

Policy Agreed: December 2019

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Appraisal and Capability Policy

(Support Staff)

(Dorset County Council Model)

Appraisal and Capability Policy for Support Staff

To be read in conjunction with the Appraisal and Capability Procedure for Support Staff and Guidance documents.

1. Introduction

1.1 Appraisal is central to both school improvement and employees' personal development, as an on-going supportive process.

1.2 The school values good standards of performance and expects all employees to adhere to all school's standards. Performance is assessed against the relevant standards and also against their objectives.

1.3 Performance management runs through from appraisal to capability, hence their combination in the format of this policy.

1.4 Capability refers to the fitness and ability of an employee to carry out satisfactorily, the job they are employed to do. Capability is assessed by reference to skills, aptitude, health or any other physical or mental quality.

1.5 A lack of capability can be defined as 'a situation in which an employee fails consistently to perform their duties to an acceptable standard' (ACAS). There is a need to differentiate between the issues causing the consistent failing to perform their duties – it may be incapability due to a lack of skills and need for development or incapability due to an underlying medical issue (medical incapability) which is dealt with separately in accordance with the Attendance Management Policy.

1.6 This Capability Policy specifically deals with incapability due to a lack of skills or aptitude; it will be applied when an employee's performance has seriously fallen below required standards. The aim is to improve the achievement of staff and students and to raise standards across the school.

1.7 This policy is based upon the ACAS Code of Practice, incorporates relevant legislation and should be read in conjunction with the Appraisal and Capability Procedure for Support Staff and Guidance documents. It has been agreed following consultation with recognised trade unions and has been adopted by the Governing Body.

2 Scope

2.1 The policy applies to all support staff employed by the school except staff on their probationary period or on contracts of less than one term.

2.2 The Appraisal Policy and Procedure do not apply whilst an employee is the subject of the formal Capability procedure.

3 Purpose

3.1 This policy sets out the framework for a clear and consistent assessment of the overall appraisal of support staff and for supporting their development within the context of the school's improvement plan and the standards expected of all staff. It is not, however, intended to replace or restrict the normal day to day management and supervision of employees.

3.2 An effective appraisal process should:

- Identify, celebrate and disseminate good practice

- Identify areas for staff to improve their professional skills
- Identify performance that is below the standard expected and provide a supportive system to improve performance
- Include a recommendation for competency increments, where applicable
- Be an integral part of a school's self-evaluation process.

3.3 The aim of the Capability policy is to assist schools and employees in situations where the capability of an employee is unsatisfactory; it provides a consistent and fair approach for dealing with capability issues where standards fall seriously short of requirements, aiming to improve performance and raise standards.

4 Key principles

4.1 Confidentiality

- The whole appraisal and capability processes and the statements generated under them, in particular, will be treated with strict confidentiality at all times.
- Only the Head teacher and the employee's line manager or, where s/he has more than one, each of her/his line managers will be provided with access to the employee's plan recorded in her/his statement, upon request, where this is necessary to enable the line manager to discharge her/his line management responsibilities. Employees will be told who has requested and has been granted access.

4.2 Conflict of interest

In any circumstances where an individual believes that their part of the appraisal or capability process may constitute a 'conflict of interest' they should declare this and/or absent themselves from any part of the process where such a conflict would prevail.

4.3 Consistency of treatment and fairness

The Governing Body is committed to ensuring consistency of treatment and fairness in the operation of appraisal, pay progression and capability processes.

To ensure this in relation to appraisals the following provisions are made regarding moderation, quality assurance and objective setting.

Quality assurance

The Head teacher has determined that s/he will delegate the reviewer role for some or all staff for whom s/he is not the line manager. In these circumstances the Head teacher will moderate all of appraisal planning statements to check that they:

- are consistent between those who have similar experience and similar levels of responsibility
- comply with the school's Appraisal policy and the requirements of equality legislation

4.3 Support and facilitate improvement

4.3.1 The Head teacher and the Governing Body are committed to helping their employees achieve high quality performance standards and to ensure that employees are supported in achieving those standards.

4.3.2 The school will seek to ensure that all employees are provided with appropriate induction and supervision. All employees will receive regular appraisal as set out in the School's Appraisal Policy. Performance targets will be agreed, established and regularly reviewed.

4.3.3 Employees experiencing difficulties will be provided with appropriate support to facilitate their improvement.

4.4 Monitoring and Evaluation

- The Governing Body will monitor the operation and outcomes of appraisal arrangements.
- The Head teacher will provide the governing Body with a written report on the operation of the school's appraisal policy annually. The report will not contain any information which would enable any individual to be identified. The report will include:
 - the operation of the Appraisal and Capability Policy;
 - the effectiveness of the school's Appraisal Procedures;
 - employees' training and development needs.

• The Head teacher will also report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination under any of the categories above.

4.5. Addressing Concerns

4.5.1 Any concerns will be addressed promptly, fairly and consistently.

4.5.2 Initial concerns regarding the standard of work performance of the employee should generally be discussed with the employee by the Head teacher (or delegated Manager or Deputy) as appropriate, via the normal supervisory process or via the Appraisal cycle. The Capability Procedure applies only to employees about whose performance there are serious concerns and provides a means whereby more serious issues may be dealt with.

4.6 Appraisal/Capability and ill-health

If implementing the Appraisal/Capability policy triggers an episode of sickness absence a prompt referral to Occupational health will be arranged to assess the employee's health and fitness for employment. The Appraisal/Capability Policy will be on hold during any period of sickness absence and phased return to work.

5 Appraisal

5.1 The Appraisal Cycle

- The appraisal cycle will run on an annual basis. The appraisal period will normally run from February to February
- Appraisal planning, reviews and pay recommendations (regarding competency increments) must be completed for all support staff by **31 March** (in relation to the previous year).
- The appraisal cycle will begin with a planning meeting and end with a review meeting. However, it is possible to combine both elements into one end of year review meeting, incorporating the review for the end of one year with the planning/target-setting for the next year. Mid-year review meetings will be held usually.

- Employees, who are employed on a fixed term contract of less than one year (but greater than one term), will have their appraisal managed in accordance with the principles underpinning the provisions of this policy. The length of the cycle will be determined by the duration of their contract.
- Where an employee starts their employment at the school part-way through a cycle, the head teacher/manager shall determine the length of the first cycle for that employee, with a view to bringing his cycle into line with the cycle for other employees at the school as soon as possible.
- Where an employee transfers to a new post within the school part-way through a cycle, the head teacher/manager shall determine whether the cycle shall begin again and whether to change the reviewer.
- Where an appraisal cycle is impacted by sickness absence, reviews should be rearranged as soon as possible on the employee's full return to work and there will be no detrimental effect on the employee. The employee's performance will be evaluated on their work up to the point of their absence and account taken of the timescale of the cycle.

5.2 Appraisers

- All reviewers must be appropriately trained to review appraisal effectively and ensure equal treatment.
- In the case where the Head teacher is not the employee's line manager, the Head teacher may delegate the duties imposed upon the reviewer, in their entirety, to the employee's line manager. In this school the Head teacher has decided that the Head teacher will be the reviewer for those employees s/he directly line manages and will delegate the role of reviewer, in its entirety, to the relevant line managers for other employees.

Line managers will be the reviewers for all those employees they line manage.

- Where an employee is of the opinion that the person to whom the Head teacher has delegated the reviewer's duties is unsuitable for professional reasons, s/he may submit a written request to the head teacher for that reviewer to be replaced, stating those reasons.
- Where it becomes apparent that the reviewer will be absent for the majority of the cycle or is unsuitable for professional reasons the Head teacher may perform the duties himself/herself or delegate them in their entirety to another manager.
- Where this manager is not the appraisee's line manager the manager will have an equivalent or higher status in the staffing structure as the employee's line manager.
- All line managers to whom the Head teacher has delegated the role of reviewer will receive appropriate preparation for that role.

5.3 Objectives

- The objectives agreed with each appraisee will contribute to the school's plans for school improvement, improving pupil progress where applicable and the professional development of the employee.
- The objectives set will be rigorous, challenging, achievable, time-bound, fair and equitable in relation to employees with similar roles/responsibilities experience and hours. They should reflect the need for a satisfactory work-life balance. For part-time staff they will be proportionate to hours worked.

- They shall also take account of the employee's professional aspirations
- The appraisee will seek to agree the objectives but where a joint determination cannot be made the reviewer will make the determination. The objectives must be reasonable within the timescale allowed.
- The objectives should be fair when judged with employees in similar roles.

In this school (choose as applicable):

- All employees will have no more than 3 objectives. (3 is recommended as the maximum.) However, in certain circumstances fewer than 3 may be appropriate (e.g. for part-time staff, where workload should be proportionate); in exceptional circumstances it may be acceptable to set more than 3 objectives but the workload attached to these must be proportionate to the workload involved in 3 objectives.
- Employees will not necessarily all have the same number of objectives.
- Though appraisal is an assessment of the overall appraisal of employees, objectives cannot cover the full range of an employee's roles or responsibilities. Objectives will, therefore, focus on the priorities for an individual for the cycle.
- At the review stage it will be assumed that those aspects of an employee's roles or responsibilities not covered by the objectives or any amendment to the statement which may have been necessary in accordance with any professional standards have been carried out satisfactorily.

5.4 Review

5.4.1 Development and Support

Appraisal is a supportive process which will be used to inform continuing professional development – see 5.4 below.

5.4.2 Feedback

Appraisees will receive feedback on their performance throughout the year. A mid-year review will usually take place.

5.4.3 Formal Assessment

- This assessment is the end point to the formal process but performance and development priorities will be considered and addressed on a continuous basis throughout the year in a series of informal meetings which will take place (e.g. once a term). This process should not lead to additional objectives being set but there could be modification to existing objectives.
- There should not be any 'surprises' at the end of the review period. If the reviewer has any concerns about performance, these should be discussed with the appraisee as soon as possible so that s/he has an opportunity to address these issues.
- The appraisee will receive – and have the opportunity to comment on - a written appraisal report. The appraisal report will include:
 - Details of the appraisee's objectives
 - An assessment of the appraisee's performance against their objectives for the relevant period, having regard to their job description/role in the school;

- A determination of the employee's training and development needs and the actions that will be taken to address them;
- A recommendation on pay progression where applicable (if competency increments are due)

5.4 Training and Support

- The school wishes to encourage a culture in which all employees expect to undertake a programme of continuing professional development (where appropriate) that is linked to school improvement priorities and to their own individual ongoing professional development priorities and needs.
- The school's CPD programme will be informed by the training and development needs identified in the training annex of the appraisees' planning and review statements.
- The governing body will ensure in the budget planning that, as far as possible, appropriate resources are made available in the school budget for any training and support agreed for appraisees.
- An account of the training and development needs of employees in general, 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 in the school.

5.5 Appeals

- At specified points in the appraisal process employees have a right of appeal against any of the entries in their planning and review statements.
- Where an appraisee wishes to appeal on the basis of more than one entry this would constitute one appeal hearing.
- Appeals will be heard by the head teacher (unless the head teacher is the reviewer, where the appeal will be heard by a nominated governor). If this does not resolve the appeal, a panel of three governors will review the appeal.

6 Pay progression linked to performance

6.1 Where employees are eligible for pay progression with regard to the award of competency increments, the recommendation will be based on an assessment of performance against agreed performance objectives; employees will need to have made good progress towards achieving their objectives

6.2 All pay recommendations should be clearly attributable to the performance of an employee.

6.3 A pay recommendation will be made in writing as part of an employee's annual appraisal report

7 Employees experiencing difficulties

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

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

7.3 If an appraiser identifies through the appraisal process, or via other sources of information, for example parental complaints, that the difficulties experienced by an employee are such that, if not rectified could lead to capability procedures, the Appraisal Policy/Procedure provides for support and guidance for the employee which should be followed.

7.4 The appraiser, the Head teacher, or a member of the leadership team, will, as part of the appraisal process meet the employee (for details refer to Procedure).

7.5 Where issues are identified outside of that process, then exceptionally the informal process outlined at Appendix 1 of the Procedure, which mirrors the above Appraisal process should be followed initially, except in cases of gross incompetence.

7.6 The timescale for monitoring an employee being supported by an action plan will typically be between 4-10 weeks but will depend upon the circumstances of the case, in serious cases a shorter period is more likely to be appropriate.

7.7 The employee will receive regular feedback and support will be modified if necessary throughout the monitoring period. A review meeting will be held at the end of the monitoring period to confirm whether there has been sufficient progress or not.

7.8 If sufficient progress is made such that the employee is performing at a level that indicates there is no longer a possibility of capability procedures being invoked the employee should be informed of this at a review meeting and the appraisal process will continue as normal.

8 Transition to Capability

8.3 If no, or insufficient, improvement has been made over this period, the employee will be invited to a transition meeting (instead of a 'Review meeting') with the appraiser or head teacher to determine whether formal capability proceedings need to be commenced or the appraisal process remains in place. They will have the right to be accompanied by a trade union representative or work colleague. However, this is not part of the formal Capability Procedure.

8.4 Action under the Capability Policy and Procedure is designed primarily to achieve improvement through consistent, appropriate and reasonable support mechanisms rather than to exact a penalty. When dealing with issues of capability, the approach taken will be supportive, fair and objective at all times. The emphasis will be on facilitating improvement as far as possible.

8.5 The Formal Capability Procedure should only be invoked after support and guidance has been provided to the employee under the Appraisal Process (or the Informal Procedure outlined at Appendix 1). If no, or insufficient progress is made during this time then the Formal Capability Process can be invoked.

8.6 Dismissal may arise following the exhaustion of reasonable avenues provided by the Capability Procedure.

8.7 The employee will be encouraged to contact their trade union representative at the commencement of the procedure and the employee will have the right to be represented at all stages of the formal procedure.

8.8 The Head teacher may seek advice from professional advisers regarding appropriate targets and standards within action plans where appropriate.

8.9 The Capability Procedure must be followed fully and properly within an adequate timeframe, with adequate support to facilitate improvement, as not to do so may render any action taken unfair.

8.10 Employees will be made aware that whilst they are subject to the Capability Procedure normal appraisal arrangements will be suspended.

Annex 1 Legal context and reference documents

- Management of Attendance Policy and Toolkit for School Based Employees

This provides detailed policy guidance with regards to Management of Attendance. It would be appropriate to refer to this policy when dealing with cases of medical incapability.

- Disciplinary Policy and Toolkit for School Based Employees

This provides detailed policy guidance with regards to conduct. It would be appropriate to refer to this policy to distinguish between capability and conduct.

- Guidelines for referrals to Occupational Health

These guidelines should be referred to when referring cases of medical incapability to Occupational Health.

- Stress Management Policy for School Based Employees

This policy should be referred to when dealing with cases of stress.

- Equal Opportunities in Employment

This policy can be referred to in order to ensure adherence to Equal Opportunities throughout the capability procedure.

Legal Context

The Employment Rights Act 1996 states that a dismissal is fair if it:

'Relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employment to do' S.98(2)

'Capability' in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality S.98(3)(a)

'Qualifications', in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held. S.98(3)(b)

The determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) - S.98(4)

a) Depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and

b) Shall be determined in accordance with equity and the substantial merits of the case.

The ACAS, Code of Practice - 'Discipline at Work' sets out some key points regarding under performance:

- Careful recruitment, selection and training will minimise the risk of poor performance.
- When employment begins, the standards of work required, the consequences of failure to meet them and conditions attaching to any probationary period should be fully explained.

- Where warnings are in operation, an employee should be given both time to improve and, where appropriate, training.
- The availability of suitable alternative work should be considered before dismissal action is taken.

Other legal considerations

The Education Act 2002

School Staffing (England) Regulations