

**Honiton Community College
Academy Trust**



This policy was adopted by the Governing Body of
Honiton Community College Academy Trust
on 4th October 2017
and will be reviewed annually.

CAPABILITY POLICY

HCC CAPABILITY POLICY

1. Principles

This procedure applies to all staff about whose performance there are serious concerns that the appraisal process has been unable to address.

2. Procedures

At least five working days' notice is given of the formal capability meeting. The notification contains 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 also contains copies of any written evidence; the details of the time and place of the meeting; and advises 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.

3. Formal capability meeting

This meeting is intended to establish the facts. It is conducted by the Chair of Governors (for Principal capability meetings) or Principal (for other teachers and staff). Staff are allowed to be 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, *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 continues. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting:

- identifies the professional shortcomings, *for example which of the standards expected of the member of staff are not being met;*
- gives clear guidance on the improved standard of performance needed to ensure that the member of staff 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*);
- explains any support that will be available to help the member of staff improve their performance;
- sets out the timetable for improvement and explain how performance will be monitored and reviewed and by whom. The timetable will depend on the circumstances of the individual case but in straightforward cases could be between four and ten weeks, and
- warns 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 are taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the member of staff is 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.

4. Monitoring and review period following a formal capability meeting

A performance monitoring and review period follows the formal capability meeting. Formal monitoring, evaluation, guidance and support continues during this period. The member of staff is 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).

5. Formal review meeting

As with formal capability meetings, at least five working days' notice is given and the notification gives details of the time and place of the meeting and advises 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 ceases 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 are taken of formal meetings and a copy sent to the member of staff. The final written warning mirrors any previous warnings that have been issued. Where a final warning is issued, the member of staff is 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 is invited to a decision meeting.

6. Decision meeting

As with formal capability meetings and formal review meetings, at least five working days' notice is given and the notification gives details of the time and place of the meeting and advises 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 ends and the appraisal process will re-start. If performance remains unsatisfactory, a decision, or recommendation to the Governing Body will be made which may include:

- a) Dismissal;
- b) Re-deployment into another suitable job at the same or (if the contract allows) a lower grade; or
- c) Extending the final written warning and setting a further review period.

The member of staff will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract ends, the appropriate period of notice and their right of appeal.

7. Decision to dismiss

The power to dismiss staff in this school is delegated to the First Committee of the Governing Body.

8. Dismissal

If the decision to dismiss has been taken, the First Committee of the Governing Body will dismiss the member of staff with notice.

9. 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 are 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 apply as with formal capability and review meetings and, as with other formal meetings, notes are taken and a copy sent to the member of staff.

The appeal is dealt with impartially and, wherever possible, by the Governors' Second Committee, the members of which have not previously been involved in the case.

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

General Principles Underlying This policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

This 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 Principal and governing body to quality-assure the operation and effectiveness of the appraisal system. *The Principal or appropriate colleague (such as appraiser and/or Link ELT to appraiser) will review all staff objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. The Principal will also be aware of any pay recommendations that have been made and will make an executive decision as to whether they can be supported.*

Consistency of Treatment and Fairness

The governing body 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 members of staff. The governing body is aware of the guidance on the Equality Act issued by the Department for Education.

Definitions

Unless indicated otherwise, all references to “staff” include the Principal.

Delegation

Normal rules apply in respect of the delegation of functions by our governing body and Principal.

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 college's absence 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 governing body and Principal will monitor the operation and effectiveness of the college's appraisal arrangements.

Retention

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

Document History

Review of Policy completed by Foot Anstey Solicitors – January/February 2015

- References to *'teachers'* amended to *'staff'*
- Item 6 – Decision Meeting – paragraph 2 updated to include b) and c)
- ACAS Code of Practice – first line amended from *'Part B'* to *'This Policy'*
- Confidentiality – paragraph updated to include the procedure at HCC
- Definitions – reference to Local Authority removed

Additional amendment made – March 2015

- 3. Formal capability meeting, bullet point 4 *'monitored and reviewed'* amended to *'monitored and reviewed and by whom'*