



Helping people living in extraordinary circumstances to live ordinary lives

Kingsley Learning Foundation Trust

Capability Policy

Chairperson's signature: *D. Withers*

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1. Aims

The aim of our staff Capability Policy is to set out a clear and consistent process for when a member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations, and there are concerns about performance. The aim is to improve performance and provide the opportunity for employees to respond before formal action is taken.

2. Scope

This policy applies to all employees of the Trust, including the central team, the Headteachers, teachers and support staff. It does not apply to students, volunteers, agency workers or subcontractors.

The policy applies to capability issues. It does not apply where there is incapability due to ill health, which is covered by the Trust's Sickness Absence Management Policy, or misconduct which is covered by the Trust's Disciplinary Policy.

The purpose of the policy is to:

- Give employees and line managers the opportunity to remedy serious problems of unsatisfactory performance.
- Provide a fair and efficient process in line with good employment practice.

- Keep employees informed of the action to be taken if they fail to maintain required standards (e.g. Teachers' Standards, if applicable).
- Ensure employees receive the support required to improve their performance.
- Deal with such matters openly, honestly and with integrity.

3. Legislation and Guidance

This policy is based on the [Department for Education's model policy and guidance](#), and the [ACAS code of practice on disciplinary and grievance procedures](#).

When carrying out capability procedures, we will ensure we abide by the [Equality Act 2010](#). This policy also complies with our funding agreement and articles of association.

4. Definitions

Lack of capability is defined as:

- A staff member failing to perform their role at the level of competence expected of them and that their job requires.

5. Capability Procedure

Performance is monitored on a day-to-day basis by line managers. It is part of the normal duties of a Headteacher and other managers within the school to monitor the competence of their staff and to attempt to improve it by informal advice, support and encouragement. Nothing in this procedure is intended to inhibit informal action of this nature. The importance of supportive action before any formal procedures are involved must be stressed.

Formal capability procedures will begin when line management support and the professional development process have been unable to bring about satisfactory performance or improvements in the staff member's work.

An informal period of support (see 5.1) put in place and monitored by the line manager, will have been in place before formal capability procedures (see 5.2) are triggered. Evidence of this will be available before the process begins.

Where an early career teacher (ECT) is subject to capability procedures, we will continue the induction process in parallel with the capability procedure and inform the appropriate body.

5.1. Informal Capability Meeting

If a line manager has serious concerns relating to the performance of an employee they will be invited to an informal capability meeting.

The line manager will meet with the employee. This meeting will be a frank and open discussion to consider the facts. It should be conducted discreetly and in confidence, during the employee's normal working day. The Line Manager will:

- Detail the concerns that management have regarding the employee's performance.
- Give specific examples of each area of underperformance.
- Advise the employee of the seriousness of the issues and improvements required to meet performance standards and for the employee to be removed from the capability procedure.
- State how the underperformance is having an effect on the academy.
- State how long the issues have been occurring.
- Detail any action/training/support provided to date.
- Explain the standards required/outcomes to be met.

The line manager and the employee will then agree and confirm an action plan and support programme, including appropriate training, support and guidance to help the employee.

The line manager will confirm the arrangements for reviewing the employee's progress, both informally and formally, in line with this policy.

5.1.1 Monitoring and Review Period (Informal)

A review date will be set which allows a reasonable period to assess any change that may have taken place.

The standard length of the informal monitoring and review period is 6 weeks.

The expectation is that monitoring review meetings will be weekly during this period.

After the informal review and monitoring period there will be either:

Option A - An Informal Review Meeting or Option B - A Formal Capability Meeting.

5.2. Formal Capability Meeting

At least 5 working days' notice will be given of the formal capability meeting, and will explain:

- The concerns about performance and possible consequences.
- Provide any written evidence.
- The time and place of the meeting.
- That the staff member has the right to be accompanied by a work colleague or trade union representative. The academy will require the name of this accompanying person and details of the capacity in which they are attending the meeting with 48 hours' notice.

It will be conducted by the Headteacher, Deputy Headteacher or the CEO for Headteachers. The person conducting the meeting should seek appropriate support and advice from the allocated human resources specialist before the formal process commences and at each stage of the procedure. The purpose of the meeting is to establish the facts, and to allow the staff member to respond to the concerns and make relevant representations.

The person leading the support plan (usually the employee's line manager) will attend the meeting to present the management case. Where the employee is an Early Career Teacher (ECT) it may be appropriate for a college mentor to attend.

A formal meeting under this procedure will:

- Establish the facts and identify performance shortcomings, including which of the standards expected are not being met.
- Allow the employee to respond to those concerns, ask questions and make any relevant representations which may provide new information or a different context to the evidence already collected.
- Find out if there are any issues (both in and outside of work) that are affecting their performance that need to be considered, including disability or health matters.
- Where reasonable adjustments to working arrangements or this procedure could be made, identify what action (including support provided) has been taken to date and what the outcome was.
- Give clear guidance on the improved standard of performance needed to ensure the employee can be removed from the formal capability procedure. This may include amending the objectives.
- Where appropriate, identify and explain any support, including training and time to complete the training that will be available to help the employee improve performance.
- Where appropriate, warn the employee formally that failure to improve within the set period could lead to dismissal
- Confirm the timescales for the monitoring and review period which will follow a formal meeting where a warning is issued. The timetable will depend on the circumstances of the individual case but the period will be reasonable and proportionate ensuring that the arrangements minimise the impact on workload for all parties involved, and should provide sufficient opportunity for an improvement to be made. Formal monitoring, evaluation, guidance and support will continue during this period.

5.2.1 Possible Outcomes

The meeting may establish that there are no grounds to pursue the capability issue. In this case, the procedure will come to an end and the issues will continue to be addressed through the professional development process.

The meeting may be adjourned if further investigation is needed, or if more time is needed to consider additional information presented.

A formal warning will be issued.

5.2.2 After the Meeting

The staff member will be sent formal meeting notes. If a formal warning has been issued, the staff member will also receive:

- A written record of the bullet points in section 5.2.
- Information about the timing and handling of the review stage.
- Information about the procedure and time limits for appealing against the warning.

5.3. Monitoring and Review Period

A performance monitoring and review period consisting of formal monitoring guidance and support will follow the formal capability meeting.

The member of staff 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 decision meeting (see 5.4.1 below).

5.4. Formal Review Meeting

At least 5 working days' notice will be given of the formal review meeting, and will explain:

- The time and place of the meeting.
- That the staff member has the right to be accompanied by a work colleague or trade union representative.

If the person conducting the meeting is satisfied that the staff member has made sufficient improvement, the capability procedure will cease and the professional development process will re-start. In other cases:

- 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 staff member will receive a final written warning.

Notes will be taken of formal meetings and a copy sent to the member of staff.

The final written warning will mirror any previous warnings that have been issued. 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. They will be given information about the further monitoring and review period, the procedure and time limits for appealing against the final warning. The staff member will be invited to a decision meeting.

5.4.1 Decision Meeting

At least 5 working days' notice will be given of the decision meeting, and will explain:

- The time and place of the meeting.
- That the staff member has the right to be accompanied by a work colleague or trade union representative.

If an acceptable standard of performance has been achieved, the capability procedure will end and the professional development process will re-start.

Potential outcomes of this formal review meeting at this stage are:

- If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will cease.
- If the employee has shown continued improvement but has not reached the required standard there is the option to extend the monitoring and review period for a further 3 weeks. There will be a repeat of the decision meeting at the end of this further extended monitoring and review period.

- A further, additional extension to the monitoring and review period will not be made.
- In agreement with the employee, it may be appropriate to consider whether there is an appropriate vacant post across the Trust and if so, whether this may be more suited to the employee's capabilities. If there is a vacant post which is agreed with the employee is suitable, this would be a permanent change in role and if the alternative post is at a lower salary level, the substantive lower salary would apply. The capability procedure would cease on commencing in the new post.
- If performance remains unsatisfactory and of serious concern, a decision will be made that the employee should be dismissed with notice. Normal delegation rules apply to the power of dismissal.

The staff member will be informed as soon as possible of:

- The reasons for the dismissal.
- The date on which the employment contract will end.
- The appropriate period of notice.
- Their right of appeal.

5.5. Right to Appeal

If an employee feels that the decision to dismiss, or other action taken against them (including warnings), is wrong or unjust, they may appeal. The employee should appeal in writing to the Headteacher setting out the grounds for appeal within 10 working days of the decision.

Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a work companion or trade union representative will apply.

The appeal will be dealt with impartially and, wherever possible, by senior leaders or members of the Governing Body who have not previously been involved in the case.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

The employee will be informed in writing of the results of the appeal hearing as soon as possible. Following the appeal hearing the panel may:

- (a) Confirm the original decision.
- (b) Revoke the original decision.
- (c) Substitute a different penalty.

There is no further right of appeal against the sanction or dismissal within the Trust.

6. Grievances

Where a member of staff raises a grievance during the capability procedure, the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently, and at the same meeting.

7. Confidentiality

The capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Headteacher and Governing Board to quality assure the operation and effectiveness of the system.

8. Consistency of Treatment and Fairness

The Governing Board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate.

The Governing Board is aware of the guidance and provisions of the Equality Act 2010.

9. Monitoring Arrangements

The effectiveness of this policy will be monitored by the Headteacher and Governing Body.

This policy will be reviewed annually but can be revised as needed.

This policy will be approved by the Governing Body.

Appendix 1: Developing Performance Support Plan

Name:			Job Title:		
Date:					
This plan is part of the Developing Performance Procedure. It is intended to support rapid improvements in performance. The plan outlines the key issues that need to be addressed, the actions that need to be taken to address the issues and the support mechanisms. The success criteria will be used to measure the progress made. It is expected that significant progress will be evident by the review date.					
Start Date:			Review Date:		
Key Issue	Behaviours Demonstrated	Actions to be Taken	Additional Support/ Resources Required	Monitoring/ Assessment Arrangements & timescale for achievement or review	Success Criteria
1.					

Signed staff member:

Date:

Signed line manager:

Date:

Appendix 2: Example Developing Performance Support Plan

Name:	Z.Name	Job Title:	TEACHER		
Date:	1 May 2025				
This plan is part of the Developing Performance Procedure. It is intended to support rapid improvements in performance. The plan outlines the key issues that need to be addressed, the actions that need to be taken to address the issues and the support mechanisms. The success criteria will be used to measure the progress made. It is expected that significant progress will be evident by the review date.					
Start Date:	01 May 2025	Review Date:			
Key Issue	Behaviours Demonstrated	Actions to be Taken	Additional Support/ Resources Required	Monitoring/ Assessment Arrangements & timescale for achievement or review	Success Criteria
1. Lesson Planning Teachers' Standards 2012 – Heading 4	Produce plans for each lesson that set out the learning outcomes against the school's scheme of work to take the learning of the pupils forward.	Use the school's established lesson planning proforma for each lesson. Identify the learning outcomes for each lesson. Maintain a record of written evidence (in agreed format) of the outcomes of lessons to inform assessment for learning. Demonstrate in planning how adapted challenge is being provided for lower attaining pupils. Identify tasks and groups for the LSA which meet the learning needs of the pupils in the class. Ensure LSA's complete a log of progress of the pupils.	Advice on planning and giving feedback. Joint planning activities weekly for 3 weeks. Add dates: Provision of an in-school mentor.	Deputy Head weekly scrutiny and feedback.	All lessons are planned which set out appropriate learning activities to further identified learning outcomes. The activities engage the pupils as evidenced through their completion of tasks. The LSA is deployed appropriately to contribute to the learning of the pupils.