


Shirley Warren Primary and Nursery School	Effective Date:	May 2023
Policy and Procedure Statement	Revision Date:	May 2024
<p style="text-align: center;"><b><u>Capability Procedure</u></b></p> <p style="text-align: center;"><b>- <u>Professional Support</u></b></p> <p style="text-align: center;"><b><u>for Teaching Staff</u></b></p> <p style="text-align: center;"><b>(Adopted from SCC model policy)</b></p>	Page	1 of 10
	Approval by the FGB	16/05/23
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## **POLICY STATEMENT**

### **1.0 Policy Statement**

Lack of capability (inadequate professional practice) is defined as a situation in which a teacher fails consistently to perform his or her duties to a professionally acceptable standard.

The main aim of this procedure is, through counselling and support, to improve to an acceptable level the professional performance of a teacher who is causing concern.

#### **1.1 Eligibility**

These procedures will apply to all teaching staff that have completed NQT Induction.

#### **1.2 Exceptions**

An amended version of this procedure applies to headteachers -  
"Model Procedure for Professional Support - headteachers"

#### **1.3 Responsibility**

The headteacher may decide to delegate the responsibility ascribed to 'the headteacher' below to a member of their senior management team. This would normally happen where the headteacher intends to take the initial decision to dismiss (if the procedure moves to Stage Four).

## **PROCEDURE**

Reference in the document to a Senior Inspector should be understood to mean a Senior Inspector or his/her designated representative (normally from HR).

To ensure the appropriate use of this procedure the following should take place before the Investigation Stage is invoked:

- the teacher concerned should be aware that the headteacher has concerns regarding their performance
- these concerns should have been discussed with the teacher and appropriate support put in place
- reasonable timescales should have been set in order to ascertain whether or not the teachers' performance has improved sufficiently

- written records of discussions concerning performance and the support offered

## **2.0 INVESTIGATION STAGE**

If a headteacher has concerns about the adequacy of the professional practice of a teacher, they (or their designate) should

- a. Conduct an investigation into the nature of the problem, its level of seriousness and possible causes by gathering information (in a structured and systematic way) about the performance of the teacher. The investigation should include a meeting with the teacher concerned at which they will be given an opportunity to state their case. The teacher will be advised of their right to be accompanied at this meeting by their professional association representative and given a copy of this procedure. Reasonable notice of this meeting will be given to the teacher.
- b. Following this investigation, make a decision about further action, either:
  - i. That no further action is required, or
  - ii. That informal support and counselling for an agreed period is appropriate, or
  - iii. That a formal professional interview should be arranged with the teacher in accordance with Stage One. The formal professional interview must be arranged by giving the teacher at least five working days notice in writing, with proposed targets and standards.

Further action under this stage will not be formally reported.

## **3.0 STAGE ONE - FORMAL PROFESSIONAL INTERVIEW**

a. If a headteacher (or their designate), after the Investigation Stage, considers it is necessary to take action in respect of apparent inadequate professional practice from a teacher, they will arrange a meeting to discuss specific areas of concern with the teacher. Within this discussion, the headteacher (or their designate) should examine with the teacher, (who will be given an opportunity to state their case before a decision to proceed with Stage One is confirmed by the headteacher (or their designate):

- the standards of performance required, (including targets),
- the extent to which these standards are not being achieved,

- what structured support would be required to improve professional practice, and how such support could be provided
- the timescale for monitoring progress towards the required standards/targets.
- the professional support process including all possible outcomes.

b. The option of further training, where practicable, should be considered if this likely to assist the teacher to improve their performance. Advice should be sought from appropriate advisory support services.

c. Such action will seek to ensure that cases of this nature remain as matters of professional improvement and/or development. An account of the discussion and conclusions reached including arrangements for appropriate supervision and regular review of progress shall be prepared by the headteacher (or their designate), and signed by both parties (note: the teacher may add comments to the document, if they wish to do so, however if the teacher has not signed and returned the document within five working days the procedure will proceed without the teacher's signature). A copy will be provided for the teacher and others involved. The account should include a warning that continued failure to achieve the required professional standards could lead to implementation of Stage Two of this procedure.

d. The headteacher (or their designate), after consulting a Senior Inspector (or their representative), will make a determination of the length of the review period based on their assessment of the level of seriousness of the apparent lack of capability. (Consideration will be given to whether the problem is a specific or broader difficulty and whether it is of recent concern or spanning a longer period of time.) The headteacher (or their designate) will inform the teacher of the duration of the review period and the timetable of regular review meetings within that period. The headteacher (or their designate) will discuss progress regularly with the teacher. No later than 13 school weeks after the start of Stage One, the headteacher (or their designate) will seek written reports from those involved with supporting the teacher and meet with the teacher to review the position formally. As a result of this meeting the headteacher (or their designate) will take one of two decisions:

- i. The teacher has met the required standards and targets set, and that use of the formal support procedure should cease, or
- ii. That Stage Two of the procedure will be implemented.

If the headteacher (or their designate) decides to proceed to Stage Two, they will warn the teacher of the seriousness of not reaching the required professional standards and confirm professional advice given and recommendations made. This warning will be in writing, reiterate the standards of performance required and

re-state the extent to which they are not being reached. The headteacher (or their designate) will identify and confirm the continuing support to assist the teacher in reaching the required standards.

e. The headteacher (or their designate) will inform the teacher of their decision at the conclusion of the meeting and confirm this in writing within 7 days.

f. If a teacher believes that they have been unfairly treated at this point in the procedure they may appeal against the decision to go to Stage Two of the procedure. The teacher must register their appeal in writing to the clerk to the governing body within ten working days of the date of letter from the headteacher (or their designate) confirming the decision. The appeal will be heard by the appeals panel of the governing body which will be the same panel that hears any appeal at Stage Five of this procedure. The teacher may be accompanied at the appeal by their professional association representative.

g. **Special Note: In exceptional circumstances**, if, after the Investigation Stage has been completed, the headteacher (or their designate) considers that the professional inadequacies of the teacher are so serious that the education of pupils is in jeopardy, the headteacher (or their designate) should discuss the matter with the Head of School Standards (or their representative) and ensure that the LA agrees with this view, and then meet with the relevant professional association representative to consult on the matter before proceeding. If, after meaningful consultation, the headteacher's (or their designate) view remains unchanged they should:

i allow a period of no longer than four weeks to achieve improvement, and,

ii issue the teacher with a warning that failure to achieve the required standards will lead to consideration by the headteacher (or alternative decision maker) of their continued employment (Stage Four).

If a teacher believes that they have been unfairly treated at this stage of the procedure they may appeal against the decision to allow a period of no longer than four weeks to achieve improvement. The teacher should appeal in accordance with paragraph f.

If, following a four week review period, the performance of the teacher continues to fall short of required standards, the teacher will be notified that the matter will proceed to Stage 4. In exceptional cases, consideration may need to be given to whether the teacher should continue to perform their current duties pending Stage Three and/or Stage Four. Any decision that the teacher should discontinue their

current duties should not be taken without prior discussion with the teacher and his/her professional association representative.

Once action has started under Stage one it will be reported formally.

#### **4.0 STAGE TWO - FINAL REVIEW PERIOD**

a. The headteacher (or their designate) will monitor and discuss progress regularly with the teacher.

b. They will request that a member of the City Council's Standards and School Improvement Services not previously involved in the case conducts a review of the teacher's performance within 11 school weeks. Precise details of the review date(s) will not be given to the teacher.

c. The headteacher (or their designate) will examine the whole position once this review has been conducted by securing:

i. A written report from the reviewing inspector concerned;

ii. Written reports from those involved with supporting the teacher;

iii. A meeting with the teacher and their representative to review progress against the required standards.

d. After this meeting, the headteacher (or their designate) shall inform the teacher in writing that either:

i. The required performance standards have been met, and that use of the formal procedure should cease, or

ii. That the teacher's professional performance still falls short of the required standards and that the case will proceed to Stage Four of this procedure.

## **5.0 STAGE THREE - INVOLVEMENT OF A SENIOR INSPECTOR**

Before any reference to Stage Four below, a Senior Inspector (or their representative) will meet with the teacher to examine any alternatives which may be available which would obviate the need for the application of Stage Four. This will include consideration of whether or not it is feasible to make any offer of alternative employment or premature retirement to the teacher.

## **6.0 STAGE FOUR - CONSIDERATION BY HEADTEACHER (OR ALTERNATIVE DECISION MAKER) OF DISMISSAL**

Subject to the outcome of Stage Three the headteacher will inform the Chair of the Governing Body and a Senior Inspector. The matter will then be considered in accordance with the Model Dismissal and Appeal Procedure.

## **7.0 STAGE FIVE - CONSIDERATION BY AN APPEALS PANEL OF THE GOVERNING BODY**

If the headteacher (or alternative decision maker) decides that the teacher should be dismissed, it will be open to the teacher to appeal against the decision to the appeals panel of the governing body. The procedure for the meeting of the appeals panel will be in accordance with the Model Dismissal and Appeal Procedure.

## **8.0 ADVICE AND GUIDANCE FOR HEADTEACHERS**

### **Initial Concerns about a Teacher's Performance**

It is first necessary to distinguish between cases which arise from a teacher's wilful failure to fulfil their professional duties and those which arise from allegedly inadequate professional practice. This procedure is intended for use in the latter type of case.

### **Timescales**

In deciding on the timescales that are appropriate within Stages One and Two of the procedure the headteacher (or their designate) may take note of previous professional support for the teacher unless over two years have passed since the previous professional support ended.

The time periods in this procedure will also normally apply to part-time teachers.

### **Ill Health Concerns**

It is necessary to distinguish between cases which arise from a teacher's ill health and those which arise from allegedly inadequate professional practice. Ill health cases should be referred to the Occupational Health Unit using the normal ill health procedures. If there is doubt about the relationship between a teacher's stress related illness and allegedly inadequate performance advice should be sought from the Occupational Health Unit.

### **Job Descriptions**

For all teachers, the basic professional duties are set out in the School Teachers' Pay and Conditions Document and each teacher should have a personal job description detailing their own responsibilities. Job descriptions should be reviewed on a regular basis in consultation with the member of staff concerned to ensure that it remains relevant to the needs of the school and that individuals are aware of what is expected of them.

### **Performance Management**

Where a teacher's performance is being dealt with under the terms of this document it would not be appropriate for such teacher also to be subject to performance management.

Where a teacher's performance is being examined under Stage One or Two of this document, the headteacher may consider (but only if the teacher has not already earned maximum experience points on the teachers' pay spine) making a recommendation to the governing body to withhold an experience point at the next salary review date. This experience point can be reinstated when the teacher's performance has reached the required level. The headteacher will need to ensure that the details of the case are not discussed to avoid the possibility of bias at later stages of the procedure.

### **Involvement of Governors**

The stages specified in this document must be dealt with on a professional and confidential basis. It follows; therefore, that no formal report should be made to the governors of the school; indeed to do so may well prejudice their involvement in a later stage if recourse to that stage eventually becomes necessary.



It is recommended that governing bodies set up an appeals panel of not fewer than 3 members, one of whom should be the Chair or Vice-Chair of Governors, to consider any appeals from staff which may arise from action taken under the terms of this document. Governors on the appeals panel should maintain strict impartiality within the capability process and avoid the possibility of bias. Whilst teacher governors are not excluded from playing a part in this process, there will be occasions when either it would be inappropriate for them or they choose not to be involved.

#### **Trade Union / Professional Association representatives**

Action under these procedures will not be taken in respect of an accredited representative of a trade union / professional association until the headteacher or HR (as appropriate) has informed the relevant full-time trade union / professional association official of the action that is being contemplated.

*It shall be open to either the Head of School Standards (or his/her representative) and/or the teacher to request a meeting with the other at any point during the operation of this procedure.*

## 9.0 FLOWCHART FOR MODEL PROCEDURE FOR PROFESSIONAL SUPPORT TEACHING STAFF

