Avenue
CENTRE FOR EDUCATION

CAPABILITY PROCEDURE FOR SUPPORT STAFF

2026 - 2027

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Capability for Support Staff in Schools

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The governing body of Avenue Centre for Education adopted this policy on 15th October 2026

It will review it annually or sooner if LBC apply any updates to the policy.

1. Purpose

1.1 This policy sets out the arrangements that will apply in serious cases where there have been persistent failures to meet job expectations, resulting in negative consequences on pupils and the school. This procedure applies to support staff where there is a capability issue that the appraisal process, including any informal support arrangements, have been unable to address.

1.2 Expectations and standards of performance should be agreed at the earliest opportunity. Where a minor problem in performance first occurs, it should be the normal practice for the reviewer to support the employee in e matter by counselling, advice, guidance, training and example. It is not intended that the capability procedure should replace this normal interchange between the employee and reviewer in the day to day running of a school or department.

2. Formal Capability meeting

2.1 Where concerns continue, following the informal capability process set out within the appraisal policy, the employee will be invited to a formal capability meeting. Notification of a formal capability meeting should never come as a surprise to the employee concerned. Informal support and an improvement plan via the appraisal policy should ensure that the employee is fully aware of the concerns being raised. The employee will be given at least five working days' notice of the meeting. An invite template letter can be found at appendix 1. The letter will contain sufficient information about the concerns regarding the employee's performance and the possible consequences, to enable the employee to prepare to answer the case at a formal capability meeting. Employees are entitled to reasonably request an alternative date where they, or their chosen companion as set out below, are unable to attend the original date proposed.

2.2 An HR adviser should be present to advise the headteacher at the meeting. Please contact the HR team in to ensure their availability for the meeting.

2.3 The meeting will be conducted by the headteacher, or by the nominated governor (for employee capability meetings). The employee may be accompanied by an HR representative. The employee may wish to be accompanied by a companion. The chosen companion can be one of the following only:

- a work colleague
- a trade union representative

2.4 During the meeting, the person conducting the meeting will ask the employee's appraiser/reviewer to:

- detail the serious concerns that the appraisal process has been unable to address
- identify the professional shortcomings, for example which of the standards expected of employees are not being met

2.5 The employee will then be provided with the opportunity to:

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- respond to the concerns raised about their performance, and provide any explanation for the professional shortcomings
- ask any questions

2.6 Both parties will be:

- able to supply evidence that supports their case
- request witnesses attend the meeting, where this is deemed appropriate and/or necessary
- able to ask questions of the other party

2.7 Any evidence or documentation referred to at the meeting should be supplied by the appraiser/reviewer with the letter inviting the employee to the meeting or sent separately as long as the employee receives it at least five working days before the meeting. The employee must supply the evidence they wish to be considered to the person conducting the meeting at least three days before the meeting.

2.8 Potential outcomes of the meeting

At the formal capability meeting the following options are available to the person conducting the meeting:

- may conclude that there are insufficient grounds for pursuing the capability issue and determine that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end.

- may adjourn the meeting, for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

- may conclude that the meeting will continue.

3. During the formal capability meeting

3.1 Where it is determined that the meeting will continue, the person conducting the first formal capability meeting will:

- identify the professional shortcomings of the employee, for example which of the standards expected of employees are not being met

- give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures (this may include the setting of new 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)

- explain any support that will be available to help the employee improve their performance

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- set out the timetable for improvement taking into account the employee's personal circumstances. This may include any medical conditions, working pattern, well-being support needs, or disabilities protected by the Equality Act 2010. The timetable will depend on the circumstances of the individual case but in straightforward cases ~~could be~~

  (insert reasonable time period. It is for the school to fairly determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place)

  Recommended wording:

  will normally be **six to eight working weeks**, excluding school holidays where the employee is not required to work. The precise period will be determined fairly by the school, following discussion with the employee, and will provide sufficient opportunity to demonstrate improvement with appropriate support and any reasonable adjustments in place.

  Progress will be reviewed at the midpoint and at the end of the improvement period. The period may be extended where reasonable and justified, including where progress is being made but further time is needed, agreed support has not been provided, or the employee's working pattern or individual circumstances have limited their opportunity to demonstrate improvement. The timetable, review dates and reasons for any extension will be confirmed in writing.

- explain how performance will be monitored and reviewed.

- Warn the employee formally that failure to improve within the set period could ultimately lead to dismissal. The warning will be confirmed in writing and will remain live for one year.

3.2 At the end of the meeting, all parties will agree a review date and time.

3.3 Notes will be taken of formal meetings and a copy sent to the member of staff.

3.4 The outcome of the formal capability meeting will be confirmed in writing to the employee within five working days. A template letter can be found in appendix 2.

4. Monitoring and review following the first formal capability meeting

4.1 A performance monitoring and review period will follow the first formal capability meeting.

4.2 Where a written warning was issued during the meeting, the monitoring period will normally be for up to six weeks, but it may be agreed in exceptional circumstances that a longer monitoring period is appropriate. In all circumstances the monitoring period will not be less than four weeks or more than 10 weeks (in total).

4.3 Formal monitoring, evaluation, guidance and support will continue during this period. At the end of the review period a formal review meeting will be held, as detailed below.

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5. Formal Review Meeting

5.1 A letter formally inviting the employee to the review meeting will be sent to the employee, giving at least five working days of the meeting. A template letter can be found in appendix 3.

5.2 The letter will provide the employee with the date and time of the meeting, remind the employee of their right to be accompanied by a companion (as defined above).

5.3 Employees are entitled to reasonably request an alternative date where they are unable to attend the original date proposed.

5.4 At the meeting

The person conducting the meeting will ask the employee's appraiser/reviewer to provide an update on progress in relation to the concerns discussed at the first formal capability meeting. Where relevant, the appraiser/reviewer will:

- detail the concerns that the first formal capability review period has been unable to address
- identify the professional shortcomings, *for example which of the standards expected of employees still not being met*

The employee will then be provided with the opportunity to:

- respond to any remaining concerns raised, and provide an explanation for the professional shortcomings

Both parties will be:

- able to supply evidence that supports their case request witnesses attend the meeting, where this may be deemed appropriate and/or necessary able to ask questions of the other party

5.5 If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease, and the appraisal process will re-start. A template letter can be found in appendix 9.

5.6 In other cases:

- If some progress has been made and there is confidence that more is likely, the person conducting the meeting may extend the monitoring and review period. A template letter can be found in appendix 6.
- If no, or insufficient, improvement has been made during the monitoring and review period, the employee will be issued with a final written warning which will set out the areas where performance standards have not been met, targets for improvement, any measures (training and supervision) which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards. A template letter can be found in appendix 4.

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5.7 A decision meeting date will be agreed by all parties at the end of the meeting, and this will be communicated in the outcome letter.

5.8 As before, notes will be taken of formal meetings and a copy sent to the member of staff.

5.9 Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning.

6. Decision meeting

6.1 The employee will be written to, reminding them of the date and time of the meeting, at least five working days before the meeting. A template letter can be found in appendix 5.

6.2 The letter will advise the employee of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

6.3 If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end, and the appraisal process will re-start. A template letter can be found in appendix 6.

6.4 If performance remains unsatisfactory, at the meeting a decision will be made as to whether the final written warning should be extended (where possible or appropriate), or the employee should be dismissed or required to cease working at the school. Redeployment into an alternative role may be considered where appropriate and possible. A template letter can be found in appendix 7.

6.5 The decision meeting will be conducted by the headteacher, who may be advised by a member of the Luton HR Traded Services team. In community schools, the headteacher must be advised by a representative of the Director of Children, Families & Education Services. Within a MAT, the headteacher (or governors) may also be supported by a member of the trust, as per their Scheme of Delegation.

6.6 The employee will be informed in writing within five working days of the meeting, the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

7. Appeal

7.1 If an employee feels that the decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within seven days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken, and a copy sent to the employee. A template invite letter can be found in appendix 8.

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7.2 The appeal will be dealt with impartially and by governors and/ or trustees who have not previously been involved in the case.

7.3 The employee will be informed in writing of the results of the appeal hearing within five working days of the meeting.

7.4 The procedure to be followed at the appeal meeting can be found at appendix 10.

8 Confidentiality

8.1 The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the headteacher and/or the governing board to quality-assure the operation and effectiveness of the appraisal system and capability process.

9 Consistency of Treatment and Fairness

9.1 The governing board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled employees. The governing board is aware of the guidance on the Equality Act 2010 issued by the Department for Education.

10 Grievances

10.1 Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended, where it is deemed appropriate, in order to deal with the grievance. Where the grievance and capability cases are related, including as part of the capability process, it may be appropriate to deal with both issues concurrently.

11 Sickness

11.1 If long term sickness absence appears to have been triggered by the commencement of monitoring performance at any stage of the procedure or a formal capability procedure, the case will be dealt with in accordance with the school's sickness absence policy.

12 Monitoring and Evaluation

12.1 The governing body and headteachers will monitor the operation and effectiveness of the school's capability policy. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

13 Retention

The governing body and headteacher will ensure that all written capability records are retained and stored in a secure place in line with their school's retention arrangements.

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APPENDIX 1

Formal capability invite letter

I write to confirm the outcome of our review meeting. At that meeting we reviewed your progress against the following targets set with reference to the school's standards (*or any other relevant standards).

- (Targets)
-
-

As a result of our meeting I regret that I consider insufficient/no progress has been made in meeting an acceptable level of performance in these areas.

The following areas are still areas of concern:

- (Targets)
-
-

The headteacher will now hold a First Formal Capability meeting with you, as per the school's Capability Procedure.

The headteacher will be advised by **NAME**, HR Adviser**.** The case will be presented by **NAME**, and they will be supported by **NAME**, HR Adviser.

There will also be a note taker to take notes of the hearing as a management record.

The following witnesses will be called:

All evidence that will be relied upon in this meeting is enclosed with this letter or will be sent to you shortly. (DELETE AS APPROPRIATE)

If you wish to submit any relevant documentation in preparation for the meeting, please submit these to me at least three days prior to the meeting so that the documentation can be circulated to all parties.

If you wish to call any relevant witnesses to the meeting, please provide me their name and the reasons why you wish to call them.

You are entitled to be accompanied to the meeting by a trade union representative or work colleague ('a companion'). Should you not be well enough to attend, or able to send representation, then I advise you that your absence record may be considered in your absence and any relevant action taken in accordance with the procedure. Should this be the case, you may submit a written representation to the meeting.

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The meeting will take place on (date), at (time), (venue).

At the meeting the headteacher may conclude that there are insufficient grounds to pursue capability and that the appraisal procedure will apply, adjourn to obtain additional information or issue a formal warning and commence monitoring under the Capability Procedure for Employees.

Please be advised that the outcome of this meeting may be a formal warning that failure to improve in the period set may result in your dismissal.

Please have no hesitation in seeking clarification or further support if you feel this would help.

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APPENDIX 2

WRITTEN WARNING

Further to our meeting on (date), held under the school's Capability Procedure, this letter constitutes a written warning that you are failing to achieve a satisfactory level of performance in your post of (post title).

Your performance was reviewed against the agreed objectives set with reference to school's standards (and /or other applicable standards):

- (Objectives)
-
-

Ongoing support and training was agreed as follows:

- (Support and training)
-
-

Your performance will be reviewed over the next (number) weeks in conjunction with (name of appraiser/reviewer). A Formal Review meeting will be conducted by me on (date) (time) (venue).

This written warning will remain live for one year.

Please sign and return the second copy of this letter to acknowledge receipt. You have the right to appeal against this decision. If you wish to do so you should write to (insert COG details) within 5 working days of the date you receive this letter.

Please have no hesitation in seeking clarification or further support if you feel this would help.

Encl. notes of meeting.

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APPENDIX 3

Invitation to a Formal Review Meeting

I write to request your attendance at a formal review meeting to consider ongoing capability concerns. This meeting is a formal meeting in accordance with the school's Capability Procedure (copy attached/already supplied to you*).

At the meeting the following areas of concern will be discussed:

-
-
-

The headteacher will chair the meeting. They will be advised by **NAME**, HR Adviser**.** The case will be presented by **NAME**, and they will be supported by **NAME**, HR Adviser. There will also be a note taker to take notes of the hearing as a management record.

The following witnesses will be called:

All evidence that will be relied upon in this meeting is enclosed with this letter or will be sent to you shortly. (DELETE AS APPROPRIATE)

If you wish to submit any relevant documentation in preparation for the meeting, please submit these to me at least three days prior to the meeting so that the documentation can be circulated to all parties.

If you wish to call any relevant witnesses to the meeting, please provide me their name and the reasons why you wish to call them.

You are entitled to be accompanied to the meeting by a trade union representative or work colleague ('a companion'). Should you not be well enough to attend, or able to send representation, then I advise you that your absence record may be considered in your absence and any relevant action taken in accordance with the procedure. Should this be the case, you may submit a written representation to the meeting.

The meeting has been arranged to take place at TIME, on DATE, at VENUE. (I shall be accompanied by _____)*. I do hope you are able to attend. Please confirm your attendance and/or representation by DATE.

Please note that an outcome of this meeting may be a final written warning being issued.

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APPENDIX 4

FINAL WRITTEN WARNING

Further to our meeting on (date), held under the school's Capability Procedure, this letter constitutes a final written warning that you are failing to achieve a satisfactory level of performance in your post of (post title).

Your performance was reviewed against the agreed objectives with reference to the school's standards (and /or other applicable standards).

- (Objectives)
-
-

Ongoing support and training was agreed as follows:

- (Support and training)
-
-

Your performance will be reviewed over the next 4 weeks in conjunction with (name of appraiser/reviewer).

There will be a review/decision meeting on (date), at (time), (venue) at which you will be entitled to be accompanied by a professional association/trade union representative or work colleague.

Please be advised that failure to achieve an acceptable standard of performance within the timescale specified may result in dismissal from your post.

This final written warning will remain live for two years.

Please sign and return the second copy of this letter to acknowledge receipt. You have the right to appeal against this decision. If you wish to do so you should write to (insert COG details) within 5 working days of the date you receive this letter.

Please have no hesitation in seeking clarification or further support if you feel this would help.

Encl. Notes of meeting

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APPENDIX 5

Decision Meeting Invite Letter

Further to the formal review meeting on (date) held under the school's Capability Procedure, I write to request your attendance at a Decision Meeting.

The Decision Meeting will take place on (date), at (time), (venue). I will conduct the meeting and will be advised by (name). ((Name), as your appraiser/reviewer will attend.

The following witnesses will be in attendance:

-
-

If you wish to submit evidence to the meeting or call witnesses, please ensure that (name) is in receipt of documentation and names of witnesses 3 days in advance of the meeting.

Your performance will be reviewed against the agreed objectives with reference to the school's standards (and /or other applicable standards).

- (Objectives)
-
-

You are entitled to be accompanied to the meeting by a trade union representative or work colleague ('a companion'). Should you not be well enough to attend, or able to send representation, then I advise you that your absence record may be considered in your absence and any relevant action taken in accordance with the procedure. Should this be the case, you may submit a written representation to the meeting.

You are advised that one of the outcomes available to me is dismissal from your post of (post title).

Please sign and return the second copy of this letter to acknowledge receipt.

Please have no hesitation in seeking clarification or further support if you feel this would help.

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APPENDIX 6

MODEL LETTER - outcome of formal review meeting

EXTENSION OF MONITORING PERIOD

Further to our meeting on (date), held under the school's Capability Procedure, I write to confirm that you have made some progress to improve your performance against the objectives set for you and that you will be subject to a further period of monitoring and review.

Your performance was reviewed against the agreed objectives with reference to the school's standards (and /or other applicable standards).

- (Objectives)
-
-

Ongoing support and training was agreed as follows:

- (Support and training)
-
-

Your performance will be reviewed over the next (number) weeks in conjunction with (name of appraiser/reviewer). A further formal review meeting will be conducted by me on (date) (time) (venue).

Please sign and return the second copy of this letter to acknowledge receipt.

Please have no hesitation in seeking clarification or further support if you feel this would help.

Encl. Notes of meeting

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APPENDIX 7

Private & Confidential
Name
Address

Date

Dear

Outcome of Decision Meeting

I write to confirm the outcome of the decision meeting, held on **DATE**.

The following people attended the meeting

At the meeting the following was considered:

TARGETS SET
TARGETS NOT ACHIEVED
SUPPORT PUT IN PLACE
AREAS STILL REQUIRING DEVELOPMENT

Record what was discussed for each point. Ensure that you record both your views and that of the employee. Ensure that the following is specifically recorded.

I explained that I had listened very carefully to what you and the reviewing manager had to say today but that, given the level of concerns regarding your capability and the steps taken to date to support you to improve your performance at work, I consider that the most appropriate outcome of the hearing is your dismissal with notice from your post as **POST TITLE**.

(Only if dismissed include the following paragraphs)
I have notified the LA of this decision and, in accordance with the School Staffing (England) Regulations 2003 they will advise you formally of this decision, in their role as employer*. *(Not applicable to VA or Foundation Schools).*

You have the right to appeal against this decision. If you wish to do so you should write to _____ (insert the name of the C.of G), the Chair of the Governing Body, at _____ (insert address for C of G) within seven calendar days of the date you received

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this letter. Any appeal should include any and all issues you have in relation to any aspect of the ill health hearing.

Yours sincerely

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APPENDIX 8

Private & Confidential
Name
Address

Date

Dear

Invitation to Appeal Hearing

Further to your letter, registering your appeal against the decision of the hearing panel, I write to advise you that your appeal will be heard on **DATE at TIME at VENUE.**

The Governor Appeal Panel will consist of **Name Surname**, **Name Surname** and **Name Surname**. The Panel will be advised by **NAME**, HR Adviser**.** The management case will be presented by **NAME**, Head employee and they will be supported by **NAME**, HR Adviser. There will also be a note taker to take notes of the hearing as a management record.

You are entitled to be represented at the Appeal Hearing by a Trade Union Representative or work colleague of your choice, but it is your responsibility to make the appropriate arrangements. It is recommended that you contact your representative as soon as possible and advise them of the date and time of the hearing.

A complete set of the documentation to be considered at the Appeal Hearing will be sent to you and to the Panel. If there is any paperwork that you wish to refer to during the course of the Appeal, if you have not already done so, you should ensure it is delivered to the school five working days prior to the Appeal Hearing and marked clearly for the attention of XXXXXX.

If you have any requirements in accordance with The Equality Act, please advise me as soon as possible.

Please confirm that you will be attending by informing XXXXXXX at your earliest convenience.

If you should confirm your attendance and then fail to attend, without reason or for any reason considered unacceptable to the Governors, your appeal will not be heard**.**

If you have any queries on the content of this letter, please contact me.

Yours sincerely

Name
Chair of Board of Governors
(Insert School)

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APPENDIX 9

Private & Confidential
Name
Address

Date

Dear

Record of satisfactory first review/second review

I write to confirm the outcome of the review meeting, held on **DATE**, to consider the capability concerns raised with you at our meeting.

I am pleased to confirm that your performance has improved to a satisfactory level. You will now revert back to being managed through the school's appraisal procedure.

It is, of course, very important that this improvement is sustained. In the event that this should not be the case, then the school's capability procedure will again apply.

It is important to the note that you have a live warning on your file, therefore, if your performance falls below the requirements expected of you in your role of employee, within twelve months of the date of the first formal capability meeting or second formal capability meeting*, a formal meeting under the procedure will be convened. However, I hope this will not be necessary.

May I assure you that, should your capability give you cause for concern, or if there is any reasonable support we can give you at any time then please do not hesitate to speak to me.

Yours sincerely

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APPENDIX 10

THE PROCEDURE TO BE FOLLOWED AT A DECISION MEETING OR AT AN APPEAL MEETING

The meeting will be conducted by the headteacher in the case of a Decision Meeting or by members of the school's appeals committee at an Appeal Meeting.

The person(s) conducting the meeting will invite the appraiser/reviewer or Head employee to present the evidence of serious performance concerns collated by the school.

The appraiser/reviewer or Head employee may call witnesses.

Each party will have the opportunity to question the witnesses.

The person(s) conducting the meeting will invite the employee to respond to the concerns detailed and make any representations that they wish to.

The Employee may call witnesses.

Each party will have the opportunity to question the witnesses.

The person(s) conducting the meeting and their HR Representative will have the opportunity to ask questions of the appraiser/reviewer/Head employee and of the employee.

The person(s) conducting the meeting will invite both parties to sum up and withdraw from the meeting.

The person(s) conducting the meeting will consider the evidence presented and confirm their decision in writing to the employee.

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