



# **STAFF CAPABILITY PROCEDURE**

## INDEX

Purpose	Page 4
Reducing the Risk of Poor Performance	Page 5
Monitoring and Review Periods	Page 6
Good Management Practice	Page 7
Warnings within the Procedure	Page 8
Relationship to the Performance Appraisal Policy	Page 8
Formal Capability Meeting	Page 9
Formal Review Meeting	Page 10
Decision Meeting	Page 12
Suspension	Page12
Capability Review Hearing	Page 13
Notice Periods	Page 14
Appeal Hearing	Page 14
Grievances	Page 15
Sickness Absence	Page 15
Employment References to Prospective Employers	Page 15
Appendix 1 – Capability Procedure – Flow Chart	Page 17
Appendix 2 – Target Setting	Page 21
Appendix 3 – Notification of Formal Capability Meeting	Page 22
Appendix 4 – Notification of Outcome of Formal Capability Meeting	Page 23
Appendix 5 – Notification of Formal Review Meeting	Page 24
Appendix 6 – Notification of Formal Review Meeting (Insufficient Improvement)	Page 25
Appendix 7 – Confirmation of Improvement in Performance	Page 26

Appendix 8 – Extension of Review Period following Formal Review/Decision Meeting	Page 27
Appendix 9 – Notification of Suspension	Page 28
Appendix 10 – Notification of Capability Review Hearing	Page 29
Appendix 11 – Outcome of Capability Review Hearing	Page 30
Appendix 12 – Teacher Standards England 2012	Page 31

## STAFF CAPABILITY PROCEDURE

This procedure is designed to help employees achieve and maintain acceptable levels of performance and to assist the Head Teacher and Governors/Trustees support such achievement fairly and consistently.

This procedure applies to all staff employed in school to deal with poor performance due to lack of capability resulting from a lack of knowledge, skill, ability, experience or health. Poor performance due to lack of application, carelessness or negligence should be dealt with as misconduct through the Disciplinary Procedure.

This procedure does not apply to support staff during their probationary period or Newly Qualified Teachers during their Induction period.

### 1. Purpose

The aim of this policy is to identify and address poor standards of performance and/or lack of capability resulting from a lack of knowledge, skill, ability, experience or health. (Attendance issues resulting from sickness absence are dealt with through the Absence Management/Attendance Policy, however on occasion poor health where the employee is at work may result in capability issues. Head Teacher should take advice from Schools HR if this seems to be the case).

This policy provides a fair and consistent process to support an employee to improve their performance to acceptable and agreed standards.

It is important to recognise that genuine incapability is not misconduct and should be treated supportively. It can occur for a variety of reasons, for example:

- Previous learned skills have now been overtaken by new technology
- Reorganisation or changing patterns of work
- Increased complexity
- Revised working methods
- Increased expectations
- Revised standards etc

There is an expectation that all employees are provided with the appropriate support, assistance and training to develop new skills that may be required for them to fulfil their duties and responsibilities.

The continued success of the school is dependent on its employees achieving and maintaining high standards of performance in their roles, and it is the responsibility of every manager to:-

- Regularly monitor performance of employees through the Performance Appraisal/Assessment and Development of support staff procedures
- Ensure that required standards of performance are achieved
- Ensure that employees have up-to-date job descriptions
- Deal with and seek to remedy any performance issues promptly and effectively

Employees are entitled to be:

- Informed of the specific areas of work where there are concerns about performance
- Offered the opportunity to fully discuss and respond to the issues
- Be accompanied by a friend, work colleague or trade union/staff association representative at formal meetings and hearings within this procedure. If the employee's companion cannot reasonably attend

the meeting, there is an obligation on the school to re-arrange the meeting once. In such circumstances, another date can be put forward so long as it is reasonable and is not more than 5 working days after the original date

- Treated fairly and consistently with any decisions taken being the result of a fair and reasonable process
- Have the consequences of any failure to meet the required standards fully explained at each stage of the procedure
- Able to appeal against a warning or a decision to dismiss

It should be ensured that confidentiality is maintained. A matter subject to the following proceedings should only be discussed on a need-to-know basis and then normally with the knowledge of the employee concerned.

If at any stage in the process poor work performance is attributed to misconduct such as wilful negligence, laziness, carelessness or other wilful acts, the Disciplinary Procedure should be invoked.

Where capability issues may be attributed to disability, school must seek to provide reasonable adjustments. Advice should be sought from School HR Advisor and where appropriate from Occupational Health.

This policy provides for a range of appropriate actions to be taken according to the significance and seriousness of the performance issue. Dismissal, redeployment or demotion should only take place following a Capability Review Hearing.

## **2. Reducing the Risk of Poor Performance**

To minimise the risk of a capability problem occurring, managers should ensure that:-

- Job descriptions accurately describe the main purpose, scope, tasks and responsibilities of the job and should be current and relevant
- Recruitment and selection is thorough to ensure that only those with the necessary skills and abilities to do the job are appointed
- Standards of performance are set and explained with arrangements in place for training and supervision and that the employee understands what is expected of them
- For support staff, performance must be carefully monitored during the probationary period to identify specific development needs and check that performance is developing as expected
- Performance is discussed regularly with each employee so that they are aware of how they are doing. There should be no surprises at any performance review meeting as any concerns in performance should be discussed with the employee at the earliest opportunity. It must be noted that performance reviews carried out as part of the Performance Appraisal/ Assessment and Development of Support Staff process should not be considered as a formal stage of this procedure
- Consequences of not meeting the required standard are fully explained to the employee
- Where standards change because of a management decision, such as the introduction of new technology or new methodologies etc the employee is informed, trained as required and made fully aware of their new obligations and the required standards
- Workloads are manageable and resources sufficient
- The needs of an employee with a disability are discussed with them in relation to possible impact on performance. Advice may be sought from Occupational Health/Schools HR to consider any reasonable adjustments that may overcome potential difficulties

- Special attention is given to ensuring that employees, from whom English may not be their first language, understand instructions, standards and targets

### **3. Monitoring and Review Periods**

Targets and review periods must be realistic and reasonable taking account of the nature of the job, extend of the failure to achieve the required performance standards and available training and support.

When setting review periods, a consistent approach needs to be applied taking into account the nature of the job and the extent of the underperformance. The minimum review period would be 30 working days.

The review period following a Final Written Warning can be reduced to 20 working days where the Head Teacher can demonstrate that the concerns are significantly serious and that the work of the employee is having a serious effect on the school's overall performance and/or is seriously jeopardising the student's education. The action must only be taken following consultation with Schools HR.

### **4. Good Management Practice**

Issues related to the failure to achieve the required performance standards or otherwise poor standards of work should be dealt with at the earliest opportunity. Appropriate support and guidance should be put in place to achieve the required standards of performance and work.

Where there is a concern that an employee is performing below the expected standard, the manager should in the first instance discuss with the member of staff his/her perceived shortcomings as specifically as possible. It should be made clear that efforts to resolve performance issues at this stage will not be part of any formal proceedings and aim to avoid dealing with the matter under the formal stage of the Capability Procedure.

The purpose of the meeting is to help clarify the position by finding out whether:

- The employee is able to put forward acceptable reasons in response to allegations of poor performance
- The poor performance is due to ill-health, personal circumstances or some other issue such as the fact that the context within which the employee's work has altered significantly
- The poor performance is due to misconduct or negligence – if it appears that this is the case the Disciplinary Procedure will be followed

If it is established that poor performance is due to lack of ability, skill or experience a support programme will be determined, taking into account the employee's duties and relevant experience.

Employees will be given an opportunity to achieve the required standard within a given review period and advised that if there is insufficient improvement, formal action within the Capability Procedure would be taken.

No record of this process should be placed on the employee's personnel file; however the manager should keep their own notes to evidence the efforts made to resolve the situation.

If the performance improves to the required standard the manager must inform the employee of the satisfactory outcome.

If there is no noticeable improvement following steps to address the concerns through the normal line management process and the support that had been put in place has not been effective in moving the situation forward, the employee would be informed that a Formal Capability Meeting would be held. The school realises that it is a serious step to move to capability procedure and this would be only acted upon where previous support has not led to the required standard of performance.

Before a member of staff is put on formal capability the following must have been actioned:

- Concerns have been identified fully
- Concerns are evidence based
- Concerns have been clearly communicated to the member of staff
- The member of staff has been given support to address the highlighted concerns
- The member of staff has been given support to address the highlighted concerns
- The member of staff would be given a minimum of 30 working days to address the highlighted concerns

In some cases it may be appropriate to move more quickly to formal capability procedures, for example:

- The concern raised is of an extremely serious nature, for example health and safety
- The highlighted concern is having a serious effect on the school's overall performance and/or is seriously jeopardising student's education
- The member of staff is not responding in an appropriate or professional way to the situation and support offered

## **5. Warnings within the Procedure**

The Head Teacher is able to issue the following warnings at a Formal Capability Meeting where performance remains unsatisfactory:

- Written warning to remain on record for a period of 12 months
- Final written warning to remain on record for a period of two years

The decision about which level of warning to issue, will depend on the seriousness of the problem. If performance is unsatisfactory a written warning will normally be the next step and will invoke a review period of a minimum of 30 working days.

In cases of particularly serious concerns, where the education is in jeopardy, it is possible to move directly to a final written warning and possibly invoking a shorter review period of a minimum of 20 working days.

## **6. Relationship to the Performance Appraisal Policy**

If concerns are raised through the Performance Appraisal process, then the following may happen:

- Issues addressed under the Performance Appraisal process
- Issues addressed under the Good Management Practice process, as set out in section 4 above
- Issues addressed under the Formal Capability process as set out in this policy

Managers need to assess each case individually to decide which is the most appropriate course of action. If a process is used and is unsuccessful, then it may be that the issue escalates to the next step.

Exceptionally the Capability Policy can also be triggered through other concerns that come to light outside the Performance Appraisal process.

## **7. Capability Procedure**

### **7.1 Formal Capability Meeting**

This meeting is intended to establish the facts. The meeting will be conducted by the Head Teacher for all employees. Where the Head Teacher is the subject of capability, the Chair of Governors/Trustees will conduct the meeting.

The employee should be given at least 5 working days' written notice of the formal capability meeting. The notification will contain sufficient information about the concerns regarding performance and their possible consequences to enable the employee to prepare to answer the case at the meeting. It will also contain copies of any written evidence eg notes of meetings during Feedback stage; details of the time and place of the meeting, and will advise the employee of their right to be accompanied by a companion who may be a trade union representative, or a work colleague, or a friend.

The Head Teacher 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 Performance Appraisal process. In such cases, the capability procedure will come to an end.

The Head Teacher may adjourn the meeting if it is felt that further investigation is needed, or that more time is needed in which to consider any additional information.

If during the meeting it becomes evident that the lack of performance is due to wilful carelessness or negligence, the Head Teacher should adjourn the meeting and the matter be dealt with under the Disciplinary Procedure.

In other cases, the meeting will continue. During the meeting the Head Teacher will:

- Identify the professional shortcomings, eg which of the standards expected are not being met
- Given clear guidance on the improved standard of performance needed to ensure that the employee can be removed from the formal capability procedure (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 out the timetable for improvement and explain how performance will be monitored and reviewed
- Warn the employee formally that failure to improve within the set review period could lead to dismissal. In very serious cases, this warning could be a final written warning.

Notes will be taken of the meeting and a copy sent to the employee. If a warning is issued the employee will be informed in writing, within 5 working days of the meeting, of the matters covered in the bullet points above and given information about the timing and handling of the monitoring and review process and the procedure and time limits for appealing against the warning.

The review and monitoring of performance should continue as discussed at the Formal Capability Meeting whilst any appeal which may be lodged by the employee is being considered

***Should include: 2.1- 2.3***

Whenever targets are being set this need to be relevant to the particular area(s) of concern highlighted and should be informed by:-

- Teachers
  - Individual Job Description
  - National Standard for Teachers
- Leadership Role
  - Individual Job Description
  - Standards for Leadership
- Support Staff
  - Individual Job Description
  - Relevant National Standards

In most circumstances an individual would be set no more than three targets; however this may vary in individual circumstances.

## **7.2 Monitoring and Review Period following a Formal Capability Meeting**

During the set review period the employee's performance will be monitored and reviewed as indicated in the Formal Capability Meeting and the recommended support will be provided. At the end of the set review period the employee will be invited to attend 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)

## **7.3 Formal Review Meeting**

As with the Formal Capability Meeting at least 5 working days' notice, in writing, will be given to the employee, 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 companion who may be a trade union representative, or a work colleague or a friend.

If the Head Teacher, or Chair of Governors/Trustees where the Head Teacher is the subject of capability, is satisfied that the employee has made sufficient improvement, the Capability Procedure will cease and the performance appraisal process will re-start.

In other cases

- If significant progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period. If deemed appropriate, modify the support put in place. The period of the extension should be in relation to the nature of the job and the level of underperformance but it should be no more than half the term of the original review period
- If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning

The final written warning will invoke a further monitoring and review period of a minimum of 30 working days which can be reduced, depending on the seriousness of the problem this period can be reduced to a minimum of 20 working days.

The employee will be informed on:

- Where the concerns remain around performance
- Give clear guidance on the improved standard of performance needed to end the Capability Procedure
- Explain the support that will be available to help improve performance
- Set out the timetable for improvement and explain how performance will be monitored and reviewed.

Notes will be taken of the formal meeting and a copy sent to the employee. Where a final written warning is issued, the employee will be informed in writing, within 5 working days of the meeting, that failure to achieve an acceptable standard of performance within the set review period, may result in dismissal and given information about the handling of the further monitoring and review period, and the procedure and time limits for appealing against the final written warning.

The review and monitoring of performance should continue as discussed at the Formal Review Meeting whilst any appeal which may be lodged by the employee, is being considered.

#### **7.4 Monitoring and Review Period following a Formal Review Meeting**

*During the set review period the employee's performance will be monitored and reviewed as indicated in the Formal Review Meeting and the recommended support will be provided. At the end of the set review period the employee will be invited to attend a Decision Meeting.*

#### **7.5 Decision Meeting**

At the end of the monitoring and review period following a final written warning, the employee will be invited to attend a Decision Meeting. As with other formal meetings, at least 5 working days' notice in writing will be given to the employee, 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 companion who may be a trade union representative, or a work colleague or a friend.

If the Head Teacher, Chair of Governors/Trustees where the Head Teacher is the subject of capability, 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 significant progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period. If deemed appropriate, modify the support put in place. The period of extension should be in relation to the nature of the job and the level of underperformance but it should be no more than half the term of the original review period
- If performance remains unsatisfactory, a recommendation to a Capability Review Hearing will be made that the employee should be dismissed on grounds of capability.

## 7.6 Suspension

If, at any stage during the procedure, the Head Teacher, or Chair of Governors/Trustees in the case of the Head Teacher, following advice from Schools HR, considers the education of students to be jeopardised may consider suspending the employee.

Suspension should be a last resort and if at all possible should be avoided except where, in the considered opinion of the Head Teacher and professional advisers, the employee's continued presence would place the education of students in jeopardy.

The school may consider suspension following a Decision Meeting, where the decision is to recommend dismissal to a Governor panel at the Capability Review Hearing, for the period until the Capability Review Hearing is convened.

Both the Head Teacher and Governing Body have authority to suspend an employee but only the Governing Body has the authority to end a suspension.

The employee will be notified in writing of the suspension giving reasons for the suspension.

## 7.7 Capability Review Hearing

The Capability Review Hearing should consist of 3 Governors/Trustees who have no previous involvement in the matter, and who are, ideally not staff or parent Governors/Trustees.

The employee will be informed in writing of the meeting. The employee will be given at least 10 working days' notice of the meeting and will have the right to be accompanied by a friend, work colleague or trade union representative.

The letter will set out the reasons for the meeting, clearly detailing the poor performance and enclosing copies of the relevant documentation eg outcome of the Formal Capability Meeting, Formal Review Meeting and Decision Meeting, action plans, notes from the monitoring and review, details of support provided, job description etc.

A copy of the documentation should also be sent to the Capability Review Hearing Panel and the HR Adviser.

The Head Teacher, or Chair of Governors/Trustees in the case of the Head Teacher, will present the information on the poor performance including information on the nature of the job, specific examples of poor performance against the standards of performance set and the measures taken to date to improve performance.

The employee will have the opportunity to respond to the information provided and present any further relevant information to include mitigation.

The Capability Review Panel may ask questions of the Head Teacher, or Chair of Governors/Trustees, and seek advice from appropriate sources prior to reaching a decision. The Capability Review Panel may choose to adjourn to consider the information presented or to seek further information. Where further information is provided, both parties will have the opportunity to comment.

When considering possible outcomes of the Capability Review Hearing the Panel may wish to consider the following:

- Nature and level of the job
- Level of incapability and the impact on the job
- Impact upon students, the relevant area where the employee works and school as a whole
- Level of improvement and whether this is sufficient
- Actions taken to date to resolve the difficulties and whether these were sufficient
- A pattern where capability remains satisfactory throughout previous review periods only to lapse soon afterwards
- Any other relevant factors

A possible outcome of the Capability Review Hearing could be to:-

- Redeployment/transfer to an alternative post
- Demotion
- Dismissal (this will be with paid contractual notice)

The decision should be confirmed to the employee in writing within 5 working days of the Capability Review Hearing. Where the decision is to dismiss, the employee must be notified of his/her right of appeal.

## **8. Notice Periods**

The period of notice for support staff is one week's pay for each year of service but should be no less than 4 weeks and up to a maximum of 12 weeks.

The period of notice for teachers must be as stated in the Conditions of Service for School Teachers (Burgundy Book). Notice to terminate employment must be given by the given dates (by 31<sup>st</sup> October to end employment on 31<sup>st</sup> December, by 28<sup>th</sup> February to end employment on 30<sup>th</sup> April and by 31<sup>st</sup> May to end employment on 31<sup>st</sup> August) and notice pay will be to the end of that term.

Teachers who have over 8 years continuous employment are entitled to longer notice based on their total continuous service, which is calculated on the basis of 1 week for every complete year of service up to a maximum of 12 weeks' notice being required.

## **9. Appeal Hearing**

An employee has the right to appeal against a warning or the decision taken at the Capability Review Hearing stage. If an employee wishes to appeal they must submit their appeal in writing 10 working days of receipt of the letter notifying them of the warning or the decision of the Capability Review Hearing.

The employee must state in the letter their grounds for appeal which can be:-

- The severity of the action and/or
- The finding of the Formal Capability Meeting/Formal Review Meeting/Capability Review Hearing on a point of fact and/or
- A failure to adhere to agreed procedure

An Appeal Hearing should be held within 6 working weeks following receipt of the appeal letter from the employee. The employee should be informed in writing of the Appeal Hearing and given at least 10 working days' notice of the meeting. The employee will be entitled to be accompanied by a friend, work colleague or trade union representative at the meeting.

The Appeal Hearing Panel will consist of 3 Governors/Trustees who have had no previous involvement in the case and who are not, ideally, staff or parent Governors/Trustees.

The Chair of the Capability Review Hearing Panel should complete a management statement detailing the decision taken and reasons, and deal with issues raised in the appeal statement. This should be sent to the employee ideally with the letter informing them of the Appeal Hearing together with documentation from the Capability Review Hearing. A copy of the documentation should also be sent at the same time to the Appeal Hearing Panel and the HR Adviser.

The procedure to be followed at the Appeal Hearing is the same as the Capability Review Hearing but with the employee or their companion presenting the case first.

The outcome of the Appeal Hearing may include the following:-

- Uphold the appeal and dismiss the decision taken at the Capability Review Hearing
- Substitute a less severe level of action as defined under the Capability Review Hearing outcomes
- Dismiss the appeal and uphold the decision
- Any other appropriate action, in consultation with advice from the School's HR Adviser

## **10. Grievances**

Where a member of staff raises a grievance during the Capability Procedure, the procedure may be temporarily suspended in order to deal with the grievance.

Where the grievance and capability issues are related it may be appropriate to deal with both issues at the Capability meetings.

## **11. Sickness Absence**

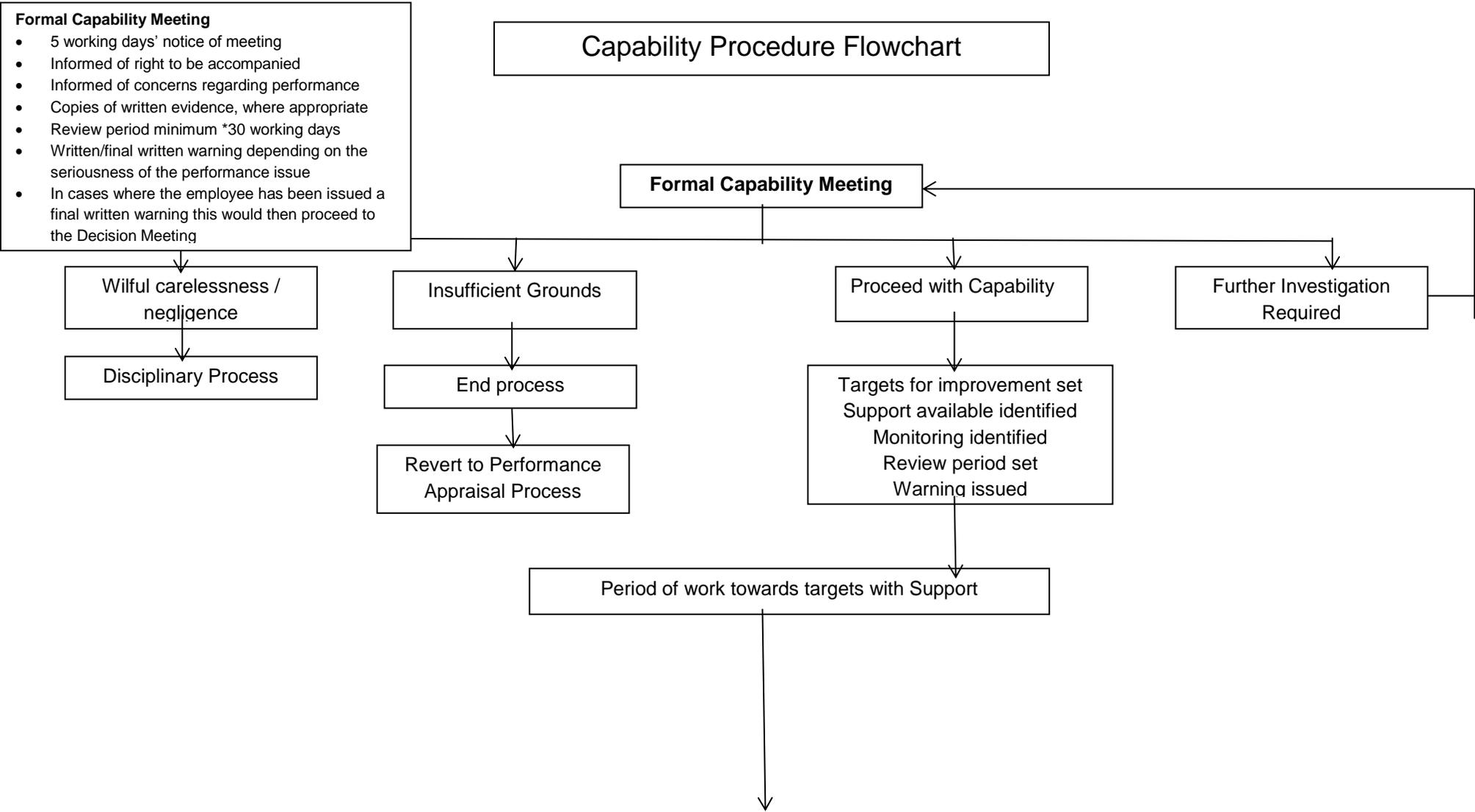
If long-term sickness absence appears to have been triggered by the formal action taken under the Capability Procedure, the matter will be dealt with in accordance with the Absence Management/Attendance policy.

In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## **12. Employment References to Prospective Employers**

When the school is providing a reference to a prospective employer on behalf of an employee, the reference should only disclose details of capability issues if the employee is undergoing capability procedures at the time of writing the reference. Where the employee has previously undergone capability procedures but the issue has been resolved at the time of writing the reference, this should not be disclosed in the reference.

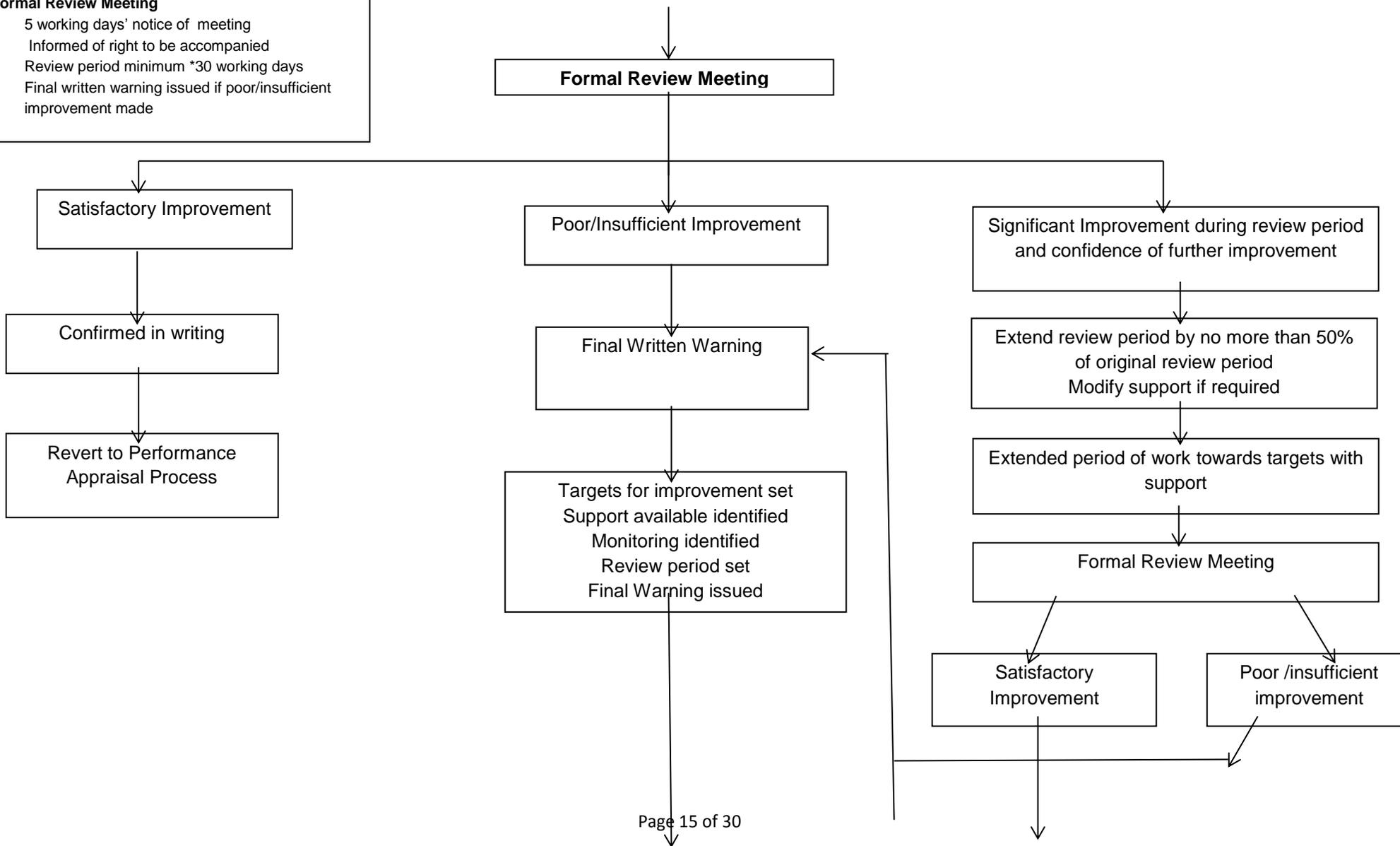
# Capability Procedure Flowchart

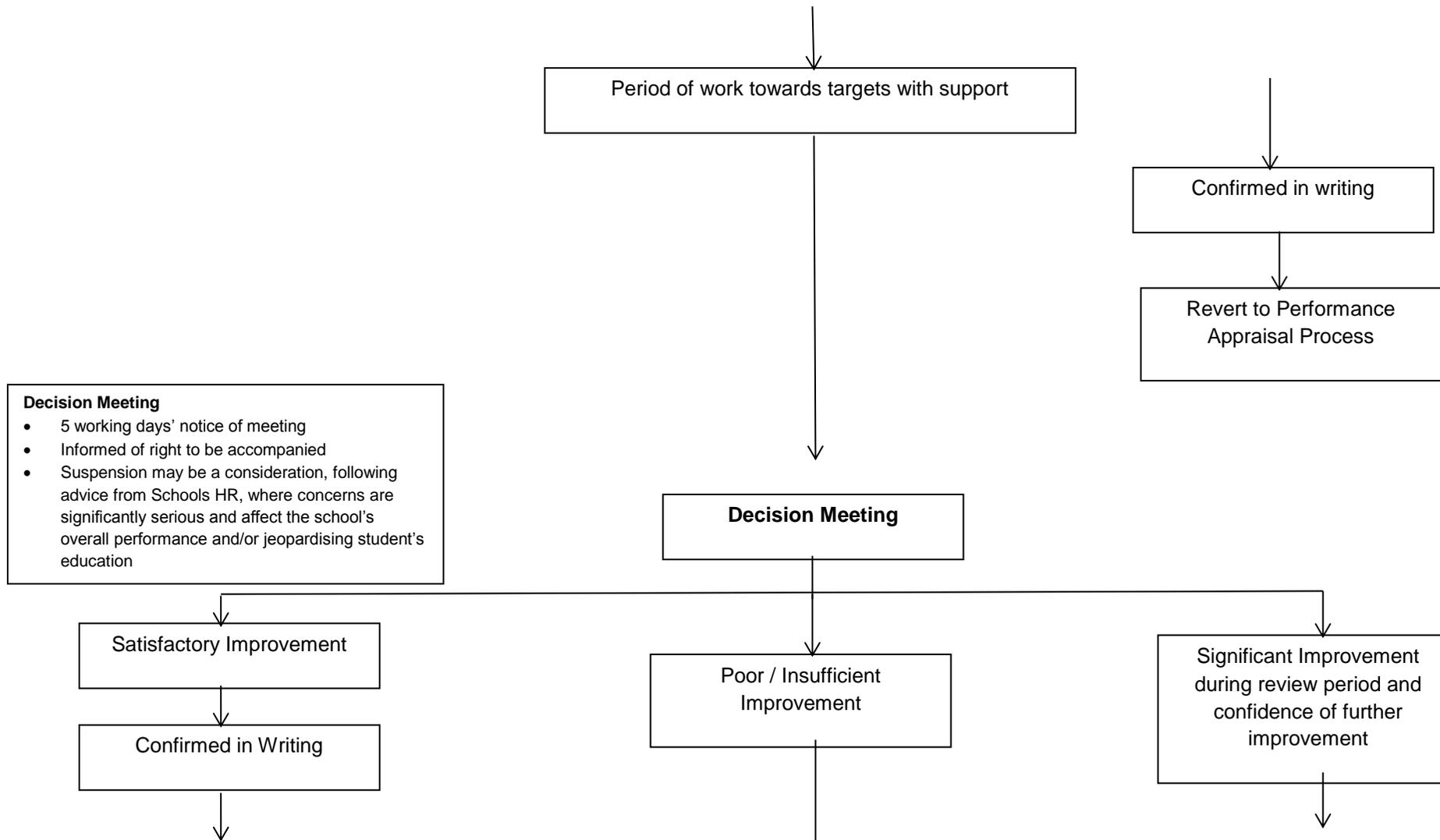


- Formal Capability Meeting**
- 5 working days' notice of meeting
  - Informed of right to be accompanied
  - Informed of concerns regarding performance
  - Copies of written evidence, where appropriate
  - Review period minimum \*30 working days
  - Written/final written warning depending on the seriousness of the performance issue
  - In cases where the employee has been issued a final written warning this would then proceed to the Decision Meeting

**Formal Review Meeting**

- 5 working days' notice of meeting
- Informed of right to be accompanied
- Review period minimum \*30 working days
- Final written warning issued if poor/insufficient improvement made





Revert to Performance  
Appraisal Process

Extended review period by  
no more than 50% of original  
review period  
Modify support if required

Extended period of work  
towards targets with support

Decision Meeting

Satisfactory Improvement

Poor / Insufficient  
Improvement

Confirmed in Writing

Revert to Performance  
Appraisal Process

**Capability Review Hearing**

- 10 working days' notice of meeting
- Governor panel
- HR advisor to advise panel
- Head Teacher to present case
- Informed of right to be accompanied
- Report produced by Head indicating area(s) of poor performance, support previously implemented, outcome of monitoring
- Outcome confirmed in writing within 5 days

**Capability Review Hearing**

Redeployment

Dismissal

Demotion

Ratification Date: July 2012

Reviewed – As required

Next  
Gov  
Lea

The review period following a Final Written Warning can be reduced to a minimum of 20 working days where the concerns are significantly serious and that the work of the employee is having a serious effect on the school's overall performance and/or seriously jeopardising student's education

Policy

## Appendix 2

### Target Setting

Target and Timescale	Success Criteria	Support to be provided	Monitoring	Evidence	Satisfactory Improvement	Satisfactory Improvement and Confidence of Further Improvement	Poor/Insufficient Improvement	Comment
<i>Eg Manage classes effectively</i>	<i>Students are:</i> <ul style="list-style-type: none"> <li>• <i>Engaged</i></li> <li>• <i>Motivated</i></li> <li>• <i>Focussed</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Peer observation</i></li> <li>• <i>Video lesson</i></li> <li>• <i>Inset on behaviour management</i></li> <li>• <i>Visit to other classrooms</i></li> </ul>	<i>Via lesson observations</i>  <i>Speaking to students</i>	<i>Lesson observation feedback</i>  <i>Sleuth analysis</i>  <i>Student questioning</i>				

### Appendix 3

#### Notification of Formal Capability Meeting

Dear

Formal Capability Meeting

In accordance with the school's Capability Procedure I would like you to attend a meeting with me to discuss the concerns about your performance which are detailed below, and explore ways in which the school may be able to support you in reaching the required standard in the areas identified.

1  
2  
3  
4

The meeting will be held on (date) at (time) at (location)

I attach copies of evidence from the Feedback stage of the Performance Appraisal procedure which will be considered at the meeting. These include (list what is being attached eg the objectives and support plan agreed for the Feedback stage, notes from review meetings, observations, details of support provided etc)

At the meeting you will have the opportunity to present your case and any acceptable reasons in response to the allegation of poor performance.

If during the meeting there is evidence that poor performance is due to negligence or wilful carelessness on your part, the meeting will be adjourned and the matter will be dealt with in accordance with the school's Disciplinary Procedure.

You have the right to be accompanied to the meeting by a trade union representative, or a work colleague or a friend.

I enclose a copy of the Capability Procedure for your information.

I appreciate that this may be an anxious time for you and would like to inform you that the school's counselling service is available if you require support at this time.

Please inform me directly if you require any clarification about the process.

Yours sincerely

## Appendix 4

### Notification of Outcome of Formal Capability Meeting

Dear

Outcome of Formal Capability Meeting

I refer to the Formal Capability Meeting held on *(date)* and write to confirm the outcome.

We discussed the areas of concern in your performance which are as below:

*(state areas of concern which have been raised, these should be very specific detailing in what way performance standards are not being met so that the employee is left in no doubt)*

You explained that *(insert any explanation that the employee gave about their perception of their own performance and any reasons given for the performance issues raised)*

After full consideration of the points raised, it was agreed that the following action would be taken in an attempt to resolve these difficulties:-

*(insert details of constructive action to be taken by the manager and/or employee to address the performance issues ie details of performance standards to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc)*

A review period of (enter number of working days for review period) is being set from (date of meeting) and your performance would be reviewed at a Formal Review Meeting on (date)

In view of the poor performance it is my decision that you should receive a written warning to remain on your record for 12 months. I must inform you that if you fail to achieve the required standard and the matter was to progress to the Capability Review Hearing stage consideration will be given to your dismissal on the grounds of capability. I attach a copy of the notes of the meeting for your information.

You have the right to appeal against the decision taken. If you wish to appeal, you must submit a written statement of appeal to me within 10 working days' of receipt of this letter. The letter should clearly state the ground of the appeal which can be based on any or all of the following:

- The severity of the action and/or
- The finding of the Formal Capability Meeting on a point of fact and/or
- A failure to adhere to agreed procedure

Any appeal will be heard by a Governors/Trustees Appeal Committee.

Yours sincerely

## **Appendix 5**

### **Notification of Formal Review Meeting**

Dear

Formal Review Meeting

I would like you to attend a Formal Review Meeting on (date) at (time) in (venue).

The purpose of this meeting is to review your performance over the (insert number of days) working day review period agreed at the Formal Capability Meeting on (date).

I attached written evidence obtained during the review period for consideration at the meeting and this includes:

(list supporting evidence to be considered at the meeting)

You have the right to be accompanied to the meeting by a friend, work colleague or trade union representative.

I appreciate that this may be an anxious time for you and would like to inform you that the school's counselling service is available if you require support at this time.

Please inform me directly if you require any clarification about the process.

Yours sincerely

## Appendix 6

### Notification of Outcome of Formal Review Meeting (Insufficient Improvement)

Dear

I refer to the Formal Review Meeting on (date) and write to confirm the outcome.

Following the meeting and review of the evidence obtained during the set review period, I have to inform you that there has been no/insufficient improvement in your performance.

*Points discussed should be entered here around how the previous review period has gone.*

In view of no/insufficient improvement achieved, it is my decision that you should receive a final written warning to remain on your record for 2 years.

This invokes a further review period of (enter number of days) working days to be set and your performance will be reviewed at a Decision Meeting to be held on (date)

*During the review period (insert details of constructive action to be taken by the manager and/or employee to address the performance issues ie details of performance standard to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc)*

I must inform you that if you fail to achieve the required standard and the matter was to progress to the Capability Review Hearing, consideration will be given to your dismissal on the grounds of capability.

Yours sincerely

## Appendix 7

### Confirmation of Improvement in Performance

Dear

Formal Review Meeting

Following our meeting on *(date)* to review your performance, I am pleased to inform you that your performance has improved to the required standard and consequently I do not intend to take any further action under the Capability Procedure.

Your performance will revert to being managed under the school's Performance Appraisal Procedure

I must inform should any further problems in your work arise, further action under the Capability Procedure may be necessary

I would like to congratulate you on the effort you have put in to improve the standard of work in the areas specified. I hope that you will be able to sustain this improvement and would like to encourage you to seek assistance immediately should you experience any problems with your work in the future

Yours sincerely

## Appendix 8

### Extension of Review Period following Formal Review/Decision Meeting

Dear

Formal Review Meeting

I refer to the Formal Capability/Formal Review meeting held on (date) when your performance at work was discussed.

I am very pleased to confirm that you have achieved the expected standard of performance in the following areas:-

*(state the areas where the expected performance standards have been achieved)*

I would like to congratulate you on the effort you have put in to achieving the required standard in the areas specified.

However, as discussed, concerns remain in respect of the following:-

*(state here the areas of concern remaining, these should be very specific detailing in what way performance standards have not been reached so that the employee is left in no doubt)*

You explained that *(insert any explanation that the employee gave about their perception of their own performance and any reasons given for the performance issues raised)*.

After full consideration of the points raised, it was agreed that the following action would be taken in an attempt to resolve these difficulties/assist you to reach the required standard:-

*(insert details of constructive action to be taken by the manager and/or employee to address the performance issues ie details of performance standard to be achieved, type of support which will be provided by the school and the areas in which this support will be provided, frequency of review meetings during the review period etc)*

In the circumstances the current review period will be extended by a further *(number of working days this should be no more than half the original review period)* days to enable you to achieve the expected standard in the area(s) specified. Therefore a Formal Review Meeting/Decision Meeting to consider your performance will be held on *(date)*.

I must inform you that if you fail to achieve the required standard and the matter was to progress to the Capability Review Hearing consideration will be given to your dismissal on the grounds of capability.

Yours sincerely

## Appendix 9

### Notification of Suspension

Dear

I am writing to confirm the decision taken under the Schools' Capability Procedure to suspend you from work with effect from \_\_\_\_\_ until further notice. Your suspension is without prejudice and on full pay.

The reason for your suspension is to facilitate a full investigation into the allegation of poor performance (*state details of poor performance*)/is that your poor performance at work is considered to jeopardise the education of students and will be until a Capability Review Hearing is convened to consider your employment at the school.

It is expected that the investigation will be concluded by (*enter date*). It is expected that the Capability Review Hearing will be convened by (*enter date*). However, if due to unforeseen circumstances, it has not been possible to complete the investigation /convene the Capability Review Hearing by the given date, you will be informed of any extension to your suspension.

Please do not return to the school unless it is with my express agreement.

The decision to suspend will be reviewed regularly and may be reconsidered at any time in the light of new evidence during the investigation. As suspension can be lifted at any time, during this time you are regarded as being available for work, or to attend for any other reason.

Following the investigation, if it is considered that you have a case to answer, the School's Disciplinary Procedure/School's Capability Procedure will be followed and you will be notified accordingly.

(*Name of designated person*) will be your designated point of contact at the school during the period that you are away from the school. He/she will keep you informed of general activities and news at the school. If you wish to contact the school for any reason please telephone (*name of designated person*) on (*insert telephone number*). I must ask you not to contact any other member of staff, student at the school or any member of the Governing Body whilst the suspension is in force.

If you wish to collect any personal belongings at the school please contact (*name of designated person*) who will make the appropriate arrangements.

I appreciate that this will be a difficult time for you and would like to inform you that the school's counselling service is available if you require support at this time.

Yours sincerely

## Appendix 10

### Notification of Capability Review Hearing

Dear

Capability Review Hearing

I write to inform you that in accordance with the School's Capability Procedure you are required to attend a Capability Review Hearing in relation to your performance at work.

The Capability Review Hearing will be held on *(date)* at *(time)* at *(place)*. The Capability Review Panel will consist of:-

*List the names of the 3 Governors/Trustees*

The purpose of the Capability Review Hearing is to review your employment with the school as *(enter job title)* following unsatisfactory assessments of your capability for the post. The following areas have been identified where you have failed to reach the required standard:

- (i)
- (ii)
- (iii)

The purpose of the Capability Review Hearing is also to confirm that all the appropriate procedures have been followed and that any proposed action is reasonable in all the circumstances. This will include that you have previously been advised that there will be consideration given to your dismissal if you do not meet the standards required for the post which you are employed to.

You have the right to be accompanied to the Hearing by a friend, work colleague or trade union representative.

I enclose the 'bundle of documents', which includes a copy of the school's Capability Procedure, for consideration at the Capability Review Hearing.

I would be grateful if you could confirm your attendance as soon as possible. If you wish to submit any documentation to be considered at the Hearing, please forward this no later than 3 working days before the Hearing.

I appreciate that this may be an anxious time for you and would like to inform you that the school's counselling service is available if you require support at this time.

Yours sincerely  
Head Teacher

## Appendix 11

### Outcome of Capability Review Hearing (Dismissal)

Dear

I refer to the Capability Review Hearing on (date) and write to inform you of the decision on behalf of the Capability Review Panel.

The panel considered all the information presented which included:-

*(enter information considered which can include the following)*

- *Nature and level of the job*
- *Level of incapability and the impact on the job*
- *Likely level of improvement and whether this is sufficient*
- *Actions taken to date to resolve the difficulties, whether these are sufficient and further possible actions*
- *A pattern where capability remains satisfactory throughout the review period only to lapse soon afterwards*
- *Any other relevant factors (these need to be specified)*

The panel is of the view that you have been given sufficient opportunity and assistance to improve your performance to the required standard, but you have failed to reach this standard. Consequently, I have no alternative but to dismiss you on the grounds of capability. You are entitled to \_\_\_\_\_ weeks' notice with pay. You are not required to work your period of notice.

You have the right to appeal against your dismissal. If you wish to appeal please let me know in writing within 10 working days of receiving this letter stating your grounds for appeal which can be:-

- The severity of the action and/or
- The finding of the Capability Review Hearing on a point of action, and/or
- A failure to adhere to agreed procedure

In the meantime if you should have any queries please contact me.

Yours sincerely

Head Teacher/Chair of Governors/Trustees

## Appendix 12

### Teacher Standards England 2012

Teachers make the education of their students their first concern, and are accountable for achieving the highest possible standards in work and conduct. Teachers act with honesty and integrity; have strong subject knowledge, keep their knowledge and skills as teachers up-to-date and are self-critical; forge positive professional relationships and work with parents in the best interest of their students.

<b>1.1</b>	<b>Set high expectations which inspire, motivate and challenge students</b> <ul style="list-style-type: none"><li>• Establish a safe and stimulating environment for students, rooted in mutual respect</li><li>• Set goals that stretch and challenge students of all backgrounds, abilities and dispositions</li><li>• Demonstrate consistently the positive attitudes, values and behaviour which are expected of students</li></ul>
<b>1.2</b>	<b>Promote good progress and outcomes by students</b> <ul style="list-style-type: none"><li>• Be accountable for students' attainment, progress and outcomes</li><li>• Be aware of students' capabilities and their prior knowledge, and plan teaching to build on these</li><li>• Guide students to reflect on the progress they have made and their emerging needs</li><li>• Demonstrate knowledge and understanding of how students learn and how this impacts on teaching</li><li>• Encourage students to take a responsible and conscientious attitude to their own work and study</li></ul>
<b>1.3</b>	<b>Demonstrate good subject and curriculum knowledge</b> <ul style="list-style-type: none"><li>• Have a secure knowledge of the relevant subject(s) and curriculum areas, foster and maintain students' interest in the subject, and address misunderstandings</li><li>• Demonstrate a critical understanding of developments in the subject and curriculum areas, and promote the value of scholarship</li><li>• Demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of standard English, whatever the teacher's specialist subject</li></ul>
<b>1.4</b>	<b>Plan and teach well-structured lessons</b> <ul style="list-style-type: none"><li>• Impart knowledge and develop understanding through effective use of lesson time</li><li>• Promote a love of learning and children's intellectual curiosity</li><li>• Set homework and plan other out-of-class activities to consolidate and extend the knowledge and understanding students have acquired</li><li>• Reflect systematically on the effectiveness of lessons and approaches to teaching</li><li>• Contribute to the design and provision of an engaging curriculum within the relevant subject area(s)</li></ul>

1.5	<p><b>Adapt teaching to respond to the strengths and needs of all students</b></p> <ul style="list-style-type: none"> <li>• Know when and how to differentiate appropriately, using approaches which enable students to be taught effectively</li> <li>• Have a secure understanding of how a range of factors can inhibit students' ability to learn, and how best to overcome these</li> <li>• Demonstrate an awareness of the physical, social and intellectual development of children, and know how to adapt teaching to support students' education at different stages of development</li> <li>• Have a clear understanding of the needs of all students, including those with special educational needs; those of high ability; those with English as an additional language; those with disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them</li> </ul>
1.6	<p><b>Making accurate and productive use of assessment</b></p> <ul style="list-style-type: none"> <li>• Know and understand how to assess the relevant subject and curriculum areas, including statutory assessment requirements</li> <li>• Make use of formative and summative assessment to secure students' progress</li> <li>• Use relevant data to monitor progress, set targets, and plan subsequent lessons</li> <li>• Give students regular feedback, both orally and through accurate marking, and encourage students to respond to the feedback</li> </ul>
1.7	<p><b>Manage behaviour effectively to ensure a good and safe learning environment</b></p> <ul style="list-style-type: none"> <li>• Have clear rules and routines for behaviour in classrooms, and take responsibility for promoting good and courteous behaviour both in classroom and around the school, in accordance with the school's behaviour policy</li> <li>• Have high expectations of behaviour, and establish a framework for discipline with a range of strategies, using praise, sanctions and rewards consistently and fairly</li> <li>• Manage classes effectively, using approaches which are appropriate to students' needs in order to involve and motivate them</li> <li>• Maintain good relationships with students, exercise appropriate authority, and act decisively when necessary.</li> </ul>
1.8	<p><b>Fulfil wider professional responsibilities</b></p> <ul style="list-style-type: none"> <li>• Make a positive contribution to the wider life and ethos of the school</li> <li>• Develop effective professional relationships with colleagues, knowing how and when to draw on advice and specialist support</li> <li>• Deploy support staff effectively</li> <li>• Take responsibility for improving teaching through appropriate professional development, responding to advice and feedback from colleagues</li> <li>• Communicate effectively with parents with regard to students' achievements and well-being</li> </ul>

2.1	<p><b>Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:</b></p> <ul style="list-style-type: none"> <li>• Treating students with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position</li> <li>• Having regard for the need to safeguard students’ well-being in accordance with statutory provisions</li> <li>• Showing tolerance of and respect for the rights of others</li> <li>• Not undermining fundamental British Values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs</li> <li>• Ensuring that personal beliefs are not expressed in ways which exploit students’ vulnerability or might lead them to break the law</li> </ul>
2.2	<p><b>Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality</b></p>
2.3	<p><b>Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities</b></p>