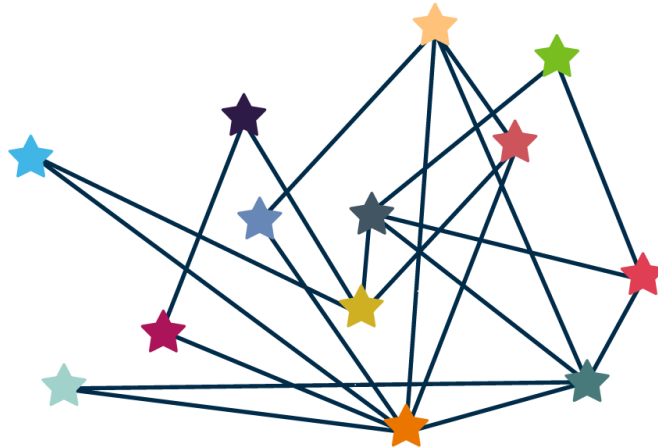


ULT Capability of Staff Policy



UTTOXETER
LEARNING TRUST
INSPIRED TEACHING
INSPIRING CHILDREN

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1. Aims:

The aim of our capability of staff policy is to set out a clear and consistent process for when any member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

2. Legislation and Guidance:

This policy is based on the [Department for Education's model policy and guidance](#), and the [Acas code of practice on disciplinary and grievance procedures](#).

When carrying out capability procedures, we will ensure we abide by the [Equality Act 2010](#).

This policy also complies with our funding agreement and articles of association.

3. Definitions:

Lack of capability is defined as:

- a staff member failing to perform their role at the level of competence expected of them and that their job requires

References to '**staff**' include the all staff i.e. headteacher, teachers and support staff, unless indicated otherwise.

4. Roles and Responsibilities:

Where the member of staff subject to the procedure is the headteacher, the CEO will be responsible for coordinating the procedure. Where the member of staff subject to the procedure is the CEO, the Chair of the Trust Board will be responsible for coordinating the procedure.

Where the member of staff subject to the procedure is not the headteacher, the headteacher or a nominated member of senior staff will be responsible for coordinating the procedure.

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

5. Capability Procedure:

Performance is monitored on a day-to-day basis by line managers, for example through regular 1 to 1 meetings.

Capability procedures will begin when line management support and the appraisal process have been unable to bring about satisfactory performance or improvements in the staff member's work.

An informal period of support, put in place and monitored by the line manager, will have been in place before capability procedures are triggered. Evidence of this will be available before the process begins.

If the appraiser identifies through the appraisal process or through other sources of information, parental complaints for example, that the difficulties experienced by a staff member are such that, if not rectified could lead to the capability procedure, the appraiser will, as part of the appraisal process, meet the member of staff to:

- give clear written feedback to the staff member about the nature and seriousness of the concerns;
- give the staff member the opportunity to comment on and discuss the concerns;
- give the staff member at least 5 working days' notice that a meeting will be held to discuss targets for improvement alongside a programme of support and remind the staff member that they have the right to be accompanied by a work colleague or trade union representative at any future meetings where capability will be discussed;
- agree and establish, in consultation with the staff member, an action plan with support that will help to remedy specific concerns;
- make clear, how progress will be monitored and when it will be reviewed;
- explain the implications and process if no, or insufficient, improvement is made.

The staff member's progress will continue to be monitored as part of the appraisal process and a reasonable time given for the performance to improve. During this monitoring period, the staff member will be given regular feedback on progress and arrangements will be made to modify the support programme if appropriate.

If sufficient progress is made, the staff member should be informed of this at a formal meeting and the appraisal process will continue as normal.

If no, or insufficient improvement has been made, the staff member will be invited to a transition meeting to determine whether formal capability proceedings will be invoked.

5.1 Formal capability meeting:

At least 5 working days' notice will be given of the formal capability meeting, and will explain:

- 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 CEO for headteachers, and a member of the management team for other teachers/ support staff.

The purpose of the meeting is to establish the facts, and to allow the staff member to respond to the concerns and make relevant representations.

5.1.1 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 appraisal 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 the Teachers' Standards or other relevant standards, career stage expectations and/or job description;
- give clear guidance on the standard of performance needed to end the procedures;
- explain the support available to help the staff member improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed;
- warn the staff member that failure to improve within this timetable could lead to dismissal.

5.1.2 After the meeting:

The staff member will be sent formal meeting notes. If a formal warning has been issued, the staff member will also receive:

- a written record of the bullet points above;
- information about the timing and handling of the review stage;
- information about the procedure and time limits for appealing against the warning.

5.2 Monitoring and review period:

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

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 5.4 below).

5.3 Formal review meeting:

At least 5 working days' notice will be given of the formal review meeting, and will explain:

- 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.

If the person conducting the meeting is satisfied that the staff member 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 staff member will receive a final written warning.

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

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. They will be given information about the further monitoring and review period, the procedure and time limits for appealing against the final warning. The staff member will be invited to a decision meeting.

5.4 Decision meeting:

At least 5 working days' notice will be given of the decision meeting, and will explain:

- 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.

If an acceptable standard of performance has now been achieved, the capability procedure will end and the appraisal process will re-start.

If the staff member's performance does not improve to a sufficient standard, a decision, or recommendation to the governing board, may be made that the staff member should be dismissed or required to cease working at the school.

The staff member 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.

5.5 Dismissal:

The power to dismiss staff in schools has been delegated to a panel of three governors acting with the headteacher in consultation with the CEO and HR.

The power to dismiss the headteacher or the CFO has been delegated to a panel of three Trustees acting with the CEO in consultation with HR.

The power to dismiss the CEO is the Trust Boards decision in consultation with HR.

Once the decision to dismiss has been taken, person/people with the power to dismiss will dismiss the staff member with notice.

6. Right to Appeal:

If a staff member feels that a decision to dismiss them is wrong or unjust, they may appeal in writing against the decision within 5 working days of the decision, setting out at the same time 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 staff member.

The appeal will be dealt with impartially and by senior leaders or governors or trustees who have not previously been involved in the case.

The staff member will be informed in writing of the results of the appeal hearing within 5 working days.

7. Confidentiality:

The capability processes will be treated with confidentiality. However, the desire for

confidentiality does not override the need for the headteacher and governing board to quality assure the operation and effectiveness of the system.

8. Consistency of Treatment and Fairness:

The Trust is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate.

The governing board is aware of the guidance and provisions of the Equality Act 2010.

9. Monitoring Arrangements:

The effectiveness of this policy will be monitored, and reviewed annually, by the Trust Board.

10. Links with Other Policies:

This policy links to our policies on:

- Staff code of conduct
- Appraisal
- Grievance procedures
- Disciplinary procedures
- Equality information and objectives

Appendix 1: Capability Action Plan Template

This template can be used as part of the process of supporting a staff member who is underperforming. It records the outcomes of the initial capability meeting, where targets and timescales are set and agreed.

Where possible, the objectives should be linked to the relevant professional standards, appropriate to the career experience of the member of staff concerned.

NAME OF STAFF MEMBER	NAME OF APPRAISER	DATE OF MEETING

OBJECTIVE 1:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

OBJECTIVE 2:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

OBJECTIVE 3:		
Professional standard(s) that the objective relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date

Other Support Provided:

MENTOR/COACH ALLOCATED	YES/NO (IF YES GIVE NAME)
Counselling to be provided	Yes/No
Occupational health referral to be made	Yes/No
[Insert any other support provided]	
Formal review date	

SIGNED BY MEMBER OF STAFF	SIGNED BY APPRAISER	DATE