BOXGROVE C of E PRIMARY SCHOOL

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Curious Minds, Kind Hearts and Resilient Learners,

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Staff Capability Policy

Monitoring and Review of Policy

Last Update (Reviewed at FGB): October 2026
Next Update Due: October 2027

Aim

The aim of this policy is to provide a framework for managing employees, who despite the help and support provided through the Appraisal Policy/regular feedback meetings are unable to demonstrate the required level of performance or behaviours in their role.

Who can help?

For advice on capability issues, headteachers/ line managers with queries about can get support from HR Professional Support for advice on 033022 22422 or email HR.Professional.Support@westsussex.gov.uk

Scope

This policy covers all staff employed by the school and Centrally Employed Teachers with the exception of:

- Those employed for less than one term.
- Support staff in their probationary period.

Certain procedural variations apply to the Headteacher and Centrally Employed Teachers as detailed below.

Headteachers

Meetings will be chaired will be conducted/chaired by a member of the Governing Body who may be supported by a senior colleague from the Education & Skills Directorate representing the Director.

Centrally Employed Teachers

Meetings will be conducted/chaired by the line manager or senior line manager. Appeals against notices to improve must be submitted to the employee's line manager and will be heard by a manager of equal or greater seniority within the directorate.

Centrally Employed Teachers have the right of appeal against dismissal to the Staff Appeals Panel and the timescales/arrangements applicable to that panel will apply instead of the provisions within this policy.

For Teachers there are certain legislative requirements, which must be adhered to, where this is the case this is shown in **bold.**

When to use the Capability Policy

Early intervention is critical when dealing with poor performance. The Headteacher/Line Manager is expected to raise concerns with individuals about their performance, through feedback, at the earliest possible opportunity and to put in place supportive interventions to help support the employee reach the required standards/behaviours. This is particularly important where a teacher could be given a requires improvement' or 'inadequate' assessment at their mid-year (February) or end of year appraisal.

For support staff it is recognised that they may not be subject to the full appraisal process, but their performance should be managed, with concerns about performance being raised informally first through normal regular feedback meetings.

The Capability Policy will be instigated when, despite the help and supportive interventions provided through the Appraisal Policy/ normal regular feedback meetings, the employee is still unable to meet the required standards and has **been formally notified that the Appraisal Policy/normal regular feedback meetings will no longer apply.**

The Capability Policy may also be instigated when there are serious concerns about an employee's performance and immediate action is warranted.

In cases where the employee does not reach and maintain the required standard of performance, the employee may be dismissed.

If the required standard is not met for reasons of misconduct **(e.g. refusal to co-operate or follow instructions)** then this will be treated as a disciplinary matter under the disciplinary and code of conduct policy.

If the reason for poor performance is as a direct consequence of an underlying health condition or disability, this will be managed through the sickness policy. Sickness absence will also be managed through the sickness policy.

This policy should be read in conjunction with the guidance notes.

This policy is in response to the "Teacher Appraisal and Capability Model Policy for Schools" dated January 2012 and issued by the Department for Education and "Teachers' Standards" effective from 1 September 2012. This policy was subsequently amended to complement the revisions to the Model Pay Policy in the light of the changes to the STPCD from September 2013.

Right to be Accompanied

Employees have the right to be accompanied at all formal meetings within the procedure. There is no right for the employee to be accompanied to regular meetings during review periods.

The employee's companion can be:

- a work colleague;
- a Trade Union Official; or
- an accredited Trade Union Representative.

If the employee is attending a dismissal appeal meeting, the employee may bring a legal representative as their companion, for example a solicitor.
The name of the companion attending any formal meeting should be notified to the Headteacher/Line Manager, no later than 3 working days prior to the formal meeting.

Right to be Accompanied

Prior to commencing the formal procedure, the employee will have been **notified in writing that their performance is to be managed under the formal capability policy and that the appraisal policy no longer applies.**

For a detailed outline of the procedure and additional information please refer to the Guidance notes.

The formal procedure consists of three stages.

Stage	Purpose.	Outcomes	Meeting Chaired by

Stage 1 - Formal Meeting	To formally discuss the shortfall in the employee's performance and make clear the required standards, set objectives and timescales for improvement.	Written notice to improve OR No action is necessary and returns to normal appraisal policy/normal regular feedback.	Headteacher/ Line Manager
Stage 2 - Formal Review Meeting	To review the employee's progress against the standards and objectives set in the written notice to improve and decide the next steps.	Final Written notice to improve. OR Extended monitoring period is given OR Employee has improved and formal capability procedures are discontinued and returns to appraisal policy/ normal regular feedback.	Headteacher/ Line Manager
Stage 3 - Final Review and Decision Meeting	To review the employee's progress against the standards and objectives set in the written notice to improve and decide on the appropriateness of continuing the employee's employment.	Dismissal with notice. OR Employee has improved and formal capability procedures are discontinued.	Headteacher/panel of no fewer than 3 governors (trustees)

These would normally be followed sequentially, however there are certain circumstances where it would be appropriate to initiate the capability policy at a later stage, this includes:

- Where a notice of improvement is still 'active' and the employees' performance lapses during this period; OR
- Where there is a significant or sudden drop in performance that jeopardises the education of children, their safety or significantly compromises the operations, functions and services provided by the school.

In cases where it is not clear where the procedure should commence, advice should be sought from the HR Professional Support Team.

Notice of meetings
Where possible the date of the Formal Review meeting and Final review meeting should be set in advance, but in any case at least 5 working days written notice should be given of attendance at any formal meeting under the procedure.

The notice of the meeting must contain sufficient information about the concerns, and their possible consequences to enable the employee to prepare their response.

Postponements
A postponement may be requested in advance of the meeting and providing the reasons for the request are reasonable this will be agreed to. Only one postponement will be allowed.

In the event that the employee fails to attend the meeting or chooses not to attend the meeting, the matter may be considered and decided in their absence.

Document Exchange
Any documentation to be considered at any formal meeting must be sent to the employee with the invitation to attend the meeting.

If the employee wishes to submit documentation to be considered this should be submitted no later than 3 working days prior to the meeting.

Witnesses
In certain circumstances it may be appropriate for the Headteacher/Line Manager, or the employee to call witnesses to attend the hearing. Where this is the case, the Headteacher/Line Manager shall notify the names of the witnesses they intend to call in the invitation to attend the meeting. Where the employee wishes to call their own witness the name of the witnesses should be notified in writing no later than 3 days before the meeting.

Formal confirmation of decisions
The formal decision of the meeting and a copy of the notes of the meeting must be confirmed in writing to the employee within 5 working days of the meeting being held. (see below for special provisions relating to dismissal).

Monitoring Periods
The length of a monitoring period depends on the seriousness of the issue, but is expected in most cases, to be between 4 to 8 weeks per monitoring period, with the aim of completing the procedure, within a term of commencing the process.

Currency of notice to improve
If, at the end of their monitoring period, the employee has achieved the required standard, formal capability procedures will be discontinued and the employee will return to the normal appraisal process. The employee should be notified formally in writing of this.

However, the notice to improve will remain 'live' for a period of 9 calendar months (written notice to improve) or 12 calendar months (final notice to improve) or to the end of the academic year (whichever is the greater period) commencing from the date of the meeting, which confirms that formal procedures no longer apply.
Should the employee's performance lapse during this period they will return to the Capability procedure at the stage they left it.

Dismissal
Final Review and Decision Meetings, where dismissal may be the outcome must be conducted in accordance with the procedure outlined in Appendix A of the Guidance Document (this does not apply to Centrally Employed Teachers).

In Community, Voluntary Controlled, Community Special and Maintained Nursery Schools, the decision to dismiss is delegated to the Headteacher and Governing Body, but must be confirmed by the Local Authority.

Where an employee is dismissed from such a school, they will be formally notified within 5 working days of the Headteacher/Governing Body's recommendation. This will be followed by a formal notice of dismissal from the Local Authority within 14 days of receipt of the recommendation for dismissal.

In Foundation, Voluntary Aided, Foundation Special Schools and some Academies, the Governing Body shall issue the notice of dismissal, within 5 working days of the decision being made. This will be confirmation of the employee's dismissal.

Centrally Employed Teachers will be issued with notice of dismissal by the Authority, within 5 working days of the decision being made. This will be confirmation of the employees' dismissal.

Appeals

There is the right of appeal at all stages of the formal Capability policy.

In the case of dismissal, the employee has the right to appeal against any such dismissal to a Panel of no fewer than three Governors) representing the Governing Body of the School.

Employees wishing to appeal against a notice to improve or dismissal, must submit their appeal in writing, stating the grounds for their appeal, with 5 working days of receiving written confirmation of the decision to the Clerk to the Governing Body.

The Clerk to the Governing Body will make arrangements for the appeal meeting to be held within 10 working days of receiving the employee's letter.

The Appeal Panel cannot increase the level of the notice to improve.

Overlapping Procedures

In certain circumstances an employee may have a difficulty that is covered by two policies (for example, Grievance); or another difficulty arises during the application of one policy (e.g. sickness absence). In these circumstances the meetings required could be combined to ensure that the issue is dealt with in its' entirety rather than viewed in isolation. The aim should be to focus on resolving the difficulty, ensuring that the essential elements from each procedure have been included in order to minimise the number of meetings and correspondence.

Sickness Absence or Grievances will not necessarily mean the Capability Policy is suspended, each individual case will be examined on its merits and timescales may be amended accordingly.

HR Professional Support can provide advice in these circumstances.

Link with Incremental Pay (Non-Teaching staff only)
The pay policy states that employees will usually progress to the next spinal column point on an annual basis, subject to their performance, until they reach the top of the pay spine. If an employee is given a notice to improve their Line Manager may authorise for the employee's increment to be withheld until the notice to improve has lapsed. If this is to be actioned, the employee will be told in writing.

Trade Union Representatives
No formal action will be taken under this policy against an accredited representative of a trade union, until the circumstances of the case have been discussed with a full-time official of the trade union concerned.

Employees with Disabilities
If an employee requires any reasonable adjustments to be made to enable them to fully participate in the process, they should notify their Headteacher/Line Manager as soon as possible.

In the case of any formal meeting, any reasonable adjustments should be notified as soon as possible (and providing a minimum 3 working days notice). See the Guidance notes for further information.