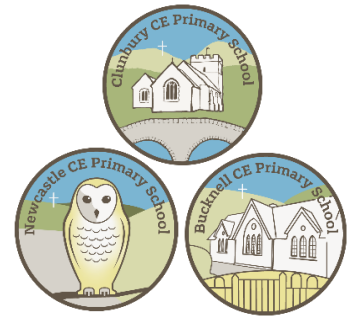




Blue Hills Federation



PROFESSIONAL SUPPORT & CAPABILITY PROCEDURES FOR TEACHERS

The Blue Hills Federation

The Blue Hills Federation is a collective of three primary schools – Clunbury CE Primary School, Newcastle CE Primary School and St Mary’s Bucknell CE Primary School. All three schools share one Executive Headteacher and one Governing Body. When using the term ‘Blue Hills Federation’ within this policy, it is in reference to all three schools. When policy only applies to one school that school will be named specifically. Newcastle CE Primary School does not have a nursery or a preschool, therefore any references to nursery or pre-school do not apply to Newcastle CE Primary School.

Our Vision

Proverbs 22:6 - Good News Bible

‘Teach children how they should live, and they will remember it all their lives.’

We are a caring Church Federation bringing together and serving many communities.

We provide nurturing environments that facilitates learning for all. We encourage everybody to become confident, sociable and responsible citizens who achieve to the best of their ability in preparation for a fulfilling future.

Our Values

Trust and Truth; Joy and Happiness; Love and Respect; Thankfulness;
Friendship and Family; Perseverance and Resilience

Review Date: Spring 2024

Professional Support & Capability Procedure for Teachers

This Procedure has been subject to consultation and negotiation with Trade Unions set out below and will only be subject to further review following consultation with the following Trade Unions:

- Association of School and College Leaders
- National Association of Headteachers
- National Association of Schoolmasters Union of Women Teachers
- National Education Union

This policy has been adopted by the governing body of The Blue Hills Federation
Spring Term 2024

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Professional Support & Capability Procedure for Teachers

The Governing Body of the Blue Hills Federation adopted this procedure from Spring Term 2024 following consultation with the recognised teaching unions.

1. Purpose

- 1.1. A teacher is expected to demonstrate consistently high standards of personal and professional conduct. This procedure has been adopted for use in managing serious concerns over the performance of a teacher, or the headteacher, employed by the school. Its aim is to help the teacher, or headteacher, to improve their performance in order to achieve the professional standards, including meeting the Teacher's Standards, expected of the profession and to ensure fairness and consistency in the treatment of staff who are subject to action considered necessary to address unsatisfactory performance.
- 1.2. The procedure does not deal with misconduct, which may be defined as 'an act or omission which is considered to be unacceptable professional behaviour, or capability which is related to ill health.' Whilst all school staff have a duty to safeguard pupils' well-being, in accordance with statutory provisions, matters relating to safeguarding will be considered under alternative procedures, such as Low-Level Concerns, Disciplinary and Allegations of Abuse against Staff.
- 1.3. The procedure has been drawn up to ensure compliance with the ACAS Code of Practice on Disciplinary and Grievance Procedures, the Employment Rights Act 1996, Section 98(3)(a) the School Staffing (England) Regulations 2009, relevant regulations relating to school governance and any guidance issued by the Department for Education (DfE).

2. Application of the procedure

- 2.1. The procedure covers all teaching staff employed by the school other than those subject to the statutory induction period for Early Careers Teachers (ECTs) and any teacher employed on a supply teaching basis where no guarantee of further employment has been given.
- 2.2. The Governing Body is committed to ensuring that the capability procedure will be applied fairly and consistently and in a non-discriminatory way, in accordance with the Equality Act 2010.
- 2.3. The Governing Body will ensure reasonable adjustments are considered, where appropriate, in the operation of this procedure and at all stages.
- 2.4. Confidentiality will be maintained throughout all stages of the procedure, wherever possible.
- 2.5. Teachers are encouraged to contact their Trade Union representative as soon as concerns are discussed. Under this procedure, if a Trade Union representative cannot attend a set meeting date the school will commit to rearranging any meeting within 5 working days of the original date. If a representative is still unavailable, meetings will proceed and it will be the teacher's responsibility to make the necessary arrangements for them to be accompanied or represented, appropriately.
- 2.6. The wellbeing of teachers will be a significant consideration and will be monitored during each stage of this procedure. Where appropriate, an Occupational Health assessment will be undertaken and appropriate measures and support put in place. Headteachers will be

mindful of the effect of this procedure on a teacher's mental health throughout. HR advice should be sought throughout this procedure.

3. Professional Support Procedure

- 3.1. The Professional Support Procedure should be implemented where there are serious concerns about the employee's performance, particularly in meeting the Teacher's Standards. The operation of this procedure can work independently of the Schools Appraisal procedure. Ideally, Headteachers (or other line managers) should address any initial performance concerns using the Appraisal Procedure. The school's Appraisal Procedure establishes that teaching staff, including the headteacher, are subject to assessment of performance against objectives set and the professional standards relevant to their role within the school.
- 3.2. An employee's performance should be regularly reviewed and assessed through the appropriate processes agreed at school level. Constructive feedback should be given along with support for any aspects of their performance which need improvement.
- 3.3. If concerns persist, and where there is evidence of serious concerns about a teacher's performance and/or the teacher fails consistently to meet the relevant standards (including Teacher's Standards), despite the provision of appropriate support and any training, the Headteacher will invite the teacher to a Professional Support Meeting in order to consider and discuss the documented evidence and the concerns relating to the perceived lapse in performance.
- 3.4. The following Professional Support stage of the procedure is informal support and does not constitute Formal Capability which would require suspension of pay progression and disclosure of capability in any reference request.

4. Professional Support Meeting

- 4.1. The teacher will be given five working days' written notice of a Professional Support Meeting. The teacher has a right to be accompanied by a colleague or a trade union representative.
- 4.2. In the written notice, the Headteacher will clearly set out the specific concerns to be discussed.
- 4.3. During the meeting, the concerns will be discussed which will allow the teacher the opportunity to comment on the evidence and offer any explanation for why their performance may be unsatisfactory.
- 4.4. Where the concerns relate to the performance of the Headteacher (which may include reference to non-statutory National Standards for Headteachers), it will be for the Chair of Governors to meet with the Headteacher and their representative and make a decision on the requirement to implement Professional Support. The Chair of Governors must firstly seek advice from the School Improvement Adviser and HR Advisor before taking action under this procedure.
- 4.5. Prior to any action, the Headteacher (or Chair of Governors) will take advice from an appropriate HR Advisor who will also normally attend the Professional Support Meeting.
- 4.6. Where, at the conclusion of the meeting, the Headteacher (or Chair of Governors) is of the view that any concerns may continue to be addressed through the school's Appraisal Policy, this will be confirmed in writing within 5 working days of the meeting.

- 4.7. Where, at the conclusion of the meeting, the Headteacher (or Chair of Governors) decides that there are serious concerns, the management of the teachers performance under Appraisal Procedures will be suspended, and the teacher's (or Headteachers) performance will be addressed through the implementation of the Professional Support Stage of this procedure.
- 4.8. The Headteacher (or Chair of Governors) will promptly confirm this, in writing, within 5 working days setting out:
- (a) the specific nature of the performance concerns discussed during the meeting;
 - (b) relevant targets for improvement and action;
 - (c) the arrangements for providing advice and support; e.g., observation of colleagues, visits to other schools, coaching, training etc;
 - (d) the arrangements for the monitoring of performance and feedback, including lesson observations, review of other evidence etc. Such monitoring will be reasonable and proportionate to the concerns being addressed.
 - (e) the period, frequency and format over which performance will be monitored and reviewed (weekly reviews with teacher and representative should be discussed);
 - (f) that at the end of the review period the Headteacher (or Chair of Governors) will consider the evidence to determine whether satisfactory improvement has been made or whether action under the formal stage of this capability procedure will be necessary. A date for a meeting at the end of the review period will also be confirmed.
- 4.9. The review period set by the Headteacher (or Chair of Governors) should be sufficient to allow reasonable time for improvement but will depend on the circumstances of the individual case. It should be reasonable and proportionate, providing sufficient opportunity for improvement to take place. The length of time required will depend on the concerns raised, the nature of any support and training required, and allow sufficient time to establish whether performance has improved. The timetable should be no less than 6 weeks and no more than 10 weeks.
- 4.10. Advice and support during the review period may be provided both from within and outside the school.
- 4.11. A meeting will be convened at the end of the review period, at which the Headteacher (or Chair of Governors) will review evidence and discuss progress made and decide whether or not satisfactory progress has been made. The teacher (or Headteacher) will have the opportunity to submit any appropriate evidence for consideration.
- 4.12. The Headteacher (or Chair of Governors) will confirm their decision at the end of the review meeting which will be one of the following:
- a) That satisfactory progress has been achieved, the Professional Support stage will cease, and the monitoring and assessment of the teacher's (or Headteacher's) performance will resume, under the school's Appraisal Policy.
 - b) That some progress has been made and the Professional Support stage will be extended for a further period not exceeding 4 weeks.
 - c) That unsatisfactory progress has been made and the teacher's (or Headteacher's) performance will be considered at a Formal Capability Meeting (see section 5 below).
- 4.13. If during the review period set more serious concerns arise, or if the teacher (or Headteacher) fails to engage in the process, the Headteacher (or Chair of Governors) may

determine that a formal capability meeting will be called, and held, in accordance with section 5 below.

- 4.14. Decisions related to pay progression will be suspended during the Professional Support stage.

Formal Capability Procedure

5. Stage 1 - Formal Capability Meeting

- 5.1. The teacher (or Headteacher) will be given in writing at least five working days' notice of a formal capability meeting. The notification will contain:
- a) sufficient information about the performance concerns and failure to meet the required standards (including specific teacher's standards*) to enable the teacher to prepare to answer the case at a formal capability meeting;
 - b) the possible outcomes of the meeting i.e., a formal warning;
 - c) copies of any written evidence;
 - d) that any information the teacher (or Headteacher) wishes to be taken into consideration be submitted 3 working days prior to the meeting;
 - e) the details of the time and place of the meeting;
 - f) confirmation of the right to be accompanied by a professional association/trade union representative or colleague.
- 5.2. A HR Advisor will be present to provide procedural advice to the Headteacher or Chair of Governors (where the Headteacher's performance is under consideration).
- 5.3. This meeting is intended to establish the facts. It will be conducted by the Headteacher or the Chair of Governors (for Headteacher capability meetings). The meeting is intended to allow the teacher (or Headteacher) to respond to concerns about their performance and their failure to meet the required standards (including specific teacher's standards*) and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.
(*Trade Unions would only expect to see the DfE Teachers' Standards being used).
- 5.4. This meeting will be conducted as follows:
- a) The Headteacher (or Chair of Governors for Headteacher capability) will confirm the status and purpose of the meeting and will set out the grounds for concern by reference to the evidence derived from an assessment of performance under the Professional Support stage of the procedure.
 - b) The teacher (or Headteacher for Headteacher capability) together with their representative may ask questions of the Headteacher (or Chair of Governors).
 - c) The teacher (or Headteacher) or their representative may provide oral and/or written representations in response to the evidence under consideration.
 - d) The Headteacher (or Chair of Governors) may ask questions of the teacher (or Headteacher) and their representative.
 - e) The Headteacher (or Chair of Governors) will ask the parties present whether there are any final points they wish to be taken into consideration.
- 5.5. Where the responsibility for the monitoring of performance under the Professional Support stage of this procedure was delegated to another individual (e.g., senior member of staff,

appointed Advisor), they will attend the meeting to present the evidence and to provide any clarification needed over the evidence under consideration. The process at paragraph 5.4(a) to (e) above will be expanded to allow for their presentation of evidence and questioning by the parties present.

- 5.6. The Headteacher (or Chair of Governors) conducting the meeting may conclude that it would not be helpful to continue under the capability procedure and that it would be more appropriate to continue to address any remaining concerns through the appraisal process. In such cases, the capability procedure will be concluded. This decision will be confirmed in writing within 5 working days of the meeting.
- 5.7. The Headteacher (or Chair of Governors) conducting the meeting may also adjourn the meeting, for example if they decide that further investigation is needed or that more time is needed in which to consider any additional information. If the meeting is adjourned, this decision will be confirmed in writing. The meeting should be reconvened within 10 working days wherever possible.
- 5.8. Where at the conclusion of the formal capability meeting the Headteacher (or Chair of Governors) considers that there are grounds for the teacher's (or headteacher's) performance to be managed under the formal stage of the capability procedure, they will confirm the following in writing within 5 working days:
 - (a) issue the teacher (or Headteacher) a formal warning or, exceptionally in very serious cases, a final written warning; and
 - (b) identify the performance concerns, for example which of the standards expected of teachers are not being met; and
 - (c) give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (which guidance should be set out in an action plan - see Annex 1 - and must include the setting of new objectives focused on the specific weaknesses that need to be addressed, and 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); and
 - (d) explain the support that will be available to help the teacher improve their performance;
 - (e) set out the timetable for improvement; and
 - (f) explain how performance will be monitored and reviewed (which could include the involvement of an independent External Advisor); and
 - (g) warn the teacher formally that failure to improve within the set period could lead to dismissal.
- 5.9. The timetable for improvement will depend on the circumstances of the individual case. It will be reasonable and proportionate providing sufficient opportunity for improvement to take place. The timetable will be no less than 6 weeks and no more than 10 weeks.
- 5.10. An appropriate notetaker will be appointed to take notes of formal capability meetings and a copy promptly sent to the member of staff. The member of staff will have opportunity to comment on the notes for accuracy and any disagreements will be noted.
- 5.11. Where a warning is issued, the teacher will be informed in writing of the matters covered in paragraph 5.8 and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.
- 5.12. During the period of formal capability, decisions related to pay progression will be suspended.

6. Monitoring and review period following a Stage 1 - Formal Capability Meeting

- 6.1 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period and will be reflected in the action plan (see Annex 1 & 5 for an example action plan). At the end of the review period the member of staff will be invited to a stage 2 formal capability review meeting unless they were issued with a final written warning, in which case they will be invited to a stage 3 formal capability decision meeting (see paragraph 8 below).

7. Stage 2 - Formal Capability Review Meeting

- 7.1 As with formal capability meetings, at least five working days' notice of the review meeting will be given in writing. The notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a colleague or a Trade Union representative. Any information the teacher (or headteacher) wishes to be taken into consideration must be submitted 3 working days prior to the meeting;
- 7.2. An HR Advisor will be present to provide procedural advice to either the headteacher or chair of governors.
- 7.3. Any Independent External Advisor who has been monitoring and evaluating performance will also be in attendance.
- 7.4. This meeting will be conducted in accordance with the procedure set out at Annex 2.
- 7.5 If the Headteacher (or Chair of Governors) conducting the meeting is satisfied that:
- a) The teacher (or headteacher) has made sufficient improvement; the capability procedure will cease, and the appraisal process will re-start; **or**
 - b) If some - but not sufficient - improvement has been made but the headteacher/Chair of Governors is confident that more is likely, the first monitoring and review period will be extended; **or**
 - c) If no, or insufficient improvement has been made during the first monitoring and review period, the teacher (or headteacher) will receive a final written warning and will commence a second period of monitoring after which the teacher will be invited to a decision meeting.

All of the above decisions will be confirmed in writing within 5 days of the end of the meeting.

- 7.6 An appropriate notetaker will be appointed to take notes of formal capability meetings and a copy promptly sent to the member of staff. The member of staff will have opportunity to comment on the notes for accuracy and any disagreements will be noted.
- 7.7 Any final written warning will mirror any previous warnings that have been issued, as set out in section 5.8 above.
- 7.8 Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal. This will include information about the handling of the second monitoring period and the procedure and time limits for appealing against the final warning.
- 7.9 If a final warning was issued, at the end of the second monitoring period the teacher will be invited to a formal capability decision meeting.

- 7.10. When a final written warning is issued, careful consideration will be given to the timetable set for improvement which will depend on the circumstances of the individual case. It should only be in exceptional circumstances that this final timescale for improvement be longer than 6 weeks.

8. Monitoring and review period following a Stage 2 - Formal Capability Review Meeting

- 8.1 A performance monitoring and review period will follow a stage 2 formal capability review meeting. Formal monitoring, evaluation, guidance and support will continue during this period and will be reflected in the action plan. At the end of the review period the teacher will be invited to a stage 3 formal capability decision as set out in Section 9 below.

9. Stage 3 - Formal Capability Decision meeting

- 9.1. As with formal capability meetings and formal capability review meetings, at least five working days' notice will be given in writing and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied. Any information the teacher (or headteacher) wishes to be taken into consideration must be submitted 3 working days prior to the meeting:

The notification will contain:

- a) sufficient information about the performance concerns and support provided to the teacher to improve performance to enable the teacher to prepare to answer the case.
 - b) the possible outcomes of the meeting i.e., dismissal.
 - c) copies of any written evidence.
 - d) that any information the teacher (or headteacher) wishes to be taken into consideration must be submitted 3 working days prior to the meeting.
 - e) the details of the time and place of the meeting.
 - f) confirmation of the right to be accompanied by a professional association/ trade union representative or colleague.
- 9.2. A HR Advisor will be present to provide procedural advice to either the Headteacher or Chair of Governors. Any independent External Advisor who has been monitoring and evaluating performance will also attend the meeting.
- 9.3. The meeting will be conducted in accordance with Annex 2.
- 9.4. If an acceptable standard of performance has been achieved following the stage 2 process, the capability procedure will end, and the appraisal process and pay progression will re-start. Only in very exceptional circumstances should the monitoring and review period be extended further at the decision meeting stage.
- 9.5. If performance remains unsatisfactory, the Headteacher (or Chair of Governors) will suspend (in accordance with usual suspension protocols) the teacher (or Headteacher) and refer the matter for consideration by the Governors' Staff Dismissal Committee, with a recommendation that the teacher (or Headteacher) be dismissed on capability grounds.
- 9.6. The Headteacher (or Chair of Governors) will confirm the decision to refer and the reasons in writing within 5 working days.

10. Stage 4 – Formal Capability Dismissal Meeting

- 10.1 As soon as practicable a meeting of the Staff Dismissal Committee will be convened, giving all parties at least ten working days' notice, in writing. All appropriate and previous documentation will be provided to the Committee. Any information the teacher (or headteacher) wishes to be taken into consideration must be submitted 3 working days prior to the meeting.
- 10.2 An HR Advisor will be present to provide procedural advice to the Committee. An appropriate notetaker will be appointed to take notes of formal capability meetings and a copy promptly sent to the member of staff. The member of staff will have opportunity to comment on the notes for accuracy and any disagreements will be noted.
- 10.3 The meeting will normally be held within school working hours.
- 10.4 The procedure to be followed will be in accordance with Annex 4. The member of staff may be accompanied by a **workplace colleague, professional association/trade union representative** at the meeting.
- 10.5 The Committee will decide whether:
 - a) the member of staff's performance is unsatisfactory; and
 - b) whether the capability procedure has to date been applied fairly and correctly.
- 10.6 The decision of the Staff Dismissal Committee will wherever possible be communicated verbally at the end of the meeting and must be confirmed in writing within 5 days of the end of the meeting.
- 10.7 Any decision of the Committee must be confirmed by the Chair in writing promptly sent to the member of staff and in the case of dismissal must state the reasons for the dismissal and right of appeal.
- 10.8 For maintained schools (where Shropshire Council is the employer) the Chair of Governors will notify the Executive Director for People in writing of its decision to dismiss and the reasons for it. The teacher must then receive confirmation of dismissal, giving the appropriate contractual notice in accordance with the Burgundy Book, within fourteen days of the date of the notification.

OR

The Chair of Governors will write to the member of staff, giving the appropriate contractual notice, within fourteen days of the date of the notification. (Foundation/VA Schools Only)

- 10.9 If the Staff Dismissal Committee decide not to dismiss, the Chair of the Committee will write to the teacher confirming that the Capability Procedure will end and that the Appraisal Process and pay progression will restart.

11. Appeals

- 11.1 If a teacher or headteacher feels that a decision to dismiss them, or other formal action taken against them under the capability procedure (not Professional Support stage), is wrong or unjust, they may appeal in writing against the decision within ten working days of the decision, setting out at the same time the grounds for appeal. The letter must be addressed to the clerk to the governors.
- 11.2 Appeals will be heard without unreasonable delay (within 20 working days wherever possible) and, where possible, at an agreed time and place.

- 11.3 The same arrangements for notification and right to be accompanied will apply as with formal capability and review meetings. Any information the teacher (or headteacher) wishes to be taken into consideration must be submitted 3 working days prior to the meeting.
- 11.4 As with other formal meetings, notes will be taken, and a copy sent to the teacher. An appropriate notetaker will be appointed to take notes of formal capability meetings and a copy promptly sent to the member of staff. The member of staff will have opportunity to comment on the notes for accuracy and any disagreements will be noted.
- 11.5 The appeal will be dealt with by a committee of governors with delegated responsibility (normally the Governors' Staff Discipline/Dismissal Appeals Committee) made up of governors who have not been party to the decision against which the appeal has been made.
- 11.6 The procedure to be followed at the appeal hearing will be in accordance with Annex 3 attached where it is an appeal against action short of dismissal. The procedure to be followed for an appeal against dismissal will be in accordance with Annex 4 attached. The teacher will be informed in writing of the results of the appeal hearing within 5 working days.

12. Other Considerations

Role of the Governing Body during the Capability Procedure

- 12.1 Members of the governing body have key roles in the operation of the capability procedures at the stages of appeals and dismissal hearings. Governors should therefore at all times remain mindful of the need not to prejudice their position in such formal proceedings. To safeguard governors' impartiality, it is essential that any information provided by the headteacher to governors about members of staff under the capability procedure is strictly controlled and provided on a need-to-know basis only. Whilst in reporting to governors it may be judged necessary to specify the name of an individual member of staff, detailed information should not be given, nor should discussion ensue on the matters of concern. Any such report by the headteacher should be recorded as a confidential item in the minutes.
- 12.2 On applying these procedures the headteacher will have made professional judgements, taking advice as appropriate, as the lead professional within the school. Governors serving on the relevant committees must consider whether the action taken by the headteacher is reasonable and whether these procedures have been correctly applied.

Written Records and Removal of Warnings

- 12.3 Written records relating to action under these procedures must be maintained and held confidentially on file. This includes records of meetings and decisions as well as documents relating to evidence presented. Such records remain 'live' whilst this procedure is in progress.
- 12.4 Where in the light of performance improving to a satisfactory level, and there being confidence that this can be maintained, a decision is taken by the headteacher or chair of governors (for headteacher capability) to bring capability procedures to a close, records will remain 'live' on a member of staff's personal file for a further specified period as follows:
 - (a) following the issue of a formal warning for a period equivalent to three school terms;
but

(b) following the issue of a final warning for a period equivalent to up to six school terms (2 years).

- 12.5 Where at the end of the periods specified above the headteacher or chair of governors makes a decision that satisfactory performance has been sustained, the previous action or warning will be disregarded for the purpose of any further action which may subsequently arise under these procedures and that decision will be confirmed in writing to the teacher and a copy of the letter will be held on the member of staff's personal file.
- 12.6 Where during the periods specified above further concerns about the teacher's or headteacher's performance result in the need for a further capability meeting then an unexpired previous warning may be taken into consideration when determining any further warning and the timetable set for improvement under this procedure.
- 12.7 In accordance with its legal obligations, when asked to provide a reference for a teacher the Headteacher (or Chair of Governors) will confirm whether or not the teacher has been the subject of formal capability procedures within that period and, if so, the details of the concerns which gave rise to this, along with the duration of the proceedings and the outcome.
(NASUWT do not agree to this retention period).

Staff Absent through Illness during the Procedure

- 12.8 Cases of absence arising from action under these procedures and which the headteacher believes may be long term, should after no less than 4 weeks absence be referred to an Occupational Health Advisor for assessment of whether the member of staff is fit for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures.
- 12.9 In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.
- 12.10 Advice should be sought from an appropriate HR Advisor prior to any decision to proceed with a meeting required under these procedures in the absence of the member of staff concerned.
- 12.11 Where a member of staff is diagnosed as having a medical condition which is covered under the Equality Act, then consideration will be given, including at the point of any action under this procedure, to 'reasonable adjustments' which may enable them to achieve the satisfactory performance of their duties and responsibilities.

Grievances

- 12.12 A member of staff may raise a grievance about the behaviour of the Headteacher (or Chair of Governors) or other senior member of staff during the course of this procedure.
- 12.13 Where this relates to the management of the procedure or the exercise of a role within the operation of the procedure, and depending on the circumstances, it may be appropriate to suspend the procedure whilst the grievance is considered. Such a delay should only however be considered where there is clear evidence that the member of staff has grounds for a grievance. It should also be considered whether there is an option to continue the capability procedure through responsibility being transferred to another senior member of staff (or other Governor for headteachers)

12.14 If appropriate the capability and grievance case may be dealt with concurrently and the capability process may continue within the same timescale.

Confidentiality

12.15 The capability process will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Headteacher and governing body to quality-assure the operation and effectiveness of the capability system. Capability documentation should be regarded as a confidential document other than for the purpose of quality assurance. All parties will ensure they adhere to the schools Data Protection Policy.



STRICTLY CONFIDENTIAL

CAPABILITY PROCEDURE - ACTION PLAN (TEMPLATE)

EMPLOYEE:

POSITION:

ASSESSMENT PERIOD:

Standards requiring improvement and objectives set

Indicator(s) of required improvement and achievement of objectives

Arrangements for monitoring and review and person responsible

Means of support for the achievement of improvement/objectives
(The person(s) responsible for the provision of support should be indicated)

Signed: (Employee)

Signed: (Headteacher)

Date:

PROCEDURE AT FORMAL CAPABILITY REVIEW/DECISION MEETINGS

The procedure set out below will be followed where a formal capability review/decision meeting is called.

An appropriate HR Advisor will normally attend the meeting to provide procedural advice.

The person responsible for the monitoring of the teacher's (or Headteacher's) performance during the review period will be present at the meeting.

Witnesses will not normally be called although documentary evidence presented at the meeting will give sufficient detail of information provided by other parties which is relevant to the proceedings.

- (a) The Headteacher will introduce the parties present and confirm the status and purpose of the meeting.
- b) The Headteacher will present the findings from the review period supported by the Advisor/person responsible for the monitoring of the teacher's performance.
- c) The teacher together with their representative may ask questions of the Headteacher and the Advisor/person responsible for the monitoring undertaken.
- d) The teacher or their representative may provide an oral and/or written statement in response to the evidence presented.
- e) The Headteacher may ask questions of the teacher and their representative.
- f) The Headteacher will ask the parties present whether there are any final points they wish to be taken into consideration.

Where within clause (a) to f) above it is the performance of the Headteacher that is under consideration then reference to the "teacher" will be the Headteacher and reference to the "Headteacher" will be the Chair of Governors.

- A written record of the meeting will be made and circulated to the parties.
- Any party may call for an adjournment during the meeting.
- At the conclusion of the meeting the parties present, with the exception of the HR Advisor providing procedural advice, will withdraw whilst the Headteacher (or Chair of Governors) deliberates.

APPEAL HEARING AGAINST FORMAL ACTION SHORT OF DISMISSAL: PROCEDURE

Where the appeal is against action by the Headteacher or Chair of Governors (for headteacher capability) short of dismissal, the appeal will be heard by the Governors' Committee with formally delegated responsibility to hear such an appeal.

Under this procedure the Committee has the power to confirm or vary any decision of the Headteacher or Chair of Governors, taking into account any advice from the HR Advisor, at their meeting. Their decision is final. If varying the decision, the Committee will determine what action is to be taken under the provisions of the procedure.

At the appeal meeting:

1. The Chair will introduce those present, confirm the purpose of the meeting and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The teacher or their representative will be asked to present the grounds for the appeal (calling such witnesses as may be necessary).
3. The Headteacher may ask questions of the witnesses (where called), and the teacher.
4. The teacher or their representative may re-examine the witnesses (where called).
5. The Headteacher will present the case (calling any witnesses as may be necessary).
6. The teacher or their representative may ask questions of the witnesses (where called) and the Headteacher.
7. The Headteacher may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses by the parties is completed.
9. The Headteacher will be invited to sum up the case.
10. The teacher or their representative will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present, with the exception of the HR Advisor providing advice, shall withdraw whilst the Committee deliberates.
 - A written record of the meeting will be made and circulated to the parties.
 - The Chair of the Committee may during the proceedings above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following the apparent conclusion of the hearing (i.e., at clause 11 above) then both parties must be recalled. Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
 - Witnesses (other than the teacher) shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
 - Any party may call for an adjournment during proceedings.
 - Whenever possible a room will be provided for the employee and their representative for use outside of the hearing.

Where within clause 2 above the appeal has been made by the Headteacher then reference to the "teacher" will be the Headteacher and reference to the "Headteacher" will be the Chair of Governors.

GOVERNORS' STAFF DISMISSAL/APPEAL COMMITTEE **(This procedure applies to meetings of either Committee)**

The following procedure will be used where a recommendation for a member of staff's dismissal has been made following a decision meeting held under the capability procedure. It will also be used for any appeal against a decision to dismiss a member of staff following operation of the capability procedure. In either case an appropriate HR Advisor will normally attend the meeting to provide procedural advice.

At the dismissal meeting:

1. The Chair will introduce those present, confirm the purpose of the meeting and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The Headteacher will be invited to present the case (calling such witnesses as may be necessary).
3. The teacher, or their representative, may ask questions of the witnesses (where called) and of the Headteacher.
4. The Headteacher may re-examine the witnesses (where called).
5. The teacher, or their representative, will be invited to present the case (calling such witnesses as may be necessary).
6. The Headteacher may ask questions of the witnesses (where called), and the teacher.
7. The teacher, or their representative, may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses is completed and prior to re-examination of the parties.
9. The Headteacher will be invited to sum up the case.
10. The teacher, or their representative, will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present, with the exception of the LA representative, shall withdraw whilst the Committee deliberates.
 - A written record of the meeting will be made and circulated to the parties.
 - The Chair of the Committee may during the process above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following the apparent conclusion of the hearing (i.e., at 11. above) then both parties must be recalled.
 - Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
 - The Headteacher (or Chair of Governors), may receive advice from a HR Adviser if appropriate.
 - Witnesses (other than the teacher) shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
 - Any party may call for an adjournment during proceedings.
 - Whenever possible a room will be provided for the employee and their representative for use outside of the hearing.

Where within clause 2it is the dismissal of the Headteacher that is under consideration then reference to the "teacher" will be the Headteacher and reference to the "Headteacher" will be the Chair of Governors.



STRICTLY CONFIDENTIAL

CAPABILITY PROCEDURE- ACTION PLAN (TEMPLATE)

EMPLOYEE _____ **POSITION** _____

ASSESSMENT PERIOD _____

Standards requiring improvement and objectives set	Indicator(s) of required improvement and achievement of objectives	Arrangements for monitoring and review and person responsible (indicate where possible dates for observations and other monitoring)	Means of support for the achievement of the improvements/objectives (indicate any persons responsible for the provision of support)

Signed: **(Employee)**

Signed: **(Headteacher)**