



The  
**MAST**  
 Academy Trust

<b>Policy</b>	Staff capability policy		
<b>Owner</b>	Melanie Humphreys – The Mast Executive Administrator		
<b>Date approved</b>	10 <sup>th</sup> July 2019	<b>Adopted from</b>	September 2019
<b>Approver</b>	Martyn Jones	<b>Signature</b>	<i>Martyn Jones</i>

<b>Current version</b>	V2.0 July 2019
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<b>Next review due</b>	Spring Term 2020
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**Objective of Policy**

To provide guidance on the policy and process for when any member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

Version Control	
Version Number	Summary of amends from previous version
2.0	Review and appropriate updates since last version, front cover amends.

Sign off requirements	
Approvers	Position
Chair of trustees ratification	Martyn Jones
Local LGB adoption approval	Chair of Governors per LGB
Reviewers	Position
Natasha Greenough	CEO The MAST
Trust representative	
Unions consulted (if applicable)	Representative
ASCL	

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## 1. Aims

The aim of our capability of staff policy is to set out a clear and consistent process for when any member of staff falls below the levels of competence expected of them, as set out in the relevant professional standards, job descriptions and overall performance expectations.

## 2. Legislation and guidance

This policy is based on:

[The School Staffing \(England\) Regulations 2009 \(regulation 8\)](#)

[The School Staffing \(England\) \(Amendment\) Regulations 2013](#)

[The Education \(School Teachers' Appraisal\) \(England\) Regulations 2012 \(the Appraisal Regulations\)](#)

This policy is based on the [DfE Staffing and employment advice for schools \(February 2017\)](#), and the [ACAS code of practice on disciplinary and grievance procedures](#).

When carrying out capability procedures, we will ensure we abide by the [Equality Act 2010](#).

This policy also complies with our funding agreement and articles of association.

## 3. Definitions

**Lack of capability** is defined as:

A staff member failing to perform their role at the level of competence expected of them, and that their job requires, including for medical and disciplinary reasons.

References to '**staff**' include the Headteacher, teachers and support staff, unless indicated otherwise.

## 4. Roles and responsibilities

Where the member of staff subject to the procedure is the Headteacher, the chair of governors will be responsible for coordinating the procedure.

Where the member of staff subject to the procedure is not the Headteacher, the Headteacher or a nominated member of senior staff will be responsible for coordinating the procedure.

Where appropriate, other members of staff may be asked to provide additional support to the staff member or to assist in monitoring the effectiveness of the policy. Where this happens, responsibilities will be made clear in advance.

## 5. Capability procedure

Performance is monitored on a day-to-day basis by line managers, following the schools monitoring and evaluation procedures and formal performance management, including probationary periods. Capability procedures will begin when line management support and

the appraisal process have been unable to bring about satisfactory performance or improvements in the staff member's work.

An informal period of support, put in place and monitored by the line manager, will have been in place before capability procedures are triggered. Evidence of this will be available before the process begins.

For the avoidance of doubt issues affecting the capability and relating to adverse health will be dealt with under the Mast Academy Trust Staff attendance policy.

### **5.1 Formal capability meeting**

10 working days' notice will be given of the formal capability meeting (from the date of the letter), and will explain:

- The concerns about performance and possible consequences

- Any written evidence

- The time and place of the meeting

- That the staff member has the right to be accompanied by a work colleague or trade union representative

It will be conducted by the line manager responsible for performance management of the staff member, or the Headteacher For Headteacher's the Chair of Governors will conduct meetings and for Trust staff the Chair of the Staffing Committee will conduct the meeting.

The purpose of the meeting is to establish the facts, and to allow the staff member to respond to the concerns and make relevant representations and to establish a way forward/action plan for improvement.

#### **5.1.1 Possible outcomes**

The meeting may establish that there are no grounds to pursue the capability issue. In this case, the procedure will come to an end and the issues will continue to be addressed through the appraisal process.

The meeting may be adjourned if further investigation is needed, or if more time is needed to consider additional information presented.

If the meeting continues, the person conducting the meeting will:

- Explain the expected standards that are not being met based on the teacher's standards, career stage expectations and/or job description

- Discuss concerns and shortcomings in performance, steps needed to improve, and associated timescales

- Explain the support available to help the staff member improve their performance

- Set out the timetable for improvement and explain how performance will be monitored and reviewed

- Warn the staff member of possible outcomes including a final written warning and dismissal.

#### **5.1.2 After the meeting**

The staff member will be sent formal meeting notes. If a formal warning has been issued, the staff member will also receive:

- A written record of the bullet points above

- Information about the timing and handling of the review stage

- Information about the procedure and time limits for appealing against the warning

Consequences for failure to improve

## **5.2 Monitoring and review period**

A performance monitoring and review period consisting of formal monitoring guidance and support will follow the formal capability meeting. This should be for an initial 6 week period from the commencement of the plan, and can be extended at the discretion of the head teacher for a further 2 weeks.

The member of staff will be 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 5.4, below).

The member of staff can appeal any decision made in accordance with the direction set out in section 6.

## **5.3 Formal review meeting**

At least 10 working days' notice will be given of the formal review meeting (from the date of the letter), and will explain:

The time and place of the meeting

That the staff member has the right to be accompanied by a work colleague or trade union representative

The nature of the capability concerns, what formal and informal actions have already been taken, what progress has been made and any outstanding concerns.

If the person conducting the meeting is satisfied that the staff member has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. Where practical, this meeting will be conducted by the same person(s) that conducted the formal capability meeting.

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 staff member will receive a final written warning and a second formal capability meeting will be arranged after a 4-6 week period. The Support arrangements will continue during this period.

Notes will be taken of formal meetings and a copy sent to the member of staff.

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. They will be given information about the further monitoring and review period, the procedure and time limits and process for appealing against the final warning. The staff member will be invited to a decision meeting.

## **5.4 Decision meeting**

At least 10 working days' notice (from the date of the letter) will be given of the decision meeting, and will explain:

The time and place of the meeting

That the staff member has the right to be accompanied by a work colleague or trade union representative

The nature of the capability concerns, what formal and informal actions have already been taken, what progress has been made and any outstanding concerns.

If an acceptable standard of performance has now been achieved, the capability procedure will end and the appraisal process will re-start.

If the staff member's performance has not improved to a sufficient standard, a decision, or recommendation to the governing board, may be made that the staff member should be dismissed or required to cease working at the school.

The staff member will be informed as soon as possible of:

- The reasons for the dismissal

- The date on which the employment contract will end

- The appropriate period of notice

- Their right of appeal as per Section 6

## **5.5 Dismissal**

The power to dismiss staff in this school will be applied in line with the scheme of delegation in force at the time of the dismissal hearing.

## **6. Right to appeal**

If a staff member feels that a decision at any stage of the capability process is wrong or unjust, they may appeal in writing against the decision within 5 working days of the decision, setting out at the same time the grounds for appeal.

Appeals will be heard without unreasonable delay and at an agreed time and place. The same arrangements for notification (10 days from the date of the letter) and statutory right to be accompanied will apply as with formal capability and review meetings. Notes will be taken and a copy sent to the staff member.

The appeal will be dealt with impartially and by senior leaders or governors who have not previously been involved in the case.

The staff member will be informed in writing of the results of the appeal hearing within 5 working days.

Appeals panels will be in line with the scheme of delegation and will not involve persons involved in the initial decision making process.

More specifically (subject to amendments in the Scheme of delegation, changes to which will override the below):

Members of teaching staff (up to deputy head) and support staff at academies to be heard by the Local Governing Body

Headteacher to be heard by Trustees

Mast Trust staff to be heard by Trustees

## **7. Confidentiality**

The capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Headteacher and governing board to quality assure the operation and effectiveness of the system. Records will be kept in line with the standards set out in the Data Protection Policy.

## **8. Consistency of treatment and fairness**

The governing board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate.

The governing board is aware of the guidance and provisions of the Equality Act 2010.

## **9. Monitoring arrangements**

The effectiveness of this policy will be monitored by the Headteacher and governing board.

This policy will be reviewed every 2 years, but can be revised as needed.

This policy will be approved by The Board of Trustees

This policy will be approved by The Chair of the Board of Trustees.

## **10. Links with other policies**

This policy links to our policies on:

- Staff code of conduct
- Staff grievance procedures
- Staff disciplinary procedures
- Equality information and objectives

## Appendix 1: capability action plan template

This template can be used as part of the process of supporting a teacher who is underperforming. It records the outcomes of the initial capability meeting, where targets and timescales are set and agreed.

Where possible, the objectives should be linked to the relevant professional standards, appropriate to the career experience of the member of staff concerned.

Name of staff member	Name of Appraiser	Date of meeting

<b>Objective 1:</b>		
Area of competence/performance that requires improvement relates to	Success criteria	Evidence to be used to assess progress
Support/resources to be provided	Monitoring arrangements	Review date



**Objective 2:**

**Professional standard(s)  
that the objective relates to**

**Success criteria**

**Evidence to be used to  
assess progress**

**Support/resources to be provided**

**Monitoring arrangements**

**Review date**

**Objective 3:**

**Professional standard(s)  
that the objective relates to**

**Success criteria**

**Evidence to be used to  
assess progress**

**Support/resources to be provided**

**Monitoring arrangements**

**Review date**

**Other support provided**

<b>Mentor/coach allocated</b>	Yes/No (If yes give name)
<b>Counselling to be provided</b>	Yes/No
<b>Occupational health referral to be made</b>	Yes/No
<b>[Insert any other support provided]</b>	
<b>Formal review date</b>	

<b>Signed by member of staff</b>	<b>Signed by appraiser</b>	<b>Date</b>