

# Reading Girls' School



## Teacher Capability (Performance) Procedure



**Business &  
Enterprise**

**FEBRUARY 2014**

## The Procedure in Operation (Summary)

(To be read in conjunction with the full explanation set out in the following procedure)

Meeting No.	Description	Rep. allowed?	Action	Warning issued	Timescale	Warning on file	Right of appeal	Appeal to whom
1	Formal capability meeting*	Y	Consider evidence of poor performance & teacher's responses to concerns. Either adjourn for further evidence, continued support, oral warning, written warning, final written warning, or recommendation to dismiss.	Oral, written or final written warning	1 week, plus agreed review period if not dismissed	6 months if oral, 1 year if written	Yes (except oral warning)	Director of DESSH
2	Review period & review meeting of 1 above	Y	If OK, abort process. Or convey unsatisfactory outcome and set up further capability meeting with minimum five days notice.	N/A	1 week, plus agreed review period if not dismissed or aborted	N/A	N/A	N/A
3	Further review period & review meeting	Y	Consider evidence of poor performance & teacher's responses to concerns. Either abort if OK, final written warning, or recommendation to dismiss.	Final written warning	1 week, plus agreed review period if not dismissed or aborted	2 years	Yes	Director of DESSH
4	Decision Meeting	Y	If OK, abort process. Or convey unsatisfactory outcome and set up further capability meeting with minimum five days notice.	N/A	1 week	N/A	N/A	N/A
5	Dismissal Hearing	Y	Case put to panel of Governors.	Dismissal either confirmed or rejected	Notice given	N/A	Yes	Governing Body Appeal Panel
6	Appeal	Y	To Governing Body appeal panel.	Appeal either upheld or rejected	Time agreed for submission of appeal	N/A	No	N/A

\* In severe cases where the concerns over performance are such as to question the teacher's overall satisfactory execution of his/her duties, the procedure will start with a referral to the Headteacher for a formal capability meeting.

## **The Procedure in Operation**

(Figures in brackets refer to the preceding summary chart)

### **Supporting teacher performance**

It is expected that Headteachers and line managers will, on an ongoing basis, monitor, support and otherwise assist staff to reach the highest standards of performance. This will involve formal and informal systems and relevant development techniques. These are not set out in detail in this procedure. Support and development under this heading does not constitute formal action and is seen as being an integral part of the day to day work environment.

### **Stage 1 - Formal Capability Meeting (1)**

Notification of the formal capability meeting will be given in writing at least five working days in advance of the meeting, confirming the date, time and venue. The teacher will be informed in the letter that they have the right to be accompanied by a representative. The letter should clearly and concisely set out the areas of concern, the action taken so far, and the shortfall in performance. It may be appropriate to enclose copies of any support plans and notes of actions and discussions that have taken place so far.

This meeting will be conducted by the Headteacher, or Chair of Governors for Headteacher capability meetings. The purpose of the meeting is to inform the teacher that they have not met the required standard of performance, to review the performance concerns, to review the actions and support put in place to address the poor performance so far, and the progress actually made towards reaching the required standards.

The required improvements/standards should be re-stated, along with the continuing support as well as any newly identified interventions. The timescale for continued support and guidance must be decided, and should be commensurate to the individual situation, and the consequences of failing to improve must also be stated. This should include a statement that dismissal may result.

The teacher is given the opportunity to respond to these concerns and offer explanations and observations as part of the meeting.

Consideration and discussion may be pursued at this stage (if the teacher is so willing) to examine the possibility of the teacher being given a different balance of duties or an alternative teaching post. (The latter course would not normally be appropriate in the case of Headteachers). If these discussions are pursued then this must be entirely voluntary on behalf of the teacher concerned and there needs to be a clear understanding from the outset that a different balance of duties or an alternative post may result in a change in terms and conditions, including pay.

The Headteacher can then decide on one of the following:

- If further information is needed to determine a course of action, adjourn the meeting so that this can be gathered.
- To refer the matter back to the appraiser for further support to be provided through the appraisal process.
- Continued support - this will be appropriate where there is reasonable prospect of improvement in performance if support continues, but with the expectation that support measures will eventually be removed without detriment to performance. An oral warning will usually be given at this stage.
- Oral or written warning - this will be given where there is serious concern about the standard of performance. Support and monitoring continues.
- Final written warning - this will be appropriate in cases of particularly serious concern. Support and monitoring continues.
- Dismissal - the Headteacher can decide to make a recommendation to a panel of the Governing Body to dismiss the teacher, in the most serious of cases.

Notes should be taken of the meeting and the outcome, and a copy given to the teacher. A letter will be sent to the teacher within five working days of the meeting explaining the areas of concern, the required standard of performance in each area, the support being put in place, and the length of the review period (see below) with the date of the review meeting stated.

Any warning must be confirmed in writing, and contain details of the appeal process against such a warning. Any appeal must be made to the Director of Education, Social Services and Housing.

The warning issued at this stage will remain on record for 6 months if it is an oral warning, for 12 months if it is a written warning, and for 2 years if it is a final written warning.

### **Review of formal capability monitoring period (2)**

The review period set by the Headteacher should be commensurate to the individual circumstances. A review meeting date and time will be set when the review period is agreed. If for any reason the teacher has not been notified of the date and time of the review meeting, or if the date is changed, at least five working days notice of the date, time and venue must be given in writing. The teacher should be reminded that they can be accompanied by a representative.

The support plan, monitoring and evaluation continues throughout the review period.

At the end of the review period the Headteacher will meet with the teacher and their representative to review progress against the required standards/targets.

If adequate progress has been made the procedure can be stopped and the teacher will be written to confirming this, and the appraisal process will restart. If some progress has been made the review period could be extended - see stage 2.

If no, or insufficient improvements have been made the teacher will be notified that the procedure will move onto stage 3, this being the decision meeting. A final written warning will be issued at this stage and confirmed in writing along with the reasons for it, mirroring any previous warnings that have been issued. Notes of the meeting will also be shared with the teacher.

The teacher should be written to setting out the areas of poor performance, and the short-falls that are still causing concern, the next review period, as well as the date, time and venue for the meeting. It may be appropriate to enclose copies of any support plans and notes of actions and discussions that have taken place so far.

The letter should set out the possible outcome of dismissal if performance does not improve to the required standard, the support and guidance being put in place and the appeal process for appealing against the final written warning.

### **Stage 2 - Further monitoring period (3)**

Where a further monitoring period has been agreed, or where a final written warning has been issued, a further review period of a length commensurate to the individual circumstances will be put in place.

The support plan, monitoring and evaluation continues throughout the review period.

Where a warning below a final written warning has previously been issued a review meeting will be set up with at least five working days written notice, and the teacher will be reminded of their right to bring a representative, and will be told the date, time and venue of the meeting. The letter will set out the areas of concern that remain.

At the review meeting the Headteacher must consider if a final written warning should be issued if this has not happened before, or if the procedure can now be stopped because performance is at the required standard. The meeting outcomes and any warning must be confirmed to the teacher in writing within five working days of the meeting. The letter must include the appeal arrangements against the warning.

If a final written warning has already been issued, the Headteacher will need to conduct a decision meeting in place of a review meeting, see below.

### **Stage 3 - Decision Meeting (4)**

This meeting takes place once a final written warning has been issued, and a further review period has been undertaken, and is conducted by the Headteacher. The purpose of the meeting is to review the performance concerns, the actions and support put in place to address the poor performance so far, and the progress actually made towards reaching the required standards.

The Headteacher will make a decision at this meeting based on the review of progress, and any additional information given by the teacher as explanation.

The required improvements/standards should be re-stated, along with the continuing support as well as any newly identified interventions.

If progress is not evident or to the required standard, the Headteacher can make a recommendation to a panel of the Governing Body that the teacher should be dismissed or required to cease working at the school.

### **Stage 4 - Dismissal Hearing (5)**

The teacher shall be given at least 10 working days notice of the time, place and purpose of the hearing, together with the names of any persons who will be called to provide evidence, and a copy of any written evidence to be submitted for consideration by the panel. The teacher will be invited to attend the hearing and may be accompanied by a representative. The notice should make clear that the panel has the power to dismiss the teacher. The Director of Education, Social Services and Housing or his/her representative will be entitled to attend any meeting to consider the dismissal of a teacher and should be notified as soon as possible.

At least five working days before the hearing the teacher shall provide the clerk to the panel with any written evidence the teacher wishes to submit together with the names of any persons the teacher intends to be called to provide evidence on their behalf.

In conducting the hearing the panel should have regard for the process for formal hearings, as set out in the "Hearings and Appeals Before Governing Bodies" procedure.

The panel may determine that:

- No further action is taken;

- The matter is referred back to the Headteacher for further actions and/or supervision, together with any specific recommendations the panel may wish to make;
- The teacher should be dismissed on a date in accordance with the standard period of notice, or immediately, with salary in lieu of notice;
- There be a recommendation to the Governing Body that the teacher be offered an alternative post at the school, which is to be at the same salary and/or grade;
- Any other specific recommendation within their powers of delegation.

The decision shall be confirmed in writing, by the clerk to the panel, to the teacher within five working days. This written confirmation should include:

- The decision;
- If applicable, the date and arrangements for review;
- If applicable, details of the level of improvement required;
- If applicable, further support to be given;
- The right to appeal, to whom the appeal should be made (in writing), and by when.

## **Appeals (6)**

Appeals can be made against written, and final written warnings and dismissal. An appeal must be made in writing and addressed to the Clerk to the Governing Body within five working days of the decision of the Headteacher or the dismissing panel of Governors. The letter requesting an appeal hearing must state clearly, and in full, the grounds on which the appeal is being requested, in relation to the findings and decisions confirmed in writing to the employee following the warning/dismissal hearing.

Employees have the right to be accompanied at any stage in the appeal process by a Trades Union representative or other representative of their choice. The Appeal Panel of the Governing Body hearing the appeal may be accompanied by a HR Advisor who will act in an advisory capacity only. The appeal decision will rest with the Appeal Panel.

## **Grounds of Appeal**

An appeal may be presented on the grounds that the employee contends one or more of the following:

- (a) The procedure - e.g. the procedure was not followed and a procedural failure affected the decision
- (b) The decision - e.g. the Designated Officer/Panel did not come to the right conclusion because the evidence did not support the finding

- (c) The penalty - e.g. the penalty was too harsh taking into account the type of unsatisfactory conduct, the mitigating circumstances and/or the employee's previous service.

### **The Appeal Hearing**

The appeal will be arranged by the Clerk to the Governing Body on behalf of the Panel who conducted the dismissal hearing, or on behalf of the Headteacher if the appeal is against a warning. The employee will be notified, within 5 working days of receipt of the appeal request, of the date and arrangements for the appeal, which will be heard as soon as is reasonably practicable.

The Appeals panel shall consist of at least two but not more than four members of the Governing Body who were not involved in any of the previous stages of the appraisal or performance capability process.

The appeal hearing will not be a re-hearing of the whole capability case. However, if the employee contends that the earlier proceedings were fundamentally flawed, the Appeal Panel will have discretion to arrange for a re-hearing of the case at appeal stage. It will be for the employee and/or their trades union representative to state clearly why they believe the proceedings were fundamentally flawed if this is alleged.

The response to the appeal should be presented by the Headteacher/1<sup>st</sup> Panel Chair who made the original decision.

The employee and management side must supply any relevant documents to be used in the process not less than 3 days before the appeal date. New documents will not normally be admissible unless new information has come to light which was not available at the original hearing. In exceptional circumstances, genuinely new evidence may become available which the Appeal Panel may accept at the hearing.

The appeal hearing will be conducted as follows:

- The Chair of the Appeal Panel will introduce all parties and state the purpose of the hearing. They will then summarise the order of proceedings and answer any issues with regard to procedure. Notes must be taken of the appeal hearing.
- The employee or their representative may present their case based on the grounds of the appeal, calling any witnesses.
- The Headteacher/1<sup>st</sup> Panel Chair and the Appeal Panel and HR Advisor may ask questions of the employee and any witnesses, including any questions on the documents presented.



- The Headteacher/1<sup>st</sup> Panel Chair will then present the response, call any witnesses and use relevant documents.
- The employee or their representative and the appeal officer and HR Advisor may then ask questions of the Headteacher and any witnesses.
- The Headteacher/1<sup>st</sup> Panel Chair will summarise his/her case.
- The employee and/or their representative will summarise their appeal case.
- The appeal hearing will then be adjourned for the Appeal Panel to consider their decision.
- The parties will be recalled and given the decision. The decision must state whether the employee's appeal has been upheld or not upheld, in full or in part. If the employee's appeal has been upheld in full or in part, the decision must also state whether the sanction applied is upheld or overturned. If the original sanction is overturned, the employee must be advised whether a different sanction is substituted (although this cannot be a more severe sanction than originally imposed). The Appeal Panel retains the right to overturn the decision(s) of the original dismissal hearing, or the Headteacher if the appeal was against a warning.
- The appeal decision and the reasons for it will be confirmed to the employee in writing by the clerk to Governors within 5 working days of the hearing.
- The decision of the Appeal Panel of the Governing Body is final.

**Ros de Oliveira**

**Chair – Finance, Personnel and Resources Committee**

## Appendix A

### GUIDANCE FOR CONDUCTING CAPABILITY MEETINGS AND SUPPORT PROGRAMMES

The nature of a programme of support to improve performance will vary from case to case, depending upon the difficulties faced by the individual, the amount of support required, and the circumstances of the school and its resources. What follows is a general guide, which must be adapted to meet the individual needs of each situation.

- 1 In devising a programme the general aim should be to provide as much support as possible initially, reducing it as the programme continues. It must be possible at the end of the period to assess the teacher's capabilities unclouded by any special help.
- 2 If a programme has stages provided within it, review meetings should be arranged at the end of each stage to review progress and, by agreement with all concerned, to modify any remaining stages.
- 3 Within five working days after any review meeting, the appraiser or Headteacher, as appropriate, will give to the teacher:
  - a) Written confirmation of the review meeting, stating the area(s) of unsatisfactory performance.
  - b) After consultation with the teacher and other appropriate persons (e.g. relevant school staff, and/or officers of the LA), a programme which will set out what will happen during the period of review and a date and time when the next interview will take place.
- 4 Counselling may be provided to the teacher, if requested, by appropriate persons. Records should not be kept of counselling other than a note that the meeting took place. Otherwise, records should be kept of all meetings and discussions, with copies circulated to those directly involved.
- 5 The content of the programme could include one or more of:
  - in-service training
  - help with planning, content of work and any follow-up
  - observation by the teacher of good practice
  - observation of the teacher's work by someone (either from the school or outside) with appropriate experience and that such observation be promptly fed back to the teacher
  - a modified workload or timetable for a specified period
  - re-organisation of work area, classes or rooms

- work-sharing or team teaching with experienced persons
- visits to other schools or workplaces
- temporary attachment to another school or workplace
- a mentoring arrangement to the teacher concerned. This is particularly recommended where practical and would involve a suitable person acting as a confidential mentor to the teacher concerned.

(Wherever and whenever possible and practical, there will be merit in inviting an independent and external person to assess and assist the teacher concerned).

- 6 The person who monitors the teacher's performance should be someone with experience and responsibility. The Headteacher will have regard to the need for that person to exercise and encouraging a constructive approach to improvement; the person may be the line manager/appraiser or the Headteacher. In large schools deputies and heads of department or faculties, and others charged with the responsibility for staff, should have a key role.
- 7 Where the Headteacher is conducting a capability meeting/interview without the support of a senior colleague the Headteacher may wish to arrange for an observer to be available who will also be able to maintain a written record of the proceedings. There will need to be careful selection of the observer to ensure that confidentiality is not compromised or that there is no conflict of interest.
- 8 At 'Assessment' Stages in this procedure, specific assessments of the teacher's capabilities must be made by the Headteacher and by another appropriate person. That person could be as named in 6 above, or someone asked to undertake the assessment as a specific task. An appropriate person would be someone such as a senior teacher at the school, or an officer of the LA.
- 9 Towards the end of the programme, the person responsible for monitoring performance should see that all records are completed and reports prepared in time to meet the requirements specified for the meeting which completes the period of review.