



# **Appraisal Policy and Capability Procedure for all school employees**

**St. Peter's C. of E. Primary School, Hindley  
Hindley Green Community Primary School  
St. John's C. of E. Primary School, Hindley Green  
St. John's C. of E. Primary School, Abram  
University Collegiate School, Bolton**



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This policy has been reviewed with due regard to the Equality Act 2010 and approved by Directors during the Autumn Term 2021.

Signed by:

*Chair of Board*

Date: 12th October 2021

## 1. Introduction

Revised appraisal arrangements for teachers came into force on 1 September 2012. They are set out in the Education (School Teachers' Appraisal) (England) Regulations 2012 and replace the Education (School Teacher Performance Management) (England) Regulations 2006.

The new arrangements retain key elements of the 2006 Regulations but allow schools greater flexibility to manage their own Appraisal Process.

This policy combines statutory requirements, recommendations from the DfE's model policy and good practice from the previous performance management policy, which was agreed in consultation with Headteachers, professional associations and trade unions in 2006.

The policy is in two separate sections [Section A](#) covers appraisal for teachers and [Section B](#) sets out the capability procedure for all school staff, covering both teachers and support staff.

The appraisal process for all teachers links to pay progression, and this policy should be read in conjunction with the school's pay policy.

Throughout the policy, text in bold indicates statutory requirements contained in the Appraisal Regulations or the School Staffing Regulations.

## 2. Purpose

This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the Principals, and for supporting their development within the context of the Trust's plan for improving educational provision and performance, and the standards expected for teachers. It also provides a framework to assist both teachers and support staff who may be experiencing difficulty in achieving an adequate level of professional performance.

The School Teachers' Pay and Conditions Document (STPCD) 2013 introduced the requirement for pay progression to be linked to performance for all teachers. The assessment of performance throughout the appraisal period, will be the basis on which a pay recommendation is made by the appraiser.

This policy should be read in conjunction with the Trust's pay policy which provides details of the arrangements relating to teachers' pay in accordance with the STPCD.

## 3. Scope

### [Section A - Appraisal](#)

**This section of the policy applies to the Principal and to all teachers employed by the school except teachers on contracts of less than one term, those undergoing induction (ie NQTs) and those who are the subject of capability procedures.**

Whilst appraisal for teachers is covered by statute, there are no such arrangements for support staff in schools; this section of the policy therefore applies only to teachers. QUEST schools have appraisal processes in place for support staff and will continue to use these existing arrangements.

## Section B - Capability

This section of the policy, which sets out the capability procedure, applies to teachers, including the Principal, and to support staff, about whose performance there are serious concerns that the appraisal policy (for teachers) or day to day management and appraisal process (for support staff) have been unable to address.

### 4. Overview

A flowchart is included at the back of this policy document –[Appendix B3](#)

- which provides a summary of how performance issues should be addressed under the Appraisal Policy and the Capability Procedure, and how they link to each other.

## Section A - Appraisal

### 1. Introduction

- 1.2 Appraisal in the Trust is a supportive and developmental process designed to ensure that all teachers have the skills and support they need to carry out their role effectively. It helps to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.
- 1.3 Teachers will receive constructive feedback on their performance throughout the year. Where there are concerns about any aspects of the teacher's performance these will be addressed fairly and objectively as part of the appraisal process, with the aim being to achieve an adequate level of performance.
- 1.4 Where a teacher has not achieved an adequate level of performance, following the steps set out in section 6 of the appraisal policy, the teacher will be informed that the appraisal process will stop and their performance will be managed in line with the capability procedure.
- 1.5 All teachers will be assessed against the "Teachers' Standards" published by the Department for Education in July 2011. Depending on their grade, some teachers may also be assessed against other relevant professional standards applicable to their role (for example the post threshold teacher standards).
- 1.6 From September 2019, support staff will also undergo performance management which is a supportive and developmental process designed to ensure that all support staff have the skills and support they need to carry out their role effectively.

### 2. The Appraisal Period

#### 2.1 **The appraisal period will run for a period of 12 months.**

The appraisal period in this school will run from 1.9.21 to 31.8.22 for teachers and support staff, and from 1.9.21 to 31.8.22 for the Principals and Trust Executive Team.

- 2.2 An annual assessment will take place at the end of, or soon after the end of, the appraisal period. Following this a **written appraisal report** will be produced for the teacher or support staff concerned; teachers and support staff will receive their appraisal reports by 31 October, and Principals will receive theirs by 31 December.
- 2.3 Teachers who are employed on a fixed term contract of less than one year will have their

performance managed in accordance with the principles underpinning the provisions of this policy. **The length of the period will be determined by the duration of their contract.**

- 2.4 Where a teacher starts their employment at the school part way through the appraisal period, the Principal or, in the case where the teacher is the Principal, the Board of Directors, shall determine the length of the first appraisal period for that teacher, with a view to bringing them into line with the period for other teachers at the school as soon as possible.
- 2.5 Where a teacher transfers to a new post within the school part way through the appraisal period, the Principal or, in the case where the teacher is the Principal, the Board of Directors, shall determine whether the appraisal period shall begin again and whether to change the appraiser.

### 3. Appointment of Appraisers for the CEO

- 3.1 **The CEO will be appraised by the Board of Directors, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Board of Directors for that purpose.**
- 3.2 In this Trust, the appraisal of the CEO including the setting of objectives, will be delegated to a sub-group of the Board of Directors as follows:

|  |  |
|--|--|
| <b>Option 1*</b>   | <del>Two or Three*</del> Directors who will be supported by the External Adviser.  |
| <b>Option 2*</b><br>(for schools with a religious character) | <del>Two or three*</del> governors of which _____ (at least one) will be a foundation governor, who will be supported by the External Adviser.   |
| <b>Option 3*</b><br>(for Voluntary Aided Schools)            | <ul style="list-style-type: none"> <li><del>• two</del> governors of which _____ (at least one) will be a foundation governor, who will be supported by the External Adviser; or</li> <li><del>• three</del> governors of which _____ (at least two) will be foundation governors, who will be supported by the External Adviser.</li> </ul> |

(\* Delete as appropriate)

- 3.3 Where the CEO is of the opinion that any of the Directors appointed by the Board of Directors under this regulation is unsuitable for professional reasons, they may submit a written request to the Board of Directors for that Director to be replaced, stating those reasons.
- 3.4 In this Trust, the DoE, COFO and Principals will be appraised by the CEO.

### 4. Appointment of Appraisers for Teachers and support staff

- 4.1 In the case where the Principal is not the teacher's line manager, the Principal may delegate the duties imposed upon the appraiser, in their entirety, to the teacher's line manager.

4.2 It has been decided that:

|           |  |
|-----------|--|
| Option 1* | The Principal will be the appraiser for all teachers in St. Peter's, St. John's Hindley Green and St. John's Abram.  |
| Option 2* | <p>The Principal will be the appraiser for those teachers they directly line manage and will delegate the role of appraiser, in its entirety, to the relevant line managers for some or all other teachers in Hindley Green CP and the University Collegiate School.</p> <p>Where the Principal has chosen option 2, then:</p> <ul style="list-style-type: none"> <li>• line managers will be the appraisers for all those teachers they line manage*; or</li> <li>• <del>the maximum number of reviews that any line manager will be expected to undertake per period is _____*.</del></li> </ul> |

- 4.3 Where a teacher has more than one line manager the Principal will determine which line manager will be best placed to manage and review the teacher's performance.
- 4.4 Where a teacher is of the opinion that the person to whom the Principal has delegated the appraiser's duties is unsuitable for professional reasons, they may submit a written request to the Principal for that appraiser to be replaced, stating those reasons.
- 4.5 Where it becomes apparent that the appraiser will be absent for the majority of the appraisal period or is unsuitable for professional reasons the Principal may perform the duties themselves or delegate them in their entirety to another teacher. Where this teacher is not the appraisee's line manager the teacher will have a status in the staffing structure which is equivalent to or higher than the teacher's line manager.
- 4.6 An appraisal cycle will not begin again in the event of the appraiser being changed.
- 4.7 All line managers to whom the Principal has delegated the role of appraiser will receive appropriate preparation for that role.
- 4.8 Appraisers for support staff will be their line managers and all line managers to whom the Principal has delegated the role of appraiser will receive appropriate preparation for that role.

## 5. Objective Setting

- 5.1 The CEO's objectives will be set by the Board of Directors after consultation with the External Adviser. The DoE, COFO and Principals' objectives will be set by the CEO.**
- 5.2 Objectives for each teacher and support staff member will be set before, or as soon as practicable after, the start of each appraisal period.**
- 5.3 The objectives set for each teacher and support staff member will be specific, measurable, achievable, realistic and time-bound, and will be appropriate to the teacher's role and level of experience. They will also be fair and equitable in relation to teachers with similar roles/responsibilities and experience, and will have regard to what can reasonably be expected of any teacher in that position given the desirability of the appraisee being able to achieve a satisfactory balance between the time required to discharge their professional duties and the time required to pursue their personal interests outside work, consistent with

the school's strategy for bringing downward pressure on working hours.

- 5.4 Documents relating to the Trust and individual school's self-evaluation and its improvement plan should be taken into account when setting objectives. This will ensure that objectives are in line with the Trust and school's priorities, and, **if achieved, will contribute to the Trust and school's plans for improving the school's educational provision and performance and improving the education and progress of pupils at the school**
- 5.5 The appraiser and appraisee will seek to agree the objectives but where a joint determination cannot be made the appraiser will make the determination.
- 5.6 Objectives should be set out in the planning element of the appraisal report, and may be revised during the appraisal period if circumstances change.
- 5.7 All staff will be assessed against the requirements of their job roles and any professional standards applicable to that role. **Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which they will be assessed.**
- 5.8 Where relevant, objectives will also relate to any professional standards the employee is seeking to achieve and, in turn, will provide evidence for any associated pay progression.
- 5.9 In this Trust (select as appropriate):
- (i) *all teachers and support staff, including the Principal, DoE, COFO and CEO, will have no more than three objectives<sup>1</sup>*
  - ~~(ii) teachers, including the Headteacher, will not necessarily all have the same number of objectives~~
  - ~~(iii) all teachers, including the Headteacher, will have a whole school objective~~
  - ~~(iv) all teachers, including the Headteacher, will have a team objective, as appropriate~~
- 5.10 Appraisal is an assessment of overall performance of teachers, support staff, the Principals, the DoF and COFO and the CEO; it is recognised that objectives cannot cover the full range of a teacher's roles/responsibilities. Objectives will focus on the priorities for an individual for the appraisal period, reflecting their own professional development and the wider needs of the school and Trust, as outlined in paragraph 5.4. Teachers will be expected to meet the overall requirements of their job role, as set out in their job description, and the professional standards relating to their job. The appraisal process, including the annual assessment, will take into account their overall performance in these matters, as well as their specifically agreed objectives.

## 6. Reviewing Performance

### Observation

- 6.1 The amount of observation for each teacher should reflect and be proportionate to the needs of the individual, and the school. Proportionality will be determined during discussion at the appraisal meeting, taking into account the objectives set, and whether the teacher works full

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Good practice would be to set three objectives.

or part-time. In most cases up to three hours' observation per appraisal cycle is likely to be sufficient.

- 6.2 Principals, and other appropriate members of the school's leadership team, have the right to drop in, in order to inform their monitoring of the quality of learning. This is to enable Principals to fulfil their duty to evaluate the standards of teaching and learning and to ensure that proper standards of professional performance are established and maintained. Other staff who are designated to undertake drop ins are detailed in the Drop in Protocol at [Appendix A2](#).
- 6.3 All classroom observation will be undertaken in accordance with the Classroom Observation Protocol attached at [Appendix A1](#).

## Feedback

- 6.4 Teachers will receive constructive feedback on their performance throughout the year. Where observation has taken place, feedback will be provided as soon as possible after the observation. Similarly, feedback will be provided as soon as possible after any other evidence relating to performance comes to light. If there are concerns about any aspect of performance, these will be raised with the teacher concerned as soon as possible, and support and guidance will be provided. If no concerns are raised, it will be assumed that performance is satisfactory.
- 6.5 Feedback will highlight particular areas of strength as well as any areas that need attention.
- 6.6 Where there are concerns about any aspect of the teacher's performance, the appraiser will meet the teacher to:
- give clear feedback to the teacher about the nature and seriousness of the concerns;
  - give the teacher the opportunity to comment and to discuss the concerns, and, if appropriate in the light of this discussion, revise the objectives;
  - where personal or domestic circumstances are identified as contributing to the employee's performance issues, support should be provided, if available and appropriate. Examples may be referral to the Employee Assistance Programme (EAP) [where the school purchases this service]; or exploring a temporary adjustment to working hours to accommodate caring responsibilities.
  - agree any support (eg coaching, mentoring, structured observations), that will be provided to help address the specific performance concerns;
  - confirm a monitoring officer to monitor the teacher's performance over the review period, and to provide a written report to the appraiser at the end of the period;
  - set a review period, making clear how, and by when, the appraiser will review progress; and
  - explain the implications and process if no, or insufficient, improvement is made, including the possibility that pay progression could be withheld, in accordance with the provisions of the pay policy.
- 6.7 The review period should be reasonable and proportionate, and allow sufficient time for improvement. It will usually be between 4 to 8 weeks, depending on the seriousness of the concerns.
- 6.8 The appraiser will confirm the discussion, including the nature of the concerns, the agreed

action and timescale for review, in writing to the employee.

- 6.9 Regular contact will be maintained by the monitoring officer during the review period to support and monitor progress.
- 6.10 The appraiser will consider the written report from the monitoring officer at the end of the review period. If the appraiser is satisfied that the teacher has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.
- 6.11 Support staff will also receive constructive feedback on their performance throughout the year. If there are concerns about any aspect of performance, these will be raised with the staff member concerned as soon as possible, and support and guidance will be provided. If no concerns are raised, it will be assumed that performance is satisfactory.

### Transition to capability

- 6.11 If the appraiser is not satisfied with progress, the teacher will be notified in writing that the appraisal policy will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a preliminary stage capability meeting as detailed in Section B of this policy.

## 7. Annual Assessment

- 7.1 **Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the DoE, COFO and Principals, the Board of Directors must consult the CEO. In assessing the performance of the CEO, the Board of Directors must consult the External Adviser.**
- 7.2 The assessment is the end point to the annual appraisal process, and each teacher, support staff member and senior leader will have an annual assessment meeting with their appraiser. In addition to the annual assessment, performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings which will take place termly.
- 7.3 **All staff will receive a written appraisal report as soon as practicable following the end of each appraisal period.**
- 7.4 In this Trust, teachers and support staff will receive their written appraisal reports by 31 October, and by 31 December for the Principals, DoE, COFO and CEO.
- 7.5 The teacher's appraisal report will include:
  - details of the teacher's objectives for the appraisal period in question;
  - **an assessment of the teacher's performance of their role and responsibilities** against teachers' standards, other relevant professional standards, contribution to school improvement, and to the progress of pupils, the teacher's individual objectives, and their job description.
  - **an assessment of the teacher's training and development needs and identification of any action that should be taken to address them** (refer to section 11 below for further information); **and**
  - **a recommendation on pay progression .**

- 7.6 The assessment of performance and of any training and development needs will inform the planning process for the following appraisal period.
- 7.7 All pay progression recommendations for teachers will be moderated by the Principal, in line with the Trust's pay policy. In the event that the Principal considers that a change to the initial pay recommendation is necessary, they will discuss this with the Appraiser (if this role has been delegated), and then will explain the decision to the individual teacher concerned before the recommendation is submitted to the Director's Resources Committee.

## 8. Appeals

- 8.1 Teachers, Principals, DoE, COFO and CEO have a right of appeal against any pay related decisions made in their annual appraisal report. Details of the appeals process are covered in the Trust's pay policy.<sup>2</sup>
- 8.2 A teacher who wishes to appeal against any other aspect of their appraisal report will have their concerns considered by the Principal. Where the Principal has written the appraisal report, the appeal will be conducted by the CEO.
- 8.3 A teacher wishing to appeal should write to the Principal, setting out clearly the reasons why they are dissatisfied with the report, within five school working days of receiving the report.
- 8.4 The appeal will be heard by the Principal or the CEO, as appropriate. The teacher concerned and the appraiser may attend the hearing to present their respective cases. They will be notified in writing of the hearing at least seven school working days in advance.
- 8.5 The decision of the Principal or the CEO is final.
- 8.6 The outcome of the appeal will be confirmed in writing to both parties.

## 9. Confidentiality

- 9.1 The whole appraisal process and the documents generated under it, in particular, will be treated with strict confidentiality at all times. Ofsted has the right to request appraisal documentation, in an anonymised format, and the school will comply with such requests. Other than this, only the appraisee's line manager or, where they have more than one, each of their line managers will be provided with access to the appraisee's appraisal report, upon request, where this is necessary to enable the line manager to discharge their line management responsibilities. Appraisees will be told who has requested and has been granted access.<sup>3</sup>

## 10. Retention of Documents

- 10.1 Appraisal documents will be retained for a period of 6 years.

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<sup>2</sup> Appeals taken through the school's pay policy would only apply if this was regarding a determination about performance related pay.

<sup>3</sup> The Principal and appraiser will automatically retain a copy of the appraisal report. If an appraisee's line manager is not the appraiser they will be provided with access to the report. The Board of Directors shall be provided with access to the appraisee's report for the purposes of exercising any discretion in relation to pay.

## 11. Training and Support

- 11.1 The Trust's Continuing Professional Development (CPD) programme will be informed by the training and development needs identified in the training annex of the appraisees' appraisal reports.
- 11.2 The Board of Directors will ensure in the budget planning that, as far as possible, appropriate resources are made available in the school budget for any training and support agreed for appraisees.
- 11.3 An account of the training and development needs of teachers in general, including the instances where it did not prove possible to provide any agreed CPD, will form a part of the CEO's report to the Board of Directors about the operation of the appraisal process in the school.
- 11.4 With regard to the provision of CPD in the case of competing demands on the school budget, a decision on relative priority will be taken with regard to the extent to which: (a) the CPD identified is essential for an appraisee to meet their objectives; and (b) the extent to which the training and support will help the school to achieve its priorities. The school's priorities will have precedence. Teachers should not be held accountable for failing to make good progress towards meeting their performance criteria where the support recorded in the appraisal report has not been provided.

## 12. Consistency of treatment and fairness

- 12.1 The Board of Directors is committed to ensuring consistency of treatment and fairness in the operation of appraisal.
- 12.2 To ensure this, the following provisions are made in relation to quality assurance and moderation.

### 13. Quality assurance

13.1 The Principal has determined that they will:

|           |  |
|-----------|--|
| Option 1* | be the appraiser for all teachers in St. Peter's, St. John's HG and St. John's Abram   |
| Option 2* | delegate the appraiser for some or all teachers for whom they are not the line manager in HGCP and the University Collegiate School. |

If Option 2 the Principal will either:

(a) moderate all appraisal reports to check that the plans recorded for teachers at the school:

- are consistent between those who have similar experience and similar levels of responsibility; and
- comply with the Trust's appraisal policy, the statutory regulations and the requirements of equality legislation; or

~~(b) moderate a sample of appraisal reports to check that the plans for teachers at the school:~~

- ~~• are consistent between those who have similar experience and similar levels of responsibility; and~~
- ~~• comply with the school's appraisal policy, the statutory requirements and the~~

*requirements of equality legislation; or*

*(c) choose not to moderate any appraisal reports.<sup>4</sup>*

Whether or not the Principal delegates the appraisal process, he/she will be responsible for moderating all pay progression recommendations to ensure that there is a fair and consistent approach to pay progression throughout the school. This is in accordance with the Trust's pay policy.

13.2 The Board of Directors will:

|                         |   |
|-------------------------|---|
| Option 1*               | <del>nominate the Chair of the Governing Body, who will not be involved in the Headteacher's appraisal or any appeal regarding the Headteacher's appraisal to ensure that the Headteacher's appraisal report is consistent with the school's improvement priorities and complies with the school's appraisal policy and the statutory requirements.</del>           |
| Option 2*               | <del>nominate (up to three governors - state the number) who will not be involved in the Headteacher's appraisal or any appeal regarding the Headteacher's appraisal to ensure that the Headteacher's appraisal report is consistent with the school's improvement priorities and complies with the school's appraisal policy and the statutory requirements.</del> |
| Option 3 <sup>5</sup> * | choose not to quality assure the appraisal report.  |

13.2.1 The Board of Directors will review the quality assurance processes when the appraisal policy is reviewed.

## 14. Monitoring and Evaluation

14.1 The Board of Directors will monitor the operation and outcomes of the appraisal arrangements.

14.2 The CEO will provide the Board of Directors with a report on the operation of the Trust's appraisal policy annually. The report will not contain any information which would enable any individual to be identified. The report will include:

- the operation of the appraisal policy;
- the effectiveness of the school's appraisal arrangements;
- teachers' training and development needs.

14.3 The Board of Directors is committed to ensuring that the appraisal process is fair and non-discriminatory.

14.4 On appointment, all teachers will be invited to provide the following personal data:

<sup>4</sup> Option 2 ( c ) would not be recommended as it would be difficult to ensure that procedures and processes had been applied fairly and consistently across the school and that there had been regard to equal opportunities considerations.

<sup>5</sup> Option 3 – In the case of Headteachers, because of the rigour involved in the process and the involvement of the external advisor, this option would be viable for Governing Bodies.

- *race*
- *sex*
- *sexual orientation*
- *disability*
- *religion and belief*
- *part time contracts*
- *trade union membership*

14.5 The CEO will, therefore, also report annually to the Board of Directors, in a confidential section, appropriate details of:

- any appeals or representations on an individual or collective basis on the grounds of alleged discrimination under any of the categories above in relation to appraisal;
- cases, including the circumstances, where teachers have not made satisfactory progress towards objectives; and
- any instances where the training and development set out in the training and development annex of an appraisal report has not been provided.

14.6 Where the relevant personal data is available the CEO will include an analysis of the cases specified in the bullet points in 14.5 above. However, the report will not enable any individual to be identified.

## **15. Review of the policy**

15.1 The Board of Directors will review the appraisal policy every school year at its September meeting.

15.2 The Board of Directors will take account of the CEO's report in its review of the appraisal policy. The policy will be revised as required to introduce any changes in regulation and statutory guidance to ensure that it is always up to date.

15.3 The Board of Directors will seek to agree any revisions to the policy with the recognised trade unions having regard to the results of the consultation with all teachers.

15.4 To ensure teachers are fully conversant with the appraisal arrangements, all new teachers who join the school will be briefed on them as part of their introduction to the school.

## **16. Access to documentation**

16.1 Copies of the school improvement and development plan and self- evaluation form are published on the school's server and/or can be obtained from the school office.<sup>6</sup>

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<sup>6</sup> The SIP/SDP should be accessible to staff but will not necessarily be published on the school's intranet. It is recommended that the SEF is not published because of issues of sensitivity and confidentiality.

### Classroom Observation Protocol

The Board of Directors is committed to ensuring that classroom observation is developmental and supportive and that those involved in the process will:

- carry out the role with professionalism, integrity and courtesy;
- evaluate objectively;
- report accurately and fairly; and
- respect the confidentiality of the information gained.

The arrangements for classroom observation will be included in the appraisal report and will include the amount of observation, specify its primary purpose, any particular aspects of the teacher's performance which will be assessed, the duration of the observation, when during the appraisal process the observation will take place and who will conduct the observation.

In keeping with the commitment to supportive and developmental classroom observation those being observed will normally be given at least one calendar week's notice of the details of the date and time of the observation.

Where evidence emerges about the appraisee's teaching performance which gives rise to concern during the appraisal period, classroom observations may be arranged in addition to those recorded at the beginning of the period, following professional dialogue with the teacher concerned.

Information gathered during the observation will be used, as appropriate, for a variety of purposes including to inform school self-evaluation and school improvement strategies in accordance with the school's commitment to streamlining data collection and minimising bureaucracy and workload burdens on staff.

Classroom observations will only be undertaken by persons with QTS. In addition, in this school classroom observation will only be undertaken by those who have had adequate preparation and the appropriate professional skills to undertake observation and to provide constructive oral and written feedback and support, in the context of professional dialogue between colleagues.

Oral feedback will be given as soon as possible after the observation and no later than the end of the following working day. It will be given during directed time in a suitable, private environment.

Written feedback will be provided within five working days of the observation taking place. If issues emerged from an observation that were not part of the focus of the observation as recorded in the appraisal report these should also be covered in the written feedback and the appropriate action taken in accordance with the appraisal policy.

The written record of feedback also includes the date on which the observation took place, the lesson observed and the length of the observation. The teacher has the right to append written comments on the feedback document. No written notes in addition to the written feedback will be kept.

## Drop in Protocol

Principals or other leaders with responsibility for learning and teaching standards may drop in to evaluate the standards of teaching and learning and to ensure that high standards of professional performance are established and maintained.

Clearly the appraisal arrangements are integral to fulfilling this duty and Principals may consider the classroom observations they have agreed are sufficient and that drop in will not be needed.

Drop ins will only inform the appraisal process where evidence arises which merits the revision of the planning element of the appraisal report.

## Section B - Capability Procedure

### 1. Introduction

- 1.1 This procedure provides a fair and effective framework for schools to address employees' performance issues.
- 1.2 The main aim of the procedure is to improve an employee's future performance and encourage and motivate them to achieve an acceptable standard.
- 1.3 The procedure will start at the preliminary stage, other than in exceptional cases where the concerns are of such a serious nature that it is necessary to start at the formal stage.
- 1.4 It is recognised that the management arrangements within schools vary depending upon their size and structure. Where the procedure refers to the Manager, this means either the Principal or Senior Trust Leader.

### 2. Scope

- 2.1 This procedure does not apply to cases of misconduct or to matters of ill-health capability; separate procedures apply to these matters, namely the disciplinary procedure, and the sickness management policy respectively.
- 2.2 This procedure applies to both teachers and support staff in schools. Further details are provided below.

#### **How the procedure relates to teachers**

- 2.3 This procedure will apply to teachers when all attempts to resolve performance issues in the teachers' appraisal process have been unsuccessful. For teachers, where any shortcomings in performance are identified, they are addressed in the first instance under the appraisal scheme, and, if they cannot be resolved under that policy, the capability procedure is implemented. The procedure will start at the preliminary stage, with a review period of up to 4 weeks.
- 2.4 At the point that the capability procedure is initiated, the teacher will be aware that they have not achieved a satisfactory level of performance in the timescales provided during their appraisal process.

#### **Possible effect on pay progression for teachers**

- 2.5 At all stages of the capability procedure, teachers must be advised of the possibility that pay progression may be withheld, in accordance with the provisions of the pay policy, in the event that no, or insufficient, improvement is made in their performance.

#### **How the procedure relates to school support staff**

- 2.6 After consultation with support staff a formal appraisal process has been introduced in September 2019. At all stages of the capability procedure, staff will be advised of the possibility that pay progression may be withheld in the event that no, or insufficient, improvement is made in their performance.

- 2.7 Where it has not been possible to resolve concerns about performance through the normal process of day to day management, the Preliminary Stage of the capability procedure should be implemented. The Preliminary Stage provides for a review period of 4 to 8 weeks, depending on the seriousness of the concerns.
- 2.8 Where support staff make some progress at the end of the review period of the preliminary stage, but there remain some concerns, it may be appropriate to extend the review period by up to 4 weeks.

### **3. Roles and Responsibilities**

#### **3.1 The Board of Directors**

The role of the Board of Directors is to:

- initiate this procedure where the concerns relate to the performance of the CEO, DoE and COFO;
- appoint an appropriate member of the Board of Directors to manage the procedure;
- seek advice and support from the External Adviser where necessary, in accordance with the teachers' appraisal policy; and
- seek advice and support from their HR representative.

##### **3.1.a The Trust Executive Team**

The role of the Trust Executive Team is to:

- initiate this procedure where the concerns relate to the performance of the Principals appoint an appropriate member of the Trust Executive Team to manage the procedure; and
- seek advice and support from the Trust's Business Development Department.

#### **3.2 Principals**

The role of the Principal is to:

- initiate this procedure where the concerns relate to the performance of school staff - both teachers and support staff;
- decide if themselves or a senior manager will be responsible for managing the procedure up to a point where a decision regarding potential termination of contract may need to be made;
- support and assist employees in achieving the required standard of performance (via training and development, coaching etc); and
- seek advice and support from the Trust's Business Development Department where required.

#### **3.3 Employees**

All employees have a responsibility to:

- take full accountability for their own performance and behaviour and be committed to achieving satisfactory levels of performance;

- work with managers constructively to address any underlying issues which may be affecting performance;
- be open to constructive feedback; and
- attend meetings and hearings convened in accordance with the capability procedure.

### **3.4 Wigan Council HR and OD (Human Resources and Organisational Development) Services**

HR and OD Services have a responsibility to:

- liaise with the Trust's Business Development Department;
- advise and support managers in the application of this procedure in accordance with the Service Level Agreement (SLA); and
- support managers at all stages of the procedure including the hearing and appeal in accordance with the SLA.

### **3.5 Professional Associations/Trade Unions**

The role of professional association/trade union representatives is to:

- support their member throughout the procedure;
- represent their member at each stage of the procedure; and
- work constructively with managers to assist the employee in improving their performance.

## **4. The Preliminary Stage**

- 4.1 During the appraisal process for teachers, or during the course of normal day-to-day management for support staff, concerns may be identified about the performance of an employee who is having difficulty achieving an adequate level of professional performance. Where such concerns cannot be resolved through appraisal or day-to-day management, the Preliminary Stage should be implemented to formally advise the employee of the concerns and to discuss them, to put into place any appropriate support and guidance to assist the employee, and to arrange for progress to be monitored.
- 4.2 The manager will write to the employee inviting them to a Preliminary Stage meeting, outlining the concerns about their performance, and advising them that they may be accompanied at the meeting by a trade union representative or work colleague if they wish.
- 4.5 At the meeting the manager will:
- give clear feedback to the employee about the nature and seriousness of the concerns;
  - give the employee the opportunity to comment and to discuss the concerns;
  - where personal or domestic circumstances are identified as contributing to the employee's performance issues, support should be provided, if available and appropriate. Examples may be referral to the Employee Assistance Programme (EAP);

or exploring a temporary adjustment to working hours to accommodate caring responsibilities;

- agree any support (eg coaching, mentoring, structured observations), that will be provided to help address the specific performance concerns;
- confirm a monitoring officer to monitor the employee's performance over the review period, and to provide a written report to the manager at the end of the period;
- set a review period, making it clear how, and by when, the manager will review progress; and
- explain the implications and process if no, or insufficient, improvement is made, including the possibility that pay progression could be withheld, in accordance with the provisions of the Trust's pay policy.

- 4.6 The review period should be reasonable and proportionate, allowing sufficient time for improvement and must be fairly applied to both Teachers and Support Staff. For Teachers, the review period will be up to 4 weeks, depending on the seriousness of the concerns. For Support Staff, who are not covered by an appraisal process, the review period will be between 4 and 8 weeks, depending on the seriousness of the concerns, and may be extended by up to a further 4 weeks, if appropriate, in accordance with paragraph 2.8 above.
- 4.7 The manager will confirm the discussion, including the nature of the concerns, the agreed action and timescale for review, in writing to the employee.
- 4.8 Regular contact will be maintained with the monitoring officer during the review period to support and monitor progress.
- 4.9 The manager will consider the written report from the monitoring officer at the end of the review period. If the manager is satisfied that the employee has made, or is making, sufficient improvement, the appraisal process for teachers or day-to-day management process for support employees will continue as normal, with any remaining issues continuing to be addressed through that process.
- 4.10 If the manager is not satisfied with progress, the employee will be subject to the formal stages of the procedure, as described below.

## **5. The formal stages of the Capability Procedure**

The formal stages of the procedure are set out in the paragraphs below.

## **6. Prior to initiating the formal stages of the procedure**

- 6.1 Prior to initiating the formal procedure the manager should gather evidence to demonstrate that, the employee concerned:
- has been informed of the performance required of them and that this is in accordance with their job description;
  - has been provided with the appropriate training and support in order to achieve the required level of performance; and
  - despite the above the employee is failing to achieve the required level of performance.
- 6.2 The manager should identify which aspects of the employee's work are the cause of concern

or which of the standards expected of them are not being met.

- 6.3 The manager should also consider whether there has been any significant change in duties or other school circumstances which might account for the employee's performance.
- 6.4 Where personal or domestic circumstances have been identified as a contributory factor to performance concerns, the manager should consider whether any appropriate support could be provided.

## 7. Formal Capability Meeting

- 7.1 The manager will give the employee at least five working days' notice, in writing, of the formal capability meeting taking place. The letter will include:
  - the decision to move to the formal stages of the capability procedure ;
  - the purpose of the meeting and who will be present;
  - the date, time and location of the meeting;
  - the nature and details of the concerns, for example, which of the standards expected of them are not being met;
  - any written evidence to support this view, including any documents or evidence brought forward from the Preliminary Stage;
  - the possible consequences if the concerns are found to be substantiated; and
  - the right to be accompanied by a companion who may be either a trade union representative or work colleague.
- 7.2 The meeting is intended to establish the facts, and will be conducted by the Principal/Trust senior leader, or the Chair of Directors, depending on the role of the employee. The person conducting the meeting will clearly identify the areas where it is considered that a satisfactory level of performance has not been achieved, and will explain the level of performance which is expected.
- 7.3 The meeting allows the employee, accompanied by a companion if they wish, 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/evidence already collected.
- 7.4 The person conducting the meeting may adjourn the meeting if, for example, they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

## 8. Outcomes from Formal Capability Meeting

- 8.1 Possible outcomes from the formal capability meeting are:
  - there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the concerns through the appraisal process or day-to-day management (as appropriate to the employee concerned). In such cases, the capability procedure will come to an end.
  - a first caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do

not show sufficient improvement, this may lead to a further caution, and ultimately dismissal.

- In exceptional circumstances, where the performance issues are of a very serious nature, a final caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do not show sufficient improvement, this may lead to dismissal.

8.2 Where a manager decides to issue a first or final caution they must:

- identify the professional shortcomings, e.g. which of the standards expected of teachers are not being met; which aspects of their job role an employee is not performing to a satisfactory level;
- give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures (this may include the setting of new objectives focused on the specific areas 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 (this may include, for example, on the job training; observing good practice; additional management support; providing a mentor; modifying workload for a specific period of time – [Appendix B2](#) provides further guidance);
- set out the timetable for improvement, confirm who the monitoring officer will be and explain how performance will be monitored and reviewed. (The timetable will depend on the circumstances of the individual case but in straightforward cases could be between 4 and 10 weeks. It is for the school to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and
- caution the employee formally that failure to improve within the set period could lead to a further caution, and ultimately dismissal; or, if a final caution has been issued, could lead to dismissal.

8.3 The main points covered at the meeting, and the outcome, will be confirmed in writing by letter to the employee within five school working days of the date of the meeting.

8.4 Where a caution has been issued, the letter will include the points set out in paragraph 8.2 above, together with information about the timing and handling of the review stage and the procedure and time limits for appealing against the caution (see paragraph 15 below).

## **9. Monitoring and review period following a formal capability meeting**

9.1 A formal performance monitoring period will follow the formal capability meeting, for the period of time established at the meeting. During this period the guidance and support discussed at the meeting will be provided, and the employee concerned will be monitored to assess whether they are improving. At the end of the monitoring period, the employee will be invited to a formal review meeting, unless they were issued with a final caution, in which case they will be invited to a decision meeting (see paragraph 13 below).

## 10. Formal review meeting

- 10.1 As with formal capability meetings, at least five working days' notice will be given 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 work colleague. The content of the invitation letter should contain the same points as detailed in paragraph 7.1 above (invitation letter to formal capability meeting).
- 10.2 The purpose of the meeting is to formally review the progress made during the monitoring period, and to decide what, if any, further action should be taken. The employee concerned has the opportunity at the meeting to respond to the matters raised by management.

## 11. Outcomes from Formal Review Meeting

11.1 Possible outcomes from a formal review meeting are:

- If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and either the appraisal or the day-to-day management process (as appropriate) will re-start.
- 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 by a period of no more than 4 weeks;
- If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final caution, together with a formal monitoring period, within which the employee is required to improve their performance to a satisfactory level; if they fail to improve or do not show sufficient improvement, this may lead to dismissal.

11.2 In line with the process following a formal capability meeting, the main points covered at the meeting, and the outcome, will be confirmed in writing by letter to the employee within five school working days of the date of the meeting.

11.3 Where a final caution has been issued, the letter will include the points set out in paragraph 8.2 above, will clearly inform the employee that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal, and will include information about the timing and handling of the review stage and the procedure and time limits for appealing against the caution (see paragraph 15 below).

## 12. Monitoring and review period following a formal review meeting

12.1 A formal performance monitoring period will follow the formal review meeting, for the period of time established at the meeting. During this period the guidance and support discussed at the meeting will be provided, and the employee concerned will be monitored to assess whether they are improving. At the end of the monitoring period, the employee will be invited to a decision meeting.

## 13. Decision meeting

13.1 The decision meeting will be conducted by the appropriate sub-committee of the Board of Directors, or where responsibility for dismissal is delegated to the CEO, he/she may conduct the decision meeting.

- 13.2 The purpose of the meeting is to formally review the progress made during the monitoring period, and to decide what, if any, further action should be taken. The employee concerned has the opportunity at the meeting to respond to the matters raised by management.
- 13.3 The employee will be given at least five working days' notice in writing and the letter will include the details as specified in paragraph 7.1 above. Copies of any documentation to be considered at the meeting and details of any witnesses to be called will be included with the letter.
- 13.4 If the employee wishes to present documentary evidence to the panel or to call witnesses, details of these should be provided to the committee clerk.
- 13.5 The hearing shall be carried out in accordance with [Appendix B1](#) of this procedure.

## 14. Outcomes from Decision Meeting

14.1 Possible outcomes of the decision meeting are:

- no further action - an acceptable standard of performance has been achieved during the further monitoring and review period and therefore the capability procedure will end and the appraisal or day-to-day management process (as appropriate) will re-start;
- 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;
- redeployment – a recommendation to the Board of Directors that the employee be offered an alternative post at the school; or
- dismissal with notice - there has been no or insufficient progress following the monitoring period and the employee is therefore dismissed with notice.

14.2 If the decision is to dismiss the employee will be suspended from duty with immediate effect.

14.3 In the case of Academy schools, where the decision is to dismiss, the Chair of Directors will terminate the contract with notice in line with contractual requirements.

14.4 The outcome of the decision meeting will be confirmed in writing by letter to the employee.

## 15. Appeal

15.1 Employees have the right to appeal against a first caution, a final caution, and a dismissal.

15.2 Where an appeal is submitted against a first or final caution, this will not delay the formal monitoring process. If an appeal against dismissal is submitted, this will not delay the suspension of the employee, or the dismissal itself, should it not be possible to hear the appeal before the termination date. In the event of a successful appeal after the dismissal, the employee would be re-integrated into the workplace.

15.3 An employee wishing to exercise the right of appeal must submit a written appeal to the Clerk to the Board of Directors within five school working days of receiving written notification of the first or final caution, or the determination to dismiss and should state the grounds on which the appeal is to be made. (S)he will indicate which of the original documents used at the decision meeting will be re-submitted.

- 15.4 The appeal will be heard by an Appeals Committee of the Board of Directors working days' notice of the appeal hearing will be given. Part-time employees shall normally only be called to a hearing on one of their contractual days of employment.
- 15.5 At least two school working days prior to the appeal hearing, Management will indicate which of the original documents used at the decision meeting are to be re-submitted.
- 15.6 If either side wish to deal with some aspect that was not included in the documentation previously provided, this is permissible. However, where this applies, the documentation should also normally be submitted to the Clerk to the Board of Directors at least five school working days in advance of the hearing in order that it may be forwarded to both parties.
- 15.7 The employee shall have the right to be accompanied to the appeal hearing by a companion who may be either a trade union representative or work colleague.
- 15.8 The conduct of the appeal hearing shall be in accordance with [Appendix B1](#) to this procedure.
- 15.9 In hearing the appeal, the Appeals Committee shall confirm or reject the decision which is the subject of appeal. This decision shall be final.
- 15.10 If the determination of the Appeal Committee is to confirm the decision to dismiss the employee, notice of termination of contract will continue.
- 15.11 If the decision is to overturn the decision to dismiss the employee, a process for the reintegration of the employee into the workplace and further monitoring of performance, in accordance with either the appraisal or capability procedure, will be arranged by Management, following discussion with the employee and his/her companion. Notice of termination of contract will be rescinded.
- 15.12 The outcome of the appeal will be confirmed in writing by letter to the employee within five school working days of the hearing.

## **16. Note on employment references for teachers**

- 16.1 From 1 September 2012 Principals have the right to request information about a teacher's capability when obtaining a reference request for potential employees.
- 16.2 On receipt of such requests, Principals must:
- **advise in writing whether or not that member of staff has, in the preceding two years, been the subject of the Capability Procedure; and**
  - **provide written details of the nature of the concerns, the duration of the proceedings and their outcome, if known.**

## **Procedure for Performance Capability Decision Meeting and Appeal Hearing**

1. The Principal/Chair of the Committee conducting the hearing will invite all parties into the room and introduce all those present.
2. The purpose of the hearing and the order of proceedings will be explained.
3. Management will present its case, referring to documentation previously made available to all parties, and calling witnesses as appropriate. Witnesses will only remain in the hearing to give evidence and answer any questions.
4. The employee or companion will be given the opportunity to question Management and any witnesses.
5. The Principal/Committee hearing the case will be given the opportunity to question Management and any witnesses.
6. The employee or companion will make representations to the Committee and may present documentation and/or call witnesses to support the representation, as appropriate. Witnesses will only remain in the hearing to give evidence and answer any questions.
7. Management will be given the opportunity to question the employee and any witnesses.
8. The Principal/members of the Committee hearing the case will have the opportunity to question the employee and any witnesses.
9. Management will be given the opportunity to summarise its case.
10. The employee or companion will be given the opportunity to summarise their representations.
11. Management and the employee and companion will then withdraw, leaving the Committee to consider the representation. The representative of the
12. The Principal/Committee conducting the hearing may recall either party to clear points of uncertainty on representation already given. Should this occur, both parties will be present.
13. Management and the employee and companion will then be invited to hear the decision and the employee informed of his/her right of appeal, as appropriate

All all stages advice will be available from the Trust's Business Development Department and/or Wigan Council's HR Directorate.

### **Guidance on devising an appropriate performance capability support programme**

1. The employee should be made fully aware that the aim of the support programme is to assist him/her in improving performance in the job to the appropriate standards.
2. The nature of the support programme will vary from case to case depending upon the difficulties faced by the employee, the amount of assistance that may be required, organisational arrangements in the school and the resources available.
3. When drawing up a support programme consideration may be given to:
  - identifying and arranging appropriate in service training
  - arranging for the employee to observe good practice
  - a reorganisation of work areas, classes or rooms
  - arranging the observation of the employee's work by someone from the school or outside, who has good experience, and the ability to give constructive feedback on performance
  - modifying workload for a specified period of time
  - providing additional management support
  - provision of a mentor to guide and support the employee towards an improvement in performance
4. The mentor's role is separate and distinct to that of monitoring officer who is responsible for assessing and reporting on performance.
5. The support programme should be confirmed in writing and contain:
  - details of the support arrangements
  - where appropriate, specific guidance towards the necessary improvement
  - a time period over which the support programme will be in operation and reviewed
6. A support programme should provide as much support as possible and appropriate at the beginning of the capability process but the level of support should reduce as the process continues. This tapering level of support maximises the employee's opportunity to make improvements in performance to the required standards, whilst at the same time, allowing the employee's capabilities to be assessed alone (i.e. without the additional support) at the end of the process.

