

Westfield Primary School - Appraisal and Capability Policy

This policy and procedure relates to the appraisal management and professional capability that applies to teaching staff employed at any level, including Headteachers and Deputy Heads. This policy does not apply to teaching staff employed for less than one school term.

This policy should be read in conjunction with the School's Pay Policy, which sets out the framework for making decisions on teachers' pay.

This policy is in two separate sections. Part A covers appraisal and Part B of the policy sets out the formal capability procedure. Capability procedures apply only to teachers and head teachers about whose performance there are serious concerns that the appraisal process has been unable to address.

Section A sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the head teacher, and for supporting their development within the context of the school's plan for improving educational provision and performance, and the standards expected of teachers. It also sets out the arrangements that will apply when teachers fall below the levels of competence that are expected of them.

Part B applies only to teachers (including the head teacher) about whose performance there are serious concerns that the appraisal process has been unable to address. This section does not deal with lack of capability due to ill health, nor with misconduct, gross negligence/gross neglect of duty or gross misconduct. Capability due to ill health is dealt with under the Managing Sickness Absence policy and matters involving potential misconduct, gross misconduct or gross negligence/neglect of duty will be dealt with under the School's disciplinary procedure. This policy does not deal with professional capability of support staff [which is dealt with under the School's Capability Procedure for Support Staff Policy].

This policy does not form part of any employees' terms and conditions of employment with the School and is not intended to have contractual effect. It does however reflect the School's current practice, the requirements of current legislation and best practice and guidance. This policy may be amended by the School from time to time and any changes will be notified to employees within one month of the date on which the change is intended to take effect.

Part A - Appraisal

Appraisal in this school will be a supportive and developmental process designed to ensure that all teachers have the skills and support they need to carry out their role effectively. It will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

The appraisal period

The appraisal period will run for twelve months from the beginning to the end of the academic year.

Teachers who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. The length of the period will be determined by the duration of their contract.

Appointing appraisers

In this school the task of appraising the head teacher, including the setting of objectives, will be delegated to a sub-group consisting of two members of the Governing Body.

The head teacher will decide who will appraise other teachers.

Setting objectives

The head teacher's objectives will be set by the Governing Body after consultation with the external adviser.

Objectives for each teacher will be set before, or as soon as practicable after, the start of each appraisal period. The objectives set for each teacher, will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change.

The objectives set for each teacher will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school.

Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed [the standards set out in the 'Teachers Standards']. The head teacher or governing body (as appropriate) will need to consider whether certain teachers should also be assessed against other sets of standards published by the Secretary of State that are relevant to them.

Reviewing performance

Observation

This school believes that observation of classroom practice and other responsibilities is important both as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have and of gaining useful information which can inform school improvement more generally. All observation will be carried out in a supportive fashion. .

In this school teachers' performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the teacher and the overall needs of the school. Classroom observation will be carried out by those with QTS. In addition to formal observation, head teachers or other leaders with responsibility for teaching standards may "drop in" in order to evaluate the standards of teaching and to check that high standards of professional performance are established and maintained. The length and frequency of "drop in" observations will vary depending on specific circumstances.

Teachers (including the head teacher) who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

Development and support

Appraisal is a supportive process which will be used to inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. Professional development will be linked to school improvement priorities and to the on-going professional development needs and priorities of individual teachers.

Feedback

Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place or other evidence has come to light.

Feedback will highlight particular areas of strength as well as any areas that need attention. Where there are concerns about any aspects of the teacher's performance the appraiser will meet the teacher formally to:

- give clear feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment and discuss the concerns;
- agree any support (eg coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
- review pupil progress in half termly Progress Meetings
- explain the implications and process if no or insufficient improvement is made.

When progress is reviewed, if the appraiser is satisfied that the teacher has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.

Transition to capability

If the appraiser is not satisfied with progress, the teacher will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. The capability procedures will be conducted as in part B of this policy.

Annual assessment

Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the head teacher, the Governing Body must consult the external adviser.

This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings which will take place.

The teacher will receive as soon as practicable following the end of each appraisal period [and have the opportunity to comment in writing on] a written appraisal report. In this school, teachers will receive their written appraisal reports at the beginning of the next cycle unless there are concerns with teacher performance.

The appraisal report will include:

- details of the teacher's objectives for the appraisal period in question;
- an assessment of the teacher's performance of their role and responsibilities against their objectives and the relevant standards;
- an assessment of the teacher's professional development needs and identification of any action that should be taken to address them;
- a recommendation on pay (which can include a 'no progression' where relevant).

As outlined in the School's Pay policy, decisions regarding pay progression will be made with reference to the appraisal report and the pay recommendations they contain.

The assessment of performance and of professional development needs will inform the planning process for the following appraisal period.

Part B – Capability Procedure

The aim of this procedure is to ensure that all employees understand the professional standards expected of them in terms of their duties and responsibilities and are helped to achieve these through open discussion, guidance, training and support. While the School recognises that the vast majority of employees achieve and maintain a high level of performance and professional capability, there are some circumstances where, for a variety of reasons, an employee is not capable, or becomes incapable of meeting an acceptable level of performance.

In such circumstances the nature and the severity of the problem will be clearly identified, and discussed as soon as reasonably practicable and an appropriate structure of support and monitoring will be put in place with the aim of assisting the individual to improve his or her performance to an acceptable standard within a reasonable period of time.

The employee will be informed without unreasonable delay that a decision has been taken to move to the formal stage of this procedure.

Problems of performance may be specific or of a broader nature; they may be of recent concern or span a longer period of time. These considerations, together with the seriousness of the difficulty, will have a direct bearing on what action the School considers and takes and the timetable for this.

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.

Special Cases

Newly appointed staff

Where concern about capability persists that has not been resolvable within a reasonable period of time or is not reasonably amenable to resolution under the NQT's own programme of induction and support, newly appointed teaching staff will be subject to the formal stage of the procedure.

Headteachers

Where there is a question over the capability of a Headteacher, the provisions of the capability procedure will be initiated and progressed by the Chair of the Governing Body (or other governor nominated by the Governing Body). Insofar as this is feasible, the same process will be followed as for other teachers, but with the Chair of Governors, or nominated Governor, taking on the functions which would be undertaken by the Headteacher in all other cases.

Accredited teacher association representatives and union representatives

Where the employee is also an accredited representative of a teachers' association or a trade union representative, the School will liaise with a senior representative from the association/union prior to entry into the formal stage of this procedure.

Preliminary Steps

This procedure applies when the School has serious concerns about a teacher's or Headteacher's performance. In the first instance these concerns should be addressed via the appraisal process. If poor performance continues beyond that process, it may be necessary to commence the formal capability procedure.

In determining the possible reasons for poor performance, the Headteacher or the senior member of staff investigating the concerns must decide whether it is appropriate to address these through the capability procedure or whether the principal issue may be one of misconduct/gross misconduct/gross negligence or gross neglect of duty, or ill health, which needs to be dealt with under alternative procedures.

Where the concerns falls under the scope of this policy and procedure, consideration will be given to the employee's basic professional duties as set out in the STPCD, the employee's job description, the custom and practice of the role in its day to day operation together with previous formal and informal reviews, appraisals and discussions relating to the employee's performance and through informal confidential discussions with the employee's relevant managers.

Formal Stage One

At least five working days' notice will be given of the formal capability meeting.

The Headteacher will notify the employee of the School's decision to initiate the formal capability procedure in writing confirming:

- a) the nature of the performance concerns, the evidential basis for those performance concerns and the intention to initiate formal procedures;
- b) the time and date of the hearing giving reasonable notice and location;
- c) schedule of the enclosed copy documentation to be used as evidence;
- d) the purpose of the hearing and who will be determining the outcome;
- e) the likely range of sanctions that may be applied if the performance concerns are upheld further to the hearing;

- f) the employee's right to request to be accompanied by a teachers' association/union representative or appropriate work colleague for whom no conflict of interest arises;
- g) whether the School intends to call relevant witnesses on its own account to the capability hearing, if so the names of those witnesses. This will usually only be in exceptional circumstances. More commonly the School will rely on written witness evidence in the form of investigation interview notes confirmation of the same;
- h) the employee's right to request to ask questions of any witnesses identified by the School, to identify any additional potential witnesses or to submit any additional relevant documentation or written statement in support of his or her case;
- i) details of enclosed copies of any documents to be used as evidence;
- j) the attendance of any other party at the School's arrangement;
- k) the date by which the employee's confirmation of attendance and details of requested companion should be notified to the School.

Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for head teacher capability meetings) or head teacher (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.

No decisions will be made at the hearing itself. The hearing will be adjourned to allow the Headteacher to consider all the relevant evidence together with the representations the employee has made during the hearing.

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.

Without unreasonable delay after the hearing the Headteacher will decide whether on the balance of probabilities the specific performance concerns complained of should be upheld or not and, where upheld, the appropriate level of sanction: a written warning, a final written warning or in exceptional circumstances dismissal with notice. The School will not consider dismissal as a first formal sanction save in serious cases falling short of conduct warranting summary dismissal and where the employee has been given a fair and reasonable opportunity to improve.

Any performance concern that the School considers so serious as to constitute gross misconduct/gross neglect of duty/gross negligence warranting summary dismissal, will as above be dealt with under the School's disciplinary policy and procedure rather than under this procedure.

Notes will be taken of formal meetings and a copy sent to the member of staff. 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.

Outcome of Capability Meeting

If the specific performance concerns are not upheld, the Headteacher will write to the employee without unreasonable delay to confirm this and to confirm that no further action will be taken.

If some or all of the specific performance concerns are upheld, the Headteacher will write to the employee without unreasonable delay to:

- a) Confirm which areas of concern were upheld and the rationale for that decision in respect of each area in question;
- b) Confirm the sanction to be applied. Any warnings will be confirmed in writing clearly stating the period during which they will remain active on the employee's file (usually no less than 6 and no more than 12 months depending on the circumstances);
- c) Set clear targets for improvement to be achieved within a reasonable and identified period of time. The timetable will depend on the circumstances of the individual case but in straightforward cases could be between four and ten weeks;
- d) Confirm how progress will be monitored and reviewed during this time,
- e) Identify and consider any additional training, mentoring or support that will be offered during this period of time;
- f) Set the date and time for the progress review meeting to be convened at the end of the identified review period;
- g) Confirm the likely consequences of failing to achieve the required improvements within the period identified and the likely consequences of additional performance concerns arising during the active period of the warning imposed;
- h) Confirm the employee's right to appeal the decision to the Governing Body, when that appeal must be made by, how and to whom it should be addressed in the first instance.

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.

During this period of review, support and monitoring leading up to the progress review, a written record of any meeting held to discuss progress, or of observation of the employee's classroom performance, will be taken and copies provided to the employee.

At the end of the period of review, 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).

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 and no further incidences of alleged poor performance have occurred during the review period, the capability procedure will cease and the appraisal process will re-start. This meeting will be an informal meeting to review progress, confirm attainment of targets and

discuss on-going support, maintaining the required standard and areas for on-going informal development.

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, Stage Two of the formal capability procedure will be initiated.

As before, notes will be taken of formal meetings and a copy sent to the member of staff.

Formal Stage Two Capability Hearing

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, recommendation will be made that the Board of Governors convene a further formal capability hearing.

No decisions will be made by the panel at the hearing itself.

The hearing will be adjourned to allow the Panel to consider all the relevant evidence together with the representations the employee has made during the hearing.

Without unreasonable delay after the hearing the Panel will decide whether on the balance of probabilities the specific performance concerns complained of should be upheld or not, and where upheld the appropriate level of sanction to be applied. These may include but are not limited to: a further final written warning relating to a final specified period of assessment and monitoring, dismissal, changing the employee's responsibilities with a consequent loss of responsibility points awarded on the common pay spine.

Outcome of Capability Hearing

If the specific performance concerns are not upheld, the Panel will write to the employee without unreasonable delay to confirm this and to confirm that no further action will be taken.

If some or all of the specific performance concerns are upheld, the Panel will write to the employee without unreasonable delay to:

- a) confirm which areas of concern were upheld and the rationale for that decision in respect of each area in question;

- b) confirm the sanction to be applied. Any warnings will be confirmed in writing clearly stating the period during which they will remain active on the employee's file (usually no less than 6 and no more than 12 months depending on the circumstances);
- c) In cases other than dismissal, set clear targets for improvement to be achieved within a reasonable and identified period of time, confirm how progress will be monitored and reviewed during this time, identify and consider any additional training, mentoring or support that will be offered during this period of time, set the date and time for the progress review meeting to be convened at the end of the identified review period, confirm the likely consequences of failing to achieve the required improvements within the period identified and the likely consequences of additional performance concerns arising during the active period of the warning imposed;
- d) In cases of dismissal, confirm the effective date of termination, and arrangements for the employee's notice period;
- e) Confirm in any case, the employee's right to appeal the decision to the Governing Body, when that appeal must be made by, how and to whom it should be addressed in the first instance.

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 to The Chair of Governors, via the school office, within five days of the decision, setting out at the same time the grounds for appeal.

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.

A nominated member of the Appeal Panel will write to the employee without unreasonable delay on receipt of the appeal, giving the employee reasonable notice of the intended appeal hearing, confirming the employee's right to request to be accompanied by a trade union representative or appropriate work colleague for whom no conflict of interest arises.

During the Appeal Hearing the employee will be given a full and fair opportunity to put forward his or her grounds of appeal together with any supporting evidence for the Panel's consideration.

No decisions will be made at the appeal hearing itself. The hearing will be adjourned to allow the Panel to consider all the relevant evidence together with the representations the employee has made during the hearing.

Without unreasonable delay after the Appeal hearing the Panel will decide whether, on the balance of probabilities, the specific grounds of the employee's Appeal are upheld or not, setting out the basis for its decision in respect of each individual ground. The Appeal Panel's decision is final.

General Principles Underlying This policy

Confidentiality

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the head teacher and governing body to quality-assure the operation and effectiveness of the appraisal system. Appropriate colleagues reserve the right to review all teacher's objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. The Headteacher reserves the right to be aware of pay recommendations.

Consistency of Treatment and Fairness

The governing body is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The governing body is aware of the guidance on the Equality Act issued by the Department for Education.

Delegation

Normal rules apply in respect of the delegation of functions by governing bodies, head teachers and local authorities.

Grievances

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.

Sickness

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 school's absence policy. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

Monitoring and Evaluation

The Governing Body and Headteacher will monitor the operation and effectiveness of the school's appraisal arrangements.

Retention

The Governing Body and Headteacher will ensure that all written appraisal records are retained in a secure place for six years and then destroyed.

Signed by Governor:

Date:

Signed by Headteacher:

Date:

CD September 2015

