

Employee Capability Procedure

Contents

	Page
Statement of Intent	2
Legal Framework	2
Linked Policies and Key Documents	2
Roles and Responsibilities	2
Purpose and Scope of the Procedure	3
General Principles	4
Confidentiality	5
Consistency of Treatment and Fairness	5
Monitoring the Impact of the Procedure	5
Informal Guidance, Support, Monitoring and Review	6
Stage 1: Formal Assessment Periods and Action	7
Stage 2: Formal Meeting	9
Stage 3: Dismissal Meeting	11
Appeals	11
Appendix 1: Assessment Form	14

Statement of Intent

This procedure sets out the framework for clear and consistent assessment of the overall performance of teaching and professional support staff. It sets out the arrangements that will apply when teaching, including the Headteacher, and professional support staff fall below the expected levels of competence.

The Board of Trustees believes it is management's responsibility to create the circumstances in which all employees can perform well and to provide the necessary support to assist them in achieving their full potential through regular monitoring and feedback.

It is recognised that various circumstances may hinder or prevent satisfactory performance, such as workload, relations with colleagues, the work environment and other personal reasons.

Legal Framework

This procedure has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- The School Staffing (England) Regulations 2009 (as amended)
- DfE (2024) 'Academy trust governance guide'
- DfE (2024) 'Teacher capability' - [Teacher appraisal and capability - GOV.UK](#)
- ACAS (2015) 'Code of practice on disciplinary and grievance procedures'
- DfE (2021) 'Teachers' Standards'
- DfE (2021) 'Staffing and employment advice for schools'
- DfE (2014) 'The Equality Act 2010 and schools'

Linked Policies and Key Documents

This procedure should be read in conjunction with, and has been informed through, reference to:

- Appraisal Policy
- Child Protection Policy
- Code of Conduct
- Confidentiality Policy
- Conduct and Disciplinary Policy and Procedure
- Data Retention Policy
- Grievance Policy
- Pay Policy
- Staff Attendance Policy
- Staff Absence Policy
- School Development Plan (SDP)
- Whistleblowing Policy

Roles and Responsibilities

The Board of Trustees is responsible for:

- Ensuring the effectiveness of this procedure by monitoring and reviewing it annually.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Ensuring that all members of staff have read and understood the provisions in this procedure.
- Setting objectives for the Headteacher, with advice from an appropriate external adviser.
- Taking advice from an external adviser on the assessment of the Headteacher's performance
- Ensuring all objectives contribute towards the SDP and improve the education of students at the school.
- Ensuring all members of the Board are informed that the performance review process has taken place.
- Conducting formal capability meetings where there are concerns about the headteacher's performance.
- Once a decision to dismiss has been taken, dismissing the teacher or Headteacher in question with notice.

- Ensuring consistency of treatment and fairness, and abiding by all relevant equality legislation.
- Ensuring all delegated responsibilities are carried out.
- Undertake their duties in accordance with the terms of this procedure at Stage 2 and Stage 3;
- Maintain confidentiality outside all proceedings they may become involved in as part of this procedure.

The Headteacher is responsible for:

- The day-to-day implementation of this procedure.
- Ensure that the procedure is brought to the attention of all staff.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Informing teachers and professional support staff of the standards against which their performance will be assessed.
- Conducting drop-in observations, where necessary, to evaluate standards of teaching or standards of support in lessons and ensure high standards of professional performance are maintained.
- Conducting formal capability meetings where there are concerns about a teacher's or professional support staff member's performance.
- Giving staff the opportunities to develop and demonstrate their competence.
- Seek to ensure that effective recruitment, induction, training and development arrangements exist so that employees are properly supported in meeting the requirements of their job.
- Communicate clearly any change in the requirements of the job and provide any additional support and guidance required.
- Seek to ensure that if new standards are set they are reasonably attainable by staff.
- Deal fairly and consistently with an employee's continuing unsatisfactory work performance through an appropriate programme of monitoring, support and guidance, explored carefully with the individual and his/her representative or work colleague.
- Ensure that an appraisal review is undertaken for all staff. If the Capability Procedure is activated for an employee their appraisal review will be paused.
- Maintain confidentiality.

Line Managers are responsible for:

- Through their 1:1 line management meetings, regularly reviewing the performance of employees and respond to any situations where an employee's performance is unacceptable.
- Give employees regular feedback on how they are doing.
- Have early discussions with the employee about problems, possible causes and solutions.
- Support the development of employees.

Employees are responsible for:

- Improving their teaching through proactive engagement in appropriate CPD opportunities (Teaching staff).
- Engaging in appropriate CPD opportunities.
- Undertake the duties of their post to the very best of their abilities;
- Make the best use of training, development, support and guidance offered to them to better perform their duties;
- Raise with their Line Manager any problems that are affecting their work;
- Respond constructively to advice, guidance and development provided by their Line Manager;
- Be flexible and cooperate with changing work requirements.
- Producing their appraisal documentation and 60 days plans and attending appraisal review meetings with their Line Manager.
- Adhering to this procedure at all times

Purpose and Scope of the Procedure

This procedure is intended to provide a fair and consistent process for an individual whose performance does not meet the expectation of the management of the school and applies to all employees. It is not intended to cover probationary periods, which are dealt with separately.

Early identification of problems through the appraisal review will help to avoid the need for formal capability procedures. However, the main aim of the procedure is to bring about improvement in performance through

appropriate support, good management and clear expectations. In many cases an improvement can be achieved informally; however, some cases require a more formal approach.

The Headteacher, through the school's Head of Personnel, should seek advice from the personnel advisers of the company used by the School (currently Dataplan Payroll Limited)) whenever action is being contemplated under the provisions of this procedure. The role of the personnel adviser is to provide advice, support, guidance or training to the Headteacher and/or Trustees in preparation for, and during the capability process. They may advise on procedures, employment law and protocols but they must not take part in any decision-making.

The Headteacher should also seek advice from the School Improvement Partner who may be able to offer appropriate education advice.

General Principles

These principles should be read in their entirety before commencing this procedure.

Capability is defined as the ability to perform their duties to the standards required and an employee's capacity to apply appropriate knowledge and skills in order to achieve effective and efficient work standards and practices. Employees should have a clear understanding of what is required of them to meet work standards and practices and the first point of reference should be the job description.

A capability concern is when expected work standards are not achieved or maintained. This could include when an employee:

- Does not make sufficient progress towards the objectives set in their Appraisal Review.
- Does not meet the professional teachers' standards.
- Does not meet any recognised national occupational standards (support staff), supporting learning activities and student development; supporting positive behaviour
- Does not carry out the duties and responsibilities of the post to an acceptable standard.

This procedure aims to deal fairly and consistently with unsatisfactory performance to achieve the required standard. The purpose of this procedure is to improve performance through an appropriate programme of monitoring, support, guidance and training (the support plan), which will be explored carefully with the employee and his/her trade union representative or work colleague. This will include relevant feedback at all stages of this procedure.

Action in the case of employees who do not achieve an acceptable standard of performance because of misconduct will be conducted under the terms of the school's Conduct and Discipline Policy and Procedure.

If it is established that an employee's unsatisfactory performance is due to sickness or ill health, these issues will be dealt with under the provisions of the school's Staff Attendance Policy.

An employee has the right to be accompanied by a trade union representative or workplace colleague of their choice at each stage of this procedure. The trade union representative or workplace colleague should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The trade union representative or workplace colleague does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish or prevent the employer from explaining their case.

To be effective and fair, capability matters will be dealt with promptly.

The procedure includes a number of time related targets for reviewing and assessing performance. In exceptional circumstances the guidelines may need to be exceeded, in which case the employee will be advised accordingly.

All copies of shared records, which the Employee and Headteacher possess, may be kept for a maximum period of two years from the date of the first record. An assessment form, which will assist the Headteacher and Employee in keeping shared records, is provided at Appendix 1.

Should this procedure apply to the Headteacher, a committee of Trustees (normally three) will conduct the formal stages. The Chair of Trustees will normally be responsible for conducting the informal stage with the advice and support of the School Improvement Partner.

Where an employee is subject to the Capability Procedure, any annual increment due for professional support staff or progression on to the next pay scale for teachers will be withheld for the duration the Capability Procedure is in operation. The outcome of the Capability Procedure will determine if the pay increment will be then be awarded.

If the member of staff is on long term sick leave, the procedures will continue as outlined in the Procedure.

Sickness absence should not delay or avoid the use of formal capability procedures. It is in the interests of all parties to address concerns about performance without undue delay. Arrangements will be made to seek medical advice from an occupational health advisor to assess the employee's health and fitness for continued employment at the school, but will not take place during a phased return. Capability procedures are suspended whilst an employee is returning to "full" working.

Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements. This may include changing the employee's duties or providing additional equipment or training. Where this may be the case, the school may also consider making adjustments to this procedure in appropriate cases, e.g. consideration may be given to moving from this procedure to the Staff Absence Policy to terminate the employee's service on the grounds of ill health.

If an employee's condition is not serious enough to warrant consideration of termination of employment on the grounds of ill health, the occupational health advisor will be asked to assess whether an employee absent through sickness is fit enough to attend a meeting under the Capability Procedure. If considered not fit to attend a meeting he/she may present a written submission for consideration and/or be represented by a companion in his/her absence.

Confidentiality

The capability process will be treated with confidentiality. Only those with a need to know will be informed that the procedure has been initiated. However, the desire for confidentiality does not override the need for the Headteacher and Board of Trustees to quality-assure the operation and effectiveness of the appraisal system.

At Cirencester Kingshill, the Headteacher reviews all teachers' objectives and written appraisal records and professional support staff written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. Staff members will also be invited to present their appraisal documentation to the Headteacher and/or at a Board of Trustees' Pay Panel meeting.

Consistency of Treatment and Fairness

The Board of Trustees is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled employees. The Board of Trustees is aware of the guidance on the Equality Act issued by the Department for Education.

Monitoring the Impact of the Procedure

The Board of Trustees and Headteacher will monitor the outcomes and impact of this procedure on an annual basis and assess its effect and the school's continued compliance with equalities legislation. This will include ensuring that the arrangements minimise the impact on workload for all parties involved

The Board of Trustees and Headteacher will ensure that all written records of capability procedures are retained in a secure place for six years in line with the school's Data Retention Policy and in accordance with DfE guidance.

Informal Procedure: Informal Guidance, Support, Monitoring & Review

1. As part of their acknowledged management responsibilities, the Headteacher may from time to time discuss aspects of performance with a member of staff and their Line Manager. Such discussions will take place informally and should not be constrained by, or come within, the scope of these procedures, nor shall counselling and advice given in this informal way count as warnings within the scope of these procedures. The status of the discussion shall be made known to that member of staff. The fact that attempts have been made previously to resolve informally aspects of an employee's performance may, however, be a valid reason for deciding that subsequent performance will be dealt with under the formal procedures.
2. If the Headteacher feels that it is necessary to record informal discussions with an employee about aspects of performance, such a written record will be in the form of minutes and a copy of it will be given to the employee concerned, in the same way as notes can be made of discussions about other aspects of an employee's work such as development of teaching programmes. The Headteacher will also advise the employee of their right to representation at these meetings.
3. Any cause for concern about the performance of an employee will have already been the subject of informal discussions, and the Headteacher will have already drawn to the attention of the employee, the ways in which their performance is deficient and provided the employee with an opportunity to make representations.
4. An agreed support plan will be implemented with the employee to support the employee improve their performance and monitoring and review periods will be agreed and confirmed in writing to the employee. Monitoring will also take place at the 1:1 line management meetings, supported by the RAG rating process in a similar way to the Appraisal 60 days plans, which will be used at the monitoring and review meetings with the Headteacher.
5. Should information emerge during the course of informal guidance, support and monitoring, that the employee's performance continues to be unsatisfactory; the matter will be dealt with under this formal Capability Procedure. The employee will be advised immediately and any meetings/discussions, which are part of the informal guidance and support, shall be ended. The Headteacher will proceed to Stage 1 of this Procedure and inform the employee of this in writing (see paragraph 6 below).

Formal Procedure

Stage One – Formal Assessment of Performance

1. The purpose of Stage One is to enable the employee to reach a satisfactory standard of performance and perform their duties to the standards required. A formal capability meeting will only be arranged once the staff member has been given every other opportunity to improve, and where there is still persistent failure to meet job expectations. The formal assessment procedure should seek to address all the matters that have been giving cause for concern.

Formal action should be taken when the employee has:

- Repeated occasions of poor work standards or where matters have not improved following informal action.
 - Previous formal warnings on file for poor work standards that are still current and there continues to be a performance concern.
 - Performance concerns that are so serious they cannot reasonably be addressed through informal action.
2. When a decision is taken to move to a formal meeting, the employee will be notified in writing, enclosing an additional copy of the correspondence, of the following:
 - i) Where and when the formal meeting will take place, giving five working days' notice.
 - ii) That it is a formal meeting at Stage One of the procedure (a copy of this procedure should be enclosed) and could lead to a formal verbal warning.
 - iii) The areas of performance that are causing concern, which will contain sufficient information about performance-related concerns and their possible consequences to enable the teacher to prepare a defence for the formal capability meeting
 - iv) Who will be attending the meeting and the employee's right to call witnesses. This will normally be the Headteacher and the employee's Line Manager. The Head's PA or Personnel Manager will attend the meeting to take the minutes.
 - v) Copies of any supporting evidence that the Headteacher may refer to at the formal meeting.
 - vi) The right to be accompanied by a Trade Union representative or workplace colleague (the additional copies of the procedure, correspondence and supporting evidence are for the representative).

Notes will be taken of formal meetings and a copy sent to the employee. Where a warning is issued, they will be informed in writing of the matters covered in the bullet points below and given information about the timing and handling of the review stage, and the procedure and time limits for appeals.

- Identify the professional shortcomings of the employee.
- Give clear guidance on the improved standard of performance needed to ensure that that the employee can be removed from formal capability procedures.
- Explain any support that will be available to help the employee to improve their performance.
- Outline the timetable for improvement while taking into account the employee's personal circumstances.
- Explain how performance will be monitored and reviewed.
- Formally warn the employee that failure to improve within the set period could lead to dismissal.

Education Of Students is in Jeopardy

3. In very exceptional circumstances, where the Headteacher can demonstrate that the performance of a teacher is putting the “education of students in jeopardy”, the first and second assessment periods (see below) will be replaced with an assessment period of a maximum of four working weeks. This action must only be taken after consultation and agreement with the Chair of Trustees. Where the teacher is a member of a Teacher Association, the Branch Office should be contacted and informed before the teacher is notified. This is to ensure the appropriate support and advice is available at the earliest stage. Where the teacher is a Trade Union official, the relevant Regional Officer should be notified.

Monitoring and Review Period following a Formal Capability Meeting

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

The employee will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a dismissal meeting.

First Review Meeting

5. The Headteacher shall arrange a formal meeting (as stated in paragraph 6). The employee shall be notified of this in writing (see paragraph 6) with five working days’ notice.
6. At the formal meeting, where there has been identification of professional shortcomings, in consultation with the employee, the Headteacher shall provide a support programme to help improve performance. This may include mentor support. Areas of weakness will be clearly identified together with targets for improvement and success criteria, (see Assessment Form, Appendix 1). A timescale and timetable for monitoring and review, taking into account an employee’s personal circumstances, will be determined by the Headteacher and will normally be 8 working weeks. A formal verbal warning could be issued (to remain on the employee’s file for 6 months). The employee will be warned that failure to improve within the set period could lead to dismissal. The employee shall be advised of the right of appeal (see paragraph 26 Appeals). The Headteacher will confirm all these details, in writing, after the meeting. The letter should contain:-
 - i) The reason for the decision.
 - ii) The level of warning and its duration if issued.
 - iii) Expected improvements, including timescales, training and support (the Action Plan).
 - iv) Consequences of a failure to improve or make satisfactory progress.
 - v) The right of appeal
7. At the end of the monitoring and review period following a formal capability meeting, the Headteacher shall arrange a review meeting to review the employee’s performance and determine one of three courses of action:-
 - i) If the Headteacher is of the view that the employee’s performance has improved sufficiently, he/she shall inform the employee in writing (within five working days of the review meeting) confirming that the procedure has ended but the formal verbal warning if issued will remain in place for 6 months.
 - ii) If it is identified that the employee’s overall level of performance has improved, and a number of targets for improvement have been achieved but not in every area, or has not yet shown that improvement can be sustained, the first assessment period may be repeated. Where this occurs it shall be confirmed in writing within five working days of the review meeting.

- iii) If it is identified that there is no or insufficient improvement in the employee's performance the Headteacher shall proceed to the second assessment period.

Second Review Meeting

8. The Headteacher shall arrange a meeting with the employee. The employee shall be notified of this in writing with at least five working days' notice and this letter shall:
 - i) Inform the employee of the ways in which his/her performance remains unsatisfactory;
 - ii) Include details of the supervision and support that shall be made available to support the work of the employee (this may include direct supervision by a colleague who is experienced and competent in the work and mentor support);
 - iii) Determine another review period, normally 8 working weeks including a meeting at the end of the review period.
9. At the end of the second monitoring and review period the Headteacher shall meet with the employee and determine one of the following courses of action:-
 - i) If the Headteacher is of the view that the employee's performance has improved sufficiently, he/she shall inform the employee accordingly and confirm in writing that the procedure will end within five working days of the meeting but the formal warning shall remain in place for 6 months from the start of the First Assessment Period.
 - ii) If the Headteacher believes that the matter is not serious enough to warrant referral to Stage Two but feels there are grounds for formal action, the Headteacher may issue a first written warning (which will remain on the employee's file for 12 months). The decision shall be confirmed in writing as soon as possible and in any case within five working days of the meeting. The Headteacher will also provide the employee with a further opportunity to improve performance in accordance with paragraph 21 of this document. The employee shall be advised of the right of appeal (see paragraph 26 Appeals).
 - iii) If the Headteacher believes there has been insufficient improvement and there are serious concerns with the employee's performance, he/she shall be informed that the matter will proceed to Stage Two of the procedure. The employee should be made aware of the precise areas of poor performance (if an employee has an Appeal pending against Stage One action, the Headteacher may not proceed to Stage Two until the outcome of that Appeal is known).

Stage Two – Formal Review Meeting

Formal Review Meeting – Rights of the Employee

10. Where it is found that there are grounds to move to stage two of the procedure the employee shall be advised by the Headteacher of the following in writing, and given notice of not less than 10 working days' and not normally more than 25 working days of:
 - i) The nature of the unsatisfactory performance, together with copies of any documentation/evidence submitted or to be submitted to the Trustees together with any statements made by witness;
 - ii) The agreed date, time and venue of the hearing (including proposed timing of the hearing);
 - iii) The right of the employee to request a postponement of the hearing should there be exceptional circumstances;
 - iv) The employee's right to be represented at the capability hearing;

- v) The right of the employee or his/her representative to make written submissions which should be provided to all parties not less than five working days prior to the hearing and/or to make statements at the hearing. He/she shall also be advised of his/her right to ask questions, present evidence, respond to evidence, call witnesses and also to question any witnesses called by a person presenting the case against him/her.
- vi) The employee will be advised that his/her job is at risk and that they could be dismissed if unsatisfactory performance is established (at this stage the capability panel will not be made aware of any other “live warnings” as this may prejudice their consideration of the case).

Review Meeting Before the Capability Panel of the Board of Trustees

11. The review meeting will be before a Panel of three Trustees selected from the Staffing Committee of the Board of Trustees. They may be assisted, in an advisory capacity, by the Head of Personnel. Minutes will be kept by the Governance Professional, or if this is not appropriate the Personnel Manager.

12. Procedure for The Review Meeting

- i) The Headteacher will present the case against the employee and shall be required to give details of the areas of unsatisfactory performance and shall be able to call witnesses to give evidence.
- ii) The employee or his/her representative and the Capability Panel shall have the opportunity to question the Headteacher and any witnesses.
- iii) The employee or his/her representative will then put the employee’s case to the Capability Panel and shall be able to call witnesses to give evidence.
- iv) The Headteacher and the Capability Panel shall have the opportunity to question the employee or his/her representative and witnesses.
- v) The Headteacher may make a closing statement but no new evidence may be introduced at this stage. The Headteacher should ensure that any advice s/he wishes to give to the Panel is given as part of her/his summing up.
- vi) The employee or his/her representative shall have the right of final reply. No new evidence may be introduced at this stage.

Withdrawal of Parties from the Review Meeting While the Case is Considered

13. The Headteacher and the employee (and representative) should then withdraw, leaving the Panel to deliberate in private with only the Governance Professional and the Head of Personnel. The Panel may recall the Headteacher and the employee, with the employee’s representative, to clear points of uncertainty on the evidence which has been given, provided that both parties are recalled even if the point of uncertainty concerns the evidence of one party only.

The Finding and Subsequent Action

- 14. The Panel shall determine whether, on the balance of probabilities, the employee’s performance is unsatisfactory.
- 15. If the Panel does believe the employee’s performance is satisfactory, it shall dismiss the case and inform both parties forthwith (orally, if possible) and in writing, within five working days of the Review Meeting. Under these circumstances, no record of the case shall be kept.
- 16. If the Panel considers the employee’s performance is unsatisfactory, depending on its judgement of the

seriousness of the case, the Panel will determine one of the sanctions specified below.

- i) If some progress has been made and there is a confidence that more is likely, it may be appropriate to extend the monitoring and review period
 - ii) If no or insufficient improvement has been made during the monitoring and review period, award a final written warning, which will set out the areas where performance standards have not been met, targets for improvement, any measures which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards, which may result in dismissal. The final written warning will remain on the employee's file for a period which shall be determined by the Panel; up to a maximum of two years.
 - iii) By agreement with the employee redeploy the employee to an alternative post within the School (in the case of teachers this may include the withdrawal of points of responsibility and/or withholding experience points, for support staff if the role redeployed into is of a lower salary level then the lower salary level would apply.) Redeployment may also include a warning as part of the formal action.
 - iv) Recommend dismissal of the employee.
17. Both parties shall be called before the Panel and informed of the Panel's decision. This will be confirmed, in writing, within 5 working days of the Hearing. The employee will also be informed of their right to Appeal.
18. In the event that the decision of the Trustees' Capability Panel is to issue a final written warning and, subject to any Appeal being heard by the Appeals Panel of the Board of Trustees, the employee shall be given a further opportunity to improve his/her performance. This will include appropriate support and guidance. The date for the final review meeting (4 working weeks from the start of the Support Plan) will be agreed with the employee. The employee will be informed that a failure to improve at this stage is likely to result in dismissal.
19. After 4 working weeks the Headteacher will meet with the employee to assess progress against the targets set and determine one of the two following courses of action:-
 - i) If the employee's performance has improved sufficiently, the Headteacher will inform the employee accordingly and confirm, in writing (within five working days of the review meeting) that the procedure has ended but the final written warning will remain in place for 2 years from the date of the Panel Hearing.
 - ii) If performance is still unsatisfactory the Headteacher will inform the employee that the matter will be referred to the Trustees' Dismissal Panel. The result of the final review meeting, the main concerns about the employee's performance and the date of the dismissal hearing (if known) will be recorded in a letter to the employee.

Stage 3 - Dismissal Meeting

20. The Meeting to consider the dismissal of the employee will be conducted by the Trustee's Dismissal Panel which where possible will be a different three Trustees to those who sat on the Capability Panel but always with a different Chair. The Meeting must be convened following the same procedures as the Stage Two Formal Meeting (paragraphs 10 to 19 of this document). The employee will be given written notice of not less than 10 working days' and not normally more than 25 working days of the date of the Meeting. The letter will include any documentation/evidence submitted or to be submitted to the Trustees together with any statements made by witnesses and the right of representation.
21. The Headteacher will be responsible for presenting the case for dismissal. The employee will have the opportunity to respond and make any representations regarding the case. After hearing the representations from both sides, a decision will be made on whether or not to dismiss. The decision will be confirmed to the employee in writing within 3 working days.

22. Should a decision be made to dismiss, the letter confirming the decision of the Panel will include the date on which the employment contract will end, the appropriate period of notice and whether the notice is to be served or there will be pay in lieu of notice, and the right of appeal. Should the employee subsequently be successful in an appeal, notice will be rescinded.

Appeals

23. At all stages of the formal procedure, employees may exercise their right of appeal against a capability warning or dismissal. The appeal stage is part of a statutory procedure and if the employee pursues an employment tribunal claim the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal.
24. To appeal, the employee should write to the Governance Professional (or other nominated person) within 10 working days of the written confirmation of the outcome of the hearing. The letter should state the grounds for appeal and should enclose any supporting information. Supporting information not available at this time should be submitted as soon as possible, and in any case prior to the date of the appeal hearing, allowing time for the School to collate, paginate and distribute a bundle three working days prior to the meeting. Where the appeal period overlaps with a pre-determined holiday period, e.g. out of term-time for term-time only employees, the letter of appeal needs only to register the intention of appeal, however a fully detailed letter should arrive within five working days following the end of the holiday period.
25. An Appeals Panel of three Trustees not previously involved with the case will conduct appeal meetings. Where there has been an appeal at an earlier stage of the procedure, the same Trustee may conduct all appeals. Appeals shall be restricted to considering the reasonableness of the decision, any relevant new evidence not previously available or any procedural irregularities.
26. The decision of the appeal committee will be final within the procedures, and should be confirmed in writing to the individual. Should the outcome of the appeal change the original decision, the committee will need to make clear the terms of that decision, however, the original decision imposed can be reviewed but it cannot be increased. Should a decision be made not to dismiss, the dismissal notice will be withdrawn as soon as possible.

CIRENCESTER KINGSHILL SCHOOL

Employee Capability Procedure

Reviewed by: S Gardiner (Head of Personnel)

Date: November 2024

Adopted by Governors: 19 November 2024

Signed: *E. Rowbottom*

Date: 25.11 2024

Next Review Date: November 2025

Appendices

Appendix 1

CIRENCESTER KINGSHILL SCHOOL EMPLOYEE CAPABILITY PROCEDURE

STRICTLY CONFIDENTIAL

EMPLOYEE

POSITION

STAGE

ASSESSMENT PERIOD

Targets for improvement to be set with time scales (See Guidance for areas of work where targets can be used for Classroom Teachers)

Targets must be prioritised and related to relevant teaching standard and post threshold teacher standards (if relevant).

Progress made towards target for improvement

Person(s) responsible for supporting the employee towards achieving the target

Means of support

Person(s) undertaking the monitoring of the employee towards achieving the target

Means of monitoring progress

Signed: _____ (Employee)

Signed: _____ (Headteacher)

Date: _____

Guidance on Areas of Work Where Targets Can Be Set for Classroom Teachers

CURRICULUM

- **Planning & preparation**

e.g. Subject knowledge (where appropriate)

Clear aims and objectives

Detailed lesson plans

Use of scheme of work

- **Assessment, recording & reporting**

e.g. Marking of work

Feedback to students

Maintenance of adequate records

Appropriate reporting for discussions with parents, students, colleagues

Adherence to school policies

Students make expected levels of progress and achieve FFTD targets and grades

CLASSROOM MANAGEMENT

e.g. Ability to maintain purposeful, orderly and effective learning atmosphere

Teaching strategies and skills

Relationships with students

Classroom environment and resources

THE WIDER ROLE

e.g. Relationships with colleagues

Whole-school responsibilities (pastoral, duties, etc.)

Professional values and development