



Capability Policy

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Introduction

Veritas Multi Academy Trust is committed to the professional development of its people. The Trust recognises that on occasions, there will be times when a Trust employee may be identified as requiring additional support beyond that set out in the People Development Policy to improve their practice. Where additional support is deemed necessary, the Capability Policy will be implemented.

Purpose

The Trust Capability Policy defines, establishes and sets out a clear, consistent and fair process for managing and reviewing all Trust employees' performance. It will also support their development within the context of the Trust's plan for improving educational provision and performance. Further, it sets out arrangements that will apply when an employee's performance falls below the level of competence expected of them, as set out within the relevant professional standards, outlined within the employee's job description and overall performance expectation.

Scope

This policy covers all members of staff who are employed by Veritas Multi Academy Trust on a permanent, fixed-term, secondment or temporary post, including Headteachers and Deputy Headteachers, except for:

- a. Employees who are in their probationary period where the Probation Policy applies;
- b. Early Career Teachers (ECTs) who are covered by the Induction of ECTs Policy;
- c. Incapability due to ill health will be managed in accordance with the Staff Absence Policy.

Roles and responsibilities

Employee's Responsibilities:

- To have personal responsibility for ensuring they understand the expected standards of work and perform to a satisfactory level;
- To familiarise themselves with their job description, standards of work required including their terms and conditions of employment, Veritas MAT policies and any relevant standards or rules relating to their role, or employment;
- Work to the best of their ability, participating in self-development activities and any such work agreed with their line manager;
- Attend work in accordance with their Contract of Employment and make the best use of their time at work;
- Fully engage in discussions about their role in relation to performance and development, including the appraisal process
- To co-operate with the capability process including being available for meetings, work with allocated resources to achieve the required standards of the role within the required timescales;

Line Manager Responsibilities

- To ensure that all employees are treated fairly, reasonably and consistently under this policy;
- To ensure that staff are aware of what is expected in their role and standards required, providing clarity over the expected standards of performance and access to reasonable development opportunities to support employees in the delivery of their role;
- Line Managers should take all reasonable steps to address any performance issues informally in the first instance;

- To maintain fair, consistent, and objective procedures for matters relating to staff performance and capability;
- To be clear and precise at all times throughout the procedure and ensure that the employee is aware at what stage they are in the process, including the possible outcomes;
- To provide support to employees with every opportunity for them to raise their performance to the required level

Trust Central Team Responsibilities

- To advise line managers at each stage of the formal procedure, this will include supporting managers with formal support plans, during formal meetings and appeals;
- To monitor the application of the procedure to ensure it is applied in a fair and consistent way across the Trust;
- To monitor and record the outcomes of action taken under the formal stages of the procedure

Where the **employee** subject to the procedure is not the Headteacher within a Trust school, the Headteacher or nominated member of senior staff, will be responsible for coordinating the procedure.

Where an **early career teacher (ECT)** is subject to capability procedures, we will continue the induction process in parallel with the capability procedure and inform the appropriate body.

Where the employee subject to the procedure is within the **Trust Leadership Team** (including Headteachers) or the Trust Central Team, the CEO will coordinate this procedure.

Where the **CEO** of the Trust is subject to capability, the Chair of the Trust Board will co-ordinate this procedure, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Trust Board for that purpose.

Where appropriate, other members of staff may be asked to provide additional support, or assist in monitoring the effectiveness of the policy. Where this happens, responsibilities will be made clear in advance.

Those employees within their probation period will be managed under their contractual terms, in line with the Recruitment Policy.

Capability Definition

For the purposes of this policy, 'Capability' refers to the skills, ability, aptitude and knowledge the employee has in relation to the job that they are employed to do.

Lack of capability is defined as a situation in which an employee fails consistently to perform their duties to a professionally acceptable standard.

Unsatisfactory performance can arise for a number of reasons and may be due to an employee's lack of knowledge, skills or aptitude for the position to which they are appointed. If an employee does not meet the required standard of performance any consequent action will be based on:

- a. Evidence that the employee is incapable of performing their duties satisfactorily.
- b. Evidence that the employee knew of and was given reasonable support and assistance to overcome the shortfalls

A failure to meet objectives alone is not enough to warrant initiating capability procedures. Performance should be discussed regularly as part of the employee's supervision and underperformance identified and addressed early so support can be provided. Early identification of problems through performance review

conversations and the appraisal process will help to avoid formal capability procedures. However, there may be cases where a more formal and structured approach is necessary.

Disciplinary vs Capability

Capability applies to those situations where an employee's performance is unacceptable because they are unable to perform their duties to the required level due to lack of ability, skill, experience or inadequate training.

Disciplinary issues apply to those situations where the employee is capable but chooses not to perform to the required standard. These will be managed through the Disciplinary Policy, not capability procedures.

Capability Procedure

Informal Stage

Where more support is identified as necessary, the discussion may move to the informal stage of the capability procedure. The purpose of the Informal Stage is to explore reasons for the performance concerns, discuss and agree measures for improvement

The meeting will be conducted with the headteacher or nominated senior leader or Trust CEO if the capability relates to a Headteacher, or, a senior member of the Trust.

The employee should be given reasonable notice of the meeting, normally five working days, to prepare themselves. The request to the meeting will outline areas of concern which have instigated the informal process.

An employee may be accompanied by a workplace colleague or trade union representative at the informal meeting. However, the presence of a representative does not make the meeting formal.

The meeting must address the following issues clearly and fully:

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

A detailed programme of support, aligned to the individual's skill gaps and training needs, will be agreed on by the manager with the employee. The standard peer to peer support, regular check-in discussions will continue, in addition to other identified and agreed training plans. The training should be instigated as soon as practicable and within a reasonable timeframe.

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 4-6 weeks (usually no longer than one school term).

The employee will be given a copy of the notes of the meeting, and this will include a record of the arrangements set out above (the notes will be a summary transcript of the meeting and not verbatim).

Informal Stage Review

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

The employee will be informed that:

- a. their 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. their 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, where an HR advisor will attend.

Formal Stage

Where performance has not improved, the formal stage will commence.

The employee will be notified within the informal stage of the process that their performance will now be managed under the formal stage of the capability procedure and will be invited to a formal capability meeting. This will be followed up in writing.

The employee should be given reasonable notice of the meeting, normally five working days, to prepare themselves. Employees have the right to be accompanied by a workplace colleague or trade union representative at the formal meeting. The employee should also be advised of:

- the concerns about performance and possible consequences
- any written evidence
- the time and place of the meeting
- that the staff member has the right to be accompanied by a work colleague or trade union representative

It will be conducted by the headteacher or delegated senior leader and a Trust HR Advisor.

The meeting's purpose is to present the facts and allow the employee to respond to the concerns regarding their performance and make relevant representations.

Notes will be taken of formal meetings and a copy sent to the employee. The notes will be a summary transcript of the meeting and not verbatim.

Possible Outcomes

The meeting may establish that there are no grounds to pursue the capability issue. In this case, the procedure will come to an end and the issues will continue to be addressed through the normal People Development process.

The meeting may be adjourned if further investigation is needed, or if more time is needed to consider additional information presented.

If the meeting continues, the person conducting the meeting will:

- explain the expected standards that are not being met based on, but not limited to; the Teachers' Standards or other relevant standards, career stage expectations and/or job description
- share the standard of performance needed to end the process
 - 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
- explain the support available to help the employee to improve their performance
- set out the timetable for improvement and explain how performance will be monitored and reviewed
- the timeframe will depend on the circumstances of the individual case, but normally a period of between 4-6 weeks (usually no longer than a term) will be considered a sufficient period for the monitoring timeframe
- advise the employee 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 employee. The employee will be given a copy of the notes of the meeting, (the notes will be a summary transcript of the meeting and not verbatim).

Where a formal 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

A performance monitoring and review period consisting of formal monitoring guidance and support will follow the formal capability meeting.

An employee will be invited to a formal review meeting, which the designated member of the Trust Central Team will attend, unless the employee is 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 5 working days' notice will be given of the formal review meeting, and will detail:

- The date time and place of the meeting
- That the employee has the right to be accompanied by a work colleague or trade union representative

If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease, and the employee will revert to the People Development review process.

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
- Summary notes will be taken, and a copy sent to the employee. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the employee will be informed in writing that failure to achieve an acceptable standard of performance within the set timescale (a further review period will be no longer than 3 weeks) may result in dismissal. They will be given information about the further monitoring and review period, the procedure and time limits for appealing against the final warning. The employee will be invited to a decision-making meeting.

Decision meeting

At least 5 working days' notice will be given of the decision meeting, and will detail the date time and place of the meeting and will advise the employee of their right to be accompanied by a work colleague or trade union representative

If an acceptable standard of performance has now been achieved, the capability procedure will end, and the employee will revert to the People Development review process.

- If the employee's performance remains unsatisfactory, a decision may be made that the employee should be dismissed.
- 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
- Their right of appeal

Dismissal

The power to dismiss any employee in Veritas Multi Academy Trust rests with the Trust Board. The Chair of the Trust Board will set up a panel of three Trustees to hear the recommendation of the decision meeting and vote on the decision to dismiss.

Right to Appeal

If an employee feels that a decision to dismiss them is wrong or unjust, they may appeal in writing within 5 working days of the decision, setting out the grounds for appeal.

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

The appeal will be dealt with impartially by a panel of Trustees not previously involved in the case. The panel will scrutinize all case documentation and, as appropriate, seek representation to the panel from individuals involved in the case hitherto.

The employee will be informed in writing of the results of the appeal hearing within 5 working days of a decision being made.

General Principles Underlying This Policy

A. Practice

The policy will be implemented according to 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 schools 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 and Fairness

The Veritas Multi Academy Trust Board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments in line with the Equality Act issued by the Department of Education.

D. Definitions

Unless indicated otherwise, all references to “employee” 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 an employee raises a grievance during the capability procedure, the capability procedure may be suspended to deal with it. 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 Absence Policy and will be referred immediately to the occupational health service to assess the employee'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 arrangements

The Board of Trustees and Trust CEO will monitor the operation and effectiveness of the academy's appraisal arrangements.

I. Links with other policies

This policy links to our policies on:

- People Development Policy
- Induction of Early Career Teacher Policy

- Recruitment Policy
- Fairness at Work Policy
- Staff Disciplinary and Conduct Policy
- Staff Absence Policy
- Equality information and objectives

J. Personal Data

In the event that Veritas Multi Academy 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.