



CHURCHILL  
SCHOOL

## **Capability Procedure**

## **1. Purpose**

The school's Appraisal Policy sets out Churchill's arrangements for normal performance management and appraisal. This procedure will apply to all employees where there are serious concerns about their performance that the appraisal process has been unable to address, with the exception of NQTs or those subject to probationary procedures (for whom separate procedures exist).

## **2. Entry to procedure**

At least five working days' notice will be given of a formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at the formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a colleague or trade union representative.

## **3. Formal capability meeting**

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors for Headteacher capability meetings or Headteacher/senior leadership team member for other staff. The meeting allows the employee, accompanied by a colleague or trade union representative 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 are 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. 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.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued (normally for one year), the person conducting the meeting will:

- Identify the professional shortcomings, for example which objectives/standards are not being met
- Give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures. (This may include the setting of new objectives focused 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)
- Explain any support that will be available to help the employee improve their performance
- Set the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the employee but in straightforward cases could be between 4 – 6 weeks
- Warn the employee formally that failure to improve within the set period could lead to dismissal. In very serious cases (including the 'exceptional circumstances' below), this warning could be a final written warning (normally for one year).

Notes will be taken of formal meetings and a copy sent to the employee. Where a warning is issued (normally for one year), 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.

#### **4. Monitoring and review period following a formal capability meeting**

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The employee 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 below).

#### **5. Formal review meeting**

As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the employee of their right to be accompanied by a colleague or trade union representative.

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. 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 employee will receive a final written warning (normally for one year).

As before, notes will be taken of formal meetings and a copy sent to the employee. Where a final warning is issued, the employee will receive written confirmation of the improved standard of performance needed, any support that will be available to help the employee improve their performance, the timetable for improvement (could be 4 – 6 weeks), the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The employee will also be informed in writing that failure to achieve an acceptable standard of performance within the set period may result in dismissal. The employee will be invited to a decision meeting.

#### **6. Decision meeting**

As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the employee of their right to be accompanied by a colleague or trade union representative.

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 a decision will be made that the employee should be dismissed.

The power to dismiss staff in this school rests with the governing body and any dismissal of the Headteacher resides with the governing body. Any decision meeting will be conducted by the Headteacher or a panel of the school's Hearings Committee with appropriate authority to dismiss.

As appropriate, the employee will be informed as soon as possible of the reasons for the dismissal, the date on which employment will end, the appropriate period of notice and their right of appeal.

## **7. Appeal**

An employee may appeal against any warning issued under this procedure or any decision to dismiss them, with within five working days of the written notification of the decision, setting out at the same time their grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for meeting notification, the right to be accompanied by a colleague or trade union representative and meeting notes will apply as for other formal meetings under this procedure.

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 as soon as possible.

## **8. Returning to earlier warnings**

If there is evidence within six months of the procedure ceasing or a warning lapsing that the employee has not sustained the level of performance required, the procedure may be resumed at any stage up to and including that stage previously reached.

## **9. Exceptional circumstances**

In exceptional cases where the level of performance could have serious consequences, successive warnings may not be appropriate. For example:

- Where the employee's performance falls so far short of an acceptable standard, that improvement to an acceptable level may reasonably be deemed impossible; or
- Where a lack of competence has a seriously detrimental effect on the education of pupils and students; or
- Where the employee's lack of competence could have other serious consequences, e.g. safety considerations.

In such circumstances, the school may proceed directly to consideration of a final written warning or dismissal, as appropriate. The school will seek advice from their HR service provider before taking such a decision.

## **10. General principles underlying this policy**

### **ACAS Code of Practice on Disciplinary and Grievance Procedures**

This policy has been implemented in accordance with the provisions of the ACAS Code of Practice.

### **Confidentiality**

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 appraisal system.

## Consistency of treatment and fairness

The governing body is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled staff. The governing body is aware of the guidance on the Equality Act issued by the Department for Education.

## Definitions

Unless indicated otherwise, all references to “employee” include the Headteacher.

## Grievances

Where an employee 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.

## Sickness

If long term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school’s absence policy and will be referred immediately to the occupational health service to assess the employee’s health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## Review

staff and recognised unions were consulted on this document and it was accepted by the Samuel Ward Academy Trust HR Committee on:	7 November 2014
It was ratified by Churchill Local Governing Body on: Reviewed	17 December 2014 Summer Term 2015

This policy will be reviewed in line with the school’s policy review cycle