body will be made, that the Teacher should be dismissed or required to cease working at the school.

Before the decision to dismiss is made, the school will discuss the matter with The Schools' HR Team. The teacher 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.

### **Order of Stages**

In serious cases of very unsatisfactory performance, it may be appropriate to move straight to Stage 2, for example where it is deemed that the education of pupils is in jeopardy. Managers may also move straight to Stage 2 in the small number of cases where the employee is at work but all reasonable efforts to make adjustments for health issues, including redeployment or ill health retirement have been exhausted and the performance still remains unsatisfactory. Where there is evidence that the teacher is not meeting the Teachers Standards, a Formal Capability Meeting will be organised under Stage 1 of the procedure. In serious cases of very unsatisfactory performance it may be appropriate to move straight to Stage 3 and hold a Decision Meeting after issuing a final written warning at Stage 1.

### **Decision to Dismiss**

The power to decide that members of staff should no longer work at this school has been delegated to the headteacher.

### **Dismissal**

Once the headteacher has decided that the teacher should no longer work at the school, they will notify the Local Authority of its decision and the reasons for it. Where teachers work solely at this school, the Local Authority must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the Local Authority must require them to cease to work at this school immediately.

### **Appeal**

If a teacher 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 10 working 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.

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

The teacher will be informed in writing of the results of the appeal hearing within five working days of the hearing.

### **Health and Disability**

There is a formal need for governors/headteachers to consider adjustments for employees with disabilities as they may be covered by the Equality Act (2010). The governor/headteacher may know the employee has a disability or, if in doubt, should proceed as if they have a disability. The capability procedure may need to be paused whilst adjustments are considered but once any adjustments are in place then normal capability management can continue. Again, all adjustments must fit in with the needs of the school and be subject to regular review. Governors/headteachers should arrange an early referral to Occupational Health if health issues or disability are impacting upon performance.

**Confirmation the Capability for Teachers Policy in respect of the Conatus Federation has been discussed by the Governing Body.**

**Signed by:**

Chair of Governors: ..... Date: .....  
(Conatus Federations)

Executive Headteacher: ..... Date: .....

Agreed September 2022 - To be reviewed annually – Autumn 2023