



Capability policy

Aim of The Langley Academy Trust

To provide an outstanding education for every child in the trust through high aspirations, and through the principles of quality learning using curiosity, exploration and discovery.

This policy is linked to:

1. Equality Policy
2. Performance Management Policy
3. Pay Policy
4. Grievance Policy
5. Staff Discipline Policy
6. Staff Absence Sickness & Cover Policy

Principles

- The Trust will ensure that an informal process of support will have been followed prior to this policy being applied. Documentary evidence of such support will be available before the capability process can begin.
- This procedure applies to members of staff with serious performance concerns that the performance management process has been unable to address.
- The ACAS Code of Practice on disciplinary and grievance procedures will be followed

Purposes

This policy sets out the framework for a clear and consistent process for those members of staff whose performance is deemed to fall short of the National Teachers' Standards, Teachers' Career Expectations, Professional Conduct and/or their job description.

Guidelines

The Trust is committed to ensuring consistency of treatment and fairness in the operation of these Capability Procedures.

Procedure

At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the performance concerns and their possible consequences to enable the staff member 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 staff member 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.

Formal Capability Meeting

This meeting is intended to confirm and establish a way forward. It will be conducted by the Chair of the Trust (for Executive Principal Capability meetings) or Executive Principal (for Headteachers) or Executive Principal/Headteachers (for staff). The meeting allows the staff member, 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 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 performance management 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 is needed, or that more time is needed in which to consider any additional information).

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- Identify the professional shortcomings (for example, elements of the documents listed below):
 - Teacher's standards, including professional conduct;
 - Teachers career expectations document;
 - Person specification and/or job description
- Give clear guidance on the improved standard of performance needed to ensure that the staff member 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 further support that will be available to help the staff member 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 could be 4 to a maximum of 8 weeks;
- Warn the staff member formally that failure to improve within the set period could lead to dismissal. In very serious cases, e.g. health and safety concerns, this warning could be a final written warning;
- Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the staff member 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.

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 staff member 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 the person conducting the meeting is satisfied that the staff member has made sufficient improvement, the capability procedure will cease and the performance management 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, in which case another meeting is arranged
- If no, or insufficient improvement has been made during the monitoring and review period, the staff member 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. They will also be given information regarding the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning.

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 staff member 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 Trust, will be made that the staff member should be dismissed or required to cease working at the school.

The staff member 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 and their right of appeal.

Decision to Dismiss

The power to dismiss staff within The Langley Academy Trust rests with the Executive Principal, Headteachers or Governing Body.

Dismissal

Once the decision to dismiss has been taken, the Executive Principal, Headteachers or Governing Body will dismiss the staff member with notice.

Appeal

If a staff member 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, 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 staff member.

- The staff member will be informed in writing.
- The appeal will be dealt with impartially, and wherever possible, by managers or governors who have not previously been involved in the case.
- The staff member will be informed in writing of the results of the appeal hearing as soon as possible.

Confidentiality

The performance management and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Executive Principal/Headteacher and Governing Body to quality assure the operation and effectiveness of the performance management system. The Langley Academy Trust will ensure that objectives created on the Blue Sky Performance Management System are quality assured by a member(s) of the Senior Leadership on a yearly basis.

Consistency of Treatment and Fairness

The Trust 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 disabled staff member. The Trust is aware of the guidance on the Equality Act issued by the Department for Education.

Delegation

Normal rules apply in respect of the delegation of functions by the Trust, Local Governing Bodies and Executive Principal/Headteachers.

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 Staff Absence Sickness & Cover 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.

Monitoring and Evaluation

- The Trust/Governing Body, Executive Principal/Headteacher will monitor the operation and effectiveness of the Academy's performance management arrangements.

Retention of Records

- The Governing Body, Executive Principal/Headteacher will ensure that all written performance management records are retained in a secure place for six years and then destroyed.

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