Willow Vale
School

Capability Procedure for Teachers

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Be Safe – Be Kind - Belong

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1. CAPABILITY PROCEDURE FOR TEACHERS

The Governing Body of Willow Vale School adopted this policy in October 2026 following consultation with the recognised teaching unions at County level.[1]

It will be reviewed in a year's time at the beginning of the 2026 school year.

1.1 This procedure complies with the statutory guidance set out in the DfE model Teacher Appraisal guidance and the non-statutory guidance set out in the DfE Capability guidance (July 2024).

1.2 This procedure **should only be used** when the teacher experiencing difficulty (TED) process within the teacher appraisal policy has been applied and the individual has failed to achieve the required levels of improvement. **The issuing of a written warning or final written warning at the adjournment of the TED review meeting will invoke the Capability Procedure.**

1.3 It is recommended that Governing Bodies adopt this policy as it has been subject to consultation with Teacher Trade Union/Professional Association Representatives. Prior to the Governing Body adopting this policy, schools should consult locally with their staff. If in the future schools wish to amend the policy, they will need to inform and consult with staff and trade union/ professional association representatives at area level regarding the changes.

2. INTRODUCTION

2.1 The principal aim of this capability procedure is for a teacher to achieve the required improvement in performance by the formalised provision of clear targets for improvement, structured support, monitoring and review where attempts to achieve and maintain the required standards of performance have failed during the TED stage of the appraisal policy for teachers.

2.2 Once adopted, the procedure will apply to all teaching staff employed at the school. (Non-teaching staff are covered by a separate policy, Section 14b). If the procedure is applied to a Headteacher, the role of the "Headteacher" in the procedure will be undertaken by a representative(s) of the Governing Body advised by the Local Authority and/or a commissioned School Improvement Advisor.

2.3 It is important that the capability procedure is seen as distinct from the appraisal process, which will be suspended at the point when it is decided to invoke the capability procedure. This should not occur until the TED provisions of the appraisal policy for teachers have been applied.

[1] This model policy was the subject of consultation with the recognised teaching unions/professional associations at County level and is offered to schools and academies for adoption. Any local amendment of this model will require further consultation with the recognised unions.

2.4 Where a teacher fails consistently to perform their duties to a professionally acceptable standard, despite being supported through normal management processes and the TED provisions within the appraisal policy for teachers, this capability procedure should be applied. The procedure comprises formal support, including a structured support programme with targets and/or performance standards, a defined timescale to try to bring an employee's performance up to an acceptable level within a reasonable period of time, monitoring and review of progress backed up with formal sanctions, where justified, by inadequate progress in improving performance.

2.5 The procedure includes provision for dismissal if an acceptable standard of performance cannot be achieved and sustained after written warnings have been issued. An employee may appeal against a warning or decision to dismiss to the Governing Body's Appeal Committee. The conduct of an appeal against a warning or dismissal will be in accordance with the school's appeals procedure, as set out in Section 2 of Guidance for Schools Volume 1.

2.6 The overall timescale adopted for achieving satisfactory improvement under this procedure will be in accordance with the seriousness of the employee's shortcomings in performance but will not usually be shorter than 10 school weeks and no longer than 24 school weeks. However, the timescale may be shortened if justified, for example where it becomes clear that an acceptable level of improvement is beyond the ability of the person assessed, or where there is a lack of co-operation with reasonable measures to achieve improvement, or where the progress of many pupils is impaired, or their safety is significantly compromised by the teacher's poor performance. The minimum timescale for application of this procedure in such circumstances will be 4 school weeks.

2.7 Where a teacher or school leader is in capability procedures, pay progression should be withheld.

3. **PROCEDURE**

3.1 Where a **written or final** warning is issued following the adjournment of the TED review meeting, the Headteacher should use the remainder of the meeting to:

- confirm the professional shortcomings;
- give clear guidance on the improved standard of performance needed to end the capability procedure;
- explain the support that will be available and how performance will be monitored over the following 4 to (10) weeks;
- depending on the level of warning issued, identify the timetable for improvement and agree a date for the next/final evaluation meeting;

- make it clear that failure to improve may lead ultimately to dismissal; and
- provide a copy of the capability procedure to the individual.

The nature and extent of support provided should take into account the amount of support already given and the timescale within which the teacher needs to demonstrate they can achieve and maintain the required performance standards independent of more than usual levels of support.

A letter should be sent to the employee as quickly as possible after the TED review meeting recording the result of the review, the main points discussed at the meeting, the decision and, where a warning is issued, giving information about the handling of the capability procedure and the right of appeal (for model letter see Appendix A).

An appeal against the warning must not interrupt the progress of the capability procedure.

3.2 First Assessment stage

Weeks 1 to 4 (10*) – Support to the employee, planned lesson observations focussed on particular areas of performance concerns which can then enable reflective practice to take place beyond lesson grading of an inspectorial nature, monitoring and evaluation of performance, with guidance and training if necessary.

Week 5 - (11*) – First formal meeting to review and assess performance over the previous 4-10* school weeks (for model invite letter see Appendix B). A minimum of 5 working days' notice of the review meeting must be provided and it is recommended that any documents to be referred to at the review meeting are shared with all parties at least 5 working days in advance of the review meeting.

If all the identified required standards of performance have been achieved and there is confidence that they will be maintained, the procedure can end here with a letter from the Headteacher and the normal appraisal process for teachers resumed.

If some or all the required standards of performance have not been achieved, a final written warning should be issued. Formal monitoring, evaluation, guidance and support should continue for a further period. Arrangements for this should be explained at the meeting. The employee must be told clearly that failure to achieve and maintain the required standards may result in dismissal. The decision and main points of the meeting should be confirmed in writing along with details of the individual's right of appeal (for model outcome letter see Appendix C).

Any appeal must not interrupt the progress of the capability procedure.

* Amend to reflect duration of improvement period

3.3 Second Assessment stage (if required)

Weeks 1 to 4 - (10*) – Regular monitoring and evaluation of performance, with guidance, training if necessary, and where appropriate further support to the employee.

Week 5 - (11*) – Second formal meeting to review and assess performance over the previous 4-10* school weeks (for model invite letter see Appendix D). A minimum of 5 working days' notice of the review meeting must be given and it is recommended that any documents to be referred to at the review meeting are shared with all parties at least 5 working days in advance of the review meeting.

If all the identified required standards of performance have been achieved, and there is confidence that they will be maintained, the procedure can end here and the normal appraisal process for teachers resumed.

Prior to deciding to dismiss *or* making a recommendation to dismiss, the Headteacher may consider whether or not alternative employment is available within the establishment or Trust. If alternative employment is identified, this needs to be discussed with the individual. The reasons for the offer of alternative employment and the implications of refusing it, i.e. termination of employment, should be given to the employee in writing.

All dismissals under this procedure will be subject to the appropriate period of notice being given in accordance with the employee's statutory or contractual rights. During the notice period the school could look at further options to redeploy the staff member, if appropriate roles arise.

If performance is unsatisfactory, either:

(a) decide to dismiss (where the Headteacher has been delegated the power to dismiss by the Governing Body); or
(b) recommend dismissal to the Governors' Staff Dismissal Committee.

(For model outcome letter see Appendix E).

3.4 Dismissal

Where the Headteacher has previously been involved in issuing formal sanctions as part of the process, consideration should be given to whether any decision to dismiss should be referred to a Governing Body Staff Dismissal Committee.

Where the Staff Dismissal Committee is convened, 3 Governors, (or 2 if there are not enough Governors who have not been involved in any action or decision connected with the dismissal), must hear the representations and recommendations brought by the Headteacher, and any representations that the employee may wish to make.

The Governing Body should also set up an Appeal Committee to hear any appeal against a dismissal decision. No Governor who served on a Staff Dismissal Committee should be on the Appeal Committee. There should always be at least the same number of Governors on the appeal committee as made the original decision to dismiss.

For maintained schools a LA representative should attend the meeting to advise the Headteacher/Governor Staff Dismissal Committee. For Academies it is recommended a HR Adviser attends to advise the Headteacher/Governor Staff Dismissal Committee.

3.5 **Staff who are absent through illness during the Capability Process**

Absence which is considered by a Headteacher/Chair of Governors to have been primarily caused by the application of the capability procedure, and which management believe is likely to be indeterminate or long term, should be referred immediately to the occupational health provider to assess whether the individual is fit for work/able to attend a formal meeting and when a return to work is likely.
Reasonable steps should be made to enable the individual to attend review meetings, but where they are unable to attend, these may proceed in the absence of the individual if delay would otherwise compromise the time set aside for the procedure. The employee may wish to consider having their Trade Union/Professional Association Representative attend review meetings on their behalf. In such circumstances a full account of the review should be provided in the letter confirming the decision taken. It would only be appropriate to continue the capability procedure where the individual is absent due to illness, if the monitoring and assessment of performance has reached a stage when the absence of the individual would not significantly affect the outcome.
If this is not the case the absence should be dealt with in accordance with the sickness absence management procedure, with the individual being made aware any return to work arrangements will include the on-going need to address performance concerns.

Monitoring and Evaluation

The Governing Board and Headteacher will monitor the operation and effectiveness of the school's capability policy. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

Appendix A

STANDARD LETTER: CONFIRMING THE OUTCOME OF TED REVIEW MEETING

I am writing to confirm the outcome of the TED review meeting held on (date of meeting) which was attended by the following (names and positions of all attendees).

(Explain the process of the hearing i.e. who presented the management case and briefly what the employee replied).

After full consideration of all of the written evidence and the discussion, I informed you that as you had not made satisfactory progress towards the achievement of the identified standards of performance, I had no alternative but to issue you with a written/final written warning and invoke the formal capability procedure.

(State the areas of continuing concern about the standard of performance, detailing the structured support programme and the targets. Copies of which should be enclosed with this letter).

During the next 4-(10)* weeks, your performance will continue to be monitored. A formal review meeting has been arranged for (specify date).

You have the right to appeal against this warning by writing to the Clerk to Governors stating the reasons for your appeal within 10 school days of receiving this warning.

Please sign the enclosed copy of this letter to confirm its receipt and your understanding of its contents and return it to me.

May I reaffirm my commitment to helping you to achieve the standards of performance necessary in your work.

Yours sincerely

Headteacher

* Amend to reflect duration of improvement period.

Appendix B

STANDARD LETTER: INVITATION TO FIRST FORMAL CAPABILITY REVIEW MEETING

With reference to the formal TED review meeting held on (date), as arranged, would you please attend a further formal review meeting on (date) at (time) in (location), in accordance with the school's capability procedure.

The purpose of this meeting is to review and assess your progress towards the targets set and to decide, as a result of this review, the appropriate course of action. The options are:

- to drop the matter, i.e. all identified satisfactory standards of performance achieved;

- a final written warning, i.e. where a first written warning was given at the first formal meeting and none or only some of the identified standards of performance have been achieved;

- a *decision to dismiss/recommendation for dismissal to the Governors' Staff Dismissal Committee,* i.e. where a final warning was given at the first formal meeting and none or only some of the identified standards of performance have been achieved.

Enclosed with this letter are the following relevant reports and other documents, including those produced through the implementation of the structured support and monitoring/assessment programmes (describe the documentation below) which will be referred to at the meeting.

As this meeting may result in a *final written warning/dismissal/recommendation for your dismissal**, you are entitled to be accompanied by either your trade union/professional association representative or a work colleague. Also present at the meeting will be myself, XXXX and (name of *HR Advisor/LA Advisor**).

Please would you confirm with me that you are able to attend by contacting XXX

Yours sincerely

Headteacher

* delete/ amend as appropriate

Appendix C

STANDARD LETTER CONFIRMING THE OUTCOME OF FIRST FORMAL MEETING

I am writing to confirm the outcome of the formal review meeting held on (date of meeting) which was attended by the following (names and positions of all attendees).

(Explain the process of the hearing, i.e. who presented the management case and briefly what the employee replied).

Alternative 1

After full consideration of all of the written evidence and the discussion, I am pleased to confirm that you have achieved the identified standards of performance. Consequently, you are no longer subject to the capability procedure and the normal appraisal process for teachers will resume. As I stressed to you, it is essential that you maintain these standards throughout the next performance management cycle. Failure to do so may result in invoking the formal capability procedure without further recourse to the TED process should similar concerns regarding performance arise during this period.

Alternative 2

After full consideration of all of the written evidence and the discussion, I informed you that as you had achieved none or only some the identified standards of performance, I had no alternative but to issue you with a final written warning. I need to emphasise that unless you achieve the standards of performance within XX school weeks, I will have no alternative other than to recommend to the Governors' Staff Dismissal Committee that you are dismissed for reason of a lack of professional capability.

(State the areas of continuing concern about the standards of performance referring to the structured support programme and the target documents, copies of which should be enclosed with this letter).

The improvement period will be for XXX weeks and progress towards the identified standards of performance will be reviewed at the next formal review meeting which has been arranged on (date) at (time) in (location). During this period, consideration will also be given to alternative employment opportunities within the establishment. In the event you are redeployed into a suitable alternative role, your final written warning will remain "live" throughout the next performance management cycle.

You have the right to appeal against this final warning by writing to the Clerk to Governors stating the reasons for your appeal within 10 school days of receiving this warning.

Please sign the enclosed copy of this letter to confirm its receipt and your understanding of its contents and return it to me.

Alternative 3

Where a final warning was issued at the TED Review Meeting and a decision to dismiss/make a recommendation for dismissal is the outcome of the formal meeting, use Appendix E, Alternative 2.
Yours sincerely

Headteacher

Appendix D

STANDARD LETTER: INVITATION TO SECOND FORMAL CAPABILITY REVIEW MEETING

With reference to the previous formal review meeting held on (date), as arranged, would you please attend a further formal review meeting on (date) at (time) in (location), in accordance with the school's capability procedure.

The purpose of this meeting is to review and assess your progress towards the targets set and to decide the appropriate course of action. The options are:

- to drop the matter, i.e. all identified satisfactory standards of performance achieved;

- *a decision to dismiss/recommendation of dismissal to the Governors' Staff Dismissal Committee* for reason of a lack of professional capability, i.e. none or only some the identified standards of performance have been achieved.

Enclosed with this letter are the following relevant reports and other documents, including those produced through the implementation of the structured support and monitoring/assessment programme (describe the documentation below), that will be referred to at the meeting.

As this meeting may result in a dismissal/recommendation for dismissal, you are entitled to be accompanied by either your trade union/professional association or a work colleague. Also present will be myself, (name of member of school's staff), and (name of *HR Advisor/ LA Advisor**).

Please would you confirm with me that you are able to attend by contacting XXX.

Yours sincerely

Headteacher

* delete/amend as appropriate

Appendix E

STANDARD LETTER CONFIRMING OUTCOME OF SECOND FORMAL REVIEW MEETING

I am writing to confirm the outcome of the second formal review meeting held on (date of meeting) and attended by (names and positions of all attendees).

(Explain the process of the hearing, ie who presented the management case and briefly what the employee replied).

Alternative 1

After full consideration of all of the written evidence and the discussion, I am pleased to confirm that you have achieved all the identified standards of performance. Consequently, you are no longer subject to the procedure and the normal appraisal policy for teachers will resume. As I stressed to you, it is essential that you maintain these standards throughout the next performance management cycle. Failure to do so may result in invoking the formal capability procedure without further recourse to the TED process should similar concerns regarding performance arise during this period.

Alternative 2

After full consideration of all of the written evidence and the discussion, I informed you that as you had achieved none or only some the identified standards of performance, I had no alternative but to dismiss/*recommend to the Governors that you should be dismissed* from your post for reason of a lack of professional capability. *A meeting of the Governors' Staff Dismissal Committee is being arranged to consider my recommendation*. I will write to you with full details of the time, date, place and procedure for the hearing together with the documents I would wish the Committee to consider. If there are any documents that you would like the Committee to consider please would you let me have these as quickly as possible.

*I regret that pending the outcome of the hearing you will be placed on paid leave of absence. While you are on paid leave of absence you should not enter the school premises without the permission of either myself or a deputy Headteacher.***

Yours sincerely

Headteacher

* Delete/ amend as appropriate

** If dismissal is recommended, Headteacher may wish to consider if appropriate for the individual to remain in post pending the hearing