

# **Hindley J and I School**



## **Appraisal & Capability of Staff Policy**

**September 2025**

**Review date: September 2026**

**Miss A McKeever Headteacher)**

**Mr G Doubleday (Chair of Governors)**

## **Introduction**

The amended appraisal arrangements for teachers came into force on **1 September 2012** and are set out in the **Education (School Teachers' Appraisal) (England) Regulations 2012** ("the Appraisal Regulations").

This policy combines:

- the statutory requirements of the Appraisal Regulations,
- recommendations from the **DfE's Model Policy (July 2024)**, and
- elements of good practice.

The capability procedure provides a fair and effective framework for schools to address employees' performance concerns. Its main purpose is to **support, encourage, and motivate staff to achieve and maintain an acceptable standard of performance**.

Throughout this policy, **text in bold indicates statutory requirements** drawn from the Appraisal Regulations or the School Staffing Regulations.

## **Purpose**

This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the Headteacher, and for supporting their development within the context of the school's plan for improving educational provision and performance, and the standards expected for teachers.

Where applicable, this policy should be read in conjunction with the school's pay policy which provides details of the arrangements relating to teachers' pay in accordance with the STPCD.

## **Application of the policy**

The policy is in two separate sections.

- **Part A** of the policy, which covers appraisal, applies to the headteacher and to all teachers employed by the school, except those on contracts of less than one term, those undergoing induction (i.e. NQTs) 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 headteacher) about whose performance there are serious concerns that the appraisal process has been unable to address.
- Both parts of the policy should always be applied in a way that is robust whilst minimising the impact on workload for teachers, line managers, headteachers and governance boards.

## Part A-Appraisal procedure

### Introduction

Appraisal in the school is a supportive and developmental process, conducted within a school culture that values openness and fairness. Appraisal should be a non-bureaucratic process that recognises, encourages and validates a teacher's commitment to professional development, pedagogical excellence and effective performance. It has been designed to ensure that all teachers have the skills and support they need to carry out their role effectively and achieve their objectives and meet the Teacher Standards. The appraisal will offer a supportive and safe environment where teachers and their line managers can have an open and honest conversation about their successes and areas for improvement.

Teachers will receive constructive feedback on their performance throughout the year. Where there are concerns about any aspects of the teacher's performance, at any point during the appraisal process, these will be addressed informally in the first instance. Such concerns will be treated fairly and objectively as part of the appraisal process and before any capability procedures are considered. This may include mentoring, training, and resources to address the specific needs of the individual.

Where a teacher has not achieved an adequate level of performance, the teacher will be informed that the appraisal process will stop, and their performance will be managed in line with the capability procedure.

All teachers will be assessed against the "Teachers' Standards" published by the Department for Education in July 2011. Depending on their grade, some teachers may also be assessed against other relevant professional standards applicable to their role (for example the post threshold teacher standards).

### The Appraisal Period

**The appraisal period will run for a period of 12 months.**

The appraisal period in this school will run from October to October for teachers, and from September to September for the Headteacher.

The Headteacher will be the appraiser for all teachers within school.

An annual assessment will take place at the end of, or soon after the end of, the appraisal period. Following this a written appraisal report will be produced for the teacher concerned; teachers will receive their appraisal reports by 31 October, and Headteachers will receive theirs by 31 December.

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 the provisions of this policy. **The length of the period will be determined by the duration of their contract and an individual teacher's objectives should take account of the length of the contract.**

Where a teacher starts their employment at the school part-way through the appraisal period, the Headteacher or, in the case of the Headteacher the Governing Body, shall determine the length of the first appraisal period for that teacher, with a view to bringing them into line with the period for other teachers at the school as soon as possible.

Where a teacher transfers to a new post within the school part way through the appraisal period, the Headteacher or, in the case where the teacher is the Headteacher, the Governing Body, shall determine whether the appraisal period shall begin again and whether to change the appraiser.

### **Appointment of Appraisers for the Headteacher**

The Headteacher /CEO of the trust **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 appraisal of the Headteacher, including the setting of objectives, will be delegated to a sub-group of two or three governors who will be supported by the External Adviser.

Where a Headteacher is of the opinion that any of the governors appointed by the Governing Body under this regulation is unsuitable for professional reasons, they may submit a written request to the Governing Body for that governor to be replaced, stating those reasons.

### **Objective Setting**

**The Headteacher's objectives will be set by the Governing Body after consultation with the External Adviser.**

**Objectives for each teacher will be set before, or as soon as practicable after, the start of each appraisal period.**

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 solely 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. 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. 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

### **Reviewing Performance**

The appraiser will set out what evidence will be taken into account when making judgements about a teacher's performance and whether they have met the relevant Teacher standards and their individual objectives. This evidence will be decided upon when the objectives are being set at the beginning of the appraisal process. A range of different methods should be utilised, in a supportive fashion, to assess teachers' performance.

It is important to our school that methods of assessing teacher performance do not add to teacher workload.

### **Observation**

This school believes that observation of classroom practice and other responsibilities is important as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have, gaining useful information which can inform school improvement more generally and enabling teachers to learn from each other and collaborate. All observation will be carried out in a supportive fashion and not add to teacher workload. Observations may consist of regular lesson visits (shorter more frequent visits to build up a bigger picture) or lengthier lesson visits if appropriate.

Headteachers, and other appropriate members of the school's leadership team, have the right to drop in, in order to inform their monitoring of the quality of learning. This is to enable Headteachers to fulfil their duty to evaluate the standards of teaching and learning and to ensure that proper standards of professional performance are established and maintained. Other staff who are designated to undertake drop ins are detailed in the Drop in Protocol at **Appendix 2**.

All classroom observations will be undertaken in accordance with the Classroom Observation Protocol attached at **Appendix 1**.

### **Feedback**

Teachers will receive constructive feedback on their performance throughout the year. Where observation has taken place, feedback will be provided as soon as possible after the observation, or if there are concerns about any aspect of performance, these will be raised with the teacher concerned as soon as possible, and support and guidance will be provided. If no concerns are raised, it will be assumed that performance is satisfactory.

Feedback will highlight particular areas of strength as well as any areas that need attention.

### **Informal Support**

Except in the most serious cases of persistent failures to meet job expectations and teaching standards, resulting in negative consequences on the pupils and organisation, teachers should not ordinarily be placed in capability procedures without first undergoing a period of informal support as part of the appraisal process. Where there are concerns about any aspects of the teacher's performance the appraiser will meet the teacher to:

- Inform the teacher that they are going to be receiving informal support due to performance concerns.
- Give clear and specific 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 or if appropriate set revised objectives and timescales for required improvement. The amount of time is up to the school but should reflect the seriousness of the concerns.
- Agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns.
- Confirm a monitoring officer to monitor the teacher's performance over the review period, and to provide a written report to the appraiser at the end of the period, depending upon the size and structure of the school the appraiser may be the monitoring officer.
- Set a review period, making clear how, and by when, the appraiser will review progress.
- Explain the implications and process if no, or insufficient, improvement is made – e.g. commencement of capability procedure.
- Where personal or domestic circumstances are identified as contributing to the employees' performance issues, support should be provided, if available and appropriate. Examples may be referral to the Employee Assistance Programme (EAP). (where the school purchases this service); or exploring a temporary adjustment to working hours to accommodate caring responsibilities.

There should be a clear relationship between the issue, the objectives set, and the planned documented programme of support put in place. The appraiser should

partner with the teacher in a collaborative manner to establish objectives and timelines, considering the teacher's circumstances. This may include any medical conditions, well-being support needs, or disabilities protected by equality legislation.

### **Review Period**

Informal support should be provided for a reasonable period to allow for performance improvement. The review period should be reasonable and proportionate and allow sufficient time for improvement. It will usually be between 6 to 8 weeks, depending on the seriousness of the concerns. However, the duration will be determined based on the specific circumstances, with appropriate support in place to facilitate improvement

The appraiser will confirm the discussion, including the nature of the concerns, the agreed action and timescale for review, in writing to the employee.

Regular contact will be maintained during the review period to support, monitor, and assess progress and to ensure that the agreed support is being provided.

After the agreed period of review, 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.

### **Transition to Capability**

If the appraiser is not satisfied with progress or there is serious underperformance during the informal support process, the teacher will be notified in writing that the appraisal policy will no longer apply and that their performance will be managed under the capability procedure.

### **Annual Assessment**

**Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the Headteacher / CEO, the Governing Body must consult the External Adviser.**

The assessment is the end point to the annual appraisal process, and each teacher and Headteacher will have an annual assessment meeting with their appraiser. In addition to the annual assessment, performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings which will take place \_\_\_\_\_ (insert appropriate timescale - e.g., once per term).

**The teacher will receive a written appraisal report as soon as practicable following the end of each appraisal period and have the opportunity to comment on an appraisal report.**

In this school, teachers will receive their written appraisal reports by 31 October, and by 31 December for the Headteacher.

**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, other relevant professional standards**, contribution to school improvement, and to the progress of pupils, and their job description.
- **An assessment of the teacher's professional development needs and identification of any action that should be taken to address them** (refer to section 11 below for further information).
- Details of discussions around wellbeing, workload and career progression / aspirations.
- **A recommendation on pay when it is relevant.**

The assessment of performance and of any training and development needs will inform the planning process for the following appraisal period.

Appraisers should not wait until the annual assessment meeting to raise concerns about a teacher's performance. Any issues should be addressed promptly; at the time they arise. If concerns are identified and discussed during the appraisal cycle, the school should then follow the informal support process outlined in this policy.

## **Appeals**

Teachers and Headteachers have a right of appeal against any pay related decisions made in their annual appraisal report. Details of the appeals process are covered in the school's pay policy.

A teacher who wishes to appeal against any other aspect of their appraisal report will have their concerns considered by the Headteacher. Where the Headteacher has written the appraisal report, the appeal will be conducted by the Chair of Governors.

A teacher wishing to appeal should write to the Headteacher, setting out clearly the reasons why they are dissatisfied with the report, within five school working days of receiving the report.

The appeal will be heard by the Headteacher or the Chair of Governors, as appropriate. The teacher concerned and the appraiser may attend the hearing to present their respective cases. They will be notified in writing of the hearing at least seven school working days in advance.

The decision of the Headteacher or the Chair of Governors is final.

The outcome of the appeal will be confirmed in writing to both parties.

## **Confidentiality**

The whole appraisal process and the documents generated under it, in particular, will be treated with strict confidentiality at all times. Ofsted has the right to request appraisal documentation, in an anonymised format, and the school will comply with such requests. Other than this, only the appraisee's line manager or, where they have more than one, each of their line managers will be provided with access to the



appraisee's appraisal report, upon request, where this is necessary to enable the line manager to discharge their line management responsibilities. Appraisees will be told who has requested and has been granted access.

### **Retention of Documents**

Appraisal documents will be retained for a minimum period of 6 years.

### **Training & Support**

The school's Continuing Professional Development (CPD) programme will be informed by the training and development needs identified in the training annex of the appraisees' appraisal reports.

The Governing Body will ensure in the budget planning that, as far as possible, appropriate resources are made available in the school budget for any training and support agreed for appraisees.

An account of the training and development needs of teachers in general, including the instances where it did not prove possible to provide any agreed CPD, will form a part of the Headteacher's annual report to the Governing Body about the operation of the appraisal process in the school.

With regard to the provision of CPD in the case of competing demands on the school budget, a decision on relative priority will be taken with regard to the extent to which: (a) the CPD identified is essential for an appraisee to meet their objectives; and (b) the extent to which the training and support will help the school to achieve its priorities. The school's priorities will have precedence. Teachers should not be held accountable for failing to make good progress towards meeting their performance criteria where the support recorded in the appraisal report has not been provided.

### **Consistency of treatment & Fairness**

The Governing Body is committed to ensuring consistency of treatment and fairness in the operation of appraisal.

To ensure this, the following provisions are made in relation to quality assurance and moderation.

### **Quality Assurance**

The Governing Body will: Nominate the Chair of the Governing Body, who will not be involved in the Headteacher's appraisal or any appeal regarding the Headteacher's appraisal to ensure that the Headteacher's appraisal report is consistent with the school's improvement priorities and complies with the school's appraisal policy and the statutory requirements.

The Governing Body will review the quality assurance processes when the appraisal policy is reviewed.

### **Monitoring & Evaluation**

The Governing Body will monitor the operation and outcomes of the appraisal arrangements.

The Headteacher will provide the Governing Body with a written report on the operation of the school's appraisal policy annually. The report will not contain any information which would enable any individual to be identified.

The report will include:

- The operation of the appraisal policy.
- The effectiveness of the school's appraisal arrangements.
- Teachers' training and development needs.

The Governing Body is committed to ensuring that the appraisal process is fair and non-discriminatory.

The Headteacher will, report annually to the Governing Body, in a confidential section, appropriate details of:

- Any appeals or representations on an individual or collective basis on the grounds of alleged discrimination under any of the categories above in relation to appraisal.
- Cases, including the circumstances, where teachers have not made satisfactory progress towards objectives; and
- Any instances where the training and development set out in the training and development annex of an appraisal report has not been provided.

In providing the information outlined above, the Headteacher should identify whether there are any equality impact concerns based on the protected characteristics of the staff affected.

## **Part B-Capability Procedure**

### **Roles & Responsibilities**

#### **The Governing Body**

The role of the Governing Body is to:

- Initiate this procedure where the concerns relate to the performance of the Headteacher;
- Appoint an appropriate member of the Governing Body to manage the procedure;
- Seek advice and support from the External Adviser where necessary, in accordance with the teachers' appraisal policy; and
- Seek advice and support from their HR representative.

#### **Headteachers**

The role of the Headteacher is to:

- Initiate this procedure where the concerns relate to the performance of school staff - both teachers and support staff;
- Decide if themselves or a senior manager will be responsible for managing the procedure up to a point where a decision regarding potential termination of contract may need to be made;
- Support and assist employees in achieving the required standard of performance (via training and development, coaching etc); and
- Seek advice and support from their HR representative where required.

## **Employees**

All employees have a responsibility to:

- Take full accountability for their own performance and behaviour and be committed to achieving satisfactory levels of performance;
- Work with managers constructively to address any underlying issues which may be affecting performance;
- Be open to constructive feedback; and
- Attend meetings and hearings convened in accordance with the capability procedure.

## **HR & OD**

HR and OD Services have a responsibility to:

- Advise and support managers in the application of this procedure in accordance with the Service Level Agreement (SLA); and
- Support managers at all stages of the procedure including the hearing and appeal in accordance with the SLA.

## **Professional Associations/Trade Unions**

The role of professional association/trade union representatives is to:

- Support their member throughout the procedure;
- Represent their member at each stage of the procedure; and
- Work constructively with managers to assist the employee in improving their performance.

## **The Preliminary Stage**

During the appraisal process for teachers, or during the course of normal day-to-day management for support staff, concerns may be identified about the performance of an employee who is having difficulty achieving an adequate level of professional performance. Where such concerns cannot be resolved through appraisal or day-to-day management, the Preliminary Stage should be implemented to formally advise the

employee of the concerns and to discuss them, to put into place any appropriate support and guidance to assist the employee, and to arrange for progress to be monitored.

The manager will write to the employee inviting them to a Preliminary Stage meeting, outlining the concerns about their performance, and advising them that they may be accompanied at the meeting by a trade union representative or work colleague if they wish.

At the meeting the manager will:

- Give clear feedback to the employee about the nature and seriousness of the concerns.
- Give the employee the opportunity to comment and to discuss the concerns;
- Where personal or domestic circumstances are identified as contributing to the employee's performance issues, support should be provided, if available and appropriate. Examples may be referral to the **Employee Assistance Programme (EAP)**. For more information about the **employee assistance programme** visit <http://thehub/eap>; [where the school purchases this service]; or exploring a temporary adjustment to working hours to accommodate caring responsibilities;
- Agree any support (eg coaching, mentoring, structured observations), that will be provided to help address the specific performance concerns;
- Confirm a monitoring officer to monitor the employee's performance over the review period, and to provide a written report to the manager at the end of the period;
- Set a review period, making it clear how, and by when, the manager will review progress; and
- Explain the implications and process if no, or insufficient, improvement is made, including the possibility that pay progression could be withheld, in accordance with the provisions of the pay policy.

The review period should be reasonable and proportionate, allowing sufficient time for improvement and must be fairly applied to both Teachers and Support Staff. For Teachers, the review period will be up to 4 weeks, depending on the seriousness of the concerns. For Support Staff, who are not covered by an appraisal process, the review period will be between 4 and 8 weeks, depending on the seriousness of the concerns, and may be extended by up to a further 4 weeks.

The manager will confirm the discussion, including the nature of the concerns, the agreed action and timescale for review, in writing to the employee.

Regular contact will be maintained with the monitoring officer during the review period to support and monitor progress.

The manager will consider the written report from the monitoring officer at the end of the review period. If the manager is satisfied that the employee has made, or is making, sufficient improvement, the appraisal process for teachers or day-to-day management process for support employees will continue as normal, with any remaining issues continuing to be addressed through that process.

If the manager is not satisfied with progress, the employee will be subject to the formal stages of the procedure, as described below.

## **The Formal Stages of the Capability Procedure**

The formal stages of the procedure are set out in the paragraphs below.

### **Prior to Initiating the Formal Stages of the Procedure**

Prior to initiating the formal procedure the manager should gather evidence to demonstrate that, the employee concerned:

- Has been informed of the performance required of them and that this is in accordance with their job description;
- Has been provided with the appropriate training and support in order to achieve the required level of performance; and
- Despite the above the employee is failing to achieve the required level of performance.

The manager should identify which aspects of the employee's work are the cause of concern or which of the standards expected of them are not being met.

The manager should also consider whether there has been any significant change in duties or other school circumstances which might account for the employee's performance.

Where personal or domestic circumstances have been identified as a contributory factor to performance concerns, the manager should consider whether any appropriate support could be provided.

## **Formal Capability Meeting**

The manager will give the employee at least five working days' notice, in writing, of the formal capability meeting taking place. The letter will include:

- The decision to move to the formal stages of the capability procedure;
- The purpose of the meeting and who will be present;
- The date, time and location of the meeting;
- The nature and details of the concerns, for example, which of the standards expected of them are not being met;
- Any written evidence to support this view, including any documents or evidence brought forward from the Preliminary Stage;

- The possible consequences if the concerns are found to be substantiated; and
- The right to be accompanied by a companion who may be either a trade union representative or work colleague.

The meeting is intended to establish the facts and will be conducted by the Headteacher/ senior manager, or the Chair of Governors if the employee is the Headteacher. The person conducting the meeting will clearly identify the areas where it is considered that a satisfactory level of performance has not been achieved and will explain the level of performance which is expected.

The meeting allows the employee, accompanied by a companion if they wish, to respond to 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 adjourn the meeting if, for example, they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

## **Outcomes from Formal Capability Meeting**

Possible outcomes from the formal capability meeting are:

- There are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the concerns through the appraisal process or day-to-day management (as appropriate to the employee concerned). In such cases, the capability procedure will come to an end.
- A first caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do not show sufficient improvement, this may lead to a further caution, and ultimately dismissal.
- In exceptional circumstances, where the performance issues are of a very serious nature, a final caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do not show sufficient improvement, this may lead to dismissal.

Where a manager decides to issue a first or final caution they must:

- Identify the professional shortcomings, e.g. which of the standards expected of teachers are not being met; which aspects of their job role an employee is not performing to a satisfactory level;
- 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 the setting of new objectives focused on the specific areas 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 any support that will be available to help the employee improve their performance (this may include, for example, on the job training; observing good practice; additional management support; providing a mentor; modifying workload for a specific period of time – **Appendix 4** provides further guidance);
- Set out the timetable for improvement, confirm who the monitoring officer will be and explain how performance will be monitored and reviewed. (The timetable will depend on the circumstances of the individual case but in straightforward cases could be between 4 and 10 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
- Caution the employee formally that failure to improve within the set period could lead to a further caution, and ultimately dismissal; or, if a final caution has been issued, could lead to dismissal.

The main points covered at the meeting, and the outcome, will be confirmed in writing by letter to the employee within five school working days of the date of the meeting.

Where a caution has been issued, the letter will include the points set out above, together with information about the timing and handling of the review stage and the procedure and time limits for appealing against the caution (see Appeal paragraph below).

## **Monitoring and Review Period following a Formal Capability Meeting**

A formal performance monitoring period will follow the formal capability meeting, for the period of time established at the meeting. During this period the guidance and support discussed at the meeting will be provided, and the employee concerned will be monitored to assess whether they are improving. At the end of the monitoring period, the employee will be invited to a formal review meeting, unless they were issued with a final caution, in which case they will be invited to a decision meeting (see Decision Meeting paragraph below).

## **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 companion who may be a trade union representative or work colleague. The content of the invitation letter should contain the same points as detailed in Formal Capability Meeting 0paragraph above (invitation letter to formal capability meeting).

The purpose of the meeting is to formally review the progress made during the monitoring period, and to decide what, if any, further action should be taken. The employee concerned has the opportunity at the meeting to respond to the matters raised by management.

## **Outcomes from Formal Review Meeting**

Possible outcomes from a formal review meeting are:

- If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and either the appraisal or the day-to-day management process (as appropriate) will re-start.
- 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 by a period of no more than 4 weeks;
- If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do not show sufficient improvement, this may lead to dismissal.

In line with the process following a formal capability meeting, the main points covered at the meeting, and the outcome, will be confirmed in writing by letter to the employee within five school working days of the date of the meeting.

Where a final caution has been issued, the letter will include the points set out in Outcomes from Formal Capability Meeting paragraph above, will clearly inform the employee that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal, and will include information about the timing and handling of the review stage and the procedure and time limits for appealing against the caution (see Appeal paragraph below).

## **Monitoring and review Period following a Formal Review Meeting**

A formal performance monitoring period will follow the formal review meeting, for the period of time established at the meeting. During this period the guidance and support discussed at the meeting will be provided, and the employee concerned will be monitored to assess whether they are improving. At the end of the monitoring period, the employee will be invited to a decision meeting.

## **Decision Meeting**

The decision meeting will be conducted by the appropriate sub-committee of the Governing Body. However, in schools where responsibility for dismissal is delegated to the Headteacher, he/she may conduct the decision meeting.



The purpose of the meeting is to formally review the progress made during the monitoring period, and to decide what, if any, further action should be taken. The employee concerned has the opportunity at the meeting to respond to the matters raised by management.

The employee will be given at least five working days' notice in writing and the letter will include the details as specified in Formal Capability Meeting paragraph above. Copies of any documentation to be considered at the meeting and details of any witnesses to be called will be included with the letter.

If the employee wishes to present documentary evidence to the panel or to call witnesses, details of these should be provided to the committee clerk.

The hearing shall be carried out in accordance with **Appendix 3** of this procedure.

## **Outcomes from Decision Meeting**

Possible outcomes of the decision meeting are:

- **No further action** - an acceptable standard of performance has been achieved during the further monitoring and review period and therefore the capability procedure will end, and the appraisal or day-to-day management process (as appropriate) will re-start;
- 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;
- **Redeployment** – a recommendation to the Governing Body that the employee be offered an alternative post at the school; or
- **Dismissal with notice** - there has been no or insufficient progress following the monitoring period, and the employee is therefore dismissed with notice.

If the decision is to dismiss the employee will be suspended from duty with immediate effect.

In the case of community, community special, voluntary controlled and maintained nursery schools, where the decision is to dismiss, the Chair of Governors must notify the Council of its decision in writing. Within 14 days of the date of notification, the Corporate Director (People Directorate) will terminate the contract with notice in line with contractual requirements.

In the case of VA, Trust and Foundation schools, where the decision is to dismiss, the Chair of Governors will terminate the contract with notice in line with contractual requirements.

The outcome of the decision meeting will be confirmed in writing by letter to the employee.

## **Appeal**

Employees have the right to appeal against a first caution, a final caution, and a dismissal.

Where an appeal is submitted against a first or final caution, this will not delay the formal monitoring process. If an appeal against dismissal is submitted, this will not delay the suspension of the employee, or the dismissal itself, should it not be possible to hear the appeal before the termination date. In the event of a successful appeal after the dismissal, the employee would be re-integrated into the workplace.

An employee wishing to exercise the right of appeal must submit a written appeal to the Clerk to the Governing Body within five school working days of receiving written notification of the first or final caution, or the determination to dismiss and should state the grounds on which the appeal is to be made. (S)he will indicate which of the original documents used at the decision meeting will be re-submitted.

The appeal will be heard by the Appeals Committee of the Governing Body. At least seven working days' notice of the appeal hearing will be given. Part-time employees shall normally only be called to a hearing on one of their contractual days of employment.

At least two school working days prior to the appeal hearing, Management will indicate which of the original documents used at the decision meeting are to be re-submitted.

If either side wish to deal with some aspect that was not included in the documentation previously provided, this is permissible. However, where this applies, the documentation should also normally be submitted to the Clerk to the Governing Body at least five school working days in advance of the hearing in order that it may be forwarded to both parties.

The employee shall have the right to be accompanied to the appeal hearing by a companion who may be either a trade union representative or work colleague.

The Corporate Director – (People Directorate) or his/her representative will attend the hearing in accordance with his/her advisory rights.

The conduct of the appeal hearing shall be in accordance with Appendix 3 to this procedure.

In hearing the appeal, the Appeals Committee shall confirm or reject the decision which is the subject of appeal. This decision shall be final.

If the determination of the Appeal Committee is to confirm the decision to dismiss the employee, notice of termination of contract will continue.

If the decision is to overturn the decision to dismiss the employee, a process for the reintegration of the employee into the workplace and further monitoring of performance, in accordance with either the appraisal or capability procedure, will be

arranged by Management, following discussion with the employee and his/her companion. Notice of termination of contract will be rescinded.

The outcome of the appeal will be confirmed in writing by letter to the employee within five school working days of the hearing.

## **Note on Employment References for Teachers**

From 1 September 2012 Headteachers have the right to request information about a teacher's capability when obtaining a reference request for potential employees.

On receipt of such requests, Headteachers must:

- **Advise in writing whether or not that member of staff has, in the preceding two years, been the subject of the Capability Procedure; and**
- **Provide written details of the nature of the concerns, the duration of the proceedings and their outcome, if known.**

## **Review of the Policy**

The Governing Body will review the appraisal policy every school year at its September meeting.

The Governing Body will take account of the Headteacher's report in its review of the appraisal policy. The policy will be revised as required to introduce any changes in regulation and statutory guidance to ensure that it is always up to date.

The Governing Body will seek to agree any revisions to the policy with the recognised trade unions having regard to the results of the consultation with all teachers.

To ensure teachers are fully conversant with the appraisal arrangements, all new teachers who join the school will be briefed on them as part of their introduction to the school.

## **Data Protection**

Where the Council provides HR support to schools, and in this connection may therefore hold personal information about staff in schools, the Council holds that information in accordance with the General Data Protection Regulation (GDPR).

The school also holds personal staff data in line with the GDPR, as set out in the Data Privacy Primary Notice and Recruitment and Employment Privacy Notice. Further information on GDPR is available from the school.

## **Appendix 1**

### **Classroom Observation Protocol**

The Governing Body is committed to ensuring that classroom observation is developmental and supportive and that those involved in the process will:

- Carry out the role with professionalism, integrity, and courtesy.
- Evaluate objectively.
- Report accurately and fairly; and
- Respect the confidentiality of the information gained.

Where evidence emerges about the appraisee's teaching performance, which gives rise to concern during the appraisal period, classroom observations may be arranged in addition to those recorded at the beginning of the period, following professional dialogue with the teacher concerned.

Information gathered during the observation will be used, as appropriate, for a variety of purposes including to inform school self-evaluation and school improvement strategies in accordance with the school's commitment to streamlining data collection and minimising bureaucracy and workload burdens on staff.

Classroom observations will only be undertaken by people with QTS. In addition, in this school classroom observation will only be undertaken by those who have had adequate preparation and the appropriate professional skills to undertake observation and to provide constructive oral and written feedback and support, in the context of professional dialogue between colleagues.

Oral feedback will be given as soon as possible after the observation and no later than the end of the following working day. It will be given during directed time in a suitable, private environment.

Written feedback will be provided within five working days of the observation taking place. If issues emerged from an observation that were not part of the focus of the observation as recorded in the appraisal report these should also be covered in the written feedback and the appropriate action taken in accordance with the appraisal policy.

The written record of feedback also includes the date on which the observation took place, the lesson observed and the length of the observation. The teacher has the right to append written comments on the feedback document. No written notes in addition to the written feedback will be kept.

Information, guidance, and resources can be accessed from various subscription-based sources, including but not limited to The Key, The National College and Twinkl etc.

## **Appendix 2**

### **Drop in / Learning Walk Protocol**

Headteachers and other leaders with responsibility for teaching and learning standards may carry out short, informal classroom visits (commonly referred to as drop-ins or learning walks) to evaluate the standards of teaching and learning, and to ensure that high standards of professional performance are established and maintained.

The arrangements for those will look different in different contexts but should be co-designed with staff prior to implementation to ensure clarity and shared understanding.

Clearly the appraisal arrangements are integral to fulfilling this duty and Headteachers may consider the classroom observations they have agreed are sufficient and that a drop in will not be needed.

Drop ins will only inform the appraisal process where evidence arises, which merits the revision of the planning element of the appraisal report.

Information, guidance, and resources can be accessed from various subscription-based sources, including but not limited to The Key, The National College and Twinkl etc.

## **Appendix 3**

### **Procedure for Performance Capability Decision Meeting and Appeal Hearing**

1. The Headteacher/Chair of the Committee conducting the hearing will invite all parties into the room and introduce all those present.
2. The purpose of the hearing and the order of proceedings will be explained.
3. Management will present its case, referring to documentation previously made available to all parties, and calling witnesses as appropriate. Witnesses will only remain in the hearing to give evidence and answer any questions.
4. The employee or companion will be given the opportunity to question Management and any witnesses.
5. The Headteacher/Committee hearing the case, and the representative of the Corporate Director (People Directorate) will be given the opportunity to question Management and any witnesses.
6. The employee or companion will make representations to the Committee and may present documentation and/or call witnesses to support the representation, as appropriate. Witnesses will only remain in the hearing to give evidence and answer any questions.
7. Management will be given the opportunity to question the employee and any witnesses.
8. The Headteacher/members of the Committee hearing the case and the representative of the Corporate Director (People Directorate) will have the opportunity to question the employee and any witnesses.
9. Management will be given the opportunity to summarise its case.
10. The employee or companion will be given the opportunity to summarise their representations.
11. Management and the employee and companion will then withdraw, leaving the Committee to consider the representation. The representative of the Corporate Director (People Directorate) will remain to make him/herself available to offer advice to the Committee.
12. The Headteacher/Committee conducting the hearing may recall either party to clear points of uncertainty on representation already given. Should this occur, both parties will be present.
13. Management and the employee and companion will then be invited to hear the decision, and the employee informed of his/her right of appeal, as appropriate

## **Appendix 4**

### **Guidance on Devising an Appropriate Performance Capability Support Programme**

1. The employee should be made fully aware that the aim of the support programme is to assist him/her in improving performance in the job to the appropriate standards.
2. The nature of the support programme will vary from case to case depending upon the difficulties faced by the employee, the amount of assistance that may be required, organisational arrangements in the school and the resources available.
3. When drawing up a support programme consideration may be given to:
  - Identifying and arranging appropriate in-service training
  - Arranging for the employee to observe good practice
  - A reorganisation of work areas, classes or rooms
  - Arranging the observation of the employee's work by someone from the school or outside, who has good experience, and the ability to give constructive feedback on performance
  - Modifying workload for a specified period of time
  - Providing additional management support
  - Provision of a mentor to guide and support the employee towards an improvement in performance
4. The mentor's role is separate and distinct to that of monitoring officer who is responsible for assessing and reporting on performance.
5. The support programme should be confirmed in writing and contain:
  - Details of the support arrangements
  - Where appropriate, specific guidance towards the necessary improvement
  - A time period over which the support programme will be in operation and reviewed
6. A support programme should provide as much support as possible and appropriate at the beginning of the capability process, but the level of support should reduce as the process continues. This tapering level of support maximises the employee's opportunity to make improvements in performance to the required standards, whilst at the same time, allowing the employee's capabilities to be assessed alone (i.e. without the additional support) at the end of the process.