The Beacon
Pupil Referral Unit

Capability Policy & Procedure for Teachers (Professional Performance)

2025

worcestershire county council

WORCESTERSHIRE CHILDREN FIRST

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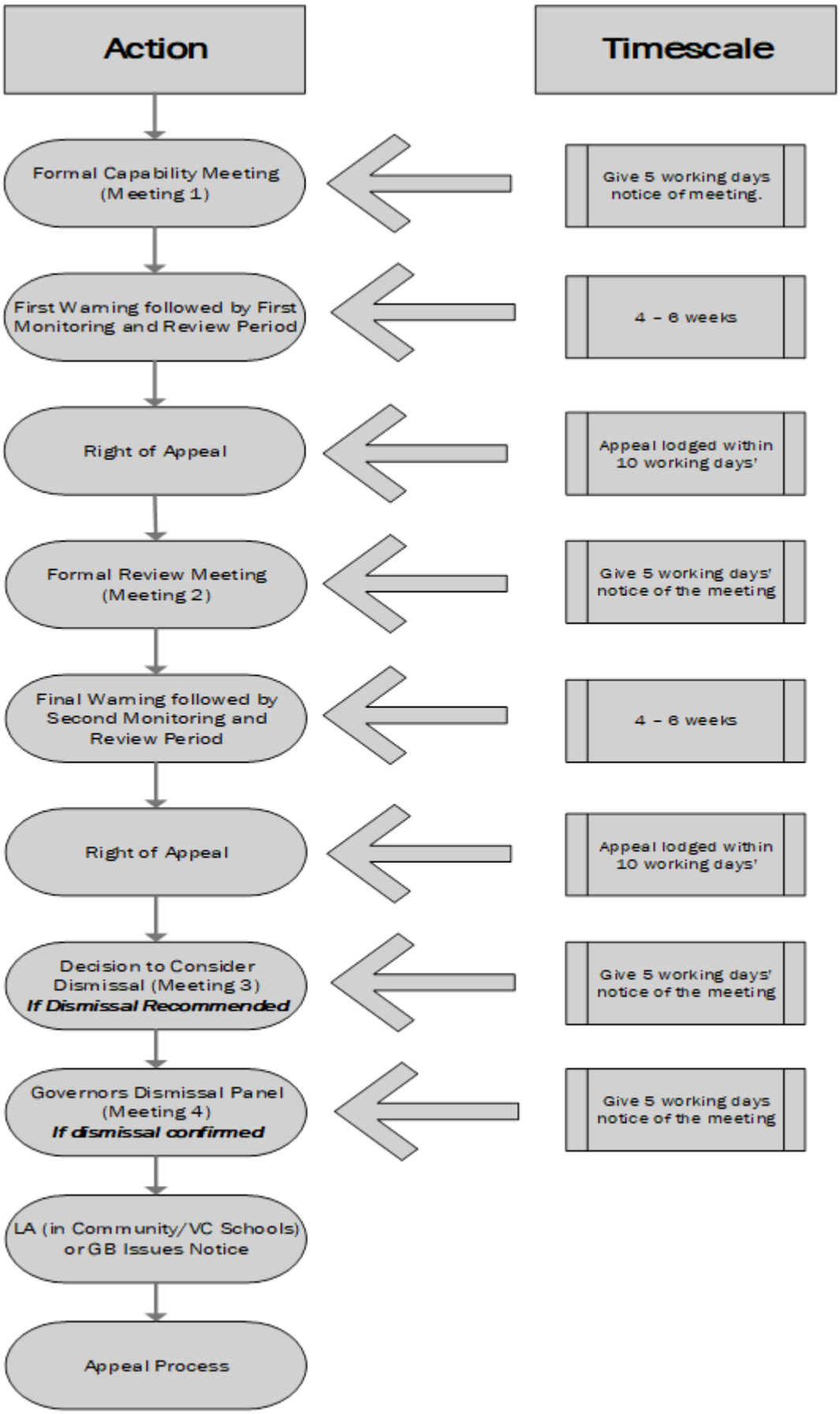
Capability Procedure Flowchart (the stages are not necessarily sequential)



Policy

1.1 The Governing Body recognises the need to facilitate professional development for teachers throughout their careers and that as much support and help as appropriate should be given to teachers who experience difficulties. Early identification of problems through performance appraisal carried out in a constructive and supportive way will help to avoid the need for Teachers Experiencing Difficulties procedure. Also, as the concerns will have been discussed with the teacher as part of the appraisal process and Teachers Experiencing Difficulties, the need and reason for transition to the formal capability procedure. The procedure does not deal with lack of capability due to ill-health, nor with misconduct, which may be defined as an act or omission by a teacher which is considered to be unacceptable professional behaviour.

1.2 The Governing Bodies are required by law to establish procedures for dealing with lack of capability on the part of staff at the school (The School Staffing (England) Regulations 2009) and amended in 2012 by the School Staffing (England) (Amendment) Regulations.

1.3 It should be noted that Church Aided Schools and Academies may have their own separate arrangements. Where Church Schools take Formal action in accordance with this procedure, they should always keep the appropriate diocesan authorities informed.

1.4 At any stage of the procedure, as part of the support or monitoring measures, the Headteacher may involve a suitably experienced external person.

1.5 The teacher should be advised at all stages to seek Union advice.

1.6 Trade Union Officials: This covers any local or national officer and would include any elected school representative for a recognised union. The same standards should apply to him/her as to other members of staff but no action should be taken under this procedure until the circumstances have been discussed with a senior trade union representative or official. HR Consultancy for Schools can provide advice.

1.7 If justified by the circumstances, consideration could be given to the omission or shortening of stages in the procedure. In exceptional circumstances, where the interests of pupils are deemed to be seriously at risk, a short procedure of up to 4 weeks in total could apply.

Interpretation

2.1 Reference to the Chair of Governors shall include any Governor or Governors acting on his/her behalf or in conjunction with him/her.

2.2 In all cases where the Headteacher is the subject of action, references to the Headteacher shall mean the Chair of Governors. In the case of Maintained Schools, the Chair of Governors should be guided by School Improvement Advisers working on behalf of the Local Authority and Diocese Representatives (as appropriate). HR should also be contacted for advice.

2.3 In relation to support for teachers, references to the Headteacher shall include any nominated Deputy Headteacher acting on his/her behalf. (This does not include dismissal proceedings).

References to the appraiser shall include teachers to whom the Headteacher has delegated responsibility for appraisal. Typically, this may be the teacher's line manager.

2.4 Periods of time and deadlines in this document may be varied by the mutual agreement of the parties concerned. (Governing Bodies are asked to give particular consideration to this when employees are unable to obtain representation for a particular date.)

2.5 For the purposes of this procedure 'working days' shall mean a designated term-time or Teacher Education Training Day. Where the teacher is employed on a part-time basis, meetings should be arranged to take place on his/her normal working day, unless this is impossible or an alternative day is mutually agreed.

Principles Underlying This Policy

3.1 ACAS Code of Practice on Disciplinary and Grievance Procedures: The Capability procedure will be implemented in accordance with the provisions of the ACAS Code of Practice.

3.2 Confidentiality: All matters, including written records, relating to the application of the capability procedure will be treated as confidential by all parties concerned except where it is necessary to notify or involve other parties in order to meet legal or regulatory requirements.

3.3 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.

3.4 This Policy is to be used in conjunction with the School's Appraisal Policy and the 'Teachers Experiencing Difficulty' procedure which is the informal capability support . This procedure applies once the 'Teachers Experiencing Difficulty' procedure has been exhausted.

Purpose And Application

4.1 This model policy and its associated procedure, which have been developed for Governing Bodies to adopt, apply to teachers or Headteachers when there are serious capability concerns which the appraisal process and the Teachers Experiencing Difficulties procedure have been unable to address. There may, however, be exceptional circumstances in which it is necessary to invoke the capability procedure/Teachers Experiencing Difficulties procedure without going through the appraisal procedure, for example if a capability issue arises from a disciplinary process.

4.2 The application of these procedures only relates to the employment of an individual as a teacher in this school.

4.3 This policy/procedure does not apply to non-teaching staff in schools, as separate capability procedures will be in place.

4.4 Worcestershire teaching unions have been consulted fully regarding this policy and procedure.

General Points

At all stages in the procedure the teacher should receive appropriate support and/or training to assist him/her to improve performance to the standard required.

At any stage in the procedure the teacher may be placed under the direct supervision of an experienced colleague.

In cases where a teacher's performance is adversely affected by ill-health, the school may seek medical advice in order that full consideration shall be given to medical factors. If the teacher is absent for an extended period, Capability Procedures may need to be suspended to allow support and monitoring to take place once the teacher is back at work. In this instance, assistance should be given under Managing Sickness Absence Procedures.

In the event of a teacher being subject to separate procedures in relation to conduct, they shall proceed separately unless and until the school decides to consider the totality of a teacher's performance. In such cases the appropriate procedure shall be determined by the school although matters related to performance and conduct shall be delineated.

Roles And Responsibilities

5.1. Headteacher

Responsibility for initiating, and the subsequent operation of, the capability procedure for teachers lies with the Headteacher, following consideration of a recommendation by an appraiser.

5.2. Governors

Governors would not normally be involved in the capability procedure before the dismissal stage. The exception to this is where a governor or governors are involved in hearing an appeal against a warning or in a capability procedure against a Headteacher. It is important to be prepared for the possibility of dismissal. The use of governors to hear grievances or appeals against warnings should ideally be limited to ensure enough impartial governors remain available for the dismissal and dismissal appeal panel. Depending on the school's arrangements for the delegation of authority to dismiss, three governors are required for the dismissal appeal panel*.

5.3. Appraiser

Where the Headteacher has delegated the appraisal process to an appraiser, that person will be responsible for the appraisal process up to the transition to Teachers Experiencing Difficulty Procedure. Where appropriate the appraiser will be responsible for making a recommendation in writing to the Headteacher that a teacher should be moved onto the Teachers Experiencing Difficulty Procedure.

5.4. Teachers experiencing difficulties/informal capability as per Appraisal Policy

Where, during the appraisal period, there are concerns about any aspects of the teacher's performance, support and guidance will be provided with the aim that the teacher's performance improves. Please refer to Teachers Experiencing Difficulties Procedure. If performance has not improved under the Teacher's Experiencing Difficulties Procedure, then the Formal Capability Procedure will commence. The appraiser will be required to submit information/evidence at a formal capability meeting.

Procedure

6.1. Formal capability meeting – Stage 1

Where it is deemed necessary, following the Teachers Experiencing Difficulties (informal capability) procedure, the teacher will be invited to a formal capability meeting. At least 5 working days' notice in writing will be given of the formal capability meeting. The notification will contain sufficient information on the concerns about the teacher's performance, including copies of any evidence, and their possible consequences to enable the teacher to prepare. The notification will include details of the date, time and place of the meeting and the right to be accompanied by a trade union representative or work colleague. The notification will also include a copy of this policy and procedure document. The date of this meeting signifies initial entry into the formal capability procedure.

The meeting is intended to establish the facts. It will be conducted by the Headteacher (for teacher's capability meetings) or the Chair of Governors (for Headteacher capability meetings).

An employee has the right to be accompanied and supported at each formal stage of the procedure where action may be taken (including appeal), by a fellow employee or Trade Union Representative and no one else.

Details of support and help provided during the appraisal process/ Teachers Experiencing Difficulties will also be shared at the meeting.

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.

During the meeting the person conducting it will:

- identify the professional shortcomings (for example which of the relevant teachers' standards are not being met)
- review any support that has already been given
- Listen and consider any representation from the teacher or their union representative
- Adjourn to consider the evidence presented

Then reconvene the meeting and make one of the following determinations:

1. **Issue a First Formal Warning for 6 months.**
   - warn the teacher formally (verbally and then in writing) that the formal capability procedures have commenced, and improvement is required.
   - set 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 will normally be between 4 – 6 working weeks - it is for the school to determine the set period, which should be reasonable and proportionate, but not excessive to allow sufficient opportunity for any improvement to take place.
   - provide clear guidance on the improved standard of performance needed
   - give specific objectives for improvement to ensure that the teacher can be removed from formal capability procedures (objectives set should be SMART, focusing on the specific weaknesses that need to be addressed)
   - clarify appropriate success criteria and evidence to be used to assess whether or not the necessary improvement has been made

- identify and explain any support that will be available to help the teacher improve their performance over the following weeks (see Appendix 1)
- where possible, agree a date for the next / final review meeting

OR

2. Determine that the teacher should continue on the Teachers Experiencing Difficulty procedure and arrange an extension of that support.

OR

3. Determine that teacher should resume the return to the normal appraisal process.

6.1.1. Monitoring and review period following the Formal Capability meeting – Stage 1

A monitoring and review period (normally of between 4-6 weeks, depending on the circumstances,) will follow the formal capability meeting. Formal monitoring, evaluation, guidance, and support will continue during this period. At the end of this period, the Headteacher will review the evidence and determine whether

a) there has been sufficient improvement, and the Appraisal Process can be resumed.
b) there is an extension to the First Written Warning and monitoring and review period.
c) there has been insufficient improvement, and it is necessary to proceed to Formal Capability – Stage 2.

6.2. Formal Capability meeting – Stage 2

At least 5 working days' notice will be given, in writing, giving details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a trade union representative or work colleague.

The purpose of the meeting is to review the teacher's progress against the teachers' standards expected, objectives set and success criteria, as outlined at the capability meeting.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease, and the appraisal process will resume. If the person conducting the meeting is satisfied that some progress has been made and there is confidence that further progress will be made to reach the required standard, 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 teacher will receive a final written warning.

An outcome letter will be sent to the member of staff, within 5 working days' of the meeting, covering the main points discussed and confirming the outcome of the meeting and will include the following where a final written warning for 18 months is issued:

- The nature of the unsatisfactory performance
- The standard(s) expected (relating to the relevant teachers' standards)
- The specific objectives for improvement and success criteria
- The support to be given
- The arrangements and timescale over which the performance will be monitored a reviewed
- That failure to reach and maintain the standard(s) of performance may lead to dismissal
- The procedure and time limits for appealing against the final warning

6.2.1. Monitoring and review period following the Formal Capability meeting – Stage 2

A monitoring and review period (normally of between 4 – 6 weeks, depending on the circumstances) will follow the formal capability meeting Stage 2. Formal monitoring, evaluation, guidance and support will continue during this period. At the end of this period, the Headteacher will review the evidence and determine whether

a) There has been sufficient improvement and the Appraisal Process can be resumed.
b) There is an extension to the Final Written Warning and monitoring and review period.
c) A Decision Meeting is convened.

6.3. Decision meeting to consider dismissal – Stage 3

A meeting of the Governors Dismissal Panel will be convened as soon as possible after the review meeting. At least 5 working days' notice in writing 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 by a trade union representative or work colleague and of the possibility that dismissal may be an outcome. Also included with the notification of the meeting is the written recommendation with copies of any reports, documents and evidence to be considered at the hearing

The Headteacher will attend to present the case and make a recommendation to the Governing Body to dismiss. (*School to insert alternative arrangements if different from this).

The dismissal hearing will be conducted following the procedure set out in Appendix 6

The details of the case are confidential and must not be discussed with a party not involved in the hearing.

6.4. **Dismissal**

Once the decision to dismiss has been taken the employee will be notified in writing of the decision by the Governors Dismissal Panel within 5 working days' of the Panel meeting and be notified of the right of appeal (see section 6.5 below). Contractual dismissal dates will be recognised in terminating the teacher's employment (see Notice Periods below).

6.5. Appeals

6.5.1. Appeal against a warning

If a teacher feels that a decision to issue a warning is wrong or unjust, they may appeal in writing against the decision within 10 working days' of the decision, setting out at the same time the grounds for appeal. Appeals will be 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 trade union representative or work, colleague will apply as with formal review meetings and notes will be taken and a copy sent to the teacher/headteacher.

The appeal will be dealt with impartially and, wherever possible, by an appropriate manager or governor or panel (see school's scheme of delegation) who has not previously been involved in the case.

An appeal hearing will be conducted following the procedure set out in Appendix 7

The teacher will be informed in writing of the outcome of the appeal hearing within 5 working days.

6.5.2. Appeals against decision to dismiss

If a teacher feels that a decision to dismiss them is wrong or unjust, they may appeal in writing against the decision within 10 working days' of the decision, setting out at the same time the grounds for appeal.

Appeals against a decision to dismiss will be heard by an appeals panel, comprising of no less than 3 members of the Governing Body, who have not previously been involved in the case.

Recurrence of concern about performance

Improvements in teachers' performance must be sustained.

Where a teacher's performance has improved such that they resumed the appraisal cycle, only for the performance concerns to re-emerge within a subsequent 2-year period, it is recommended that the teacher capability procedure be re-started at the point at which originally i.e. formal stage 1/formal stage 2.

References

In accordance with an amendment to the School Staffing (England) Regulations, there is a statutory duty that Maintained Schools (on request), to a prospective employer, details about whether that teacher has been subject to capability procedures in the preceding 2 years. They must provide details of the concerns which gave rise to this, the duration of the proceedings and their outcome. In accordance with the Academy Funding Agreement there is also a duty that Academies advise certain other education providers (if requested) whether a teacher's capability has given cause for concern in the past two years.

Notice periods

In accordance with the Burgundy Book, (with the exception of gross misconduct), a teacher's contract can only be terminated at the end of a school term defined as 31st December, 30th April and 31st August respectively. All teachers are entitled to be given a minimum of 2 months' notice (3 months in the summer term). For Headteachers, the notice period is a minimum of 3 months (4 months in the summer term). If a teacher has been continuously employed for more than 8 years, the notice period must be extended by one week for each year of service, to a maximum of 12 weeks.

Policy History

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Appendix 1 - Examples of activities/support mechanisms to help improve performance and help teachers meet the Teacher Standards

Where a teacher has been experiencing difficulties in the performance of their duties and responsibilities and in meeting the teacher standards, this will have been brought to their attention during the appraisal process/teachers experiencing difficulties procedure. During this process, areas for improvement and strategies to support and assist the teacher to make the necessary improvement should have been identified and carried out.

The transition to capability procedures will have occurred if, following review of progress during the appraisal period/teachers experiencing difficulties procedure, no or insufficient improvement has been made in a teacher's performance. It would be both impossible and inappropriate to list the areas of concern about a teacher's performance, but they could include one or any of the following:

- Pupil safety
- Pupil / class behaviour
- Class management
- School and/or departmental management
- Communication with pupils or parents
- Time-table issues, including non-contact time
- Lesson planning
- Preparation
- Assessment
- Marking
- Pupil progress and attainment
- School policies and schemes of work
- Professional relationships
- Teaching practice and quality of teaching
- Personal conduct
- Professional conduct

Whilst not an exhaustive list of activities or sources of support, it might be helpful to consider the following (it is recognised that these may have been considered within the appraisal process/teachers experiencing difficulties procedure):

- Mentoring
- Coaching
- Counselling
- Opportunity to observe good/outstanding practice within the school and/or in other schools
- In-service support and training, including secondment
- Supportive lesson observations
- Temporary or permanent reduction in responsibilities / stepping down to a lower grade
- Increase in non-contact time to allow for issues to be focused on
- Careful planning of review meeting
- Availability of adequate resources
- Health or other personal factors
- Contribution of the management style and structure of the school to the teacher's difficulties
- The Headteacher or another member of teaching staff working alongside the teacher

- Subject co-ordinators advising and addicting in the planning of programmes of work in particular curricular areas and how best it might be presented to the pupils.
- Early retirement

Appendix 2 – Teachers' Standards

Preamble

Teachers make the education of their pupils their first concern and are accountable for achieving the highest possible standards in work and conduct. Teachers act with honesty and integrity; have strong subject knowledge, keep their knowledge and skills as teachers up-to-date and are self-critical; forge positive professional relationships; and work with parents in the best interests of their pupils.

Part One: Teaching

A teacher must:

1. **Set high expectations which inspire, motivate and challenge pupils**

- establish a safe and stimulating environment for pupils, rooted in mutual respect
- set goals that stretch and challenge pupils of all backgrounds, abilities and dispositions
- demonstrate consistently the positive attitudes, values and behaviour which are expected of pupils.

2. **Promote good progress and outcomes by pupils**

- be accountable for pupils' attainment, progress and outcomes
- be aware of pupils' capabilities and their prior knowledge, and plan teaching to build on these
- guide pupils to reflect on the progress they have made and their emerging needs
- demonstrate knowledge and understanding of how pupils learn and how this impacts on teaching
- encourage pupils to take a responsible and conscientious attitude to their own work and study.

3. **Demonstrate good subject and curriculum knowledge**

- have a secure knowledge of the relevant subject(s) and curriculum areas, foster and maintain pupils' interest in the subject, and address misunderstandings
- demonstrate a critical understanding of developments in the subject and curriculum areas, and promote the value of scholarship
- demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of standard English, whatever the teacher's specialist subject
- if teaching early reading, demonstrate a clear understanding of systematic synthetic phonics
- if teaching early mathematics, demonstrate a clear understanding of appropriate teaching strategies.

4. **Plan and teach well-structured lessons**

- impart knowledge and develop understanding through effective use of lesson time
- promote a love of learning and children's intellectual curiosity
- set homework and plan other out-of-class activities to consolidate and extend the knowledge and understanding pupils have acquired
- reflect systematically on the effectiveness of lessons and approaches to teaching

- contribute to the design and provision of an engaging curriculum within the relevant subject area(s).

5. Adapt teaching to respond to the strengths and needs of all pupils

- know when and how to differentiate appropriately, using approaches which enable pupils to be taught effectively
- have a secure understanding of how a range of factors can inhibit pupils' ability to learn, and how best to overcome these
- demonstrate an awareness of the physical, social and intellectual development of children, and know how to adapt teaching to support pupils' education at different stages of development
- have a clear understanding of the needs of all pupils, including those with special educational needs; those of high ability; those with English as an additional language; those with disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them.

6. Make accurate and productive use of assessment

- know and understand how to assess the relevant subject and curriculum areas, including statutory assessment requirements
- make use of formative and summative assessment to secure pupils' progress
- use relevant data to monitor progress, set targets, and plan subsequent lessons
- give pupils regular feedback, both orally and through accurate marking and encourage pupils to respond to the feedback.

7. Manage behaviour effectively to ensure a good and safe learning environment

- have clear rules and routines for behaviour in classrooms, and take responsibility for promoting good and courteous behaviour both in classrooms and around the school, in accordance with the school's behaviour policy
- have high expectations of behaviour, and establish a framework for discipline with a range of strategies, using praise, sanctions and rewards consistently and fairly
- manage classes effectively, using approaches which are appropriate to pupils' needs in order to involve and motivate them
- maintain good relationships with pupils, exercise appropriate authority, and act decisively when necessary.

8. Fulfil wider professional responsibilities

- make a positive contribution to the wider life and ethos of the school
- develop effective professional relationships with colleagues, knowing how and when to draw on advice and specialist support
- deploy support staff effectively
- take responsibility for improving teaching through appropriate professional development, responding to advice and feedback from colleagues
- communicate effectively with parents with regard to pupils' achievements and well-being.

Appendix 3 – Record of Capability Meeting Template

Objective:	
Teacher Standard:	
Target Date for Achievement:	

Success Criteria: (how achievement towards objectives will be evident)	**Resources and actions to be taken to support progress:** (who needs to do what and when)	**Details of monitoring activities to gather evidence, with dates:** (Lesson observations; workbook scrutiny; evaluations of planning; feedback from pupils)	**Meetings to formally review progress:** (to be completed following monitoring activities and at Review Meetings)
Signature (Manager):		Date:	
Signature (Teacher):		Date:	

Appendix 4 – Example of Record of Capability Meeting

Objective:	Make accurate and productive use of assessment
Teacher Standard:	Teacher Standard 6
Target Date for Achievement:	DD / MM / YYYY

Success Criteria: (how achievement towards objectives will be evident)	**Resources and actions to be taken to support progress:** (who needs to do what and when)	**Details of monitoring activities to gather evidence, with dates:** (Lesson observations; workbook scrutiny; evaluations of planning; feedback from pupils)	**Meetings to formally review progress:** (to be completed following monitoring activities and at Review Meetings)
Devising personalised learning opportunities for all pupils through use of PLCs at KS4 Make use of PLCs to set targets for all pupils in (subject) by (date) Give regular, clear and precise feedback to pupils during lessons so that they are clear about their progress against the lesson learning objective. Provide pupils with clear assessment/ success criteria so that they can self- and peer-assess their progress Mark pupils' work at regular intervals following school policy of WWW, EBI and ACT.	Coaching session by (person) to support differentiation in lesson planning based on assessment data on (date) Coaching session by (person) to support pupil target setting in (subject) on (date) Visit (person) lesson to observe good practice in feedback during lessons on (date) at (time). Notes to be taken and ideas for own lesson(s) discussed (time) Department examples developed with HoD at next department meeting (date) using exam mark scheme(s). Coaching session by (person) to review school marking policy and to model best practice in written feedback on (date)	Evaluation of teachers' lesson planning by HOD on (date) Monitoring meeting with Appraiser on (date) Lesson observation by DoL on (date) Lesson observation by HoD on (date) Evaluation of teachers' marking by DoL on (date) Lesson observation by DoL on (date)	Review meeting: (date) at (time) Formal Assessment meeting: (date) at (time)

	Coaching session by (person) to model best practice on (date). Ensure pupils are given sufficient time to respond to written feedback in lessons.		
Signature (Manager):		Date:	
Signature (Teacher):		Date:	

Appendix 5 - Dismissal Proceedings

1. **Delegation of Authority**

Dismissal of Staff other than Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that any person employed or engaged by the LA to work at the school should cease to work there (Community, Voluntary Controlled, Community Special and Maintained Nursery) or to dismiss its staff (Foundation, Voluntary Aided, Foundation Special) to:

(a) one or more Governors and the Headteacher
(b) one or more Governors
(c) the Headteacher.

For options (a) and (b), it is recommended to have an odd number of members to avoid the possibility of a split decision.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel. The Headteacher may not sit on the Dismissal Appeal Panel.

Dismissal of the Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that the Headteacher should cease to work at the school or be dismissed to one or more Governors.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel.

For ease of understanding, those who have the delegated authority to dismiss will be referred to in these proceedings as 'Decision-Makers'.

Rights of Attendance/Advisory Rights

Where the Governing Body has delegated dismissal powers of staff other than the Headteacher to one or more Governors, the Headteacher has a right under the 2009 Regulations to attend and give advice to all relevant meetings/hearings held by those Governors and they must consider that advice in coming to their decisions. That advice shall be given by the Headteacher in the course of the presentation of the case against the employee.

A representative of HR Consultancy for Schools may attend and offer advice to all proceedings relating to the dismissal and those to whom the function has been delegated must consider that advice in coming to their decision.

Note: Reserves will only be used in emergencies and following consultation with HR Consultancy for Schools and the recognised unions.

At formal hearings, the employee/representative may take notes for their own use. The Clerk would take notes for the Decision-Maker/s or Appeal Panel. In the event of the Clerk to the Panel being unavailable, notes may be taken by another person requested by the Decision-Maker/s. A copy of the notes taken can be made available to the employee on request.

Process

2. The teacher must be given written notice of the hearing setting out:

(a) the date, time and location of the hearing
(b) the right of the teacher to be accompanied by a colleague or trade union representative and to call witnesses
(c) details of the unsatisfactory performance, together with copies of any documentary information which it is proposed to present to the 'Decision-Maker/s'
(d) that the result of the hearing could be a recommendation for dismissal and that it is very important for him/her to attend.

3. Notice of the hearing must be sent to the teacher at least 10 working days before the date of the hearing in order to allow reasonable time for him/her to arrange representation.

4. A copy of these procedures must be sent with the notice of the hearing.

5. The 'Decision-Maker/s' must ensure that the hearing is conducted in a fair and reasonable manner and in accordance with the principles of natural justice.

6. The procedure to be followed at the hearing will be laid out in Appendix 3 to these procedures.

7. At this hearing, the 'Decision-Maker/s' may exercise their discretion to recommend dismissal, no action or an alternative course of action. This action may involve an extension of the period of final warning with further support and monitoring; transfer to an alternative, possibly differently graded post, together with any training thought necessary; other action thought appropriate in the circumstances.

8. If, having regard to all the circumstances, the decision of the 'Decision-Maker/s' is that the teacher should cease to be employed at the school, this will be confirmed by letter to the teacher concerned within 5 working days. The letter should set out:

(a) the date of the hearing
(b) details of the unsatisfactory performance, including reference to any previous warnings under this procedure
(c) a statement that the Governing Body (through delegated responsibility) has determined that the teacher should cease to be employed at the school
(d) the effective date of the cessation bearing in mind the period of contractual notice required
(e) the right to lodge an appeal within 10 working days and the right to representation in an appeal.

9. The Governing Body must notify the Local Authority of the determination that the teacher should cease to work at the school and the reasons for it. The LA must give the teacher notice of the termination of his/her contract, within 14 days.

Appendix 6 - Recommended Procedure for A Dismissal Hearing

1. Pre-meeting of 'Decision-Maker/s', Clerk to take notes for the Decision-Maker/s and HR Adviser(s) to clarify any procedural matters.

2. Hearing: In addition to those attending the pre-meeting:
Employee and representative
Headteacher and/or other management/adviser ('Management')

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

Order of Business:

(a) Chair to introduce those others present and to outline the order of business.

(b) Chair to remind those present of the confidential nature of the proceedings.

(c) 'Management' will state the case against the employee and may call witnesses.

(d) The employee and/or his/her representative may ask questions of 'Management' and witnesses.

(e) The 'Decision-Maker/s' may ask questions of the witnesses and 'Management' as appropriate.

(f) Any final questions before the witness retires/ management completes its case.

(g) The employee or representative will state the case and may call witnesses.

(h) 'Management' may ask questions of the employee and/or witnesses.

(i) The 'Decision-Maker/s' may ask questions of the employee and/or witnesses as appropriate.

(j) Any final questions before the witness retires/ the employee/representative completes their case.

(k) 'Management' will conclude with a concise summary of the case but will introduce no new factors.

(l) The employee or representative will conclude with a concise summary of the case but will introduce no new factors.

(m) Management, employee and representative withdraw while the 'Decision-Maker/s' consider the case.

(n) 'Decision-Maker/s' to consider the action open to them and to reach a decision.

(o) 'Management', employee and their representative to be recalled and informed of the decision by the Chair.

(p) The employee to be informed by the HR Adviser of any implications of the decision and any appeal rights.

(q) A formal minute will be made of the outcome of the hearing.

Note: The HR Adviser to the 'Decision-Maker/s' may attend any such hearing, ask questions at any point and advise the 'Decision-Maker/s' as appropriate, including once management and the employee have withdrawn during consideration of the case.

Appendix 7 - Appeals Procedure

1. The Appeals Procedure is intended to afford an employee a full and fair opportunity to present an appeal to the Governing Body against any decision of the Headteacher or Governors in respect of a first or final warning, dismissal or action as an alternative to dismissal.

2. The appeal must be lodged in writing and must set out the grounds of the appeal. It must be addressed to the Headteacher who will ensure that it is referred to the Governors. The appeal must be lodged within 10 working days of the notification of the sanction or determination that an employee should cease to work at the school.

3. The hearing of an appeal in respect of a warning or a decision that a person should cease to work at the school shall be delegated to a panel appointed by the Governing Body. This should be a panel of three Governors other than in exceptional circumstances and must exclude any Governors involved in the hearing leading to the appeal.

4. The appeal may be presented by the employee or his/her representative. An HR Adviser will attend to give advice to the panel.

5. The teacher will be given at least 10 working days notice of the date, time and location of the hearing and must be advised of the right to representation and the procedural conduct of the hearing as described in Appendix 5.

6. At the end of the hearing a decision shall normally be announced but exceptionally it may be appropriate to reserve a decision so that fuller consideration can be given to all matters raised at the appeal.

7. The Appeal Panel may decide to:

(a) allow the appeal wholly or in part, in which case any subsequent action should be considered and specified in the decision
(b) dismiss the appeal.

If an appeal against dismissal is upheld, notification of dismissal would be rescinded.

8. The decision will be communicated in writing to the employee and his/her colleague or trade union representative within 5 working days of the decision.

Appendix 8 - Recommended Procedure for Meeting of an Appeal Panel

1. Pre-meeting of Governing Body representatives, Clerk to take notes for the Panel and HR Adviser(s) to clarify any procedural matters.

2. Hearing: In addition to those attending the pre-meeting:
Appellant (Employee and representative)
Respondent (Headteacher and/or other management/adviser)

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

Order of Business:

(a) Chair to introduce the members of the Committee/Panel and others present and to outline the order of business.

(b) Chair to remind those present of the confidential nature of the proceedings.

(c) The Chair will either read or circulate to all those present a copy of the warning or decision against which the appeal is being made.

(d) The Appellant will state his/her case and may call witnesses.

(e) The Respondent may ask questions of the witnesses.

(f) The Governors and the HR Adviser may ask questions of the Appellant and witnesses as appropriate.

(g) Any final questions before the witness retires / the Appellant completes their case.

(h) The Respondent will state his/her case and may call witnesses.

(i) The Appellant may ask questions of the witnesses.

(j) The Governors and the HR Adviser may ask questions of the Respondent and witnesses as appropriate.

(k) Any final questions before the witness retires / the Respondent completes their case.

(l) The Appellant will conclude with a concise summary of the case but will introduce no new factors.

(m) The Respondent will conclude with a concise summary of the case but will introduce no new factors.

(n) The Appellant and Respondent will withdraw while the Appeal Panel consider the case.

(o) The Panel will consider the case and the action open to them and reach a decision.

(p) Appellant and Respondent will be recalled and informed of the decision by the Chair.

(q) A formal minute will be made of the outcome of the hearing.

Note: The HR Adviser to the Governors may attend any such hearing, ask questions at any point and advise the Governors as appropriate, including once management and the employee have withdrawn during consideration of the case