

St Bernadette's Catholic Primary School

Teacher Capability Policy



“Doing our best for God”

Capability Procedure

This procedure applies only to teachers and Headteachers where there is serious underperformance which the appraisal process has been unable to address. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the 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; and will advise the 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. Teachers are entitled to request an alternative date which is within five days of the original date.

Formal Capability Meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for Headteacher capability meetings) or Headteacher (for other teachers). The meeting allows the teacher, accompanied by a companion if they wish, to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.

The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting eg. if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

In other cases, the meeting 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 eg. *which of the standards expected of teachers are not being met;*
- give clear guidance on the improved standard of performance needed to ensure that the 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 teacher improve their 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 6 weeks/half term. It is for the school to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning or other serious implications such as no pay progression.

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

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period with support from the Senior Leadership Team and Subject leaders. 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 below).

Formal review meeting

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 by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. In other cases:

- if some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
- if no, or insufficient improvement has been made during the monitoring and review period, the teacher will receive a final written warning.

As before, 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 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 teacher will be invited to a decision meeting.

Decision Meeting

As with formal capability meetings and formal 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 and will advise the 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.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will start. If performance remains unsatisfactory, a decision, or recommendation to the Governing Body, will be made that the teacher should be dismissed or required to cease working at the school.

Before the decision to dismiss is made, the school will discuss the matter with Blackpool Local Authority. Where the Local Authority have been given LA Advisor Rights, the LA has the right to attend any meetings where dismissal is involved.

The teacher will be informed as soon as possible of the reasons for the dismissal, the date on when the employment contract will end, the appropriate period of notice and their right to appeal.

Decision to dismiss

The power to dismiss staff in this school rests with the St Bernadette's Board of Governors who are the employers.

Dismissal

Once the decision to dismiss has been taken, the Governing Body of St Bernadette's will dismiss the teacher with notice.

Appeal

If a 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 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 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.

The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

The 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

This Capability Policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Headteacher and the Governing Body of St Bernadette's to quality-assure the operation and effectiveness of the appraisal system. All documents relating to the teacher's monitoring period including

targets and appraisal records will be reviewed to check for consistency of approach and expectation between different appraisers (SMT/subject leaders) by the Headteacher. The Headteacher will also be aware of any pay recommendations that have been made.

Consistency of Treatment and Fairness

The Governing Body of St Bernadette's is committed to ensuring consistency of treatment and fairness in accordance with the school's Catholic ethos. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The St Bernadette's Governing Body is aware of the guidance on the Equality Act issued by the Department for Education.

Definitions

Unless indicated otherwise, all references to "teacher" include the Headteacher.

Delegation

Normal rules apply in respect of the delegation of functions by governance boards, Headteachers and local authorities.

Grievances

Where a member of staff raises a grievance during the capability procedure, the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related, it may be appropriate to deal with both issues concurrently.

Sickness

If long term sickness absence appears to have been triggered by the commencement of monitoring performance at any stage of the procedure or a formal capability procedure, the case will be dealt with in accordance with the school's absence policy and staff may be referred to occupational health service to assess the member of staff's health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

Monitoring and Evaluation

The Governing Body of St Bernadette's and Headteacher will monitor the operation and effectiveness of the school's appraisal arrangements. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

Retention

The Governing Body of St Bernadette's and Headteacher will ensure that all written appraisal records are retained and stored in a secure place in line with their Retention and Disposal Policy.

Signed: *Karen Pearson* (Assistant Headteacher)

Date: October 2020

Review Date: September 2021