Managing Support Staff Capability Policy

01 September 2025

Version Control

Current version	Previous version	Summary of changes made
01 Sep 22	28 Oct 16	Terminology amended. Clarification of right to be accompanied. Wording standardised throughout. Example letters removed. Appeal process inserted. Flowchart standardised.
28 Oct 16	01 Nov 10	Formatting of paragraphs, headings and appendices standardised.

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1 Introduction

1.1 BASE Academy is committed to providing teaching and learning efficiently, effectively and economically to its pupils. Equally, the academy wishes to preserve its reputation as a fair and equitable employer who provides good working conditions where the highest standards of teaching and learning can be achieved and maintained. The academy is mindful of its responsibility to balance the needs of the individual employee with the requirement to deliver high standards of teaching and learning to its pupils.

1.2 The academy recognises that there are occasions where an employee's performance, for whatever reason, fails to meet the standard required. This policy and the associated procedures for handling such issues is designed to provide the employee with the opportunity to understand how and why their performance does not meet the needs of the academy and its pupils, and to encourage the employee to improve their performance.

1.3 The procedure is not intended to exclude other measures, e.g. training and development, which may be considered appropriate for the purpose of encouraging an employee to improve their performance, but it represents a standard approach which provides the employee with opportunities to hear how and why their performance is considered unsatisfactory and to offer any explanation about this which they wish to put forward and the opportunity to remedy the situation with appropriate support.

1.4 The overall objective of the procedure is to provide a framework around which an employee's performance can be improved so that it meets the standards required.

2 Scope and definition

2.1 This procedure is designed to deal with unsatisfactory standards of performance by an employee that it is believed may be due to a lack of the necessary ability, aptitude, knowledge or skills required to do the job.

2.2 It does not deal with sickness absence. It is acknowledged, however, that health problems, particularly those that are stress related, may be identified in the course of the procedure.

2.3 In such cases the Managing Sickness Absence Policy and Workplace Stress Policy should be used and the advice of the academy's HR Adviser or occupational health provider will be sought to try to find the most appropriate individual solution.

2.4 Similarly, matters of misconduct do not fall within the scope of this document and should be dealt with under the Disciplinary and Dismissal Policy. In this respect attitudinal difficulties relate more to conduct and if it should emerge that performance problems are related more to attitude than skills, knowledge, aptitude or health, the matter should be dealt with through the disciplinary procedure.

2.5 It should also be noted that this procedure does not apply to;

- Termination of a fixed term Contract of Employment where the term of that contract expires without being renewed.

- Termination of a temporary appointment where the reason for termination is that the requirement for the employee's service has ceased or diminished, or is expected to cease or diminish.
- Termination during or at the end of a probationary period of service, whether or not extended beyond its originally specified duration.
- Termination of employment by reason of redundancy, whether or not competence and performance are criteria taken into account when selecting for redundancy.
- Resignation by the employee, or other termination by mutual consent.
- Inadequate performance believed to be attributable to a wilful refusal to work satisfactorily, which is liable to be regarded as a matter for action under the Disciplinary and Dismissal Policy.

3 Guiding principles

3.1 This procedure was drawn up having regard to the following guiding principles;

- to encourage a sensitive and constructive approach to capability issues by employees, Head of Schools and Governors
- to ensure capability issues are dealt with effectively and with clear outcomes at all stages
- to involve and recognise the value of the role of the Trade Unions in the operation of this procedure
- to ensure standards of work required are explained so that employees are clear as to what is expected of them
- to try to find solutions to overcome difficulties whilst protecting the shared interests of everyone concerned to sustain standards and quality in teaching and learning to pupils
- to recognise that whilst all reasonable efforts will be made to help improve and retain an individual employee with a capability problem, the academy cannot guarantee to maintain employment where concerns remain.

4 Aim of the policy

4.1 The aim of the policy is to ensure that employees can meet the requirements of the job and perform to the standards expected. This involves making clear what is expected, setting clear identifiable targets, monitoring performance, and providing appropriate training and/or support to achieve the standards.

4.2 Where, despite this support, an employee is still unable to meet the standards required then it may be necessary to terminate their employment.

4.3 The procedure is staged to provide a framework for Head of Schools, Governors and employees to resolve performance difficulties but that does not mean that each stage must apply regardless of the severity of the performance shortfall.

4.4 There may be exceptional cases where the capability problem strikes at the heart of the contract and termination of employment may be the only option if suitable alternative work is not available. There may also be occasions when it becomes clear that the issue

is one of conduct rather than capability which would warrant the matter being dealt with under the academy's Disciplinary and Dismissal Policy.

5 Informal stage of the procedure

5.1 Head of Schools and Governors should, before entering into the stages of the procedure, ensure that School's HR Adviser is aware of the situation.

5.2 When meeting informally with the employee, the Head of School should normally be accompanied, this may be a representative from School's HR or a colleague, in order to ensure a record of the meeting and the outcome is made.

5.3 The Head of School should ensure the employee is given the opportunity to be accompanied at any meeting, either by their Trade Union Representative, or a work colleague.

5.4 If a Head of School is concerned about an employee's standard of performance, the following process should be followed;

i. Wherever possible, it is important to draw the employee's attention to issues as they arise but if this does not appear to be resolving the problem or the matter is more complex, then an initial assessment of the employee's performance should be undertaken, so that the issue can be clearly identified.
ii. The Head of School should then undertake an informal meeting with the employee, highlighting areas where performance is not considered to be satisfactory and giving clear specific examples of problem areas and identifying where improvements are required. Suggestions should be made as to ways in which improvement can be achieved. The Head of School should listen to any explanation or statements made and be prepared to adjourn the meeting, if necessary, to consider any points raised by the employee.
iii. It should be made clear to the employee that meeting about capability concerns is an attempt to understand the reason for and hopefully resolve such concerns
iv. It is important that the meeting encourages the employee to explain anything that may be affecting their performance, e.g. domestic problems, health issues, resource imbalance. If the issue causing concern, relates to a health issue then, if appropriate, the employee should be referred to Occupational Health and medical advice sought.
v. At the end of the meeting, the Head of School should confirm with the employee what has been discussed and agreed in writing. The Head of School should ensure that they have clearly explained the standard of performance required, the training or other support to be made available and confirmed that performance will be monitored over a specified period.

5.5 It is important that accurate notes are kept of the discussion and that the employee is made aware that failure to improve performance could result in the matter being dealt with on a formal basis.

5.6 If the concerns remain, or are of a more serious nature, the Head of School should move to the formal stage of the procedure.

6 Formal stage of the procedure

Stage 1

6.1 Normally, the period given for improvement will be no more than six months after the date of entry into the Formal Procedure (in exceptional circumstances this period could be extended).

6.2 The frequency of review meetings during this period will depend on the circumstances of each case. In extreme cases where poor performance is likely to present a risk to the academy, staff or pupils, then the period given for improvement in performance after the date of a formal warning will be no more than 4 weeks.

6.3 The employee should normally be given notice, of at least 48 hours, of a meeting with the Head of School and be advised of their right to be represented either by their Trade Union Representative, or a work colleague. The employee must notify the academy of the name of the representative in advance of the meeting and whether they are a colleague or trade union representative.

6.4 The Head of School should write to the employee and state the issues that will be discussed at the meeting.

6.5 The Head of School should begin the meeting by outlining the concerns as they see it, remind the employee of the standards required and seek to confirm with the employee's agreement, where possible, that their performance is below the standard expected.

6.6 The Head of School must listen to any reasons given or statements made by the employee and be prepared to adjourn the meeting, if necessary, to consider any points raised. It is important that the employee is given the opportunity to explain anything that may be affecting their performance.

6.7 At the end of the meeting, the Head of School should:

i. Confirm their decision in writing to the employee and any action points made.
ii. Set up a performance improvement plan (see Appendix A) with the employee with a timetable for improvement. It is important that the Head of School monitors performance against the improvement plan on a regular basis in order to:
iii. provide support and guidance to the employee, hopefully to assist them to improve their performance;
iv. to be aware of and document problem areas for further discussion;
v. Should an opinion be needed from Occupational Health, the Head of School should also refer to this in the letter to the employee. It is important that Occupational Health is provided with a thorough and accurate account of the concerns.
vi. Issue **a formal warning** to the employee that their performance is below standard and advise them that failure to improve their performance could ultimately lead to dismissal should they continue to fail to meet the standard required.
vii The employee will have the right to appeal against any Formal Warning issued. This should be done within ten working days of receipt of the letter. Any appeal should be to the Chair of Governors. At appeal, an employee has the right to be accompanied by a Trades Union Representative or colleague.

Stage 2

6.8 If the employee's performance continues to remain below standard, or is seriously below the standard required, the employee should be advised, normally with at least 48 hours' notice that a meeting is to be held to discuss their performance. The concerns to be addressed should be outlined and the employee advised of their right to be represented (as in paragraph 6.3).

6.9 The Head of School should outline the concerns to the employee and remind them of what is required. The Head of School will need to listen to what the employee has to say (as in 5.5, it is important that due account is taken of any medical information which the employee has provided and a referral made to the occupational health provider, if appropriate). The Head of School should be prepared to adjourn the meeting, if necessary, to consider any points raised by the employee.

6.10 At the end of the meeting the Head of School will need to;

- Confirm the discussion to the employee in writing and any action points made;
- Set up a final performance improvement programme (Appendix A) with the employee, with a timetable set for improvement as outlined in (paragraph 6.6 ii.)
- Issue a final warning to the employee explaining what will happen if they continue to fail to meet the standard required.
- The employee will have the right to appeal against any Formal Warning issued. This should be done within ten working days of receipt of the letter. Any appeal should be to the Chair of Governors. At appeal, an employee has the right to be accompanied by a Trades Union Representative or colleague.

Stage 3

6.11 If the employee's performance continues to remain below standard, or is seriously below the standard required, the employee will be advised in writing of arrangements for a Formal Capability Hearing and at least 10 working days' notice will be provided. The notification will include the purpose of the meeting, copies of any supporting documentation and details of any witnesses to be called. The employee will be advised of the right to be accompanied by a Trades Union Representative or colleague.

6.12 The panel for the hearing will consist of;

- Three Governors
- A School's HR Adviser who will be present to advise the panel on process.

6.13 The hearing to be conducted in accordance with procedure outlined in Appendix B.

6.14 The panel considering a capability issue will need to consider;

- An outline of the employee's job role within school, including their date of commencement, job description, and training record.
- The performance standards required of the post holder.
- Reasons why the standards are achievable.
- The reasons for setting the standards.
- Where the employee falls short of performance (with evidence where appropriate).

- Steps that the Head of School has taken to inform the employee of their concerns and support the employee to improve their performance including dates and times of meetings with copies of letters sent and notes of meetings held.
- The Head of School's response to any explanations or statements of the employee.

6.15 The panel may determine that either;

- No further action is taken.
- There is a further opportunity to improve performance, together with any specific recommendations.
- An alternative post is offered within the academy (if one is available and suitable) which may be at a lower level of responsibility and grade and salary.
- Contract of employment be terminated with the required period of notice.

6.16 The decision of the panel will be conveyed in writing within five working days and will include details of the employee's right of appeal.

6.17 Any appeal must be registered in writing to the Chair of Governors within ten working days of receipt of the letter confirming the outcome.

6.18 The appeal hearing will be conducted in accordance with Appendix C and the decision of the panel will be final.

APPENDIX A

Performance improvement plan

To be used by the Head of School and Employee as part of the Managing Support Staff Capability Procedure as a signed record.

*Informal Meeting

*Formal PIP

*Final PIP

*{delete as appropriate}

Person conducting meeting
Name
Position
Department
Accompanied by

Employee Details
Name
Position
Department
Accompanied by

Further information
Date of meeting
Dates of previous discussion(s) regarding performance Please attach any supporting documentation

Specific work issues requiring discussion between Head of School and employee

Areas of concern	Standards required	Agreed action to meet requirements	Timescale for improvements	Support required

Employee's comments
Any other information which should be taken into account regarding employees' performance.

Further information	
Are there any warnings to be given? **FORMAL / FINAL** (delete as appropriate)	
Date of next meeting	
Signed by employee	**Date**
Signed by Head of School	**Date**

Head of School's comments
Reason for issuing formal warning.
cc Employee File Personal File Trade Union Representative

APPENDIX B

Conduct of capability hearings

Governor panel

The panel for the hearing will comprise three Governors (one of whom will act as Chair for the purpose of controlling the proceedings). A representative of School's HR will act as adviser to the governor panel.

The employee may be accompanied by a colleague, Trade Union Representative or may choose to represent themselves.

Conduct of hearings

1. The chair of the panel will introduce those present and explain the purpose of the hearing, including the procedure to be followed. The procedure will allow for short adjournment should either party wish a brief period for deliberation during proceedings.
2. The Head of School will present a statement of the case regarding the reasons for the employee being unable to achieve satisfactory levels of performance. Documentary evidence may be referred to and witnesses called.
3. The employee and representative will have the opportunity to question the Head of School and witnesses.
4. The panel will have the opportunity to question the Head of School and witnesses.
5. Each witness will leave the proceedings after questioning.
6. The employee or representative will present a statement of case and may call witnesses in support.
7. The Head of School will have the opportunity to question the employee and witnesses.
8. The panel will have the opportunity to question the employee and witnesses.
9. Each witness will leave the proceedings after questioning.
10. The Head of School will summarise the case introducing no new evidence.
11. The employee or representative will summarise the case, introducing no new evidence.
12. The Head of School and employee will leave the proceedings whilst the panel considers its decision and recommendations. Should the panel wish to ask further questions both parties will return notwithstanding that the panel may only wish to ask questions of one of the parties.
13. On reaching a decision, the chair will have the option to recall the parties and advise them of the outcome, confirming the decision in writing within 5 working days, or inform the parties of the outcome in writing, within 5 working days

APPENDIX C

Conduct of capability appeal hearings

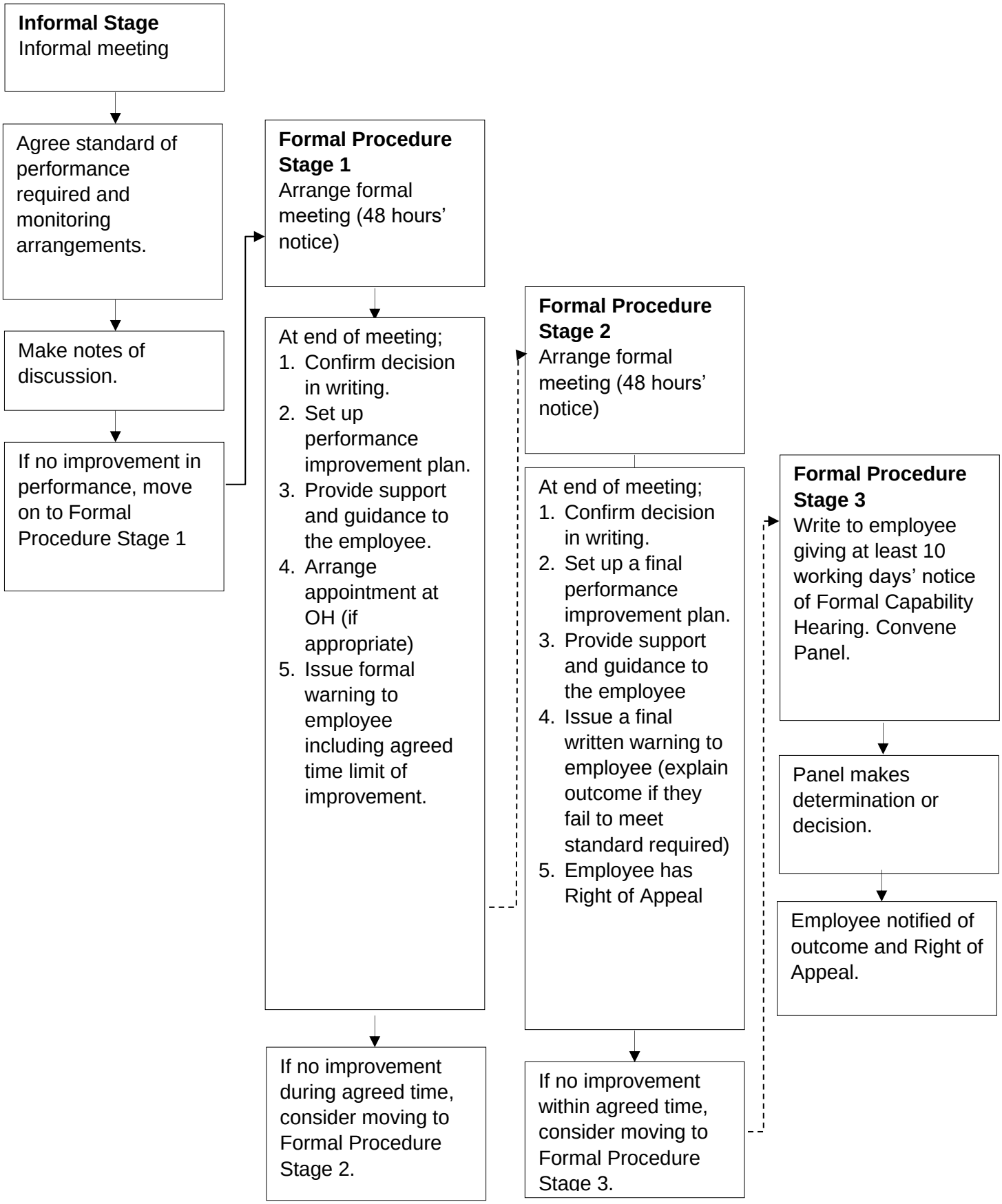
Governor panel

The panel for the hearing will comprise three Governors (one of whom will act as Chair for the purpose of controlling the proceedings). A representative of School's HR will act as adviser to the governor panel.

The employee may be accompanied by a colleague , Trade Union Representative or may choose to represent themselves.

Conduct of appeal hearings

1. The chair of the panel will introduce those present and explain the purpose of the hearing, including the procedure to be followed. The procedure will allow for short adjournment should either party wish a brief period for deliberation during proceedings.
2. The employee or their representative presents their case for appeal. Documentary evidence may be referred to and witnesses called.
3. The Head of School will have the opportunity to question the employee and witnesses.
4. The panel will have the opportunity to question the employee and witnesses.
5. Each witness will leave the proceedings after questioning.
6. The Head of School representative presents their case. Documentary evidence may be referred to and witnesses called.
7. The employee and representative will have the opportunity to question the Head of School and witnesses.
8. The panel will have the opportunity to question the Head of School and witnesses.
9. Each witness will leave the proceedings after questioning.
10. The employee or representative will summarise the case, introducing no new evidence.
11. The Head of School will summarise the case introducing no new evidence.
12. The Head of School and employee will leave the proceedings whilst the panel considers its decision and recommendations. Should the panel wish to ask further questions both parties will return notwithstanding that the panel may only wish to ask questions of one of the parties.
13. On reaching a decision, the chair will have the option to recall the parties and advise them of the outcome, confirming the decision in writing within 5 working days, or inform the parties of the outcome in writing, within 5 working days

APPENDIX D

Managing capability flowchart