

# **ST. DAVID'S HIGH SCHOOL**

## **CAPABILITY POLICY & PROCEDURE FOR ALL TEACHING STAFF INCLUDING HEADTEACHER**

**Reviewed by Governors  
October 2023**



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## **A: POLICY STATEMENT**

**A.1** It is the policy of the Governing Body to ensure a fair, consistent and sensitive approach to the management of teachers who find themselves unable to perform their duties to a professionally acceptable standard. It will do this by the adoption of standard procedures for notification, documentation, management and monitoring.

**A.2** The aim of the following procedure is to achieve a timely improvement to an acceptable standard of performance.

## **B: RELEVANT DEFINITIONS**

**B.1** The following interpretations apply throughout the document: -  
'Headteacher' includes any person nominated to represent him/her  
'Director of Lifelong Learning' includes any officer nominated to represent him/her

**B.2** The procedure is designed to deal with difficulties arising out of a situation(s) in which a member of staff fails consistently to perform his/her duties to a professionally acceptable standard'.

**B.3** The following procedure does not deal with capability due to ill health. Any alleged lack of capability arising out of a health problem will initially be dealt with using the School's Sickness Absence Management Procedure;

**B.4** Nor does it deal with misconduct which may be defined as an act or omission by an employee which is considered to be unacceptable professional behaviour. The School's Disciplinary Procedure will be used for any alleged misconduct;

**B.5** Nor does it deal with newly qualified teachers during their induction year.

**B.6** Any formal complaints against the teacher's competence from persons outside the school must be put in writing by the complainant. The matter will initially be dealt with under the School's Complaints Procedure

**(\*model to be substituted by school name when adopted by Governing Body)**

## **C: RESPONSIBILITIES OF MANAGEMENT AND STAFF**

### **Headteacher :**

**C.1** The Headteacher must have regard to his/her professional duties as defined in the statutory School Teachers' Pay and Conditions document, including: -

# ensuring that teachers at the school receive information they need in order to carry out their professional duties. These duties are defined as a minimum under the School Teachers' Pay and Conditions Document and are explained further in job descriptions and the school staff Handbook.

# advising the governing body on the adoption of effective procedures to deal with teachers who experience difficulty in reaching acceptable professional standards.

# keeping the governing body informed of the general operation of such procedures.

**C.2** The Governing Body will not be involved in these detailed procedures or during their application or discuss the teacher's deficiency, as ultimately the Governors may have to be the relevant body in further action against the teacher.i.e. Formal Procedure Final Stage.

### **Teacher: -**

**C.3** A teacher must have regard to the general professional standards of teachers including participating in arrangement for further training and professional development. These standards are defined under the School Teachers' Pay and Conditions Document.

**C.4 Post** threshold teachers must have regard to the framework of professional standards defined under the School Teachers' Pay and Conditions Document.

# PROCEDURE

## **1.0 MANAGING POOR PERFORMANCE - INFORMAL INTERVENTION**

### **1.1 Identification and support**

- 1.2 Following appointment, the teacher should be in receipt of a specific job description, a copy of school policies and a staff handbook. These establish the minimum professional standards required under the contract of employment.
- 1.3 It is important that professional performance problems are clearly identified and given appropriate consideration and support at the earliest possible stage. The nature of the problem, its level of seriousness and cause(s) will be investigated and identified by structured information gathering and systematic recording.
- 1.4 Following the investigation and assessment, any criticism of, or alleged deficiency in, the teacher's work will be brought to the attention of the teacher concerned by the Headteacher.
- 1.5 The teacher will be interviewed by the headteacher who will provide the teacher with evidence as to the criticism/deficiency. The teacher will be given the opportunity to respond.
- 1.6 If, at the conclusion of the interview, the headteacher considers the teacher's performance to be below a minimum acceptable standard, the teacher will be told ways in which the performance is considered to be deficient and warned there must be improvement to a satisfactory level.
- 1.7 The headteacher will provide to the teacher written details of the managerial support programme that will be given, which will include instructive action plans, a reasonable timeframe for improvement and a date for a second interview to review the position.
- 1.8 At each review step under the informal stage, the teacher may ask for a written note of dissent to be recorded on file if desired, and these observations will form part of any written record, a copy of which will be given to the teacher.
- 1.6 Following support of this kind, if the teacher is judged (at the review date) to have reached the appropriate professional standard, he/she is to be informed in writing and a record of the meeting recorded on their personal file.
- 1.7 Where following support, the teacher is judged (at the review date) not to have reached the required performance i.e. failed to improve within a reasonable period of time, the formal stage will commence. This will be date of commencement into the Formal Stage (**see 2.0 below**).

### **2.0 FORMAL PROCEDURE STAGE 1**

2.1 The teacher will be given written notification of commencement of proceedings under the Formal Stage

> The teacher will receive five working days notice of an interview with the headteacher

> The written notification will detail the nature of the criticism/deficiency in work performance and will include copies of all relevant documentation brought forward from the informal stage.

> the written notification will inform the teacher that as they have failed to adequately address concerns regarding their professional performance identified at the informal stage, they are now subject to the formal capability procedure and the outcome, which normally has a maximum **two term time limit**, may be dismissal, or,

> if it is judged by the headteacher that the education of pupils is jeopardised, then the teacher will be notified that a maximum of four weeks will be allowed for improvement

> that the written notification will serve as “**date of entry into the formal procedure**” which normally has a maximum two term limit.

> the teacher will be informed as to their right to be accompanied by a work place colleague or trade union representative.

2.2 At the interview the headteacher will:

> restate and explain the standards of work performance expected in the school;

> advise the teacher of the alleged areas of shortfall in performance and seek to gain the teacher’s acceptance of this shortfall;

> restate the support and advice already given to the teacher at the informal stage;

> explore with the teacher the reasons for the continuing shortfall in performance e.g.domestic problems, health problems, lack of knowledge/experience, lack of resources, heavy/inappropriate teaching load;

> will determine further targets, support and timescales to affect an improvement in performance;

> will set a date for review (**see 2.3 below**)

If however, at interview it is determined that the:

> poor performance arises from health issues then the matter may receive further consideration under the School’s Sickness Absence Procedure, and a further interview under **2.2** arranged when this has been put in place;

### **2.3 FORMAL PROCEDURE - REVIEW OF STAGE ONE**

2.4 At this interview the headteacher will review targets and standards of work performance and consider whether the required improvement in performance has been secured.

2.5 The findings of this interview will be one of the following;

> that satisfactory performance has been achieved and that action currently taken under this procedure will be discontinued;

> that some improvement has been achieved but not sufficient to give confidence in the ability of the teacher to perform to acceptable professional standards and a further period to seek improvement be allowed, with a further date for review **under 2.3.** being set;

> that lack of capability is still found and the matter will be progressed to Formal Procedure Stage 2 (**see 3.0 below**)

### **3.0 FORMAL PROCEDURE STAGE 2**

3.1 The teacher will receive five working days notice of a Stage 2 interview with the headteacher

> the written notification will detail the nature of the criticism/deficiency in work performance and will include copies of all relevant documentation.

> the written notification will remind the teacher that he/she is subject to the formal capability procedure and that the outcome may be dismissal.

> the teacher will be informed as to their right to be accompanied by a work place colleague or trade union representative

3.2 At the interview the headteacher will:

> restate and explain the standards of work performance expected in the school;

> advise again the teacher of the alleged areas of shortfall in performance and seek to gain the teacher's acceptance of this shortfall;

> warn the teacher that since this is a Stage 2 interview, any further failure to reach the set targets may result in dismissal

> explore the reasons for the teacher's continuing shortfall in performance e.g.domestic problems, health problems, lack of knowledge/experience, lack of resources, heavy/inappropriate teaching load;

> determine and seek to agree with the teacher further targets, support and timescales to affect an improvement in performance;

> consider, with agreement of the teacher, deployment to an alternative position within the school. The deployment will be on the contractual terms applicable to the post available i.e there will be no protection of salary or terms and conditions.

> will set a date for review (**see 3.3 below**)

If however, at interview it is determined that the:

> poor performance arises from health issues then the matter may receive further consideration under the School's Sickness Absence Procedure, and a further interview arranged when this has been put in place.

### **3.3 FORMAL PROCEDURE - REVIEW OF STAGE TWO**

3.4 At this interview the headteacher will again review targets and standards of work performance and consider whether the required improvement in performance has been secured.

3.5 The findings of this interview will be one of the following;

> that satisfactory performance has been achieved and that action currently taken under this procedure will be discontinued;

> that some improvement has been achieved but not sufficient to give confidence in the ability of the teacher to perform to acceptable professional standards, and a further period to seek improvement be allowed, with a further date for review **under 3.3.** being set.

> that lack of capability is still found and the matter will be progressed to Formal Procedure Final Stage (**see 4.0 below**)

### **4.0 FORMAL PROCEDURE FINAL STAGE**

4.1 The teacher will be required to attend a meeting before at least three members of the Staff Dismissal Committee of the Governing Body. The Director of Lifelong Learning or his representative has a right to advise.

4.2 Notification of the meeting will be in writing to the teacher giving at least five working days notice, and state the date, time and place of the meeting, the reason for the meeting and a reminder of the teacher's right of representation by a work place colleague or trade union representative. The teacher will be warned that an outcome of the hearing may be dismissal.

4.3 The Headteacher will prepare a report giving full details of the alleged lack of capability and other relevant documentary evidence

- 4.4 This report will be sent to the teacher not less than five working days before the meeting.
- 4.5 All papers to be presented to the Committee, by both parties to be submitted to the Committee at least three working days before the meeting, along with the names of any persons to be called as witnesses to provide evidence.
- 4.6 The purpose of the meeting will be to:
- (a) the headteacher to inform the Staff Dismissal Committee of the teacher's performance record and the lack of insufficient improvement.
  - (b) allow the teacher to make representation and present evidence and call witnesses as appropriate
  - (c) the Staff Dismissal Committee may consider any mitigation presented by the teacher before making their decision.
- 4.7 the Staff Dismissal Committee may determine that:-
- > no further action be taken;
  - > the matter be referred back to the headteacher for further actions and supervision;
  - > that there be a recommendation to the Governing Body that the teacher be offered a different balance of duties or an alternative teaching post (if the teacher has agreed, at **3.2**, that this be given consideration);
  - > termination of employment to the LEA, subject to statutory/contractual period of notice
- 4.8 If the decision is to dismiss, the Governing Body will inform the LEA. The LEA will not issue notice of dismissal until the outcome of any appeal is known.
- 4.9 The Chair of the Staff Dismissal Committee will notify the teacher, in writing, of their decision within 5 working days of the meeting. This letter will confirm
- \* the decision
  - \* if applicable, the date and arrangements for review;
  - \* if applicable, details of the level of improvement required;
  - \* if applicable, further support to be given;
  - \* the right to appeal

## **5.0 APPEAL STAGE**

- 5.1 The right of appeal by the teacher should be exercised within 10



working days of receiving written confirmation of the decision. The notification of appeal must be sent to the Chair of the Staff Dismissal Appeal Committee and state the grounds for appeal

- 5.2 The Appeal will be heard by at least three members of the Staff Dismissal Appeal Committee of the Governing Body. The Director of Lifelong Learning or his/her representative has a right to advise.
- 5.3 Notification of the meeting will be in writing to the teacher giving the date, time and place of the meeting, the reason for the meeting and a reminder of the teacher's right of representation by a workplace colleague or trade union representative. The teacher is required to provide any documentation to the Committee at least five working days before the hearing.
- 5.4 The purpose of the hearing will be to consider the teacher's appeal against the sanction determined by the Staff Dismissal Committee.
- 5.5 In hearing an appeal, the Committee shall confirm or reject the decision which is subject to appeal. This decision will be final.
- 5.6 If the decision is to dismiss, the Governing Body will inform the LEA. The LEA will not issue notice of dismissal until the outcome of any appeal is known.

## **6.0 Procedure if headteacher is subject to concerns over work performance**

- 6.1 Where concerns develop over the work performance of a headteacher, the Director of Lifelong Learning will investigate.
- 6.2 The Chair of Governors will be kept informed.
- 6.3 The Director of Lifelong Learning will conduct the procedural stages.
- 6.4 The Director of Lifelong Learning will prepare the report to the Staff Dismissal Committee.

## **APPENDIX**

### **Centrally Employed Teaching Staff**

A teacher who is employed by the L.E.A i.e. a centrally employed teacher, will attend the informal and formal first and second stage meetings before their line manager.

If attendance at the final stage meeting is required, this will be before a more Senior Manager acting as Authorised Officer who will have a HR adviser. The line manager will present the case.

Any appeal to the Final Stage meeting will be heard by the Head of Paid Service, or his representative, who will have a HR Adviser. The line manager will present the case