



BORDESLEY MULTI ACADEMY TRUST

T2-12 TEACHER CAPABILITY POLICY

Tier 2 – Centrally Determined School Policy

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1. Bordesley Multi Academy Trust Mission Statement

We believe that success is achieved by working in partnership with parents, carers and the wider community. We are committed to working with our partners to ensure the very best outcomes for all our learners, from 3 to 19.

The significant guiding principles of the MAT are based around autonomy, trust, respect, equity and outstanding relationships. We believe that positive and constructive relationships are at the heart of every successful school. This allows the entire community to be valued and challenged to be their best, raising aspirations for all.

2. Introduction

- 2.1 This policy is based on the approved Capability Procedure for Teachers (Professional Performance) (Procedure & Model Letters) Last updated December 2015.
- 2.2 There may be occasions when the professional performance of a teacher is alleged to be unsatisfactory. This procedure is intended to provide a way in which such a problem can be resolved in a fair and reasonable manner. For the purposes of this procedure, a lack of capability in terms of professional performance is defined as a situation in which a teacher fails consistently to perform his or her duties to a professionally acceptable standard. 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.
- 2.3 This procedure complies with statutory guidance from the DfE published in January 2012.
- 2.4 At any stage of the procedure, as part of the support or monitoring measures, the Headteacher may involve a suitably experienced external person.
- 2.5 The teacher should be advised at all stages to seek Union advice.
- 2.6 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 full-time official. HR Consultancy for Schools can provide advice on this.
- 2.7 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.

3. Interpretation

- 3.1 Reference to the Chair of Governors shall include any Governor or Governors acting on his/her behalf or in conjunction with him/her.
- 3.2 In all cases where the Headteacher is the subject of action references to the Headteacher shall mean the Chair of Governors.
- 3.3 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.

- 3.4 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.)
- 3.5 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 beneficial.

4. Principles

- 4.1 As part of their normal management and staff development responsibilities Headteachers and line managers will from time to time discuss aspects of a teacher's performance with him/her. Such discussions will take place on an informal basis and should not be constrained by, or come within, the scope of this procedure, nor shall any counselling and advice given in this way count as warnings within the scope of this procedure.
- 4.2 Problems should be raised and discussed at the earliest possible moment and resolved where possible without recourse to the formal procedure.
- 4.3 As part of Appraisal arrangements, where there are concerns about any aspects of the teacher's performance, the appraiser will meet the teacher formally to:
 - give clear feedback to the teacher about the nature and seriousness of the concerns;
 - give the teacher the opportunity to comment and discuss concerns;
 - discuss targets for improvement and agree any support that will be provided to help address those specific concerns;
 - make clear how, and by when, the appraiser will review progress;
 - explain the implications and process if no - or insufficient - improvement is made.
 - The teacher will be given a written record of this meeting.

5. Informal Stage

- 5.1 If the appraiser is not satisfied with progress or if concerns arise about a teacher's performance through means other than appraisal, issues should be addressed at a meeting under the Informal Stage. It is expected that, before progressing to this stage, the appraiser/Headteacher should be able to demonstrate that concerns have already been raised with the teacher and appropriate support given.
- 5.2 Meetings under this stage should be conducted by the Headteacher or another suitable senior leader, although it may also be helpful for the appraiser to attend. The teacher should be given at least 5 working days notice of this meeting and should be informed

that he/she has the right to be accompanied by a colleague or trade union representative. Schools are advised to consult HR Consultancy for Schools.

- 5.3 Some schools may have policies for Appraisal which include a formal meeting for Teachers Experiencing Difficulties, where he/she is given notice of the meeting, is invited to be accompanied by a colleague or trade union representative and where an Action Plan for support is drawn up. Where this meeting and the support offered effectively replicates the informal stage of the Capability Procedure (5.4 – 5.8), then the equivalent stage of the capability procedure does not need to take place. In such cases, if it is determined at a review meeting that there has been insufficient progress, then the process will move directly to the Formal Stages (Section 6 of this policy).
- 5.4 The manager will need to consider fully the context of the concerns and consider, in particular, whether the poor performance relates to the teacher themselves or to external factors.
- 5.5 The purpose of the meeting is to discuss those areas of the teacher's performance which need attention and to consider supportive measures. A programme of support may include coaching, mentoring, structured observation, observation of good practice within school or at another school. The programme must be pursued positively and constructively by both parties with advice, encouragement and feedback automatically available for the teacher as part of the support for the teacher. See Appendix 1.
- 5.6 The period of review will be made clear and will allow time for improvement. It will be negotiated between the parties, taking account of the degree of support already given.
- 5.7 The manager will produce a written record of the meeting (an Action Plan is often helpful – see Example at Appendix 2) and will keep details of the activities which take place during this stage.
- 5.8 At the end of the period of review, there should be a meeting to consider the teacher's performance and to form a view that either:
- the teacher's performance has improved, in which case the appraisal process should resume;
 - further support under the informal stage is appropriate;
 - or, where there has been no, or insufficient, improvement, the teacher should be invited to a meeting under the Formal Stages of the Capability Procedure (Section 5). Where all parties agree, the first formal meeting may follow directly on from the review meeting.
 - all parties may consider whether it is appropriate for the teacher to move to an alternative post within the school.
- 5.9 In exceptional circumstances, where the interests of pupils are deemed to be seriously at risk, the manager may refer to the Headteacher who may have to consider an improvement period of no more than 4 weeks during which a period of support and monitoring shall be conducted in accordance with section 5.4 of this procedure, and a final written warning may be issued at the meeting.

6. Formal Stages

Formal Meeting

- 6.1 This part of the procedure applies only to teachers or Headteachers about whose performance there are serious concerns which an action plan of support under the appraisal and/or informal stages has been unable to address.
- 6.2 Meetings under the Capability Procedure will be conducted by the Headteacher (or delegated to a nominated Deputy Headteacher) or, in the case of a Headteacher, by the Chair of Governors (or nominated Governor).
- 6.3 When there has been insufficient improvement following a formal meeting and action plan under the appraisal and/or informal stages, the Headteacher will invite the teacher concerned to a meeting, giving at least 5 working days' notice of that meeting. , The teacher must be informed of his/her right to be accompanied by a colleague or trade union representative, given a copy of this procedure and any relevant documentation and told who, will be present. It may be appropriate to invite the manager to all or part of this meeting to clarify any points.
- 6.4 The purpose of this meeting is:
- a) to detail and review the support measures which have already been provided;
 - b) to define the precise aspects in which the teacher's performance is still considered to be inadequate;
 - c) to allow the teacher and/or their colleague or trade union representative to express views and/or offer an explanation;
 - d) to decide on a formal programme of further support **designed to help the teacher improve his/her performance** including targets and performance standards, together with an appropriate support programme and structured timetable, designed to improve his/her performance. Wherever possible, the period of review should be agreed by all parties, although the decision remains the responsibility of the Headteacher. The review period will usually last between 4 and 10 working weeks, allowing sufficient opportunity for an improvement to take place. The period required will depend upon the nature of the concern and will need to be reasonable and proportionate. The meeting will agree the date of the Review Meeting, at which the teacher may be accompanied by a colleague or trade union representative. It may be helpful to keep notes of this meeting and to send these to the teacher;
 - e) to inform the teacher, if necessary, of the potential consequences of failure to improve, and the teacher will be given a first written warning, sent within 5 working days of the meeting setting out:
 - (i) the date of the meeting
 - (ii) details of the unsatisfactory performance
 - (iii) the standards expected
 - (iv) details of the support and monitoring measures to be made available over the review period
 - (v) the date of the Review Meeting
 - (vi) a warning that further unsatisfactory performance may lead to further and more serious action under this procedure
 - (vii) that the warning will lapse after 6 months

- (viii) the right to lodge an appeal within 10 working days of receipt of this letter and the right to representation at any appeal (see Appendix 5
- (ix) where no appeal is made, the employee may submit a statement of mitigation to be held on file with the warning.

6.5 The notification of action under paragraph 5.4(e) above will constitute the date of entry into the Capability Procedure.

Review Meeting

6.6 At the Review Meeting the teacher may be accompanied by a colleague or trade union representative. At that meeting the Headteacher may:

- a) decide that the teacher has made sufficient improvement, the Capability Procedure will cease; or
- b) that some progress has been made and there is confidence that more is likely; the monitoring and review period under the first written warning will be extended; support will be provided and a date set for a Review Meeting; or
- c) that no (or insufficient) improvement has been made; the teacher will receive a final written warning and a further review period will be put in place. The warning letter will be issued within 5 working days of the meeting and should clearly set out:
 - (i) the date of the Review Meeting
 - (ii) details of the unsatisfactory performance
 - (iii) the standards expected
 - (iv) details of the support and monitoring measures to be made available over the forthcoming review period
 - (v) the date of the Decision Meeting
 - (vi) a warning that further unsatisfactory performance may lead to further and more serious action under this procedure
 - (vii) that the warning will lapse after 18 months
 - (viii) the right to lodge an appeal within 10 working days of receipt of the letter and the right to representation at any appeal (see Appendix 5)
 - (ix) where no appeal is made the employee may submit a statement of mitigation to be held on file with the warning.

6.7 In the event of a final written warning having been issued, there shall be a further period of 4 to 10 working weeks during which support and advice shall continue and the progress of the teacher shall be monitored.

The Decision Meeting

- 6.8 At the end of this period the teacher shall be called to a Decision Meeting at which he/she may be accompanied by a colleague or trade union representative. At that meeting the Headteacher may:
- a) decide that the teacher has made sufficient improvement, the Capability Procedure will cease; or
 - b) that some progress has been made and there is confidence that more is likely; the monitoring and review period under the final written warning will be extended; or
 - c) that no (or insufficient) improvement has been made; the teacher will be invited to a hearing where dismissal may be considered.
 - d) choose to take independent advice on the significance of the concerns or the support given.

General Points

- 6.9 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.
- 6.10 At any stage in the procedure the teacher may be placed under the direct supervision of an experienced colleague.
- 6.11 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.
- 6.12 In the event of a teacher being subject to separate procedures in relation to both performance and 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.

7. Headteachers

- 7.1 Any concerns about unsatisfactory performance on the part of the Headteacher shall be dealt with by the Chair of Governors (as the Headteacher would in relation to any other teacher). A Human Resources Adviser may support the Chair of Governors with the process.

Appendix 1 - MENU OF POSSIBLE SUPPORT MEASURES

The manager and teacher should discuss and, where possible, agree upon a programme of support designed to help the teacher improve his/her performance. This should be flexible to focus on individual needs and take account of the area of concern and outcome required; individual learning style; and time available. The teacher should be encouraged to take personal responsibility for this programme and not feel that it is something which is 'done to him/her'.

The list below offers some ideas – it is not intended to be either exhaustive or exclusive.

- Classroom observation with verbal and written feedback
 - Headteacher/SLT
 - external observer, e.g. Leading Practitioner from another setting; Education Associate
- Observation/discussion of good practice (with clear focus)
 - within school
 - at another school
 - joint observation with mentor/SLT
- Mentor within school
 - regular meetings
 - observing and advising on classroom practice
 - feedback on planning/assessment
- Self-evaluation
 - use of CCTV or videotaping via a Tablet to observe own performance
- Working within a team
 - moderation activities
 - shared planning activities
 - team teaching or shadowing a colleague
- INSET
 - attendance at a professional course or conference
 - on-line or distance learning, e.g. DVDs or websites
 - in-school CPD (twilight or TED days)
- Support from a specialist, e.g. Learning and Teaching Adviser
- Counselling or other therapies

Appendix 2 – EXAMPLE TEACHER ACTION PLAN

(Individual schools may use their own developed forms)

Name:

Date:

Professional partner/mentor:

Planned review date:

Areas for development ¹	Actions to be taken (and by whom)	Timeframe (to be completed by)	Success Criteria	Monitoring and evaluating (who, date and method for review)

<p>Additional Support plan</p> <ul style="list-style-type: none"> • •
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¹ reference may be made to the Teachers' Standards

Appendix 3 – DISMISSAL PROCEEDINGS

13.1 Delegation of Authority

Dismissal of Staff other than Headteacher

The Governing Body may delegate its power to dismiss its staff to:

- a) one or more Governors and the Headteacher (which may be called a Staff Dismissal Committee)
- 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

The Governing Body may delegate its power to determine that the Headteacher should 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 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.

Note: At formal hearings, 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

13.2 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.
- 13.3 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.
- 13.4 A copy of these procedures must be sent with the notice of the hearing.
- 13.5 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.
- 13.6 The procedure to be followed at the hearing will be laid out in Appendix 3 to these procedures.
- 13.7 At this hearing, the 'Decision-Maker/s' may exercise their discretion to dismiss, take no action or take 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.
- 13.8 If, having regard to all the circumstances, the decision of the 'Decision-Maker/s' is that the teacher should be dismissed, 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 be dismissed
 - d) the effective date of the dismissal, 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.

Appendix 4 – RECOMMENDED PROCEDURE FOR A DISMISSAL HEARING

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

14.2 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) The Clerk will take notes for the Decision-Makers and the employee/ representative may take notes for their own use.
- d) 'Management' will state the case against the employee and may call witnesses.
- e) The employee and/or his/her representative may ask questions of 'Management' and witnesses.
- f) The 'Decision-Maker/s' may ask questions of the witnesses and 'Management' as appropriate.
- 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 member of staff and/or witnesses as appropriate.
- j) 'Management' will conclude with a concise summary of the case but will introduce no new factors.
- k) The employee or representative will conclude with a concise summary of the case but will introduce no new factors.
- l) Management, employee and representative withdraw while the 'Decision-Maker/s' consider the case.
- m) 'Decision-Maker/s' to consider the action open to them and to reach a decision.
- n) 'Management', employee and their representative to be recalled and informed of the decision by the Chair.
- o) The employee to be informed by the HR Adviser of any implications of the decision and any appeal rights.
- p) 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 5 – APPEALS PROCEDURE

- 15.1 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.
- 15.2 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 dismissal.
- 15.3 The hearing of an appeal in respect of a warning or a decision that a person should be dismissed 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.
- 15.4 The appeal may be presented by the employee or his/her representative. An HR Adviser will attend to give advice to the panel.
- 15.5 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.
- 15.6 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.
- 15.7 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.

- 15.8 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 6 – RECOMMENDED PROCEDURE FOR MEETING OF AN APPEAL PANEL

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

16.2 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.

Model Letter A – INVITATION TO INFORMAL STAGE MEETING (SECTION 4)

Requires 5 working days' notice of the meeting.

Dear

I write to ask you to attend a meeting to be held under Section 4 (Informal Stage) of the Capability Procedure, a copy of which is enclosed.

This meeting will be held at **[Location]** on **[Date]** at **[Time]** and its purpose is to consider areas of performance which require improvement, specifically **[Details of specific areas of concern]**.

The meeting will then discuss measures to assist you to improve your performance and how this improvement will be monitored.

You have a right to be accompanied by a colleague or trade union representative and I enclose a copy of this letter which you may give to him/her. I will be accompanied by **[Name of person]** (Human Resources Adviser).

I would be grateful if you could let me know of any circumstances which will prevent you from attending this meeting.

Yours sincerely,

Headteacher / Senior Leader.

Model Letter B – OUTCOME OF INFORMAL STAGE MEETING (para. 5.5-5.8)

To be sent within 5 working days of the meeting.

Dear

Thank you for attending the meeting held on **[Date]** to discuss aspects of your performance which require improvement. The meeting was held under Section 4 (Informal Stage) of the Capability Procedure.

The concerns I have relate to **[Details]**.

As a result of our discussions, a programme of support will be put in place to consist of **[Details or refer to Action Plan]**.

A programme of monitoring will also be put in place to assess the effectiveness of the support and to determine whether there is improvement in your performance. **[Details of how monitoring will take place]**.

This support and monitoring will take place over the period until **[Review period]**. At the end of this period, we will meet to review progress and I will form a view that either:

- performance has improved and the appraisal process will resume;
- further support under the Informal Stage is appropriate; or
- there has been no, or insufficient, improvement and you will be invited to a meeting under the Formal Stage of the Capability Procedure.

We have arranged to meet to review progress at **[Time]** on **[Date]**.

I hope that this is all clear but if you have any queries please get in touch. I have sent a copy of this letter to **[Name of representative]** who represented you at the meeting.

Yours sincerely,

Headteacher / Senior Leader.

Copy to colleague/union rep and HR Adviser.

Enclose Action Plan, if appropriate.

Model Letter C – REVIEW OF INFORMAL STAGE – IMPROVED PERFORMANCE (para. 5.8)

To be sent within 5 working days of the meeting.

Dear

Thank you for attending the meeting held on **[Date]** to consider aspects of your performance which required improvement. The purpose of the meeting was to review progress since our last meeting on **[Date of previous meeting]** and was held under Section 4 (Informal Stage) of the Capability Procedure.

Over this period, **[Give a summary of the level of progress indicated by the monitoring]**.

Therefore, as you have made good progress and are now working in line with the Teachers' Standards, I do not consider it necessary to continue with support under the provisions of the Capability Procedure. From now on, your performance will be assessed through the School's Appraisal Procedure in line with other colleagues.

It is important to ensure that the improvement is maintained therefore, as discussed, we will continue to provide informal support **[Detail any ongoing support measures]**.

I hope that this is all clear but if you have any queries please get in touch. I have sent a copy of this letter to **[Name of representative]** who represented you at the meeting.

Yours sincerely,

Headteacher / Senior Leader.

Copy to colleague/union rep and HR Adviser.

Model Letter D – REVIEW OF INFORMAL STAGE – EXTENDING INFORMAL PERIOD (para. 5.8)

To be sent within 5 working days of the meeting.

Dear

Thank you for attending the meeting held on **[Date]** to consider aspects of your performance which require improvement. The purpose of the meeting was to review progress since our last meeting on **[Date of previous meeting]** and was held under Section 4 (Informal Stage) of the Capability Procedure.

Over this period, **[Give a summary of the level of progress indicated by the monitoring]**.

However, although you have made much progress, there are still some areas of development, particularly **[Key areas of remaining concerns]**. We also need to be confident that you are able to maintain standards independently of support.

Therefore, I have decided that further support under the Informal Stage of the procedure would be appropriate. The period of review under the Informal Stage has been extended to **[Date]**.

As a result of our discussions, a programme of support will be put in place to consist of **[Details or refer to Action Plan]**.

A programme of monitoring will also be put in place to assess the effectiveness of the support and to determine whether there is improvement in your performance. **[Details of how monitoring will take place.]**

We have arranged to meet to review progress at **[Time]** on **[Date]** and I will form a view that either:

- performance has improved and the appraisal process will resume;
- further support under the informal stage is appropriate; or
- there has been no, or insufficient, improvement and you will be invited to a meeting under the Formal Stage of the Capability Procedure.

I hope that this is all clear but if you have any queries please get in touch. I have sent a copy of this letter to **[Name of representative]** who represented you at the meeting.

Yours sincerely,

Headteacher / Senior Leader.

Copy to colleague/union rep and HR Adviser.

Enclose Action Plan, if appropriate.

Model Letter E – INVITATION TO FORMAL STAGE MEETING (para. 6.1)

Requires 5 working days' notice of the meeting.

Dear

Thank you for attending the meeting held on **[Date]** to consider aspects of your performance which require improvement. The purpose of the meeting was to review progress since our last meeting on **[Date of previous meeting]** and was held under Section 4 (Informal Stage) of the Capability Procedure.

As we discussed, unfortunately, over this review period, there has been insufficient improvement in the aspects of concern in spite of ongoing support to assist you. **[Give details or refer to summary of Action Plan]**

Therefore, I must write to ask you to attend a meeting to be held under Section 5 (Formal Stage) of the Capability Procedure, a copy of which is enclosed.

This meeting will be held at **[Location]** on **[Date]** at **[Time]** and its purpose is to review the support measures already provided; to define the aspects of performance which still require improvement and to give you an opportunity to express your views about this. We will then decide upon a further programme of support to assist you and how improvement will be monitored.

I have asked **[e.g. Line Manager]**, who has managed the programme of support in the **Informal Stage/appraisal process** to join us at this meeting.

You have a right to be accompanied by a colleague or trade union representative and I enclose a copy of this letter which you may give to him/her. I will be accompanied by **[Name of person]** (Human Resources Adviser).

I would be grateful if you could let me know of any circumstances which will prevent you from attending this meeting.

Yours sincerely,

Headteacher / Deputy Headteacher.

Model Letter F – FORMAL STAGE – FIRST WRITTEN WARNING (para. 6.4 (e))

To be sent within 5 working days of the meeting.

Dear

Thank you for attending the meeting held on **[Date]** to discuss aspects of your performance that require improvement. At the meeting, I decided that it was necessary to invoke the Formal Stage of the Capability Procedure and this letter is a first written warning under section 5.4 (e) of that procedure. It will cease to be effective 6 months after the date of this letter **(Date)**.

As a result of our discussions, a formal programme of support will be put in place to consist of **[Details or refer to Action Plan]**.

A programme of monitoring will also be put in place to assess the effectiveness of the support and to determine whether there is improvement in your performance. **[Details of how the monitoring will take place and who will be involved]**. This support and monitoring will take place over a period of **[Number of weeks – between 4 and 10]**.

As a result of this action, I expect an improvement in your performance **[Details of what areas]** to **[Details of standard]**.

A review meeting has been arranged for **[Date]** on **[Time]** at **[Location]**. You are entitled to be represented at this meeting and, at this meeting, I may decide that:

- you have made sufficient improvement and the Capability Procedure will cease;
- some progress has been made and the review period under the first written warning will be extended; or
- there has been no, or insufficient, improvement and a final written warning will be issued with a further review period.

You have the right to appeal against the issue of this first written warning and I draw your attention to Appendices 5 and 6 of the procedure. You have a right to be accompanied by a colleague or trade union representative at any appeal. If you wish to appeal, you must inform me in writing, within 10 working days of receipt of this letter. If you decide not to lodge an appeal you may submit a statement of mitigation to be held on file with this warning.

Yours sincerely,

Headteacher / Deputy Headteacher.

Copy to colleague/union rep and HR Adviser.

Enclose Action Plan, if appropriate.

Model Letter G – FORMAL STAGE REVIEW – FINAL WRITTEN WARNING (para. 6.6 (c))

To be sent within 5 working days of the meeting.

Dear

Thank you for attending the meeting held on **[Date]**. This meeting was arranged as a Review Meeting under paragraph 5.6 of the Capability Procedure and its purpose was to discuss aspects of your performance that require improvement. At the meeting, I decided that **no/insufficient** improvement had been made and it was necessary to issue a final written warning under section 5.6 (c) of the procedure. It will cease to be effective 18 months after the date of this letter.

As a result of our discussions, a formal programme of support will be put in place to consist of **[Details or refer to Action Plan]**.

A programme of monitoring will also be put in place to assess the effectiveness of the support and to determine whether there is improvement in your performance. **[Details of how the monitoring will take place and who will be involved]**. This support and monitoring will take place over a period of **[Number of weeks – between 4 and 10]**.

As a result of this action, I expect an improvement in your performance **[Details of what areas]** to **[Details of standard]**.

A decision meeting has been arranged for **[Date]** on **[Time]** at **[Location]**. You are entitled to be represented at this meeting and, at this meeting, I may decide that:

- you have made sufficient improvement and the Capability Procedure will cease;
- some progress has been made and the review period under the final written warning will be extended;
- there has been no, or insufficient, improvement and you will be invited to a Hearing where dismissal may be considered;
- I will take independent advice before proceeding to a Hearing.

You have the right to appeal against the issue of this first written warning and I draw your attention to Appendices 5 and 6 of the procedure. You have a right to be accompanied by a colleague or trade union representative at any appeal. If you wish to appeal, you must inform me in writing, within 10 working days of receipt of this letter. If you decide not to lodge an appeal you may submit a statement of mitigation to be held on file with this warning.

Yours sincerely,

Headteacher / Deputy Headteacher.

Copy to colleague/union rep and HR Adviser.

Enclose Action Plan if appropriate.

Model Letter H – INVITATION TO DISMISSAL HEARING (APPENDIX 3)

Requires 10 working days' notice of the Hearing.

Dear

I write to ask you to attend a Hearing to be held before [insert details]* under the provisions of Appendix 3 of the Capability Procedure, a copy of which is enclosed.

This Hearing will be held at **[Location]** on **[Date]** at **[Time]** and will follow the procedure outlined in Appendix 4.

You have a right to be accompanied by a colleague or trade union representative at this meeting and you also have a right to call witnesses if you wish.

The matter to be considered at this Hearing is **[Details of performance]**. I enclose the following documents which will be considered at the Hearing **[List of documents]**.

I also intend to ask **[Name/s]** to attend as a witness to provide further information.

You should be aware that the consequences of this Hearing could be very serious and may include your dismissal. It is thus in your interests to ensure you attend.

If either you or your colleague or trade union representative are unclear about the procedures being followed please contact me as soon as possible.

Yours sincerely,

Headteacher.

* This will depend upon who has the delegated power to dismiss (see Appendix 3, paragraph 1)

This may be:

- a) a nominated Governor (or Governors); and/ or
- b) the Headteacher

Model Letter I – DECISION TO DISMISS

To be sent within 5 working days of the Hearing.

Dear

Following the Hearing held before **[insert details]*** at **[Location]** on **[Date]**, I have to inform you that having regard to all the circumstances, the Committee has decided that you should be dismissed from **[Name of school]** with effect from **[Date of termination]**.

The reason for this determination is **[Details of unsatisfactory performance]**.

You have the right to appeal against this determination and I draw your attention to Appendices 5 and 6 of the Capability Procedure. If you wish to do so, you must lodge your appeal in writing to the Headteacher within 10 working days of receipt of this letter **[Date]**, setting out the grounds of your appeal. You have the right to be accompanied by a colleague or trade union representative at such an appeal. If your appeal is successful, notification of the dismissal would be rescinded.

Yours sincerely,

Decision-Maker/s*

Copy to colleague/union rep and HR Adviser.

Enclose with Model Letter J to action decision.

* This will depend upon who has the delegated power to dismiss (see Appendix 3, paragraph 1)

This may be:

- a) a nominated Governor (or Governors); and/ or
- b) the Headteacher

Model Letter J – NOTIFICATION OF DISMISSAL TO PAYROLL PROVIDER

Dear

Re: [Name of employee]

A Hearing was held on **[Date]** before **[insert details]*** acting on behalf of the Governing Body of **[Name of School]**.

I write to inform you that following representations, **[insert details]*** has/have determined that the above-named employee has been dismissed from this school by reason of capability, with effect from **[Date]**.

I enclose a copy of the letter which has been sent to **[Name of employee]** and which advises of the right of appeal against this decision. Should such an appeal overturn this decision, the Governing Body will notify you without delay.

Yours sincerely,

[Decision-Maker/s]*

Enclose copy of letter to Teacher.

* This will depend upon who has the delegated power to dismiss (see Appendix 3, paragraph 1)

This may be:

- a) a nominated Governor (or Governors); and/ or
- b) the Headteacher

Model Letter K – INVITATION TO APPEAL HEARING

Requires 10 working days' notice of hearing.

Dear

Appeal Against Warning (or Dismissal)*

Following your letter of **[Date]** lodging your appeal against **[Sanction]** I have arranged for your appeal to be heard by the Governors' Appeal Panel at **[Location]** on **[Date]** at **[Time]**.

You have the right to representation at this Hearing and I enclose a copy of the procedure which will be followed at the meeting. You also have a right to call witnesses if you wish, and if so, you should notify me in advance of the number and names of any witnesses. I intend to call **[Name]** as a witness.*

Please note that I will provide the Governors with the papers I referred to at the original Hearing. If you wish to submit any additional documentation, these must be provided not less than 5 working days before the appeal Hearing.

I understand that you will be represented by **[Name]** at the Hearing and have copied this letter to him/her.

Yours sincerely,

Headteacher.

Copy to colleague/union rep.

Model Letter L – OUTCOME OF APPEAL HEARING

Dear

Appeal Against Warning (or Dismissal)*

Following your appeal against **[Sanction]** on **[Date]** at **[Time]** I have to inform you that having regard to all the circumstances the Appeal Panel has decided to:

(I)

allow your appeal. The action taken against you at the **[Meeting/Hearing]** held on **[Date]** is therefore revoked and will cease to be effective.

(II)

allow your appeal in part. The action taken against you at the **[Meeting/Hearing]** held on **[Date]** is therefore revoked and replaced by a further period of performance review.

(III)

dismiss your appeal. The action taken against you at the **[Meeting/Hearing]** held on **[Date]** therefore stands and **[Details of sanction]**.

In reaching their decision the Appeal Panel were particularly mindful of the following points **[Details]**.

Yours sincerely,

Chair of Appeal Panel

Copy to colleague/union rep and HR Adviser.

Enclose a copy with a letter to the Payroll Provider to action any change, if appropriate.