

Capability Policy

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| Date ratified | 19 October 2021 |
| Review date | Autumn 2022 |

Contents

| | |
|---|---|
| 1. Scope | 2 |
| 2. Informal Stage..... | 2 |
| 3. Early-Stage Review..... | 3 |
| 4. Appeal | 3 |
| 5. Formal Stage | 4 |
| 6. Formal capability meeting | 4 |
| 7. Monitoring and review period following a formal capability meeting | 5 |
| 8. Formal review meeting..... | 5 |
| 9. Decision meeting | 5 |
| 10. Decision to dismiss..... | 6 |
| General Principles Underlying This policy | 7 |
| A. ACAS Code of Practice on Disciplinary and Grievance Procedures..... | 7 |
| B. Confidentiality | 7 |
| C. Consistency of Treatment and Fairness | 7 |
| D. Definitions | 7 |
| E. Delegation..... | 7 |
| F. Grievances..... | 7 |
| G. Sickness | 7 |
| H. Monitoring and Evaluation..... | 8 |
| Retention | 8 |

1. Scope

This procedure applies to staff who are employed by Veritas Multi Academy Trust, and where there are serious concerns regarding staff performance that the appraisal process has been unable to address.

2. Informal Stage

Appraisers have a responsibility to maintain professional contact and dialogue with their Appraisees through regular 1-2-1's and the appraisal process, to clarify expectations, discuss performance issues and to provide support including coaching, advice and (where relevant) observation with constructive feedback.

Where the performance of an Appraisee raises cause for concern, and the professional dialogue does not appear to be effective then the discussion may move to the informal stage of the capability procedure.

The purpose of the informal stage meeting is to explore reasons for the performance concerns, discuss targets for improvement alongside a programme of support.

The meeting may be conducted by the Appraiser or if appropriate the matter may be referred to the Headteacher or Trust CEO if the capability relates to a senior member of staff in the academy. The employee will be permitted to representation by a workplace colleague or school/trade union representative.

The employee should be given reasonable notice, of normally five working days', of the meeting to prepare themselves and, if they wish to be accompanied to the meeting, to obtain someone suitable such as a workplace colleague or trade union representative or official to

The meeting must address the following issues clearly and fully:

- a) the areas of performance that are causing concern and the evidence or information that leads to this view
- b) the expected standards of performance
- c) an opportunity for the employee to respond or to provide any relevant information relating to the concerns
- d) timescales in which performance is expected to improve
- e) clear targets to establish whether the required standards have been achieved
- f) ongoing support, advice, guidance and appropriate training
- g) arrangements for the monitoring/assessment of performance
- h) arrangements including a date for assessment at the end of the review period

Targets set within this discussion should be proportionate in number, reasonable in expectations with clear success criteria and a focus on development.

It is essential that the employee is made fully aware that the process could move to the formal procedure should performance not improve to the required standard.

The timescale for the review period will need to reflect all the circumstances of the situation but this will normally be between 6 - 10 ten weeks.

The employee will be given a copy of the notes of the meeting and this will include a record of the arrangements set out in a) to h) above.

3. Early-Stage Review

At the end of this informal review period a meeting to discuss progress will be held with the employee. This meeting will be best conducted by the person who was involved in the informal stage meeting, where possible. Representation by a colleague or school/trade union rep will be permitted should the employee so wish.

The employee will be informed that:

- a) his/her performance has improved to an acceptable standard and there will be no further requirement for monitoring against the standards set. It may, however be advisable that ad hoc, informal checking continues for a while to ensure that the improved performance is truly embedded and sustained, or
- b) there has been some improvement and it is believed that a short extension of the informal standard setting process should be sufficient to enable the employee to reach and sustain the standards expected, or
- c) his/her performance has not reached an acceptable standard and it is considered appropriate to move into the formal procedure. This will require a formal capability meeting to be arranged

4. Appeal

If an employee feels that a decision to move to formal capability 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, usually within ten working days of receipt of appeal notice and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied will apply as with the other meetings described, above and 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.

5. Formal Stage

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 member of staff 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 staff member of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative.

6. Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the CEO (for headteacher and senior staff paid on the leadership scale) or headteacher (for other staff members). The Chair of Trustees will deal with matters relating to the Trust Executive Board. Where possible, the meeting will be chaired by someone not involved in the earlier stages of the capability in order to demonstrate objectivity in the process. The meeting allows the staff member, accompanied by a companion or trade union representative or official 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.*

During the meeting, the person conducting the meeting will:

- identify the professional shortcomings, *for example which of the standards expected of teachers 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 staff member 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 will be no less than 6 working weeks; and
- advise the staff member formally that failure to improve within the set period could lead to a formal warning and/or 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 member of staff. Where a formal warning is issued, the staff member 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.

7. Monitoring and review period following a formal capability meeting

A performance monitoring and formal review period will normally follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will also continue during this period. The member of staff will be invited to a formal review meeting that will be scheduled to coincide with the ending of the formal review period

8. Formal review meeting

As with formal capability meetings, at least five (*or insert alternative*) working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the staff member of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative.

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 formal monitoring and review period;
- If no, or insufficient improvement has been made during the monitoring and review period, the teacher will receive a formal warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The formal warning will mirror any previous warnings that have been issued. Where a final written 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 of a minimum of 4 working weeks), 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 staff member will be invited to a decision meeting at the end of the new time period.

9. 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 staff member of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative.

Where a final written warning has been issued and 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 of Trustees, will be made that the staff member should be dismissed or required to cease working at the school.¹ A formal hearing will then be arranged in

¹ *In an academy, the governing body and ultimately the Multi-Academy Trust Board is the employer but the power to dismiss can be delegated to the headteacher, to one or more governors, or to one or more governors acting with the headteacher.*

line with the Trust disciplinary procedure which adheres to the principles laid out in the ACAS Code of Practice.

Where a first written warning has been issued, and 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. Where the performance remains unsatisfactory then the staff member will be issued with a final written warning and a further performance monitoring and formal review period will follow the formal decision meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will also be invited to a further decision meeting that will be scheduled to coincide with the ending of the further formal review period

10. Decision to dismiss

The power to dismiss any staff members in Veritas Multi Academy Trust rests with the Trust Board. The Trust Board will hear the recommendation of the hearing and vote on the decision to dismiss. In the case of a hung vote, the Chair of Trustees will have the final say.

General Principles Underlying This policy

A. ACAS Code of Practice on Disciplinary and Grievance Procedures

The policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

B. Confidentiality

The capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the CEO and board of trustees to quality-assure the operation and effectiveness of the capability system undertaken in academies within the trust. The board of trustees will quality assure this process to ensure decisions are made consistently and fairly and that confidentiality is maintained in the capability process.

C. Consistency of Treatment and Fairness

The board of trustees 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 board of trustees is aware of the guidance on the Equality Act issued by the Department for Education.

D. Definitions

Unless indicated otherwise, all references to “staff” include the Headteacher and all members of Veritas Multi Academy Trust staff.

E. Delegation

Normal rules apply in respect of the delegation of functions by regional governing bodies, headteachers and Multi-Academy Trust Board.

F. 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.

G. 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 Staff Sickness and Absence Policy and will be *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.

H. Monitoring and Evaluation

The board of trustees and trust CEO will monitor the operation and effectiveness of the academy's appraisal arrangements.

Retention

The board of trustees and trust CEO will ensure that academy headteachers have a robust system in place to maintain all written appraisal records are retained in a secure place for six years and then destroyed.

PERSONAL DATA

In the event that Veritas Multi Academy Trust legitimately requires your personal data and sensitive data for the execution of this policy, it will be done so in accordance with the Data Protection policies.

Veritas Multi Academy Trust takes its approach to its employees' data very seriously, will collect and process personal data relating to our employees to manage the employment relationship. Veritas Multi Academy Trust is committed to being transparent about how it collects and uses that data and how it meets its data protection obligations.

Please see the Data Protection policies for information on what data is collected, why it is collected, who has access to the data, how data is protected, how long data will be kept for and what your individual rights are.