Otford Primary School

Capability Policy

Reviewed and Approved by	FGB
Date	Autumn 2026
For review (every 3 years)	Autumn 2029

1. Introduction

Good management with clear expectations and appropriate support will go a long way towards addressing weaknesses in performance. Early identification of problems through performance review and monitoring will help avoid the need for formal procedures.

In many cases sufficient improvement can be achieved through positive intervention and appropriate support within informal discussions. It is therefore important that all reasonable support, including advice, coaching and further training where appropriate should be explored before resorting to the formal procedure.

However, if it is reasonably believed that either the use of the informal discussions is unlikely to have the desired impact on performance and that the employee has already been made aware of the concerns from discussions in the appraisal process or that the level of performance is very serious with regard to pupil progress or/and behaviour then the process can move direct to the formal procedure as set out in paragraph 4 below.

2. Aim and Scope of the Procedure

The primary aim of this procedure is to assist and support employees whose performance is causing concern to attain the standards required. This is essential in the provision of the highest standards of education and care of children/students.

However, this procedure also enables the School to take essential management action, including dismissal within reasonable timescales in respect of employees whose performance continues to fall short of the required standards.

This procedure does not apply to support staff during probationary periods as any performance (or conduct) concerns should be dealt with as part of the supervision and induction for new staff.

3. Early Action to Address Performance Concerns

3.1 Informal Standard Setting Discussion

Appraisers have a responsibility to maintain professional contact and dialogue with their Appraisees through 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 continues to give concern and the professional dialogue does not appear to be effective then the discussion should move to a Standard Setting meeting.

This remains an informal part of the procedure although the meeting will be structured and a note of the discussion and outcome will be recorded. The purpose of the 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 a more senior member of the School's Leadership Team/Headteacher

The employee should be given reasonable notice, up to five working days' notice, of the meeting to prepare and to obtain someone suitable such as a workplace colleague or school union representative to accompany him/her to the meeting if required.

The standard setting 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. In the light of this potential implication it could be of benefit to both manager/appraiser and employee to permit the involvement of a workplace colleague or trade union representative. However, this would not impact upon the status or purpose of the meeting.

The timescale for the review period will need to reflect all the circumstances of the situation but this will normally be between four and 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.

3.2 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 best be conducted by the person who was involved in the standard setting discussion, where possible.

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, or

b) there has been some improvement and it is a believed that a short extension of the informal standard setting process should be sufficient to enable the employee to reach 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. Formal Capability Procedure

4.1 Formal Capability Meeting

At least five working days' notice will be given of the formal capability meeting.

The notification will contain sufficient information about the concerns regarding the performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence (unless previously provided); the details of the time and place of the meeting; and will advise the teacher of their right to be accompanied by a workplace colleague or trade union representative.

This meeting is intended to establish the evidence regarding the performance concerns. It will be conducted by the Chair of Governors (for head teacher capability meetings) or head teacher (for other staff).

The meeting allows the employee to respond to the 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 formally and that it would be more appropriate to continue to address the remaining concerns through the appraisal process or through other informal means. In such cases, the formal capability procedure will come to an end.

The person conducting the meeting may also adjourn the meeting if appropriate, for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information such as new evidence indicating that personal circumstances could be a significant contributory factor. 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:

- identify the professional shortcomings, for example if an employee is not meeting one or more of the relevant professional standards;

- give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures (this may include a re-focus of the objectives 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 the support that will be available to help the employee 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 in straightforward cases this should be between four and ten weeks. (It is for the school to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and

- warn the employee formally that failure to improve within the set period could lead to 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, normally within 5 working days. Where a 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.

The employee should be provided with a clear, written action plan to confirm the objectives, the support being provided and the arrangements for monitoring, review and success criteria.

4.2 Monitoring and review period following a formal capability meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period.

The employee will be invited to a further formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

4.3 Formal review meeting

As with formal capability 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 employee of their right to be accompanied by a workplace colleague or a 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 appraisal process will re-start. It may be necessary to revise appraisal objectives to ensure achievability within the remaining time period.

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.

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 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 employee will be invited to a decision meeting.

4.4 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 employee of their right to be accompanied by a workplace companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

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. It may be appropriate to provide a short period of informal monitoring outside of the formal process to ensure that the improved performance is fully embedded.

If performance remains unsatisfactory and the evidence is that the employee is unlikely to attain the standard expected within a reasonable timescale then a decision, or recommendation to the Governing Body, will be made that the employee should be dismissed or required to cease working at the school.

[1 *In Foundation Schools, Voluntary Aided Schools and Foundation Special Schools, the governing body is the employer but the power to dismiss can be delegated to the head teacher, to one or more governors, or to one or more governors acting with the head teacher. In Community, Voluntary Controlled, Community Special, and Maintained Nursery schools, the power to determine that the member of staff should no longer work at the school can be delegated in the same way as above but it is the local authority (as the employer) that actually dismisses staff (or – for those who work in more than one school – requires them to cease to work at the school).*]

The power to dismiss staff in this school rests with KCC.

Before the decision to dismiss is made, the school will discuss the matter with the local authority.

The employee will be informed as soon as possible 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.

4.5 Appeal

If an employee 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.

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 formal capability and review meetings and, as with other formal meetings, 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.

The employee will be informed in writing of the results of the appeal hearing as soon as possible and unless exceptional circumstances this will be within five working days

In the event the employee does appeal against a warning the arrangements, preparation and hearing of the appeal will not interrupt the timescales and/or capability process unless the appeal decision leads to the matter being reconsidered.