





HORNCHURCH ACADEMY TRUST

Hornchurch Academy Trust is a company limited by guarantee

Registered in England: Company Number 10760863

Registered Office: Whybridge Junior Academy, Rainham, Essex, RM13 7AH

www.hornchurchacademy.org

	Upminster Infant & Junior Schools	 Upminster Infant & Junior Schools <small>WE LEARN AND GROW TOGETHER</small>
	Policy review Date	1 st September 2020
	Date of next Review	31 st August 2021
	Who reviewed this policy?	Mr C W Hobson
	Date approved by Board of Trustees?	1 st October 2020

Capability Policy for all Academy based staff

1.0 Purpose and Scope

- 1.1 The Academy is committed to providing appropriate support to help employees to meet the required standards of performance. To this end the Academy will ensure that it will provide structured induction, clear work expectations, job instruction, coaching, regular support and supervision, annual performance appraisal, and appropriate training.
- 1.2 In cases where, despite an appropriate level of support, an employee is failing to or unable to meet the minimum required standards of performance for reasons connected with skills, knowledge and aptitude, this policy will be used to address this.
- 1.3 This policy applies to all Academy employees with the following exceptions:
- Employees during their probationary period of employment, or any probationary extension period which will be dealt with under the Probationary Policy
 - Employees engaged as Newly Qualified Teachers.
 - Performance which is considered to be attributable to a wilful disinclination by the employee to carry out their duties efficiently or effectively rather than to lack of skill or aptitude will be dealt with under the Disciplinary Policy.
- 1.4 This policy also does not apply to agency staff, consultants, casual workers, and external secondees working for the Academy.
- 1.5 This policy does not form part of any individual employee's contract of employment with the Academy.
- 1.6 The purpose of this policy is to set out what is required and the options available to the Academy in dealing with capability issues. For comprehensive guidance on how to effectively implement this policy the academy should refer to the Capability Management Toolkit.



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2.0 Principles

- 2.1 In circumstances where an employee is not meeting the minimum required standards of performance which is considered to be attributable to ill health or a disability this should be dealt with under the Managing Attendance policy.
- 2.2 If sickness absence occurs during the capability process and it is established that it is related to the implementation of this policy, then the Capability policy would continue to apply in parallel with the Managing Attendance policy.
- 2.3 If an employee raises a grievance that is related to their capability, the Academy will consider if it is appropriate to temporarily suspend this policy in order to deal with the grievance. In most cases, it is expected that the grievance and capability cases will be dealt with concurrently. After the grievance has been investigated, the Academy will make a final decision as to whether or not to continue to follow the Capability policy.
- 2.4 At all stages of the policy, where specified personnel are designated to handle different stages, the Academy reserves the right to reasonably substitute alternative personnel in cases of non-availability or where otherwise considered appropriate.
- 2.5 The employee will have the right to be accompanied at all capability, review or decision meetings and any appeal hearings, by a trade union representative or a work place colleague of their choice. It is the employee's responsibility to make such arrangements and to supply copies of all relevant information and documentation. Wherever possible, if the representative is a workplace colleague they will be granted paid time off work to accompany the employee when necessary to do so.
- 2.6 If the employee's chosen representative is not able to attend a capability, review or decision meeting or an appeal hearing the Academy will seek to arrange an alternative date within one working week of the original date with the representative. If it is not possible to arrange a date within this period, a later date will then have to be set at which both the Panel Members and chosen representative can attend unless it would be unreasonable to do so. In the circumstances where the employee will not be able to have their first choice present, they would need to either accept any representative who is available to accompany them to the meeting, as provided by their trade union, or find another workplace colleague.
- 2.7 The right to representation at formal meetings does not extend to a right of a representative of the employee's choice. The employee will need to accept any representative who is available to accompany them to the meeting, as provided by their trade union, or if their first choice work colleague is not available then they will need to find another.
- 2.8 Due to the time constraints of the academic year and, where appropriate, governance availability, the Academy reserves the right to stipulate the date for re-arranged Decision meetings.
- 2.9 At all capability, review, decision or appeal meetings, there may also be a HR Representative and note taker present.



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3.0 Informal Resolution

- 3.1 Where an employee may be under-performing, the Academy should seek to resolve this informally with the employee to identify and address the issues of concern. With the exceptions as state in 3.3, any formal capability proceedings should only take place if, despite every reasonable attempt, the issues of under-performance have not been addressed.
- 3.2 If the employee has under-performed through their own negligence or wilful misconduct/disregard for the Academy's performance standards or where there is a lack of co-operation with reasonable measures put in place to achieve improvement then this would be dealt with under the Disciplinary policy instead.
- 3.3 Under performance may proceed direct to a formal capability meeting without resort to informal resolution, under one of the following circumstances:
- The informal stage has already been used within the last 6 months
 - If the employee has not responded to support provided within the appraisal process
 - A formal capability meeting has been held within the last 12 months
 - The employee holds a leadership position within the Academy
 - There is a demonstrable detrimental effect on the quality of teaching and learning received by pupils.

4.0 Capability Meeting

- 4.1 Where the Academy considers that an employee's performance fails to reach the minimum standards set, a Capability meeting shall be held to review the report prepared and to set clear expectations for future performance.
- 4.2 The Academy shall consider any explanation for the unsatisfactory performance provided by the employee with the view to agree a planned course of action.
- 4.3 The Academy will set a reasonable review period for the employee to reach the stated minimum required standards, and will also establish arrangements for monitoring during this period.
- 4.4 The employee shall receive formal confirmation of the outcomes of the meeting and the action to be taken.

5.0 Review Meeting

- 5.1 The purpose of this meeting is to review the employee's performance since the last meeting.
- 5.2 At this meeting evidence of progress during the review period will be presented to the employee who will have the opportunity to respond to concerns about their performance and to make any relevant representations.
- 5.3 If the required improvement has been made, the employee will be formally notified of this and advised that should there be any further concerns with their performance within 12 months of the review date a Capability Meeting will be held.
- 5.4 If some progress has been made and the Academy is confident that more



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progress is likely, a further Review Meeting shall be arranged with monitoring put in place during this period.

5.5 If insufficient improvement has been made then the employee will be formally advised that a Final Review meeting shall be arranged with monitoring put in place during this period.

5.6 If the Academy decides that the employee is not performing satisfactorily through their own negligence or wilful misconduct/disregard for the Academy's performance standards, or where there is a lack of co-operation with reasonable measures put in place to achieve improvement then this will be dealt with under the Disciplinary policy.

6.0 Final Review Meeting

6.1 The purpose of this meeting is for the Academy to review the employee's performance since the last review meeting.

6.2 At this meeting, the stated minimum required standards, the steps taken to date to try to address this and the evidence of progress will be presented to the employee who will then have the opportunity to respond to concerns about their performance and to make any relevant representations.

6.3 If the required improvement has been made, the employee will be formally notified of this and advised that should there be any further concerns with their performance within 24 months of the review date proceedings a Capability Meeting will be held instead.

6.4 If insufficient improvement has been made then the employee will be formally advised that a Decision Meeting shall be held.

6.5 If the Academy decides that the employee is not performing satisfactorily through their own negligence or wilful misconduct/disregard for the Academy's performance standards, or where there is a lack of co-operation with reasonable measures put in place to achieve improvement then this will be dealt with under the Disciplinary policy.

7.0 Decision Meeting

7.1 Where it is determined that the review meetings have not brought the employee's work performance to a satisfactory level, a Decision Meeting shall be held to consider the employee's continuing employment at the Academy.

7.2 At this meeting the manager who held the Capability and Review meetings will present a report setting out the identified performance problems and the action taken to date. The report should also refer to the impact of the under-performance on the Academy, the employee's general employment record and any special circumstances referred to by the employee, who will have the opportunity to respond to the report and to make any relevant representations.

7.3 A decision will be made at the meeting, formally confirmed to the employee from the following options:

- Take no further action
- Refer back for a further Final Review Meeting
- Offer a transfer to a more suitable and available post at the same, or equivalent or lower grade, within the academy. The employee should be



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given sufficient time to consider the offer and be made aware that the only alternative to this offer would be dismissal with notice. Where employment is offered on a lower grade, there will be no protection of current salary.

- Dismiss the employee with notice.

8.0 Formal Capability Appeal

8.1 An employee may submit a formal appeal against any decision made by the Decision Meeting, by the given deadline stating the grounds on which the appeal is made.

8.2 The appeal will be heard by a Panel which will not include any members who were involved in the proceedings prior to the appeal.

8.3 The following options will be available from which the Panel can make a decision:

- Uphold the decision of to hold a Final Review Meeting
- Refer back for a further Review Meeting
- Direct a rehearing of the Decision Meeting to take place.

8.4 The Chair of the Appeal Panel will formally notify the employee of the outcome and the reasons for it.

8.5 The decision of the Appeal Panel is final.