

Policy for:	<b>Appraisal and Capability Process</b>
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## 1. Introduction

- 1.1. This appraisal and capability procedure must be read and applied in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.
- 1.2. This procedure aims to set out the framework for a clear and consistent assessment of the overall performance of employees covered by the appraisal procedure and for supporting their development within the context of the Trust's plan for improving educational provision and performance, and the standards expected of employees in their respective roles. It also sets out the arrangements that will apply when employees fall below the levels of competence that are expected of them.

## 2. Application of the Policy

The policy is in two separate sections:

- 2.1. Part A of the policy, which covers appraisal, applies to all employees of the Trust, except those on contracts of less than one term, those teachers undergoing induction (i.e. NQTs), those support staff subject to a probationary period and those who have been transferred to Part B of the policy.
- 2.2. Part B of the policy, which sets out the formal capability procedure, applies to all employees of the Trust. Concerns about the employee's performance will have been identified by the appraisal process and which it has been unable to address.

"Lack of capability" is defined as a situation in which an employee fails consistently to perform their duties to a wholly satisfactory standard of performance over a period of time.

## 3. Part A: Appraisal

- 3.1. The appraisal policy in this Trust will be a supportive and developmental process designed to ensure that all employees identified by the policy have the skills and support they need to carry out their role effectively. It will help to ensure that all employees can continue to improve their professional/employment practice and to develop in their respective roles.

### 3.2. The appraisal period

- 3.2.1. The appraisal period will run for twelve months as follows;
  - Support staff, 1 June to 31 May
  - Teaching staff, 1 October to 30 September

- Management staff (management contracts), 1 October to 30 September

3.2.2. Employees 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 review period will be determined by the duration of their contract.

3.3. Employees will not normally be dismissed for performance reasons without previous warnings. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

### **3.4. Appointing appraisers**

3.4.1. The task of appraising the Chief Executive Officer will be undertaken by Chair of the Trust Board supported by a suitably skilled and/or experienced external adviser who has been appointed by the Trust for that purpose.

3.4.2. The Principal/ Director of Education/ Executive Principal/ Senior Manager will decide who will appraise other employees covered by the policy.

### **3.5. Setting objectives**

3.5.1. The Chief Executive Officer's objectives will be set by the Chair of the Trust Board after consultation with the external adviser.

3.5.2. Objectives for each employee covered by the policy will be set before, or as soon as practicable after, the start of each appraisal period. The objectives set will be Specific, Measurable, Achievable, Realistic and Time-bound (SMART) and will be appropriate to the employee's role and level of experience. The appraiser and appraisee will seek to agree on the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change.

3.5.3. The objectives set for each employee will, if achieved, contribute to the Trust's plans for improving educational provision and performance and improving the educational opportunities of pupils at each School within the Trust. This will be ensured by aligning them to the Trust Strategic plan, Academy Development Plan and individual needs.

### **3.6. Overall performance of teachers**

3.6.1. Before or as soon as practicable after, the start of each appraisal period, a teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed. Each teacher will be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2011 and any subsequent amendment thereof.

3.6.2. The Principal/ Executive Principal or Director of Education will need to consider whether certain teachers should also be assessed against other sets of standards published by the Secretary of State that are relevant to them.

### **3.7. Reviewing performance**

### **3.7.1. Observation**

- 3.7.1.1. The Trust believes that observation of classroom practice and other responsibilities for teachers, and support staff who support teachers in the classroom, is important both as a way of assessing 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.
- 3.7.1.2. All observation will be carried out in a supportive fashion. The Trust is a large and growing organisation consisting of a diverse range of Academies, as characterised by: phase/age-range; size of student and staff rolls; the overall position of each Academy's current effectiveness, and so on.
- 3.7.1.3. As such, the details of each Academy's schedule of observation, the purposes of each round and the details of which personnel observe lessons must be a matter for each Academy to agree on a local basis in response to their individual needs and contexts. Where possible, a monitoring calendar will be published at the beginning of each academic year – it is, however, recognised that this may be subject to alteration.
- 3.7.1.4. Each Observation Protocol must adhere to the principles for successful and reasonable observation laid out in this policy. The Observation Protocol makes the provisions in this policy clear and practicable for each Academy in turn.
- 3.7.1.5. The Observation Protocol should be annually reviewed by the Academy Council prior to the start of the next Appraisal cycle.
- 3.7.1.6. Teachers' performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the employee and the overall needs of the School and Trust.
- 3.7.1.7. Classroom observation of teachers will be carried out by a Senior Manager/ Principal/ Executive Principal.
- 3.7.1.8. Employees who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.
- 3.7.1.9. A dynamic spreadsheet to record evidence of performance is available from HR.

### **3.8. Support staff**

- 3.8.1. Support staff appraisal will focus on the job description of the employee and the expected standards of performance will be made clear by the appraiser.

### **3.9. Drop-Ins**

- 3.9.1. In addition to formal observation, the Principal, Executive Principal or Director of Education or other leaders with responsibility for teaching standards may "drop-in" in order to evaluate the standards of teaching and to check that high standards of professional performance are established and maintained. The length and frequency of "drop-in" observations will vary depending on specific circumstances.

3.9.2. All “drop-ins” will be carried out in accordance with a protocol determined by the Principal/ Executive Principal following consultation with the employees to whom it applies.

### **3.10. Development and support**

3.10.1. An appraisal is a supportive process which will be used to inform continuing professional development. The Trust wishes to encourage a culture in which all employees take responsibility for improving their performance through appropriate development.

3.10.2. Teachers’ professional development will be linked to Trust and School improvement, priorities and the ongoing professional development needs and priorities of individual teachers.

### **3.11. Feedback**

3.11.1. Employees will receive constructive feedback on their performance throughout the year and as soon as practicable after an observation has taken place or other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that need attention.

3.11.2. Where there are concerns about any aspects of the employee’s performance the appraiser will meet with the employee to:

- Give clear feedback about the areas of concern
- Give the employee the opportunity to comment and discuss the concerns and establish the likely causes of poor performance and identify any training needs/support needed (e.g coaching, monitoring, structured observation)
- Clarify the required standards and agree on 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
- If it is appropriate to revise objectives, it will be necessary to allow sufficient time for improvement
- The amount of time will reflect the seriousness of the concerns; explain the implications and process if no, or insufficient, improvement is made

3.11.3. When progress is reviewed, if the appraiser is satisfied that the employee 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.

3.11.4. The appraiser will keep a note of any concerns, the support given and the review judgement. A copy of this note will be given to the employee. (See 3.12.1 below.) If required, this will inform any decision on transition to the capability procedure.

### **3.12. Transition to capability**

3.12.1. If the appraiser, is not satisfied with the progress, the employee will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure. The employee will be invited to a formal capability meeting. The capability procedures will be conducted as set out in part B of this policy.

### **3.13. Annual assessment**

- 3.13.1. The performance of each employee covered by the appraisal policy will be formally assessed in respect of each appraisal period.
- 3.13.2. In assessing the performance of the Chief Executive Officer, the Chair of the Trust Board must consult the external adviser.
- 3.13.3. This assessment is the endpoint 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 at least once a term.
- 3.13.4. The employee 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
- 3.13.5. Teachers will receive their written appraisal reports by 31 October (31 December for those on the Leadership Pay Range) and support staff by 30 June.

## **4. Part B: Capability**

### **4.1. Formal capability meeting**

- 4.1.1. This procedure applies only to employees about whose performance there are serious concerns that the appraisal process has been unable to address. If under Part A above, an employee's performance, who is covered by Part A, is not wholly satisfactory, the Principal, Executive Principal, Director of Education or Senior Manager will invite the employee to a formal capability meeting to discuss with the employee the identified poor performance as specifically as possible.
- 4.1.2. A capability meeting constitutes a formal meeting and should be arranged in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.
- 4.1.3. The capability meeting is intended to establish the facts. It will be conducted by the Principal, Executive Principal, Director of Education or Senior Manager. The meeting will allow the employee 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.
- 4.1.4. The Chair of the capability 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.
- 4.1.5. The Chair of the capability meeting may also adjourn the meeting if it is decided 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.
- 4.1.6. During the meeting, or any other meeting which could lead to a formal warning being issued, the Chair will:

- In the case of a teacher, identify the poor performance, including which of the standards expected of the teacher is not being met
- Ensure the employee is given an opportunity to ask questions, present evidence, call witnesses, respond to evidence and make representations
- Establish the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement
- Give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures, which may include the setting of new objectives focused on the specific area/s of poor performance that need to be addressed. It will include any success criteria that are appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made
- Identify whether there are further measures which may improve performance and explain any support that will be considered and planned to help the employee, e.g. in-service training, visits to other Schools, discussion with appropriate colleagues or professionals
- 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 will be reasonable and proportionate, between four and ten weeks in normal circumstances, and will provide sufficient opportunity for improvement to take place. The length of time required will depend on the concerns raised with the employee, the nature of any support and training required, and sufficient time to establish whether performance has improved
- Warn the employee formally that failure to improve within the set period could lead to a final written warning which could then lead to their dismissal
- Inform the employee of the right of appeal
- Agree with the employee and any companion the date of the formal review meeting

4.1.7. Notes will be taken of formal meetings and a copy sent to the employee and any companion. Where a first warning is issued, the employee will be informed in writing of the matters discussed in 4.1.6 above. They will also be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in a final written warning, which could then lead to dismissal, if wholly satisfactory performance is not achieved, together with the time limit for appealing against the first written warning.

4.1.8. If the concerns relate to a lack of capability that poses a risk to the health, safety or wellbeing of children, or is likely to result in serious damage to pupils' education, the shorter timescale may be appropriate. In such cases, the senior manager may exceptionally decide to issue a first and final written warning, if to do otherwise would expose students to serious risk in terms of their health, safety, wellbeing or educational prospects.

## **4.2. Sickness absence and the use of this procedure**

4.2.1. It is important that sickness absence should not delay or avoid the use of formal capability procedures. It is in the interests of all parties to address concerns about performance without undue delay. Arrangements will normally be made to seek medical advice from

an occupational health adviser to assess the employee's health and fitness for continued employment at the Trust.

4.2.2. Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements, including changing the employee's duties or providing additional equipment or training. The Trust may consider making adjustments to this procedure in appropriate cases, e.g. moving from this procedure to procedures used by the Trust to terminate the employment of the employee on the grounds of ill health.

4.2.3. If an employee's medical condition is not serious enough to warrant consideration of termination of employment on the grounds of ill health, the occupational health adviser will normally be asked to assess whether an employee absent through sickness is fit enough to attend a meeting under this procedure. In the event that the employee is deemed not fit to attend a formal capability meeting, they may present a written submission for consideration and/or be represented by a companion in their absence.

### **4.3. Monitoring and review period following a formal capability meeting**

4.3.1. A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. Following this monitoring and review period, the employee will be invited to a formal review meeting (see paragraph 4.4 below), unless they have been issued with a final written warning, in which case they will be invited to a decision meeting (see paragraph 4.6 below).

### **4.4. Capability review meeting**

4.4.1. A capability review meeting constitutes a formal meeting and should be arranged in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.

4.4.2. The capability review meeting will be conducted by the Principal, Executive Principal, Director of Education or Senior Manager.

4.4.3. The formal review meeting will follow a similar procedure to that identified for the formal capability meeting as set out in paragraph 4.1.6 above.

4.4.4. If the Chair is satisfied that the employee has made sufficient improvement, the formal capability procedure will cease and the appraisal process will re-start where the employee is subject to Part A above.

4.4.5. In cases:

- where some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;

4.4.6. where no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning.

4.4.7. Notes will be taken at the formal review meeting and a copy will be sent to the employee and any companion.

4.4.8. Where a final written warning is issued, the employee will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and will be given information about the further monitoring and review period and the procedure and time limits for appealing against the final written warning. The date of the decision meeting will be agreed with the employee and any companion.

4.4.9. At this stage, rather than refer the matter to a decision meeting, consideration could be given to the employee being given a different range of duties or an alternative post. By agreement, this may include transfer to a post suited to the employee's capabilities. If this post is at a lower salary level, the substantive lower salary would apply.

#### **4.5. Right of appeal against a final written warning**

4.5.1. The employee has a right of appeal against a decision to issue a warning.

4.5.2. An appeal hearing constitutes a formal meeting and should be arranged in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.

4.5.3. Appeals against formal warnings should be submitted to the Principal, Executive Principal, Director of Education or Senior Manager as appropriate. Appeals against a written warning shall be restricted to considering the reasonableness of the decision made, any relevant new evidence not previously available or any procedural irregularities.

4.5.4. An appeal against a formal warning will be heard by a more senior colleague than that who has issued the warning, or in the case of the Chief Executive by the Board of Trustees.

4.5.5. The outcome may be to confirm the warning, reduce a final warning to a warning, or cancel the warning.

4.5.6. Pending any appeal, the employee will be expected to continue to work in accordance with targets set for the next stage of the procedure and their progress towards the achievement of these targets may be monitored during this period.

#### **4.6. Decision meeting**

4.6.1. A capability decision meeting constitutes a formal meeting and should be arranged in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.

4.6.2. The meeting will be conducted by the Principal, Executive Principal or Director of Education.

4.6.3. 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 where the employee is subject to Part A above.

4.6.4. If progress has been made and there is confidence that wholly satisfactory performance will be achieved by a short extension, it may be appropriate to extend the monitoring and review period rather than to dismiss. The final written warning will be extended for a short specified assessment period.



4.6.5. If performance has remained unsatisfactory, a decision will be made that the employee will be dismissed. The employee 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 whether the notice is to be served or there will be pay in lieu of notice and the right of appeal.

#### **4.7. Right of appeal against a decision to dismiss**

4.7.1. The employee has a right of appeal against a decision to dismiss.

4.7.2. An appeal hearing constitutes a formal meeting and should be arranged in conjunction with Eastern Multi-Academy Trust's Staffing Policy Statement.

4.7.3. An appeal against a dismissal should be submitted to the Academy Council. The appeal should set out the grounds of appeal.

4.7.4. An appeal against a dismissal will be heard by the Academy Council. The number on the appeals panel will not be less than three.

4.7.5. The outcome may be to confirm or revoke the dismissal.

#### **4.8. Grievances arising during the procedure**

Where an employee has a grievance against the way the senior manager has conducted the procedure, this will normally be dealt with under the appeals process set out above. However, in very exceptional circumstances, where the behaviour of the senior manager is the cause of the grievance, it may be appropriate to suspend this procedure for a short period until the grievance has been considered.