



Capability Policy

2021 – 2022

Reviewed: July 2021
Next Review: July 2022

N.B. a Toolkit containing model letters and forms is available to support this policy and is Appendix C

This model procedure is based on the Education (School Teachers' Appraisal) (England) Regulations 2012 and the DfE model Performance Management and Capability Policy. The Regulations require all schools to have capability and performance management procedures. This is not a statutory requirement for Academies, but procedures are nonetheless recommended.

These present the minimum statutory requirements. HR considers it appropriate to have two separate procedures (although they are closely linked and this procedure should be adopted alongside the new model Performance Management Procedure), but they can be combined.

Appraisal Leading to Capability procedures (with reference to the DfE's Teacher Appraisal and Capability model policy, March 2019) can be found in Appendix B.

This procedure is applicable to teaching and support staff.

This is a model policy/procedure which reflects legislation, any relevant statutory and non-statutory guidance and best practice. The responsibility for setting policy and procedure resides with the Governing Board/Trust and as such the relevant body must be satisfied that the content of the policy/procedure suits their requirements and must consult their staff/local trade union representatives prior to its formal adoption. In this context, Education HR does not negotiate and agree its model policies with the Trade Unions/Professional Associations, although they are consulted and their feedback is considered in the development of the documents.

This policy was updated, to take effect from:	July 2021
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I. Introduction

The minimum standard expected of all employees is the satisfactory performance of the tasks as set out in their job description, to the level set out in the person specification for that job and any standards applicable to the role e.g. Teaching Standards, HLTA Standards.

The performance of staff is monitored and managed on a day to day basis by line managers and through the Performance Management Procedure. The Capability Procedure sets out arrangements that will apply where an employee's performance falls below the minimum standard of competence that is expected of them.

A summary of the procedure is set out at Appendix A.

2. Scope

2.1 This procedure is applicable to all staff (including the Headteacher/Principal/CEO). In the case of staff with less than two years' service and on fixed term contracts, while the principles of reasonableness and natural justice reflected in these procedures and the ACAS Code of Practice on disciplinary and grievance matters will apply, it may be appropriate to foreshorten procedures, processes and relevant timescales in keeping with the particular nature of their employment.

2.2 Separate procedures apply to:

- Employees in a Probationary Period
- Misconduct cases
- Ill health cases

3. Roles and Responsibilities

3.1 It is the responsibility of the Governing Board to:

- Define and communicate procedures and to ensure that they are applied in a consistent manner.
- Ensure that systems are in place for the proper induction of new and promoted staff, and for day to day management and performance management of staff, to ensure that minor deficiencies in performance are dealt with effectively without recourse to the formal procedure.
- Appoint a member(s) to manage the process where the Headteacher/Principal/CEO is at the subject of the procedure.
- Establish where appropriate, capability/dismissal and appeals committee.
- Misconduct cases
- Ill health cases

3.2 It is the responsibility of the Headteacher/Principal/CEO and other managers to:

- Manage performance effectively, ensuring that staff are aware of the standards expected of them and dealing with any minor deficiencies in conduct at the earliest stage through normal day to day supervision and probation, induction and performance management procedures.
- Ensure that, where necessary, capability procedures are carried out promptly, fairly and equitably.
- Issue warnings and make initial dismissal decisions (Headteacher/Principal/CEO only) where appropriate.

3.3 It is the responsibility of all staff to:

- Be aware of and comply with all general rules and procedures referred to in their contract, conditions of service, job description and any specific standards of performance related to their work and workplace.
- Comply fully with this procedure and to co-operate with the processes contained therein.

4. Representative

An employee is entitled to be accompanied by a trade union representative, an official employed by a trade union or a work colleague, at all stages of the formal procedure. The employee must make his/her own arrangements for this.

5. The Procedure

5.1 Identified concerns

Where evidence emerges that an employee's performance has fallen below the minimum standards expected of them (as set out in 1.1 above), this will be discussed with the employee normally (see 5.3 below) as part of the Performance Management Procedure.

The line manager or other appropriate manager will:

- Set out the nature and seriousness of the concerns;
- Confirm any previous discussions/support; and
- Give the employee the opportunity to comment and discuss concerns.

5.2 Monitoring

A monitoring period will usually be set as part of the Performance Management Procedure, in all but the most serious cases (see 5.3 below).

The manager will:

- Set targets for future performance (in addition to existing performance management targets);
- Agree any further support with the employee;
- Make it clear how, and by whom, progress will be monitored and when it will be reviewed; and

- Explain the consequences and process if no, or insufficient improvement is made.

The period of monitoring will normally be between four and eight working weeks and in any case shall only be as long as is necessary to allow reasonable time for improvement and this will depend on the seriousness of the issues and individual circumstances. Exceptionally, an extension of not more than four weeks may be granted, where there has been significant improvement or there has been significant absence during the monitoring period.

Full details of this meeting and its decisions will be confirmed in writing to the employee.

Regular contact will be maintained throughout the monitoring period to review and support progress.

5.3 The formal procedure

In the most severe cases, and/or where there has been insufficient improvement following any monitoring period, the performance management process will be suspended and the formal capability procedure will be invoked.

The employee will be called to a formal capability meeting. The meeting will be conducted by an appropriate manager. This will be the Headteacher/Principal/CEO where there have been previous warnings and dismissal is therefore a possible outcome. Where the Headteacher/Principal/CEO is the subject of the procedure the meeting will be conducted by a deputed governor.

5.3.1 The employee will be given at least five working days' notice, in writing, of the date, time and place of the meeting. When given this notice, the employee will be:

- Informed of the nature and details of the concerns;
- Informed of his/her right to be accompanied at the meeting by a representative (see 4. above);
- Supplied with a copy of the evidence which is to be considered at the meeting;
- Given an indication of the possible penalty which could be imposed if the concerns are found to be substantiated (e.g. a formal warning or termination of employment by dismissal where previous warnings have been issued); and
- Informed who will be involved in the meeting including the name of any advisers.

5.3.2 Not later than two working days before the meeting the employee:

- Must supply the name and status of his/her representative; and
- May submit a written statement or other supporting written evidence if s/he wishes, either direct or through his/her representative.

5.3.3 At the meeting the concerns will be explained to the employee and they will have the opportunity to make representations.

6. Outcomes

6.1 Where the concerns are substantiated the following decisions may be made:

- (i) **Written warning (normally for one year) and a formal monitoring period:** where there is serious concern about the standard of performance or there has been insufficient progress following a period of monitoring (four – eight weeks).

(ii) **Final written warning (normally for a year) and a formal monitoring period:** where the concerns are particularly serious or there has been insufficient progress following a previous warning or period of monitoring (four – eight weeks).

(iii) **Dismissal with notice:** in the most serious cases and where there has been:

- No progress following a previous warning/period of monitoring; or
- Insufficient progress following a final written warning

Where the concerns are substantiated at a formal meeting, this is likely to result in any pay increment due to the employee at the end of the relevant year, being withheld.

6.2 Where a warning is determined, the employee will be informed, normally at the end of the meeting, and in any case, in writing of:

- The nature and seriousness of the concerns;
- The improvement in performance that is required during the formal monitoring period to remove them from the formal process (i.e. through set targets);
- The support that will be available to help the member of staff improve;
- The end date of the formal monitoring period and how performance will be monitored during this period, including any review dates;
- The fact that any pay progression due at the next pay review is likely to be withheld;
- The consequences of failure to improve to the required standard; and
- In the case of a formal warning or dismissal the employee will also be notified of his/her right of appeal.

6.3 In the case of dismissal, employees will normally be placed on paid suspension for the period of notice, pending any appeal by them.

7. Appeals

An employee has the right of appeal against any warning/dismissal.

Notice of any appeal must be given in writing to the Headteacher/Principal/CEO (chair of governors in the case of the Headteacher/Principal/CEO) within five working days of receipt of the written notification by the employee of the outcome of the formal meeting, clearly stating the grounds upon which the appeal is made.

Appeals will be heard by the Headteacher/Principal/CEO, where s/he did not conduct the original meeting or by the governing board discipline/dismissal appeals committee in other cases and where the Headteacher/Principal/CEO is the subject of the procedure. The decision of those hearing the appeal is final, subject to the employee's rights at law.

The procedures and conduct of appeals shall be the same as for formal meetings.

8. Records and Data Protection

Notes of formal meetings and appeal hearings will be taken and shared with the employee as soon as possible after the meeting/hearing. The employee has the right to challenge the accuracy of any minutes and to have these recorded.

Except as necessary as a reasonable adjustment, no-one may record meetings or hearings, except for the clerk to assist with producing the minutes in which case permission will be sought from all parties.

Details of any formal action, including any warnings, will be retained on the employee's personal file. Warnings will be disregarded after the expiry of their life (see 6.1).

Details of any current capability procedures and/or warnings will be referred to when responding to an employee reference request.

A written record of all meetings conducted under this procedure will be made, either by the person holding the meeting or by an alternative person arranged by the school to take notes. The school processes any personal data collected during the capability procedure in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the capability procedure.

On the conclusion of the procedure, data collected will be held in accordance with the school's retention schedule. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

9. Timing / location of meetings / hearings

Employers are obliged to deal with performance issues without any undue delay. It is expected that employees and their representatives will assist in this aim.

Employees and their representatives should make themselves available to attend meetings within a reasonable period of time. If however, the employees' chosen companion is not available, for a reason that was not reasonably unforeseeable, at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than five working days from the original date.

Where possible meetings and hearings will be held at a mutually convenient location, which meet any special needs of attendees and which may sometimes be away from the normal place of work where this is considered to be appropriate.

Reasonable time off with pay will be granted to employees who are acting as representative for an employee who is subject to the capability process.

10. Grievances raised during capability procedures

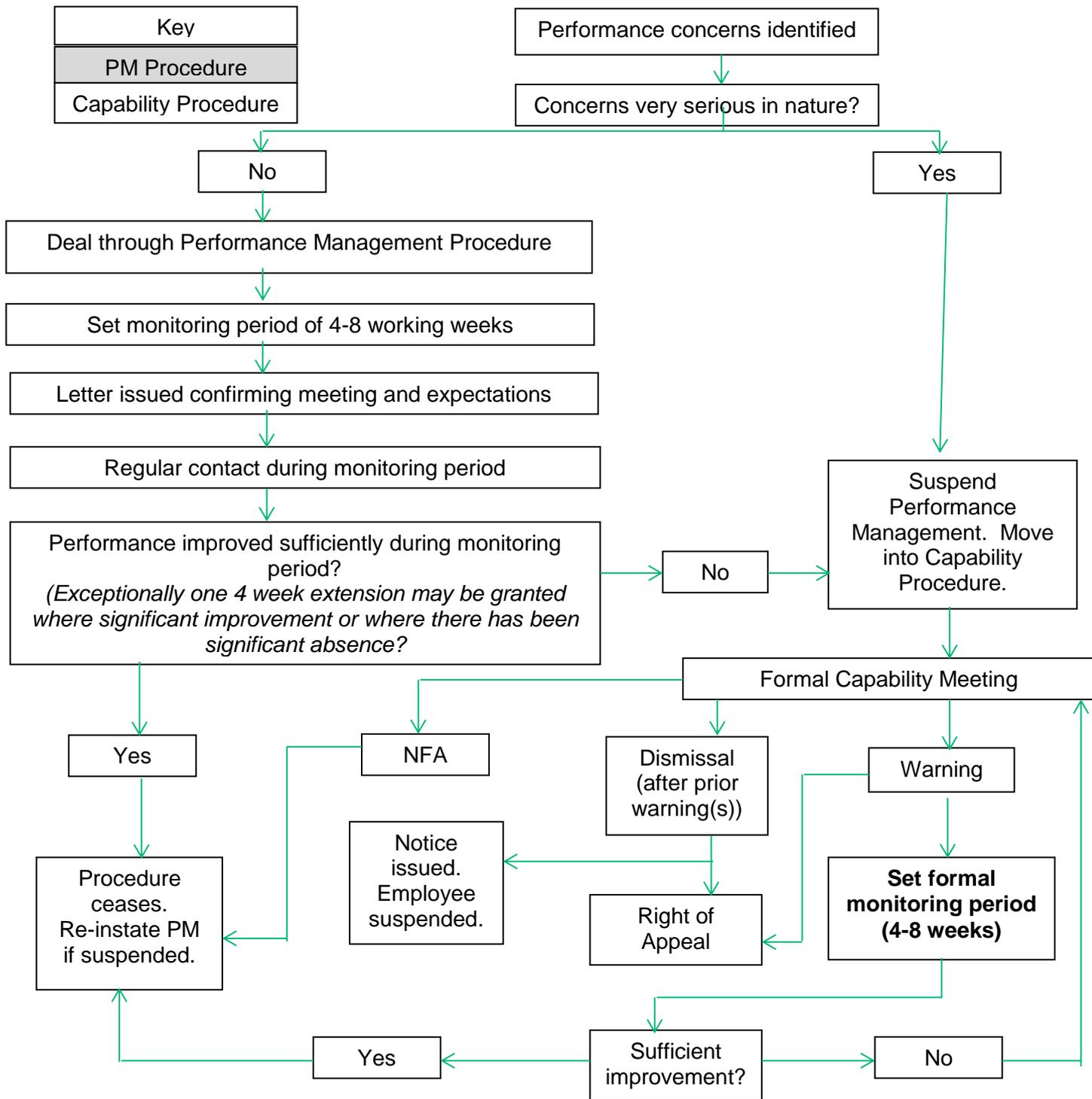
If a grievance is raised during the course of the capability procedure, which is related to the case, the grievance will normally be dealt with as part of the formal capability meeting/appeal. In other cases, the capability process may be temporarily suspended in order to deal with the grievance.

11. Ill health during capability procedures

While it is recognised that capability procedures can be distressing and may sometimes lead to an employee feeling unwell, the governing board believes that it is in everyone's best interest to conclude matters as quickly as possible and will work with the employee to achieve this.

If sickness absence appears to have been triggered by the commencement of the capability procedure, the case will be referred immediately to an occupational health adviser to assess the employee's fitness for participation in the capability process. Where an employee remains off sick, the matter will subsequently be dealt with in accordance with the sickness absence procedure.

Appendix A – Summary Capability Procedure



Appendix B - Appraisal Leading to Capability procedures (with reference to the DfE's Teacher Appraisal and Capability model policy, March 2019)

Appraisal is a supportive process, which will be used to determine decisions on pay progression and inform continuing professional development.

Objectives for each teacher will be set at the beginning of the agreed appraisal period, which is in September of each academic year.

The objectives set for each teacher, will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. **The objectives set for each teacher will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school.**

Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable, after observation has taken place or other evidence has become known. Feedback will highlight particular areas of strength as well as any areas that require further development.

Where there are concerns about any aspects of the teacher's performance the appraiser will meet the teacher formally to:

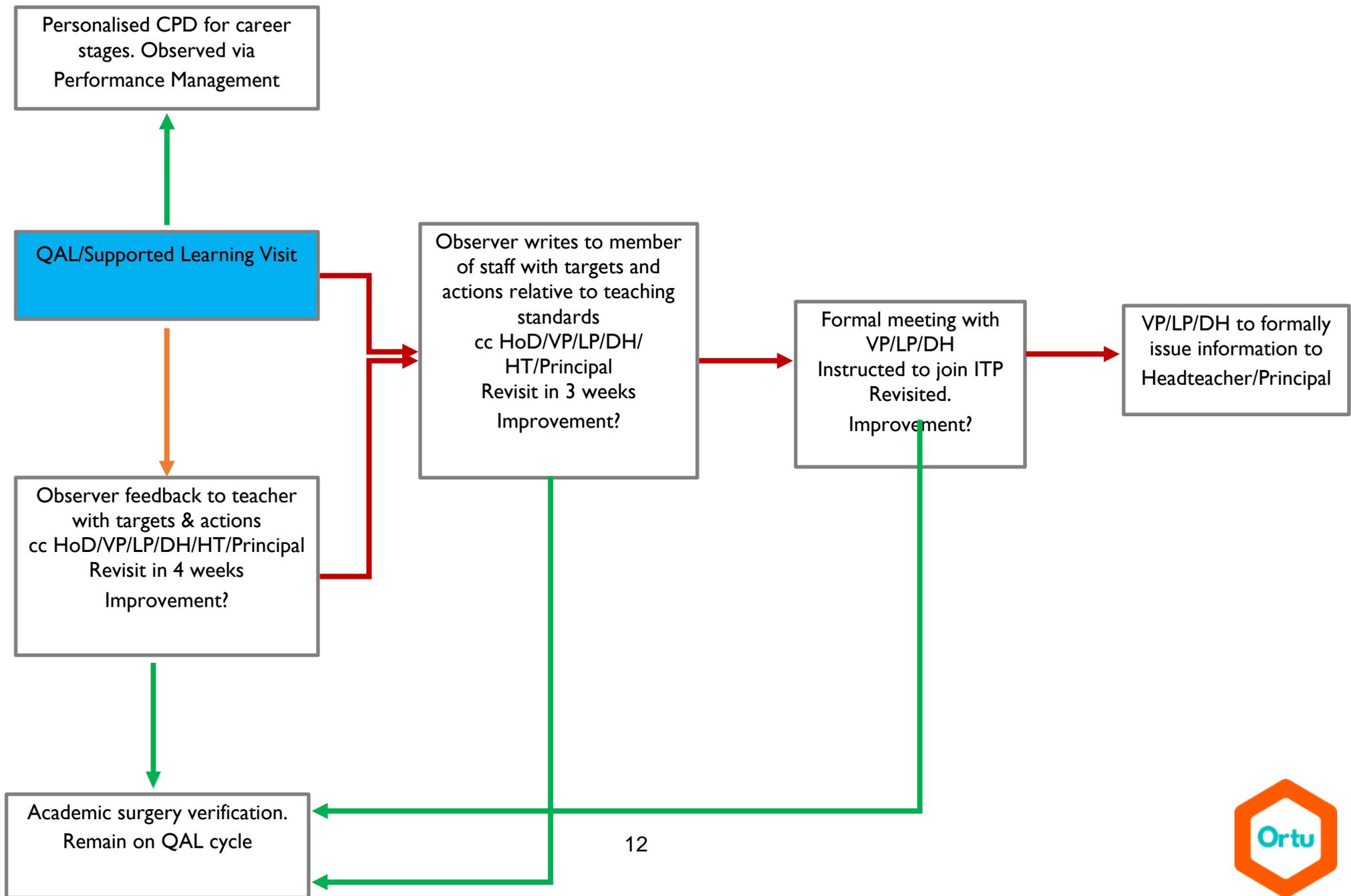
- Give clear feedback to the teacher about the nature and seriousness of the concerns
- Give the teacher the opportunity to comment and discuss the concerns
- Set clear objectives for required improvement
- Agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns
- Make clear how, and by when, the appraiser will review progress (it may be appropriate to revise objectives, and it will be necessary to allow sufficient time for improvement).

When progress is reviewed, if the appraiser is satisfied that the teacher has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.

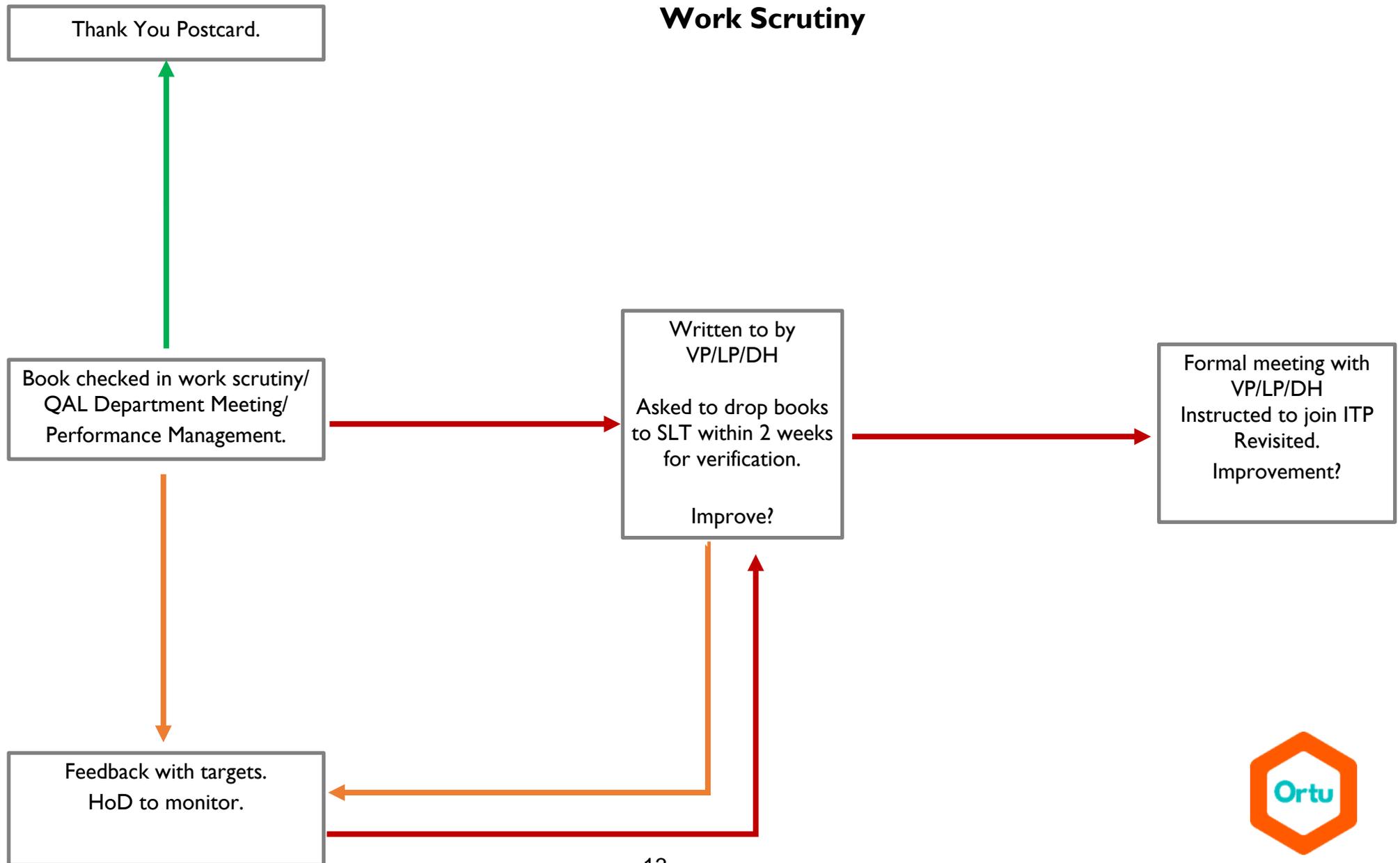
Support will include but is not limited to:

- A designated coach within the school to provide bespoke guidance on development points;
- Access to recommended CPD to support with achieving development targets
- Release time to observe best practice within the school or trust
- Formal support of this nature expected to last a minimum of 6 weeks but no longer than a term
- Where it is deemed that the support provided is **not** having a demonstrable effect on the ability of the teacher concerned to meet the Teaching Standards, then formal targets will be set over a 4-week period, by the appraiser using the Ortu Performance Improvement Plan
- When setting these targets the appraiser will explain the implications of the process and if no, or insufficient, improvement is made, the potential move to formal capability.

Transition to capability If a teacher demonstrates serious underperformance, and has not responded to support provided within the appraisal process, the teacher will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. At this point the Headteacher / Principal and CEO of the Ortu Trust will then be involved.



Work Scrutiny



Appendix C – Toolkit (Forms and letters to support this policy)

Capability Concerns Checklist

Questions before deciding to commence monitoring period or formal capability process

Name of individual.....

Check that the Governing Body has adopted a capability procedure	
Why do I think there are concerns about this individual's performance? <i>(e.g. pupils not making progress, inadequate planning, deadlines missed, work not meeting required standard , tasks not completed)</i>	
What evidence do I have to support my concerns? <i>(e.g observations, feedback, witnesses, complaints etc.)</i>	
What precisely are the concerns? <i>(can I clearly articulate these?)</i>	
Has the individual been told what the concerns are? <i>(when?/how?)</i>	
Has the individual been told what is required in order to improve performance?	
What support has been offered to the individual and has this been carried out ?	
Are there written records of any previous discussions?	
How long is it since the individual was first informed about the concerns?	
Have there/are there improvements being seen?	
Should a monitoring period be started as part of the performance management process or are concerns sufficiently serious to proceed straight to the formal capability procedure? <i>(Speak with HR)</i>	

Capability Procedure checklist

			Resources	Timescales	
1	Concerns identified	Collate evidence	Capability concerns checklist	Date	
2	Meeting to discuss	Meeting under performance management process	Model Letter A – initial meeting invite	Date of letter	
		<ul style="list-style-type: none"> nature and seriousness of the concerns; confirm any previous discussions/ support employee opportunity to comment and discuss concerns 		Date of meeting	
3	Very serious concerns?	Proceed to 7.			
4	Monitoring period	Usually between 4 and 8 working weeks <ul style="list-style-type: none"> agree any support; how, and by whom, progress will be monitored when it will be reviewed; consequences and process if no, or insufficient, improvement is made. 	Target pro-forma	Review date	
5	Confirm in writing	Contents as 2 and 4 above	Model Letter B – confirmation of start of monitoring period	Date of letter	
6	Review Meeting	Confirm Progress	Model Letter C – monitoring review meeting invite	Date of meeting	
6a	Sufficient progress	Procedure ceases	Model Letter D – monitoring period review outcome	Date	
		Confirm in writing		Date of letter	
6b	Insufficient progress	Letter of invite to formal meeting		Date of letter	
7	Formal meeting	Present evidence. Consider employee’s response,	Model Letter E – formal meeting invite	Date of meeting	
7a	No further action	Procedure ceases	Model Letter F – written confirmation	Date of letter	
7b	Written Warning	<ul style="list-style-type: none"> Suspend PM process. Any pay progression due at the next pay review is likely to be withheld. Right of appeal (warnings only). Set formal monitoring period (repeat 4)	Model Letter G – formal meeting outcome warning issued	Date of letter	
7c	Final Written Warning				
7d	Final Written Warning				
	<i>Review</i>			<i>Review after stated period (see 6)</i>	

7e	Dismissal Following previous warnings)	Confirm in writing <ul style="list-style-type: none"> • issue notice; • suspend pending appeal; • right of appeal. 	Model Letter H- formal meeting outcome dismissal	Date of letter	
8.	Appeal	Appeal Hearing	Model Letter I- Invitation to Appeal Hearing	Date of hearing	
		Confirm outcome in writing	Model Letter J- Outcome of Appeal hearing	Date of letter	

Model Letter A

Invite to initial meeting to discuss performance concerns under (Performance Management Procedure)

Dear

Following our recent conversation on **(insert date of conversation)** I am writing to confirm the arrangements for the meeting we discussed at that time.

I would like to meet you at **(insert date and time of meeting)** in **(insert location)**.

The purpose of this meeting is to discuss the concerns I currently have in relation to your performance as **(insert job title)**, particularly in relation to:

- a)
- b)

and to give you an opportunity to respond to those concerns.

At the end of the meeting I will be making a decision as to what should happen next and what further action, if any, should be taken. This may include one or a combination of the following:

- Dropping the matter
- Providing you with additional support/training
- Establish some expectations and a monitoring period
- Inviting you to a formal meeting under the Capability Procedure

Yours sincerely

Line Manager / Headteacher / Principal / CEO

Model Letter B

Confirmation of start of Monitoring Period (Performance Management Procedure)

Dear

Performance Monitoring Period

Thank you for meeting me on **[date]** to discuss my concerns about your performance.

As discussed ... **[set out as follows**

- **the specific nature and seriousness (including impact) of the concerns;**
- **details of any previous discussions/support**
- **any comments, explanations etc. made by the employee**
- **the support it was agreed the employee needs, including how and when this will be provided and/or what the employee needs to do to help themselves]**

In view of the extent of my concerns and their impact on the school, I am setting the following targets:

[set clear targets – detailing type and level of performance expected – see target pro-forma]

The Monitoring Period for these targets will run until **[insert date usually 4-8 working weeks]**

[I] will monitor the situation during the period and this will be through **[e.g. lesson observation, checking pieces of work, reviewing documents, speaking to the employee etc]** and we will meet regularly so we can discuss any specific issues should any occur, and give you the opportunity of showing me evidence that you are working towards the targets. May I suggest we meet on **[insert dates/times]**.

We will meet on **[date]** for a review of your progress against the set targets.

While I very much hope that you will be able to meet the expectations set out in this letter, I must inform you that if at the end of the monitoring period, significant progress towards the targets has not been achieved, then I will commence the Capability Procedure and convene a formal meeting which could result in a formal warning.

If you have any queries then please do not hesitate to let me know, or alternatively, if you have not done so already you may wish to speak with your professional association who will be able to offer you support and guidance.

Yours sincerely

Line Manager / Headteacher / Principal / CEO

Model Letter C

Invite to Monitoring Review Meeting (Performance Management Procedure)

Dear

Performance Monitoring Period Review

As you will be aware, the review date for the performance monitoring period which was set at our meeting on **[date]** is on **[date]**.

I am writing to confirm therefore that I would like you to attend a meeting on **(insert date, time, venue)**. The purpose of this meeting is to review your progress against the targets set for the monitoring period.

You should bring with you to the meeting any additional evidence that you wish to be considered, over and above that which we have already discussed during the monitoring period.

You should be aware that following this meeting a decision will be made about whether:

- a) the targets have been met and the process can cease;
- b) there has been insufficient progress and it is necessary to proceed to the formal capability procedure.

Yours sincerely

Line Manager / Headteacher / Principal / CEO

MODEL LETTER D

Monitoring Period Review Meeting Outcome (Performance Management Procedure)

Dear

Performance Monitoring Period Review

Thank you for meeting me on [date] to review your progress against the expectations set out for the performance monitoring period as set out in the letter of [date].

As discussed...

[Set out as follows

- areas where expectations have been fully met; and/or,
- areas where there has been some improvement but some concerns remain; and/or,
- areas where there has insufficient or no improvement.]

[Example format

Target 1 – Outline target - you have fully met expectations in this area.

Target 2 outline target – some progress has been made in that.....

However, further improvement is required in relation to.....(include impact this has and evidence)....

Target 3 - outline target - what had not been achieved and evidence for this – outline the impact this has]

The following support has been provided

[detail support delivered]

[You asked me to consider the following points (add any comments/explanations the employee put forward)]

Taking everything into account...

EITHER

[Where there has been good progress and all expectation have been met – I am pleased to confirm that you have met all of the expectations set and that your overall level of performance is such that the monitoring process will cease with immediate effect. I do of course expect you to maintain this level of performance, and to continue to develop your performance in the future. I should however inform you, that should there be any lapse in performance I will consider moving into the formal Capability Procedure.

OR

[Where reasonable progress made - I have no doubts about the fact that you are working hard to raise your performance to the levels expected and that you have made reasonable progress overall. However, I do have outstanding concerns as set out above. I therefore intend to extend the monitoring period for a maximum of 4 weeks, to [date], at the end of which I would expect to see maintenance of the improvements already made and significant progress in the remaining areas. To assist you (outline ongoing support to be provided). We will meet again on [date] for a review of progress. You must be aware that if these improvements are not evident at the end of this period I will proceed into the formal Capability Procedure.

OR

[Where insufficient or no progress has been made – I was very disappointed that despite the support provided to you, you have failed to make the required improvements as set out above. I therefore intend to proceed to the formal Capability Procedure and I shall write to you shortly to invite you to a formal capability meeting].

If you have any queries then please do not hesitate to let me know, or alternatively, if you have not done so already you may wish to speak with your professional association who will be able to offer you support and guidance.

Yours sincerely

Line Manager / Headteacher / Principal / CEO

Model Letter E

Invite to Formal Capability Meeting (Capability Procedure)

[NB if dismissal is an option the meeting must be conducted by a person empowered to make an initial dismissal decision]

Dear

Following our meeting on **(DATE)** I am writing to confirm that because of the **[continuing and/or [very] serious nature of the]** concerns I have regarding your performance as **(JOB TITLE)** I have decided to convene a Formal Meeting which will take place on....**(DATE)** at...**(VENUE AND TIME)**

The continued concerns I have are in relation to:

(OUTLINE MAIN CONCERNS)

I attach for your reference copies of information and evidence in relation to these concerns.

This meeting initiates the formal stage of the Capability Procedure, a copy of which is attached. You therefore have the right to be accompanied by a representative of your **[union/professional association]** or some other person. For your information **[name]**, my HR advisor will accompany me.

You should be aware that the possible outcomes of the meeting are:

- **[a further monitoring period is required**
- **a written warning**
- **a final written warning**
- **dismissal]**

(Amend as applicable)

You should make every effort to attend this meeting and I should be grateful if you would confirm your attendance by **(DATE)** that you are able to attend and if you wish to be accompanied please also let me know the name and status of your representative. If you wish to submit any documents/information for consideration at the meeting you should do so by the same date.

If you have any queries about the procedure then please do not hesitate to let me know.

Yours sincerely

Line Manager / Headteacher / Principal / CEO

Model Letter F

Outcome of Formal Meeting – Procedure ceases (Capability Procedure)

Dear

Formal Capability Meeting - Outcome

I write to confirm the outcome of the formal meeting held on **(date)** to consider ongoing capability concerns regarding your performance in your role of **(JOB TITLE)**.

Having considered all evidence and your response I have decided that you have reached a satisfactory level of performance when measured against the capability targets and that it will be necessary for you to maintain this level of performance at all times.

Therefore I write to confirm that the capability process will now cease but you should be aware that if your performance at any time in the future falls below the minimum required standards of performance in your role it will be necessary to commence formal capability processes once again.

I am pleased to inform you that it is now possible to revert to managing performance under the School/Academy's Performance Management Policy.

Yours sincerely,

Line Manager / Headteacher / Principal / CEO

Model Letter G

Outcome of Formal Meeting WARNING (Capability Procedure)

Dear

Formal Capability Meeting - Outcome

I write to confirm the outcome of the formal meeting held on **(date)** to consider continuing capability concerns regarding your performance in your role of **(JOB TITLE)**.

Having considered all evidence and your response I have decided that the concerns as outlined in the letter of invitation dated **(DATE)** have been substantiated and therefore you are to be

(EITHER)

1. Issued with a written warning which will remain on file for one year as there remains serious concern about your standard of performance. There will be a formal monitoring period of (XX weeks) which will end on (date) when it is expected that you will have achieved an acceptable level of performance as outlined in the targets you have been working towards to enable you to be removed from the formal capability process.

However, you should be aware that failure to achieve an acceptable level of performance when measured against the capability targets will result in you being issued with either a final written warning or dismissed from your post of (job title) at the school.

Support will be made available to you in the following form (Outline support required/available) and your performance against the targets will be reviewed weekly with (name of manager).

OR

2. Issued with a first and final written warning which will remain on file for one year as there has been insufficient progress following the agreed period of monitoring OR the capability concerns are so serious that the pupils' learning and progress is being severely affected. There will be a formal monitoring period of (XX weeks) which will end on (date) when it is expected that you will have achieved an acceptable level of performance as outlined in the targets you have been working towards to enable you to be removed from the formal capability process.

However, you should be aware that failure to achieve the required level of performance when measured against the capability targets will result in your dismissal from your post of (job title) at the school.

Support will be made available to you in the following form (outline support required/available) and your performance against the targets will be reviewed weekly with (name of manager).

One final point that I should make you aware of is that, as the serious concerns about your performance remain, any pay progression due at the next pay review will be withheld and the performance management procedure is suspended until you have reached a satisfactory level of performance and are removed from the formal capability procedure.

You have the right to appeal against this sanction to the **Headteacher/Governing Body Appeal Committee** and should you wish to exercise this right, you should write to the Headteacher within 5 working days of receipt of this letter, clearly stating the grounds upon which the appeal is made.

Yours sincerely,

Line Manager / Headteacher / Principal / CEO

Model Letter H

**Outcome of Formal Meeting
DISMISSAL
(Capability Procedure)**

Dear

Formal Capability Meeting - Outcome

I write to confirm the outcome of the formal meeting held on **(date)** to consider continuing capability concerns regarding your performance in your role of **(JOB TITLE)**.

Having considered all of the evidence and your response I have determined that

EITHER

there has been no progress following the previous warning and period of further monitoring and support

OR

there has been insufficient progress following the first and final written warning and period of further monitoring and support.

and that you should therefore be dismissed on the grounds of lack of capability.

FOUNDATION AND VOLUNTARY AIDED SCHOOLS ONLY

This letter therefore constitutes your formal notice of dismissal and I can confirm that your last day of service will be.....

COMMUNITY & VOLUNTARY CONTROLLED SCHOOLS ONLY

The Local Authority will now be advised of this decision in order that your formal notice of dismissal may be issued.

Following this decision, you are suspended from duty, with immediate effect until your last day of service.

During your period of suspension you will continue to receive your normal pay. Should you report any incidents of sickness during the period of suspension, your normal contractual sick pay entitlement will then apply, in accordance with the Occupational Sick Pay Scheme (i.e. full/half/no pay, depending on your individual entitlement).

You have the right to appeal against your dismissal to the Governing Body Appeal Committee and should you wish to exercise this right, you should write to the within 5 working days of receipt of this letter, clearly stating the grounds upon which the appeal is made.

Please do not hesitate to contact me if you have any other concerns at the present time.

Yours sincerely

Headteacher / Principal / CEO

Model Letter I

Invitation to Appeal Hearing (Capability Procedure)

Dear

Capability Appeal Hearing

Further to your letter of **(date)** in which you lodged an appeal against the issuing of a **written warning/first and final written warning/your dismissal***(delete as appropriate) I write to inform you that the appeal hearing will take place on **(date)** at **(time)**, at **(venue)**.

A copy of the relevant papers to be considered are enclosed.

You should make all reasonable efforts to attend this appeal hearing and it is your right to be accompanied by a representative of a recognised trade union or a colleague. It is also your right to call witnesses who provide evidence relevant to your specific point of appeal. It is your responsibility to arrange for your representative and witnesses to attend the appeal hearing.

Should you decide to exercise the above rights you should notify the Headteacher at least 3 working days in advance of the appeal hearing of the name and status of your representative and the names of your witnesses together with a brief outline of the evidence they will present.

The appeal hearing will be conducted by the Governing Body Appeals Committee **(names)**. who will be advised by **(name)** from Juniper Education HR .

You may if you wish, submit a written statement either directly or through your representative addressed to the Chair of Governors c/o the school. This must be received at least 3 working days in advance of the appeal hearing.

You should be aware that the Appeals Committee may uphold or reject your appeal. If they reject the appeal, the original decision will stand.

Please contact the Chair of Governors in the first instance regarding any matters relating to this document.

Yours sincerely

Headteacher / Principal / CEO

Model Letter J

Outcome of Appeal Hearing (Capability Procedure)

Dear

CAPABILITY APPEAL HEARING

Thank you for attending the Capability Appeal Hearing held on which considered your appeal against the issuing of a **written warning/first and final written warning/your dismissal***(delete as appropriate)

This letter is to confirm the outcome of that appeal hearing.

Having considered all of the information provided to us the Appeal Committee's decision was to **uphold/reject***(delete as appropriate) your appeal.

A copy of the statement which was agreed by the Appeal Committee and read out to you is attached to this letter.

ATTACH THE STATEMENT WHICH WAS READ OUT AT THE END OF THE HEARING

I must inform you that there is no further right of internal appeal against this decision.

Yours sincerely

Chair of the Appeal Committee

XXX SCHOOL
TARGETS FOR [name]
[post]
[Date]

Target	Actions to be Taken (by employee to achieve target)	Success Criteria (how will we know the target has been achieved)	Evidence (what proof is there that the target has been met)	Support/Resources (self-help and support to be provided by others)	Review Date (date by which objective to be achieved)
1					
2					
3					
4					
5					

The Trust Board will review this policy annually.

END/

This Version: July 2021

Next Review: July 2022

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