



*‘Innovative Education - Transforming Lives’*

## Capability Policy

Status	Statutory
Responsible Directors’ Committee	Staffing, Resource, Finance & Premises Committee (SRFP)
LGB Committee	Human Resources & Finance Committee
Responsible Persons	Mrs. B Nixon
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### Version Control

<b>Version</b>	<b>Revision Date</b>	<b>Revised by</b>	<b>Section Revised</b>
V2	July 2018	B Nixon	None
V2	September 2019	B Nixon	None

## 1 INTRODUCTION

Exceed Learning Partnership is required to have a Capability Procedure to deal effectively with allegations of poor performance or unacceptable levels of skill or aptitude

This procedure applies to Teachers, Support Staff and Principals and Executive Principals about whose performance there are serious concerns that the Appraisal process has been unable to address.

## 2 PURPOSE, SCOPE AND PRINCIPLES

A Capability Procedure is necessary for promoting fairness and order in the treatment of individuals and is designed to help and encourage all employees to achieve and maintain high standards of job performance. For examples of areas which may give rise to concern, see appendix 1. All staff must have ready access to this procedure and are entitled to complete confidentiality in relation to personal, professional and medical information.

This procedure applies to:

- all teachers and Support Staff employed by the Trust, including the Executive Principal and Principal, except NQTs and staff still in their probationary period (see below);

The procedure does not apply to:

- Newly Qualified Teachers (alternative procedures are in place for newly qualified teachers during their period of induction);
- schools meals staff employed by Catering organisations or other external catering contractors;
- employees of external contractors and providers of services (*e.g.* contract cleaners).

At every stage in the procedure, with the exception of the management period (see para 5), the employee will:

- be advised in writing of the nature of the performance concerns against him or her;
- have the right to be accompanied by their trade union representative, professional association representative or work colleague and by *no-one* else;
- have a right of appeal against any penalty imposed.

## **3 EXTENUATING CIRCUMSTANCES**

### **3.1 Ill Health & Absence**

Where it is established that the employee's unsatisfactory performance is caused by ill health, the Trust's Managing Attendance procedure should be followed.

Where poor performance is due to an employee having a disability, this procedure should be adapted to meet the requirements of the Equality Act 2010. For example, in addition to the support offered, reasonable adjustments to assist the employee reach the required standard must be considered.

Where an employee becomes sick, having entered Capability Procedures, it may be necessary to refer the employee to the Occupational Health Physician, but this will not be automatic. Advice should be sought from the Trust's HR advisor.

Short absences should not delay any part of the Capability Procedure.

### **3.2 Misconduct**

In some circumstances performance may be unsatisfactory due to an employee's own negligence or wilful misconduct. In such cases the Disciplinary Procedure should be used rather than the Capability Procedure.

## **4 DEFINITION AND SEPARATION OF ROLES**

### **4.1 Employees**

Every employee has a contractual responsibility to perform at an appropriate level. Employees are, therefore, expected to be committed to achieving appropriate levels of performance.

### **4.2 The Executive Principal and Principal**

In all cases, except where the Executive Principal and Principal is the subject of concerns, formal Capability meetings for teachers and Support Staff will be arranged and conducted by the Principal. The Principal will consider the evidence, reach a conclusion and issue a warning as necessary. The Principal will specify the improvement required and support to be provided as part of the warning process.

### **4.3 Chair of Governors**

It is possible that as part of the normal working relationship between the Principal and Chair of Governors, they will have discussed details of concerns about the employee. If that is the case, the Chair of Governors can take no part in appeal hearings or in dismissal hearings.

In cases where the Principal is the subject of concerns, the Executive Principal will carry out the functions normally allocated to the Principal in this procedure. The Executive Principal will take advice from the Trust's HR advisor. The Executive Principal will be responsible for organising hearings or appeals at any stage.

#### 4.4 Other Governors

The governing body has quite specific tasks to perform under this procedure in relation to appeal and dismissal hearings, when they will be expected to form a panel of three Governors. Governors who are employees of the school should not form part of the panel. It is inappropriate for Governors to be involved in detailed discussion or consideration of performance concerns at any other time. It is also inappropriate for details of any capability cases to be discussed at a full meeting of the governing body.

#### 4.5 Expert Advice

The Executive Principal / Principal or Chair of Governors may need to seek expert advice at the outset of the process or at any of the formal meetings. Advice from an HR professional should be sought.

### 5 MANAGEMENT PERIOD

Before embarking on the Capability Procedure, management should ensure that through the normal Appraising Teacher Performance and Appraising Support Staff Performance:

- the employee has been alerted to concerns;
- the employee has an agreed job description, which is fully understood and that there is a clear agreed expectation of standards of performance;
- a programme of support has been arranged for the employee in line with the appraisal policies (e.g. regular meetings, monitoring, objectives set, training and mentoring), and has been well documented and can be provided in written form; and
- a reasonable timescale for improvement has been set and the employee has been informed of the programme of support in writing.


Additional documents to be used alongside this policy are:

Capability Procedures for Teaching Staff

Capability Procedures for Support Staff

Policy Agreed: 19<sup>th</sup> September 2018 (reviewed Sept 2019 with no changes)

Signed Executive Principal: 

Signed: Chair of Directors: 

Policy to be reviewed in autumn 2020