



Department
for Education

Teacher appraisal and capability

A model policy for schools

May 2012, revised in March 2019

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Introduction

Appraisal arrangements are set out in the Education (School Teachers' Appraisal) (England) Regulations 2012 (the Appraisal Regulations).

The Appraisal Regulations set out the principles that apply to teachers in all maintained schools and centrally employed (or unattached) teachers employed by a local authority, in each case where they are employed for one term or more. It is also good practice for academies to follow the appraisal regulations although they are not legally required to do so.

Schools and local authorities must stay within the legal framework set out in the Appraisal Regulations and all schools (including academies) must adhere to any other relevant legislation that affects all employers (for example legislation on equality, employment protection and data protection).

Schools and local authorities must have an appraisal policy for teachers and a policy, covering all staff, which deals with capability. This model policy, updated in spring 2019, has been provided as an optional resource for schools and others to which they can refer as they wish as they review and develop their own policies. It applies only to teachers, including headteachers, but schools might wish to adapt it for use with all staff. It has been written in the context of schools, but the same principles apply to centrally employed (or unattached) teachers. It is good practice for schools to consult staff on their appraisal and capability policies.

The model policy is in two separate sections. Part A covers appraisal and should be used as a reference point by schools and others as they review their policies to reflect the Appraisal Regulations.

Part B of the policy sets out the formal capability procedure and reflects the ACAS Code of Practice on disciplinary and grievance procedures. Capability procedures apply only to teachers and headteachers about whose performance there are serious concerns that the appraisal process has been unable to address.

It is important that the appraisal and capability process is managed in a way that avoids increased workload for all parties concerned, for example, reviewing the number and frequency of meetings and observations, and ensuring the process for collecting evidence is always proportionate.

In the model policy:

Text in bold indicates statutory requirements contained in the Appraisal Regulations or the School Staffing Regulations.

Text in italics does not form part of the policy itself, but acts as additional advice for schools.

For the purposes of this model policy the term governance board should be considered to include reference to governing bodies.

Model policy for appraising teacher performance and dealing with capability issues

The governance board of _____ School adopted this policy on _____

It will review it in *(insert date or number of years)*

Purpose

This policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including the headteacher, 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.

Application of the policy

The policy is in two separate sections.

Part A of the policy, which covers appraisal, applies to the headteacher and to all teachers employed by the school, trust or local authority, except those on contracts of less than one term, those undergoing induction (*i.e.* NQTs) and those who are subject to Part B of the policy.

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

Both parts of the policy should always be applied in a way that is robust whilst minimising the impact on workload for teachers, line managers, headteachers and governance boards.

The policy also applies to ... *(insert any other staff, if appropriate, or delete)*.

Part A – Appraisal

Appraisal in this school will be a supportive and developmental process designed to ensure that all teachers have or fully develop the skills and access to support they need to carry out their role effectively. It will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

The appraisal period

The appraisal period will run for twelve months from _____ to _____ (*insert dates: setting out any differences that exist for different categories of staff*).

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 and an individual teacher's objectives should take account of the length of contract.**

There is flexibility to have a longer or shorter appraisal period when teachers begin or end employment with a school or local authority or when unattached teachers change post within the same authority.

Appointing appraisers

The headteacher/CEO of trust of other senior trust staff will be appraised by the governance board, supported by a suitably skilled and/or experienced external adviser who has been appointed by the governance board for that purpose.

In this school the task of appraising the headteacher, including the setting of objectives, will be delegated to a sub-group consisting of two/three (*delete as appropriate*) members of the governance board.

The headteacher will decide who will appraise other teachers.

Setting objectives

The headteacher's objectives will be set by the governance board after consultation with the external adviser. The governance board has a duty to have regard to the work-life balance of the headteacher and objectives will reflect this.

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, will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience. Objectives and performance management discussions will not be based on teacher generated data and predictions, or solely on the

assessment data for a single group of pupils. Objectives can be set in relation to robust assessment data, however, these will not be used in isolation and other factors will also be considered when making decisions about pay progression. The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives should 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.

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. *With the exception of those who are qualified teachers by virtue of holding and maintaining Qualified Teacher Learning and Skills (QTLS) status, all teachers must be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2011.*

For teachers who are qualified teachers by virtue of holding QTLS status, it is for the governance board or headteacher to decide which standards are most appropriate.

Reviewing performance

Observation

This school believes that observation of classroom practice and other responsibilities is important as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have, gaining useful information which can inform school improvement more generally and enabling teachers to learn from each other and collaborate. All observation will be carried out in a supportive fashion and not add to teacher workload. *(Schools may like to be more specific here about how observations will be conducted – or to refer to any separate document that clarifies how classroom observation will be conducted in their school).*

Development and support

Appraisal is a supportive process which will be used to determine decisions on pay progression and 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.

Feedback

Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place or other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that require further development. 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;
- set clear objectives for required improvement;
- agree any support (e.g. coaching, mentoring, structured observations), 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 the implications and process if no, or insufficient, improvement is made – e.g., impact on pay progression and potential move to formal capability.

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.

Evidence

The range and level of evidence collected for appraisal and pay determination purposes will always be proportionate and minimise workload.

Transition to capability

If a teacher demonstrates serious underperformance, and has not responded to support provided within the appraisal process, the teacher will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. The capability procedures will be conducted as in part B of this policy.

Annual assessment

Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the headteacher, the governance 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 in interim meetings which will take place (*e.g. once a term*).

The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment on – an appraisal report (in practice the report could be produced using online performance management systems, which can help to reduce workload. In this school, teachers will receive their appraisal reports by 31 October (31 December for the headteacher). **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 and the relevant standards;**
- **an assessment of the teacher's professional development needs and identification of any action that should be taken to address them;**
- **a recommendation on pay where that is relevant** (*NB – pay recommendations need to be made by 31 December for headteachers and by 31 October for other teachers*);
- (*schools to say here what else, if anything, their appraisal reports will include*).

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

Part B – Capability Procedure

This procedure applies only to teachers and headteachers where there is serious underperformance which the appraisal process has been unable to address. At least five *(or insert alternative)* 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 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. Teachers are entitled to request an alternative date which is within five days of the original date.

Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for headteacher capability meetings) or headteacher (for other teachers) *(schools to insert any alternative arrangements)*. The meeting allows the teacher, accompanied by a companion 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.

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.*

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;*
- 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 in straightforward cases could be *(insert time period – e.g. between four and ten 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)*; and
- 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 or other serious implications such as no pay progression.

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.

Monitoring and review period following a formal capability meeting

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 decision meeting (see below).

Formal review meeting

As with formal capability meetings, at least five *(or insert alternative)* 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 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.

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. 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.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. 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. The teacher will be invited to a decision meeting.

Decision meeting

As with formal capability meetings and formal review meetings, at least five (*or insert alternative*) 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 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.

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. If performance remains unsatisfactory, a decision, or recommendation to the governance board, will be made that the teacher should be dismissed or required to cease working at the school.¹

Before the decision to dismiss is made, the school will discuss the matter with the local authority. In Community and VC schools, or in Foundation or VA schools where the local authority has been given LA Advisor Rights, the local authority has the right to attend any meetings where dismissal is involved.

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.

¹ In Foundation Schools, Voluntary Aided Schools and Foundation Special Schools, the governance board is the employer but the power to dismiss can be delegated to the head teacher, to one or more governors, or to one or more governors acting with the head teacher. In Community, Voluntary Controlled, Community Special, and Maintained Nursery schools, the power to determine that the member of staff should no longer work at the school can be delegated in the same way as above but it is the local authority (as the employer) that actually dismisses staff (or – for those who work in more than one school – requires them to cease to work at the school).

Decision to dismiss

Either: The power to dismiss staff in this school rests with the governance board.

Or: The power to dismiss staff in this school has been delegated *to the headteacher/to one or more governors/to one or more governors acting with the headteacher (delete as appropriate)*.

(NB: the two options above are available only to Foundation Schools, Voluntary Aided Schools and Foundation Special Schools).

Or: The power to decide that members of staff should no longer work at this school rests with the governance board.

Or: The power to decide that members of staff should no longer work at this school has been delegated to *the headteacher/to one or more governors/to one or more governors acting with the headteacher. (Delete as appropriate)*.

(NB: these two options are available only to Community, Voluntary Controlled, Community Special, and Maintained Nursery schools,

Dismissal

Either: Once the decision to dismiss has been taken, the governance board (*or insert details of person or people to whom the power to dismiss has been delegated*) will dismiss the teacher with notice, (*Voluntary Aided, Foundation and Foundation Special schools only*).

Or: **Once the governance board (*or insert details of person or people to whom the power has been delegated*) has decided that the teacher should no longer work at the school, it will notify the local authority of its decision and the reasons for it.** Where teachers work solely at this school, the local authority must dismiss them within fourteen days of the date of the notification. Where they work in more than one school, the local authority must require them to cease to work at this school (*Community, Voluntary Controlled, Community Special and Maintained Nursery Schools only*).

Appeal

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 against the decision within five days (*or substitute alternative*) 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 teacher.

The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

The teacher will be informed in writing of the results of the appeal hearing as soon as possible.

General Principles Underlying This policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

Part B of the policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the headteacher and governance board to quality-assure the operation and effectiveness of the appraisal system. *Schools to say here how they might achieve this, for example, the headteacher or appropriate colleague might review all teachers' objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers. The headteacher might also wish to be aware of any pay recommendations that have been made.*

Consistency of Treatment and Fairness

The governance 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 teachers. The governance board is aware of the guidance on the Equality Act issued by the Department for Education.

Definitions

Unless indicated otherwise, all references to "teacher" include the headteacher.

Delegation

Normal rules apply in respect of the delegation of functions by governance boards, headteachers and local authorities.

Grievances

Where a member of staff raises a grievance during the capability procedure the capability procedure 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.

Sickness

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 absence policy and will be *(e.g. referred immediately to the occupational health service to assess the member of staff's health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures)*. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

Monitoring and Evaluation

The governance board and headteacher will monitor the operation and effectiveness of the school's appraisal arrangements. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

Retention

The governance board and headteacher will ensure that all written appraisal records are retained and stored in a secure place in line with their Retention and Disposal Policy



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