

Capability Policy



Normand Croft Community School

An International Family of Learners

Agreed and adopted by: Full Governing Body

Date: October 2023

Next review: October 2024

Policy revisions :

This policy, sets out our formal capability procedure, and will only apply, to those members of staff whose performance is a serious concern and has not been able to be addressed through the appraisal process.

This policy should be read in conjunction with the school's pay policy (which provides details of the arrangements relating to teacher's pay in accordance with the School Teachers' Pay and Conditions Document).

1. Appraisal

- a. Appraisal is the process for assessing the overall performance of an individual member of the staff in the context of that individual's job description.
- b. During the year-long appraisal cycle appraisers will monitor and support staff whose performance does not meet the required standards.
- c. Should they fail to respond to this support or be unable to meet the required standards they may be removed from the appraisal process and placed on capability.

2. Transition to capability

- a. If appropriate, the member of staff will be notified in writing that the appraisal system (including any agreed PPDP) will no longer apply and that their performance will be managed under the capability procedure.
- b. They will be invited to a formal capability meeting. The capability procedures will be conducted as in this policy.
- c. At the initial stage of the capability procedure, the member of staff and their representative will be provided with the evidence from the appraisal process which has prompted the move to capability procedures.
- d. The Governing Board and Head Teacher will monitor the operation, outcomes and effectiveness of the school's appraisal arrangements.
- e. The Head Teacher will provide the Pay Committee with a written report on the operation of the school's appraisal and capability policies annually. This will be included in the Head Teacher's report to governors in the Autumn term annually.
- f. The Governing Board is committed to ensuring that the capability process is fair and non-discriminatory and the Head Teacher's report will include a statement of equal opportunities monitoring because they represent the possible grounds for

unlawful discrimination. The report will not identify any individual by name.

- g. The report will include an assessment of the impact of these policies on:
 - i. Race
 - ii. Sex
 - iii. Sexual Orientation
 - iv. Disability
 - v. Religion and Beliefs
 - vi. Age
 - vii. Part-time Status
 - viii. Maternity and Pregnancy
- h. The Head Teacher will report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination.

2. Specific cases

- a. Particular considerations apply to the following categories of staff:
 - i. Part-time staff and those employed in more than one school – the appraisal process applies as for full time staff;
 - ii. Staff who join the school mid-cycle – will have an Appraiser appointed and may request their previous employer to put forward relevant documentation to support their appraisal;
 - iii. Staff who are absent for a significant part of the cycle - the appraisal will continue and the overall review will take account of what has taken place
 - iv. For fixed term contracts of one term or more, the appraisal process will be conducted as if they were permanent.

3. Review of the Policy

- a. The Governing Board will review the capability policy every school year.
- b. The Governing Board will take account of the Head Teacher's report in its review of the capability policy. The policy will be revised, as required, to introduce any changes in regulation and statutory guidance to ensure that it is always up to date.
- c. The Governing Board will have regard to the result of any consultation with staff when seeking to agree any revisions to the capability policy.
- d. To ensure staff are fully conversant with the capability policy, all new staff who join the school will be briefed as part of their induction.

4. Access to Documentation

- a. Copies of the latest School Development Plan, school self-evaluation document, the relevant standards, the school pay policy, the appraisal policy and capability policy are available on the school website.

PART B. Formal Capability Procedure

Every reasonable effort will be made to identify issues and resolve concerns in a timely and supportive manner prior to starting the capability process. However, if despite support and advice, the appraiser is not satisfied with an individual's progress under the school's performance appraisal 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 staff where there are serious concerns about performance that the appraisal process has been unable to address.

STAGE 1. Formal Capability Meeting

5. Notification

- a. The member of staff will be invited, in writing, to a formal capability meeting. They must receive at least five working days' notice of the meeting.
- b. This written notification will:
 - i. contain detailed 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
 - ii. contain copies of any written evidence
 - iii. confirm the details of the time and place of the meeting
 - iv. advise the member of staff of their right to be accompanied by a companion who may be a colleague or a trade union representative
 - v. advise the member of staff of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting
 - vi. advise the member of staff who will be conducting the meeting

6. Purpose of the Meeting

This meeting is intended to establish the facts and will be conducted by the Chair of Governors (for Head Teacher capability meetings) or Head Teacher (for all others):

- i. it is essential that at this meeting it is made clear to the member of staff exactly how he or she has failed to meet expectations and states clearly the standard of performance that is expected.
- ii. the purpose of the meeting is to allow the member of staff, accompanied

- by a companion if they wish, to respond to concerns about their performance and to make any relevant representations.
- iii. this process may provide new information or a different context to the information / evidence already collected.
 - iv. the person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability procedure 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.
 - v. 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*. In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

7. Structure of the Meeting

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

- i. 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. The school will consider all the facts and come to a reasonable decision on how to proceed. Considerations may include:
 - i. *the seriousness of the capability issue under consideration*
 - ii. *an Occupational Health/medical opinion on whether the employee is fit to attend the meeting*
 - iii. *where an employee is persistently unable or unwilling to attend a meeting without good cause the head teacher will make a decision on the evidence available.*

8. Monitoring and Review Period following a formal capability meeting

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

STAGE 2

9. Formal review meeting

8. 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.
9. This written notification will:
 - i. Contain detailed information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case.
 - ii. Contain copies of any written evidence
 - iii. Confirm the details of the time and place of the meeting
 - iv. Advise the member of staff of their right to be accompanied by a companion who may be a colleague or a trade union representative.
 - v. Advise the member of staff of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
 - vi. Advise the member of staff 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 staff).

10. Structure of the Formal Review Meeting: This meeting will follow the same structure as a formal capability meeting.

- a. If the person conducting the meeting is satisfied that the member of staff has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.
- b. In other cases:
 - i. 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;
 - ii. If no, or insufficient improvement has been made during the monitoring and review period, the member of staff will receive a final written warning.
- c. The final written warning will clearly state:
 - i. the improved standard of performance required
 - ii. the evidence that will be used to assess whether or not the necessary improvement has been made
 - iii. the support that will be available to help the member of staff improve their performance.
- d. 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.
- e. The final written warning will inform the member of staff 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.

11. Monitoring and review period following a formal review meeting

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

- e. If performance remains unsatisfactory, the member of staff will be invited to a decision meeting held by whoever has the authority to dismiss someone from their post in the school (see below).
- f. This meeting will make the decision that the member of staff should be dismissed or required to cease working at the school.

12. Decision meeting

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

13. 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.

14. Decision to dismiss

The power to decide that members of staff should no longer work at this school has been delegated to the Head Teacher acting with one or more governors. Selection of governors will follow the standard school procedure i.e. selection from all available governors by alphabetical order (surname) in rotation.

15. Dismissal

- a. Before the decision to dismiss is made, the school will discuss the matter with the local authority.
- b. The school may also seek to find alternative employment for the member of staff.
- c. The member of staff 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.
- d. Once the Dismissal Panel has decided that the member of staff should no longer

work at the school, it will inform the Local Authority of its decision and the reasons for it.

- e. Where staff work solely at this school, the Local Authority must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the local authority must require them to cease to work at this school.

16. Appeal

- a. If a member of staff 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.
- b. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place.
- c. 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 member of staff.
- d. The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case. Selection of governors will follow the standard school procedure i.e. selection from all available governors by alphabetical order (surname) in rotation.
- e. The member of staff will be informed in writing of the results of the appeal hearing as soon as possible.