



Capability and Support Policy

Contents

1. INTRODUCTION	2
2. SCOPE	2
3. KEY PRINCIPLES AND DEFINITIONS	3
4.1 STRUCTURED MANAGEMENT SUPPORT (SMS)	5
4.2 FORMAL STAGE ONE	6
4.3 FORMAL STAGE TWO (REVIEW STAGE)	8
4.4 FORMAL STAGE THREE (DECISION STAGE)	9
5. RIGHT OF APPEAL	10
APPENDIX 1: MANAGING CAPABILITY FOR EMPLOYEES WITH LESS THAN TWO YEARS' SERVICE NOT IN THE SETTLING IN PERIOD	12
APPENDIX 2: STRUCTURED MANAGEMENT SUPPORT –MEETING CHECKLIST	13

Prepared By	One Trust Services People team
Approved By	People, Pay & Culture Committee
Original Approval Date	October 2023
Policy Review Date	August 2025
Next Review Date	August 2028

HISP Multi Academy Trust

Managing Capability

Our Trust's Capability Policy

We write our policies through a particular lens: these documents are vital to the underpinning for our Trust to be one Trust. References to “you” are intended to explain the important role you, the employee, have in our Trust and references to “we” refer to the responsibilities we recognise HISP has as an employer. Together we are One Trust.

This policy supports Excellence and Pupils First by supporting our employees meet the high standards needed to deliver the best outcomes for pupils. It reflects our commitment to Equity, Ambition, and Courage by providing fair support and development opportunities, even in challenging circumstances.

1. Introduction

Our Trust expects excellent standards of performance and is committed to supporting employees to achieving this and fulfilling the requirements of their role. We acknowledge that there may be circumstances when an employee does not perform to the required standards or competence –in their daily working practices, through the objective-setting process or in demonstrating the appropriate and required behaviours. This may happen because the employee does not have the necessary skills, knowledge and/ or experience.

The aim of our Capability Policy is to set out a clear and consistent process for when any employee is unable to achieve the required standards and/or achieve the required level of competence, as set out in the relevant professional standards, job descriptions and overall performance expectations.

If poor work performance is assessed to be due to a deliberate or willful failure to fulfil the duties of the role and/or a deliberate lack of care, the matter will be dealt with under the Trust's Disciplinary Procedure as a conduct concern.

The aims of the policy are to:

- Provide a framework for managing capability issues in a positive way
- Ensure employees are made aware of performance concerns in a timely manner
- Support an employee to improve and perform successfully in their role if there is an issue
- Support a culture of high performance across the Trust to facilitate school improvement and ultimately putting pupils first

2. Scope

This policy applies to:	• Teachers including leadership, upper pay range, main pay range and unqualified • Support staff
-------------------------	--

HISP Multi Academy Trust

Managing Capability

This policy does not apply to:	• Employees who are in their settling in (probationary) period • Teachers in their statutory induction period • Volunteers • Contractors • Agency workers
--------------------------------	---

This policy is non-contractual and does not form part of your terms and conditions.

If you have less than two years' service but your settling-in period has been confirmed, you may be subject to a shortened procedure. A copy of the shortened procedure can be found in Appendix One.

You are actively encouraged to contact your professional association/ trade union representative at the earliest opportunity to obtain advice and support at any point during this procedure.

We expect all parties involved to maintain confidentiality throughout the application of the policy.

3. Key Principles and Definitions

Performance Development– the annual cycle of development priority (objective-setting), appraisal and development planning which applies to all employees. There is a separate performance management policy.

'Lack of capability' – where you are failing to perform your role to the standard required (including meeting your objectives) at the level of competence reasonably expected of you and that your job requires. There is an apparent lack of capability; this could happen at any point during the annual performance cycle.

Structured Management Support (SMS) – a support action plan which may be put in place where there is an apparent lack of capability. SMS should be implemented prior to starting and during the formal process of managing capability to help you achieve the necessary levels of performance. One Trust Services People team advice should be sought to support this process.

Formal capability process – a formal process of addressing performance concerns where improvement has not been achieved following a period of informal support (SMS). One Trust Services People team advice must be sought by the manager before commencing such a process.

- Before commencing the formal capability process, the appropriate senior leader or nominated manager ("the manager") must consider if there may be other reasons to explain why you are unable to perform to the required standards. This may happen due to a physical, cognitive, mental, sensory, emotional, or developmental disability, impairment, condition or illness which may be temporary or permanent.
- There may be exceptional circumstances when the manager and/ or you anticipate a long-term capability concern. In line with ACAS guidance and

HISP Multi Academy Trust

Managing Capability

recognition of the duties placed upon us by the Equality Act (2010), where you have a disability that is related to the capability concern, we will take reasonable steps to support you. In these circumstances, if it is anticipated it is unlikely that you can achieve the required level of performance, consideration must be given to whether a further Occupational Health referral is appropriate, what adjustments may be reasonable and whether the concerns should be handled through the sickness management policy or another Trust policy. . The manager must seek advice from One Trust Services People team in such cases.

- If you begin a period of long-term sickness absence whilst being considered under the informal support or formal capability stages of this policy, your absence will also be considered under the relevant sickness absence procedure.
- Where you wilfully and unreasonably refuse to co-operate with the application of the Capability Policy, the matter will be dealt with under the Disciplinary Policy.

Right of representation – If you are the subject of the formal stage of the capability procedure you may be advised and/or represented by a trade union representative or accompanied by a colleague who is an employee of the Trust at every stage of the formal procedure.

While there is no statutory right to be accompanied at informal meetings (eg informal review meetings) by a Trade Union representative or a colleague employed at the Trust, this will not be unreasonably refused if you request it.

Where there is a statutory right of accompaniment, and the chosen companion cannot attend on the date proposed for meeting, you can offer an alternative time and date. Any alternative time and date must be reasonable and fall within five school working days, beginning with the first working day after the date originally proposed by the manager.

4. Policy stages

The possible stages are:

1. Structured Management Support (informal support)
2. Formal Stage 1
3. Formal Stage 2
4. Formal Stage 3 - may result in dismissal
5. Right of appeal after each formal stage.

If you have less than two years' service and are not in any probationary period please refer to Appendix One.

You will not normally be permitted to raise a grievance related to any action taken, or contemplated, under this procedure. Such grievances will normally be managed within the hearing and appeal process detailed below.

The time periods in this procedure will also apply to part-time employees.

HISP Multi Academy Trust

Managing Capability

4.1 Structured Management Support (SMS)

Our performance development (PD) process is designed to support continuous improvement. We want to encourage a culture in which all colleagues take responsibility for improving their contribution through appropriate professional development.

A conversation (following the aide memoire checklist in Appendix Two) should take place promptly as soon as it is noticed that you are not achieving and maintaining acceptable and agreed standards of performance. We recognise that there may be issues outside your direct control, wider workplace problems, or other personal issues which may have a temporary effect on work performance. Delaying or doing nothing may cause the performance problem to escalate and cause delay in providing the necessary support to you.

Normally it is appropriate to deal informally with performance issues for a defined and monitored period. We refer to this as Structured Management Support (SMS). SMS is part of normal day to day management arrangements.

If the concerns about performance are more serious it may be appropriate to implement the formal procedure without having addressed the issues informally through SMS, depending on the circumstances.

At this informal stage, the conversation with your manager will:

- give clear and specific feedback to you about the nature and seriousness of the concerns;
- give you the opportunity to comment and discuss the concerns;
- consider your comments and, as appropriate, inform you that you will receive informal support for a defined period of time due to performance concerns. The amount of time will reflect the seriousness of the concerns and be the period in which improvement could reasonably be expected;
- set clear objectives and timescales for required improvement, explaining how these fit with development priorities previously agreed;
- agree any support (e.g. coaching, mentoring, training, structured observations for classroom-based roles), that will be provided to help address those specific concerns;
- make clear how, and by when, your manager will review progress;
- explain the implications and process if no, or insufficient, improvement is made – e.g. commencement of the formal capability process.

A member of the One Trust Services People team may also be present to support the conversation and the main points will be documented for you (see Appendix Three). There should be a clear relationship between the concerns, the objectives set, and

HISP Multi Academy Trust

Managing Capability

the support put in place. Your manager will work with you and consider any particular personal circumstances. These may include any medical conditions, well-being support needs, or disabilities protected by equality legislation. In these circumstances, your manager will need to review if any adjustments have been made to support you and if the adjustments have helped, to review details of other support that has been considered, including what has not been done and why, any medical evidence, for example an occupational health report, and if you are off work, their opinion on how long you might be unable to work.

Following a review at the end of the SMS period there are 3 possible outcomes:

- Where the improvements have been made and performance has improved sufficiently the SMS will cease and the performance management/appraisal process will continue as normal. However you will be made aware that the improvements must be sustained without the need for further support.
- Where the improvements necessary have been partially achieved and there is evidence to suggest that there is further capacity to improve your manager may decide to extend the period of SMS for up to a further 4 weeks. This will be followed by a further review meeting.
- Where the improvements have not been achieved and there is insufficient evidence to indicate that there is little or no capacity for improvement, you will be move to Stage One of the formal capability process.

Although there is no automatic right for the individual to be accompanied by a trade union representative or colleague at any informal meetings, any request to be accompanied should not be unreasonably refused.

4.2 Formal Stage One

Where any action is being considered under the formal stages of the Capability Policy advice must be sought from the One Trust People Services team at the earliest opportunity.

At each stage of the policy, you will be invited to attend a meeting and you will be advised of your right to be accompanied by a colleague employed by MAT or a Trade Union representative. The meetings will be chaired by the manager. and may be attended by a member of the One Trust Services People team or another appropriate manager.

You will receive the invitation in writing at least 5 working days before the meeting.

The invitation should include copies of any documents which will be discussed at the meeting including records of any SMS support which has been in place.

At the meeting the manager will outline the reasons why they believe transition to the formal capability process is appropriate and provide evidence to support this view. This will be drawn from previous the SMS action plan and review documents as well as any other relevant evidence – e.g lesson observations, feedback.

You will be able to respond to the concerns about your performance and to make any relevant representations. This may provide new information or a different

HISP Multi Academy Trust

Managing Capability

context to the information/evidence already collected.

The manager 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 or other informal means. In such cases, the capability procedure will come to an end and this will be confirmed in writing.

Where the manager concludes that formal action under the capability procedure is appropriate, they will:

Identify the areas of under-performance and, where appropriate, refer to any relevant frameworks or documented expectations, for example job description, or which of the standards expected of teachers are not being met;

- Give clear guidance on the improved standard of performance required to ensure that you can withdraw from formal capability procedures. This may include the setting of new objectives focused on the specific improvements that are required, any success criteria that might be appropriate and the evidence that will be used to assess whether the necessary improvement has been made;
- Explain and discuss any support that will be available to help you improve your 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. It is for the manager to determine the length of the period set which should be reasonable and proportionate in the circumstances. Normally this would be a minimum of four weeks but not more than ten weeks and should provide sufficient opportunity for an improvement to take place. Relevant factors to consider include the impact of the unsatisfactory performance on the wider team, impact on students, the support being put in place and the seriousness of the shortcomings.
- Confirm that because your performance is not at an acceptable standard, the senior leader will have to recommend withholding any pay progression for the relevant annual salary review period.

Where possible, the plan for training, support, monitoring and review will be agreed with you. If this is not possible, the manager will decide the plan to be implemented. Sufficient time should be allowed within the plan to enable you to reflect and respond to feedback (eg for teaching staff sufficient time between lesson observations).

The manager will confirm that you will receive formal written confirmation of the need to improve (a “performance improvement letter”) and that failure to improve within the set period could lead to a Stage 2 meeting and ultimately, without improvement, to dismissal. The letter will summarise the matters covered in the bullet points above and give information about the timing and handling of the review stage and your right to appeal (detailed in section 2 of this policy).

A formal note will be taken during the meeting, arranged by the manager, and a

HISP Multi Academy Trust

Managing Capability

copy provided to you. These notes are confidential to those in the meeting.

A performance review period will follow with monitoring, evaluation, guidance and support continuing during this period.

During the review period, informal monitoring meetings may take place at agreed intervals with the manager (or an appropriate coach assigned by the manager) to review and support progress against the identified objectives/ improvements required and monitor the implementation of support plan. Feedback should be given promptly to you, so there are no surprises for you at the end of the review period.

If, at any time the manager considers that performance has improved to a satisfactory level and that this is likely to be sustained, then they can choose to cease the formal capability procedure without a further formal meeting and normal appraisal processes/informal management arrangements will recommence. This will be confirmed in writing, with details of the standards of performance to be maintained and the implications if further concerns about performance arise in the future. You will be informed that this first performance improvement letter will remain on your file for 12 months and will be disregarded for capability purposes after that time, unless your performance lapses below the required standard before the end of this period. In these instances, the procedure may be re-entered at the stage previously applied.

If the performance has not improved at the end of the formal review period, you will be invited to a Stage 2 Capability meeting.

4.3 Formal Stage Two (Review Stage)

As with the Stage 1 Capability meeting, at least 5 working days' notice will be given of this meeting in writing and the notification will give details of the date, time and place of the meeting. It will advise you again of your right to be accompanied by a colleague employed by MAT or a Trade Union representative and explain that this Stage 2 meeting could result in a Final Performance Improvement Letter.

At this meeting the manager will review the action taken to date, the outcome of any support and monitoring period put in place and outline the continuing concerns about performance. You will be able to respond to the concerns presented by the manager.

If the manager is satisfied with the explanation and/or that you have made sufficient improvement, the capability procedure will cease, and normal appraisal processes/informal management arrangements will re-commence. This will be confirmed in writing, with details of the standards of performance to be maintained and the implications if further concerns about performance arise in the future. You will be informed that the first performance improvement letter will remain on your file for 12 months and will be disregarded for capability purposes after that time, unless your performance lapses below the required standard before the end of this period. In these instances, the procedure may be re-entered at the stage previously applied.

HISP Multi Academy Trust

Managing Capability

If some progress has been made and the manager believes that further progress is likely, it may be appropriate to extend the monitoring and review period under Stage 1 without issuing a final performance improvement letter. A further Stage 2 Capability meeting will be held at the end of the extended period. In these circumstances a further plan for support monitoring and review should be implemented.

If no, or insufficient improvement has been made during the monitoring and review period, the manager will issue a final performance improvement letter.. .

This will confirm that if your performance does not reach an acceptable standard within the set timescale, this may result in your dismissal. You will be given information about the handling of the further monitoring and review period and the right to appeal.

A formal note will be taken during the meeting, arranged by the manager, and a copy provided to you. These notes are confidential to those in the meeting.

During the review period, informal monitoring meetings will take place at agreed intervals with the manager and/or any assigned coach to review progress against the identified objectives/improvements required and monitor the implementation of support plan. Feedback will be given to you, so you are aware of how you are progressing and what concerns remain.

If, at any time, the manager considers that your performance has improved to a satisfactory level and that this will be sustained, then they can choose to cease the formal capability procedure without a further formal meeting and normal appraisal processes/informal management arrangements will recommence. This should be confirmed in writing with details of the standards of performance to be maintained and the implications if further concerns about performance arise in the future. You will be informed that the final performance improvement letter will remain on your file for 12 months and will be disregarded for capability purposes after that time unless your performance lapses below the required standard before the end of this period. In these instances, the procedure may be re-entered at the stage previously applied.

At the end of the monitoring and review period, a review meeting will be held by the manager to consider whether sufficient progress has been made and what further action may be appropriate.

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 review period, the manager will advise the employee that a Stage 3 Capability Hearing will be convened where the employee's dismissal on the grounds of capability will be considered.

4.4 Formal Stage Three (Decision stage)

As with the formal capability interviews at Stages 1 and 2, at least five working days'

HISP Multi Academy Trust

Managing Capability

notice will be given in writing and the notification will provide details of the date, time and place of the meeting and will be advise you of your right to be accompanied by a colleague employed at the Trust or a Trade Union representative.

The Stage 3 meeting will be chaired by a senior leader with the authority to dismiss (as set out in the Trust's scheme of delegation). The panel will comprise of two individuals neither of whom have been involved in earlier support or monitoring. In exceptional circumstances, the panel may proceed with 3 panel members.

The options available to the panel are to determine that:

- you should cease to work in your present post at the Trust;
- you should cease to work in your present post at the Trust and be offered a suitable available and alternative post within the Trust;
- the monitoring and support programme should be continued for a defined timescale;
- you should continue to work at the Trust and no further formal action under these procedures is required.

The panel will adjourn after the hearing to consider the case carefully before reaching its determination. You will normally be informed of the decision in writing within five working days and provided with a copy of the formal record of the meeting.

5. Right of Appeal

You have the right to appeal against the outcome of a formal meeting and any stage of the procedure.

You must submit your appeal in writing within 5 working days following receipt of the written outcome of the formal meeting. This must include the full reasons for the appeal.

Appeals will be heard without unreasonable delay and at an agreed time and place. The same statutory right to be accompanied will apply as with formal capability meetings.

You will be invited, in writing, to attend a meeting and given 5 working days' notice of the meeting.

The appeal will be dealt with impartially and by two senior leaders from across the Trust or trustees/governors who have not previously been involved in the case.

The options open to the Appeal Panel in considering an appeal will be to either:

- Uphold the appeal and substitute an alternative decision as provided for under the relevant part of this procedure depending on which stage of the procedure the original decision was made or
- Reject the appeal and reconfirm the decision that is being appealed.

The panel will adjourn after the appeal hearing to consider the case carefully

HISP Multi Academy Trust

Managing Capability

before deciding. You will be informed of the decision in writing within five working days.

A formal note will be taken during the meeting, and a copy provided to you. These notes are confidential to those in the meeting.

Following an appeal of the formal stage three meeting, there is no further right of internal appeal.

6. Support

If you feel you need additional support, you may wish to contact the employee wellbeing support offered to all HISP MAT employees provided by Schools Advisory Service (SAS). This is a free, impartial and confidential platform that offers a diverse range of support to employees designed to help you across a wide range of areas related to your work life or personal life (details included). All enquiries are answered by qualified and experienced professionals; you can contact them on 01773814400 at any time, online at <https://schooladvice.co.uk>, or there is an app you can download.

7. Governance

This policy will be administered by the One Trust Services People team and initially will be subject to review every three years unless there is an earlier statutory change and/or significant feedback necessitating an earlier review. Any feedback on the policy should be emailed to HR@hispmat.org.

People team
August 2025

HISP Multi Academy Trust

Managing Capability

Appendix 1: Managing capability for employees with less than two years' service not in the settling in period

As a general principle the manager will seek to provide structured managerial support under the Performance Management policy, before using the Capability Policy.

You will be given a reasonable period of time to achieve the required improvement before moving to the next stage of the policy.

The possible stages are:

- **Formal meeting** – the principles of the main policy will apply and may result in a final performance improvement letter or dismissal.
- **Appeal stage** - the principles of the appeal stage of the main policy will apply. You only have the right of appeal against a dismissal decision. There is no right of appeal against a warning.

In exceptional circumstances, it may be appropriate to move to the formal meeting stage without having provided a period of structured managerial support. The manager must seek advice from the One Trust Services People team in such cases.

HISP Multi Academy Trust

Managing Capability

Appendix 2: Structured management support –meeting checklist

- ☐ Prepare background /evidence referring to other sources of information as appropriate, e.g. performance objectives, observations, feedback, etc.
- ☐ Make the link to Teachers' Standards or Support Staff accountabilities where relevant.
- ☐ Conduct the meeting in confidence with the employee and listen to their viewpoint. If the employee becomes distressed, use an adjournment to allow time for them to compose themselves. This should normally mean the discussion can continue after a short break.
- ☐ Take into account any mitigating circumstances.
- ☐ If the employee needs time to prepare a response, e.g. if the employee needs to gather information, allow them time for this and continue the meeting as soon as possible afterwards.
- ☐ Explain clearly what improvements are required and/or what action is to be taken. The required improvements must be measurable and a timescale must be agreed for when improvements are to be made.
- ☐ Arrange any necessary training and/or any help or support you have agreed to put in place.
- ☐ Diarise to review the actions taken and/or monitor the employee's performance (e.g., weekly, fortnightly, monthly) as discussed with the employee.
- ☐ Explain possible outcomes at the end of the SMS review period
- ☐ Complete the action plan and agree a review date.

HISP Multi Academy Trust

XXX Policy

Appendix 3: Template Structured Management Support Action Plan

EMPLOYEE:

MANAGER:

DATE OF MEETING:

REASON FOR DISCUSSION (define/clarify where performance is below what is required
- e.g. managing behaviour, pupil progress, assessment, planning, whole school contribution, poor communication, time keeping, organisation)

EVIDENCE/OBSERVATIONS

EMPLOYEE'S EXPLANATION/MITIGATING FACTORS

WHAT ACTION HAS BEEN AGREED ?

(e.g. what improvements the employee must make and what evidence will need to be provided. Agree SMART actions and be clear on the timeline in which improvement is expected and the further review meeting(s) that will be held to consider this)

HISP Multi Academy Trust
XXX Policy

WHAT SUPPORT WILL BE PROVIDED? (e.g training/coaching, peer support, external support)
ANY OTHER COMMENTS? Including date of next review