

LT2 Capability Procedure

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Our Learning Today Leading Tomorrow Multi-Academy Trust Vision

Vision

Vision is to build a group of outstanding schools across phases, including specialist provision, to become (a mid-size) Trust that provides vibrant and inclusive learning environments in which every member of the learning community is passionate about learning. The Trust is led by a CEO who works closely with Headteachers who lead the two schools supported by a central team to support finance, HR, estates and governance.

Mission

LT2 Trust and schools will have a relentless focus on high achievement, supported by robust organisational structures and governance. We aim to give children and young people in our care the knowledge, skills and experiences to expand their minds and world view to enable them to develop a naturally inquisitive approach to learning and life, fit for an ever-changing world.

Ultimately, we will educate and support all children attending LT2 schools to grow into capable and contributing citizens who have developed the personal attributes and characteristics that will enable them to become considerate, self-reliant and confident young people who are ready for the next stage of their lives.

Values

The Trust Values underpin the mission and provide the basis on which LT2 schools can articulate the key behavioural characteristics that promote a positive philosophy. Our six values are unseen drivers of our behaviour as experienced by others and are designed to create a shared organisational culture:

Kindness – The quality of friendliness, generosity, and consideration

Collaboration – The belief that working and learning with others will lead to greater success

Curiosity – A strong desire to know and to learn

Resilience – The ability to recover quickly and learn from the difficulties we face

Respect – To appreciate the importance of understanding and admiration for others and self, honesty

Endeavour – The belief that hard work is needed to achieve something of which we can be proud

Definitions

- Where the word 'Trust' is used in this document it refers to The Learning Today Leading Tomorrow Trust.
- Where the words 'Trust Board' are used it refers to the board of Trustees who set the vision for the Trust and hold the executive leadership team to account for delivering the Trust's strategic plan.

1. Organisation and Responsibilities

1.1 Introduction

This procedure applies to all employees of the Trust apart from Newly Qualified Teachers (except in exceptional circumstances) who have separate support and assessment arrangements in place during their induction year, and recently appointed employees who are serving their formal probation period. It does not form part of the terms and conditions of employment with the Trust and is not intended to have contractual effect. However, it reflects the Trust's current practices and employees are strongly encouraged to familiarise themselves with its content.

The primary aim of this procedure is to provide a framework within which the Trust can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. The formal capability procedures will only be instigated when there are serious concerns about an employee's performance that informal guidance and support under the appraisal procedure have been unable to address as per the Performance Management Policy.

It also aims to ensure that LT2 employees are treated fairly and consistently when performance concerns have been raised and that proper and adequate procedures are observed before any decision is taken, particularly when an employee's job is at risk. No-one will be treated less favourably on the grounds of their gender, disability, age, race, creed, colour, religion, nationality, ethnic or national origin, sexual orientation, gender reassignment, medical condition, marital status or trade union membership or activity.

1.2 Legislation

Employment Act 2008/1996

Education Act 2002

Employment Relations Act 1999

The School Staffing (England) Regulations 2009, paragraph 2, Regulation 8

1.3 Guidance under this Policy

The HR Officer is responsible for providing advice and guidance under this policy and reviewing and updating the policy as required.

1.4 Board of Trustees

The Board of Trustees, as a corporate body, has the responsibility to set the strategic direction and objectives of all matters across the Trust.

The Board of Trustees is responsible for ensuring that high standards of corporate governance are maintained

The Chair of the Trust is responsible for managing the CEO, Trustees and Governors under this policy.

1.5 The Chief Executive Officer (CEO)

The CEO of Learning Today leading Tomorrow Trust (LT2):

- Takes overall responsibility for the implementation of policies and procedures
- Must provide reports as appropriate to Trustees in relation to this policy
- Ensure that sufficient resources are allocated and authorised within the organisations budget to meet statutory procedures and standards across the Trust
- Is responsible for managing the Headteachers and centrally appointed staff under this policy

1.6 Headteachers

Headteachers of LT2 Schools are responsible for:

- The implementation of and compliance with this policy within their school ensuring competence in those staff who are responsible for and involved in the operation of this policy and associated guidance
- Identifying training needs
- Communicating this policy to all relevant people within the school
- Managing school-based teaching and associate staff under this policy

1.7 Senior and Middle Leaders (and other Supervisory Roles)

Although the Headteacher is responsible overall for the implementation of this policy in their school, managers have some specific responsibilities:

- Applying this policy within their own department and area of work
- Resolving any issues members of staff refer to them, informing the Headteacher of any issues to which they cannot achieve a satisfactory solution with the resources available to them
- Where required, conduct formal meetings, undertake relevant training in relation to this policy and ensure effective and competent operation of this policy

1.8 Other Employee Duties

All employees have a responsibility to:

- Comply with this policy and to co-operate with the schools' leadership and management on all matters relating to it
- Undertake any training recommended by their Line <Manager

1.9 Related Policies and Procedures

- LT2 Grievance Policy
- LT2 Disciplinary Policy
- LT2 Managing Sickness and Absence Policy

1.10 Review

This policy will be reviewed annually subject to statutory updates.

These procedures have been agreed by the Board of Trustees, who will approve them whenever reviewed.

2. Application of the Procedure

- Informal Stage will be carried out by the employee's Line Manager. Formal Capability Meetings will be carried out by the appropriate Senior Manager either Headteacher, CEO or Senior Executive of the Trust.
- Formal Monitoring and Review Stages will be managed by the Line Manager.
- Final Decision Meeting will be heard by either the CEO of the Trust or Senior Executive of the Trust.
- Appeal - the employee should write in the first instance to the Trust Board via the Trust Clerk within 10 working days of the decision they are complaining against, setting out the grounds and basis for the appeal.

3. Exceptions and Modifications to the Procedure

Where the Headteacher is subject to capability, in this Procedure:

- 'Employee' will be read as 'Headteacher'.
- 'Line Manager' will be read as 'CEO'.
- 'CEO' will be read as 'Chair of the Trust'.
- 'HR' will be read as 'Senior Executive of the Trust'
- An Appeal will be heard by Trustees.
- Appeal, the Clerk must advise the Chair of the Board of Trustees who will recommend appropriate Trustees to sit on the committee.

Where a member of the Trust Central Team is subject to capability, in this Procedure:

- 'Employee' will be read as 'Employee'
- 'Line Manager' will be read as 'Line Manager'
- 'Headteacher' will be read as 'CEO'.
- 'HR' will be read as 'Senior Executive of the Trust'
- 'CEO' will be read as 'Chair of the Trust'.
- Appeal, the Clerk must advise the Chair of the Board of Trustees who will recommend appropriate Trustees to sit on the committee.

4. Timescales

Timescales are expressed in working days. For employees who are contracted to work term time only, a working day is a day that the school is open. Where issues arise just before a school holiday, arrangements to resolve the matter speedily

should be discussed between the parties. An intervening school holiday should not be a cause for an undue delay in resolving the matter. For employees contracted to work all year round, a working day is defined as Monday to Friday calendar days, except bank holidays.

The timescale will depend on the circumstances of the individual case but the period will be reasonable and proportionate ensuring that the arrangements minimise the impact on workload for all parties involved and should provide sufficient opportunity for an improvement to be made. Formal monitoring, evaluation, guidance and support will continue during this period.

5. Confidentiality

The Trust aims to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information which is communicated to them in connection with this capability procedure. Employees and their companions must not make electronic recordings of any meetings or hearings conducted under this procedure.

6. Probation

Where an employee is on probation, advice should be sought from HR as to the best method of managing the case. Capability and Probation procedures may be invoked and interlinked simultaneously.

7. Grievances

The employee can submit a grievance under the grievance procedure if they feel the action plan imposed on them is unfair. The capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently and at the same meeting.

8. Disability

Under the Equality Act 2010 a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities.

Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements, including changing duties or providing additional equipment or training. An employee who wishes to discuss or inform the Trust about any medical condition should contact their Line Manager or the Headteacher.

9. Long Term Absence during the Capability Procedure

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 Trust Managing Sickness and Absence Policy and the

employee 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. The view of the Occupational Health practitioner will be taken into account before any decision is made.

10. Right to be accompanied

Employees are entitled to be accompanied to formal meetings held under this procedure by a Trade Union representative or appropriate work colleague. It is the responsibility of the employee to arrange their own representation and to provide them with copies of all the relevant paperwork. If the employee's chosen companion is unavailable at the time of the hearing the employee can propose an alternative time within 5 working days of the originally scheduled date. If the companion is not available within 5 working days the Trust may require the employee to choose an alternative companion. At a formal hearing the employee's companion can make representations, ask questions, sum up the employee's case, and request an adjournment in order to discuss the case privately with the employee.

11. NQTS – Action in the event of serious capability concerns

In a few particularly serious cases it may be necessary to instigate capability procedures, which may lead to dismissal before the end of the probationary period. If this is the case, for as long as the NQT remains at the Academy, the induction and probationary processes will continue in parallel with the capability procedure. The appropriate body will be consulted with prior to any formal capability process commencing and prior to any dismissal taking place.

12. Resolving Performance Issues Informally

It is the Trust's responsibility to identify any performance issues as early as possible and take steps to resolve these issues informally by providing support and training to enable the employee to meet the standards required. As per the Performance Management Policy, where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. The formal capability procedure should be used for more serious cases.

The Line Manager will invite an employee to an informal meeting to discuss the performance issue. The written confirmation must also include date, time and location of meeting, a copy of this capability procedure and a copy of the employee's job description. The steps involved will depend on the circumstances but may include reviewing the employee's personnel file including any job description and appraisal records, gathering any relevant documents, monitoring work, and meeting the employee to discuss their work.

The purpose of this meeting is to find a solution and a way forward should be agreed. The Line Manager will confirm the expectations of the role and the standards required:

- The Line Manager will provide a full explanation of why the employee is not meeting the required standard;
- The Line Manager will define the expected standard of performance and give examples.

- The Line Manager will examine the occasions where these standards have not been met by the employee and establish the reasons why the desired level of performance have not been achieved.
- The Line Manager will try and establish if there are any outside factors that could have impacted on an employee's performance. Some of these could include excessive workloads, limited resources, lack of training, ill-health, changes in management and the employee's personal circumstances.
- The Line Manager will take into account the employee's perception of how they are performing and any evidence the employee can present to support their case.

The Line Manager will make and retain notes of any issue raised and conversations including any agreed outcomes, support and any timescales for the assessment period. As part of this process, the employee may be given an informal warning by the Line Manager.

The Trust will consider the circumstances around the employee's performance issues. Options available at this stage would include:

- Training/retraining/development
- Referral, where appropriate, to Occupational Health or Employee Support Service
- Mentoring / coaching
- Closer supervision for a limited period
- Temporary alterations to duties, which do not change the job, but allow the employee to develop at a slower pace

The Trust/School may decide to proceed straight to Stage 3 of this process where the evidence suggests that the employee may have been grossly negligent such as to potentially warrant dismissal without the need for a final written warning.

If the Trust has accepted the mitigating reasons around an employee's poor performance, no further action will be taken.

Performance Improvement Plan

If the Trust still has concerns about the employee's ability to work to the required standard an action plan with 'SMART' targets will be set with an agreed review date within 4-6 weeks of the informal meeting (Appendix 1).

SMART targets will always be Specific, Measurable, Achievable, Result-focused and Time-bound. For the purpose of this procedure if targets fall out of this scope then they will be deemed to be unfair.

As part of the action plan any areas or outside factors which have been identified as having had an impact the employee's performance, should be addressed.

Before agreeing to an action plan, employees have the right to discuss and review the action plan with their Trade Union representative. A clear monitoring and feedback procedure will be established and the employee needs to be clear on what they have agreed to.

The Trust may wish to involve an outside mediator to agree an action plan. This mediator will work with the Line Manager and employee to set SMART targets and objectives with 3 month and 1-week deadlines for meeting the targets.

The action plan needs to be agreed by all parties. The consequences of not meeting these deadlines will be made clear - that the capability procedure will move onto the formal procedure. If the action plan is not agreed by all parties then the employer has the right to impose the action plan or refer the employee to formal stages of the capability procedure.

Where informal discussion has not resulted in a satisfactory improvement after a reasonable period of time, the Line Manager may invoke the Stage 1 Formal Procedure.

13. Notification of a Capability Hearing

If the Trust/School considers that there are grounds for taking formal action in relation to alleged poor performance, the employee will be required to attend a capability hearing. The employee will be notified in writing of the decision to initiate the formal capability procedure and confirm:

- The nature of the performance concerns;
- The purpose of the hearing and who will decide the outcome;
- The time, date and location of the capability hearing;
- The employee's right to be accompanied at the hearing;
- Copies of any supporting evidence or relevant documents that will be used at the capability hearing;
- The stage of the capability procedure that has been reached;
- The likely outcome if the Trust decides after the hearing that performance has been unsatisfactory.

The hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time, of at least 5 working days, to consider the information provided and prepare for the hearing.

The employee's Line Manager may attend the meeting to present the management case. Relevant witnesses may be called by the person conducting the meeting. Such a request should be provided in writing at least 2 days prior to the meeting with details of why such a witness should be called. The Trust may request a written statement is provided instead of attendance.

14. Procedure at Capability Hearings

14.1 Stage 1 Capability Hearing

A Stage 1 Capability Hearing will normally be held by the Headteacher or the CEO of the Trust or a Senior Executive of the Trust and may also be attended by the HR Officer and/or a note taker, employee and their companion. Where the Headteacher/CEO/Senior Executive of the Trust determines that a meeting should be convened to consider use of the capability procedure, they will write to the employee inviting them to a meeting to discuss the ongoing concerns and discuss and seek to agree a programme of support. The employee will be informed in writing of the Trust/School's

decision and the reasons for it, usually within 1 week prior the capability hearing. Where possible this will also be explained to the employee in person.

The aims of a capability hearing will usually include:

Setting out the required standards that the Trust/School believes the employee may have failed to meet, and going through any relevant evidence that has been gathered;

- Allowing the employee to ask questions, present evidence, respond to evidence and make representations;
- Establishing the likely causes of poor performance including any reasons why previous actions have not led to the required improvement (both inside or outside of work);
- Identifying whether there are further measures, such as additional training or supervision, which may improve performance;
- Discussing targets for improvement and a time-scale for review;
- Review of any other evidence from the employee and Line Manager to establish if any improvements have been made;
- If the capability issues are around ill-health, then the Headteacher/CEO/Senior Executive of the Trust will need to review if any adjustments have been made to support the employee in the informal procedure;
- If dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

A hearing may be adjourned if the Trust/School needs to gather any further information or consider matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The letter will set out the following:

- The nature of these concerns including the evidence to support them
- Evidence of any previous support provided to address the concerns (changing work practices, further guidance, counselling or training or redeployment to another post)
- The names of those who will be at the meeting (recognising that it is beneficial for the numbers present to be kept to the minimum required to facilitate the meeting)
- The employee's right to be accompanied by a Trade Union representative or workplace colleague
- An outline of actions which might follow.
- In cases where redeployment is due to ill-health capability then salary and conditions of service will be protected
- In cases where capability issues are on ill-health grounds, the Headteacher can recommend that the employee take sick leave until the employee is certified fit by Occupational Health.

- An extra copy of the letter, together with any enclosures, will be provided for the employee to pass to their representative.

At the meeting the Headteacher/CEO/Senior Executive of the Trust will outline the concerns and the employee (or their representative) will be given the opportunity to respond, ask questions and make comments and representations. The Headteacher/CEO/Senior Executive of the Trust will then determine whether concerns remain and, if so, whether support should continue to be provided within the appraisal process or whether the capability procedure should commence, and the appraisal process will cease.

The Headteacher/CEO/Senior Executive of the Trust may decide to adjourn and reconvene the meeting at any point to provide further time for consideration of issues raised or matters to be determined.

Meeting

If the Headteacher/CEO/Senior Executive of the Trust decides that the capability procedure should commence, the meeting will discuss and seek to agree the following:

- The issues which continue to give rise to concern about capability and the standards required to bring the capability procedure to an end (including any specific reasonable and achievable objectives, and criteria against which matters will be judged)
- The further guidance, counselling and training to be provided to the employee
- Arrangements for monitoring and assessment, including the name of the manager responsible, and the length of the review period over which this will happen (this should, in cases where professional support is to be provided, normally be a period of no fewer than half a school term (approx. 7 weeks). Where both parties are satisfied that concerns have been addressed in a shorter period and that the improved performance can be sustained, the monitoring period may be ended earlier than scheduled.
- The Head Teacher/CEO/Senior Executive of the Trust will make it clear to the employee that failure to meet the required standards could in due course lead to dismissal.

The employee will be entitled to record any points of disagreement. Notes will be taken of the meeting and a copy sent to the employee.

14.2 Stage 1 – Monitoring and Review Period

The Headteacher/CEO/Senior Executive of the Trust will write to the employee to confirm the outcome and decisions of the meeting, including any disciplinary warning, within 5 working days.

Throughout the review period, the Headteacher/CEO/Senior Executive of the Trust, employee and their representative will meet to discuss the employee's performance about any agreed objectives and criteria. If, following the final review meeting, the Headteacher/CEO/Senior Executive of the Trust decides that the employee has made enough improvement, this will be confirmed in writing and the capability procedure will come to an end and appraisal will re-start.

If the Headteacher/CEO/Senior Executive of the Trust decides that no or insufficient improvement has been made, the Headteacher/CEO/Senior Executive of the Trust will determine that a meeting under Stage 2 of this procedure will be arranged. Any remaining concerns managers continue to have during the review period must be discussed with the employee to try to achieve the required improvement.

If the specific performance concerns are not upheld, or if the decision maker feels that informal action or support is appropriate in the particular circumstance, the employee will be informed in writing that no further action will be taken.

Meeting

The employee's performance will be monitored during the review period and they will be informed in writing of the outcome:

- If the Headteacher/CEO/Senior Executive of the Trust is satisfied with the employee's performance, no further action will be taken other than to inform the employee in writing that they have demonstrated the necessary improvement, and to remind them that the capability process may be resumed if their performance declines whilst the written warning is active
- If the Headteacher/CEO/Senior Executive of the Trust is not satisfied, the employee will be invited to a Stage 2 Capability Hearing as set out below
- If the Headteacher/CEO/Senior Executive of the Trust feels that there has been a substantial but insufficient improvement, the review period may be extended

First Written Warning

If it is decided following a Stage 1 Capability Hearing that the employee's performance is unsatisfactory, the employee will receive a first written warning letter within 5 working days, setting out:

- The areas in which the employee has not met the required performance standards
- Clear targets for improvement through an action plan and a period for review
- Any supportive measures, such as additional training or supervision, which will be implemented with a view to improving performance
- The consequences of failing to improve within the review period, or of further unsatisfactory performance
- The employee's right of appeal and how this can be exercised

The warning will normally remain active for 6 months from the end of the review period. Whilst the warning is active, the capability process can be resumed at the same stage if the employee's performance declines. After the active period the warning will remain permanently on the employee's personnel file but will be disregarded in relation to future capability proceedings.

The timescale for the review period will depend on the nature and severity of the concerns and other relevant circumstances of the case. During the review period informal meetings will be held between the employee and the Line Manager to discuss progress and offer further support.

The Trust reserves the right to suspend an employee's additional payment allowance until such time that the Trust/School is satisfied that the employee's performance has improved to an acceptance standard.

14.3 Stage 2 Capability Hearing

If the employee's performance does not improve within the review period set out in a first written warning, or if there is further evidence of poor performance while the first written warning is still active, the employee will be invited to a Stage 2 Capability Hearing.

The letter will make clear that one of the outcomes from this meeting could be that the employee's case has progressed to Stage 3 and set out their right to be accompanied in this hearing by their Trade Union representative or work colleague.

Final Written Warning

If it is decided following a Stage 2 Capability Hearing that the employee's performance is unsatisfactory, the employee will receive a final written warning, setting out:

- The areas in which the employee has not met the required performance standards
- Clear targets for improvement through a further action plan and a period for review
- Any supportive measures, such as additional training or supervision, which will be implemented with a view to improving performance
- The consequences of failing to improve within the review period, or of further unsatisfactory performance the employee's right of appeal and how this can be exercised

A final written warning will normally remain active for 12 months from the end of the review period. Whilst the warning is active, the capability process can be resumed at the same stage if the employee's performance declines. After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in relation to future capability proceedings.

The timescale for the review period will depend on the nature and severity of the concerns and other relevant circumstances of the case. During the review period informal meetings will be held between the employee and the Line Manager to discuss progress and offer further support.

14.4 Stage 2 Capability Monitoring and Review

The employee's performance will be monitored during the review period. The employee will be informed of the decision taken by the Headteacher/CEO/Senior Executive of the Trust in writing of the outcome within 5 working days:

- If the Headteacher/CEO/Senior Executive of the Trust is satisfied with the employee's performance, no further action will be taken other than to inform the employee in writing that they have demonstrated the necessary improvement, and to remind them that the capability process may be resumed if their performance declines whilst the written warning is active

- If the Headteacher/CEO/Senior Executive of the Trust is not satisfied, the employee will be invited to a Stage 3 Dismissal Hearing as set out below
- If the Headteacher/CEO/Senior Executive of the Trust feels that there has been a substantial but insufficient improvement, the review period may be extended
- The employee's right to appeal
- The letter will contain confirmation of the final written warning

14.5 Stage 3 Dismissal Hearing and Outcome

A Stage 3 Dismissal Hearing must be held by the CEO of the Trust.

If an employee's performance set out in the final written warning has not improved by the date of expiry of the review in Stage 2 of this procedure, the CEO may decide to hold a third capability hearing.

The letter inviting the employee to the dismissal hearing will make clear that one of the outcomes from the hearing is dismissal and set out their right to be accompanied in this hearing by their Trade Union representative or work colleague.

The Trust may decide to hold a Stage 3 Dismissal Hearing if they have a reason to believe that:

- The employee's performance has not improved sufficiently within the review period set out in a final written warning
- The employee's performance is unsatisfactory while a final written warning is still active
- The employee's performance has been grossly negligent such as to potentially warrant dismissal without the need for a final written warning

The employee will receive written notification of the hearing as set out under the Notification of a Capability Hearing and Procedure at Capability Hearings sections of this policy.

If it is decided at or following the Stage 3 Dismissal Hearing that the employee's performance is unsatisfactory, the potential outcomes are as follows:

- Dismissal
- Redeployment into a suitable available job at the same or a lower grade
- Extending an active final written warning and setting a further review period (in exceptional cases where there is reason to believe that a substantial improvement is likely within the review period)
- Final written warning (where no final written warning is currently active)

In addition to the above outcomes, the Trust also reserves the right to permanently remove an employee's additional payment allowance as an outcome to a Stage 3 Dismissal Hearing.

The outcome of the hearing will be communicated to the employee in writing without unreasonable delay and usually within 5 working days, giving full reasons for the decision and information about the right of appeal.

Employees will not normally be dismissed for performance reasons without previous warnings. However, in serious cases of gross negligence, or in any case involving a recently appointed employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

Dismissal will normally be with full notice or payment in lieu of notice, unless the employee's performance has been so negligent as to amount to gross negligence, in which case the employee may be dismissed without notice or any pay in lieu.

15. Capability of the Headteacher

In the event that the issues involve the performance of the Headteacher, the procedure will remain the same, however, responsibility for considering and where necessary applying the capability procedure rests with the CEO. Headteachers subject to formal capability procedures will continue to be responsible for the performance management of the school. Whilst the procedure is the same, it would be the CEO who would invoke the informal procedure. At the end of the informal stage, the CEO will convene a panel of Trustees to determine whether the formal capability procedure would be invoked.

16. Failure to Attend

The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. If the employee fails to attend without good reason, or is persistently unable to attend the Trust/School may make decisions based on the available evidence including any written representations made by the employee. The Trust understands that this procedure may cause employees some stress and anxiety and will endeavour to provide appropriate support; however an indefinite or lengthy delay is likely to prolong the uncertainty and is therefore unlikely to be in the best interests of employees, pupils, the School or the Trust.

17. Right of Appeal

All employees have the right to lodge an appeal in respect of any formal action taken against them, if it results in a first or final written warning, or dismissal. An employee may appeal on one or more of the following grounds:

- The proper procedure was not followed and this affected the decision;
- The decision reached was not supported by the evidence presented;
- New evidence which is pertinent, and was not reasonably available at the time, has become available.
- Decision to dismiss you or other action taken against you including warnings is wrong or unjust.

If an employee wishes to exercise this right of appeal, they should write in the first instance to the Trust Board via the Trust Clerk within 10 working days of the decision they are complaining against, setting out the grounds and basis for the appeal.

Capability appeals will usually be conducted and determined by a Senior Executive of the Trust with no previous involvement in the matter for a written warning or a panel of three members of the Trust Board for a dismissal decision.

The employee will receive written notice of the date, time and place of the appeal hearing which will normally be held within 10 working days of the notice of appeal. The employee has the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary appeal meeting.

The appeal hearing will be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. The employee will be given a full and fair opportunity to put forward his or her grounds for appeal together with any supporting evidence.

The hearing may be adjourned if the Trust needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The outcome of the appeal hearing may be to:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

If an employee appeals against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

The appeal hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.

The employee will be notified of the result of the appeal in writing without unreasonable delay.

The appeal decision is the final stage of the Trust's capability appeal procedure.

18. References

The Trust complies with The School Staffing (England) Regulations 2009, paragraph 2, Regulation 8.

The Trust recognises that it has a duty to other employers to give truthful and balanced references and it is the policy of the Trust regulation, if a staff member had been subject to formal capabilities procedures in the preceding 2 year period.

Performance Improvement Plan (PIP)

LEARNING TODAY LEADING TOMORROW

PERFORMANCE IMPROVEMENT PLAN

ACTION PLAN

The purpose of this Performance Improvement Plan (PIP) is to define areas for improvement, gaps in your work performance, reiterate expectations, and allow you the opportunity to demonstrate improvement and commitment.

EMPLOYEE NAME		ROLE / TITLE		EMPLOYEE ID	
SUPERVISOR		DEPARTMENT		DATE	

AREAS FOR IMPROVEMENT

Bullet point issues and areas of concerns for how the employee’s performance/behavior has impacted on their colleagues, the school and students.

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PREVIOUSLY ADDRESSED ISSUES

Recap dates/times you have addressed the issues in the recent/relevant past. Reference previous documents when applicable.

OBSERVATIONS

PREVIOUS DISCUSSIONS

ADDITIONAL TRAINING OR COUNSELLING

Step 1 - IMPROVEMENT GOALS/TARGETS

Provide specific goals as they relate to areas of concern to be addressed and improved upon.

GOAL #	GOAL DESCRIPTION	ISSUE ADDRESSED BY MEETING GOAL

EXPECTATIONS

To demonstrate progress toward improvement goal achievement, the following performance standard expectations must be met.

EXPECTATION DESCRIPTION

Step 2 - ACTIONS

List below are the actions that will help you reach each target

GOAL #	ACTIVITY	HOW TO ACCOMPLISH	START DATE	PROJECTED DATE OF COMPLETION

Step 3 – RESOURCES/SUPPORT

List resources available to complete actions; for example, training materials, training activities, seminars, peer mentoring, management support, etc.

RESOURCE NAME	DESCRIPTION OF RESOURCE

MANAGEMENT SUPPORT

Listed below are the ways in which your manager will support your improvement activities including any reasonable adjustments.

MANAGEMENT SUPPORT	DESCRIPTION OF RESOURCE

Step 4 – SUCCESS CRITERIA

The following success criteria must be accomplished to demonstrate progress towards achievement of each target.

RESOURCE NAME	DESCRIPTION OF RESOURCE

STEP 5 - PROGRESS MONITORING/EVALUATION/REVIEW

The following schedule will be used to evaluate your progress in meeting your targets.

PROGRESS BENCHMARKS

GOAL #	ACTIVITY	DATE OF CHECK	FOLLOW-UP METHOD phone, email, mtg.	EXPECTED PROGRESS	COMMENTS

FOLLOW-UP UPDATES

You will receive feedback on your progress according to the following schedule.

DATE SCHEDULED	ACTIVITY	CONDUCTED BY	DATE COMPLETED
	[Update Report]		
	[Update Report]		
	[Status Report]		

TIMELINE FOR IMPROVEMENT, CONSEQUENCES, AND EXPECTATIONS

Effective immediately, you are placed on a []-day PIP. During this time you will be expected to make regular progress on the plan outlined above. Failure to meet or exceed these expectations, will result in further capability action via the formal stage of the policy which could put your future employment at risk. Furthermore, failure to maintain performance expectations after the completion of the PIP may result in additional capability action.

The contents of this PIP are to remain confidential. Should you have questions or concerns regarding the content, you will be expected to follow up directly with your Line Manager. We will meet again on as noted above to discuss your Performance Improvement Plan as per the schedule above.

SIGNATURES

PRINT EMPLOYEE NAME	EMPLOYEE SIGNATURE	DATE

PRINT LINE MANAGER NAME	LINE MANAGER SIGNATURE	DATE