



**CAPABILITY PROCEDURE
FOR ALL EDUCATION STAFF,
TEACHERS, LEADERSHIP AND
EXECUTIVE**

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1. Introduction

Learn@ MAT wishes to support its staff to achieve their full potential through regular monitoring and feedback.

This Procedure applies to all education staff, including teaching staff, the leadership team and the executive.

This Procedure should be used in conjunction with the Learn@ MAT's Appraisal Policy.

1a. Scope

This Procedure supports leaders, managers, teachers and all staff in improving performance to the required standard within a reasonable time period. The formal Procedure must not be used unless there is evidence that support through day-to-day performance management has not brought about the required improvements.

Action in the case of employees who do not achieve an acceptable standard of performance because of misconduct should be conducted under the terms of the Disciplinary Policy adopted by the Board of Trustees.

If it is established that an employee's unsatisfactory performance is due to sickness or ill health these issues should be dealt with under the Managing Sickness and Supporting Attendance Policy adopted by the Board of Trustees.

For performance issues relating to teachers within the Executive/Central Team the Headteacher's role will be undertaken by the CEO and the Academy Council's function will be undertaken by the Trustees.

When this Procedure applies to the Headteacher, the term "Headteacher" will be substituted with "the CEO and a nominated Academy Councillor" and "teacher" with "Headteacher". Where the policy refers to teachers this may be any Educational Staff employee, including Leadership, teachers, HLTA's, Learning Mentors, Pastoral Support Workers, Residential Care Workers and Education Support Staff. A Panel of the Academy Council /Trustees who have not been party to any previous performance improvement measures involving the Headteacher will hear appeals.

2. Headteacher's Responsibilities

It is a Headteacher's responsibility to:

- ensure that the Procedure is brought to the attention of all teaching staff;
- seek to ensure effective recruitment, induction, training and development arrangements exist so that employees are properly supported in meeting the requirement 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;

- maintain confidentiality;
- implement appraisals within Learn@ MAT.

3. **Teacher's / Education and Residential Support Staff Responsibilities**

It is an employee's responsibility to:

- undertake the duties of his/her post to the very best of his/her abilities;
- make the best use of training, development, support and guidance offered to better perform his/her duties;
- seek to ensure their own continuing professional development;
- engage in the appraisal process.

4. **Academy Councilor's Responsibilities**

It is the Academy Councilors' responsibility to:

- undertake their duties in accordance with the terms of this Procedure at Stage 2 and Stage 3;
- maintain confidentiality;
- ensure appraisal is undertaken within the Academy.

5. **Day-to-day Management (Professional Guidance)**

The teacher must have completed his/her statutory induction period. It is essential that

any performance issues that arise are dealt with immediately to stop any escalation of unsatisfactory outcomes.

Where a teacher has been underperforming for some time and his/her underperformance has never been raised with him/her this should be addressed as soon as possible.

Targets and objectives should be set in accordance with the performance management process.

The majority of performance issues arising should be dealt with through normal day-to-day management and the Headteacher or line manager (or person who is the appraiser under the appraisal scheme) should discuss concerns with the teacher as soon as they arise.

Teachers may contribute ideas on why they are underperforming and how improvements can be made.

The Headteacher or line manager may begin the process of supporting employees by meeting with them on a one-to-one basis and considering any reasons for underperformance for example:

- have there been any changes since s/he started in the job e.g. have different systems been introduced;
- is the employee fully aware of his/her duties and responsibilities;
- have they received adequate training? (the list is not exhaustive).

See also under "Scope" above regarding other policies.

Where problems are identified, a reasonable timeframe to allow for improvement should be given (between a minimum of four and a maximum of twelve weeks). The consequences of not meeting the required improvements must be explained to the teacher. The rationale for the time frame should be documented. During this period regular meetings should take place in a confidential environment and be conducted in a supportive manner. Discussions and outcomes should be recorded. Having identified concerns or problems, Headteachers or line managers may want to take advice from the Learn@ MAT HR provider, Occupational Health or other managers who have dealt with similar situations.

Should it become clear that the teacher's performance is not reaching a satisfactory standard; the matter should be dealt with under this formal Capability Procedure. The employee should be advised immediately in writing and any meeting/discussion which is part of the professional guidance and support will be ended. The Headteacher or line manager should proceed to Stage 1 of this Procedure and inform the teacher of this in writing. The letter should clearly outline:

- the level of concern;
- the evidence used to reach this conclusion;
- the expected level of performance required;
- the type of support available;
- the consequences of failing to improve their performance;

6. Provisions of Procedure

An employee has a right to be accompanied by a TU representative or work colleague at each stage of this Procedure.

An employee must be given at least five working days' notice of meetings under the formal Procedure. If an employee cannot attend a meeting it may be re-arranged within five working days.

In the event that a teacher fails to attend a formal meeting due to sickness, then the advice of Occupational Health may need to be sought as to: (a) the teacher's ability to attend such a meeting or, (b) if attendance is not recommended on health grounds, when this position might change. Whatever the Occupational Health advice, the performance improvement meeting may still need to proceed on the basis of the above if necessary and reasonable.

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.

Where it is intended to invoke these Procedures against a Trade Union steward or Officer (Regional Officer) the manager must tell the appropriate full-time union officer as soon as possible. No action will normally be taken against the Trade Union Official until the allegations have been discussed with the Trade Union Officer (Regional Officer) of the relevant union.

7. Education of Pupils is in Jeopardy

In very exceptional circumstances Stage 1 and Stage 2 of the formal Procedure will be replaced with an assessment period of a maximum of four working weeks. This will only occur where the Headteacher can demonstrate that the “education of pupils is in jeopardy”. This action must only be taken after consultation and agreement from the Chair of Academy Council, CEO and Learn@ MAT’s HR provider. Where the teacher is a member of a Teacher Association, the Branch Office should be contacted and informed before the employee 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.

8. Formal Procedure

8a. Stage 1

The formal Procedure should be used where professional guidance has not achieved the desired outcome and should address all the matters that are giving cause for concern.

The Headteacher will call the teacher to attend a formal Stage 1 Capability Meeting in order to discuss the problem areas. At the meeting, the Headteacher will confirm that:

- a first level warning will be issued. The teacher’s performance must improve to the required standard within the timeframe specified;
- a performance improvement plan (PIP) will be put together to support the teacher;
- a date for the formal review meeting will be set. This will typically be between 4 – 7 weeks from the formal Capability Meeting, and may be varied at the discretion of the Headteacher. The rationale for the time period will be recorded;
- progress with the teacher will be regularly reviewed during this period. The frequency of meetings will be agreed and revised as necessary to support the employee;
- the teacher has the right to appeal against this sanction;
- failure to improve and maintain improvement during this period could lead to Formal Stage 2 of this Procedure being invoked;
- these outcomes and a copy of the PIP will be confirmed in writing within five working days of the meeting.

At the end of the formal review period the Headteacher will review the teacher’s performance against the PIP.

If the teacher’s performance has improved to the required standard, the Headteacher will:

- meet and discuss this with the teacher;

- confirm it in writing within five working days of the meeting;
- if necessary, his/her objectives could be clarified.

If the teacher's performance has not improved to the required standard, then the Headteacher will either:

- extend the formal review period for a specific time and confirm this in writing, giving reasons; or
- follow the Procedure set out in Stage 2.

Where a teacher has been given a warning and his/her performance has improved, but the improvement is not sustained (due either to the same or to different issues) for a period of 12 months after the warning has been issued, the Headteacher may wish to consider proceeding straight to Stage 2 of the Procedure.

8b. Stage 2

The Headteacher will call the teacher to attend a formal Stage 2 Capability Meeting in order to discuss the outstanding problem areas. At the meeting, the Headteacher will confirm that:

- a second level warning will be issued. The teacher's performance must improve to the required standard within the timeframe specified;
- a revised performance improvement plan (PIP) will be put together to support the teacher;
- a date for the formal review meeting will be set. This will typically be between 4 – 6 weeks from the formal Capability Meeting, and may be varied at the discretion of the Headteacher;
- the rationale for the time period will be recorded;
- progress with the teacher will be regularly reviewed during this period. The frequency of meetings will be agreed and revised as necessary to support the employee;
- the teacher has the right to appeal against this sanction;
- failure to improve and maintain improvement during this period could lead to dismissal;
- these outcomes and a copy of the PIP will be confirmed in writing within five working days of the meeting.

At the end of the formal review period the Headteacher will meet with the teacher and review the teacher's performance against the PIP.

If the teacher's performance has improved to the required standard, the Headteacher will:

- meet and discuss this with the teacher;
- confirm it in writing within five working days of the meeting.

If the teacher's performance has not improved to the required

standard, then the Headteacher may:

- extend the formal review period for a specific time and confirm this in writing, giving reasons; or
- move to the dismissal Procedure.

8c. Stage 3: Dismissal

Stage 3 will apply where a teacher fails to improve his/her performance to the required standard under Stage 2.

The Headteacher or line manager will invite the teacher to a hearing before the Headteacher, CEO or Academy Councillor who have not been party to any previous performance improvement measures involving the employee. At the end of the meeting, the panel may conclude that:

- there should be a further period of guidance, support, monitoring and review;
- the teacher could be moved, to an alternative post of lesser responsibility, within Learn @ MAT (this may include, for instance, the withdrawal of any TLR);
- the teacher should be dismissed.

The decision should be confirmed to the teacher, in writing, within five working days.

The teacher will have the right of appeal against dismissal to a panel of Academy Councilors and/or Trustees.

The teacher should lodge his/her appeal with the clerk to the Trustees within 10 working days of receipt of the letter confirming the outcome of the hearing. The letter should set out the grounds of appeal.

The clerk to the Trustees will write to the teacher to confirm the agreed date, time and place of the hearing providing 10 working days' notice of the hearing.

9. Withdrawal of delegation

In the event that delegation is withdrawn from an Academy this procedure will remain in place but the decision-making authority for dismissal will return to the Executive/Trustees in the place of the Headteacher and Academy Council

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