



ST EDMUND'S SCHOOL CANTERBURY

Capability Policy

CAPABILITY POLICY

The purpose of this policy is to outline the approach that will be taken by St Edmund's School ('The School') in addressing capability issues, that have either arisen due to ill health or through a failure to meet the required performance standards.

CAPABILITY PROCEDURE – ILL HEALTH

All leave of absence due to sickness will initially be dealt with under the process as outlined in the Sickness & Absence from Work Policy.

This policy should be used to inform and guide all staff and managers in the procedure to support individuals who fall into one or more of the following categories:

1. Sick and unable to come to work for a prolonged period.
2. Unacceptable high levels of intermittent periods of absence as a result of an underlying medical condition (unacceptable high levels of intermittent periods of absence not resulting from an underlying medical condition may be addressed via the School's disciplinary process)
3. Unable to fulfil the role in which they are employed, to the required standards due to a medical condition.

This policy applies to all staff who have satisfactorily completed their probationary period. Issues arising during the probationary period will be dealt with separately.

Principles

The School considers the health, safety and well-being of all staff, and recognises its responsibilities to ensure that appropriate support is given to staff members covered under this policy.

Prior to any formal action the individual may be referred to their GP, Hospital Consultant or an Occupational Health Professional for advice on the current medical condition and likely timescales for return to work and the ability to undertake their full job role.

The School will inform the individual of the reasons for any action taken and the implications, providing them with the opportunity to discuss the reasons for their absence and any possible adjustments required to facilitate a return to work.

At all stages of the process, the individual will have the right to be accompanied to any formal meetings with the School by a trade union, staff representative or work colleague.

The School will follow an appropriate process to try to determine the likelihood of a staff member's return to work at full capacity within an acceptable timescale. Where it appears that they will not be able to return to or fulfil their position, then the procedure outlined in this policy will be used.

Procedure

The School will first investigate the individual's health issues by gathering information on absence to date, occupational health reports, GP reports (if applicable, and consent obtained), notes from any Return to Work discussions or home visits conducted during the absence/s.

The School will normally consider use of the formal procedure in the following circumstances:

- Where up to date medical advice from the individual's GP, Consultant or Occupational Health indicates that the individual is not fit to return to work in the foreseeable future in any reasonable capacity.
- Where an individual is currently fit but there is evidence that they will be unable to sustain regular and effective performance as a result of a recurring health condition(s).
- Where an individual is currently fit but is unable to carry out their full range of duties.
- Where all reasonable adjustments/options, including redeployment to a suitable alternative role, have been considered and exhausted.

1. Formal Review Meeting

The individual will be invited in writing to a meeting. This meeting will form part of the formal process and may be held at a venue that is suitable for the individual due to health reasons.

The individual will be advised in writing prior to attending the meeting that the School will be considering the possible termination of their contract of employment on ill-health capability grounds.

Prior to this meeting, the individual will be given all information relating to their absence/ill health issues (if the information has not already been provided to the individual in advance) and the effect of those issues on their role, Department and the School as a whole will be clarified. They will be given the opportunity to respond to the information, provide an update and expand upon it as necessary.

The purpose of the meeting will be to discuss:

- Current state of health, reasons, progress, treatments or recovery
- Possible time scales for a recovery
- Medical report from the individual's GP or Consultant and advice from Occupational Health
- Individual's intentions and possibility of a return to work/undertake contractual duties
- Returning to an existing role including possible phased return
- Discussion of any alternative roles, including current vacancies available
- Possible retraining issues for current or an alternative role
- Any reasonable adjustments to existing role and/or to any alternative role
- Likely length of recovery in light of future treatments.
- Possible restrictions on individual's ability to carry out their job in the future

If following this meeting there are no reasonable adjustments that can be made in relation to the individual, no alternatives and all options for return have been discussed and reviewed with no solution having been agreed, then the individual should be made aware that a decision regarding continued employment is to be made. This decision will be confirmed in writing.

If there are new options identified at the review meeting and there is a need for further research, a final review meeting will be arranged at a suitable time in the future to allow these items to be considered.

2. Final Review Meeting

If there has been no return from absence or recovery following the formal review meeting and any informal meetings and/or if the phased return requirements have not been met, the individual will be invited to a final review meeting.

This meeting will be held at a venue that is suitable for the individual due to health reasons.

The meeting should cover all those points discussed in the formal review meeting and any progress on any of those items discussed, including further medical information or assessments.

If there are new options identified at the final review and there is a need for further research, the meeting will be adjourned and reconvened at a suitable time in the future to allow these items to be considered.

If following this meeting there are no reasonable adjustments that can be made in relation to the individual, no alternatives and all options for return have been discussed and reviewed with no solution having been agreed then the individual should be made aware that a decision regarding continued employment is to be made. This decision will be confirmed in writing to the individual.

3. Dismissal Due To Ill Health

If there is still insufficient improvement in the individual's health after a reasonable period following the initial meeting and the individual remains incapable of completing their role, the individual may be dismissed with notice on the grounds of capability due to ill health.

4. Appeal

The individual has the right to appeal against the decision to dismiss him/her on ill-health capability grounds. The appeal should be submitted in writing, to the Head of HR outlining the grounds of appeal, within 5 working days of that action being taken. The Head of School or Board of Governors will hear the appeal and their decision is final.

CAPABILITY PROCEDURE - PERFORMANCE

The primary aim of this policy is to provide a framework within which the School can work with staff to maintain satisfactory performance standards and to encourage improved performance where necessary.

Principles

The School recognises the difference between a deliberate or careless failure on the part of an individual to perform to the standards of which they are capable (in which case the School will use the disciplinary procedure) and a case of incapability, where they are lacking in knowledge, skill or ability and so cannot perform to the standard required (in which case the School will use this capability procedure in an attempt to support and improve the staff member's performance).

The School also recognises that during a staff member's employment, capability to carry out their duties may deteriorate. This can be for a number of reasons; the most common ones being that either the job role changes over a period of time and the individual fails to keep pace with the changes or the individual changes and can no longer cope with the work.

Procedure

Minor capability issues will be dealt with informally through feedback and training. Informal discussions may be held with a view to clarifying:

- the required work standards and the level of performance expected
- identifying areas of concern
- establishing the likely causes of poor performance
- identifying any training or supervision needs
- setting targets for improvement and agreeing a time-scale for review.

At all stages the School will give consideration to whether the unsatisfactory performance is related to a disability and, if so, whether there are any reasonable adjustments that could be made to the requirements of the individual's job or other aspects of the working arrangements.

In cases where informal discussion with the individual and line manager or the appraisal process does not lead to a satisfactory improvement in performance, or where the performance issues are more serious, the following capability procedure will be used.

1. Performance Review Meeting

The School will notify the individual in writing of the concerns over performance and will invite them to a meeting to discuss the matter. The School will provide sufficient information about the poor performance, including the provision of copies of written evidence where appropriate. The individual will be given a reasonable time to prepare, usually at least 7 calendar days, and has the right to be accompanied by a staff representative or colleague.

The purposes of the meeting include:

- to set out the required standards that the School considers the individual has not met
- to establish the likely causes of poor performance (including any reasons why any measures taken so far have not led to the required improvement)

- to allow the individual the opportunity to explain the poor performance and to ask any relevant questions.
- to discuss measures, such as additional training or supervision, which may improve performance, to set targets for improvement
- to set a reasonable timescale for review (reflecting the circumstances of the case).

In a case where dismissal is proposed, the purposes of the performance review meeting also include:

- to establish whether there are any further steps that could reasonably be taken to rectify the individual's poor performance,
- to establish whether there is any reasonable likelihood of the required standards of performance being met within a reasonable time and to discuss whether there is any practical alternative to dismissal, such as redeployment to any suitable available job at the same or lower grade.

Following the performance review meeting, there may be a monitoring and review period and the School will decide whether or not formal performance action is justified and, if so, the individual will be informed in writing of the School's decision in accordance with the stages set out below and notified of their right to appeal against that decision.

2. Formal Performance Warning

The individual will be given a formal performance warning. This will set out the areas in which the individual has not met the required performance standards, targets for improvement, any measures, such as additional training or supervision, which will be taken with a view to improving performance, a timescale for review and the likely consequences of failing to improve to the required standards within the review period. The performance warning will be recorded but nullified after six months, subject to satisfactory performance.

The individual's performance will be monitored and, at the end of the review period, the School will write to the individual to advise him or her of the next step.

- If the School is satisfied with the individual's performance, no further action will be taken.
- If the School is not satisfied with the individual's performance, the matter may be progressed to a Final Performance Warning
- If the School feels that there has been a substantial but insufficient improvement, the review period may be extended.

3. Final performance warning

Failure to improve performance in response to the procedure so far, or a first instance of serious poor performance, will result in a final performance warning being issued. This will set out the areas in which the individual has still not met the required performance standards, targets for improvement, any further measures, such as additional training or supervision, which will be taken with a view to improving their performance, a further timescale for review and the likely consequences of failing to improve to the required standards within the further review period, i.e. that dismissal will probably result. The final performance warning will be recorded but nullified after twelve months, subject to satisfactory performance.

The individual's performance will again be monitored and, at the end of the review period, the School will write to the individual to advise them of the next step.

- If the School is satisfied with the individual's performance, no further action will be taken.
- If the School is not satisfied with the individual's performance, the matter may be progressed to Dismissal.
- If the School feels that there has been a substantial but insufficient improvement, the review period may be extended.

4. Dismissal

Failure to improve performance in response to the procedure outlined above will normally lead to dismissal, with appropriate notice. The School may first consider redeploying the individual with their agreement to another available job at the same or lower grade which is more suited to their abilities. A dismissal decision will only be made after the fullest possible investigation. Dismissal can be authorised only by the Head of School. The individual will be informed of the reasons for dismissal, the appropriate period of notice, the date on which their employment will terminate and how they can appeal against the dismissal decision.

5. Appeals

Staff members have the right to appeal against the decision to dismiss him/her on performance capability grounds. The appeal should be submitted in writing, to the Head of HR, outlining the grounds of appeal, within 5 working days of that action being taken. The Head of School or Board of Governors will hear the appeal and their decision is final.

Staff with short service

This capability procedure need not apply to any staff during their probation period or staff employed by the School for less than 6 months.

Data Protection

The School will treat personal data collected during the absence management process in accordance with its data protection policy and the General Data Protection Regulation (GDPR). Information about how an individual's data is used and the basis for processing his or her data will be provided in the School's privacy notice.



Edward O'Connor
Head

Reviewed:

1. September 2018
2. February 2019
3. September 2019

4. September 2020
5. September 2021
6. September 2022
7. September 2023
8. September 2024
9. September 2026

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