

# CAPABILITY POLICY AND PROCEDURE

## Mission Statement

WeST holds a deep-seated belief in education and lifelong learning. Effective collaboration, mutual support and professional challenge will underpin our quest to ensure that all of the children and adults we serve are given every opportunity to fulfil their potential and succeed in life.

Person(s) responsible for updating the policy:	Louise Rowe, HR Business Partner
Dates consulted on:	From: 08/07/2020 To: 11/09/2020
Date Approved:	15 <sup>th</sup> October 2020 (Trust Board)
Date of next review:	15 <sup>th</sup> October 2022 (bi-annually)

## Providing Accessible Formats

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## WeST Policy Suite

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## 1. Delegation of Authority

### **Purpose**

The Trust is committed to ensuring a consistent, fair, and equitable approach in all staffing matters, and will not discriminate either directly or indirectly on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation. In order to achieve this aim, there needs to be a clear delegation of authority throughout the structure of the Trust. Please refer to full table in Appendix 1.

### **Responsibility for Taking Action – Formal Hearing**

**For Capability allegations concerning Secondary School teaching & non-teaching Staff** – it will be the Principal or Director of Secondary School Improvement who will be responsible for the formal hearing of a staffing matter regarding capability.

**For Capability allegations concerning Primary School teaching & non-teaching Staff** – it will be the Head Teacher, or Director of Primary School Improvement who will be responsible for the formal hearing of a staffing matter regarding capability.

**For Capability allegations concerning Core Services Team** – this group covers all staff that work in a non-teaching function directly for the purpose of the overall Trust's operations. The Trust's CEO will be responsible for the formal hearing of any staffing matter involving the Central Services Team.

**For Capability allegations concerning Secondary Principals**– the CEO will be responsible for the formal hearing a staffing matter regarding capability.

**For Capability allegations concerning Primary Headteacher** – the Director of Primary School Improvement will be responsible for the formal hearing of a staffing matter regarding capability.

**For Capability allegations concerning Directors of School Improvement / Director TLI** – the CEO will be responsible for the formal hearing of any staff matter regarding capability.

**For Capability allegations concerning the CEO** – the Trust Board will be responsible for the formal hearing of any staff matter.

For the purpose of this Policy the term **“Responsible Officer”** will refer to Principal, Headteacher, CEO, Director TLI or Director of School Improvement (both Secondary and Primary) as detailed above and in liaison with the panel members and HR team.

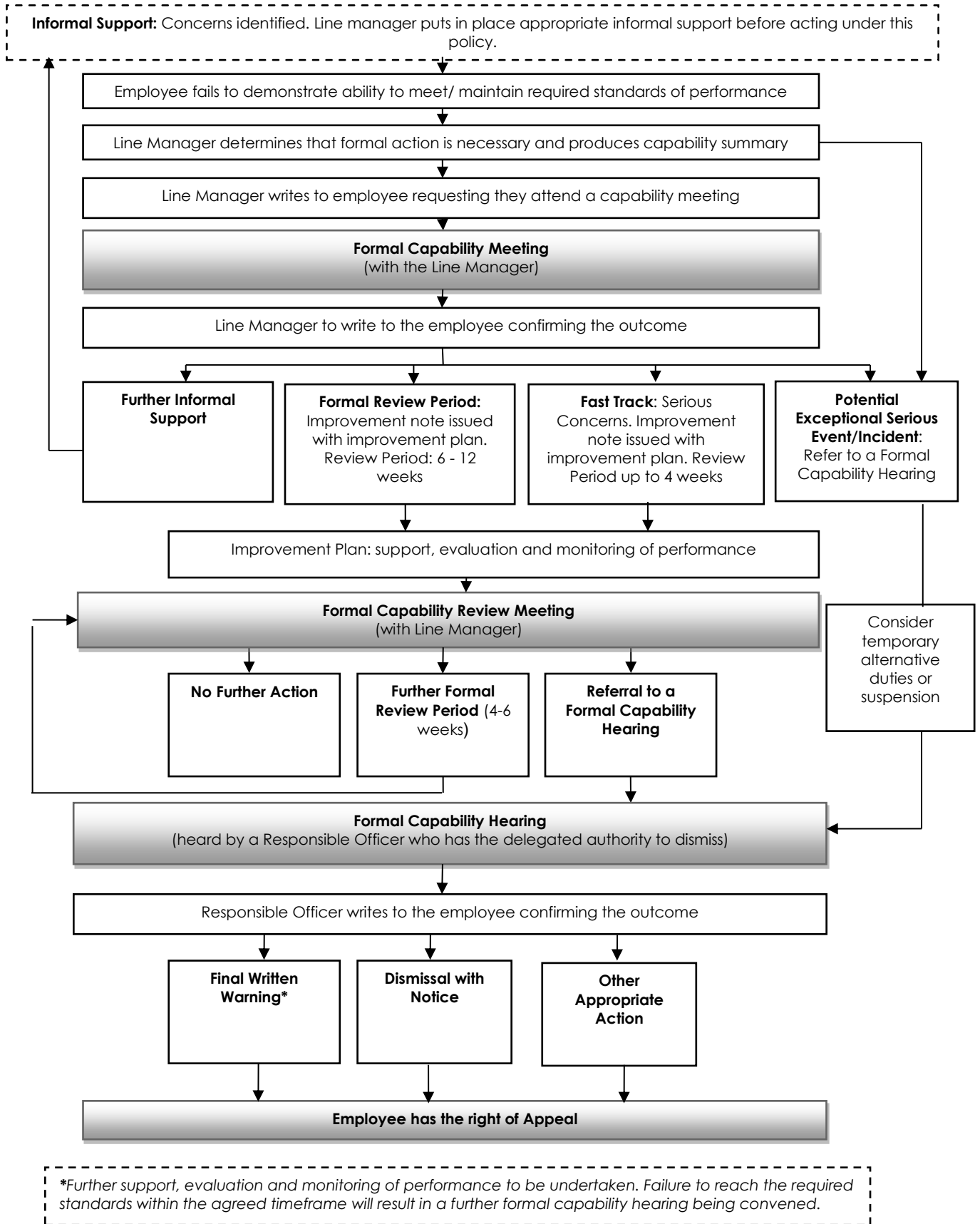
### **Responsibility for the Appeal Stage**

All employees have the right to appeal against a decision made in a range of staffing matters. To ensure transparency and a fair process is maintained, the appeal will be heard by a separate panel to the original hearing. Ideally, the Appeal Committee will

consist of 3 trustees, however, where this is not possible at least two trustees must be present, and the other member will be a school governor from the Trust. Members of the Appeal Committee must not have been involved in the original hearing or investigation or be in any way employed by the Trust.

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## PROCEDURE FLOW CHART



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## POLICY AND PRINCIPLES

### 2. Induction and Purpose

This policy sets out the framework for a clear and consistent assessment of performance and for supporting development of performance within the context of the school's plan for improving educational provision and educational performance.

This policy should be used to address poor performance in a fair, supportive, effective and consistent way. The aim of the policy is to effect sustained improvement in an employee's performance to enable them to meet their contractual obligations.

This policy is based on good practice to ensure a consistent and effective approach. The application of this policy will be fair, equitable, objective and will not discriminate either on any grounds of protected characteristics.

This policy:

- applies to all employees engaged under Westcountry Schools Trust employment except for Newly Qualified Teachers (NQT's) who are managed under the statutory induction processes.
- does not apply to those employed by other organisations, employed under other organisations' terms and conditions of employment which include a contractual capability policy, casual workers or volunteers.

### 3. Definition

Lack of capability is defined as an employee failing to reach or maintain the required standards of performance that their job demands.

Examples of lack of capability include but are not limited to:

- Failing to consistently meet reasonable deadlines for tasks, projects, reports, etc.
- Regularly producing work which is sub-standard, inaccurate, badly presented or poorly organised.
- Failing to carry out key areas of job responsibilities, effectively and consistently.
- Failing to meet the relevant professional standards, e.g. Teachers' Standards.
- Failing to provide effective leadership and management, where applicable.
- Poor practice with regard to child/adult safeguarding.
- Physical factors that are not disability or health related but prevent the employee from undertaking all aspects of their job.

### 4. Determining who will hear the matter

#### 4.1 Formal Capability Meeting

Where there are concerns about an employee's performance and action is to be taken in accordance with this policy, the employee's manager should usually deal with the matter.

The manager will be responsible for arranging the meeting, writing to the employee and arranging for a suitable person to attend to take notes.

#### 4.2 Formal Capability Hearing

Formal capability hearings must be conducted and chaired by those that have delegated authority to dismiss - the Responsible Officer. Please refer to Section 1 and Appendix 1 for additional information on delegated responsibilities. The Responsible Officer will be supported and advised by a panel, as detailed in Appendix 1. The **Responsible Officer** will be responsible for arranging the hearing, writing to the employee and arranging for a suitable person to attend to take notes.

### 5. Timescales

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The timescales detailed in the policy are in accordance with best practice. They must therefore be adhered to unless both parties have mutually agreed to an extension of time. There may be a number of reasons why the time limits specified are too short and an extension may be required. Where an extension to the time limits is agreed, a written record of this decision should be made.

The policy refers to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by ACAS. Any reference to number of weeks is usually considered calendar weeks rather than working weeks. Therefore, in agreeing timescales it should be clarified by the responsible officer if school closure periods are to be included or excluded – this is to reflect the different working patterns and different contractual terms of various roles in the Trust.

### 6. Being Accompanied

Legislation determines that an employee has a statutory right to request to be accompanied at formal hearing meetings. To invoke that right an employee must make a reasonable request to the employer to be accompanied by either:

- a paid official from a recognised trade union/professional association,
- a trade union representative,
- an appropriate work colleague.

Friends/family members are not permitted unless they fall under the above criteria or it is agreed as a reasonable adjustment to support the staff member in accessing the meeting discussions. It would not normally be reasonable for an employee to be accompanied by a work colleague or representative whose personal presence would prejudice the hearing.

The employee is responsible for notifying their chosen representative of the meeting arrangement details. If the chosen representative is not available on the day proposed for the meeting, the employee must contact the line manager leading on the meeting to propose an alternative date within the following five days of the original date proposed.

### 7. Non-Attendance

If an employee fails to attend a meeting or hearing under this policy through circumstances beyond their control, such as certified illness, an alternative time and date may be offered. Alternatively, they may submit a written statement or nominate a representative to attend on their behalf.

Where an employee is persistently unable or unwilling to attend the meeting/hearing, it may proceed in their absence and a decision based on the evidence available will be made.

Where an employee fails to attend a pre-arranged meeting or hearing without good cause, a further meeting opportunity will be arranged. Where an employee fails to attend the further meeting or hearing it may be held in their absence and decisions made on the information available. Where an employee fails to attend persistently this may also lead to action under the disciplinary policy arrangements.

### 8. Informal Support

Where the performance of an employee is giving cause for concern the matter should be explored at the informal support level in the first instance and before progressing to formal support. The informal support provides an opportunity for the line manager to make clear to the employee what the concerns are and what they need to achieve in order to meet the required standards of performance.

The line manager should liaise with the HR team for advice on the application of informal support.

### 8.1 Identifying performance concerns

Inherent in the role of all managers is the responsibility to monitor the performance of employees and to regularly discuss with them their standards of work. It is particularly important that any failure to achieve a required standard of performance is discussed with the employee at the earliest opportunity.

There may be many reasons for less than satisfactory performance, for example, lack of ability, poor training, inadequate instruction/supervision, low motivation, problems at work, difficulties outside work or matters relating to ill-health. The first step in attempting to improve performance is therefore to identify reasons for, or causes of, the problem, and then to consider what positive support can be provided (training, counselling or occupational health advice, for example).

Ofsted does not award a grade for the quality of teaching for any individual lessons visited and it does not grade individual lessons. Feedback provided as a result of inspection can only be used to inform the wider performance and practice of the areas referenced in the report.

Initial discussions between the line manager and employee should take place in a supportive and constructive atmosphere. Discussions should be regarded as part of the normal working routine, with the specific aim of identifying ways in which the employee can be encouraged and helped to improve performance. Discussions should provide an opportunity:

- a) For the line manager to clearly identify and illustrate the perceived areas of concern.
- b) For the employee to respond in an informal way.
- c) To discuss any difficulties which may be preventing satisfactory performance.
- d) To discuss and agree the level of support which will be provided during the period of support and monitoring.
- e) To agree a reasonable timescale for the informal support and monitoring and date for review. The reasonable timescale of support and monitoring needs to be enough time to allow the employee to demonstrate sustained improvements before the planned review date.

Following the initial discussion, the line manager should write to the employee confirming the following details and usually within 5 working days:

- a) The specific issues which need to be addressed in order to achieve improvement in performance.
- b) Details of any programme of support to be provided.
- c) The timescale over which an improvement in performance is to be achieved.

At the end of the period of monitoring the manager should arrange to meet with the employee in order to informally discuss the extent to which work performance has improved. If the manager is satisfied that the required improvement has been achieved and is sustainable, the employee will be encouraged to maintain the improvement, and no further action will be taken. A brief written record of this meeting should be kept and a copy shared with the employee.

Where initial discussions and any agreed action fail to achieve sufficient progress or improvement in performance, the manager should discuss with the employee proposals for taking further supportive action to obtain and sustain the required standards. This may involve a further period of informal support and monitoring for a reasonable time period in order to demonstrate sustained improvement.



## 8.2 Support Mechanisms

The provision of appropriate support for employees is an essential part of the process to improve work performance and is relevant to both informal and formal capability procedures.

The following range of measures could be explored, and an agreement reached as to which are the most suitable to form part of the planned programme of support:

- a) Appointment of an agreed confidential mentor for the purposes of providing advice and guidance to the employee.
- b) Observation of good practice amongst colleagues both at the employee's own school, and at other schools or workplaces.
- c) Involvement of an external representative, other than the person monitoring the employee's performance.
- d) Provision of additional resources.
- e) Modified workload or timetable for a specific period.
- f) Additional training (on the job and off the job).
- g) Temporary suspension of additional responsibilities without loss of remuneration.

## 8.3 Next steps

Where there are concerns about an employee's performance following a reasonable period (usually 6-12 weeks) of informal support, the manager should put the ongoing concerns in writing and advise the employee that the formal stages of this policy are to be applied.

If the poor performance is thought to be health or disability related, medical advice should be sought through Occupational Health before any formal action is taken.

## PROCEDURE

### 9. Capability Summary

Where an employee has failed to demonstrate that they are able to meet the required standards of performance, following a period of informal support, the manager should produce a capability summary report outlining the unsatisfactory performance and the support/adjustments that have been put in place to assist the employee to date. The report will provide a summary of the key areas of consideration which have been explored at the informal support stage / appraisal stage and thus there will be no surprises to the employee.

The capability summary report will contain sufficient information about the concerns about performance and their possible consequences to enable the individual to prepare to answer the case at the formal capability meeting.

### 10. Formal Capability Meeting

Where formal action is necessary, the manager will write to the employee advising them of the concerns and informing them that they are required to attend a formal capability meeting. The letter should confirm the details of the formal meeting (date, time, venue, who will be in attendance etc.), the possible outcomes of the meeting, the employee's right to be accompanied, the timescale for them to submit any documentation to be considered and that the meeting may take place in the employee's absence if they fail to attend without providing a satisfactory reason. A copy of the capability summary and a copy of this policy should also be sent to the employee. The employee will be given at least 5 days' notice, in writing, of the meeting.

At the meeting, the manager must:

- Confirm specifically where the employee's performance is not meeting the required standards and outline what these are;

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- confirm what support has been put in place to assist the employee and explore any further options which may support them;
- give the employee the opportunity to respond and advise of any issues preventing them from meeting the required standards, including any mitigating factors, this may provide new information or a different context to the information/evidence already collected;
- carefully consider the employee's response.

The manager should consider all the information and come to a decision regarding the most appropriate course of action. Where an Improvement Plan is required, there should be a review period set of between 6 -12 weeks. In cases where there are serious concerns, the review period can be for a fast track period of up to 4 weeks. In determining the duration of the review period, the manager should ensure there is enough time to allow the employee to demonstrate sustained improvements before the planned review date.

Following the meeting, the manager will write to the employee within 5 days to:

- provide a summary of the meeting discussions and considerations,
- confirm that further support is required but that this will be at the informal level, or
- issue an improvement note to inform the employee that if they fail to meet the required standards within the review period, this may result in a referral to a capability hearing, at which a determination may be made regarding their continued employment, and;
- attach a copy of the Improvement Plan and confirm a date for the review meeting (details of the review meeting are specified in Section 14) or;
- in very exceptional cases, of a potentially exceptional serious event/incident, confirm that the matter is being directly referred to a capability hearing, at which a decision will be made regarding their continued employment.

### 11. Improvement Plan

The improvement plan should give clear guidance on the improved standard of performance needed to ensure that the individual can be removed from formal capability procedures (*this may include the setting of new or redefined objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made*).

Where an improvement plan is required following a capability meeting, managers should ensure that it includes SMART objectives. The proposed improvement plan and objective should then be shared with the staff member to review with their workplace colleague or trade union representative. Details of any support, guidance and training being put in place to assist the employee should also be recorded, together with relevant timescales.

The improvement plan should detail any specific professional standard areas which are not currently being met (e.g. teaching standards) and what support will be provided to achieve sustained improvement in these areas.

### 12. Fast Track Review Period

Where there are serious concerns about an employee's performance, this should be clearly evidenced within the capability summary and consideration given to a review period not exceeding 4 weeks.

### 13. Potential Exceptional Serious Event/Incident

In exceptional circumstances, cases may arise in which the inadequacy of the employee's performance is potentially so seriously lacking that the situation is considered to be an exceptional serious event/incident. In such cases, the matter may be referred directly to a capability hearing.

### 14. Formal Capability Review Meeting

Where a review period applies, the manager will meet with the employee to formally review their performance against the improvement plan in accordance with the agreed timeframe.

Following the Formal Capability Meeting (detailed in Section 10) the manager will have written to the employee advising them of the concerns and informing them that they are required to attend a formal capability review meeting. The letter should confirm the details of the formal capability review meeting (date, time, venue, who will be in attendance etc.), the possible outcomes of the meeting, the employee's right to be accompanied, the timescale for them to submit any documentation to be considered and that the meeting may take place in the employee's absence if they fail to attend without providing a satisfactory reason. An updated copy of the capability summary should also be sent to the employee.

The outcomes available are:

- No further action required as performance has improved to the required standards and there is evidence that the employee is likely to sustain this. The employee should be informed that if similar concerns arise within the next 12 months a further informal capability support plan will be convened.
- A further Formal Review Period is required, for a period of 4-6 weeks, (unless there are exceptional circumstances where this would not be possible) which will be followed by a further capability review meeting.
- The matter will be referred to a Capability Hearing as there has been insufficient improvement.

The manager will write to the employee within 5 days of the review meeting to confirm the outcome and provide a summary of the meeting discussions / considerations.

### 15. Formal Capability Hearing

Where an employee is required to attend a capability hearing, the Responsible Officer will notify the employee in writing giving at least 5 days' notice of the hearing. The letter should confirm the details of the formal hearing (date, time, venue, who will be in attendance etc.), the possible outcomes of the hearing, the employee's right to request to be accompanied, the timescale for the employee to submit any documentation to be considered and that the hearing may take place in the employee's absence if they fail to attend without providing a satisfactory reason.

An updated copy of the capability summary outlining the unsatisfactory performance and the actions taken to try and secure performance improvement must be sent to the employee with the letter.

At the hearing, the employee will be given the opportunity to respond to the performance issues outlined in the capability summary and to present their case. The Responsible Officer will then adjourn the hearing to make their decision.

The outcomes available are:

- where the employee is found to be performing unsatisfactorily, to issue a written warning letter outlining the shortcomings in performance, the improvement required and the timescale for achievement. The employee should be informed of who will undertake the monitoring, the review date and details of any support, including training that will be provided. The employee should be informed that failure to improve within the timeframe set would normally result in convening a further capability hearing which could lead to dismissal. A written warning will usually remain active for 12 months.

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- where the inadequacy of the employee's performance is sufficiently serious to warrant issuing Dismissal with Notice as they are incapable of performing the job for which they have been employed. Where the decision is taken to dismiss the employee, the Responsible Officer should ensure all relevant information has been considered and this is a proportionate/reasonable response.
- Other appropriate action to secure performance improvement.

The Responsible Officer will reconvene the hearing and confirm their decision verbally, unless valid reasons exist not to do so and will then write to the employee within 5 days to confirm their decision.

If the decision is to dismiss the employee, the appropriate period of notice should be issued in accordance with the employee's contract of employment. Where dismissal is the outcome, the employee must be informed of their right of appeal.

Where dismissal is the outcome, consideration should be given to assisting the employee in seeking suitable alternative employment within the boundaries of their capabilities within the Trust during their notice period.

### 16. Appeal

If an employee wishes to appeal against the decision from the capability hearing, they must do so in writing, stating the grounds for their appeal, within 5 days of receiving the written outcome.

An employee may appeal on the following grounds:

- the sanction given was too harsh given the circumstances
- the procedure was not fairly or correctly applied
- new information has come to light that would directly affect the decision made at the capability hearing.

The appeal should be sent to the Clerk to Trustees for all employees. The Clerk to Trustees will then arrange for an appeal to take place. The Appeal Committee (see section 2) will be convened to hear the appeal.

The appeal should be heard without unreasonable delay. A minimum of 5 days' notice will be given to allow for preparation.

The outcome of an appeal hearing may be:

- to refer the matter back to the Responsible Officer if significant new information/evidence is provided, which was not available previously, and may change the original decision
- conclude a procedural irregularity occurred and determine whether this had an impact on the decision-making process and outcome. If so, decide an appropriate sanction and make a recommendation to rectify the situation
- uphold the appeal and determine an alternative sanction/appropriate course of action
- reject the appeal and confirm that the original decision stands.

The decision will be given verbally to all parties at the end of the appeal hearing unless a valid reason exists not to do so, and it will be confirmed in writing to the employee within 5 days.

An appeal is not a re-hearing of all of the facts but to determine if the original decision was reasonable given the circumstances. The process ends with the decision of the Appeal Committee.

## ADDITIONAL INFORMATION

### 17. HR Advice

The HR team can provide advice and support to any line manager, Responsible Officer, governor or trustee involved in the application of this policy at any stage. A representative from the HR team must attend formal meetings/hearings.

### 18. Reporting Obligations

#### 18.1 Professional Bodies

Where there are performance concerns about an employee which could potentially call into question their professional registration the Trust will ensure that it follows the appropriate procedure for reporting concerns to the relevant Registered Body. This will ensure that the body can investigate the individual's ability to carry out their professional duties or take other appropriate action in the circumstances.

In addition, employees are responsible for ensuring that they adhere to the individual reporting requirements of their professional body, where they are subject to formal capability procedures.

#### 18.2 Disclosure and Barring Service (DBS)

The primary role of the Disclosure and Barring Service (DBS) is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

The Safeguarding Vulnerable Groups Act (SVGA) 2006 places a duty on employers of people working with children or vulnerable adults to make a referral to the DBS where an employer has dismissed or removed a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc) because the person has:

- been cautioned or convicted for a relevant offence; or
- engaged in relevant conduct in relation to children and/or vulnerable adults, i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm; or
- satisfied the Harm Test in relation to children and/or vulnerable adults i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists.

The referral will enable the DBS to consider whether or not the individual should be barred from working with children and/or vulnerable adults and should be made as soon as possible after an employee has been dismissed or removed from working with children or vulnerable adults (or would have been if they had not resigned). Further information about making a referral can be found at:

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

#### 18.3 Formal Action against Trade Union/Professional Association Representative

Although the usual performance standards must apply to trade union/professional association representatives, no formal action within this policy will be taken against an employee who is an accredited representative, nor will suspension normally be applied, until the circumstances of the case have been discussed with a paid official nominated for such purposes by the trade union/professional association concerned. Before raising such matters with a paid official consent of the employee who is acting as a representative will be sought.

### 19. Suspension and Other Alternative Arrangements

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In cases of serious or exceptional incompetence, the manager will determine whether it is necessary to temporarily remove some of the employee's duties, or whether an individual with delegated authority to dismiss should consider if suspension from duty is necessary. This may be necessary where there is a potential risk to children or vulnerable adults; to the political, financial and/or legal reputation of the service; to the service provision, and/or because of a need to protect all parties, including the employee.

Suspension will be on normal pay, should be as brief as possible and kept under review. The reasons for the suspension must be stated clearly to the employee and confirmed in writing. Where an employee has been suspended, this can only be retracted by the Responsible Officer (with delegated authority to dismiss).

In certain circumstances, where an appropriate Responsible Officer is not available to make a decision regarding suspension, or where it is necessary to gather further information regarding an employee's performance, it may be necessary for the immediate line manager to send an employee home. In such circumstances a decision about whether or not to suspend should then be made by an appropriate senior manager as soon as possible.

### **20. Raising a Grievance during the Application of this Policy**

If an employee is currently being managed under this policy and has a complaint related to either the person applying it and/or its application, the employee must raise a complaint under this policy which will be investigated. The matter should be raised with the line managers' manager who will have had no prior involvement in the capability procedure. It may be necessary to suspend the application of the policy while the complaint is being looked into. Any delay to the application of this policy to deal with an employee's complaint should not exceed 10 days.

If an employee has an unrelated concern, problem or complaint, then the employee should use the Grievance Policy. As the matter is unrelated, there will be no need to put any process currently being applied on hold as the complaint can be dealt with in parallel.

### **21. Confidentiality**

Any parties affected by or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy. Failure to maintain confidentiality may result in action being taken under the Disciplinary Policy.

Disclosure of information may also be a breach of the Data Protection Act (2018) and may lead to action being taken under the provisions of that Act, in addition to actions being taken under the Disciplinary Policy.

### **22. Recording of Information**

A written record must be made of all meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made (usually within 5 working days).

The Responsible Officer or their delegate will ensure there is a full and comprehensive file of the process which should include all statements, records and evidence referred to in the rationalising of the decision outcome. At the end of the process the file should be passed to the Human Resources Department who will ensure that it is stored confidentially, in accordance with the Data Protection Act (2018) on the personnel file.

### **23. Support for Employees**

Employees are encouraged to seek support from their trade union/professional association in the first instance. Procedural guidance relating to this policy is available from the HR Department.

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Where a referral to Occupational Health or the counselling service is necessary, this should be made by the employee's line manager and with the employee's consent.

### **24. Issuing/Retracting Notice of Dismissal**

Where a decision to dismiss an employee is taken under this policy the Responsible Officer will issue notice of dismissal.

Where an appeal against dismissal is upheld, the notice issued to the employee will be retracted and the employee will be reinstated. The Chair of the Trust Board will retract the notice.

### **25. Employment References**

Where a teacher leaves employment within two years of being managed under this policy, managers providing references to prospective employers must communicate the duration in which the teacher was managed under formal capability and the outcome.

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### APPENDIX 1 - Delegated Responsibilities

In line with School Staffing (England) Regulations 2009, the Trust must determine who has delegated responsibility for Hearings, which may lead to dismissal, as part of this policy – see table 1.

Action	Capability Allegations concerning...				
	Core Services Team Staff	Primary School Support Staff / Teachers	Secondary School Support Staff / Teachers / TLI staff	Directors of School Improvement / Director TLI	CEO
Responsibility to Dismiss	CEO of Trust	Headteacher / Director of Primary School Improvement	Principal / Director of Secondary School Improvement / Director of TLI	CEO	Chair of Trust Board (Trust Board)
Capability Hearing Panel (to support and advise)	CEO + 2 Trustees	Headteacher / Director of Primary School Improvement + 1xGovernors + 1xTrustee	Principal / Director of Secondary School Improvement / Director of TLI + 1xGovernors + 1xTrustee	CEO + 2xTrustees	Chair of Trust Board + 1xTrust Board member + 1xTrustee
Appeal Committee	Ideally 3 x Trustees Minimum 2 Trustees with 1 Governor (not part of the original investigation and hearing or in any way employed by the Trust)			3 x Trustees	3 x Trustees

Table 1 – Delegated Responsibilities

The Trust reserves the right in exceptional circumstances to vary the composition of the panel in order to ensure that panel meetings proceed without undue delay. In these circumstances the Trust will ensure that the panel maintains appropriate standards of separation and confidentiality.



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## APPENDIX 2 – Guidance notes for employees

These notes are intended to assist employees who are participating in performance management processes. The following questions and answers provide a useful summary of the main issues commonly raised about the capability process.

### 1. What is the purpose of the procedure?

To support you so that you become capable of performing all aspects of your job to the current standards required by the Trust.

### 2. What is wrong with my performance?

It will be explained to you where your performance is falling short of the expected standard, and what is required. You may have already discussed at line management meetings or appraisal reviews, the key areas however further details of the specific areas of development will be provided. It may be an area of your job for which you have already identified difficulties in undertaking successfully or it may be that you have been unaware that you have not been achieving the standard required. You will have the opportunity to ask questions to ensure that you understand what is required.

### 3. I work hard and always do my best - what more can I do?

It is not being suggested that you are not committed to doing a good job. However, your line manager will want to discuss the way you do your work and provide guidance on how you can become more effective.

### 4. What responsibility does my Headteacher/Principal have in this?

Your Headteacher/Principal is accountable for ensuring staff perform their work to the standards required in the School. She/he has a duty to draw your attention to any areas of your work where improvement is required. She/he equally has a responsibility to arrange the support which can reasonably be provided to you to enable you to improve your work. This may be in direct discussions or through the support of your line manager dependant on the reporting structure of your unit.

### 5. What will I have to do?

The chances of a successful outcome to the procedure will be highest if you:

- listen carefully to the feedback offered;
- ask questions to check your understanding of what is being said and required;
- take full advantage of support offered;

Explain to your line manager any difficulties you are finding in doing what is required and, if possible, make your own suggestions about what would help you to improve.

### 6. What is meant by "support"?

Depending on the aspect of performance being worked on, it can take many forms. Some examples are:

- counselling/mentoring
- review of commitments and responsibilities
- availability of suitable materials/resources
- attendance at off the job training sessions
- opportunities to see good practice across the Trust.

### 7. How will I know how I am doing?

Your line manager will make arrangements for your work to be monitored and will discuss with you who will do the monitoring and how it will be done. You will be given a period of time during which to improve your performance (with support) and will know in advance the date when you will meet again to review your progress.

## **Westcountry Schools Trust (WeST)**

### **8. Who will know about this?**

The application of the procedure to you will be a confidential matter between you and your line manager. There may be arrangements for other staff to give you guidance or mentoring but they will not be given confidential information exchanged between you and your line manager. Dependant on the nature of performance concerns the Headteacher/Principal will be appraised of the matter as part of their responsibilities in overseeing the unit.

### **9. I am worried/embarrassed about this. Does it mean my career is ruined?**

It is natural to feel concerned and uncomfortable when performance is criticised. But most jobs today are demanding, and requirements may change over time. Therefore, it is not uncommon for employees to experience difficulties at some time. This does not mean that after a period of support you will not go on to become as successful or more successful than you have previously been in your working life.

### **10. Who can I talk to about this?**

You may wish to talk to your professional association or trade union, who will have experience of the operation of this type of procedure. In the meetings you may be accompanied by a trade union representative or other representative of your choice at any of the review discussions with your manager.

You will also have access to a confidential mentor to discuss support and professional development.

### **11. How will I know when I am no longer subject to this procedure?**

Your line manager will confirm to you when your performance meets the required standard and the procedure is being suspended or withdrawn. If your line manager considers that you are performing satisfactorily but needs to see evidence that you can maintain this, they may in the first instance suspend the procedure for a period of time before withdrawing completely however this will be in accordance with the relevant policy stages.

## Westcountry Schools Trust (WeST)

### POLICY HISTORY

Policy Date	Summary of change	Contact	Version/ Implementat ion Date	Review Date
27 November 2013	New Policy Date of consultation with recognised Trade Unions – November 2012 and September 2013	HR ONE	27 November 2013	
25-04-14	Replaced reference to Counselling with Employee Assistance Programme and contact details. Formal Review Meeting changed to Formal Capability Review Meeting within flowchart (in line with Policy). Reference to contents of letter added to para.14.	HR ONE	25.04.2014	
May 2017	Policy updated in line with MAT's delegation of authority and Delegated Responsibilities. Policy updated with new MAT name	WeST - HR	TBC	
September 2017	Updated delegation and publication date	WeST - HR	September 2017	Biannually
October 2020	Full policy review. Ratification at Trust Board following full consultation.	WeST HR	15 October 2020	Bi- Annually