



# Appraising Teacher Performance Policy

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October 2015

Approved by GB: Oct 2015

Next review due: Oct 2017

## MODEL POLICY FOR APPRAISING TEACHER PERFORMANCE

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The Governing Body of Churchfields Junior School adopted this policy on October 2012 following consultation with the recognised teaching unions.

It will be reviewed every two years.

### PURPOSE

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This procedure sets out how Churchfields Junior School will improve outcomes for children and raise the morale of teachers, by motivating teachers to up-date their skills and improve their performance.

The appraisal procedure will be used also to address any concerns that are raised about a teacher's performance. If concerns are such that they cannot be resolved through the appraisal process, there will be consideration of whether to commence the capability procedure.

### APPLICATION OF THE APPRAISAL POLICY

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This policy applies to the head teacher and to all qualified teachers employed at the school/academy except those on contracts of less than one term and those undergoing induction (*ie* NQTs) or teachers on capability procedures

Appraisal in this school/academy will be 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 will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

### THE APPRAISAL PERIOD

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The appraisal period will run **for twelve months** normally from August 31<sup>st</sup> to September 1<sup>st</sup>.

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 this policy. The length of the period will be determined by the duration of their contract.

Where a teacher starts their employment at the school/academy part-way through a cycle, the head teacher or, in the case where the employee is the head teacher, the governing body shall determine the length of the first cycle for that teacher, with a view to bringing his/her cycle into line with the cycle for other teachers as soon as possible.

Where a teacher transfers to a new post within the school/academy part-way through a cycle, the head teacher or, in the case where the employee is the head teacher, the governing body shall determine whether the cycle shall begin again and whether to change the appraiser.

### APPOINTING APPRAISERS

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All appraisers of teachers, other than those appraising head teachers, will be teachers and will be suitably trained.

#### Head Teacher

The head teacher will be appraised by the Governing Body, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Governing Body for that purpose.

The task of appraising the head teacher, including the setting of objectives, will be delegated to a sub-group consisting of normally 3 members of the Governing Body.

Where a head teacher is of the opinion that any of the governors appointed by the governing body is unsuitable to act as his/her appraiser, s/he may submit a written request for that governor to be replaced, stating the reasons for the request.

## **Teachers**

The choice of appraiser is for the head teacher. Where teachers have an objection to the head teacher's choice, their concerns will be carefully considered and, where possible, an alternative appraiser will be offered. All appraisers appointed by the head teacher will be qualified teachers and will have current or recent teaching experience.

Where it becomes apparent that the appraiser appointed by the head teacher will be absent for the majority of the appraisal cycle, the head teacher may perform those duties herself/himself or delegate those duties to another teacher for the duration of that absence.

If the head teacher appoints an appraiser who is not the teacher's line manager, the appraiser to whom she/he delegates those duties will have an appropriate position in the staffing structure, together with the necessary background knowledge, skills and training to undertake the role.

Where a teacher is experiencing difficulties and the head teacher is not the appraiser, the head teacher may undertake the role of appraiser. See also section on Teachers Experiencing Difficulties.

## **SETTING OBJECTIVES**

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The head teacher's objectives will be set by the appraisal sub-group of the Governing Body after consultation with the external adviser and the head teacher.

Objectives will be set before, or as soon as practicable after, the start of each appraisal period. The objectives set will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the appraisee's role and level of experience. In setting the objectives, reviewers will have regard to what can reasonably be expected in the context of roles, responsibilities and experience, consistent with the school's strategy for achieving a work/life balance for all staff. Appraisees may at any point append their comments alongside their objectives.

The appraiser and appraisee will seek to agree the objectives. Objectives may be revised if circumstances change. The school operates a system of moderation to ensure that all appraisers are working to the same standards. Targets will be moderated across the school to ensure that they are consistent between teachers with similar experience and levels of responsibility. Should the objectives not be agreed, the final decision on allocation of objectives rests with the head teacher.

The agreed objectives will contain a description of what success may look like. Where use of numerical targets is appropriate, these will be reasonable, in the circumstances in which the teacher works and it will be recognised that factors outside teachers' control may significantly affect success.

Setting more than three objectives, or, for example, using sub-targets, can lead to teachers experiencing unreasonable workload and pressure, making the objectives more difficult to achieve. Therefore, other than in exceptional circumstances, no teacher will be given more than three objectives.

The objectives set for each teacher are intended to contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school and will take into account the professional aspirations of the teacher.

The appraiser will take into account the effects of an individual's circumstances, including any disability, when agreeing objectives. For example, this might include a reasonable adjustment to allow an individual slightly longer to complete a task than might otherwise be the case. When staff return from a period of extended absence, objectives may be adjusted to allow them to readjust to their working environment.

Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed. Teachers will be assessed against the appropriate set of standards contained in the document "Teachers' Standards" published in July 2011. The head teacher or governing body (as appropriate) will need to consider whether certain teachers should be assessed against other sets of standards published by the Secretary of State or other body that are relevant to them. For QTLS holders, that may include the overarching professional standards for teachers in the lifelong learning sector, held by the Learning and Skills Improvement Service.

## **PAY PROGRESSION**

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Where teachers are eligible for pay progression, the recommendation made by the appraiser will be based on the assessment of their performance against the agreed objectives. The decision made by the relevant decision-making body will be based on the statutory criteria and guidance set out in the STPCD and the relevant teacher standards.

The Governing Body has agreed the pay policy of the school and has considered the implications of the appraisal policy with respect to the arrangements relating to teachers' pay in accordance with the School Teachers' Pay and Conditions Document. The Governing Body will ensure that decisions on pay progression are made by 31 December for head teachers and by 31 October for other teachers.

## **REVIEWING PERFORMANCE**

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### **Observation**

The effective and efficient operation of the appraisal process requires lesson observation to be a confidential process of constructive engagement within an atmosphere of support and co-operation.

Accordingly, observations will be carried out in a supportive fashion, with professionalism, integrity and courtesy, will be evaluated objectively and reported accurately and fairly and will take account of particular circumstances which may affect performance on the day.

At least 5 working days' notice of the date and time of the observation will be given and verbal feedback provided by at least by the end of the next school day and written feedback within 5 working days, unless circumstances make this impossible.

Classroom observation will be carried out by qualified teachers.

For the purposes of appraisal, teachers' performance will be observed on an appropriate and reasonable number of occasions and will, as far as possible, be agreed by the appraiser with the appraisee based on the individual circumstances of the teacher and the overall needs of the school. The number and duration of appraisal observations will be in accordance with the school/academy's observation protocol, which includes provision for exceptional circumstances where concerns have been raised about a teacher's performance, or where the teacher requests additional observation visits.

Head teachers or other leaders with responsibility for learning and teaching standards may "drop in" or undertake other observations to evaluate the standards of teaching and learning and to ensure that high standards of professional performance are established and maintained. The length and frequency of "drop in" or other observations, and the notice to be given, will vary depending on specific circumstances but will be in accordance with the school's classroom observation and drop-in policy.

For the purpose of professional development, feedback about lesson observations should be developmental, not simply a judgement using Ofsted grades.

This school will use the findings of each observation, including appraisal observations, for other management requirements (for example subject area reviews), thereby seeking to minimise the total number of occasions on which teachers are observed.

Teachers (including the head teacher) whose posts have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

### **Development and Support**

Appraisal is a supportive process which will be used to inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development, through peer observation for example. Professional development will be linked to school improvement priorities and to the on-going professional development needs and priorities of individual teachers.

The school's/academy's CPD programme will be informed by the training and development needs identified as part of the appraisal process. The governing body will ensure in the budget planning that, as far as possible, resources are made available in the school budget for appropriate training, and support agreed for appraisees, maintaining access on an equitable basis.

An account of the training and development needs of teachers including the instances where it did not prove possible to provide any agreed CPD, will form a part of the head teacher's annual report to the governing body about the operation of the appraisal process in the school.

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 training and support will help the school/academy to achieve its priorities; and
- b) the CPD identified is essential for an appraisee to meet their objectives.

Account will be taken in a review meeting of where it has not been possible for teachers to fully meet their performance criteria because the support recorded in the planning statement has not been provided.

## **ANNUAL ASSESSMENT**

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Each teacher'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 external adviser.

The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment on - a written appraisal report. The 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 their objectives, and against the relevant standards;
- an assessment of the teacher's training and development needs and identification of any action that should be taken to address them;
- a recommendation on pay where that is relevant (**N.B. – pay recommendations need to be made by 31 December for head teachers and by 31 October for other teachers**);
- a space for the teacher's own comments
- (schools/academies to say what else, if anything, their appraisal reports will include).

A review meeting will take place to discuss the content of the report and any further action required and to

inform objective setting for the next cycle. In some circumstances an interim review meeting may be appropriate.

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

## TEACHERS EXPERIENCING DIFFICULTIES

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When dealing with a teacher experiencing difficulties, the objective is to provide support and guidance through the appraisal process in such a way that the teacher's performance improves and the problem is, therefore, resolved.

Where it is apparent that a teacher's personal circumstances are leading to difficulties at school, support will be offered as soon as possible, without waiting for the formal annual assessment.

If an appraiser identifies through the appraisal process, or via other sources of information, for example parental complaints, that the difficulties experienced by a teacher are such that, if not rectified, could lead to capability procedures the appraiser, the head teacher, or a member of the leadership team, will, as part of the appraisal process meet the teacher to:

- give clear written feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment on and discuss the concerns;
- give the teacher at least 5 working days' notice that a meeting will be held to discuss targets for improvement alongside a programme of support, and inform the teacher that he/she has the right to be assisted by a representative of an independent trade union or work place colleague, and at any future meetings where capability will be discussed;
- in consultation with the teacher at the above meeting, an action plan with support will be established (for example coaching, training, in-class support, mentoring, structured observations, visits to other classes or schools or discussions with advisory teachers), that will help address those specific concerns;
- make clear how progress will be monitored and when it will be reviewed;
- explain the implications and process if no – or insufficient – improvement is made.

The teacher's progress will continue to be monitored as part of the appraisal process and a reasonable time given for the teacher's performance to improve. This will depend upon the circumstances, but will be for a period of ..... weeks, with appropriate support as agreed in the Action Plan, in order that the aim of recovering and improving performance can be achieved. During this monitoring period the teacher will be given regular feedback on progress and arrangements will be made to modify the support programme if appropriate.

If sufficient progress is made such that the teacher is performing at a level that indicates there is no longer a possibility of capability procedures being invoked the teacher should be informed of this at a formal meeting with the appraiser or head teacher. Following this meeting the appraisal process will continue as normal.

If no, or insufficient, improvement has been made over this period, the teacher will be invited to a transition meeting to determine whether formal capability proceedings need to be commenced or the appraisal process remains in place. The teacher may be assisted by a trade union representative or work colleague and will have at least 5 working days notice of the meeting.

## Appeals

Appraisees have a right of appeal against any of the entries in the written appraisal report. Details of the appeals process are available from the head teacher or from the school governing body. Where the head teacher has not been recommended for pay progression he/she will be informed by the appropriate governor. The head teacher will notify any teacher who has not been recommended for pay progression of the date when the governing body meets to consider pay recommendations, following which the teacher (and head teacher

when the head has not been recommend for pay progression) may exercise the right of appeal, assisted by a companion who may be a colleague, a trade union official or a trade union representative.

## **GENERAL PRINCIPLES UNDERLYING THIS POLICY**

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### **ACAS Code Of Practice on Disciplinary and Grievance Procedures**

The conduct of the formal capability stage will be undertaken in accordance with the provisions of the ACAS Code of Practice.

### **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.

### **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 normally be referred 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 formal procedures to continue during a period of sickness absence. However, the views of the occupational health physician will always be taken into account before a decision is reached.

### **Grievances**

Where a member of staff raises a grievance during the appraisal or capability process, the appraisal or capability process may be temporarily suspended in order to deal with the grievance. Where the grievance and appraisal or capability cases are related it may be appropriate to deal with both issues concurrently.

### **Confidentiality & Professional Relationships**

The appraisal and capability processes will be treated with confidentiality. Only the appraisee's line manager or, where s/he had more than one, each of her/his line managers will be provided with access to the appraisee's plan recorded in her/his statements. This will be done upon request and only where this is necessary to enable the line manager to discharge her/his line management responsibilities. Appraisees will be consulted on requests for access to statements in the context of this policy.

The process of gathering evidence for performance review will not compromise normal professional relationships between teachers. The governing body recognises that the reviewer will consult with, and seek to secure the agreement of, the reviewee before seeking information from other colleagues about the work of the reviewee.

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. The head teacher or appropriate colleague might, for example, review all teachers' objectives and written appraisal records personally – 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.

### **Monitoring and Evaluation**

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

The head teacher will provide the governing body with a written report on the operation of the

school's/academy's appraisal and capability policies annually. The report will not identify any individual by name. The report will include an assessment of the impact of these policies on:

- Race
- Sex
- Sexual Orientation
- Disability
- Religion and Beliefs
- Age
- Part-time Status
- Maternity and Pregnancy

The head teacher will report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination.

### **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.

## PART B – Capability Procedure

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### 1. Introduction

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- 1.1 The performance of teachers in the School is monitored and managed on a day to day basis by the Head Teacher (and other designated teachers) and through the appraisal procedure.
- 1.2 However, where there are serious concerns about performance or where the appraisal process and subsequent development/support has failed to address performance problems, the capability procedure should be used.
- 1.3 For the purposes of this procedure, lack of capability is defined as a situation where a teacher or the Head Teacher fails consistently to perform his or her duties to a professionally acceptable standard.
- 1.4 In the cases where there may be a capability issue concerning the Head Teacher, reference should be made to section 10 of this procedure.
- 1.5 The Governing Body is required to establish the following committees:
- **Capability Committee** - to hear cases concerning the capability of the Head Teacher (and to dismiss teachers where the Head Teacher does not have delegated authority to dismiss \*)
  - **Appeals Committee** – to hear appeals against any warnings or dismissal decision as a result of capability

The quorum for both is at least three Governors, to be chosen from those appointed by the Governing Body. No member of either Committee should have been involved in the procedure prior to the formal stage. It is strongly recommended that an Employment Relations Advisor is requested to support any Committees.

\* The DfE advises that dismissal decisions should be delegated to the Head Teacher unless there is a good reason not to do so. Governing Bodies who choose not to delegate dismissal decisions to the Head Teacher should formally record their decision not to delegate authority, when adopting this procedure.

### 2. General principles

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- 2.1 At every stage of the procedure the Head Teacher (or other designated teacher) should clearly identify and specify:
- The expected performance standards
  - The improvements required and how these will be measured
  - A timetable for monitoring and review
  - Any support which will be put in place

This should be discussed with the teacher concerned and always confirmed in writing.

- 2.2 The teacher's performance should be closely monitored throughout any review period and they should be given feedback on their progress and be invited to comment.
- 2.3 The teacher has the right to be accompanied by their Trade Union representative or Professional Association representative or a work colleague and should be strongly advised to exercise this right.
- 2.4 If the teacher's chosen representative is not available at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than 5 school days from the original date.
- 2.5 The Head Teacher is advised to consult with the Council's Human Resources Employment Relations

Team before taking action and to invite an ER Adviser to attend meetings where appropriate.

- 2.6 Where the Head Teacher intends to implement this procedure, s/he should ensure that the teacher concerned is provided with a copy.
- 2.7 The teacher has the right of appeal against any warning issued as part of the procedure and also the right of appeal against dismissal by reason of capability.
- 2.8 In exceptional cases, the Head Teacher (or other designated teacher) may foreshorten or miss out a stage of the procedure. For example:
- Where a teacher's performance falls far short of an acceptable standard and where support and guidance fail to produce any significant improvement
  - Where the teacher's lack of competence is leading to the education of pupils being jeopardised.

Where it appears that this may be necessary, the Head Teacher should ensure that the employee and his/her Trade Union or Professional Association representative are advised of this at the earliest possible stage.

- 2.9 Teachers cannot raise a grievance to complain about, or object to the fact that the School may take action under this procedure. The only exception would be if the grievance is that the action amounts to, or would amount to discrimination, bullying or harassment. In such cases, consideration should be given to suspending the capability procedure for a short period whilst this is looked into. The decision about whether or not to suspend the capability procedure, and for how long, is at the sole discretion of the Head Teacher, who should consult HR Employment Relations for advice.
- 2.10 Where the capability concerns a trade union representative, this should be discussed at the earliest opportunity with the Branch Secretary/Convenor or full time official, who should be invited to accompany the individual to any meetings under the Procedure. Advice must be sought from the Employment Relations Manager before commencing any action under the procedure.
- 2.11 While it is recognised that the capability procedure can be distressing and may sometimes lead to a teacher feeling unwell, it is in everyone's best interest to conclude matters as quickly as possible. The School will work with the teacher to achieve this. If sickness absence appears to have been triggered by the commencement of the capability procedure, the teacher will be referred immediately to an Occupational Health Adviser to assess their fitness for participating in the procedure. Where a teacher remains off sick, this will be dealt with in accordance with the Sickness Absence Procedure.

### 3. First capability meeting

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#### **Prior to the meeting**

- 3.1 If the teacher's performance is unsatisfactory and has not reached the required standard despite target setting, monitoring and support as part of the appraisal process, they will be required to attend a capability meeting.
- 3.2 The meeting will be conducted by the Head Teacher or another designated teacher. Where the Head Teacher is the subject of the procedure the meeting will be conducted by a Chair of Governors.
- 3.3 The teacher will be given at least 5 school days notice, in writing, of the time, date and location of the meeting. The letter should also:
- Specify the nature and details of the unsatisfactory performance;
  - Include a copy of any evidence which is to be considered at the meeting;
  - Confirm the teacher's right to be accompanied by a Trade Union or Professional Association representative or a work colleague;

- Inform the teacher of who will be involved in the meeting;
- Give an indication of the possible sanction which could be imposed if the concerns are found to be substantiated.

3.4 If the teacher intends to be represented or accompanied at the meeting (by their Trade Union representative or Professional Association representative or a work colleague), they must supply the name and status of their representative no later than 2 school days before the meeting.

3.5 If the teacher intends to submit a written statement or other supporting written evidence they may do this either directly or through their representative no later than 2 school days before the meeting.

### **The meeting**

3.6 At the meeting, the Head Teacher should set out the specific concerns regarding the teacher's performance, together with any evidence to support this, referring as appropriate to how this was dealt with under the Appraisal Procedure and any support that has been offered to the teacher.

3.7 The teacher and their representative will then be given an opportunity to give their response, and to present their case. This may provide new information or a different context to the information/evidence already collected.

3.8 Having considered all the statements and evidence presented, The Head Teacher 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.

3.9 The Head Teacher 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.

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

- Confirm the standards of performance which 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. In extreme cases where the education of pupils is jeopardised, the period given for improvement after the date of a formal warning should be no more than 4 school weeks. In very serious cases, this warning could be a final written warning.
- Warn the teacher formally that failure to improve within the set period could lead to dismissal.

### **Following the meeting**

3.11 A letter summarising the content and outcome of the meeting should be sent to the teacher within 5 school days of the meeting taking place. If no further action is to be taken under the procedure, this should be confirmed to the teacher, explaining that performance will be monitored through the Appraisal Procedure. If this is not the case, the letter should clearly set out all the points covered in section 3.10 above. The teacher will be responsible for forwarding a copy to their representative.

3.12 Where a warning is issued, the teacher must be informed of the duration of the warning (normally one year) and of their right to appeal (please see section 7 below).

## 4. Monitoring and review period

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- 4.1 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period.
- 4.2 The length of the monitoring period will depend on the circumstances of the individual case. In extreme cases where the education of pupils is jeopardised, this should be no more than 4 school weeks.
- 4.3 The teacher will be invited to a second capability meeting, unless they were issued with a final written warning, in which case they will be invited to a capability hearing (please see section 6 below.)

## 5. Second capability meeting

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### Prior to the meeting

- 5.1 The Head Teacher should write to the teacher concerned, giving at least 5 school days notice of the formal review meeting. The letter should advise the teacher:
- Of the purpose of the meeting (i.e. to formally review the Teacher's progress/improvement in the areas of performance and/or targets set at the first capability meeting);
  - Of any evidence which is to be considered at the meeting (including a copy of any written evidence);
  - Of their right to be accompanied by a Trade Union or Professional Association representative or a work colleague;
  - Who will be involved in the meeting;
  - That should the meeting find that no or insufficient improvement has been made, the likely outcome will be a final warning.
- 5.2 If the teacher intends to be represented or accompanied at the meeting (by their Trade Union representative or Professional Association representative or a work colleague), they must supply the name and status of their representative no later than 2 school days before the meeting.
- 5.3 If the teacher intends to submit a written statement or other supporting written evidence they may do this either directly or through their representative no later than 2 school days before the meeting.

### The meeting

- 5.4 At the meeting, the Head Teacher should summarise the performance improvements/targets which were set at the first capability meeting and review how far these have been met by the teacher concerned, considering evidence to support this. This should include the outcomes of any interim meetings at which progress was reviewed.
- 5.5 The teacher and their representative will then be given an opportunity to give their response, and to present their case.
- 5.6 If the Head Teacher is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.
- 5.7 In some circumstances, if the teacher has made some improvement and the Head Teacher feels that the performance problems can be eliminated within a reasonable time, s/he may extend the monitoring and review period;
- 5.8 Where there has been no improvement or insufficient improvement in the teacher's performance, the Head Teacher may, depending on the severity of the performance issues and the circumstances:

- Issue a final warning (which will normally be of 1 year's duration) **OR**
- Move to a capability hearing (which could lead to dismissal) - see section 6.

### **Following the meeting**

- 5.9 A letter summarising the content and outcome of the meeting should be sent to the teacher within 5 school days of the meeting taking place. If no further action is to be taken under the procedure, this should be confirmed to the teacher, explaining that performance will be monitored through the Appraisal Procedure.
- 5.10 Where a final warning is issued, the teacher must be informed:
- Of the duration of the warning (normally one year)
  - That failure to achieve an acceptable standard of performance within the set timescale, may result in dismissal (following a capability hearing – see section 6 below)
  - Of the procedure and time limits for appealing against the final warning (see section 8).
- 5.11 The teacher will be responsible for forwarding a copy of the letter to their representative.

## **6. Capability hearing**

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### **Prior to the hearing**

- 6.1 In Schools where the Head Teacher has delegated authority to dismiss, s/he will convene and chair the capability hearing and issue correspondence accordingly as set out below. In Schools where the Head Teacher does not have delegated authority, the hearing will be convened by the Chair of Governors and heard by the School's Capability Committee, who will be responsible for issuing the correspondence.
- 6.2 In cases where the Head Teacher is the subject of the capability hearing, the case will be heard by the Capability Committee.
- 6.3 The Head Teacher/Capability Committee should write to the teacher concerned, giving at least 5 school days notice of the capability hearing. The letter should advise the teacher:
- Of the purpose of the hearing (i.e. to consider the teacher's capability and whether their employment at the School should continue)
  - Of any evidence which is to be considered at the hearing (including a copy of any written evidence);
  - Of their right to be accompanied by a Trade Union or Professional Association representative or a work colleague;
  - Who will be involved in the hearing;
  - That should the hearing find that the teacher's performance is unacceptable, the likely outcome will be dismissal.
- 6.4 If the teacher intends to be represented or accompanied at the hearing (by their Trade Union representative or Professional Association representative or a work colleague), they must supply the name and status of their representative no later than 5 school days before the hearing.
- 6.5 If the teacher intends to submit a written statement or other supporting written evidence they may do this either directly or through their representative no later than 5 school days before the hearing.

### **The hearing**

- 6.6 At the hearing, the Head Teacher should set out the specific concerns regarding the teacher's performance, together with any evidence to support this, referring as appropriate to previous capability meetings held with the teacher, targets set, support offered and degree of improvement or lack of improvement.

- 6.7 The teacher and their representative will then be given an opportunity to give their response, and to present their case. This may provide new information or a different context to the information/evidence already collected.
- 6.8 Having considered all the available evidence and the teacher's case, if the Head Teacher/Capability Committee feels that dismissal is not warranted, existing warning will remain in place. And this should be confirmed verbally to the teacher and then in writing.
- 6.9 If the Head Teacher/Capability Committee decides that dismissal is warranted, they will confirm this to the teacher, verbally and then in writing.

### **Following the hearing**

- 6.10 The letter confirming the decision of the meeting should be sent to the teacher within 5 school days. The letter should:
- Summarise the issues discussed at the capability hearing
  - Confirm the decision of the hearing

If the decision was to dismiss, the teacher must be informed of their last day of service, their right to appeal and the necessary time limits for this (see section 7 below).

- 6.11 The letter to the teacher confirming dismissal must be authorised and signed as follows:
- Community Schools (i.e. where teachers are employees of the Council) – by the Director of Children's Services
  - Foundation and Voluntary Aided School's – by the Head Teacher

6.12 Dismissal will normally be with notice.

6.13 When a teacher is dismissed for reasons of capability or incompetence, or where they resign in circumstances where dismissal was a possibility, the Head Teacher or Governing Body (where the case involves the Head Teacher) is required to notify the Department for Education (DfE) in writing.

## **7. Appeals against warnings or dismissal**

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- 7.1 An teacher may appeal against any disciplinary action taken against him/her by giving notice in writing setting out their grounds for appeal within 5 school days (or 10 school days in the case of dismissal) to the Chair of Governors, who will arrange for a meeting of the Appeal committee to be convened as soon as reasonably practicable (and normally within 15 school days) and inform all concerned of the date, time and place of the hearing at least 10 school days beforehand.
- 7.2 At an appeal hearing, the teacher and the Head Teacher shall each be entitled to appear and to be assisted. The teacher may be accompanied/represented by a representative of a Professional Association, Trade Union or a work colleague. The Head Teacher may be assisted by an Employment Relations Adviser or another HR Colleague.
- 7.3 The purpose of the appeal is to review the decision taken by the Head Teacher/Governing Body, not to re-hear the case. The Appeal Committee may ratify, nullify or reduce the severity of the disciplinary action taken by the Head Teacher/Governing Body. The comments of the Appeal Committee may be recorded alongside any warning it ratifies, nullifies or reduces.
- 7.4 The teacher should be notified by the Chair of the Appeal Committee, in writing, of the outcome of the appeal within 10 school days. If this is not possible, the Chair of Governors should write to the teacher and give them an indication of when they will be notified of the outcome.

- 7.5 The Appeal Committee's decision will be final and may be either to uphold or reject the appeal.
- 7.6 If the Appeal Committee upholds the appeal it may either nullify or reduce the severity of the disciplinary sanctions (for example, a successful appeal against dismissal may result in the employee being reinstated, with a final warning).

## 8. Records

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- 8.1 Details of any formal action, including any warnings, should be retained on the teacher's personal file. Warnings should be disregarded after the expiry of their life (normally one year).

## 9. Provision of information about teaching staff capability

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- 9.1 Where a teacher applies for a teaching post in another school (either a maintained school or an Academy school), the Governing Body (in consultation with the Head Teacher) must, at the request of the other school's Governing Body/proprietor:
- Advise in writing whether or not the teacher has been the subject of the School's Capability Procedure in the preceding two years and, if so
  - Provide written details of the concerns which gave rise to this, the duration of the proceedings and their outcome

## 10. Capability of Head Teachers

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- 10.1 In cases where the capability of the Head Teacher is being considered by the Governing Body of the school, Governors are **strongly recommended** to seek advice from the HR Employment Relations Manager before taking any action under this procedure.
- 10.2 In such cases all references to the "Head Teacher" within this procedure should be replaced by "the Chair of Governors or his/her nominated representative" and any dismissal recommendation must be made to the Capability Committee.
- 10.3 In dealing with such cases, governing bodies should follow the procedures outlined above.