



**Fladbury**  
Church of England First School

# Performance Management and Dealing with Capability Issues Policy

**Reviewed and approved by Personnel Committee November 2022  
Ratified by Full Governors December 2022  
To be reviewed January 2025**

## **Purpose**

This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the head teacher, and for supporting their development within the context of the school's plan for improving educational provision and performance, and the standards expected of teachers. It also sets out the arrangements that will apply when teachers fall below the levels of competence that are expected of them.

Where teachers are eligible for pay progression, the assessment of performance throughout the cycle against the performance criteria specified in the statement will be the basis on which the recommendation is made by the reviewer. Therefore this policy should be read in conjunction with the school Pay Policy which provides details of the arrangements relating to teacher's pay in accordance with the School Teachers' Pay and Conditions Document.

## **Rationale**

Performance management means a shared commitment to high performance. It helps to focus attention on more effective teaching and monitoring to raise the quality of teaching and to benefit pupils, teachers and the school. It means providing appropriate and effective personal training and development to ensure job satisfaction, a high level of expertise and progression of staff in their chosen profession.

We want to improve school performance by developing the effectiveness of teachers, both as individuals and as teams. The evidence is that standards rise when schools and individual teachers are clear about what they expect pupils to achieve. This is why performance management is important. We will implement our performance management arrangements on the basis of:

- Fairness. We all need to be aware of the potential for unconscious discrimination and to avoid assumptions about individuals based on stereotypes; and
- Equal opportunity. All teachers are encouraged and supported to achieve their potential through agreeing objectives, undertaking development and having their performance assessed.

## **Application of the policy**

The policy is in two separate sections:

- **Part A** of the policy, which covers appraisal, applies to the head teacher and to all teachers employed by the school or local authority, except those on contracts of less than one term, those undergoing induction (*i.e.* ECTs) and those who are subject to Part B of the policy.
- **Part B** of the policy, which sets out the formal capability procedure, applies only to teachers (including the head teacher) about whose performance there are serious concerns that the appraisal process has been unable to address.

Both parts of the policy are applied in a way that is robust whilst minimising the impact on workload for teachers, line manager, headteachers and governance boards. The policy also applies to Teaching Assistants, Office Administration Staff and Lunchtime supervisors.

## **Part A – Appraisal**

Appraisal in this school will be a supportive and developmental process designed to ensure that all teachers have the skills and support they need to carry out their role effectively. It will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

### **The appraisal period**

The appraisal period will run for twelve months from October to October for teachers and from September to September for the head teacher. Teachers who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. The length of the period will be determined by the duration of their contract.

There is flexibility to have a longer or shorter appraisal period when teachers begin or end employment part way through a cycle with our school. This longer or shorter appraisal period will be determined by the governing body, with a view to bringing his/her cycle into line with the cycle for other teachers as soon as possible

### **Appointing appraisers**

The head teacher will be appraised by the Governing Body, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Governing Body for that purpose.

In this school the task of appraising the head teacher, including the setting of objectives, will be delegated to a sub-group consisting of three members of the Governing Body. Where the head teacher is of the opinion that any of the governors appointed by the governing body under this regulation is unsuitable for professional reasons, s/he may submit a written request to the governing body for that governor to be replaced, stating those reasons.

The head teacher will decide who will appraise other teachers, of which all will be qualified teachers and suitably trained. Where teachers have an objection to the head teacher's choice their concerns will be carefully considered and where possible an alternative appraiser will be offered. Good practise would be to limit the amount of appraisee's for each appraiser to six, however as we are such a small school, the Head Teacher is the appraiser for all teaching staff and Assistant Head Teacher for all other staff members.

### **Setting objectives**

The headteacher's objectives will be set by the governance board after consultation with the external adviser. The governance board has a duty to have regard to the work-life balance of the headteacher and objectives will reflect this.

Objectives for each teacher will be set before, or as soon as practicable after, the start of each appraisal period. The objectives set for each teacher, will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. Objectives and performance management discussions will not be based on teacher generated data and predictions, or solely on the assessment data for a single group of pupils. Objectives can be set in relation

to robust assessment data, however, these will not be used in isolation and other factors will also be considered when making decisions about pay progression.

We will follow the following principles in discussing objectives:

- the team leader should ensure that the teacher understands what his or her objectives involve, is in a position to achieve them, knows what they need to do to achieve them and understands when and how they will be reviewed.
- objectives are written clearly and concisely and are measurable
- objectives focus on issues/matters over which a teacher has direct influence/control and take into account fully the wider socio-economic, cultural and other external influences on pupils
- objectives for each teacher should relate to the objectives in the school development plan and any team plans as well as to his/her own professional needs
- all teachers including the head will have no more than three objectives
- teachers, including the head teacher will not necessarily all have the same number of objectives
- all teachers, including the head teacher will have a whole school objective

The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives should be revised if circumstances change.

The objectives set for each teacher will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school, therefore the SDP and the school's self-evaluation form (SEF) are key documents for the appraisal process.

Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed. With the exception of those who are qualified teachers by virtue of holding and maintaining Qualified Teacher Learning and Skills (QTLS) status, all teachers must be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2011.

For teachers who are qualified teachers by virtue of holding QTLS status, it is for the governance board or headteacher to decide which standards are most appropriate.

## **Reviewing Performance**

### **Observation**

This school believes that observation of classroom practice and other responsibilities is important both as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have and of gaining useful information which can inform school improvement more generally. It also enables teachers to learn from one another and collaborate.

All observation will be carried out in a supportive fashion. In this school teachers' performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the teacher and the overall needs of the school.

Classroom observation will be carried out by those with QTS. In addition to formal observation, head teachers or other leaders with responsibility for teaching standards may “drop in” in order to evaluate the standards of teaching and to check that high standards of professional performance are established and maintained. The length and frequency of “drop in” observations will vary depending on specific circumstances. Teachers (including the head teacher) who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

### **Development and support**

Appraisal is a supportive process which will be used to determine decisions on pay progression and inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. Professional development will be linked to school improvement priorities and to the ongoing professional development needs and priorities of individual teachers and their professional aspirations.

### **Feedback**

Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place or other evidence has come to light (within 5 working days). Feedback will highlight particular areas of strength as well as any areas that need further development. Where there are concerns about any aspects of the teacher’s performance the appraiser will meet the teacher formally to:

- give clear feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment and discuss the concerns;
- set clear objectives for required improvement;
- agree any support (eg coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
- make clear how, and by when, the appraiser will review progress (*it may be appropriate to revise objectives, and it will be necessary to allow sufficient time for improvement. The amount of time is up to us as the school but should reflect the seriousness of the concerns*);
- explain the implications and process if no – or insufficient – improvement is made – e.g., impact on pay progression and potential move to formal capability.

When progress is reviewed, if the appraiser is satisfied that the teacher has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.

### **Evidence**

The range and level of evidence collected for appraisal and pay determination purposes will always be proportionate and minimise workload.

### **Transition to capability**

If a teacher demonstrates serious underperformance, and has not responded to support provided within the appraisal process, the teacher will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. The capability procedures will be conducted as in part B of this policy.

## **Annual assessment**

Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the headteacher, the governance board must consult the external adviser.

This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings which will take place (e.g. once a term). The annual review of the teacher's performance will use the recorded objectives as a focus to discuss his/her achievements and identify any development needs. It will be combined with agreeing objectives for the following performance management cycle. The focus of the review is on how to raise performance and improve effectiveness. It will involve:

The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment on – an appraisal report (in practice the report could be produced using online performance management systems, which can help to reduce workload. In this school, teachers will receive their appraisal reports by 31 October (31 December for the headteacher).

The appraisal report will include:

- Reviewing, discussing and confirming the teacher's essential tasks and objectives
- Recognising strengths and achievements and taking account of factors outside the teacher's control
- Confirming actions agreed with the teacher at other reviews
- Identifying areas for development and how these will be met
- Recognising personal development needs
- Agreeing new clear objectives and completing an individual plan for the year ahead.

The Head Teacher should evaluate the teacher's overall performance, including an assessment of the extent to which objectives have been met, and the teacher's contribution to the life of the school during the review period. It should take account of the stage the teacher is at in his or her career e.g. teacher with 2 – 3 years' service, upper pay scale teacher or senior manager.

Within ten days of the review meeting, the team leader will prepare a written review statement recording the main points made at the review and the conclusions reached including any identified development needs and activities recorded in a separate annex (but forming part of) the review statement. The teacher may within ten days of first having access to the statement, add to it comments in writing. Good practice shows that the review statement should be written as soon as possible after the review, whilst the facts are still fresh in the team leader's memory. The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment in writing on - a written appraisal report. In this school, teachers will receive their written appraisal reports by 31 October (31 December for the head teacher). The appraisal report will include:

- details of the teacher's objectives for the appraisal period in question;

- an assessment of the teacher's performance of their role and responsibilities against their objectives and the relevant standards;
- an assessment of the teacher's professional development needs and identification of any action that should be taken to address them;
- a recommendation on pay where that is relevant (*NB – pay recommendations need to be made by 31 December for head teachers and by 31 October for other teachers*);

### **Links between Pay, Career stages and performance management/appraisal**

Induction – the final review meeting of the induction period can be used to agree objectives and professional development opportunities as the first stage of the teacher's subsequent performance management cycle.

Information from the performance review statement can be used to inform aspects of the new pay structure.

- Up to the Threshold – teachers can no longer **expect** an annual increment. Rises in pay are linked directly to performance and if they are performing satisfactorily.
- Threshold – teachers who want to move to the upper pay spine should fill out the application form provided by the DfE. Evidence from reviews will be used to inform applications by teachers and assessment by heads.
- Leadership group – performance reviews will form part of the evidence which schools can use to make decisions about awarding performance pay points to eligible teachers.

### **Managing weak performance**

Good management, with clear expectations and appropriate support, will go a long way towards identifying and handling weaknesses in performance. The review meeting and review statement do not form part of any formal disciplinary or capability procedures. However, relevant information from review statements may be taken into account by those who have access to them in making decisions and in advising those responsible for taking decisions, or making recommendations about performance, pay promotion, dismissal or disciplinary matters.

### **Access to outcomes**

There will only be two copies of the review statement – one held by the teacher and another held by the Head Teacher on a central file, to which the team leader or Governors responsible for making decisions regarding pay could request access. A copy of the head's review statement should go to the Chair of Governors.

Information about performance reviews should be made available as listed below:

- The Head Teacher should ensure that individual training and development needs are reflected in the school development plan and the programme for professional development
- The Head Teacher should ensure that training and development needs from the review statement are given to the person responsible for training and development at the school

- The Head Teacher should report annually to the governing body on performance management in the school, including the effectiveness of the performance management procedures in the school, and the training and development needs of teachers
- The CEO can request from the Chair of Governors a summary of the performance assessment section of the head's review statement.

**Complaints** - Within ten days of receiving the review statement:

**Teachers** can record their dissatisfaction with aspects of the review on the review statement. Where these cannot be resolved with the team leader, they can raise their concerns with the Head Teacher. Where the Head Teacher is the team leader, the teacher can raise the issue with the Chair of Governors.

**Head teachers** can record their dissatisfaction with aspects of the review on the review statement. Where these cannot be resolved with the appointed governors, they can raise their concerns with the Chair of Governors. Where the Chair of Governors has been involved in the review process, the governing body should appoint one or more governors who have not participated in the head's review to act as review officer. No governor who is a teacher or staff member can be involved in performance review.

**The Review Officer** (who could be the head, the Chair of Governors or the governors appointed by the governing body) will investigate the complaint and take account of comments made by the job holder. The review officer should conduct a review of the complaint within ten working days of referral. S/he may decide that the review statement should remain unchanged or may add any observations of his/her own. The review officer may decide, with the agreement of the person responsible for carrying out the initial review, or in the head's case all the appointed governors, to amend the review statement; or declare that the review statement is void and order a new review or part of the review to be repeated. Where a new review is ordered new governors will be appointed to carry out the review of the head teacher. For teachers, the head teacher will appoint a new team leader. Any new review or part review ordered should be conducted within a further fifteen days.

### **Evaluation of the policy**

The Head Teacher shall provide an annual report to the Governing Body on how effective the performance management procedures have been.

As a school committed to ensuring that individual teachers, teams and the school continues to improve, the Governing Body and the Head Teacher will check that effective and challenging objectives are set, that all reviews are completed on time and the assessment of performance is consistently applied in school. We will evaluate the effectiveness of the policy in helping to improve standards of teaching and learning.

As part of our ongoing commitment the Governing Body and the Head Teacher will update and amend the documentation and the process required, after consultation with all staff, to incorporate any major changes introduced either by the DfE or Fladbury School to ensure that the policy is up-to-date and effective in our school.

## **Part B – Capability Procedure** *(to be read in conjunction with WCF Capability Procedure for Teachers 6)*

There may be occasions when the professional performance of a teacher is alleged to be unsatisfactory. This procedure is intended to provide a way in which such a problem can be resolved in a fair and reasonable manner. For the purposes of this procedure, a lack of capability in terms of professional performance is defined as a situation in which a teacher fails consistently to perform his or her duties to a professionally acceptable standard. The procedure does not deal with lack of capability due to illhealth, nor with misconduct, which may be defined as an act or omission by a teacher which is considered to be unacceptable professional behaviour.

This procedure complies with statutory guidance from the DfE published in January 2012 and the School Staffing (England) Regulations 2009.

It should be noted that Voluntary Aided Schools and Academies may have their own separate arrangements. Where Voluntary Aided Church Schools take action they should always keep the appropriate diocesan authorities informed.

At any stage of the procedure, as part of the support or monitoring measures, the Headteacher may involve a suitably experienced external person.

The teacher should be advised at all stages to seek Union advice.

### **Trade Union Officials:**

This covers any local or national officer and would include any elected school representative for a recognised union. The same standards should apply to him/her as to other members of staff but no action should be taken under this procedure until the circumstances have been discussed with a senior trade union representative or fulltime official. HR Consultancy for Schools can provide advice on this.

If justified by the circumstances, consideration could be given to the omission or shortening of stages in the procedure. In exceptional circumstances, where the interests of pupils are deemed to be seriously at risk, a short procedure of up to 4 weeks in total could apply.

### **Principles**

As part of their normal management and staff development responsibilities Headteachers and line managers will from time to time discuss aspects of a teacher's performance with him/her. Such discussions will take place on an informal basis and should not be constrained by, or come within, the scope of this procedure, nor shall any counselling and advice given in this way count as warnings within the scope of this procedure.

Problems should be raised and discussed at the earliest possible moment and resolved where possible without recourse to the formal procedure.

As part of Appraisal arrangements, where there are concerns about any aspects of the teacher's performance, the appraiser will meet the teacher formally to:

- give clear feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment and discuss concerns;
- discuss targets for improvement and agree any support that will be provided to help address those specific concerns;
- make clear how, and by when, the appraiser will review progress;
- explain the implications and process if no - or insufficient - improvement is made.
- The teacher will be given a written record of this meeting

### **Informal Stage**

If the appraiser is not satisfied with progress or if concerns arise about a teacher's performance through means other than appraisal, issues should be addressed at a meeting under the Informal Stage. It is expected that, before progressing to this stage, the appraiser/Headteacher should be able to demonstrate that concerns have already been raised with the teacher and appropriate support given.

Meetings under this stage should be conducted by the Headteacher or another suitable senior leader, although it may also be helpful for the appraiser to attend. The teacher should be given at least 5 working days' notice of this meeting and should be informed that he/she has the right to be accompanied by a colleague or trade union representative. Schools are advised to consult HR Consultancy for Schools.

Some schools may have policies for Appraisal which include a formal meeting for Teachers Experiencing Difficulties, where he/she is given notice of the meeting, is invited to be accompanied by a colleague or trade union representative and where an Action Plan for support is drawn up. Where this meeting and the support offered effectively replicates the informal stage of the Capability Procedure (4.4 – 4.8), then the equivalent stage of the capability procedure does not need to take place. In such cases, if it is determined at a review meeting that there has been insufficient progress, then the process will move directly to the Formal Stages (Section 5).

The manager will need to consider fully the context of the concerns and consider, in particular, whether the poor performance relates to the teacher themselves or to external factors.

The purpose of the meeting is to discuss those areas of the teacher's performance which need attention and to consider supportive measures. A programme of support may include coaching, mentoring, structured observation, observation of good practice within school or at another school. The programme must be pursued positively and constructively by both parties with advice, encouragement and feedback automatically available for the teacher as part of the support for the teacher. See Appendix 1.

The period of review will be made clear and will allow time for improvement. It will be negotiated between the parties, taking account of the degree of support already given.

The manager will produce a written record of the meeting (an Action Plan is often helpful – see Example at Appendix 2) and will keep details of the activities which take place during this stage.

At the end of the period of review, there should be a meeting to consider the teacher's performance and to form a view that either:

- the teacher's performance has improved, in which case the appraisal process should resume;
- further support under the informal stage is appropriate;
- or, where there has been no, or insufficient, improvement, the teacher should be invited to a meeting under the Formal Stages of the Capability Procedure (Section 5). Where all parties agree, the first formal meeting may follow directly on from the review meeting.
- all parties may consider whether it is appropriate for the teacher to move to an alternative post within the school

In exceptional circumstances, where the interests of pupils are deemed to be seriously at risk, the manager may refer to the Headteacher who may have to consider an improvement period of no more than 4 weeks during which a period of support and monitoring shall be conducted and a final written warning may be issued at the meeting.

## **Formal Stages**

### Formal Meeting

This part of the procedure applies only to teachers or Headteachers about whose performance there are serious concerns which an action plan of support under the appraisal and/or informal stages has been unable to address.

Meetings under the Capability Procedure will be conducted by the Headteacher (or delegated to a nominated Deputy Headteacher) or, in the case of a Headteacher, by the Chair of Governors (or nominated Governor).

When there has been insufficient improvement following a formal meeting and action plan under the appraisal and/or informal stages, the Headteacher will invite the teacher concerned to a meeting, giving at least 5 working days' notice of that meeting. The teacher must be informed of his/her right to be accompanied by a colleague or trade union representative, given a copy of this procedure and any relevant documentation and told who will be present. It may be appropriate to invite the manager to all or part of this meeting to clarify any points.

The purpose of this meeting is:

- to detail and review the support measures which have already been provided;
- to define the precise aspects in which the teacher's performance is still considered to be inadequate;
- to allow the teacher and/or their colleague or trade union representative to express views and/or offer an explanation;
- to decide on a formal programme of further support **designed to help the teacher improve his/her performance** including targets and performance

standards, together with an appropriate support programme and structured timetable, designed to improve his/her performance. Wherever possible, the period of review should be agreed by all parties, although the decision remains the responsibility of the Headteacher. The review period will usually last between 4 and 10 working weeks, allowing sufficient opportunity for an improvement to take place. The period required will depend upon the nature of the concern and will need to be reasonable and proportionate. The meeting will agree the date of the Review Meeting, at which the teacher may be accompanied by a colleague or trade union representative. It may be helpful to keep notes of this meeting and to send these to the teacher;

- to inform the teacher, if necessary, of the potential consequences of failure to improve, and the teacher will be given a first written warning, sent within 5 working days of the meeting setting out:
  - i. the date of the meeting
  - ii. details of the unsatisfactory performance
  - iii. the standards expected
  - iv. details of the support and monitoring measures to be made available over the review period
  - v. the date of the Review Meeting
  - vi. a warning that further unsatisfactory performance may lead to further and more serious action under this procedure
  - vii. that the warning will lapse after 6 months
  - viii. the right to lodge an appeal within 10 working days of receipt of this letter and the right to representation at any appeal (see Appendix 5)
  - ix. where no appeal is made, the employee may submit a statement of mitigation to be held on file with the warning.

The notification of action above will constitute the date of entry into the Capability Procedure.

### Review Meeting

At the Review Meeting the teacher may be accompanied by a colleague or trade union representative. At that meeting the Headteacher may:

- decide that the teacher has made sufficient improvement, the Capability Procedure will cease; or
- that some progress has been made and there is confidence that more is likely; the monitoring and review period under the first written warning will be extended; support will be provided and a date set for a Review Meeting; or
- that no (or insufficient) improvement has been made; the teacher will receive a final written warning and a further review period will be put in place. The warning letter will be issued within 5 working days of the meeting and should clearly set out:
  - i. the date of the Review Meeting
  - ii. details of the unsatisfactory performance
  - iii. the standards expected
  - iv. details of the support and monitoring measures to be made available over the forthcoming review period

- v. the date of the Decision Meeting
- vi. a warning that further unsatisfactory performance may lead to further and more serious action under this procedure
- vii. that the warning will lapse after 18 months
- viii. the right to lodge an appeal within 10 working days of receipt of the letter and the right to representation at any appeal (see Appendix 5)
- ix. where no appeal is made the employee may submit a statement of mitigation to be held on file with the warning.

In the event of a final written warning having been issued, there shall be a further period of 4 to 10 working weeks during which support and advice shall continue and the progress of the teacher shall be monitored.

### The Decision Meeting

At the end of this period the teacher shall be called to a Decision Meeting at which he/she may be accompanied by a colleague or trade union representative. At that meeting the Headteacher may:

- decide that the teacher has made sufficient improvement, the Capability Procedure will cease; or
- that some progress has been made and there is confidence that more is likely; the monitoring and review period under the final written warning will be extended; or
- that no (or insufficient) improvement has been made; the teacher will be invited to a hearing where dismissal may be considered.
- choose to take independent advice on the significance of the concerns or the support given.

### General Points

At all stages in the procedure the teacher should receive appropriate support and/or training to assist him/her to improve performance to the standard required.

At any stage in the procedure the teacher may be placed under the direct supervision of an experienced colleague.

In cases where a teacher's performance is adversely affected by illhealth, the school may seek medical advice in order that full consideration shall be given to medical factors. If the teacher is absent for an extended period, Capability Procedures may need to be suspended to allow support and monitoring to take place once the teacher is back at work. In this instance, assistance should be given under Managing Sickness Absence Procedures.

In the event of a teacher being subject to separate procedures in relation to both performance and conduct, they shall proceed separately unless and until the school decides to consider the totality of a teacher's performance. In such cases the appropriate procedure shall be determined by the school although matters related to performance and conduct shall be delineated.

## **6. Headteachers**

Any concerns about unsatisfactory performance on the part of the Headteacher shall be dealt with by the Chair of Governors (as the Headteacher would in relation to any other teacher). The Chair of Governors should be guided by Advisers working on behalf of the Local Authority or Diocese.

## **APPENDIX 1**

### **MENU OF POSSIBLE SUPPORT MEASURES**

*The manager and teacher should discuss and, where possible, agree upon a programme of support designed to help the teacher improve his/her performance. This should be flexible to focus on individual needs and take account of the area of concern and outcome required; individual learning style; and time available. The*

*teacher should be encouraged to take personal responsibility for this programme and not feel that it is something which is 'done to him/her'.*

*The list below offers some ideas – it is not intended to be either exhaustive or exclusive.*

- Classroom observation with verbal and written feedback
  - Headteacher/SLT
  - external observer, e.g. School Improvement Adviser; Leading Practitioner from another setting
- Observation/discussion of good practice (with clear focus)
  - within school
  - at another school
  - joint observation with mentor/SLT
- Mentor within school
  - regular meetings
  - observing and advising on classroom practice
  - feedback on planning/assessment
- Self-evaluation
  - use of CCTV or videotaping via a Tablet to observe own performance
- Working within a team
  - moderation activities
  - shared planning activities
  - team teaching or shadowing a colleague
- INSET
  - attendance at a professional course or conference
  - on-line or distance learning, e.g. DVDs or websites
  - in-school CPD (twilight or TED days)
- Support from a specialist, e.g. Learning and Teaching Adviser
- Counselling or other therapies

## **APPENDIX 2**

### **EXAMPLE**

#### **Teacher Action Plan**

**Name:**

**Date:**

Professional partner/mentor:

Planned review date:

Areas for development*	Actions to be taken (and by whom)	Timeframe (to be completed by)	Success Criteria	Monitoring and evaluating (who, date and method for review)

**Additional Support plan**

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\*reference may be made to the Teachers' Standards

**APPENDIX 3**

**DISMISSAL PROCEEDINGS**

**1. Delegation of Authority**

**Dismissal of Staff other than Headteacher**

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that any person employed or engaged by the LA to work at the school should cease to work there (Community, Voluntary Controlled, Community Special and Maintained Nursery) or to dismiss its staff (Foundation, Voluntary Aided, Foundation Special) to:

- (a) one or more Governors and the Headteacher
- (b) one or more Governors
- (c) the Headteacher.

For options (a) and (b), it is recommended to have an odd number of members to avoid the possibility of a split decision.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel. The Headteacher may not sit on the Dismissal Appeal Panel.

### **Dismissal of the Headteacher**

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that the Headteacher should cease to work at the school or be dismissed to one or more Governors.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel.

**For ease of understanding, those who have the delegated authority to dismiss will be referred to in these proceedings as 'Decision-Makers'.**

### **Rights of Attendance/Advisory Rights**

Where the Governing Body has delegated dismissal powers of staff other than the Headteacher to one or more Governors, the Headteacher has a right under the 2009 Regulations to attend and give advice to all relevant meetings/hearings held by those Governors and they must consider that advice in coming to their decisions. That advice shall be given by the Headteacher in the course of the presentation of the case against the employee.

A representative of HR Consultancy for Schools may attend and offer advice to all proceedings relating to the dismissal and those to whom the function has been delegated must consider that advice in coming to their decision.

**Note:** Reserves will only be used in emergencies and following consultation with HR Consultancy for Schools and the recognised unions.

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At formal hearings, the employee/representative may take notes for their own use. The Clerk would take notes for the Decision-Maker/s or Appeal Panel. In the event of the Clerk to the Panel being unavailable, notes may be taken by

another person requested by the Decision-Maker/s. A copy of the notes taken can be made available to the employee on request.

## **Process**

2. The teacher must be given written notice of the hearing setting out:
  - (a) the date, time and location of the hearing
  - (b) the right of the teacher to be accompanied by a colleague or trade union representative and to call witnesses
  - (c) details of the unsatisfactory performance, together with copies of any documentary information which it is proposed to present to the 'DecisionMaker/s'
  - (d) that the result of the hearing could be a recommendation for dismissal and that it is very important for him/her to attend.
3. Notice of the hearing must be sent to the teacher at least 10 working days before the date of the hearing in order to allow reasonable time for him/her to arrange representation.
4. A copy of these procedures must be sent with the notice of the hearing.
5. The 'Decision-Maker/s' must ensure that the hearing is conducted in a fair and reasonable manner and in accordance with the principles of natural justice.
6. The procedure to be followed at the hearing will be laid out in Appendix 3 to these procedures.
7. At this hearing, the 'Decision-Maker/s' may exercise their discretion to recommend dismissal, no action or an alternative course of action. This action may involve an extension of the period of final warning with further support and monitoring; transfer to an alternative, possibly differently graded post, together with any training thought necessary; other action thought appropriate in the circumstances.
8. If, having regard to all the circumstances, the decision of the 'Decision-Maker/s' is that the teacher should cease to be employed at the school, this will be confirmed by letter to the teacher concerned within 5 working days. The letter should set out:
  - (a) the date of the hearing
  - (b) details of the unsatisfactory performance, including reference to any previous warnings under this procedure
  - (c) a statement that the Governing Body (through delegated responsibility) has determined that the teacher should cease to be employed at the school
  - (d) the effective date of the cessation bearing in mind the period of contractual notice required
  - (e) the right to lodge an appeal within 10 working days and the right to representation in an appeal.
9. The Governing Body must notify the Local Authority of the determination that the teacher should cease to work at the school and the reasons for it. The LA must give the teacher notice of the termination of his/her contract, within 14 days.

**APPENDIX 4**

**RECOMMENDED PROCEDURE FOR A DISMISSAL HEARING**

1. Premeeting of 'Decision-Maker/s', Clerk to take notes for the Decision-Maker/s and HR Adviser(s) to clarify any procedural matters.
2. Hearing: In addition to those attending the premeeting:  
Employee and representative  
Headteacher and/or other management/adviser ('Management')

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

**Order of Business:**

- a. Chair to introduce those others present and to outline the order of business.
- b. Chair to remind those present of the confidential nature of the proceedings.
- c. 'Management' will state the case against the employee and may call witnesses.
- d. The employee and/or his/her representative may ask questions of 'Management' and witnesses.
- e. The 'Decision-Maker/s' may ask questions of the witnesses and 'Management' as appropriate.
- f. Any final questions before the witness retires/ management completes its case.
- g. The employee or representative will state the case and may call witnesses.
- h. 'Management' may ask questions of the employee and/or witnesses.
- i. The 'Decision-Maker/s' may ask questions of the employee and/or witnesses as appropriate.
- j. Any final questions before the witness retires/ the employee/representative completes their case.
- k. 'Management' will conclude with a concise summary of the case but will introduce no new factors.
- l. The employee or representative will conclude with a concise summary of the case but will introduce no new factors.
- m. Management, employee and representative withdraw while the 'Decision-Maker/s' consider the case.
- n. 'Decision-Maker/s' to consider the action open to them and to reach a decision.
- o. 'Management', employee and their representative to be recalled and informed of the decision by the Chair.
- p. The employee to be informed by the HR Adviser of any implications of the decision and any appeal rights.

q. A formal minute will be made of the outcome of the hearing.

**Note:** The HR Adviser to the 'Decision-Maker/s' may attend any such hearing, ask questions at any point and advise the 'Decision-Maker/s' as appropriate, including once management and the employee have withdrawn during consideration of the case.

**APPENDIX 5**

**APPEALS PROCEDURE**

1. The Appeals Procedure is intended to afford an employee a full and fair opportunity to present an appeal to the Governing Body against any decision of the Headteacher or Governors in respect of a first or final warning, dismissal or action as an alternative to dismissal.
2. The appeal must be lodged in writing and must set out the grounds of the appeal. It must be addressed to the Headteacher who will ensure that it is referred to the Governors. The appeal must be lodged within 10 working days of the notification of the sanction or determination that an employee should cease to work at the school.
3. The hearing of an appeal in respect of a warning or a decision that a person should cease to work at the school shall be delegated to a panel appointed by the Governing Body. This should be a panel of three Governors other than in exceptional circumstances and must exclude any Governors involved in the hearing leading to the appeal.
4. The appeal may be presented by the employee or his/her representative. An HR Adviser will attend to give advice to the panel.
5. The teacher will be given at least 10 working days notice of the date, time and location of the hearing and must be advised of the right to representation and the procedural conduct of the hearing as described in Appendix 5.
6. At the end of the hearing a decision shall normally be announced but exceptionally it may be appropriate to reserve a decision so that fuller consideration can be given to all matters raised at the appeal.
7. The Appeal Panel may decide to:
  - (a) allow the appeal wholly or in part, in which case any subsequent action should be considered and specified in the decision
  - (b) dismiss the appeal.

If an appeal against dismissal is upheld, notification of dismissal would be rescinded.
8. The decision will be communicated in writing to the employee and his/her colleague or trade union representative within 5 working days of the decision.

## **APPENDIX 6**

### **RECOMMENDED PROCEDURE FOR MEETING OF AN APPEAL PANEL**

1. Premeeting of Governing Body representatives, Clerk to take notes for the Panel and HR Adviser(s) to clarify any procedural matters.
2. Hearing: In addition to those attending the premeeting:  
Appellant (Employee and representative)  
Respondent (Headteacher and/or other management/adviser)

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

**Order of Business:**

- a. Chair to introduce the members of the Committee/Panel and others present and to outline the order of business.
- b. Chair to remind those present of the confidential nature of the proceedings.
- c. The Chair will either read or circulate to all those present a copy of the warning or decision against which the appeal is being made.
- d. The Appellant will state his/her case and may call witnesses.
- e. The Respondent may ask questions of the witnesses.
- f. The Governors and the HR Adviser may ask questions of the Appellant and witnesses as appropriate.
- g. Any final questions before the witness retires / the Appellant completes their case.
- h. The Respondent will state his/her case and may call witnesses.
- i. The Appellant may ask questions of the witnesses.
- j. The Governors and the HR Adviser may ask questions of the Respondent and witnesses as appropriate.
- k. Any final questions before the witness retires / the Respondent completes their case.
- l. The Appellant will conclude with a concise summary of the case but will introduce no new factors.
- m. The Respondent will conclude with a concise summary of the case but will introduce no new factors.
- n. The Appellant and Respondent will withdraw while the Appeal Panel consider the case.
- o. The Panel will consider the case and the action open to them and reach a decision.

p. Appellant and Respondent will be recalled and informed of the decision by the Chair.

q. A formal minute will be made of the outcome of the hearing.

**Note:** The HR Adviser to the Governors may attend any such hearing, ask questions at any point and advise the Governors as appropriate, including once management and the employee have withdrawn during consideration of the case

**HR/HH/djc**  
**December 2015**