

Performance Appraisal and Capability Policy



Performance Appraisal/Capability Policy. (Teachers)

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1. Status.

1.1 This policy and procedure is applicable to all teachers in maintained, trust, special, voluntary aided/voluntary controlled schools, academies and central establishments.

The Multi Academy Trust of Clifford Bridge, Walsgrave CE and Whittle adopted this policy on 27th January 2016.

2. Scope.

2.1 This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the head teacher and for supporting their development within the context of the school's plan for improving educational provision and performance and the standards expected of teachers. It also sets out the arrangements that will apply when teachers fall below the levels of competence that are expected of them.

The policy is in two separate sections.

2.2 **Part A** of the policy, which covers **appraisal**, applies to the head teacher and to all teachers employed by the school (or centrally), except those on contracts of less than one term, those undergoing induction (ie NQTs) and those who are subject to Part B of the policy.

2.3 **Part B** of the policy, which sets out the **formal capability procedure**, applies only to teachers (including the head teacher) about whose performance there are serious concerns that the appraisal process has been unable to address.

Legislation refers to capability as being assessed by reference to skill, aptitude, health or any other physical or mental quality. Early identification of problems will help to avoid the need for formal capability procedures. Incompetence giving rise to an unacceptable level of performance at work comes within the ordinary meaning of lack of capability provided its cause is a lack of skill or aptitude, and not just laziness or negligence which should be considered as misconduct and covered under the Disciplinary Procedure. There may be occasions where capability matters arise from circumstances that lie outside the normal performance appraisal process.

It should be noted that in cases of incapability related to health, domestic or alcohol related issues, other action should be considered in accordance with the appropriate procedure/advice from the school's HR Provider.

3. Authority.

3.1 Head Teachers/Central Managers are accountable for the proper application of the Performance Appraisal/Capability Policy for all Teachers at the School/Central Establishment. The MAT Board of the School is responsible for the application of the Performance Appraisal/Capability Policy in respect of the Executive Principal and

Headteachers at the School. This is a statutory requirement.

3.2 Each Performance Appraisal must be considered on its own merits; consistency, equitable treatment and the avoidance of unlawful discrimination and discrimination on those grounds set out in the school Equalities Policy are paramount.

Recognising the need to promote a good work life balance the performance appraisal process will be conducted during the hours of teacher directed time (i.e. the 1265 hours)

4. Application of the policy

Part A – Appraisal

4.1. Appraisals in schools/central establishments will be a supportive and developmental process designed to ensure that all teachers have the skills and support they need to carry out their role effectively. They will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

4.1.i. Appraisal Period

The appraisal period will run for twelve months and must be completed for the Executive Principal, Headteacher the Leadership Team and Class Teachers by October half term. All support staff will run for twelve months from February to February.

Teachers who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. The length of the period will be determined by the duration of their contract.

There is flexibility to have a longer or shorter appraisal period when teachers begin or end employment

4.1.ii. Appointing Appraisers

The Executive Principal will be appraised by the MAT Board, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Board for that purpose.

The task of appraising the Executive Principal, including the setting of objectives, will be delegated to a sub-group consisting of at least two members of the MAT Board.

The Executive Principal will performance manage the Headteachers with a member of the School Committee. The Executive Principal will decide who will appraise other teachers. MAT board is responsible for ensuring that all appraisers receive training in how to conduct performance appraisals.

4.1.iii. Setting Objectives

The Executive Principal's objectives will be set by the MAT Board after consultation with the EP and the external adviser.

Objectives for each teacher will be set before or as soon as practicable after, the start of each appraisal period. The objectives set for each teacher, which will be linked to the relevant initial audit against the national standards (see below and attached appendices of Teachers Standards), will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change.

The objectives set for each teacher will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school. This link will be made:

- By ensuring that the pupil progress objective (all teachers) addresses the key attainment priorities identified by the school.
- By ensuring that the professional development (all teachers) addresses the key development priorities—identified by the annual audit against teacher standards (see attached Appendices).

Before, or as soon as practicable after the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed. All teachers should be assessed against the set of standards contained in the DfE document entitled "Teachers' Standards" published in July 2011(updated March 2012). Assessments will also be conducted (if appropriate) against:

- National Head Teacher Standards (2015)
- National Standards for Subject Leaders
- Excellent Teacher Standards
- Advanced Skills Teacher Standards
- SENCO standards (2015)

The Executive Principal Teacher/Head Teacher will be responsible for ensuring that the appraisal process operates consistently, that objectives are focused on school/establishment priorities and that they take account of the standards audit. The Head Teachers will ensure that it is made clear to all teachers which sets of standards will be applied to them during the performance appraisal process and that teachers will be able to access copies of these standards. All objectives will be referred to the Head teacher prior to the commencement of the cycle of monitoring. Where the head teacher has concerns about the relevance of the objectives set, these concerns will be discussed with the appraiser. The objectives may require amendment following discussion with the teacher.

4.1.iv. Reviewing performance

➤ Monitoring

All monitoring, including observation, will be carried out in a supportive fashion. Observation of classroom and leadership practice is important both as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have and of gaining useful information which can inform school improvement more generally.

Teachers' performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the teacher

and the overall needs of the school. Classroom observation will be carried out by those with QTS and will be kept to the minimum needed to determine that objectives are met. Appraisal observations will be planned, with clear notice given and a focus linked to objectives.

Teachers (including the Executive Principal, Head Teacher) who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

➤ **Development and support**

Appraisal is a supportive process which will be used to inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. Professional development will be linked to school improvement priorities and to the ongoing professional development needs and priorities of individual teachers as detailed in the section on 'Setting Objectives' (4.1.iii).

➤ **Feedback**

Teachers will receive constructive written feedback on their performance throughout the year and within 5 days (as per the classroom observation policy) after observation has taken place or other evidence has come to light. Feedback will include discussion with the teacher as soon as possible after the observation and highlight particular areas of strength as well as any areas that need attention.

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

- give clear feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment and discuss the concerns;
- agree support (e.g. coaching, mentoring, structured observations, training), that will be provided to help address those specific concerns;
- make clear how, and by when, the appraiser will review progress (it may be appropriate to revise objectives, and it will be necessary to allow sufficient time for improvement. The amount of time is up to the school but should reflect the seriousness of the concerns);
- explain that if no – or insufficient – improvement is made then the Capability Process (Part B) will be invoked.

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

4.1.v. Annual assessment

Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the Executive Principal, the MAT Board must consult the external adviser.

This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year by means of:

- Lesson observations
- Planning and work scrutiny
- Interim meetings with appraiser
- Observation / scrutiny of leadership and management activities where appropriate
- Other feedback obtained during the cycle relevant to the teacher's overall performance.

The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment in writing on - a written appraisal report. The appraisal report will include:

- details of the teacher's objectives for the appraisal period in question;
- an assessment of the teacher's performance of their role and responsibilities against their objectives, relevant standards and career expectations;
- an assessment of the teacher's training and development needs and identification of any action that should be taken to address them;
- a recommendation on pay where that is relevant

The Executive Principal will refer the appraiser's recommendations to the MAT Board.

The assessment of performance and of training and development needs will inform the planning process for the following appraisal period.

If there is any disagreement between the appraiser and teacher (appraisee) about the objectives set and/or the success criteria or outcomes, then, following a further discussion, the appraiser's decision will be final. However, the teacher (appraisee) may ask to have a statement appended to any document. Appeals against pay recommendation decisions should follow the procedure set-out in the Whole School Pay Policy.

4.1.vi. Transition to capability

If the appraiser is not satisfied with progress, the teacher will be notified verbally and in writing by the Chair of the MAT Board (for Head Teachers) or the Executive Headteacher (for other teachers) that the appraisal system will no longer apply and that the school is moving to the capability policy

Part B – Capability Procedure

4.2. This procedure applies only to teachers or Head Teachers about whose performance there are serious concerns that the Appraisal procedure (Part A) has been unable to address. It will follow a period of support identified by the Appraisal

procedure where this had not resulted in any or sufficient improvement.

4.2.i. Notice for Meetings.

At least 5 working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about 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 Trades Union representative or a colleague.

4.2.ii. Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Mat Board (for Principal / Head Teacher capability meetings) or Executive Head Teacher or nominated person/Headteacher (for other teachers). The meeting allows the teacher, accompanied by a TU representative or colleague if they wish, 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.

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;
- review any support that has already been given
- 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 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 could be (insert time period – e.g. between 4 and 8 weeks. It is for the school to 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. In exceptional cases, where the teacher's capability is deemed to be jeopardising the education of pupils, the period given for improvement will be no more than 4 weeks.
- warn the teacher formally (verbally and then in writing) that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning. (The Director of Children, Learning and Young People, or nominee is entitled to attend any hearing or proceedings at which an employee may be dismissed, apart from Voluntary Aided, Trust Schools or Academies).
- 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 appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also 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.

An outcome letter will be sent immediately to the member of staff and will include the information set out below in cases where a formal warning is to be issued.

- The nature of the inadequate performance
- The standard(s) expected
- The support to be given
- The timescale over which performance will be monitored
- That failure to attain and maintain the standard may lead to dismissal.
- The procedure and time limits for appealing against the warning/final warning.

4.2.iii. Monitoring and review period following a formal capability meeting

A performance monitoring and review period (i.e. 4-8 weeks, depending on the circumstances) will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited and given appropriate notice to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

4.2.iv. Formal review meeting

As with formal capability meetings, at least 5 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 TU representative or colleague.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. This will be confirmed in writing. In other cases, if no, or insufficient improvement has been made during the monitoring and review period, the teacher will receive a final written warning.

An outcome letter will be sent immediately to the member of staff and will include the information set out below in cases where a formal warning is to be issued:-

- The nature of the inadequate performance
- The standards expected
- The support to be given
- The timescale over which the performance will be monitored
- That failure to attain and maintain the standard may lead to dismissal
- The procedure and time limits for appealing against the warning/final warning.

4.2.v. Monitoring and Review Period following a formal review meeting

A performance monitoring and review period (i.e. 4-8 weeks, depending on the

circumstances) will follow the formal review meeting. Formal monitoring evaluation, guidance and support will continue during this period. The teacher will be invited and given appropriate notice to a decision meeting.

4.2.vi. Decision meeting (See Appendix 1a)

As with formal capability meetings and formal review meetings, at least 5 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 TU representative or colleague.

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. This will be confirmed in writing. If performance remains unsatisfactory, a decision, or recommendation to the Governing Body, will be made that the teacher should be dismissed or required to cease working at the school.

Before the decision to dismiss is made in maintained and voluntary controlled schools, the school will discuss the matter with the local authority (N.B. this is not a legal requirement but schools may find it helpful).

The teacher will be informed 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 (See 4.2.ix).

4.2.vii. Decision to dismiss

In voluntary aided schools, Trust Schools and Academies, the power to dismiss staff rests with the MAT Board, or the Executive Principal or one or more governors (as delegated).

4.2.viii. Dismissal .

In voluntary aided schools, Trust Schools and Academies, once the decision to dismiss has been taken, the MAT Board (or person or people to whom the power to dismiss has been delegated) will dismiss the teacher with notice. This will be confirmed in writing.

(N.B. Contractual dismissal dates must be recognised in terminating the employee's service. See 5.7)

4.2.ix. Appeals

Appeals specifically related to pay decision outcomes from the appraisal process will be dealt with through the Whole School Pay Policy appeals procedure.

If a teacher feels that a decision to dismiss them, or other action taken against them within the Capability procedure, is wrong or unjust, they may appeal in writing against the decision within 5 working days of the decision, setting out, at the same time, the grounds for appeal. Appeals will be heard within 10 working days where practicable, and, where possible, at an agreed time and place (See Appendix 1b). The same arrangements for notification and right to be accompanied by a TU representative or colleague will apply as with formal capability and review meetings and notes will be taken.

Any appeals, prior to the dismissal stage will be heard by a Senior Manager or an

individual member of the MAT Board.

The appeal against dismissal will be dealt with impartially by a 'committee' of (one or more) Governors (See Appendix 1b).

The Appeal will be restricted to considering the reasonableness of any decision made, any new relevant evidence or procedural irregularities.

The teacher will be informed in writing of the results of the appeal hearing within 5 working days.

5. General Principles underlying this Policy.

5.1 Confidentiality

The appraisal and capability processes will be treated confidentially and information relating to the appraisal and capability should only be disclosed to those who are part of the process. Confidentiality does not override the need for the Head Teacher and governing body to quality-assure the operation and effectiveness of the appraisal system.

5.2 Consistency of Treatment and Fairness

The Trust Board is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

5.3 Representation.

An employee has a right to be accompanied by a Trade Union representative or a colleague within the formal capability process. If the employee's chosen representative is not available, the employee can suggest an alternative time and date, so long as it is reasonable and it is not more than 5 working days after the original date.

In the event of an employee not being able to attend the re-arranged meeting, it will normally proceed in his/her absence

5.4 Grievances

Where a member of staff raises a grievance during the Capability (Part B) Procedure, and the grievance and capability cases are related, both issues will normally be dealt with concurrently.

5.5 Disputes about the Procedure

Any disagreements or grievances about the interpretation of the model procedure, or the application of any related matters not covered in the procedure, must not delay the various elements of the capability procedure or the overall timetable determined as appropriate for handling any particular case.

5.6 Dismissal Dates.

In accordance with the Burgundy Book, (with the exception of gross misconduct), a teacher's contract can only be terminated at the end of a school term defined as 31st

December, 30th April and 31st August respectively. All teachers are entitled to be given a minimum of two months notice and in the summer term, three months. For head teachers, the notice period is a minimum of 3 months (4 months in the summer term). If a teacher has been continuously employed for more than 8 years, then the notice period must be extended to one week for each year of service to a maximum of twelve weeks in total.

Notice for Head teachers to be issued by:	Notice for teachers with more than 8 years continuous service may need to be issued by:	Notice for teachers with up to 8 years continuous service issued on by:	Contract Terminated on:
30 th September	8 th October	31 st October	31 st December
31 st January	5 th February	28 th February	30 th April
30 th April	31 st May	31 st May	31 st August

5.7 Sickness Absence

Sickness absences should not delay any stage of the Capability Procedure.

If there is sickness absence there may be a referral to the Occupational Health Provider.

5.8 Monitoring and Evaluation

The MAT Board and Executive Principal will monitor the operation and effectiveness of the school's appraisal arrangements. The Executive Principal will have overall responsibility for the quality assurance of the appraisal process across the school. This will include the consistency and equality of application of the process throughout the school and will be in line with the school Equal Opportunities Policy. The Executive Principal may delegate responsibility for monitoring to a teacher member of the senior management team. The Executive Principal will report annually to the MAT Board any issues of underperformance, consistency and equality arising from the monitoring of the appraisal process and on any action required to address those issues. Specific details relating to individual members of staff will not be included in the report to the MAT Board.

5.9 Re-admittance into Capability (Part B) procedure.

If a teacher's performance is not maintained following their meeting of the standards within the Capability procedure and this raises concerns resulting in a decision to revisit the procedure, then their situation will be reviewed as part of the appraisal process and a decision will be made as to which point they will re-enter the Capability procedure.

5.10 Retention of Records

The MAT Board and Executive Principal will ensure that all written appraisal records are retained in a secure place for six years and then destroyed.

5.11 References

There is a duty on schools to share with prospective employers (on request) information about whether their teachers have been in capability procedures.

5.12 Decision Meeting and suspension consideration

Management can suspend an employee pending the convening of a Decision Meeting, prior to a capability Decision Meeting or during an employee's notice period.

PROCEDURE TO BE FOLLOWED AT THE DECISION MEETING OR DISMISSAL APPEALS.

Appendix 1a.

Procedure - FORMAL DECISION MEETING

1. The chair conducting the capability decision hearing will introduce all present and will seek confirmation from all parties that they understand that the status of the hearing is in accordance with the Capability Procedure.
2. Any documentation provided in evidence must be provided to both parties and sufficient time given for it to be considered.
3. Each party may request adjournments during the hearing. No reasonable request for an adjournment will be refused.
4. The employee will have the right to be represented by their trade union representative or colleague.
5. The School representative*(s) (supported by Human Resources and another LA Officer where appropriate) will first put the case against the employee, in the presence of the employee and his/her representative and will call any witnesses** and present documentation***.
6. The employee (or his/her representative) shall then have the opportunity to ask questions of the School's representative on the case by him/her and any witnesses called.
7. The members of the Hearing Committee shall then have the opportunity to ask questions of the School's representative and the witnesses.
8. The employee (or his/her representative) shall put their case in the presence of the School's representative and may call witnesses and present documentation***
9. The School's representative shall then have the opportunity to ask questions of the employee and his/her witnesses.

10. The Hearing Committee shall have the opportunity to ask questions of the employee and his/her witnesses.

11. The School's representative may sum up the case against the employee.

12. The employee (or his /her representatives) may sum up their case.

13. The School's representative (and LA Officer(s) supporting the presentation of the case to the Committee where appropriate), and the employee and his/her representative will withdraw.

14. The Chair of the Hearing Committee together with other members of Committee, the Director of Children, Learning and Young People's nominee and any adviser(s) to the Committee will deliberate in private, only recalling the School's representative and the employee and his/her representative to clear points of uncertainty on evidence already given. If a recall is necessary, it is essential that both parties return, even if only one is required to assist with the point giving rise to doubt.

15. The Committee will determine, on the basis of the cases made and evidence presented what action should be taken.

16. The Chair of the Committee will inform both parties verbally of the decision, which will be confirmed in writing as soon as possible.

17. If the case is found against the employee they will be informed of their right to appeal.

* This refers to the person presenting the school's case not the individual's trade union representative.

** Any witnesses called will normally leave the proceedings after giving evidence and being questioned but should remain available in case further clarification is required. A witness who leaves the proceeding after completing his/her evidence should not discuss the case with any witnesses waiting to be called.

*** In exceptional circumstances the Committee may allow adjournments of reasonable length to study any documents presented but not issued prior to the Hearing/Appeal. The Committee may at any time call an adjournment at its discretion. Any periods of adjournment should not be unreasonably extended.

Appendix 1b.

Procedure – APPEAL HEARING.

1. The chair conducting the Appeal Hearing will introduce all present and will seek confirmation from all parties that they understand that the status of the Appeal Hearing is in accordance with the Capability Procedure.
2. Any documentation provided in evidence must be provided to both parties and sufficient time given for it to be considered.
3. Each party may request adjournments during the hearing. No reasonable request for an adjournment will be refused.
4. The employee will have the right to be represented by their trade union representative or colleague.
5. The employee (or his/her representative) will detail the grounds of the Appeal (in the presence of the Chair of the original Hearing and their HR Support), and will call any witnesses** and present documentation***.
6. The Chair of the original Hearing (and their HR Support) shall then have the opportunity to ask questions of the employee (or his/her representative) on the evidence given by him/her and any witnesses called.
7. The members of the Appeal Committee shall then have the opportunity to ask questions of the employee (or his/her representative) and the witnesses.
8. The Chair of the original Hearing (and their HR Support) shall respond to the Appeal and may call witnesses.
9. The employee (or his/her representative) shall then have the opportunity to ask questions of the Chair of the original Hearing (and their HR support) and any witnesses.
10. The Appeal Committee shall have the opportunity to ask questions of the Chair of the original Hearing (and their HR Support).
11. The employee (or his/her representative) may sum up the case for the appeal.
12. The Chair of the original Hearing (and their HR Support) may sum up the case in defence of the original decision/action.
13. The Employee (and his/her representative) and Chair of the original Hearing (and

their HR Support) will withdraw.

14. The Chair of the Appeal Committee, (together with other members of the Committee and their HR support) will deliberate in private, only recalling the Chair of the original Hearing (and their HR Support) and the employee and his/her representative to clear points of uncertainty on evidence already given. If a recall is necessary, it is essential that both parties return, even if only one is required to assist with the point giving rise to doubt.

15. The Appeal Committee will determine, on the basis of the cases made and evidence presented whether to therefore uphold the decision/action of the original Hearing or what other action should be taken

16. The Chair of the Appeal Committee will inform both parties verbally of the decision, which will be confirmed in writing as soon as possible.

17. If the case is upheld, there is no further right of appeal to the School/Council on the part of the employee.

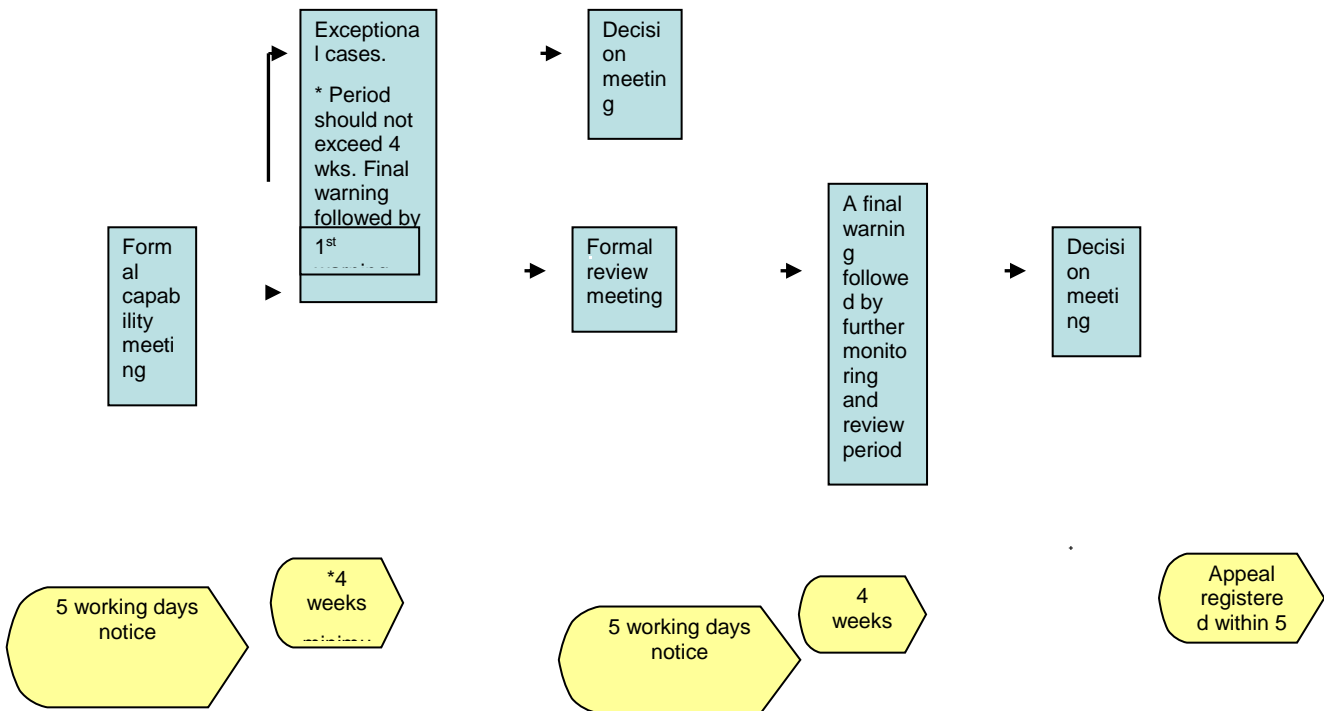
* This refers to the person presenting the school's case not the individual's trade union representative.

** Any witnesses called will normally leave the proceedings after giving evidence and being questioned but should remain available in case further clarification is required. A witness who leaves the proceeding after completing his/her evidence should not discuss the case with any witnesses waiting to be called.

*** In exceptional circumstances the Committee may allow adjournments of reasonable length to study any documents presented but not issued prior to the Hearing/Appeal. The Committee may at any time call an adjournment at its discretion. Any periods of adjournment should not be unreasonably extended.

Appendix 2.

Procedure for dismissing teachers



Note: The timings are illustrative only.

Next review date: Before January 2018

Approved by Board of Directors: 27 01 2016

Signed: 

Lois Whitehouse - Chair of Board of Directors