

WATFORD GRAMMAR SCHOOL FOR BOYS



STAFF CAPABILITY POLICY

Headmaster's signature

28/04/2021

A handwritten signature in black ink, appearing to be 'J. Long', written in a cursive style.

Chair of Governors' signature

28/4/2021

A handwritten signature in black ink, reading 'Stephen A. Wake', written in a cursive style.

Staff Capability Policy

About this procedure

The primary aim of this procedure is to provide a framework within which managers/Headmaster can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary.

It is our policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

This policy does not apply to cases involving genuine sickness absence, proposed redundancies or misconduct. In those cases, reference should be made to the appropriate policy or procedure.

This procedure applies to all employees regardless of length of service. However, we may depart from this procedure where appropriate including but not limited to during an employee's probationary period. It does not apply to agency workers or self-employed contractors.

This procedure has been implemented following consultation with the staff consultative committee.

This procedure does not form part of any employee's contract of employment and it may be amended at any time.

Capability procedure – Informal stage

Any concerns about capability should be addressed at the earliest opportunity to secure improvements through informal interactions between the line manager and the employee, as part of day-to-day management. Therefore any need to progress to subsequent stages in this procedure should not come as a surprise to an employee.

Where work performance is still not reaching an acceptable standard, a designated member of SLT (usually the linked SLT manager) will attempt to resolve the situation informally and may hold an informal meeting with you. At this meeting the member of SLT will:

- Make clear the areas in which your performance is below expectations (explaining the grounds / evidence for this view) with the aim of identifying any problems or reasons for the under-performance, which could be resolved. Solutions to the problem could include additional training, providing a mentor, coaching or some other kind of ongoing support.
- Give you the opportunity to explain your under-performance and to raise any concerns you may have about the job, or the support and guidance you have been given to do it.
- Ensure that you are aware of the level of performance / productivity required in relation to each element of the duties about which there is a concern.
- Set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. This will be captured in a Performance Improvement Plan (PIP). When establishing “reasonable timescales” for improvement, your manager must consider the complexity of the tasks involved in relation to your qualifications and experience.
- Suspend the existing appraisal arrangements to enable a sharp focus on the targets for improvement identified in this informal stage of the capability procedure. In some instances, existing appraisal targets may be appropriate for inclusion in the PIP.

If your performance has still not improved to an acceptable standard or if your manager feels the situation cannot be resolved informally then the formal capability procedure will be invoked.

Employees will not normally be dismissed for performance reasons without previous warnings or without having followed the formal procedure. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

Capability procedure – Formal stage

If we consider that there are grounds for taking formal action over alleged poor performance, you will be required to attend a capability hearing. We will notify you in writing of our concerns over your performance, the reasons for those concerns, and the likely outcome if we decide after the hearing that your performance has been unsatisfactory. We will also include the following where appropriate:

- (a) A summary of relevant information gathered as part of any investigation or documents used during any informal process.
- (b) A copy of any relevant documents which will be used at the capability hearing.
- (c) A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

We will give you 5 working days written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable, but you will be notified if there are any delays.

Right to be accompanied at hearings

You may bring a companion to any capability hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell the panel conducting the hearing who your chosen companion is, at least 2 days before the hearing.

If your companion is unavailable at the time a hearing is scheduled, an alternative time and date will be proposed which will be no more than five days after the original date.

We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) where this will help overcome a particular difficulty caused by a disability, or where you have difficulty understanding English.

Procedure at capability hearings

If you or your companion cannot attend the hearing you should inform us immediately and we will usually arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. If you fail to attend without good reason, or are persistently unable to do so (for example, for health reasons), we may have to take a decision to hear the case in your absence and base any decision on the available evidence including any written representations you have made.

The hearing will normally be held by your line manager/Headmaster/a panel of Governors and will normally be attended by an independent HR advisor. You may bring a companion with you to the hearing. Your companion may make representations, ask questions, and sum up your case, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

You may ask relevant witnesses to appear at the hearing, provided you give us at least 3 days' advance notice

to arrange their attendance. You will be given the opportunity to respond to any information given by a witness.

The aims of a capability hearing will usually include:

- (a) Setting out the required standards that we believe you may have failed to meet, and going through any relevant evidence that we have gathered.
- (b) Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations.
- (c) Establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement.
- (d) Identifying whether there are further measures, such as additional training or supervision, which may improve performance.
- (e) Where appropriate, discussing targets for improvement and a time-scale for review.
- (f) If dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

A hearing may be adjourned if we need to gather any further information or consider matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

We will inform you in writing of our decision and our reasons for it, usually within 5 working days of the capability hearing.

Stage 1 hearing: [First written warning]

Following a Stage 1 capability hearing, if we decide that your performance is unsatisfactory, we will give you a first written warning, setting out:

- (a) The areas in which you have not met the required performance standards.
- (b) Targets for improvement.
- (c) Any measures, such as additional training or supervision, which will be taken with a view to improving performance.
- (d) A period for review.
- (e) The consequences of failing to improve within the review period, or of further unsatisfactory performance.

The warning will normally remain active for six months from the end of the review period. After the active period the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

Your performance will be monitored during the review period and we will write to inform you of the outcome:

- (a) If your line manager is satisfied with your performance, no further action will be taken;

(b) If your line manager is not satisfied, the matter may be progressed to a Stage 2 capability hearing.

Stage 2 hearing: [Final written warning]

If your performance does not improve within the review period set out in a first written warning, or if there is further evidence of poor performance while your first written warning is still active, we may decide to hold a Stage 2 capability hearing.

Following a Stage 2 capability hearing, if we decide that your performance is unsatisfactory, we will give you a final written warning, setting out:

- (a) The areas in which you have not met the required performance standards;
- (b) Targets for improvement;
- (c) Any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- (d) A period for review; and
- (e) The consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for [12] months from the end of the review period. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future capability proceedings.

Your performance will be monitored during the review period and we will write to inform you of the outcome:

- (a) If your line manager is satisfied with your performance, no further action will be taken;
- (b) If your line manager is not satisfied, the matter may be progressed to a Stage 3 capability hearing.

Stage 3 hearing: [Dismissal or redeployment]

We may decide to hold a Stage 3 capability hearing if we have reason to believe:

- (a) Your performance has not improved sufficiently within the review period set out in a final written warning;
- (b) Your performance is unsatisfactory while a final written warning is still active; or
- (c) Your performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.

Following the hearing, if we find that your performance is unsatisfactory, we may consider a range of options including:

- (a) Dismissing you.
- (b) Redeploying you into another suitable job at the same or a lower grade.
- (c) Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period).

(d) Giving a final written warning (where no final written warning is currently active).

Dismissal will normally be with full notice or payment in lieu of notice, unless your performance has been so negligent as to amount to gross misconduct, in which case we may dismiss you without notice or any pay in lieu.

Decision to dismiss

The power to dismiss staff in this school, with the exception of the Headmaster, has been delegated to the Headmaster. The power to dismiss the Headmaster remains with the Governing Body.

Appeals against action for poor performance

If you feel that a formal decision about poor performance under this procedure is wrong or unjust you should appeal in writing, stating your full grounds of appeal and within 5 working days of the date on which you were informed in writing of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity of service or pay.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

We will give you 5 working days' written notice of the date, time and place of the appeal hearing.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted by a more senior manager who has not been previously involved in the case. You may bring a companion with you to the appeal hearing.

A hearing may be adjourned if we need to gather any further information or consider matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing we may:

- (a)** confirm the original decision;
- (b)** revoke the original decision; or
- (c)** substitute a different penalty.

We will inform you in writing of our final decision as soon as possible, usually within 5 working days of the appeal hearing. There will be no further right of appeal.

General Principles Underlying this Policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

This policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Headmaster and Governing Body to quality-assure the operation and effectiveness of the appraisal system.

Consistency of Treatment and Fairness

The Governing Body is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

Definitions

Unless indicated otherwise, all references to 'teacher' include the Headmaster.

Delegation

Normal rules apply in respect of the delegation of functions by Governing Bodies, Headmasters, and Local Authorities.

Grievances

Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related, it may be appropriate to deal with both issues concurrently.

Sickness

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