

## Teachers' Capability Policy



Policy Code:	HR1
Policy Start Date:	September 2018
Policy Review Date:	September 2019

Please read this policy in conjunction with the policies and procedures listed below:

- HR6 Data Protection Policy
- HR33 Records Management Policy
- Current School Teachers' Pay and Conditions Document as issued by the Department for Education.
- Maximising Performance Policy and Guide
- The Trust's Maximising Learning documentation

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## **1 Policy Statement**

- 1.1 This policy has been designed to comply with current legislation and the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- 1.2 The Trust has a legal responsibility to provide safe systems of work and individuals have a responsibility to follow safe working practices within the Trust and the community.
- 1.3 Wherever referred to, Academy or Trust throughout this policy includes The Robert De Cheney Boarding House at The Priory Academy LSST, the Keyworth Centre at The Priory City of Lincoln Academy, the Early Years Setting at The Priory Witham Academy, Priory Training and the French Centre.
- 1.4 This policy does not form part of any employee's contract of employment and it may be amended at any time.

## **2 Roles, Responsibilities and Implementation**

- 2.1 The Pay, Performance and HR Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. This committee delegates day-to-day responsibility for operating the policy and ensuring its maintenance and review to the HR Director.
- 2.2 Leaders and Managers have a specific responsibility to ensure the fair application of this policy and all employees are responsible for supporting colleagues and ensuring its success.
- 2.3 All employees are responsible for ensuring their conduct and the quality of their work is of the standard required by The Priory Federation of Academies Trust. Headteachers are responsible for ensuring they are aware of this policy and when to deal with issues under the Capability Policy or when to refer matters to the Head of Human Resources.

## **3 Aims**

- 3.1 To provide a framework within which The Priory Federation of Academies Trust can work with employees to improve and maintain satisfactory standards of performance where serious concerns have been raised.
- 3.2 This policy will be applied when informal support as set out in the Maximising Performance (Appraisal) Policy has been provided and the required improvement has not been made.

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#### **4 Informal Capability Meeting (Stage 1)**

- 4.1 The Headteachers (or those with delegated responsibility) will inform the HR Director and the Director of Teaching and Learning at the earliest possible opportunity of any teacher who is unlikely to meet the maximising performance objectives. An informal meeting will take place between the teacher and the Headteacher (or those with delegated responsibility) to discuss the improvements required. The informal process will allow four to 10 weeks where an employee is supported by way of a support plan (the Performance Plan) to meet the objectives. The agreed period may be adjusted to suit the merits and circumstances in each individual case. If the improvements are not made, the process will move to stage 2.

#### **5 Formal Capability Meeting (Stage 2)**

- 5.1 An employee will be given at least five working days' written notice of the formal meeting under this policy. The notification will contain sufficient information about the concerns regarding performance and their possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the teacher of their right to be accompanied by a work colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. The representative may present the case on behalf of the employee but may not answer questions on behalf of the employee.
- 5.2 This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for Heads' capability meetings) or Heads (or those with delegated responsibility, e.g. Deputy Head, Assistant Head) for other teachers. The Head of Human Resources will also be present. The meeting allows the teacher to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.
- 5.3 The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the Maximising Performance (Appraisal) process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

5.4 In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings, for example which of the standards expected of teachers are not being met (The Teachers' Standards can be found in the Trust's Maximising Performance Guide or the School Teacher's Pay and Conditions Document, page 51-532);
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (this may include the setting of new personalised approaches to meeting 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 teacher improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in some cases could be six weeks;
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning;
- allow the employee to respond to concerns, ask questions and make any relevant representations which may provide new information or a different context to the evidence already collected.

5.5 Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

## **6 Monitoring and Review Period Following a Formal Capability Meeting**

6.1 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a final meeting (see 8).

## **7 Formal Review Meeting (Stage 3)**

7.1 As with formal capability meetings, at least five working days' notice will be given. The notification will give details of the time and place of the

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meeting and will advise the teacher of their right to be accompanied by a work colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

- 7.2 If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the Maximising Performance (Appraisal) process will re-start. In other cases:
- if some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
  - if no, or insufficient, improvement has been made during the monitoring and review period, the teacher will receive a final written warning.
- 7.3 Notes will be taken of formal meetings and a copy sent to the member of staff. A final written warning will mirror any previous warnings that have been issued. Where a final written warning is issued, the member of staff will be informed that failure to achieve an acceptable standard of performance (within the set timescale) may result in dismissal. They will also be given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The teacher will be invited to a final meeting.

## **8 Final Meeting (Stage 4)**

- 8.1 As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a work colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.
- 8.2 If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the Maximising Performance (Appraisal) process will re-start. If performance remains unsatisfactory, a decision, or recommendation to the Chief Executive Officer, who has delegated authority from the Trust, will be made that the teacher should be dismissed or required to cease working at the Academy.
- 8.3 The teacher will be informed in writing as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

## **9 Decision to Dismiss**

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- 9.1 The power to dismiss staff in The Priory Federation of Academies Trust rests with the CEO/Headteachers who have delegated authority from the Trust.

## **10 Dismissal**

- 10.1 Once the decision to dismiss has been taken, the CEO/Headteacher, who has delegated authority from the Trust, will dismiss the teacher with notice.

## **11 Appeal**

- 11.1 If a teacher feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing to the Head of Human Resources against the decision within five 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 the right to be accompanied by a work colleague, a trade union official, or a trade union representative who has been certified by their union as being competent, apply.
- 11.2 The appeal will be dealt with impartially and, wherever possible, by the CEO/Trustees who have not previously been involved in the case.
- 11.3 The teacher will be informed in writing of the results of the appeal hearing as soon as possible.
- 11.4 There is no further right of appeal against the sanction or dismissal within The Priory Federation of Academies Trust.

## **12 General Principles Underlying This Policy**

- 12.1 **ACAS Code of Practice** - ACAS Code of Practice on Disciplinary and Grievance Procedures ([www.acas.org.uk](http://www.acas.org.uk))

## **13 Confidentiality**

- 13.1 The Maximising Performance (Appraisal) and Capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Head and the Trust to quality-assure the operation and effectiveness of the Maximising Performance (Appraisal) system.

## **14 Consistency of Treatment and Fairness**

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- 14.1 The Trust 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 teachers. The Trust is aware of the guidance on the Equality Act issued by the Department for Education.

## **15 Definitions**

- 15.1 Unless indicated otherwise, all references to “teacher” include teachers, subject and other teaching middle leaders, Deputy Headteachers, Assistant Headteachers, Headteachers and Directors.

## **16 Delegation**

- 16.1 Normal rules apply in respect of the delegation of functions by the Trust and Headteachers.

## **17 Grievances**

- 17.1 Where a member of staff raises a grievance during the operation of the capability policy, the capability process may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related, it may be appropriate to deal with both issues concurrently.

## **18 Sickness**

- 18.1 If long-term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with The Priory Federation of Academies Trust’s Absence Policy. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## **19 Monitoring and Evaluation**

- 19.1 The Trust and Head will monitor the operation and effectiveness of the Academy’s Maximising Performance (Appraisal) arrangements.

## **20 Retention**

- 20.1 Please see HR33 Records Management Policy for more information.

## **21 Policy amendment**

- 21.1 This policy may only be amended or withdrawn by The Priory Federation of Academies Trust.



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## The Priory Federation of Academies Trust Capability Policy

This Policy has been approved by the Priory Federation of Academies Pay, Performance and HR Committee:

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.