



OWLS Academy Trust

Capability Policy

Adopted by The OWLS Academy Trust on	
Next Review Due	

Policy developed by



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This policy applies to all staff employed by The OWLS Academy Trust. Throughout this policy, unless indicated otherwise, all references to 'Head Teacher' include the Executive Head Teacher.

Performance Management

Each academy within the trust will ensure they have effectively carried out performance management and have provided sufficient opportunities and support for the employee to reach the required standard before progressing to the capability policy.

Capability Meetings

At all formal meetings and the hearing the employee will be formally advised of their right to be accompanied by a work colleague or a Trade Union representative. Notes will be taken and a copy sent to the employee together with any relevant documents (e.g. a formal improvement plan. If the Head Teacher's performance is being managed in line with this policy, then the Chair of the Local Governing Body will be responsible for overseeing this. For all other staff it will be either the Head Teacher or another manager.



Formal Capability Meeting

Five working days' notice will be given for this meeting, the purpose of which is to establish the facts and allow the employee to respond to concerns about their performance. The written notification will detail the concerns about performance, with copies of any evidence, and make clear that if the expected level of improvement has not been made within the required timescale then they may be issued with a final warning, which could lead to a dismissal if sufficient progress is not made.

The person conducting the meeting will:

- Identify which standards are not being met and give clear guidance on the standard of improved performance needed;
- Explain any supportive actions available to help the employee improve their performance;
- Specify the monitoring and review period for improvement (which will vary in individual cases);
- Warn the employee formally that failure to improve to the required standard within the timescale could lead to a final warning at the end of the review period, which could lead to a dismissal if sufficient progress is not made.

The employee will:

- Produce evidence that supports their position;

The potential outcomes of the meeting are:

- There are insufficient grounds for pursuing the capability issue(s). The capability procedure will cease and the remaining concerns may be addressed through the performance management process;
- An adjournment is necessary (e.g. for further investigation or to consider any additional information);
- Advise the employee that there are capability issues to be addressed, which may warrant a final warning if the required improvements are not made following the review period.



Formal Review Meeting

Five working days' notice will be given of the review meeting, which will be held at the end of the review period.

Both the person conducting the meeting and the employee will have an opportunity to present evidence to support their position.

The potential outcomes of the meeting are:

- If the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart;
- If some progress has been made and more is likely, it may be appropriate to extend the review period. In the majority of cases it will be appropriate to extend the review period just once;
- If no, or insufficient, improvement has been made, the employee will receive a final written warning which will remain on their file for 12 months, a further review period will be set (which may be the same or less than the previous review period) and a final review meeting scheduled. The employee will be informed in writing of the specific matters covered, the timing and their right to appeal against the warning. They should also be informed that failure to achieve an acceptable level of performance in the next review period may lead to dismissal.



Final Review Meeting

Five working days' notice will be given of the final review meeting.

Both the person conducting the meeting and the employee will have an opportunity to present evidence to support their position.

The potential outcomes of the meeting are:

- If the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart;
- If no, or insufficient, improvement has been made, the employee will be advised that a hearing will be convened to consider the case and that a potential outcome is dismissal. This should be confirmed in writing to the employee.



Capability Hearing

Five working days written notice will be given to attend a formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. The letter will state that a potential outcome of the hearing is dismissal. Employees will also receive copies of relevant documentation (e.g. formal improvement plan(s), notes of meetings, etc.). Employees will be given an opportunity to provide evidence.

The potential outcomes of the meeting are:

- If the employee has made sufficient improvement, the capability procedure may cease and the performance management process will restart;
- If no, or insufficient, improvement has been made, the employee will be dismissed.

Delegation of Authority

The person or panel responsible for hearing the case will depend on who has been given the delegated authority. This will either be the Trustees/Local Governing Body (i.e. a panel of Trustees/Governors), or the Head Teacher. If it is the Head Teacher, then they may be supported by another member of the senior management team or a Governor / Trustee. It would not be appropriate for the Head Teacher to make the decision if they have managed the case.

Within the OWLS Academy Trust the delegation of authority is laid out in the Scheme of Delegations document, which is reviewed periodically.

Dismissal

The Trustees / Governing Body / delegated person (i.e. the Head Teacher) will dismiss the employee with notice. The academy will have the option for employees to work their notice or to be paid in lieu of notice, if this is deemed appropriate.

The employee will be notified in writing of the outcome of the hearing, including the reason for the dismissal and date of termination of their employment. The letter will also include details of their right to appeal.



Extreme Circumstances

If the lack of capability jeopardises the education and/or health, safety and wellbeing of pupils, the timescale of review periods may be shortened. If after this shortened review period an acceptable level of progress has not been made and it is concluded that the lack of capability continues to jeopardise the education and/or health, safety and wellbeing of pupils then it may be appropriate to proceed directly to a hearing. In these extreme circumstances it may be appropriate to suspend the employee on full pay pending a formal hearing.



Right of Appeal

Individuals will have the right to appeal the decision, and appeals are to be made in accordance with the Appeals Procedure.



Pay Progression

For teaching staff, if the capability policy has been invoked they will not receive pay progression whilst being managed under this policy.