

Shireland Collegiate Academy Trust Policy

Teacher Capability Policy

2024

Committee and Date Approved	Trust Board – September 2024
Category	Recommended
Next Review Date	Every three years unless change in legislation – Autumn 2027
Policy Availability	Staff Portal
Officer Responsible	HR Director of the Trust

**The Trust, all Academies within the Trust and Shireland Learning Limited
must comply with this policy.**

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Introduction

This procedure applies only to teachers about whose performance there are serious concerns that the career and professional development process has been unable to address.

Capability concerns about ECT's will normally be dealt with under the Induction procedures, however in the most severe cases the Principal may instigate Capability procedures at any stage which may lead to dismissal before the end of the induction period. The induction process will continue during this period.

Definition of Capability

Lack of capability covered by this procedure is defined as a situation in which a Teacher fails consistently to perform his/her duties and responsibilities to a professionally acceptable standard of teaching and/or management.

Misconduct will be covered by the Shireland Collegiate Academy Trust (the Trust) Disciplinary Procedure.

Companion

A Teacher may be accompanied at meetings by a companion who may be a trade union official, or a trade union representative who has been certified by their union as being competent or a colleague who is an employee of the Trust.

Raising Capability Issues with a Member of Staff

When there are concerns over a Teacher's performance, they should be made aware of these concerns and be encouraged to seek the support of their Trade Union at the earliest opportunity.

Lack of capability due to ill health or personal traumatic circumstances may be covered by other relevant approved procedures.

When capability issues have been identified they will be raised with the Teacher concerned at a meeting with the Principal/Vice Principal and a representative of the Human Resources Director. Specific, issues/problems will be clearly identified, and the Teacher will be afforded the opportunity to challenge these concerns. At the meeting the Principal/Vice Principal will decide if the performance concerns can continue to be dealt with via the career and professional development process/an informal support plane or whether a formal meeting should be arranged under the Capability Procedure.

Procedure for Formal Capability Meetings

At all Formal Capability meetings, the Principal will:

- identify the professional shortcomings, for example which of the standards expected of teachers are not being met;
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (this may include the setting of objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);
- explain any support that will be available to help the teacher improve their performance;
- warn the teacher formally that failure to improve within the set period could lead to dismissal.
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in straightforward cases it will normally be six weeks;

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher 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 appealing against the warning.

Formal Capability

The date of this meeting will normally have been agreed at the initial meeting where capability issues were raised with the member of staff, where this is not the case ten working days' written notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns around performance and their possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It 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.

This meeting is intended to establish the facts. It will be conducted by the Principal and a representative of the Human Resources Director. The meeting allows the teacher, 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.

The Principal 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 career and professional development process. In such cases, the capability procedure will come to an end. The Principal may also adjourn the meeting for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

If the decision is made to continue with the Capability process a four week period of monitoring and review will begin and a date will be agreed for the review meeting.

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 take place during this period.

Formal review meeting

The date of this meeting will normally have been agreed at the Formal Capability meeting, if not then ten 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.

If the Principal is satisfied that the teacher has made sufficient improvement, the capability procedure will cease. 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 teacher will receive a written warning, in the most severe cases a final warning may be issued.

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

If the decision is made to continue with the Capability process and a warning is issued a six week period of monitoring and review will begin and a date will be agreed for the review meeting or in the case of a final warning a decision meeting.

Second Formal review meeting

The date of this meeting will normally have been agreed at the previous meeting, if not then ten 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.

If the Principal is satisfied that the teacher has made sufficient improvement, the capability procedure will cease. 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, a final warning may be issued, in cases where a final warning had already been issued this meeting will be replaced by a decision meeting (see below).

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

If the decision is made to continue with the Capability process and a final warning is issued a six week period of monitoring and review will begin and a date will be agreed for a decision meeting.

Final Review/Decision meeting

The date of this meeting will normally have been agreed at the Formal Capability meeting, if not then ten 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.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end. If performance remains unsatisfactory, a decision will be made that a formal dismissal meeting will take place the date for this will be agreed at this meeting and will normally be held within ten working days.

Decision to dismiss

The power to dismiss staff employed by The Trust has been delegated to the CEO.

Dismissal Meeting

The date of this meeting will normally have been agreed at the previous meeting, if not then 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.

At the meeting the Teacher or their Companion may give their case against a decision to dismiss. If the decision is to dismiss the Teacher the CEO will inform the teacher of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Notice

Where the decision is made to dismiss a Teacher on the grounds of capability (subject to appeal) statutory and contractual periods of notice will apply. However, during the period of notice the Teacher will cease to work with children in the Trust.

Appeal

If a teacher feels that a decision to dismiss them, or other action taken against them under this procedure, is wrong or unjust, they may appeal in writing against the decision within five working days of receipt of the written notice of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and 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 by the Appeals Committee who will 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.

General Principles Underlying This policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

Confidentiality

The capability processes will be treated with confidentiality.

Consistency of Treatment and Fairness

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

Warnings

If a warning is issued under this procedure and the teacher is subsequently removed from Capability following a period of monitoring and review the warning will remain live on file as follows:

Written Warning - the teacher will be warned that any further issues with his/her capability within a specified period (which shall not exceed eight months) will lead to further action against him/her under the Capability Procedure.

Final Warning - the teacher will be warned that any further issues with his/her capability within a specified period (which shall not exceed twenty-four months) will lead to further action against him/her under the Capability Procedure.

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 dealt with in accordance with the Trust's Management of Sickness Absence policy and will be referred immediately 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.