



ATLAS Multi Academy Trust

CAPABILITY POLICY

Trust sub-committee: Standards Committee

Co-ordinator: Mrs M Chapman

Last Reviewed: Spring 2022

Next Review: Spring 2023

St Albans Girls' School : Beech Hyde Primary School and Nursery : The Adeyfield Academy

Signed by:
Margaret Chapman
Executive Head Teacher

Signed by:
Rachael Kenningham
Chair of ATLAS Board of Directors

Changes since last version: Minor changes to wording and clearer procedural guidance, particularly within capability stages.

The professional associations/trade unions have been consulted on this policy and it is recommended for adoption by our HR provider, HFL.

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1.	INTRODUCTION AND SCOPE
	<p>This policy applies to employees of the Trust. It does not apply to Early Career Teachers or employees in their probationary period in respect of which there are alternative policies in place.</p> <p>This policy does not form part of any employee’s contract of employment and it may be amended at any time.</p> <p>This capability policy provides a framework for resolving issues where an employee’s performance has fallen below the expected standard. The focus is to address issues and see an improvement in the employee’s performance. This policy also covers steps to take if performance does not improve.</p> <p>Concerns raised about performance as well as support and advice given at all stages should be well documented.</p>
2.	MISCONDUCT
	<p>In some circumstances performance may be unsatisfactory due to an employee’s own negligence or wilful misconduct. In such cases the disciplinary policy should be used.</p>
3.	RIGHT TO BE ACCOMPANIED
	<p>An employee has the right to be accompanied and supported, at each formal stage of the procedure by a work colleague or an accredited professional association/trade union representative.</p> <p>The employee should provide the name of their representative in advance of the meeting. Where the chosen companion is unavailable on the day scheduled for the meeting, the employee may request that the meeting be rescheduled to an alternative time that is reasonable and within five working days of the scheduled date. If the representative remains unavailable, the employee may be asked to choose another companion.</p> <p>During the meeting the companion may put the employee's case forward and confer with the employee however they may not answer questions on the employee's behalf. The companion may not make any representations if the employee indicates they do not wish this.</p>
4.	INFORMAL MANAGEMENT PERIOD
	<p>Before embarking on the formal capability stages, management will check that through normal performance appraisal and management supervision:</p> <ul style="list-style-type: none"> • the employee has been alerted to concerns • the employee is clear on agreed expectation of standards of performance • a performance improvement plan (PIP) has been set with support and a timescale for review • a copy of this policy has been given to the employee
5.	THE CAPABILITY PROCEDURE
	<p>Where performance concerns have not been successfully addressed an assessment will be undertaken to decide if there are grounds for taking formal action under this policy, including review of any records relating to the employee’s work performance.</p>
5.1	Stage 1 – Formal Capability Meeting

The employee will be invited in writing to attend any formal capability meeting with 5 working days' notice. The employee will be informed of the nature of the performance concerns and that the appraisal process is suspended whilst performance is being managed under this policy.

The employee must make every effort to attend formal meetings and failure to attend without good reason may be treated as misconduct. If the employee fails to attend without good reason or is persistently unable to do so, a formal meeting will be convened in their absence and the decision taken based on the available evidence.

At this meeting the manager will:

- identify the performance concerns, the support already given as part of the appraisal process, the standards required and where the shortfall in performance has occurred;
- provide written evidence of the concerns identified (e.g. from job descriptions, supervision notes, classroom observations, examples of pieces of work that do not meet the required standards);
- consider and discuss any causes and reasons for the underperformance including any reasons why the measures taken so far have not led to improvement. The employee should be given the opportunity to discuss any contributory factors they feel may have affected their performance and/or refute the evidence presented if appropriate;
- after reviewing the evidence before them and taking into account any contributing factors the employee has put forward, the manager will decide whether:
 - to move into a further period of monitoring without issuing a warning
 - to issue a first written warning
 - to issue a final written warning (serious/exceptional cases only)

At which point the following will also apply:

- set a PIP and targets for the future standard of performance with agreed objectives set out, showing clearly how these will be achieved and measured;
- identify the support to be provided to assist the employee in reaching the required PIP (e.g. additional supervision, coaching, observing exemplar lessons) the employee should also be invited to suggest what support that they feel they may benefit from;
- set out the timescales for improvement and explain how performance will be monitored and reviewed. The timescales will depend on the circumstances of the individual case but should usually be four to eight weeks or half a term. It is for the Trust to determine the appropriate period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for improvement to take place;
- notes must be taken of the meeting, and a copy provided to the employee within 7 calendar days of the meeting, or as soon as reasonably practical.

If, following response from the employee, it is accepted that it is not appropriate to proceed with the formal capability process; the matter could be addressed via performance appraisal or relevant management support. Otherwise, the decision and reasons for it will be put in writing.

The employee will be invited in writing to attend any formal capability meeting. The employee will be informed that the appraisal process is suspended and will no longer apply whilst the employee's performance is being managed under the capability policy.

The employee must make every effort to attend formal meetings and failure to attend without good reason may be treated as misconduct. If the employee fails to attend without good reason or is persistently unable to do so (for example health reasons) a formal meeting will be convened in their absence and the decision taken based on the available evidence.

The meeting is intended to establish the facts. At this meeting the manager will:

- identify the performance concerns, the support already given as part of the appraisal policy, the standards required and where the shortfall in their performance has occurred
- provide written evidence of the concerns identified (e.g. from job descriptions, supervision notes, classroom observations, examples of pieces of work that do not meet the required standards)
- consider and discuss any causes and reasons for the shortfall including any reasons why the measures taken so far have not led to improvement. The employee should be given the opportunity to discuss any contributory factors they feel may have affected their performance and/or refute the evidence presented if appropriate
- after reviewing the evidence before them and taking into account any contributing factors the employee has put forward, the manager will decide whether:
 - to move into a further period of monitoring without issuing a warning
 - to issue a first written warning
 - to issue a final written warning (serious cases only).

At which point the following will also apply:

- set a PIP and targets for the future standard of performance with agreed objectives set out showing clearly how these will be achieved and measured
- identify the support to be provided to assist the employee in reaching the required PIP (e.g. additional supervision, coaching, observing exemplar lessons) the employee should also be invited to suggest what support that they feel they may benefit from
- 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 should usually be four to six weeks or half a 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 significant improvement to take place
- notes must be taken of the meeting.

If, following response from the employee, it is accepted that it is not appropriate to proceed with the formal capability process; the matter could be addressed via performance appraisal

		or relevant management support. Otherwise, the decision and reasons for it will be put in writing.
	5.1.1	Monitoring and review period following a Stage 1 Formal Capability Meeting
		<p>A performance monitoring and review period will follow the stage 1 formal capability meeting. At the end of the review period a letter will be sent to the employee advising either:</p> <ul style="list-style-type: none"> • that performance has improved to a satisfactory level and no further action will be taken • that substantial but insufficient improvement has been made and the review period will be extended • that insufficient improvement has been made and the matter will be progressed to a stage 2 capability meeting (or stage 3 if a final written warning has been issued) <p>Formal support will continue at all stages and informal feedback meetings should be arranged to enable regular updates on performance.</p>
	5.2	Stage 2 – Formal Capability Meeting
		<p>The stage 2 meeting may be instigated if there is further evidence of poor performance during the period of monitoring or a failure to make sufficient improvements. If a final written warning was issued at the first stage progress to stage 3.</p> <p>The meeting will cover:</p> <ul style="list-style-type: none"> • the areas in which the employee has not met the required performance standards set out in the PIP and previous warning • any relevant documents including minutes from stage 1 formal meeting.
	5.2.1	Outcome of the Stage 2 Formal Capability Meeting
		<p>There are three possible outcomes to the stage 2 meeting:</p> <ul style="list-style-type: none"> • that sufficient improvement has been made, in which case the capability process will cease and appraisal process will resume • there has been some improvement, and there is confidence that more is likely, but further support or monitoring is required and the monitoring, review period and PIP will be extended • If no, or insufficient improvement has been made, the employee will receive a first written warning if one wasn't issued at the first stage or a final written warning if a first writing warning has already been issued. <p>The decision will be confirmed in writing.</p>
	5.2.2	Monitoring and review period following Stage 2 Capability Meeting

		<p>A performance monitoring and review period will follow the stage 2 formal capability meeting. At the end of the review period a letter will be sent to the employee advising either:</p> <ul style="list-style-type: none"> • that performance has improved to a satisfactory level and no further action will be taken • that substantial but insufficient improvement has been made and the review period will be extended • that insufficient improvement has been made and the matter will be progressed to a stage 3 capability meeting. <p>Formal support will continue at all stages and informal feedback meetings should be arranged to enable regular updates on performance.</p>
	5.3	Stage 3 – Formal Capability Meeting (dismissal stage)
		<p>Where dismissal is a possible outcome, a panel of three appropriate individuals will normally hear the case. Where this is impracticable, or would cause unreasonable delays, a panel of two individuals may hear the case.</p> <p>If the case concerns the Headteacher a panel of governors or Trustees would hear the case.</p> <p>Copies of all relevant documents will be sent by the School to the panel members before the meeting.</p> <p>At any meeting where dismissal is to be considered, the School may invite an HR Adviser from their HR Service. The role of the HR Adviser is to provide professional advice and support to the panel, they are not a decision maker in the process.</p> <p>Dismissal on the grounds of capability shall be with notice.</p> <p>The outcome will be confirmed in writing to the employee as soon as reasonable practicable and usually within five working days.</p>
6.	APPEALS	
		<p>An employee may appeal in writing against a warning or dismissal at any stage within seven calendar days specifying the grounds of appeal. The Trust may reject any appeal where the grounds for appeal are not made clear.</p> <p>Wherever possible the appeal will be heard by an appropriate individual, or panel of individuals, who have not been involved in the decision to impose the original sanction.</p> <p>The appeal hearing may be a complete rehearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Trust’s discretion depending on the circumstances of the case. The appeal panel can uphold or reduce the original sanction but cannot increase the original sanction imposed.</p> <p>The decision of an appeal panel at each stage will be final. The outcome will be confirmed in writing to the employee as soon as reasonably practicable and usually within five working days.</p>
7.	DURATION OF WARNINGS	
		<p>In circumstances where a written or final written warning is issued it will be placed on the employee’s personnel file normally for a period of twelve months, unless the employee is notified to the contrary. The employee will need to be at work throughout the relevant warning period. If</p>

	<p>they should be absent from work for any reason the Trust reserves the right to extend the period of warning at their discretion.</p> <p>After the active period the warning will remain permanently on the employees personnel file but will be disregarded in deciding the outcome of future capability proceedings.</p> <p>If an employee is subject to the formal capability policy or has a live warning in place at the time of a reference request, this must be referred to in any employment reference.</p> <p>There may be occasions when expired warnings are referred to, such as where the performance is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where such a pattern emerges, an employee's record of previous warnings may be borne in mind when making decisions on further warnings or whether it is appropriate to undertake disciplinary action instead, on the basis that the employee has been able to previously demonstrate the required standard of performance.</p>
8.	DISPUTES ABOUT THE POLICY
	<p>If an employee raises a grievance, or a concern relating to bullying and harassment, whilst they are subject to capability proceedings, it will not prevent the school from continuing with or concluding these processes, other than in exceptional circumstances, and this will be at the school's discretion.</p> <p>Where issues arise relating to this policy, for example identified support has not been provided; they should be raised during the monitoring period and/or at any subsequent formal meeting or appeal process.</p>

	ATLAS Multi Academy Trust
CAPABILITY PROCEDURE – LINKED TO CAPABILITY POLICY	
Trust sub-committee: Standards Committee	
Co-ordinator: Mrs M Chapman	
Last Reviewed: Spring 2022	Next Review: Spring 2023
St Albans Girls’ School : Beech Hyde Primary School and Nursery : The Adeyfield Academy	
	
Signed by: Margaret Chapman Executive Head Teacher	Signed by: Rachael Kenningham Chair of ATLAS Board of Directors

1.	<p>Managing Poor Performance Guidance</p> <p>This is a guidance note for trusts, schools, and managers only. This guidance document is not a policy or statutory practice; this has been developed to guide you through specific situations. It does not form part of the Capability Policy but can be used in conjunction with it to help with its implementation.</p> <p>It is recommended to use this guidance alongside relevant policies and procedures. Please contact HR Services for further advice on 01438 544463 or hrservices@hertsforlearning.co.uk.</p>
1.1	<p>Introduction</p> <p>Poor performance is a potentially fair reason for dismissal. For a dismissal to be fair it has long been established that, before it takes effect, the employee:</p> <ul style="list-style-type: none"> • should be informed of the expected standards required; • has been made aware of where they are falling short of expected performance; • has been given a realistic time to improve; • has been provided with appropriate support and possibly training where appropriate; • has had their progress reviewed during the monitoring period; • has had a right of appeal. <p>Failure to address performance issues is a common problem and it is not unusual for matters to drift. However, failing to tackle performance issues at the earliest opportunity can have consequences including:</p> <ul style="list-style-type: none"> • demotivating productive members of staff; • loss of productivity; <p>missing an opportunity to ascertain the reason for the poor performance which could be due to a health issue, excessive workload, poor team management etc.;</p> <p>problems in future redundancy situations when an employer wants to make a fair assessment of an employee’s performance but is hindered by a lack of documentary evidence.</p>
1.2	<p>Performance standards</p> <p>Performance standards may be found in the job description, as objectives in performance appraisals and specific targets throughout the year. Performance standards are not static and can change and evolve with the organisation, for example, where new ways of working have developed through the use of technology. It is important though that the employee knows about the standards expected and of the possible consequences of not meeting them.</p>

		Sometimes poor performance can be related to misconduct if the failure is wilful/deliberate as opposed to a capability concern. If this is established the trust's disciplinary policy should be referred to.
	1.3	Dealing with poor performance
	1.3.1	<p>Informal monitoring</p> <p>In the first instance, performance issues can often be effectively dealt with informally by entering into a period of monitoring with a performance improvement plan (PIP). As part of this PIP, consideration is given as to whether the employee would benefit from any additional assistance, training, mentoring or other support.</p> <p>The trust's capability policy may give an indication of appropriate timescales for monitoring periods but these should be appropriate to the type and level of underperformance. Timescales should be reasonable and proportionate, not excessively long and should provide sufficient opportunity for improvement to be demonstrated. It is also important to set key dates for reviews of progress against the targets, with at least one review meeting at the half-way point.</p> <p>A PIP should be discussed with the employee and standards and targets agreed, but that will not always be possible if the employee does not accept the validity of the assessment of their underperformance. In this case, the trust may impose the PIP without agreement.</p> <p>Whilst this stage is not formal, it should be communicated to the employee that failure to make the required improvements within the timescales set could lead to an escalation to the formal stages of the capability policy.</p> <p>Consideration should also be given to other factors potentially impacting performance including the health of the employee or improvements required by the employer where the working environment is not sufficiently supportive of good performance e.g. poor management practice. These issues should normally be addressed in conjunction with any individual performance improvement plan.</p>
	1.3.2	<p>Formal monitoring</p> <p>Before deciding to proceed with the formal capability process the employer should ensure they can demonstrate they have attempted to resolve performance issues informally before commencing the formal process. This is normally achieved through a review of the documentation recorded during the informal monitoring period.</p> <p>Where a performance improvement plan has been in place and satisfactory improvements have not been made, a decision can be made to either extend the period of monitoring or proceed to a formal capability meeting.</p>
	1.3.3	<p>Formal capability meeting (stage 1 and 2)</p> <p>A first and second stage capability meeting will usually be conducted by the employee's line manager. At the meeting:</p> <ul style="list-style-type: none"> • evidence of poor performance against standards will be discussed; • the employee will have an opportunity to contribute their own account of the situation; • the reasons for the poor performance should be established; • discuss what can be done to assist in improving performance; • set further targets for improvement and a timescale for review.; <p>a first written warning is usually issued at the first stage although it is not compulsory and instead an additional timescale for improvement could be set especially where there has been some improvement which is expected to continue;</p> <p>a final written warning would normally be issued at the second stage. It may also be considered at the first stage but only in exceptional cases e.g. where performance falls significantly short of expected standards despite support in place.</p>

	1.3.4	<p>Performance capability hearing (stage 3 - dismissal stage)</p> <p>In the absence of the required improvement following the first two stages and subsequent periods of monitoring, the trust may decide to move to termination of employment on the grounds of lack of capability. A formal hearing can be convened in line with the trust’s policy.</p> <p>Termination must be with notice. For support staff, this is the greater of their contractual or statutory notice. For teachers, this should be in line with the following timescales:</p> <ul style="list-style-type: none"> • notice given by 31st October for the end of autumn term • notice given by 28th February for the end of spring term • notice given by 31st May for the end of summer term
	1.3.5	<p>Potential challenges and alternative options</p> <p>Criticism of performance is invariably an emotive issue and it is not unusual for employees to claim bullying and harassment or raise a grievance against their line manager as soon as concerns are raised. This usually involves claims that the performance concerns are unfounded or unsubstantiated which is why it is important to have documentary evidence collated at each monitoring stage.</p> <p>Other common lines of challenge are that the employer failed to follow its own procedure, set unrealistic targets and/or give a realistic timescale to improve. Such challenges can be avoided by understanding and following the trust’s capability policy. The capability process is inevitably a lengthy one given the need to allow for time, support and monitoring at multiple stages. In circumstances where it is felt in the earlier stages of the process that the employee is unlikely to meet the required standards despite support and time offered, the trust may feel it is appropriate to seek to agree a swifter exit with the employee using the estimated time saved in running the process to a conclusion to offset any payment made through a settlement. It is advised to seek advice from your HR service before exploring this option.</p>
2.	<p>Guidance on Stage 3 Capability Meetings</p> <p>This is a guidance note for schools, trusts and managers only. This guidance document is not a policy or statutory practice; this has been developed to guide you through specific situations. It does not form part of the Capability policy but can be used in conjunction with it to help with its implementation.</p> <p>It is recommended to use this guidance alongside relevant policies and procedures. Please contact HR Services for further advice on 01438 544463 or hrrservices@hertsforlearning.co.uk.</p>	
	2.1	<p>Roles within a capability process/meeting</p> <p>Presenting Manager – the individual who represents the Trust at a capability meeting. They present the case for the Trust, including evidence of the targets set for the employee, specific examples of where they are falling short of their targets and details of what support has been provided.</p> <p>Employee – the member of staff subject to capability proceedings.</p> <p>Employee representative – the employee has the statutory right to be represented by a trade union representative or work colleague at a formal meeting. The representative is there to support the employee, may address the meeting and present the employee’s case but they are unable to answer direct questions on the employee’s behalf.</p> <p>The panel - as dismissal is a possible outcome, a panel of three appropriate individuals will normally hear the case. This often includes members of the governing board, Headteacher or other appropriate persons with no prior involvement in the case. Prior knowledge alone is not a disqualifying factor. At least one member of the panel must have authority to dismiss the employee.</p> <p>Chair of the panel – for panels of more than one individual, the panel should appoint one member to act as Chair, to lead the meeting and ensure that procedures are followed. The Chair normally sets the framework for the hearing at the start of the process and presents the outcome at the end.</p>

		<p>HR Adviser –An HR Adviser can attend a formal hearing to support the panel/decision maker. Whilst the HR Adviser does not act as a decision maker, they will support and advise the panel/decision maker throughout proceedings and during deliberations.</p> <p>Confidential note taker – It is reasonable for the clerk to the governing board or an appropriate member of staff to act as the note taker. They will take confidential minutes of the hearing (excluding deliberations).</p>
	2.2	<p>Arranging a capability meeting</p> <p>It is the responsibility of the Trust to arrange and invite all parties to a capability meeting. Meetings would normally be held during the employee’s normal working hours, unless agreed otherwise.</p> <p>Things to consider when arranging a meeting:</p> <ul style="list-style-type: none"> • It should be held at an appropriate venue, where confidentiality can be maintained; • the main room should be large enough to comfortably seat all participants; • two additional rooms or quiet areas should be available for both parties to adjourn to at any stage during the hearing; • when selecting panel members, consideration should be given to suitability and experience, including any possible conflicts of interest that may arise. <p>The employee should be invited to the meeting in writing, within the timescales stated in the Trust’s policy (normally providing at least 5 working days’ notice). The invitation must include the following:</p> <ul style="list-style-type: none"> • date, time, location of the meeting; • who will be present at the meeting and their role; • the purpose of the meeting e.g. to consider evidence of poor performance; • potential outcome of the meeting; • right to be accompanied by trade union/professional association representative or work colleague.
		<p>2.2.1 What should be included in the pack of evidence?</p> <p>Copies of the pack of evidence should be provided to all parties attending prior to the meeting in line with timescales stated in the Trust’s policy. The pack should include:</p> <ul style="list-style-type: none"> • a copy of the most recent Performance Improvement Plan (PIP); <p>any documentary evidence supporting a lack of progress towards objectives set in the PIP e.g. poor lesson observations, emails, written work, lesson plans, observations;</p> <ul style="list-style-type: none"> • evidence of support provided e.g. additional training/coaching/mentoring/extra time given; <p>timeline of the formal process followed prior to the hearing including details of monitoring periods, review meetings held and formal sanctions issued;</p> <ul style="list-style-type: none"> • Trust’s capability policy; • any relevant school policies e.g. marking policy, behaviour management policy, code of conduct; • any relevant documents relating to the employee e.g. job description, contract of employment. <p>It is good practice to provide every document and piece of evidence regardless of whether any relevant person may already have them earlier in the process.</p>
	2.3	<p>Capability meeting</p> <p>The meeting is an opportunity for the Trust to present evidence of poor performance and explain the process followed to support the employee in making the required improvements. The employee will also have an opportunity to comment and put forward any explanations for their continued poor performance. See appendix 1 for an example order of proceedings.</p>
		<p>2.3.1 New evidence at the meeting</p> <p>If either party presents new evidence at the meeting, the panel may decide whether or not to accept it. It is good practice to ask why the evidence was not presented during the review meetings if this is not self-evident. If the evidence is relevant to the case the</p>

		panel may consider an adjournment to the meeting. This allows all parties to have sight of the evidence and prepare their case accordingly.
	2.3.2	<p>Outcome of the meeting</p> <p>The panel's decision is normally conveyed orally in the presence of both parties and confirmed in writing as soon as reasonably practicable (in line with timescales stated in the Trust's policy). The panel may, particularly after a lengthy meeting, adjourn and reconvene at a reasonable time to consider its decision. HFL HR can provide template letters and advice on any drafts produced by the panel/decision maker prior to the letter being issued.</p>
	2.4	<p>Appeals</p> <p>If the employee appeals the decision reached at the capability hearing the Trust may decide whether to conduct the appeal as a review of the original outcome to determine if a fair decision was reached or a full rehearing. The nature of the appeal grounds will often determine this decision e.g. an appeal on the grounds of procedural unfairness may warrant a full rehearing whereas other more specific grounds such as the level of sanction, might only require a review relating to the specific point(s) raised.</p>
	2.4.1	<p>Rehearing</p> <p>A new panel must be convened. In all cases, those selected for a panel must have had no prior involvement in the case. The procedure for the original meeting will be mirrored.</p>
	2.4.2	<p>Review of original outcome</p> <p>A new panel must be convened. In all cases, those selected for a panel must have had no prior involvement in the case.</p> <p>Whilst there is no mandatory procedure to follow, a good practice process is:</p> <ol style="list-style-type: none"> 1. The panel will explain that they have pre-read all the appeal documentation prior to the meeting. 2. The panel will invite the employee and/or their representative to explain their reasons for appeal and present any further evidence. 3. Panel members may also ask questions at this point. 4. The panel will invite the representative of the Trust for their comments on the employee's appeal. 5. The employee and/or their representative makes a closing statement. 6. The panel's decision is normally conveyed orally in the presence of both parties and confirmed in writing as soon as reasonably practicable (in line with timescales stated in the Trust's policy). The panel may, particularly after a lengthy meeting, adjourn and reconvene at a reasonable time to consider its decision.
	2.4.3	<p>New evidence at the appeal stage</p> <p>New evidence will ordinarily be accepted where there is a reasonable reason why this was not available at the initial meeting. If this is provided shortly before, or at the appeal, an adjournment may be necessary if further investigation is required. If further investigation has led to additional documents being produced the other party must be given a reasonable opportunity to consider/respond and if necessary, submit rebuttal evidence.</p>

Appendix 1 – Capability Meeting: Order of proceedings

	Item	Who
1	<p>Welcome and Introductions</p> <p>The chair of the panel will:</p> <ul style="list-style-type: none"> • ensure that those present are introduced to one another • remind all parties of the purpose of the hearing and confirm that the everybody has received the relevant paperwork to be considered • clarify the procedure to be followed remind all parties of confidentiality. 	Chair
2	<p>Trust’s case</p> <p>The presenting manager will:</p> <ul style="list-style-type: none"> • present the evidence relating to the employee’s lack of progress towards targets set • confirm details of support provided • summarise details of the formal process followed, including a timeline of monitoring periods and formal sanctions issue. 	Presenting manager
3	<p>Questions from the Panel</p> <p>The panel/decision maker may ask questions of the presenting manager.</p>	Panel / Presenting manager
4	<p>Questions from the Employee</p> <p>The employee or their representative may subsequently ask questions of the presenting manager.</p>	Employee / Presenting manager
5	<p>Employee’s case</p> <p>The employee/their representative will be invited to present their case.</p>	Employee
6	<p>Questions from the Panel</p> <p>The panel/decision maker may ask questions of the employee and/or their representative.</p>	Panel / Employee
7	<p>Questions from the Trust</p> <p>The presenting manager will be given the opportunity to ask questions of the employee.</p>	Presenting manager / Employee
8	<p>Summary</p> <p>Both parties are invited by the Chair of the panel to sum up their cases without introducing any new evidence. The presenting manager will be invited to sum up first.</p>	Presenting manager / Employee
9	<p>Adjournment</p> <p>Both parties will withdraw from the hearing to enable the panel/decision maker to discuss the case and deliberate.</p> <p>Please note: minutes are not required for deliberations so the note taker should withdraw.</p> <p>The panel will deliberate and reach a conclusion on:</p> <ul style="list-style-type: none"> • whether there is enough evidence to demonstrate a lack of capability • whether the appropriate level of support and guidance has been provided • whether appropriate time has been allowed to make the required improvements • what outcome is appropriate 	Panel
10	<p>Outcome</p> <p>The panel’s decision is usually conveyed in person by the Chair of the panel in the presence of both parties and will be confirmed in writing as soon as reasonably practically (usually within five working days).</p> <p>The panel will remind the employee of their right of appeal which will be communicated in the formal outcome letter.</p> <p>If it is not possible to convey the outcome orally, the Chair of the panel must confirm to both parties as soon as reasonably possible.</p>	Chair

Appendix 2

Capability Procedure Flowchart

This is a guidance note is for Trusts, Schools and Managers only. This guidance document is not a policy or statutory practice; this has been developed to guide you through specific situations. It does not form part of the School or Trust’s Policy but can be used in conjunction with it to help with its implementation. It is recommended to use this document alongside relevant policies and procedures. Please contact HR Services for further advice on 01438 544463 or hrrservices@hertsforlearning.co.uk.

