

RIVERSIDE SCHOOL



Teacher Capability Policy

APPROVED BY GOVERNORS

RESPONSIBLE PERSON - HEADTEACHER

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Statement of Intent

This policy sets out the framework for clear and consistent assessment of the overall performance of teachers, including the headteacher. It sets out the arrangements that will apply when teachers fall below the expected levels of competence.

1. Legal Framework

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- The School Staffing (England) Regulations 2009 (as amended)
- DfE (2024) 'Maintained schools governance guide'
- DfE (2024) 'Teacher capability'
- ACAS (2015) 'Code of practice on disciplinary and grievance procedures'
- DfE (2021) 'Teachers Standards'
- DfE (2021) 'Staffing and employment advice for schools'
- DfE (2014) 'The Equality Act 2010 and schools'

This policy operates in conjunction with the following school policies:

- Teacher Appraisal Policy
- Grievance Policy and Procedure for Staff
- Confidentiality Policy
- Disciplinary Policy and Procedure for Staff
- Data Protection Policy
- Raising Concerns in School Policy
- Pay Policy
- Staff Code of Conduct
- School Improvement Plan (SIP)

2. Roles and Responsibilities

The Governing Board is responsible for:

- Ensuring the effectiveness of this policy by monitoring and reviewing it annually.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Ensuring that all members of staff have read and understood the provisions in this policy.
- Setting objectives for the headteacher, with advice from an appropriate external adviser.
- Ensuring all objectives contribute towards the SDP and improve the education of pupils at the school.
- Taking advice from an external adviser on the assessment of the headteacher's

performance.

- Ensuring all members of the board are informed that the performance review process has taken place.
- Conducting formal capability meetings where there are concerns about the headteacher's performance.
- Once a decision to dismiss has been taken, dismissing the teacher or headteacher in question with notice. This will be done with the support of the local authority.
- Ensuring consistency of treatment and fairness, and abiding by all relevant equality legislation.
- Ensuring all delegated responsibilities are carried out.

The headteacher is responsible for:

- The day-to-day implementation of this policy.
- Ensuring that the capability process is managed in a way that avoids increased workload for all parties concerned.
- Informing teachers of the standards against which their performance will be assessed.
- Conducting drop-in observations, where necessary, to evaluate standards of teaching and ensure high standards of professional performance are maintained.
- Conducting formal capability meetings where there are concerns about a teacher's performance.

Teaching staff are responsible for:

- Improving their teaching through proactive engagement in appropriate CPD opportunities.
- Attending performance review meetings.
- Adhering to this policy at all times.

3. General Principles Underlying this Policy

DfE's 'Teacher Capability' Guidance

The Capability Procedure section of this policy will be implemented in accordance with the DfE's 'Teacher capability' guidance.

Confidentiality

The capability procedure process will be treated with confidentiality; however, the desire for confidentiality does not override the need for the headteacher and the Governing Board to quality-assure the operation and effectiveness of the capability procedure.

This will be achieved by the headteacher and Governing Board personally reviewing a sample of teachers' objectives for consistency.

Consistency of Treatment and Fairness

The Governing Board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for teachers with disabilities. The Governing Board is aware of the [guidance](#) on the Equality Act 2010 issued by the DfE.

Definitions

Unless indicated otherwise, all references to “teacher” includes the headteacher.

Capability is defined as the ability of an employee to perform their duties to the standards required. Capability procedures apply only to teachers and school leaders where there are concerns, which the appraisal process has been unable to address, of not meeting the required standards of work performance.

Delegation

Normal rules (as set out in The School Staffing (England) Regulations 2009) apply in respect of the delegation of functions by the Governing Board and headteacher.

Grievances

Where a teacher 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 cases are related, including as part of the capability process, it may be appropriate to deal with both issues concurrently. Grievances should be handled in accordance with the school’s Grievance Policy and Procedure for Staff.

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 dealt with in accordance with the school’s Ill Health Policy. The case will be referred immediately to the occupational health service, to assess the teacher’s health and fitness for continued employment. Additionally, the suitability of continued monitoring or formal procedures will be evaluated in relation to the teacher’s health. In some cases, it may be appropriate for monitoring and/ or formal procedures to continue during a period of absence.

4. Capability Procedure

A formal capability meeting will only be arranged once the staff member has been given every other opportunity to improve, and where there is still persistent failure to meet job expectations. At least five working days’ notice will be given of the formal capability meeting. The notification will contain sufficient information about performance-related concerns and their possible consequences to enable the teacher to prepare a defence for

the formal capability meeting. Teachers will be entitled to reasonably request an alternative date when they are unable to attend on the original proposed date.

The notice will also contain copies of any written evidence, the details of the time and place of the meeting, and will advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official, or a trade union representative who has been certified by their trade union as being competent.

While a teacher or school leader is in capability procedures, pay progression will be withheld.

Formal Capability Meeting

This meeting is intended to establish the facts. For the headteacher, a formal capability meeting will be conducted by the Chair of Governors. For other teachers, the formal capability meeting will be conducted by the headteacher or other suitable senior member of staff.

The meeting will set out the required standards which are believed to have been failed by the teacher.

The meeting will allow the teacher to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information or evidence already collected. During the meeting, evidence will be presented, and witnesses will be called where appropriate. The teacher will be allowed to ask questions and present their own evidence and witnesses where appropriate. The teacher will be permitted to respond to the evidence and ask questions.

The person conducting the meeting 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 appraisal process, in line with the school's Teacher Appraisal Policy. In such cases, the capability procedure will come to an end.

The person conducting the meeting may also adjourn the meeting if they decide that further investigation is needed, or more time is needed to consider additional information. In other cases, the meeting will continue.

During the meeting, any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- Identify the professional shortcomings of the teacher.
- Give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures.
- Explain any support that will be available to help the teacher to improve their performance.
- Outline the timetable for improvement while taking into account the teacher's

personal circumstances.

- Explain how performance will be monitored and reviewed.
- Formally warn the teacher that failure to improve within the set period could lead to dismissal.

Notes will be taken of formal meetings and a copy sent to the teacher. Where a warning is issued, they will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage, and the procedure and time limits for appeals.

Monitoring and Review Period Following a Formal Capability Meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period.

The teacher will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting.

Formal Review Meeting

As with formal capability meetings, at least five working days' notice will be given. The notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. Teachers will be entitled to reasonably request an alternative date if they cannot attend the original date proposed.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will restart, in line with the school's Teacher Appraisal Policy. In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period.
- If no or insufficient improvement has been made during the monitoring and review period, the staff member will receive a final written warning which will set out the areas where performance standards have not been met, targets for improvement, any measures which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards.

As before, notes will be taken of formal meetings and a copy sent to the teacher. The final written warning wording will mirror any previous warnings that have been issued. Where a final warning is issued, the teacher will be informed in writing that failure to achieve an acceptable standard of performance within the set timescale may result in dismissal. They will also be given information about the handling of the further monitoring and review period, and the procedure and time limits for appealing against the final warning.

The teacher will be invited to a decision meeting.

Decision Meeting

As with formal capability meetings and formal review meetings, at least five working days' notice will be provided, and the notification will give details of the time and location of the meeting. The notice will also advise the teacher of their right to be accompanied by a companion, who may be a colleague, a trade union official or a trade representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will restart, in line with the school's Teacher Appraisal Policy. If performance remains unsatisfactory, a decision or recommendation to the Governing Board will be made that the teacher should be dismissed or required to cease working at the school. Redeployment into an alternative role may be considered where appropriate and possible.

Before the decision to dismiss is made, the school will discuss the decision with the LA.

The LA will have the right to attend and offer advice at all proceedings relating to the dismissal of any teacher, and the Governing Board will consider any such advice.

The teacher will be informed as soon as possible of reasons for their dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Decision to Dismiss

The power to dismiss staff in the school rests with the Governing Board.

Dismissal

Once the decision to dismiss has been taken, the Governing Board will dismiss the teacher with notice or pay in lieu of notice.

Once it has been decided by the Governing Board that the teacher should no longer work at the school, it will notify the LA in writing of its decision and the reasons for it.

Appeals

If a teacher feels that a decision to dismiss them, or another action taken against them, is wrong or unjust, they may appeal in writing against the decision within five working days, setting out the grounds for appeal at the same time. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place.

The same arrangements for notification and the right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the teacher.

The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

The teacher will be informed in writing of the results of the appeal hearing as soon as possible.

5. Monitoring and Review

The Governing Board and headteacher will monitor the operation and effectiveness of the school's capability procedures, including monitoring the impact on workload.

The Governing Board and headteacher will ensure that all written records of capability procedures are retained in a secure place for six years in line with the school's Data Protection Policy and in accordance with DfE guidance.

This policy will be reviewed on an annual basis.