



# **St Cuthbert with St Matthias CE Primary School and Nursery**

## **Capability Policy**

Reviewed: January 2019  
Next review: January 2020

# CAPABILITY POLICY

If the appraiser is not satisfied with a head teacher/ teacher/ teaching assistant's progress under the school's performance management policy, they will be notified in writing that the appraisal system no longer applies and their performance will be managed under the capability procedure.

This procedure applies only to teachers or head teachers about whose performance there are serious concerns that the appraisal process has been unable to address. Teacher means teacher or Head teacher.

## Stage 1- Formal Capability Meeting

### Notification

The teacher will be invited in writing to a formal capability meeting. They must receive at least five working days' notice of the meeting.

This written notification will:

- Contain detailed 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.
- Contain copies of any written evidence
- Confirm the details of the time and place of the meeting
- Advise the teacher of their right to be accompanied by a companion who may be a colleague or a trade union representative.
- Advise the teacher of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the teacher who will be conducting the meeting.

### Purpose of the Meeting:

This meeting is intended to establish the facts. It is essential that it is made clear to the teacher exactly how he or she has failed to meet expectations and states clearly the standard of performance that is expected. The purpose of the meeting is to allow 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. In such cases, the capability procedure will come to an end and the appraisal process will be reinstated; no formal record of the capability proceedings will be made.

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.

## **Structure of the Meeting**

The person conducting the meeting will:

- Identify clearly how the standards are not being met and show the evidence to support the concerns.
- Ask the teacher to respond to the concerns being raised.
- Give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures. This will form the action plan, setting 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 the support that will be available to help the teacher improve their performance. This may include mentoring, observing effective practitioners, training and partnership teaching.
- 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. In cases where the School Improvement Advisor has confirmed there are serious concerns, a review period of four weeks will be appropriate. In other cases the school should set the review period having taken into account what is reasonable and proportionate and gives sufficient time for improvement. The maximum timescale for a review period should be ten weeks.
- Formally warn the teacher that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.
- Advise the teacher of their right of appeal within ten working days against any sanction issued.
- Confirm that the teacher will receive notes of the meeting and 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.

There may be occasions when an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issue. Schools will need to consider all the facts and come to a reasonable decision on how to proceed.

Considerations may include:

- the seriousness of the capability issue under consideration
- a medical opinion on whether the employee is fit to attend the meeting
- Where an employee is persistently unable or unwilling to attend a meeting without good cause the head teacher should make a decision on the evidence available.

## **Monitoring and review period following a formal capability meeting**

A performance monitoring and review period agreed above will follow the formal capability meeting. The agreed formal monitoring, evaluation, guidance and support will take place during this period. Depending on the circumstances, it may be appropriate for the head teacher or another senior member of staff to monitor progress.

## **Stage 2 - Formal review meeting**

At the end of the agreed monitoring and review period, the member of staff will be invited in writing 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. They must receive at least five working days' notice of the meeting.

This written notification will:

- Contain detailed information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case.
- Contain copies of any written evidence
- Confirm the details of the time and place of the meeting
- Advise the teacher of their right to be accompanied by a companion who may be a colleague or a trade union representative.
- Advise the teacher of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the teacher who will be conducting the meeting. It will be conducted by the Chair of Governors (for Head Teacher capability meetings) or Head Teacher (for other teachers).

### **Structure of the Formal Review Meeting**

This meeting will follow the same structure as a formal capability meeting.

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 restart. 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 clearly state the improved standard of performance required, the evidence that will be used to assess whether or not the necessary improvement has been made and the support that will be available to help the teacher improve their performance. It will also set out the timetable for improvement and explain how performance will be monitored and reviewed and confirm the procedure and time limits for appealing against the warning.
- The final written warning will inform the teacher that failure to achieve an acceptable standard of performance (within the set timescale), may result in the requirement to attend a decision meeting and dismissal from their post.

### **Monitoring and review period following a formal review meeting**

A performance monitoring and review period agreed above will follow the formal review meeting. The agreed formal monitoring, evaluation, guidance and support will take place during this period.

Depending on the circumstances, it may be appropriate for the head teacher or another senior member of staff to monitor progress. 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, the teacher will be invited to a decision meeting held by whoever has the authority to dismiss someone from their post in the school. This meeting will make the decision, or recommendation that the teacher should be dismissed or required to cease working at the school.

## **Decision meeting**

### **Notification**

The teacher will be invited in writing to a decision meeting. They must receive at least five working days' notice of the meeting.

This written notification will:

- Contain detailed information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case.
- Contain copies of any written evidence including previous warnings.
- Confirm the details of the time and place of the meeting
- Advise the teacher of their right to be accompanied by a companion who may be a colleague or a trade union representative.
- Advise the teacher of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the teacher who will be conducting the meeting.

### **Structure of a Decision Meeting**

This meeting will follow the same structure as a formal capability meeting. However the meeting must be held by whoever has the authority to dismiss someone from their post in the school. Guidance is given below:

### **Decision to dismiss**

The power to dismiss staff in this school has been delegated to the Chair and one or more governors acting with the Head.

### **Dismissal**

Before the decision to dismiss is made, the school will discuss the matter with the local authority.

The school may also seek to find alternative employment for the teacher.

The teacher will be informed within five working days of the decision meeting 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.

Once the decision to dismiss has been taken, the Governing Body will dismiss the teacher with notice

## **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 five 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 and, as with other formal meetings, notes will be taken and a copy sent to the teacher.

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 as soon as possible.