

Policy: Staff Capability Policy and Procedure
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Review: March 2028

Holy Trinity Church of England (VA) Primary School



Believe • Achieve • Inspire •

Staff Capability Policy and Procedure

SCHOOL VISION

Our vision is for our pupils to flourish in an inclusive, inspirational place of learning where we are happy, respectful, kind and safe.

At Holy Trinity Church of England Primary School our Christian vision shapes all we do.

*"I know that there is nothing better for people than to be happy and to do good while they live."
Ecclesiastes 3:12.*

- we facilitate opportunities so every child can flourish in a place where they feel **safe, happy and confident**.
- staff **well-being** and professional development is valued and supported in order to fulfil their roles, **inspire** others and experience personal **fulfilment**.
- the school provides facilities that enables our pupils to reach their potential in an **optimum learning environment**.
- the **school plays a central role within our community** and enjoys strong **links with the church, local companies and other schools**.
- we create a culture of vigilance to **safeguard** all children.

'I know that there is nothing better for people than to be happy and to do good while they live.'
Ecclesiastes 3:12

PURPOSE

This policy sets out the formal capability procedure adopted by RBWM and reflects provisions of the Department for Education (DFE) model Capability Procedure which in turn reflects the ACAS Code of Practice on disciplinary and grievance procedures. Capability procedures apply only to teachers and Headteachers about serious concerns that, for example, the appraisal process has been unable to address, including any informal support arrangements. The use of this procedure must be distinguished and kept entirely separate from initial support provided under the appraisal procedure. The appraisal procedure will be suspended when the capability procedure is invoked.

1. This procedure applies to teachers or Headteachers about whose performance the appraisal process has been unable to address. Application is to all teachers with the exception of those on contracts of less than one term/13 weeks, whichever is applicable to the school. In addition, teachers supplied by agencies are exempt from this procedure and schools are expected to address any concerns to the agency.

2. Transition to capability where the Performance Appraisal process has identified concerns where their performance is having a significant impact on Holy Trinity's ability to deliver education to pupils or promote their health and welfare. Failure to meet objectives alone is not enough to warrant a referral to capability procedures.

If, following a period of support and monitoring under the Appraisal Policy, the appraiser/Headteacher is not satisfied with progress, the employee will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the Capability Policy and Procedure. S/he will be invited to a formal capability meeting.

3. At least five working days' notice will be given of the formal capability meeting which would be commencement of the formal capability process. The notification of the meeting will contain sufficient information on concerns regarding performance and their possible consequences to enable the (Head) teacher to prepare to answer the case at a formal capability meeting. It will also contain:

- copies of any written evidence;
- the details of the time and place of the meeting;
- advice to the (Head) teacher 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.
- the nature of these concerns including the evidence to support them;
- evidence of any previous support provided to address the concerns;
- the names of those who will be at the meeting (recognising that it is beneficial for the numbers present to be kept to the minimum required to facilitate the meeting);
- an outline of actions which might follow.

Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors or Vice Chair (for Headteacher capability meetings) or the Headteacher (for other teachers). The meeting allows the (Head) teacher to be accompanied by a companion/union representative 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.

Those present at the meeting will be:

- The Headteacher or Governor who is initiating the capability concerns (i.e. the person conducting the meeting (see paragraph 4 on the following page).
- The Headteacher or teacher who is subject of the capability concerns.
- An appropriate representative of the person if so requested by that person.

- A note taker.
- An adviser who may be required to attend so that s/he can understand and clarify his/her role in supporting or monitoring the Head (teacher) or who may be required to advise on aspects of evidence of the Head (teacher's) performance. This person may not be required to attend for the whole of the meeting; the duration of his/her presence or whether s/he is involved or present at all will be at the discretion of the Headteacher or Governor conducting the meeting.

At this, or any other meeting throughout the process, a representative of the Human Resources Service (HR) of the school or Authority employing the centrally-funded teacher may be present.

4. 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 on this occasion.

Alternatively, the person conducting the meeting may also adjourn the meeting (e.g. if they decide that further investigation is needed, or that more time is needed in which to consider any additional information).

5. In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings, for example *which of the standards expected of (Head) teachers are not being met;*
- give clear guidance on the improved standard of performance needed to ensure that the (Head) 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 (Head) teacher improve his/her 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 but in straightforward cases could be *(between four and twelve weeks.)*; and
- warn the (Head) teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this could include the issuing of a formal written warning following the meeting.
- The Headteacher (or Chair of Governors) will write to the teacher to confirm the outcome and decisions of the meeting, including any disciplinary warning, within five working days.

This warning may constitute a Final Written Warning, which will remain active for a period of 12 months. Prior to issuing a Final Written Warning, a First Written Warning valid for 12 months must have been given, in accordance with the established hierarchy of warnings in the schools Disciplinary Policy.

6. Notes will be taken of formal meetings and a copy sent to the member of staff: a copy will be sent to the person supporting or monitoring the Head (teacher) where applicable. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

Monitoring and review period following a formal capability meeting

7. A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting (see paragraph 8). There may in addition be interim review meetings which the (Head) teacher or Headteacher/Governor conducting the process request.

If the teacher was issued with a final written warning they will be invited to a decision meeting (see paragraph 11).

Formal review meeting

8. As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied. Please refer to paragraph 3 for details of those who would normally attend the meeting.

9. If the person conducting the meeting is satisfied that the (Head) teacher has made sufficient improvement within an unaided period, the capability procedure will cease and the appraisal process, where began and suspended, 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 and therefore to schedule a further formal review meeting. Please refer to paragraph 5, fourth bullet point, of this Procedure for details of the overall timescales.
- If no, or insufficient improvement has been made during the monitoring and review period, the teacher (school leader) will receive a final written warning which will set out the areas where performance standards have not been met, targets for improvement, any measures (training and supervision) which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards. A final warning will also need to set out the timescale for improvement, including the period of time during which the employee is expected to maintain the standards unsupported; 4 weeks in total would be the normally expected timeframe.

10. As before, notes will be taken of formal meetings and a copy sent to the member of staff within 3 working days of the meeting. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The (Head) teacher will be invited to a decision meeting.

Decision meeting

11. As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting with the Headteacher, Chair or Vice Chair of Governors. It will advise the (Head) teacher of their right to be accompanied by a companion who may be a colleague, a trade union official or representative. Others present could include:

- any advisers supporting the (Head)teacher
- anyone monitoring progress against targets
- a HR representative is also advisable at this stage.

12. If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end. If performance remains unsatisfactory, a decision, or recommendation to the Governing Board, will be made that the (Head) teacher should be dismissed or required to cease working at the school. **IMPORTANT NOTE:** Although Governing Boards have the power to delegate dismissal decisions it is strongly recommended NOT to delegate such decisions to one person acting alone.

** In Foundation Schools, Voluntary Aided Schools and Foundation Special Schools, the Governing Board is the employer but the power to dismiss can be delegated to the Headteacher, to one or more Governors, or to one or more Governors acting with the Headteacher. Holy Trinity CE Primary School is Voluntary Aided.*

13. Before the decision to dismiss is made, the school will discuss the matter with the Local Authority.

14. The (Head) teacher will be informed within 5 working days of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Decision to dismiss

15. The power to dismiss staff in this school rests with one or more Governors acting with the Headteacher.

Dismissal

16. Once the Governing Board has decided that the (Head) teacher should no longer work at the school, it will notify the Local Authority of its decision and the reasons for it. Where (Head) teachers work solely at this school, the Local Authority must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the Local Authority must require them to cease to work at this school (*Community, Voluntary Controlled, Community Special and Maintained Nursery Schools only*).

17. This will not be a dismissal hearing: the Decision meeting, referred to in Paragraphs 11 and 12, is the forum at which a decision to dismiss will be taken. Where a decision has been taken that the Head (teacher) will no longer work at the school, a decision on any notice arrangements will need to be considered since it is unlikely that the teacher should remain in the classroom or the Headteacher undertake their duties at the school.

Appeal

18. If a (Head) teacher 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 working days of the decision, setting out at the same time the grounds for appeal: this would be in accordance with the school's/authorities appeal procedure. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the teacher.

19. The appeal will be dealt with impartially and, wherever possible, by managers or Governors who have not previously been involved in the case. The committee can either confirm the warning or decision or cancel it or impose a lesser penalty.

20. The (Head) teacher will be 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

21. The policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

22. The capability processes will be treated with confidentiality (e.g. information will only be shared on a strictly need to know basis). At the commencement of any meetings, the importance of confidentiality will be explained and emphasised. Governors and the Chair will be made aware that their involvement in any stage of the capability procedure will prejudice any involvement at a later stage. The content of any papers which are circulated must not be divulged to anyone. The way in which governors vote, and opinions expressed at governors' meetings, must always be regarded as confidential. Governors, including parents and employees, are representatives of their appointing bodies rather than delegates, and any unauthorised reporting back to persons outside the school removes the protection of privilege and action for defamation could result. The minutes of confidential meetings must be kept separate and not made available for inspection.

Consistency of Treatment and Fairness

23. The Governing Board is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The Governing Board is aware of the guidance on the Equality Act 2010 issued by the Department for Education.

References

24. If a teacher has been subject to formal capability procedures in the previous two years, as stated in The School Staffing (England) (Amendment) Regulations 2012 and the Staffing and employment advice for schools, this must be disclosed to new potential school employers when requested.

Delegation

25. Normal rules apply in respect of the delegation of functions by Governing Boards, Headteachers and Local Authorities.

Grievances

26. Where a member of staff raises a grievance during the capability procedure the capability procedure may not necessary be temporarily suspended in order to deal with the grievance. However, where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently. The consideration of such grievances should, however, be expedited where the grievance relates to alleged discriminatory treatment or a contractual breach.

Sickness

27. 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 Managing Staff Sickness and 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. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence. Where occupational health advises that a period of phased return to work after a period of absence might be advisable, the school will consider very carefully the feasibility of such an arrangement and its impact of the school.

Note it is important to exclude the period of absence from the period for support, monitoring, and review.

Subsequent Lapse in Performance

28. Where the Head (teacher) meets his or her targets with reference to paragraph 12, including a period unaided, but subsequently fails to sustain the improvement, the formal meeting as described in paragraph 3 will take place, and depending on information received at the meeting, the process would be invoked from paragraph 10.

Retention

The Governing Board and Headteacher will ensure that all written appraisal records are retained in a secure place for six years and then destroyed.

Policy Review

This policy will be subject to review and will take account of any changes in.

This policy should be read in conjunction with the

- Teacher Appraisal Policy
- Disciplinary Policy
- Pay Policy
- Managing Staff Sickness and Absence Policy

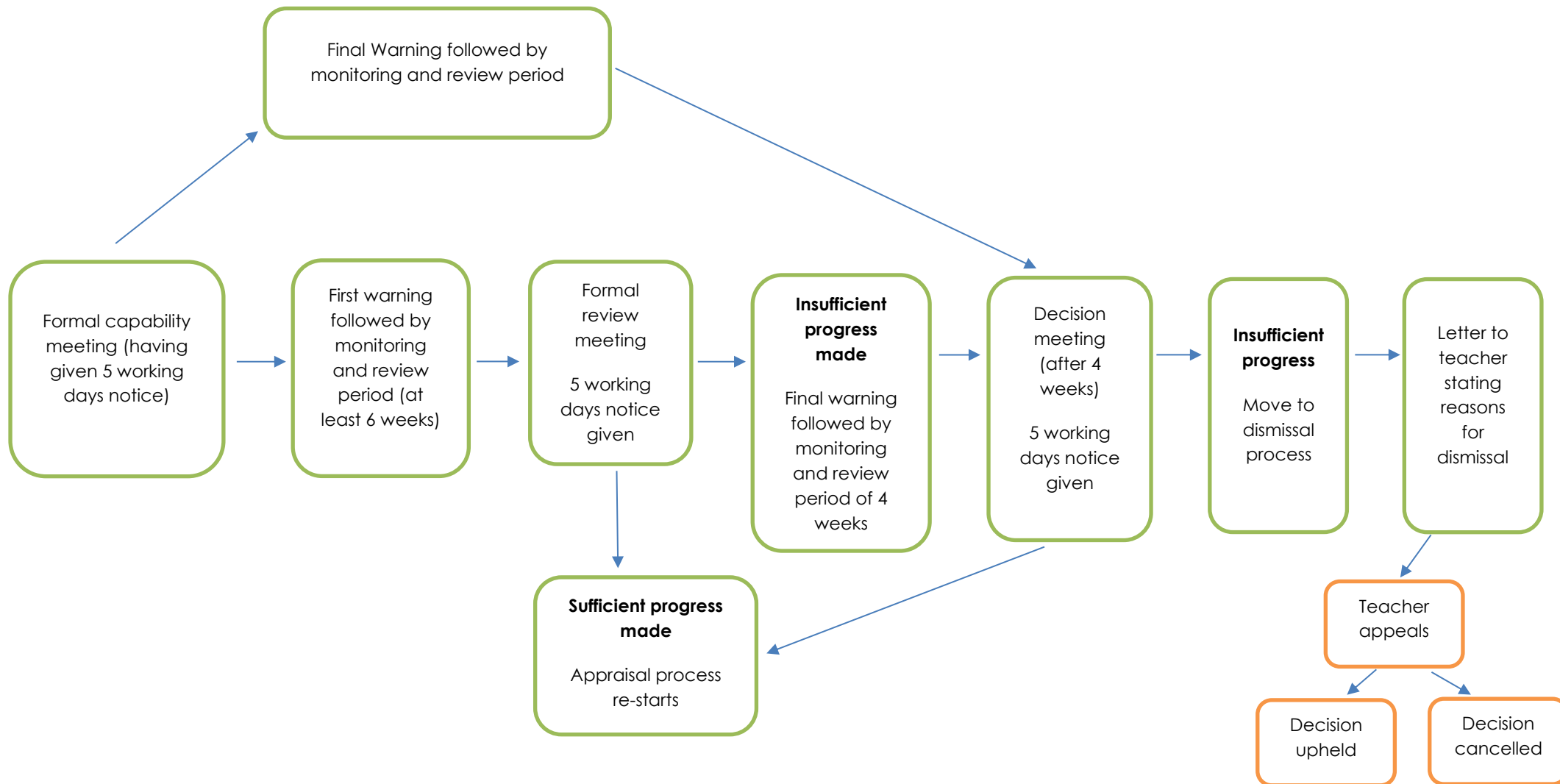
This policy was adopted by Holy Trinity CE Primary School and agreed by the Finance and Resource Committee and ratified by the Full Governing Board.

Approved by.....on behalf of the School Governing Board.

Signature:.....

Date:.....

Flowchart of Process



'I know that there is nothing better for people than to be happy and to do good while they live.' Ecclesiastes 3:12