



Capability Of Staff 2023 24

Updated: January 2024

Next Review Date: January 2025

Cambridge School Capability Procedure

If the appraiser is not satisfied with the employee's progress under the school's Appraisal Policy, they will be notified in writing that the appraisal system no longer applies and their performance will be managed under the capability procedure.

This procedure applies only to members of staff or senior leaders whose performance raises serious concerns that the appraisal process has been unable to address.

Stage 1 – Formal Capability Meeting

Notification

The employee will be invited in writing to a formal capability meeting with their line manager. They must receive at least five working days notice of the meeting.

This written notification will:

- Contain detailed information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting.
- Contain copies of any written evidence.
- Confirm the details of the time and place of the meeting.
- Advise the employee of their right to be accompanied by a companion who may be a colleague or trade union representative.
- Advise the employee of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the employee who will be conducting the meeting, which will be their line manager.

Purpose of the Meeting:

- Establish the facts. It is essential that it is made clear to the employee exactly how he or she has failed to meet expectations and states clearly the standard of performance that is expected.
- Allow 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 conclude that there is insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end and the appraisal process will be reinstated; no formal record of the capability proceedings will be made.
- The person 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.

Structure of the Meeting

1. Identify clearly how the standards are not being met and show the evidence to support the concerns
2. Ask the employee to respond to the concerns being raised.
3. Give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures.
4. This will form the action plan, setting new objectives focuses on the specific weaknesses 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.
5. Explain the support that will be available to help the individual improve their performance. This may include mentoring, observing effective practitioners, training and partnership teaching.
6. Set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case. In cases where serious concerns have been confirmed a review period of four weeks will be appropriate. In other cases the school should set the review period having taken into account what is reasonable and proportionate and gives sufficient time for improvement. The maximum timescale for a review period should be ten weeks.
7. Formally warn the employee that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.
8. Advise the employee of their right to appeal within ten working days against any sanction issued.
9. Confirm that the employee will receive notes of the meeting and where a warning is issued, the employee will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

There may be occasions when an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issues. Schools will need to consider all the facts and come to a reasonable decision on how to proceed. Considerations may include:

- The seriousness of the capability issue under consideration
- A medical opinion on whether the employee is fit to attend the meeting
- Where an employee is persistently unable to unwilling to attend a meeting without good cause the headteacher should make a decision on the evidence available and the meeting will be held in their absence.

Monitoring and review period following a formal capability meeting

A performance monitoring and review period agreed above will follow the formal capability meeting. The agreed formal monitoring, evaluation, guidance and support will take place during this period. Depending on the circumstances, it may be appropriate for the headteacher or another senior member of staff to monitor progress. Where

procedures begin with a member of staff, these become part of the personal file, which is retained for the length of employment plus six years.

Stage 2 – Formal Review Meeting

Notification

At the end of the agreed monitoring and review period, the employee will be invited in writing to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting.

They must receive at least five working days notice of the meeting.

This written notification will:

- Contain detailed information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting.
- Contain copies of any written evidence.
- Confirm the details of the time and place of the meeting
- Advise the employee of their right to be accompanied by a companion who may be a colleague or a trade union representative.
- Advise the employee of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the employee who will be conducting the meeting. The meeting will be with the head teacher for teachers, assistant head teacher for all support staff and the Chair of Governors for the head teacher.

Purpose of the Meeting:

- Establish the facts. It is essential that it is made clear to the employee exactly how he or she has failed to meet expectations and states clearly the standard of performance that is expected.
- Allow 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.
- Provide an opportunity for the employee to demonstrate progress towards objectives set.
- If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.
- The person conducting the meeting may also adjourn the meeting, for example, if they decide that further investigation is needed, or that more time is needed, or t
- The person 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.

Structure of the Formal Review Meeting

This meeting will follow the same structure as a formal capability meeting.

If the person conducting the meeting is not satisfied that the employee has made sufficient improvement, the following will apply:

- 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.
- If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning.
- The final written warning will clearly state the improved standard of performance required, the evidence that will be used to assess whether or not the necessary improvement has been made and the support that will be available to help the employee improve their performance. It will also set out the timetable for improvement and explain how performance will be monitored and reviewed and confirm the procedure and time limits for appealing against the warning.
- The final written warning will inform the employee that failure to achieve an acceptable standard of performance (within the set timescale), may result in the requirement to attend a decision meeting with governors and possible dismissal from their post.

Monitoring and review period following a formal review meeting.

A performance monitoring and review period agreed above will follow the formal review meeting. The agreed formal monitoring, evaluation, guidance and support will take place during this period. Depending on the circumstances, it may be appropriate for the headteacher or another senior member of staff to monitor progress. If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start.

If performance remains unsatisfactory, the employee will be invited to a decision meeting held by a panel of governors. This meeting will make the decision, or recommendation whether the employee should be dismissed.

Stage 3 – Decision Meeting

Notification

The employee will be invited in writing to a decision meeting. They must receive at least five working days notice of the meeting.

This written notification will:

- Contain detailed information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting.
- Contain copies of any written evidence.
- Confirm the details of the time and place of the meeting
- Advise the employee of their right to be accompanied by a companion who may be a colleague or a trade union representative.

- Advise the employee of their right to respond to the concerns raised and submit relevant evidence to the person conducting the meeting, prior to the meeting.
- Advise the employee who will be conducting the meeting, which will be a panel of governors.

Structure of a Decision Meeting

This meeting will follow the same structure as a formal capability meeting. However, the meeting must be held by whoever has the authority to dismiss someone from their post in the school. The power to dismiss staff in this school rests with the Governing Body.

Stage 4 – Dismissal

Before the decision to dismiss is made, the school will discuss the matter with the HR department at the Local Authority.

1. The employee will be informed within five working days of the decision meeting of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right to appeal.
2. Once the decision to dismiss has been taken, the Governing Body will dismiss the employee with notice.
3. Once the Governing Body has made the decision to dismiss the employee, it will notify the Local Authority of its decision and the reason for it.
4. The Local Authority must dismiss them within fourteen days of the date of the notification.

Right to Appeal

- If an employee feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five working days of the decision, setting out at the same time the grounds for appeal.
- Appeals will be heard without unreasonable delay and where possible within 10 working days, at an agreed time and place.
- The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the employee.
- The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.
- The employee will be informed in writing of the results of the appeal hearing within five working days.