



**CAPABILITY PROCEDURE
FOR
ASSOCIATE STAFF
FEBRUARY 2015**

Next review – February 2018

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This policy was consulted and agreed via Service Consultative Group (SCG) and Teacher Association representatives on 10th December 2012 (SCG) and 12th December 2012 (Teacher Association).

Adopted by Wardle Academy Trust

1. INTRODUCTION

This procedure for handling unsatisfactory work performance has been consulted on between Rochdale Metropolitan Borough Council - the Local Authority, Trade Union representatives

and is recommended for adoption by the Governing Bodies of schools with delegated powers of Local Management. This procedure is consistent with the employment powers granted to Governing Bodies by the Education Act 1996, Education Act 2002, with the Articles of Government of individual schools and the scheme of Local Management. Wardle Academy Trust adopts this policy.

In this procedure, lack of capability is defined as a situation in which an employee fails consistently to perform his or her duties to a professionally acceptable standard. This procedure does not deal with lack of capability due to ill-health, nor with misconduct, which may be defined as an act or omission by the employee which is considered to be unacceptable professional behaviour. Separate procedures exist and have been adopted by Governing Bodies to deal with such matters.

2. EQUALITY

The Trusts HR Service aims to regularly review all the policies and procedures we operate to ensure there are no negative equality impacts on staff based on their age, disability, gender, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation as outlined in the Equality Act 2010. If you feel, on reading this policy, that there may be a negative equality impact within your school, please tell us about this.

3. PURPOSE

The purpose of this procedure is:

- (i) to encourage and support improvement where an employee is failing to carry out the duties of his/her post or to achieve a standard of work required by a reasonable employer; and
- (ii) to ensure consistent and fair treatment for all support staff with respect to action taken in response to situations of unsatisfactory performance.

4. CONFIDENTIALITY

Throughout this procedure, employees are entitled to confidentiality. It therefore follows that any discussions that take place at meetings are confidential to the individuals concerned, but action plan targets will, if necessary, be passed to those responsible for ensuring action on them is taken.

The Headteacher, at his/her discretion, may inform the Chair of Governors that matters relating to the unsatisfactory work performance of an employee are being addressed through this procedure. However the employee should not be named.

No other members of the Governing Body should be informed except at the specific stages highlighted in the formal procedure.

5. IDENTIFICATION AND SUPPORT

It is essential that professional performance problems are clearly identified and given appropriate consideration and support at the earliest possible stage. The nature of the problem, its level of seriousness and cause(s), must be investigated and identified by structured information gathering and systematic recording.

Following the investigation and assessment, a decision must be made as to whether to take no further action; give informal support; or arrange a formal recorded interview which requires action under the formal **unsatisfactory work performance** procedure.

Employees subject to this procedure should be advised to seek the support of their Trade Union representative at the earliest opportunity.

6. INFORMAL SUPPORT

Before reaching the formal stage, Headteacher/Nominated Person/Chair of Governors shall, as part of their management responsibilities, have drawn the employee's attention informally to the ways in which it is alleged that the employee's performance is deficient; giving the employee the opportunity to comment on the allegation. This discussion should be briefly recorded and copies given to the employee and kept by the Headteacher/Nominated Person/

Chair of Governors. Employees should be aware that this informal action is part of the **Unsatisfactory Work Performance** Procedure.

Following this recorded discussion the Headteacher/Nominated Person/Chair of Governors will make opportunities available to the employee for further advice, support and training. Where appropriate the Headteacher/ Nominated Person/Chair of Governors may put the employee under the direct supervision of another competent and experienced employee and allow a reasonable time for improvement. This timescale should be no less than ½ term and no more than 1 term in duration.

If performance improves to an acceptable standard as a result of the informal action then no further action should be taken.

7. RIGHTS OF REPRESENTATION

Before consideration is given to taking action under this **unsatisfactory work performance** procedure, the employee will be informed in writing of the grounds for invoking the procedure, and of the right to have the opportunity of stating his/her case in person to the Headteacher/ Nominated Person/Chair of Governors and to be represented at a **unsatisfactory work performance** interview or a **unsatisfactory work performance** hearing by an official of one of the recognised Trade Union representative or work colleague. If these rights have not been afforded to the employee any action taken as part of this procedure will be deemed to be void and any record made will be expunged.

No formal action shall be taken against an employee who is an accredited representative of one of the recognised Trade Union until the circumstances of the allegation have been discussed.

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- (i) in the case of a school representative or local officer, with the local secretary; or (ii) in the case of a local secretary, with a full-time official of the union.

8. TIMESCALE

The timescale adopted will be in accordance with the seriousness of the lack of capability of the employee. Consideration needs to be given to whether the problem is specific or a broader professional difficulty; whether it is of very recent concern or spanning a longer period of time. Normally, the period given for improvement will be no more than a period equivalent to two terms after the date of entry into the formal procedure. The period of assessment 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 cooperation with reasonable measures to achieve improvement. In extreme cases where the education of pupils is jeopardised the Headteacher/Nominated Person/Chair of Governors may decide, after consultation with the Director of Education, that the period given for improvement after the date of a formal warning will be no more than four weeks.

Fast Track

An **extreme** case would be where the performance of an employee may be such that there is a breakdown in his/her ability too effectively carry out his/her duties.

An extreme case can only be determined in consultation with the Chief Executive Officer. Under these circumstances, the following action may have to be considered:-

- to issue a **final written warning** even where no previous warnings exist.

Immediately following the issue of a final written warning consideration will need to be given:-

- to implementing a period for improvement which will be **no more than four** weeks. Within this timescale there will be a need for structured support; or
- **to suspend** the employee from duty. The employee will be suspended on full pay. Where there has been no improvement following the four week period the employee will be **suspended**.

9. SUSPENSION

The Headteacher/Nominated Person/Chair of Governors and the Governing Body have the power to suspend on full pay if it is deemed necessary

In any **unsatisfactory work performance** procedure involving suspension the Headteacher/Nominated Person/Chair of Governors or a Committee of the Governing Body will consider possible disciplinary action which may include dismissal. This will be dealt with in accordance with the attached schedule, Appendix 1.

An employee may be suspended from duty for a period not exceeding 21 working days. Within 21 days of the original suspension a Committee of the Governing Body will decide:-

-
- to continue the suspension and refer the employee to a disciplinary committee of the Governing Body;

or

- to revoke the suspension.

Any suspension must immediately be reported in confidence to the Chair of the Governing Body and the Director of Education.

10. ILL-HEALTH

If issues of ill-health arise during the course of this procedure and last for longer than 2 weeks, or involve 3 or more periods of absence, the matter may be referred to the school's Occupational Health provider for prognosis relating to the individual's health and fitness for continued employment.

Short absences should not delay any part of the formal stage of the **Unsatisfactory Work Performance** Procedure. Reasonable steps should be made to enable the employee to attend evaluation meetings, but where the employee is unable to attend the meeting may proceed in the employee's absence if delay would otherwise compromise the maximum time set aside for the procedure. If the employee does not attend the evaluation meetings due to absence a full account of the evaluation should be provided in a letter to the individual confirming the decision taken.

Schools should consider offering counselling to employees who are going through the Unsatisfactory Work Performance Procedure.

11. FORMAL STAGE

If informal steps taken to improve an employee's performance have not resulted in acceptable improvements then the Headteacher/Nominated Person/Chair of Governors, after consultation with the Chief Executive Officer, or nominated representative, should organise a formal recorded interview.

The Headteacher/Nominated Person/Chair of Governors will require the employee to attend a formal recorded interview to consider a report containing details of his/her investigation and assessment, and where appropriate giving details of steps taken previously to encourage improvement. The employee will be given at least 7 calendar days' notice of the meeting and shall receive a copy of this procedure and the written report.

The employee may be accompanied at the interview, if he/she wishes, by a Trade Union Representative or a work colleague. If requested by either side an HR professional may also be present to give guidance and advice on procedures.

At the meeting, the Headteacher/Nominated Person/Chair of Governors will discuss the report with the employee and provide them with the opportunity to comment. If the Headteacher/Nominated Person/Chair of Governors is satisfied that the concerns about capability are wellfounded he/she shall issue the employee with an appropriate warning. The decision on

which level of warning to issue will depend on the seriousness of the problem. The Headteacher/ Nominated Person/Chair of Governors will advise that failure to improve performance to the standard required will result in further action in accordance with this procedure.

The Headteacher/Nominated Person/Chair of Governors will state/re-state the standards of work required and ensure that the employee understands the standards required. A formal action plan will be drawn up by the Headteacher/Nominated Person/Chair of Governors to assist the employee to achieve the required standards. The plan will, wherever possible, be drawn up in partnership with the employee and will normally include the establishment of targets and/or performance standards, together with an appropriate support programme and structured timescales. The Headteacher/Nominated Person/Chair of Governors may decide in extreme cases, after consultation with the Director of Education, to begin the procedure at a more advanced stage.

Within seven calendar days of the interview, the Headteacher/Nominated Person/Chair of Governors will provide the employee and his/her representative with:-

- (i) confirmation of the appropriate warning.
- (ii) a copy of the notes of the meeting for agreement; and
- (iii) a written copy of the action plan setting out clearly:
 - * the targets/performance standards to be attained,
 - * the support and resources to be made available;
 - * details of how progress will be monitored and by whom; and * the timescale for the review meeting.

The Headteacher/Nominated Person/Chair of Governors will send a copy of the confirmation to the Director of Education who will keep a copy on the employee's personal file.

Notification of such action will constitute 'the date of entry into the formal procedure'.

12. REVIEW MEETING

The Headteacher/Nominated Person/Chair of Governors will give seven calendar days' notice of the review meeting and give the employee and his/her representative a copy of a monitoring report to enable a full and frank discussion about performance to be made at the meeting. If requested by either side a HR professional may also be present to give guidance and advice on procedures.

At this meeting, progress in achieving targets/performance measures, previously identified, will be discussed and assessed.

If performance has improved to an acceptable standard then no further action will be taken.

If the employee's performance is still deficient, the Headteacher/Nominated Person/Chair of Governors shall issue the employee with an appropriate written warning, and indicate that failure to improve performance to the standard required will result in further action in accordance with this procedure.

Within seven calendar days of the interview the Headteacher/Nominated Person/Chair of Governors will provide the employee and his/her representative with:

- (i) confirmation of the appropriate warning.
- (ii) a copy of the notes of the meeting for agreement;
and
- (iii) a written copy of the up-dated action plan setting out:
 - * targets/performance standards to be attained
 - * any further support and resources to be made available

 - * details of how progress will be monitored
 - * the timescale of the review meeting.

13. SECOND REVIEW MEETING (if applicable)

The Headteacher/Nominated Person/Chair of Governors will give seven calendar days' notice of the second review meeting and give the employee and his/her representative a copy of the monitoring report to enable a full and frank discussion about performance to be made at the meeting. Progress in achieving targets/ performance measures previously identified will be discussed and assessed. If requested by either side a representative of the Director of Education may also be present to give guidance and advice on procedures.

If performance has improved to an acceptable standard then no further action will be taken.

If the employee's performance is still deficient the Headteacher/Nominated Person/Chair of Governors shall issue the employee with an appropriate written warning. At this stage this will normally be a final written warning, and indicate that failure to improve performance to the standard required will result in further action, which may include a recommendation that could result in dismissal. The Headteacher/Nominated Person/Chair of Governors may, in consultation with those members of the Governing Body who have power to make appointments, consider offering the employee a different balance of duties or alternative employment within the school, and explain to the employee that this may be the only alternative to a capability hearing before the Governing Body. In these circumstances such employment does not necessarily have to be equivalent employment, particularly in the case of a promoted employee who may be offered a post at a lower level.

Within seven calendar days of the interview the Headteacher/Nominated Person/Chair of Governors will provide the employee and his/her representative with:

- (i) confirmation of the appropriate written warning. At this stage this will normally be a final written warning;
- (ii) a copy of the notes of the meeting for agreement;
and
- (iii) a written copy of the up-dated action plan setting out:
 - * targets/performance standards to be attained,

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- * any further support and resources to be made available
 - * details of how progress will be monitored
 - * the timescales of the final review meeting.

14. FINAL REVIEW MEETING

The Headteacher/Nominated Person/Chair of Governors shall give seven calendar days notice of the final review meeting and give the employee and his/her representative a copy of the monitoring report to enable a full and frank discussion about performance to be made at the meeting. If requested by either side a HR professional may also be present to give guidance and advice on procedures.

If performance has improved to an acceptable standard then no further action will be taken.

If the employee's performance is still deficient, and no suitable alternative employment is available, or if the individual refuses to accept the offer made, the Headteacher/Nominated Person/Chair of Governors shall refer the matter to a Capability Hearing of the relevant committee of the Governing Body.

15. APPEALS

An employee who has been issued with a written warning final warning or dismissal will have the right of appeal to an Appeals Committee, consisting of at least three members of the school's Governing Body, not including the Headteacher/Nominated Person/Chair of Governors (the Appeal Hearing will be conducted in accordance with the attached Schedule). The lodging of an appeal should not delay the improvement process and the timescales determined at the formal recorded interview (if applicable).

At an appeal hearing the case for the school will normally be presented by the person responsible for deciding on the outcome, which is the subject of appeal. (NB: person responsible would be either the Headteacher or Chair of the Relevant Committee). As part of their case they will explain the reasons for their decision/the decision of the committee. An appeal hearing will **NOT** be a rehearing of the case but a review of the decision made by the Headteacher/relevant committee.

16. UNSATISFACTORY WORK PERFORMANCE (CAPABILITY) HEARING

The Capability Hearing will be before a Committee consisting of at least three members of the school's Governing Body (where this number is not reasonably practicable it can be reduced to two), not including the Headteacher/Nominated Person/Chair of Governors (the **Unsatisfactory Work Performance** Hearing will be held in accordance with the attached Schedule). The membership of the Committee will be drawn from members of the Governing Body who, as far as is practicable, have not been involved in any related proceedings. Details of the performance problems shall only be given to the Committee, in the pre meeting to the hearing.

Following the **Unsatisfactory Work Performance** (Capability) Hearing the decision of the Committee shall be one of the following:

To find that the work performance problems have/have not improved, in whole or in part; and:

- (i) resolve that no further action be taken; or
- (ii) extend the final warning if the committee feels there is still the possibility that satisfactory improvement may shortly occur;
- (ii) determine that the employee cease to work at the school.

The decision of the Committee will be confirmed by the Clerk to the Governing Body, to the employee in writing. The employee will be informed in this notification of his/her right to appeal.

17. APPEAL HEARING

The employee will have a right of appeal against a decision of the Disciplinary Committee, to be lodged with the Clerk to the Governing Body within 7 calendar days of the hearing, to an Appeals Committee, to be drawn from members of the Governing Body (the Appeal Hearing will be conducted in accordance with the attached Schedule).

The Appeals Committee, having heard the appeal, shall have the power to allow, or disallow, the appeal. In allowing an appeal the Appeals Committee may:-

- (a) resolve that no further action be taken; or
- (b) substitute a lesser penalty, i.e. extend the final warning where the committee feels that satisfactory improvement may shortly occur.

If an appeal is not lodged, or is disallowed, and the decision was that the employee should cease to work at the school, the Clerk to the Governing Body will notify the Local Authority, in writing, who will give the employee such notice terminating his/her contract of employment with the Authority as is required under the contract.

Participation in a Committee hearing, at any stage, does not debar Governors from being involved in a hearing at a subsequent stage, so long as there is no duplication of the Governors at the **Unsatisfactory Work Performance** (Capability) Hearing before a Disciplinary Committee and the Appeals Committee hearing.

18. FURTHER HEARING

If the result of a **unsatisfactory work performance** (capability) hearing before the Committee or an Appeal Committee is a decision to extend a final warning then at the end of the review period the matter will be referred back, for consideration, to an **unsatisfactory work performance** (capability) hearing before a Committee.

19. CLEARING OF RECORDS

Where performance improves to an acceptable standard or an Appeals Committee resolves that no further action be taken, any warnings held on file will be expunged.

PREAMBLE

This Schedule sets out the procedures to be followed at a hearing held as part of the **Unsatisfactory Work Performance (Capability) Procedure** for employees within schools with delegated powers of Local Management.

Arrangements for a hearing before a Committee of the Governing Body will be made by the Clerk to the Governing Body. Arrangements for a hearing will be made without unreasonable delay, from the date of the appeal being lodged or notice of the hearing being given.

At a hearing an employee may be represented by one of the recognised Trade Union representative or work colleague.

UNSATISFACTORY WORK PERFORMANCE (CAPABILITY) HEARING CONDUCTED BY THE RELEVANT COMMITTEE OF THE GOVERNING BODY (INCORPORATING DISCIPLINARY RESPONSIBILITIES)

1. The relevant Committee will not normally consist of less than 3 members of the school's Governing Body (excluding any members of staff of the school). Where this is not reasonably practicable, the relevant Committee may consist of two members (excluding members of staff of the school).
2. The employee will be given a minimum of 14 calendar days' advanced notice of the hearing; informed, by the clerk to the relevant committee of Governors, in writing, of the purpose of the hearing, the allegations and a list of witnesses to be called by the investigating officer. The employee will also be supplied with copies of any documents to which it is intended to refer, and be advised of the right to be accompanied at the hearing by a Trade Union/Teachers' Association representative or a work colleague of his/her choice if he/she wishes, but by no-one else.
3. Not less than 7 calendar days in advance of the hearing the employee (or his/her representative) shall send to the Clerk of the relevant Committee copies of any documents that he/she intends to refer to at the hearing, together with a list of witnesses that he/she intends to call.
4. The Chief Executive Officer or designated HR professional shall be invited to attend the disciplinary hearing where dismissal is an option, for the purpose of giving advice. The relevant Committee must consider any advice given before reaching a decision.
5. The procedure to be followed at the disciplinary hearing:-
 - a) The Investigating Officer to put the case.
 - b) The Investigating Officer to call any witnesses.
 - c) Employee (or his/her representative) to ask questions of the Investigating Officer and witnesses.
 - d) Relevant Committee to ask questions of the Investigating Officer and witnesses.

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- e) Investigating Officer's witnesses to withdraw from proceedings.
 - f) Employee (or his/her representative) to put his/her case.
 - g) Employee to call any witnesses.
 - h) Investigating Officer to ask questions of employee (and/or his/her representative) and witnesses.
 - i) Relevant Committee to ask questions of the employee (and/or his/her representative) and witnesses.
 - j) Employee's witnesses to withdraw from proceedings.
 - k) Investigating Officer to sum up.
 - l) Employee (or his/her representative) to sum up.
6. The Chair of the relevant Committee may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourned for the purpose of enabling further information to be obtained, he/she will specify the nature of that information. Any adjournment will normally be for a stated period.
 7. Following the summing up, both parties, together with their representatives will withdraw. If it is necessary to recall one of the parties for further information before a decision is taken, both parties shall be recalled. If a HR professional attends the relevant Committee as an Adviser, he/she shall remain during the relevant Committee's deliberations.
 8. On completion of the relevant Committee's deliberations, the Chair will normally announce the decision and the disciplinary action, if any, to be taken. He/she will also give an explanation for that action and, where appropriate, will explain the employee's right of appeal under this procedure.
 9. The decision of the relevant Committee shall be one of the following :-
 - a) To exonerate the employee and direct that all reference to the matter be removed from his/her disciplinary record.
 - b) To find that the alleged breach of disciplinary is proven in whole or part and resolve that no further action be taken.
 - c) To find that the alleged breach of discipline is proven in whole or part and impose one of the disciplinary sanctions.
 10. The decision of the relevant Committee will be confirmed to all parties in writing. Where the decision is to impose a disciplinary sanction the letter will also set out the employee's right of appeal, and how to exercise it, against that disciplinary action.

11. A copy of the written notification to the employee should be included in the employee's personal file.

APPENDIX 2

Decision to Dismiss a Member of Staff

I, the Headteacher*/Chair of relevant Committee* notify the LA of our recommendation that

_____ (name) be dismissed from their post as

_____ at _____
school.

Signed _____ Print _____

Date _____

LA Nominated Officer agrees*/disagrees* with the Headteacher*/Chair of relevant Committees*

decision to dismiss _____ (name)

_____ (post) _____
(school)

Signed _____ Print _____

Date _____

* delete as appropriate

UNSATISFACTORY WORK PERFORMANCE (CAPABILITY) APPEALS CONDUCTED BY THE APPEALS COMMITTEE OF THE GOVERNING BODY (INCORPORATING DISMISSAL APPEAL RESPONSIBILITIES)

1. The Appeals Committee will not normally consist of less than 3 members of the school's Governing Body (excluding any members of staff of the school). Where this is not reasonably practicable, the Appeals Committee may consist of two members (excluding members of staff of the school) who have not been part of the previous disciplinary hearing.
2. The employee will be given a minimum of 14 calendar days' advanced notice of the hearing; informed, by the clerk to the Appeals Committee of Governors, in writing, of the purpose of the hearing, the allegations and a list of witnesses to be called by the Management Representative. The employee will also be supplied with copies of any documents to which it is intended to refer, and be advised of the right to be accompanied at the hearing by a Trade Union/Teachers' Association representative or a work colleague of his/her choice if he/she wishes, but by no-one else.
3. Not less than 7 calendar days in advance of the hearing the employee (or his/her representative) shall send to the Clerk of the Appeals Committee copies of any documents that he/she intends to refer to at the hearing, together with a list of witnesses that he/she intends to call.
4. A HR professional may be invited to attend the disciplinary hearing where dismissal is an option, for the purpose of giving advice. The relevant Committee must consider any advice given before reaching a decision.
5. Appeals Procedure to be followed:
 - (i) Employee (or his/her representative) to put his/her case based on the grounds of appeal submitted.
 - (ii) Employee to call any witnesses.
 - (iii) The decision maker of the original hearing to ask questions of the employee (and/or his/her representative) and witnesses.
 - (iv) The Appeals Committee to ask questions of the employee (and/or his/her representative) and witnesses.
 - (v) Employee's witnesses to withdraw from proceedings, if applicable.
 - (vi) The decision maker of the original hearing to put his/her case in response to the grounds of appeal provided.
 - (vii) The decision maker of the original hearing to call witnesses.
 - (viii) Employee (or his/her representative) to ask questions of the decision maker of the original hearing and witnesses.

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- (viii) The Appeal Committee to ask questions of the decision maker of the original hearing and witnesses.
 - (x) Decision maker of the original hearing witnesses to withdraw from proceedings, if applicable.
 - (xi) Employee (or his/her representative) to summarise their case.
 - (xii) Decision maker of the original hearing to summarise their case.
 - (xi) All parties to withdraw whilst Appeals Committee deliberates.
6. The Chair of the Appeals Committee may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourned for the purpose of enabling further information to be obtained, he/she will specify the nature of that information. Any adjournment will normally be for a stated period.
 7. Following the summing up, both parties, together with their representatives will withdraw. If it is necessary to recall one of the parties for further information before a decision is taken, both parties shall be recalled.
 8. On completion of the Appeals Committee's deliberations, the Chair will normally announce the decision and the disciplinary action, if any, to be taken. He/she will also give an explanation for that action.
 9. On completion of the Appeals Committee's deliberations, the Chair will normally announce the decision. The Appeals Committee may uphold or disallow, or partially uphold the appeal. If the decision is to partially uphold the appeal, the Appeals Committee may substitute a lesser form of disciplinary action. In the event of an appeal being allowed, without qualification, all reference to the matter shall be removed from the employee's disciplinary record and the employee notified accordingly.
 10. The decision of the Appeals Committee of the Governing Body will be confirmed to all parties in writing. No further right of appeal will be available to the employee under this procedure.
 11. At an appeal hearing the case for the school will normally be presented by the person responsible for deciding on the outcome, which is the subject of appeal. As part of their case they will explain the reasons for their decision.

Letter to member of staff inviting them to an informal meeting to discuss initial concerns about work performance

Dear *(Name)*,

INFORMAL SUPPORT IN RELATION TO YOUR WORK PERFORMANCE

Further to my conversation with you on the *(date)* I now write to invite you to an informal support meeting to discuss concerns relating to your work performance.

The meeting will take place on *(date, time, venue)*.

At the meeting we will agree an action plan to support you through a monitoring period. At this meeting we will also agree a review date.

You are entitled to be accompanied by a Trade Union representative or work colleague but no one else.

I enclose a copy of the School's Unsatisfactory Work Performance Procedure for your information. If there is any aspect of this procedure which you do not understand, please contact me.

Yours sincerely
Headteacher/Nominated Person/Chair of Governors

Letter to member of staff to confirm initial concerns about work performance

Dear *(Name)*

INFORMAL SUPPORT IN RELATION TO YOUR WORK PERFORMANCE

As a result of our meeting on *(date)* at which we discussed concerns relating to your work performance, in particular that *(give brief details)*, I would like to take this opportunity to set out in writing the plan of action we have agreed.

(Give details of any arrangements for monitoring that have been agreed, including the length of the monitoring period and by whom the monitoring will be carried out; details of any training, support and counselling that will be provided).

At the end of the agreed period, I will review the progress you have made and will write to you again.

I hope this period of support will enable your performance to improve to a satisfactory level. Please do not hesitate to discuss any concerns you have with the training and support during this period of monitoring with me or to put forward suggestions as to how you think it could be improved. Your opinion is valued.

At the end of the period of support if insufficient progress has been made then you will be moved to the formal stage of the process where an appropriate warning may be issued to you.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Model Letter 3
Letter to member of staff inviting to review meeting

Dear (Name),

REVIEW MEETING – INFORMAL SUPPORT IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated (date), in which I confirmed the details of our agreed action plan, I now write to invite you to a review meeting to discuss progress against the objectives outlined to you in the plan.

The meeting will take place on (date, time, venue).

You are entitled to be accompanied by a Trade Union representative or work colleague but no one else.

Yours sincerely,

Headteacher/Nominated Person/Chair of Governors

Model Letter 4

FIRST REVIEW MEETING

Letter to employee to confirm outcome of initial period of observation and assessment where no further action is necessary

Dear *(Name)*

FIRST REVIEW MEETING - INFORMAL SUPPORT IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated *(date)*, in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

I am pleased to confirm that you are now working at an appropriate level of capability. If you agree it would be helpful, I suggest that you continue to receive additional training and support *(give details)* for a further *(state number)* of weeks. Please arrange a mutually convenient time for us to discuss this.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

FIRST REVIEW MEETING
**Letter to employee to confirm outcome of initial period of observation and
assessment, where further action is necessary**

Dear *(Name)*

FIRST REVIEW RELATING TO WORK PERFORMANCE

As you will be aware informal support in relation to your work performance took place between *(start date)* and *(review date)* in an attempt to secure an improvement in your work performance.

Unfortunately, I consider that your work performance is still deficient in a number of key areas and therefore, it is necessary for the matter to be dealt with on a formal basis in accordance with the formal procedures for Handling Unsatisfactory Work Performance. Details relating to the work performance issues will be forwarded to you by _____/are enclosed.

The purpose of the meeting will be to:

1. Discuss the report received following the informal stage of the procedure
2. Draw up a formal action plan
3. Set review period

At the meeting you will have an opportunity to comment on the report and formal action plan. However if I feel that insufficient progress has been made during the informal stage then I may issue you with an appropriate warning.

You are required to attend a Formal meeting on *(date)* at *(venue)* at *(time)* am/pm. You are entitled, if you wish, to be accompanied by your Trade Union representative or a work colleague

I enclose a copy of the school's procedure for Handling Unsatisfactory Work Performance for your information. **I may feel it is necessary to refer the matter to the appropriate body in line with the disciplinary procedure in order that a formal disciplinary hearing may be held. This may ultimately lead to your dismissal.** If there is any aspect of this procedure which you do not understand, please do not hesitate to contact me.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Decision to impose a written warning

Dear *(name)*

FIRST REVIEW MEETING - UNSATISFACTORY WORK PERFORMANCE PROCEDURE

This letter refers to our meeting on *(date)* which was held in accordance the procedure for Unsatisfactory Work Performance.

The initial period of monitoring and observation that we agreed revealed that *(give brief details)*. We discussed these results at the meeting together with the reasons for your under performance *(give details)*.

I confirm that, having listened very carefully to all the evidence presented, I have concluded that your performance has failed to improve to the extent that it is necessary to impose a written warning on you.

The written warning will remain in force for a period of *(insert details)* from the date of this letter. At the end of that time, if your performance has improved to and been maintained at a satisfactory standard, it will be removed from your personal file.

The shortcomings in your current level of performance that have been identified are that *(give details)*. To help you improve, we have agreed a programme of regular observation, evaluation, training and support. *(Give full details)*.

The outcomes that we have agreed you will aim for are: *(give details)*

A review meeting will take place on *(date & time)* to evaluate your performance. If at any time during the observation period, your performance deteriorates or new evidence emerges to suggest a more serious problem, a decision may be taken to impose a final written warning on you.

You have a right of appeal against my decision to the Clerk to Governors. Should you choose to exercise this right of appeal, you should notify, in writing, within 10 calendar days of receipt of this letter. If you are to be represented at the Appeal, the name and address of your representative should be given in your letter.

If there is any part of this process that is not clear to you, please contact me for clarification.

A copy of this letter is enclosed for your representative.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Letter to member of staff inviting to second review meeting

Dear (Name),

SECOND REVIEW MEETING – FORMAL SUPPORT AND MONITORING IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated (date), in which I confirmed the details of our agreed action plan, I now write to invite you to a second review meeting to discuss progress against the objectives outlined to you in the plan.

The meeting will take place on (date, time, venue).

You are entitled to be accompanied by a Trade Union representative or work colleague but no one else.

Yours sincerely,

Headteacher/Nominated Person/Chair of Governors

SECOND REVIEW MEETING
**Letter to employee to confirm outcome of formal period of observation and
assessment where no further action is necessary**

Dear *(Name)*

SECOND REVIEW MEETING - IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated *(date)*, in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

I am pleased to confirm that you are now working at an appropriate level of capability. If you agree it would be helpful, I suggest that you continue to receive additional training and support *(give details)* for a further *(state number)* of weeks. Please arrange a mutually convenient time for us to discuss this.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Decision to impose a final warning

Dear *(name)*

FORMAL UNSATISFACTORY WORK PERFORMANCE PROCEDURE

This letter refers to our meeting on *(date)* which was held in accordance the procedure for Unsatisfactory Work Performance.

The initial period of monitoring and observation that we agreed revealed that *(give brief details)*. We discussed these results at the meeting together with the reasons for you're under performance *(give details)*.

I confirm that, having listened very carefully to all the evidence presented, I have concluded that your performance has failed to improve to the extent that it is necessary to impose a final warning on you.

The final warning will remain in force for a period of *(insert details)* from the date of this letter. At the end of that time, if your performance has improved to and been maintained at a satisfactory standard, it will be removed from your personal file.

The shortcomings in your current level of performance that have been identified are that *(give details)*. To help you improve, we have agreed a programme of regular observation, evaluation, training and support. *(Give full details)*.

The outcomes that we have agreed you will aim for are: *(give details)*

A review meeting will take place on *(date & time)* to evaluate your performance. If at any time during the observation period, your performance deteriorates or new evidence emerges to suggest a more serious problem, a decision may be taken to impose a final written warning on you.

You have a right of appeal against my decision to the Clerk to Governors. Should you choose to exercise this right of appeal, you should notify, in writing, within 10 calendar days of receipt of this letter. If you are to be represented at the Appeal, the name and address of your representative should be given in your letter.

If there is any part of this process that is not clear to you, please contact me for clarification.

A copy of this letter is enclosed for your representative.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Letter to member of staff inviting to final review meeting

Dear (Name),

FINAL REVIEW MEETING – FORMAL SUPPORT AND MONITORING IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated (date), in which I confirmed the details of our agreed action plan, I now write to invite you to a final review meeting to discuss progress against the objectives outlined to you in the plan.

The meeting will take place on (date, time, venue).

You are entitled to be accompanied by a Trade Union representative or work colleague but no one else.

Yours sincerely,

Headteacher/Nominated Person/Chair of Governors

FINAL REVIEW MEETING
**Letter to employee to confirm outcome of formal period of observation and
assessment where no further action is necessary**

Dear *(Name)*

FINAL REVIEW MEETING - IN RELATION TO YOUR WORK PERFORMANCE

Further to my letter dated *(date)*, in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

I am pleased to confirm that you are now working at an appropriate level of capability. If you agree it would be helpful, I suggest that you continue to receive additional training and support *(give details)* for a further *(state number)* of weeks. Please arrange a mutually convenient time for us to discuss this.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

FINAL REVIEW MEETING
Letter to employee to confirm outcome of formal period of observation and
Assessment, referral to relevant committee

Dear *(name)*

FORMAL UNSATISFACTORY WORK PERFORMANCE PROCEDURE

This letter refers to our meeting on *(date)* which was held in accordance the procedure for Unsatisfactory Work Performance.

The initial period of monitoring and observation that we agreed revealed that *(give brief details)*. We discussed these results at the meeting together with the reasons for you're under performance *(give details)*.

I confirm that, having listened very carefully to all the evidence presented, I have concluded that your performance has failed to improve to the extent that it is necessary. Therefore the decision has been made to refer the matter to a hearing before the relevant committee of the Governing Body.

Details of the investigation including documents to be referred to at the hearing along with details of witnesses to be called at the hearing will be forwarded to the Headteacher/relevant committee of Governors.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

Letter to employee to invite Unsatisfactory Work Performance Hearing

Dear

UNSATISFACTORY WORK PERFORMANCE HEARING

I am writing to inform you that you are required to attend a formal Unsatisfactory Work Performance Hearing (Capability) on Wednesday 16 January 2013 at 9.15am at the school.

At the hearing you will be required to answer allegations in relation to your unsatisfactory work performance.

Possible outcomes of the hearing maybe that:

Work performance problems have/have not improved, in whole or in part; and:

- (i) resolve that no further action be taken; or
- (ii) extend the final warning if the committee feels there is still the possibility that satisfactory improvement may shortly occur;
- (iii) determine that the employee cease to work at the school.

All documentary evidence previously submitted and subsequently issued to both parties will remain place as evidence at the hearing.

You are advised that you may, if you so wish, have a Trade Union representative or a work colleague present at the hearing.

Yours sincerely

Headteacher/Clerk to relevant Committee of the Governing Body

**Letter to employee following Unsatisfactory Work Performance Hearing
No further action**

Dear

UNSATISFACTORY WORK PERFORMANCE HEARING

I am writing to confirm the decision taken by the Headteacher/relevant Committee of the Governing Body at the Unsatisfactory Work Performance Hearing held on _____ . I now write to confirm the decision of the Committee having reviewed your performance.

I am pleased to confirm that the Committee felt that you are now working at an appropriate level of capability. If you agree it would be helpful, the Committee has suggested that you continue to receive additional training and support (*give details*) for a further (*state number*) of weeks. Please arrange a mutually convenient time with the Headteacher for this to be discuss.

Yours sincerely

Headteacher/Nominated Person/Chair of Governors

**Letter to employee following Unsatisfactory Work Performance Hearing
Extend Final Warning**

Dear

UNSATISFACTORY WORK PERFORMANCE HEARING – EXTENSION TO FINAL WARNING

You attended a Unsatisfactory Work Performance Hearing on _____. I am writing to confirm the decision taken by the Committee that the Final Warning previously issued to you on _____ be extended. The Committee felt, having listened very carefully to all the evidence presented, that your performance had failed to improve to the extent that it is necessary.

The reasons for this decision are:

(Reasons, recommendations, training)

The final warning will remain in force for a period of *(insert details)* from the date of this letter. At the end of that time, if your performance has improved to and been maintained at a satisfactory standard, it will be removed from your personal file.

The shortcomings in your current level of performance that have been identified are that *(give details)*. To help you improve, we have agreed a programme of regular observation, evaluation, training and support. *(Give full details)*.

The outcomes that we have agreed you will aim for are: *(give details)*

A review meeting will take place on (date & time) to evaluate your performance. If at any time during the observation period, your performance deteriorates or new evidence emerges to suggest a more serious problem, a decision may be taken to refer the decision back to the relevant Committee for consideration of your continued employment.

You have a right of appeal against this decision. Should you choose to exercise this right of appeal, you should notify the Clerk to the Governors, in writing, within 14 calendar days of the disciplinary hearing. The letter should include your grounds for appeal and the name and address of your representative.

An additional copy of this letter is attached in order that you may pass it to your Trade Union Representative if you so wish.

Yours sincerely

Headteacher/Clerk to the relevant Committee of the Governing Body
_____ School

Letter to employee informing Dismissal following Hearing

Dear

DISMISSAL FOLLOWING UNSATISFACTORY WORK PERFORMANCE HEARING

I am writing to confirm the decision taken by the Headteacher/relevant Committee of the Governing Body at the disciplinary hearing held on _____. The decision taken was to dismiss you from your post as _____ with immediate effect in accordance with the Schools Unsatisfactory Work Performance Procedures.

In reaching their decision, the committee considered fully the presentation of case by the Headteacher and by yourself and your Professional Association Representative.

The reasons for your dismissal are:-

You have a right of appeal against this decision to the relevant Committee/Appeals Committee of the Governing Body. Should you choose to exercise this right of appeal, you should notify, in writing, the Clerk to the Governors, within 7 calendar days of receipt of this letter including your grounds for appeal and the name and address of your representative.

An additional copy of this letter is attached in order that you may pass it to your representative if you so wish.

Ordinarily, you would have been given notice of termination which would have brought your contract to an end on _____. As indicated above, the committee terminated your contract with effect from ____ (date of dismissal) _____. As a consequence, you will receive a payment, less deductions in recognition of the salary which you would have been paid during the period _____ to _____, plus any accrued holiday entitlement, if applicable. Your P45 will also be forwarded to you in due course.

Yours sincerely

Headteacher/Relevant Committee of the Governing Body

Letter to employee inviting to Appeal following Hearing

Dear

UNSATISFACTORY WORK PERFORMANCE APPEAL HEARING

I am writing to inform you that an appeal hearing against the decision by the Headteacher/relevant Committee of the Governing Body at the Disciplinary Hearing held on has now been arranged. The date of the appeal hearing is at at the school.

Please find the enclosed documents submitted by the Management Representative which includes a copy of the order of proceedings. Please be aware that the appeal will not be a rehearing of the case but a review of the decision made by the Headteacher/relevant committee, based on the grounds of appeal you submitted.

Possible outcomes of the Appeal hearing maybe that:

- The appeal is allowed/disallowed or partially allowed.

The decision of the Appeal Committee is final.

If you wish to submit any documentary evidence or call witnesses to the appeal hearing, you are required to submit details for the attention of the Clerk to the Governors, C/o no less than 7 calendar days prior to the appeal hearing.

You are advised that you may, if you so wish, have a Teacher Association/Trade Union representative or a work colleague present at the hearing.

Additional copies of the documentation have been attached in order that you may pass them to your representative if you so wish.

Yours sincerely

Clerk to the relevant Committee

Letter to employee Appeal following Hearing – Outcome

Dear

UNSATISFACTORY WORK PERFORMANCE APPEAL HEARING OUTCOME

Further to the Disciplinary Appeal Hearing that you attended on
accompanied by your Teacher Association/Trade Union Representative, I am writing to confirm the
decision made by the Committee.

The panel has concluded, following consideration of all the information presented that your appeal
has been allowed/partially allowed/disallowed.

This decision is based on the following statement from the Appeals Committee:

.....

(If appeal allowed, please insert the following)

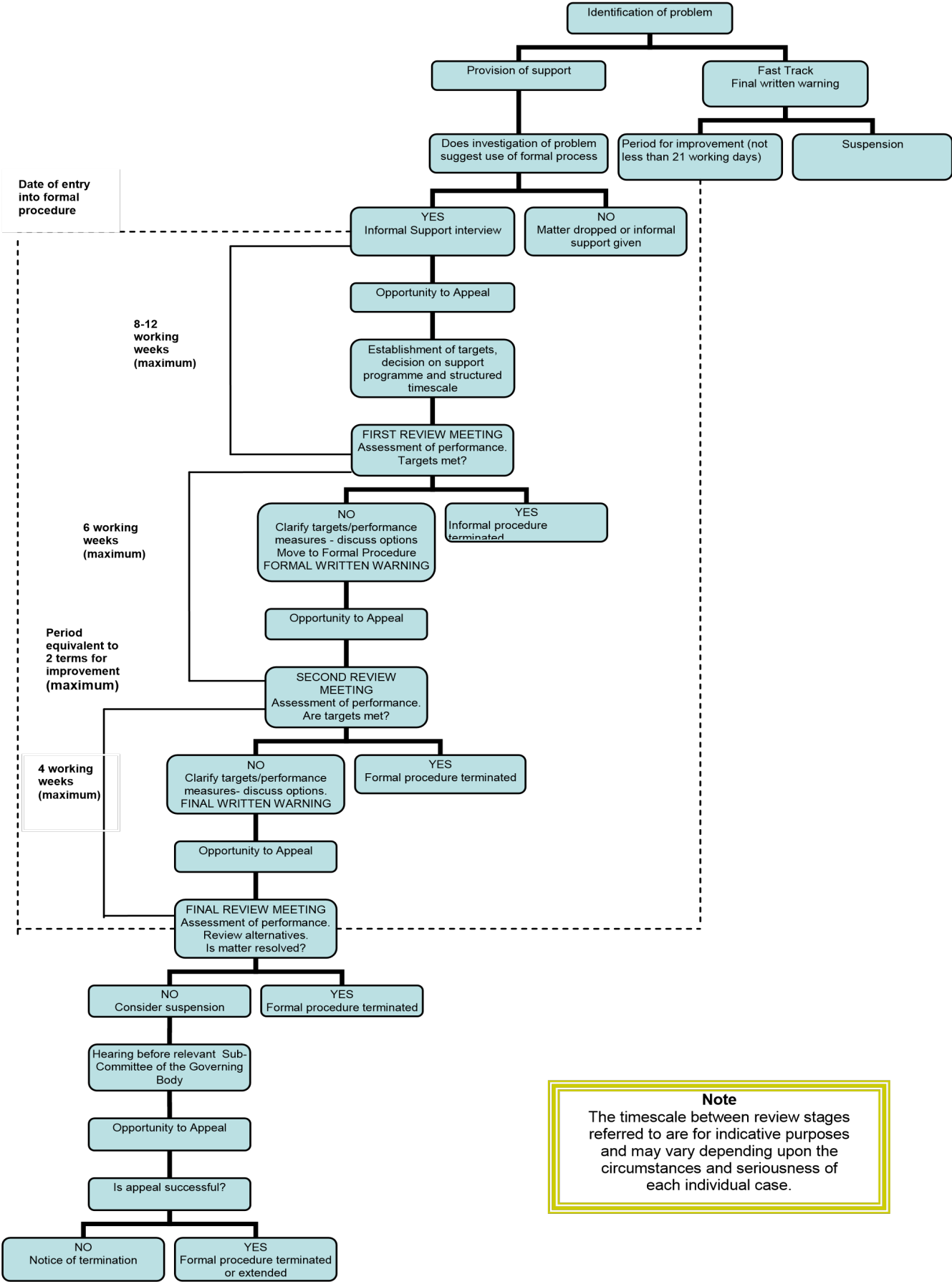
All reference to this matter shall be removed from your disciplinary record.

This decision is final.

Yours sincerely

Clerk to the Governors

CAPABILITY PROCEDURE FLOW CHART



Note
The timescale between review stages referred to are for indicative purposes and may vary depending upon the circumstances and seriousness of each individual case.

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