



Appraisal and Capability Policy

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Introduction

The Appraisal Regulations set out the principles that apply to teachers in all maintained schools and unattached teachers employed by a local authority, in each case where they are employed for one term or more.

Schools and local authorities must stay within the legal framework set out in the Appraisal Regulations and in other relevant legislation that affects all employers (for example legislation on equality, employment protection and data protection).

Schools and local authorities must have an appraisal policy for teachers and a policy, covering all staff, which deals with lack of capability. This policy applies to teachers, including head teachers and support staff (support staff refers to all non-teaching staff). It is good practice for schools to consult staff on their appraisal and capability policies.

The policy is in two separate sections. Part A covers appraisal and has been used as a reference point as we review our policy to reflect the Appraisal Regulations. On 1 September 2012 it supersedes the previous performance management model policy and guidance, which had been designed to support the 2006 Regulations.

Part B of the 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 staff whose performance there are serious concerns that the appraisal process has been unable to address.

Text in bold indicates statutory requirements contained in the Appraisal Regulations or the School Staffing Regulations.

Policy for appraising member of staff performance and dealing with capability issues

The Local Governing Body of Briary Primary School adopted this policy on 20th May, 2021

It will be reviewed annually

Purpose

This policy sets out the framework for a clear and consistent assessment of the overall performance of members of staff, including the head teacher, and for supporting their development within the context of the school's plan for improving educational provision and performance, and the standards expected of members of staff. It also sets out the arrangements that will apply when members of staff fall below the levels of competence that are expected of them.

Application of the policy

The policy is in two separate sections.

Part A of the policy, which covers appraisal, applies to the head teacher and to all members of staff employed by the school or EKC Schools Trust, except those on contracts of less than one term, those undergoing induction (*ie NQTs*) and those who are subject to Part B of the policy.

Part B of the policy, which sets out the formal capability procedure, applies only to members of staff (including the head teacher) about whose performance there are serious concerns that the appraisal process has been unable to address.

The policy also applies to all staff as indicated.

At Briary Primary School we are firmly committed to developing and embedding a coaching culture and both parts of this policy have been amended to reflect this commitment.

Part A – Appraisal

Appraisal in this school will be a supportive and developmental process designed to ensure that all members of staff have the skills and support they need to carry out their role effectively. It will help to ensure that members of staff are able to continue to improve their professional practice and to develop as members of staff.

The appraisal period

The appraisal period will run for twelve months from September to August for all staff.

Members of staff who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. **The length of the period will be determined by the duration of their contract.**

Appointing appraisers

The head teacher will be appraised by the Governing Body, supported by the CEO of the Trust.

In this school the task of appraising the head teacher, including the setting of objectives, will be delegated to a sub-group consisting of a minimum of two members of the Governing Body and the CEO of the Trust.

The head teacher will decide who will appraise other members of staff. Appraisal is a system to review performance against teaching standards and previously agreed objectives or targets .

Coaching is a process that involves arranging regular and frequent meetings between a staff member (coachee/appraisee) and their coach (appraiser) for development and support. It involves taking regular time out to discuss and reflect on the individual's development, providing support which enables them to:

- review their performance, skills and practice
- develop their knowledge and competence
- take responsibility for their performance
- perform their role safely and effectively
- discuss any issues.

The head teacher will also decide the framework for coaching to ensure there is an appropriate workload and that effective coaching relationships can be developed. However, should a member of staff feel the coaching relationship proposed is not as effective as they would like then they should discuss this with either the head teacher or the coaching champion. An alternative coaching relationship will be agreed without adverse reflection on either coach or coachee. Time will be allocated for the coach and coachee to meet at least six times a year.

Setting objectives

The head teacher's objectives will be set by the Governing Body after consultation with the CEO.

Objectives for each member of staff will be set before, or as soon as practicable after, the start of each appraisal period. The objectives set for each member of staff, will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the individual's role and level of experience. The appraiser and appraisee will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change. The Teacher's Standards will be used to inform the setting of the teacher's performance management/appraisal objectives.

The objectives set for each member of staff will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school. This will be ensured by SLT *quality assuring all objectives against the school improvement plan and matching them to each member of staff most urgent development needs.*

Before, or as soon as practicable after, the start of each appraisal period, each member of staff will be informed of the standards against which that member of staff's performance in that appraisal period will be assessed. *All teachers will be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2012. The head teacher will need to consider whether certain teachers should also be assessed against other sets of standards published by the Secretary of State that are relevant to them.*

Planning Statement – see Appendix 1.

Reviewing performance

Observation, Book Review and Coaching

At Briary Primary School we believe that observation of classroom practice and other responsibilities is important both as a way of assessing teachers' performance to identify any particular strengths and areas for development they may have, and of gaining useful information which can inform school improvement more generally. All observation will be carried out in a supportive fashion with areas for development explained.

When assessing classroom practice a triangulation of classroom observation, book reviews and outcomes will be made, alongside any other pertinent evidence. Feedback will be short and informal. If formal observations are undertaken feedback will be specific, time dated and linked to standards and school requirements.

Members of staff (including the head teacher) who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

All staff who have their performance observed will be encouraged to use the feedback in their coaching conversations to build and develop their practice.

Development and support

'Coaching into appraisal' is a supportive process which will be used to inform continuing professional development. The school wishes to encourage a culture in which all members of staff take responsibility for improving their teaching/work through appropriate professional development and fosters professional dialogue between colleagues. Professional development will be linked to school improvement priorities and to the ongoing professional development needs and priorities of individuals. Our arrangements for coaching have been established with this aim in mind.

Feedback

Members of staff will receive constructive feedback on their performance throughout the year and as soon as practicable after other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that need attention.

Where there are significant concerns about any aspects of the appraisee's performance the appraiser will meet the appraisee formally to:

- give clear feedback to the member of staff about the nature and seriousness of the concerns;
- give the member of staff the opportunity to comment and discuss the concerns;
- agree any support (eg coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
- make clear how, and by when, the appraiser will review progress;
- explain the implications and process if no – or insufficient – improvement is made.

When progress is reviewed, if the appraiser is satisfied that the member of staff 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.

Transition to capability

If the appraiser is not satisfied with progress, the member of staff will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. This communication and any subsequent actions or decisions within the capability process, informal or formal will not be the role or responsibility of the individual's coach.

The capability procedures will be conducted as in part B of this policy.

Annual assessment

Each member of staff's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the head teacher, the Governing Body must consult the CEO.

This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year. For teaching staff, this will take place in meetings to discuss lesson observations, pupil progress and book scrutiny.

The member of staff will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment in writing on - a written appraisal report. In this school, teachers will receive their written appraisal reports by 31 October (31 December for the head teacher). **The appraisal report will include:**

- details of the member of staff's objectives for the appraisal period in question;
- **an assessment of the member of staff's performance of their role and responsibilities against their objectives and the relevant standards;**
- **an assessment of the member of staff's professional development needs and identification of any action that should be taken to address them;**
- TAs profile will be based on observation and pupil progress data, along with their objectives in determining whether they have achieved the required standard. This is equivalent to good performance and will result in additional pay.
- *a recommendation on pay where that is relevant (NB – pay recommendations need to be made by 31 December for head teachers and by 31 October for other teachers)*

It is the role of the individual's coach to work with the member of staff to ensure the review statement is an accurate and balanced report of the individual's performance over the year taking full account of all relevant evidence. The individual member of staff may request any evidence to be referenced in their review statement where it is relevant to the specific area of their performance

The assessment of performance and of professional development needs will inform the planning process for the following appraisal period.

Part B – Capability Procedure

This procedure applies only to members of staff or the head teacher about whose performance there are serious concerns that the appraisal process has been unable to address.

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 member of staff 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 member of staff 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.

Anyone who is assigned as a coach within Briary Primary School will not have a managerial role within the capability procedure, formal or informal for any individual for whom they are the coach. They will, however be able to undertake a supportive role in enabling the individual to improve their performance in the areas identified for action. Any notes of coaching conversations or observations undertaken by the coach will remain confidential to the individual and may only be disclosed and used within the capability process with the express agreement of the individual member of staff involved.

Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the CEO (for head teacher capability meetings or where the Head teacher is the Coach) or head teacher (for other members of staff.). The meeting allows the member of staff, 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 appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting.

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
- give clear guidance on the improved standard of performance needed to ensure that the member of staff can be removed from formal capability procedures;
- explain any support that will be available to help the member of staff 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
- warn the member of staff formally that failure to improve within the set period could lead to dismissal. In very serious cases, 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 member of staff 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, including coaching 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 member of staff 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 member of staff 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 member of staff 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 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. The member of staff 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 member of staff 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 member of staff 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 CEO of EKC Schools Trust

The member of staff 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 decide that members of staff should no longer work at this school has been delegated to one or more governors acting with the head teacher.

Appeal

If a member of staff 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 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 member of staff.

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

- CEO for members of staff not line managed by Headteacher
- Where the CEO has been involved in the process, a panel made up from Trust Leaders not previously involved

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

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).

General Principles Underlying This policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

Part B of the policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the head teacher and governing body to quality-assure the operation and effectiveness of the appraisal system. *Schools to say here how they might achieve this, for example, the head teacher or appropriate colleague might review all members of staff' objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. The head teacher might also wish to be aware of any pay recommendations that have been made.*

Consistency of Treatment and Fairness

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

Definitions

Unless indicated otherwise, all references to “teachers” include the head teacher.

Delegation

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

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 school's absence policy . 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 governing body and head teacher will monitor the operation and effectiveness of the school's appraisal arrangements.

Retention

The governing body and head teacher will ensure that all written appraisal records are retained in a secure place for six years and then destroyed.