

John Ruskin Primary School and Language Classes

Teaching Staff Capability Policy

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Last review: 2012

Next review: as advised by the Local Authority (LA)



“Be responsible, be fair, stay positive and care”

John Ruskin Primary School and Language Classes Teacher Capability Policy

The Governing Body of John Ruskin Primary School and LU School adopted this policy on 1 September 2012

It will review it in 2015

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Introduction

This policy sets out the formal capability procedure and reflects the ACAS Code of Practice on disciplinary and grievance procedures. On 1 September 2012 it replaces the statutory guidance “Capability Procedures for Teachers” that was issued in July 2000. Capability procedures apply only to teachers and head teachers about whose performance there are serious concerns that the appraisal process has been unable to address. There is a separate policy for matters that relate to ill-health – Teacher Capability Ill Health.

At least five working days’ notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about 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 colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for head teacher capability meetings) or head teacher (for other teachers) (*schools to insert any alternative arrangements*). The meeting allows the teacher, accompanied 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 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 such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting (*for example, if they decide that further investigation or more evidence is needed, or that more time is needed in which to consider any additional information*).

The person conducting this meeting 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 new 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;
- 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 the monitoring review period should be between four and ten working weeks. It is for the school to determine the set period. It should be reasonable and proportionate, and should provide sufficient opportunity for an improvement to take place; and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, where the education of the children is in jeopardy, this warning could be a final written warning. A final written warning will invoke a monitoring review period of no more than four working 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.

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 member of staff 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 (see below).

Formal review meeting

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 teacher of their right to be accompanied by a colleague or a trade union representative. 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 re-start. 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 final written warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written 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; 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 given and 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.

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 re-start. If performance remains unsatisfactory, a decision, or recommendation to the governing body, will be made that the teacher should be dismissed or required to cease working at the school.¹

Before the decision to dismiss is made, the school will discuss the matter with the local authority (*N.B. this is not a legal requirement but schools may find it helpful*).

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

Decision to dismiss

Either: The power to dismiss staff in this school rests with the governing body.

Or: The power to dismiss staff in this school has been delegated *to the head teacher/to one or more governors/to one or more governors acting with the head teacher (delete as appropriate)*.

(NB: the two options above are available only to Foundation Schools, Voluntary Aided Schools and Foundation Special Schools).

Or: The power to decide that members of staff should no longer work at this school rests with the Governing Body.

¹ *In Foundation Schools, Voluntary Aided Schools and Foundation Special Schools, the governing body is the employer but the power to dismiss can be delegated to the head teacher, to one or more governors, or to one or more governors acting with the head teacher. In Community, Voluntary Controlled, Community Special, and Maintained Nursery schools, the power to determine that the member of staff should no longer work at the school can be delegated in the same way as above but it is the local authority (as the employer) that actually dismisses staff (or, for those who work in more than one school, requires them to cease to work at the school).*

Or: The power to decide that members of staff should no longer work at this school has been delegated to *the head teacher/to one or more governors/to one or more governors acting with the head teacher. (Delete as appropriate)*

(NB: these two options are available only to Community, Voluntary Controlled, Community Special, and Maintained Nursery schools)

Dismissal

Either: Once the decision to dismiss has been taken, the Governing Body (or insert details of person or people to whom the power to dismiss has been delegated) will dismiss the teacher with notice (Voluntary Aided, Foundation and Foundation Special schools only).

*Or: **Once the Governing Body (or insert details of person or people to whom the power has been delegated) has decided that the teacher should no longer work at the school, it will notify the Local Authority of its decision and the reasons for it.** Where teachers work solely at this school, the Local Authority must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the local authority must require them to cease to work at this school (Community, Voluntary Controlled, Community Special and Maintained Nursery Schools only).*

Appeal

If a teacher feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five days 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 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 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.

Delegation

Normal rules apply in respect of the delegation of functions by governing bodies, head teachers and local authorities.

Grievances

The submission of a grievance or a complaint of harassment or discrimination, will not suspend the operation of the capability procedure or prejudice the headteacher/governing body's right to pursue capability action against a teacher. Concerns relating to the substance and conduct of the capability action taken against a teacher cannot be dealt with under the schools grievance procedure, but should be raised by the teacher during and as part of the capability process.

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 absence policy and will be *(e.g. 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.