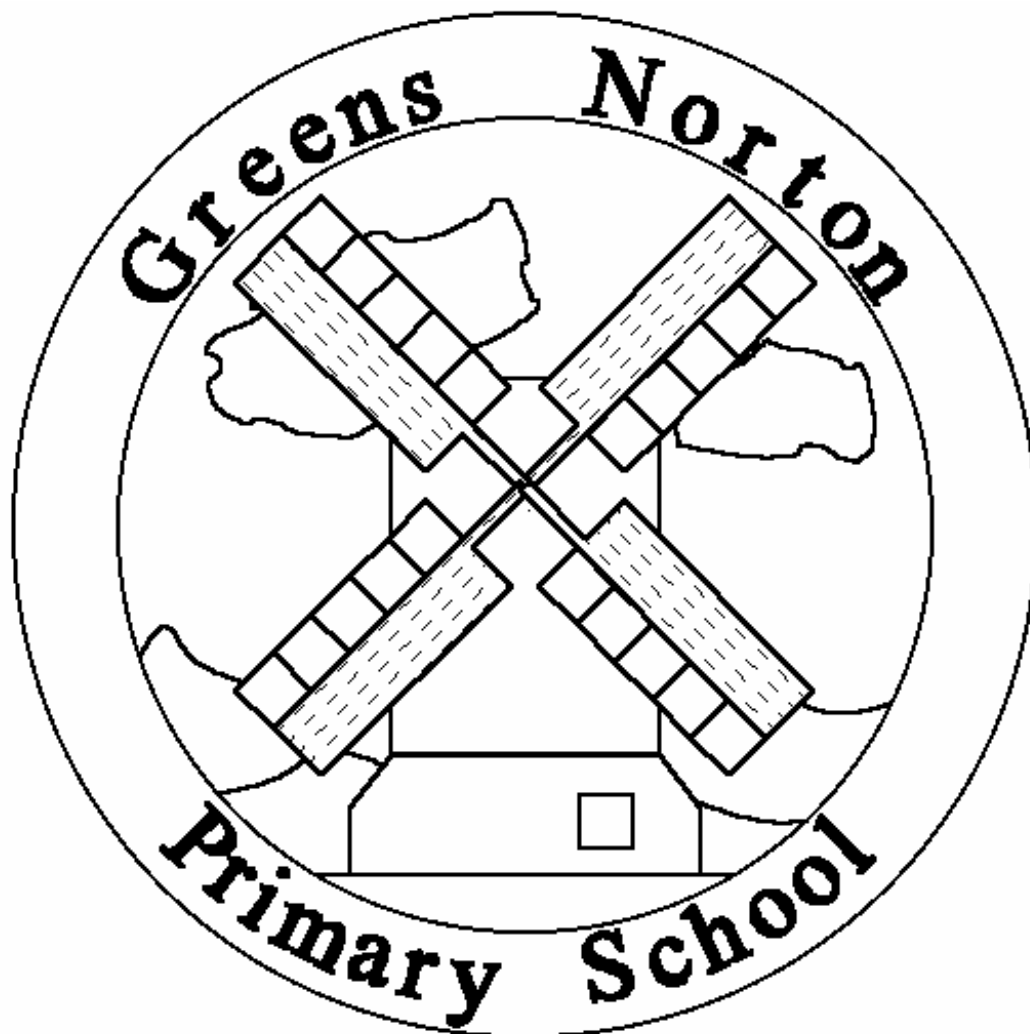


Greens Norton C of E Primary School



Capability Procedures For All School Based Staff Policy

'In our school everyone can join in with all we offer.'

Approved by

D. Ward
Chair of Governors

Jan Pickering
Head Teacher

Date of Ratification: 25th March 2010

Date for Review : March 2014 (or when NCC policy revised)



Capability Procedure For All School Based Staff

1. Policy Statement

- 1.1 This procedure is recommended for adoption by the Governing Body. The Governing Body is responsible for ensuring that fair, consistent and objective procedures exist for matters relating to staff capability.
- 1.2 With effect from September 2009 this document incorporates an unchanged 2004 Capability Procedure for all School Based Staff and the 2009 Fast Track Capability Procedure drawn up in consultation with the recognised Trade Unions.
- 1.3 Where the Governing Body wishes to deviate from this proposed policy or adopt any other policy, it is the responsibility of the Governing Body to arrange consultation with recognised trade unions.

2. Who does this procedure apply to?

- 2.1 This procedure has been drawn up following consultation with the recognised Trade Unions and Teachers' Professional Associations. It applies to all school based staff with the exception of:
 - Newly qualified teachers during their period of induction, this is dealt with by the induction regulation.
 - Non teaching staff during their probationary period where performance reviews should be held.

3. What are the principles?

- 3.1 This Procedure is designed to help and encourage all employees within schools with delegated budgets to achieve and maintain an acceptable standard of performance.
- 3.2 Lack of capability is defined as a situation in which an employee fails consistently to perform his or her duties to a professionally acceptable

standard. The required standard should be appropriate to the level of the job and the skills and experience reasonably expected of an individual in that position. Head Teachers as managers will need to ensure that each member of staff has the ability, knowledge, guidance and support to perform his/her job to an adequate standard.

- 3.3 This procedure is not intended to be used for misconduct, which is handled under the disciplinary procedure. Where there is a lack of co-operation with the process then the disciplinary procedure may be used instead.
- 3.4 The Capability Procedure provides a fair and consistent method of dealing with alleged failures to achieve the expected standard. The role of the Head Teacher is to identify a concern in performance.
- 3.5 The Authority will offer advice at all stages of this Procedure. It is recommended that Head Teachers seek **early advice** from the Director for Children and Young People's Services or his/her representative. Employees are encouraged to seek the advice of their professional association at an early stage.
- 3.6 In this document, where it is the Head Teacher whose competency is in question, the Chair of Governors in consultation with the Director for Children and Young People's Services and/or his/her representative should be substituted for the Head Teacher.
- 3.7 Where a concern in performance first occurs, it should be the normal practice for the Head Teacher to deal with the matter by counselling, advice, guidance, training and example. It is **not** intended that the Capability Procedure should replace this normal interchange between the immediate supervisor and member of staff in the day to day running of a school or department, whereby comments may be made informally.
- 3.8 Meetings associated with this procedure will only be postponed in exceptional circumstances and in any event once only on the grounds of self certified illness. Subsequent arrangements may proceed in the absence of the employee. In this instance the Head Teacher will write to the individual to confirm the outcome of the meeting and ask the individual to comment on this. However in the case of long term absence, where the capability procedure has been invoked on grounds of poor performance, the sickness procedure on the grounds of ill-health will run in parallel.
- 3.9 In order to offer as much support as possible to any employee experiencing difficulty with reaching the required level of performance, the Head Teacher should be aware of the services offered by the Employee Assistance Service and make this contact number available to any employee experiencing difficulty within the workplace.
- 3.10 The duration of the stages in this procedure will not normally exceed one term. In extreme cases where it is judged that the education of pupils may be in jeopardy, the period given for improvement may be no more than four weeks.

- 3.11 Any formal warnings issued under this procedure will remain on file for a period of 12 months for a written warning and 18 months for a final written warning after which they will be expunged. However if this procedure is terminated at any of the formal stages due to an improvement and then subsequently performance within a reasonable time frame falls below the agreed standard then formal procedures can be reinstated at the point where they stopped.
- 3.12 No action will be taken under the formal review stage in respect of a trade union representative until the circumstances of the case have been discussed with a senior representative of the trade union.
- 3.13 For the purposes of this document “Head Teacher” means the senior member of staff who has management responsibility for that employee.

4. Content

Informal Stage

- 4.1 Once the Head Teacher has identified a performance issue an employee will normally be assisted to improve standards through the informal procedure as identified in this section. The importance of supportive action before any formal procedures are involved is important and should be undertaken fully.
- 4.2 The Informal Procedure should begin with a meeting between the Head Teacher and the employee to identify areas of concern and agree a positive way forward.
- 4.3 The purpose of the meeting is to establish:
- that the employee is fully aware of the standards required
 - that the standards have been set at a reasonably attainable level
 - whether the context in which the employee works has altered significantly
 - and explore if there are any underlying health problems that may be affecting performance in which case a referral to occupational health should be discussed
 - whether poor performance is a training issue to be addressed
 - that support will be given to assist the employee
 - the timescale for this informal stage
 - an agreed review date
- 4.4 Failure at this stage could lead to formal stages of the Capability Procedure and ultimately dismissal.

- 4.5 Areas for discussion should include mechanisms to support the employee in reaching the desired level of performance e.g. reasonable lesson observations, further training and development, an agreed temporary removal of additional responsibilities, closer supervision by a senior colleague including regular feedback sessions and the observation of other colleagues' practices within the school.
- 4.6 The timescale to monitor improvement will depend on the complexities of the job, the targets set, the advice, support and monitoring provided and the method of evaluation. It is recommended that this timeframe for each stage should be no less than 6 weeks and no more than a full term except in exceptional circumstances.
- 4.7 At the end of the meeting, both parties should have a clear agreed understanding of the performance issues causing concern, the levels of support to be put in place, the targets set and the period set for review. This should be confirmed in writing.
- 4.8 If the employee experiences any difficulty during the review period, they should immediately contact their Head Teacher to discuss these issues rather than waiting until the review meeting.
- 4.9 At the end of the review period a meeting to assess performance will take place between the Head Teacher and the employee.
- 4.10 If the employee has reached the desired standard of performance, the employee will be told that the Procedure has ceased and this will be confirmed to the employee in writing. An extension of the informal stage may be considered if the standards have been partially met¹. If the desired standard has not been reached the employee will be informed of this. This will be confirmed in writing, listing any specific problems, the advice given, the target (s) established and the period set for further review. The letter will also confirm that Stage 1 of the Formal Procedure is being invoked.

Stage 1 - Formal Procedure

- 4.11 At the end of the review period a meeting to review performance will take place between the Head Teacher who may be accompanied by a representative from the LEA and the employee, who has the right to be accompanied by a trade union representative or work colleague. If the employee has reached the desired standard of performance, the employee will be told that the procedure ceases and this will be confirmed to the employee in writing within **five** working days of the review meeting. If the desired standard has not been reached then a **First Written Warning** will be issued. This will be confirmed in writing listing any specific problems, the advice given, the target (s) established, any further support identified and the

¹ An extension of the review period may be considered at the informal and formal stages of the Capability Procedure where it is deemed that the required standards will be met in a reasonably short time frame.

period set for review. The employee will also be informed that Stage 2 of the procedure is being invoked and that a failure to improve may lead to dismissal.

- 4.12 Following consultation with the Senior HR Advisor and in exceptional circumstances, due to the immediate concerns of the unacceptable levels of teaching and learning taking place or other associated risk e.g. health and safety, the Head Teacher may wish to consider fast-tracking the procedure. In extreme cases a final written warning may be issued at the first formal stage. Should a final written warning be issued under this provision, a review period of up to four weeks will be established and the procedure moved to stage 3.
- 4.13 The employee has a right to appeal against this decision to the Appeal Committee of the Governing Body. Any appeal must be lodged within five working days following receipt of the letter indicating that Stage 2 of the Procedure has been invoked. The Appeals Procedure will run concurrently with Stage 2 of the Capability Procedure. It is strongly advised that the appeal committee meet within a 4 week period of the appeal being lodged.

Stage 2 – Formal Procedure

- 4.14 At the end of the review period a meeting to assess performance will take place between the Head Teacher and the employee, who has the right to be accompanied by a trade union representative or work colleague. The Head Teacher will be supported by a representative of the LEA. Additionally, other persons who have been providing monitoring or support may be asked to attend for part or all of the meeting. If the employee has reached the desired standard of performance, the employee will be told that the procedure ceases and this will be confirmed to the employee in writing. If the desired standard has still not been reached, the employee will be told that a **Final Written Warning** is being issued. This will be confirmed in writing listing any specific problems, the advice given, the target (s) established, any further support identified and the period set for review. The employee will also be informed that Stage 3 of the procedure is being invoked and that a failure to improve may lead to dismissal.
- 4.15 The employee has a right to appeal against this decision to the Appeal Committee of the Governing Body. Any appeal must be lodged within five working days following receipt of the letter indicating that Stage 3 of the Procedure has been invoked. The Appeals Procedure will run concurrently with Stage 3 of the Capability Procedure. It is strongly advised that the appeal committee meet within a 4 week period of the appeal being lodged.

Stage 3 (Dismissal Hearing)

- 4.16 At the end of the review period if the employee has failed to achieve adequate professional standards, he/she will be informed in writing that a meeting of the Governing Body Staff Dismissal/Disciplinary Committee will be convened. The procedure to be followed is set out in the Disciplinary Procedure, a copy of which should be given to the employee at this stage.

- 4.17 Evidence in connection with the employee's capability which has been collected during all Stages of the Capability Procedure will be admissible as part of the disciplinary proceedings.

The Governing Body Disciplinary Committee may determine that the employee should no longer work at the school on the grounds of capability if he/she is still not performing adequately.

- 4.18 The Governing Body will inform the LEA of its decision.
- 4.19 The employee will be informed of their right to appeal against the decision to dismiss.

Dismissal Decision

- 4.20 The School Staffing (England) Regulations 2003 (in accordance with sections 35 and 36 of the Education Act 2002) allow that the Head Teacher (this is not to be read as senior member of staff as elsewhere in the document) should have the delegated responsibility to make the initial dismissal decision following which there will be an opportunity to appeal to a panel of governors. There are, however, possible exceptions to this arrangement, and it will be important at any appropriate stage to give clear details as to what steps will be followed. If the matter concerns the performance of the Head Teacher under this procedure, any initial decision to dismiss will be made by a panel of governors.
- 4.21 Where the Head Teacher is subject to dismissal then this will be heard by the Governing Body Staff Dismissal/Disciplinary Committee.

Further details relating to this section can be found in the Disciplinary Procedure.

THE FAST TRACK CAPABILITY PROCEDURE

5. Principles of the Fast Track Capability Procedure

- 5.1 This section sets out the Fast Track process which is designed for use in exceptional circumstances where action must be taken as a matter of urgency.
- 5.2 The Fast Track Procedure is designed to be used to address serious issues relating to unacceptable performance and should only be considered in cases where an employee's standard of performance raises serious cause for concern; for example, the education of pupils is in jeopardy, the health and safety of pupils is at risk or where a situation requires an immediate intervention.

- 5.3 Where use of the Fast Track Capability Procedure is being considered, the case must be discussed with a Senior HR and Change Advisor, before taking any action. During this discussion, consideration must be given to whether the issue to be addressed is one of conduct **or** capability. Any issues relating to conduct must be dealt with under the Disciplinary Procedure.
- 5.4 The Fast Track Capability procedure can be invoked at any time during management of performance and there will be two stages each of 4 weeks duration. A final written warning may be issued at the end of the first review period by the Head Teacher/Line manager (in the case of a Head Teacher, this warning will be issued by the Chair of Governors).
- 5.5 Meetings associated with any stage of the Formal Procedure will only be postponed in exceptional circumstances. A postponed meeting should be re-arranged within 5 working days.
- 5.6 The Head Teacher/Line Manager may consider it appropriate to suspend the employee on full pay pending the hearing. It will be explained to the employee that suspension is not itself a disciplinary action and does not indicate or presume the outcome of the process.
- 5.7 If the employee is signed off by their GP at the start of or during any stage of the Fast track Capability Procedure, an Occupational Health referral should be made immediately; this may include seeking an opinion on the employee's fitness to attend meetings. If the medical opinion is that the employee is fit to attend meetings, the process will go ahead as planned.
- 5.8 Where the medical opinion is that the employee is not fit to attend meetings, subsequent meetings will proceed in the absence of the employee, or with a trade union representative, if they are a member of a trade union, attending on the employee's behalf. In this instance the Head Teacher/Line manager will write to the employee to confirm the outcome of the meeting and ask the employee to comment if they wish.
- 5.9 In order to offer as much support as possible to any employee experiencing difficulty with reaching the required level of performance, the Head Teacher/Line manager should make the employee aware of the services offered which are outlined in 3.6 above, i.e.
- Employee Assist, Mon-Fri 9.00am to 5.00pm
telephone: 01604 626787, employeeassist@relatenorthants.org.uk
 - Teacher Support Network telephone: 08000 562561,
www.teachersupport.info/
 - trade union representative, if they are a member of a trade union.
- 5.10 No action will be taken under the fast track procedure in respect of a trade union representative until the circumstances of the case have been discussed with a senior representative or paid official of the trade union. The Head Teacher must seek HR advice before taking any action.

- 5.11 Appeals raised as specified in section 7 or section 8 below will be heard within 15 days to ensure that scheduled meeting dates can be met.

6. Fast Track Capability Procedure – Consideration of Evidence

- 6.1 As outlined above, it is essential that clear and objective facts are gathered before making a decision on whether to proceed with the fast track capability procedure and the Head Teacher/Line manager must have discussed the issues with their Senior HR and Change Advisor before taking action.
- 6.2 The following is not an exhaustive list but, such evidence is likely to include:
- Written or electronic documents, reports or records
 - Formal or other serious complaints from parents
 - Complaints or concerns raised by professionals
 - Failure to comply with legal or statutory requirements or responsibilities e.g. health and safety
 - Evidence that confirms that a pupil or pupils have been placed ‘at risk’
- 6.3 Where a decision has been made to proceed under the fast track capability procedure, the steps specified below should be taken.

7. Initial Meeting

- 7.1 Where the Head Teacher/Line manager has identified a serious performance issue and the evidence has determined that this procedure should be used, the Head Teacher/Line manager should invite the employee to a meeting where formal notification that the fast track capability procedure is being invoked will be given and the reasons for this. All relevant information and documents will be provided to the employee in advance of the meeting.
- 7.2 Details of the meeting should be confirmed in writing by the Head Teacher/Line manager, informing the employee of the reasons for the meeting, provide information about the performance issue and the possible outcomes. A copy of the procedure should be provided to the employee, and they must be advised of their right to be accompanied by a work colleague or trade union representative, if they are a member of a trade union.
- 7.3 Meetings associated with any stage of the fast track procedure will only be postponed in exceptional circumstances. A postponed meeting should be re-arranged within 5 working days.
- 7.4 Subsequent meetings may proceed in the absence of the employee or with a trade union representative, if they are a member of a trade union, attending on the employee’s behalf. In this instance the Head Teacher/Line manager

will write to the employee to confirm the outcome of the meeting and ask the employee to comment if they wish.

7.5 The Head Teacher/Line manager should begin the meeting by clarifying the purpose of the meeting and the areas of concern. During the course of this meeting, the Head Teacher/Line manager should:

- Ensure that the employee is fully aware of the standards required
- Ensure that the employee is informed of the aspects in which he/she has not met the required standard
- Ensure that the standards have been set at a reasonably attainable level and targets are realistic
- Establish whether the context in which the employee works has altered significantly
- Explore whether there are any personal issues or problems affecting performance
- Explore whether there are any underlying health problems that may be affecting performance and discuss a referral to occupational health
- Explore whether the poor performance is the result of a training issue which can be addressed
- Agree and confirm what support that will be given to assist the employee, who will provide it and when
- Confirm what the employee needs to do if they experience any difficulty during the review period (i.e. to immediately contact their Head Teacher/Line manager or other agreed mentor to discuss any issues rather than waiting until the review meeting).
- Agree how monitoring will take place e.g. lesson observation, pupil's work monitoring and who will carry this out.

7.6 Areas for discussion should include mechanisms to support the employee in reaching the agreed level of performance e.g. reasonable lesson observations, further training and development, an agreed temporary removal of additional responsibilities, closer supervision by a senior colleague including regular feedback sessions and the observation of other colleagues' practices within the school.

7.7 A written warning should be issued at this stage. The letter should specify the concerns and any agreed actions and a date for a review meeting set for 4 weeks time.

7.8 The warning letter issued by the Head Teacher/Line manager must ensure that the employee is clear that failure to achieve the agreed levels of performance will result in a final written warning being issued at the end of the

review period and that subsequent action under the fast track procedure may lead to dismissal.

- 7.9 At the end of the meeting, both parties will have a clear understanding of the performance issues causing this level of concern, the levels of support to be put in place, have agreed set targets. This must be confirmed in writing – (see 7.7 and 7.8 above).
- 7.10 The employee has a right to appeal against the written warning by writing to the Appeal Committee of the Governing Body. Any appeal must be lodged within 5 working days from receipt of the letter confirming the written warning. The appeal procedure will run concurrently with the second stage of these procedures and will be heard as soon as possible and in any event within 15 working days of the appeal being lodged. The outcome of the appeal must be available prior to commencement of the next stage.

8. First Review Meeting

- 8.1 At the end of the 4 week review period, a meeting to discuss performance will take place between the Head Teacher/Line manager and employee. The Head Teacher/Line manager may be accompanied by a Senior HR and Change Advisor, and the employee may be accompanied by a work colleague or a trade union representative, if they are a member of a trade union.
- 8.2 If the employee's performance has achieved the agreed standards, the procedure may cease at this point. A letter will be issued to confirm that the procedure has ceased and advising the employee that a record of the issues which resulted in the fast track procedure being instigated will remain on file for 12 months.
- 8.3 If within the 12 month period there is a repeat of the issues that led to the instigation of the fast track procedure, the process will commence from the next stage. This will relate only to the issue(s) which were dealt with on a fast track basis and not to any other performance issues which may arise.
- 8.4 If the agreed actions have not been addressed, the employee will be given a final written warning. The letter will list the specific concerns that are being addressed through the fast track capability procedure, the agreed actions and the date of the final review meeting to be held in 4 weeks time.
- 8.5 The employee must be advised that the final review meeting will be conducted by the Head Teacher/Line manager and appropriate committee of the Governing Body and that the Head Teacher/Line manager and/or the committee may, at this meeting, take a decision to dismiss the employee on grounds of their capability under the fast track procedure.
- 8.6 The employee has a right to appeal against a final written warning by writing to the Appeal Committee of the Governing Body. Any appeal must be lodged within 5 working days from receipt of the letter confirming the final written warning. The appeal procedure will run concurrently with these procedures and will be heard as soon as possible and in any event within 15 working

days of the appeal being lodged. The outcome of the appeal must be available prior to the final review meeting.

9a. Final Review Meeting – Part A

- 9.1 The appropriate committee of the Governing Body will be notified of the date of the final review meeting as soon as this date has been agreed.
- 9.2 Evidence relating to the employee's capability that has been collected during the fast track procedure will be admissible as part of the final review meeting proceedings.
- 9.3 Any individuals who have been monitoring the employee or providing support may be asked to attend for part or all of the meeting. The employee will be notified who will be present at the final review meeting.
- 9.4 **If the employee's performance has achieved the agreed standards**, the procedure may cease at this point. A letter will be issued to confirm that the procedure has ceased and advising the employee that a record of the issues which resulted in a final written warning being issued will remain on file for 18 months.
- 9.5 If within the 18 month period there is a repeat of the issues that led to the instigation of the fast track procedure, the process will commence from the final stage. This will relate only to the issue(s) which were dealt with on a fast track basis and not to any other performance issues which may arise.

9b. Final Review Meeting – Part B

- 9.7 **If the employee has failed to achieve the agreed standards**, the Head Teacher/Line manager and the appropriate committee Governing Body, at this meeting, may determine that the employee should no longer work at the school on the grounds of capability.
- 9.8 If a decision it made to dismiss the employee, this will be confirmed in writing advising the employee of the reason(s) for dismissal confirming the date on which the contract is to end and detailing the employee's right of appeal.
- 9.9 The employee has a right to appeal against the dismissal by writing to the Appeal Committee of the Governing Body. Any appeal must be lodged within 5 working days from receipt of the letter confirming the dismissal. The appeal will be heard as soon as possible and in any event within 20 working days of the appeal being lodged.
- 9.10 The Governing Body will inform the Council of its decision where the Council is the substantive employer.

10 The Appeal Hearing

- 10.1 Please see the Disciplinary Policy and the Appeals against Dismissal Policy for the procedures relating to appeals.

11 Rights of Representation

- 11.1 The employee has the right to be represented by a trade union representative, if they are a member of a trade union, or work colleague at all formal meetings under the standard capability procedure and all meetings in the fast track procedure.
- 11.2 Where the employee is accompanied by a trade union representative or work colleague at a hearing the companion will be allowed to address the hearing and to put and sum up the employee's case and respond to views. However, the companion will not have the right to answer questions on the employee's behalf.
- 11.3 The Head Teacher/Line manager will be supported at all formal meetings under the standard capability procedure and all meetings in the fast track procedure by a Senior HR Advisor.

12. Misconduct or lack of co-operation during the Standard or Fast Track Capability Procedure

- 12.1 If issues of misconduct occur during the time that the fast track procedure has been invoked, the Disciplinary Procedure will also be invoked and run in parallel with the fast track procedure.
- 12.2 Dependent upon the severity of the misconduct, the disciplinary procedure may result in dismissal on grounds of conduct.

13. Sickness Absence at the start of, or during the Fast Track Capability Procedure

- 13.1 Meetings associated with any stage of the Fast Track Capability Procedure will only be postponed in exceptional circumstances. A postponed meeting should be re-arranged within 5 working days.
- 13.2 Employee absences should not delay any part of the formal stage of the capability procedure or any stage of the fast track capability procedure. Reasonable steps should be made to enable the employee to attend meetings, but where the employee is unable to attend, these may proceed in the employee's absence. In such circumstances a full account of the decision making process should be provided in the letter confirming any decisions taken.

Management Support Meeting Pro Forma

Name (line manager)

Name..... (employee)

Date of meeting

Line Manager's comments

Employee's comments

Action points (other information may be attached if relevant)

Next meeting (if applicable)

Employee's Signature:..... Date of signing:.....

Head Teacher/Line manager's Signature:.....

Date of signing:.....

FORMAL CAPABILITY MEETING:

EMPLOYEE NAME:

DATE:

Proposed meeting structure

Head teacher	Introductions
HR (if in attendance, otherwise HT)	<p>Explain purpose of meeting</p> <ul style="list-style-type: none"> • On-going discussions have been taking place over the last X months to address areas of concern, agree a way forward and put in place appropriate support. • Today's meeting is being held at X stage of the Formal Capability Procedure (provide copies if necessary) to continue these discussions and put in place an action plan. • Any other relevant information
	Ask if XXXX has any initial questions.
Head teacher	Are there any non-work related factors that you should be aware of (such as health or personal issues) that may be affecting his/her work or approach.
	<ul style="list-style-type: none"> • Recap what concerns have been raised with XXXXX • What has been expected of them • How the school has supported them to achieve the required standard of work.
	<ul style="list-style-type: none"> • Identify areas where XXXX has met the required standard • Where practice is good
	<ul style="list-style-type: none"> • Explain where XXXX has not met the required standard of work • Provide evidence.
	Give XXX the opportunity to respond to your continuing concerns.
	<p>For each area of concern</p> <ul style="list-style-type: none"> • Explain to XXXX what is expected of them, targets, etc • What support will be provided and when • How it will be monitored • Timescale for improvement

	<p>Stage 1 Review</p> <ul style="list-style-type: none">• Give Warning <p>Stage 2 Review</p> <ul style="list-style-type: none">• Give Final Written Warning
	<p>Agree a review date.</p>
	<p>Any further questions</p>

ACTION PLAN

NAME:

DATE OF MEETING:

Areas of Concern with examples to support	Standard required (Target to be set)	Support	Time Period

Guidance for Initial Hearing

1. Introductions

The Head Teacher/Line manager/chair of the committee introduces him/herself and invites all others to introduce themselves. The Head Teacher/Line manager/chair of the committee runs through the agenda.

2. Nature of the complaint

The Head Teacher/Line manager/chair of the committee specifies that the complaint refers to capability and checks that all parties have the relevant documents.

3. Presentation by management

The Head Teacher/senior manager presents the management's case referring to evidence from the formal stages of the Capability Procedure. Witnesses may be called.

4. Questions by member of staff

The employee and/or representative may question the person presenting the management's case and each of the management's witnesses after they have given their evidence.

5. Questions by Head Teacher/Line manager/committee members

The Head Teacher/Line manager/members of the committee may question the person presenting the management's case and each of the management's witnesses after they have given their evidence and been asked any questions by or on behalf of the employee.

6. Presentation by member of staff

The employee and/or the representative present their case. Witnesses may be called.

7. Questions by the person presenting the management's case

The person presenting the management's case may question the employee and each of the employee's witnesses after they have given their evidence.

8. Questions by Head Teacher/Line manager/committee members

Head Teacher/Line manager/members of the committee may question the employee, representative and each of the employee's witnesses after they have given their evidence and have been asked any questions by the person presenting the management's case.

9. Final statement by management

The person presenting the management's case may make a final statement.

10. Final statement by employee

The employee and/or representative may make a final statement.

12. Withdrawal

Both parties withdraw to allow the Head Teacher/Line manager/committee to discuss findings and come to a decision. The note-taker and/or HR representative remain. The parties may be asked to remain available in case the Head Teacher/Line manager/committee need to clarify any point.

13. Adjournments

Either party may request adjournments during the course of the hearing.

Guidance for Appeal Hearing

1. Introductions

The chair of the Appeal Committee introduces him/herself and invites all others to introduce themselves. The chair of the Appeal Committee runs through the agenda.

2. Nature of the complaint

The chair of the Appeal Committee specifies that the complaint refers to capability and checks that all parties have the relevant documents.

3. Presentation by management

The Head Teacher/senior manager/Chair of the Dismissal Committee presents the management's case, referring to evidence from the formal stages of the Capability Procedure. Witnesses may be called which may include the Head Teacher/senior manager who undertook the capability process or the Chair of the Dismissal Committee (depending on who is presenting the case).

4. Questions by member of staff

The employee and/or representative may question the Head Teacher or person presenting the management's case and each of the management's witnesses after they have given their evidence.

5. Questions by committee members

Members of the committee may question the person presenting the management's case and each of the management's witnesses after they have given their evidence and been asked any questions by or on behalf of the employee.

6. Presentation by member of staff

The employee and/or representative present their case. Witnesses may be called.

7. Questions by Head Teacher/Line manager or his /her representative

The person presenting the management's case may question the employee and each of the employee's witnesses after they have given their evidence.

8. Questions by committee members

Members of the committee may question the member of staff and each of the employee's witnesses after they have given their evidence and have been asked any questions by the person presenting the management's case.

10. Final statement by management

The Head Teacher/Line manager or their representative may make a final statement.

11. Final statement by employee

The employee and /or representative may make a final statement.

12. Withdrawal

Both parties withdraw to allow the Appeals Committee to discuss findings and come to a decision. The note-taker and/or HR representative remain. The parties may be asked to remain available in case the committee need to clarify any point.

13. Adjournments

Either party may request adjournments during the hearing.