

EASTCOURT INDEPENDENT SCHOOL APPRAISAL AND CAPABILITY POLICY

Aim

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

This policy is in two separate sections:

Part A of the policy, which covers appraisal, applies to all staff employed by the school, 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 staff whose performance there are serious concerns that the appraisal process has been unable to address.

Part A – Appraisal

Appraisal in this school is a supportive and developmental process designed to ensure that all staff have the skills and support they need to carry out their role effectively. It helps to ensure that employees are able to continue to improve their professional practice and development.

It is important to recognise that the objectives set for any member of staff will not represent the complete job that the individual is expected to perform. Reviewing performance is about measuring the progress made against the objectives set with appropriate support, which will represent key priorities for that individual, and in addition, assessing and recognising the overall performance of that person in the job, including an assessment against any relevant standards / accountabilities.

There is no correct number of objectives to set for any member of staff. The number will depend on the role they undertake, the relevant priorities for that person at that time and the nature and complexity of each objective set.

1. The Appraisal Period

The appraisal period runs for twelve months, from September to September for teachers and non-teachers. Staff 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 period will be determined by the duration of their contract.

2. Appointing Appraisers

The Headteacher is appraised by the SLT/advisory board.
The Headteacher decides who will appraise other staff.

3. Setting Objectives

3.1 The Headteacher's objectives are set in consultation.

3.2 Objectives for each member of staff are set at the start of each appraisal period. These objectives should be specific, measurable, achievable, realistic and time-bound and appropriate to their role and level of experience. The appraiser and appraisee seek to agree the objectives but, if that is not possible, the appraiser determines the objectives. Objectives may be revised if circumstances change.

3.3 The objectives set for each appraisee contribute to the school's plans for improving educational provision and performance and improving the education of pupils at our school. This will be ensured by quality assuring a sample of objectives against the school improvement plan.

4. Evidence and Observation

4.1 Observation of classroom practice and other responsibilities is important both as a way of assessing particular strengths and areas for development and of gaining useful information which can inform school improvement more generally. All observation will be carried out in a supportive fashion.

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

4.3 In addition to formal pre-arranged observations, "drop-in" observations take place in order to evaluate the standards of teaching / support 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.

4.4 Observation is also a powerful way of identifying and sharing good practice and makes a valuable contribution to CPD.

4.5 Staff who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed. A number of methods will be used in order to obtain evidence by which to assess an employee's performance. This will include their performance against their objectives and against the relevant standards / key accountabilities for their role.

4.6 Where support staff are providing support to groups or individual pupils, the progress and attainment of those pupils may be taken into account in assessing the performance of the employee. This will only be used alongside other evidence which supports the level of contribution to the employee to the progress and attainment of pupils.

5. Development and Support

Appraisal is a supportive process which is used to inform continuing professional development. The school encourages a culture in which all staff take responsibility for improving their practice through appropriate professional development. Professional development is linked to school improvement priorities and to the ongoing professional development needs and priorities of individuals.

6. Feedback

6.1 Staff receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place (preferably on the same day, and no more than a week later) or other evidence has come to light. Feedback highlights particular areas of strength as well as any areas that need attention.

6.2 Where there are concerns about performance, the appraiser will meet the appraisee formally to:-

- Give clear feedback about the nature of the concerns;
- Give them the opportunity to comment and discuss the concerns;
- 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;
- Explain the implications and process if no – or insufficient – improvement is made.

When progress is reviewed, if the appraiser is satisfied that the member of staff 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.

A member of staff may be considered to be underperforming where:-

- The standard of performance falls below that which is required to meet / to make progress towards a specific performance management target; and / or
- The standard of performance falls below that which is required to meet the expectations of a particular role in their school; and / or
- The performance falls below the relevant standards / accountabilities for the role; and / or
- The overall school performance falls below that which is required (in the case of the Headteacher).

Staff with specific responsibilities are expected to meet the professional duties and standards relevant to their role as well as the core standards that apply to all teachers. If there is evidence to show that an employee is no longer meeting the expectations of their role, these concerns will be addressed with the individual promptly.

Where the school has clearly communicated a level of expectation, the Headteacher and senior managers may consider a member of staff to be underperforming if they are not reaching this level of expectation.

7. Transition to Capability

If the appraiser is not satisfied with progress, the appraisee 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.

8. Annual Assessment

8.1 Each appraisee's performance will be formally assessed at the end of each appraisal period. This assessment is the end point to the annual appraisal process, however, performance and development priorities will be reviewed informally throughout the year, and formally as part of the mid-year review.

8.2 Appraisal will result in a written report, constructed jointly by the appraisee and appraiser. The appraisal report will include:

- An overview of their contributions and achievements;
- Details of their objectives for the appraisal period in question;
- An assessment of the appraisee's performance of their role and responsibilities against their objectives and the relevant standards;
- An assessment of the appraisee's professional development needs and identification of any action that should be taken to address them.

8.3 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 staff about whose performance there are serious concerns that the appraisal process has been unable to address.

This procedure will apply in circumstances where poor performance is assessed to be as a result of an employee's lack of skill, ability, knowledge, experience or aptitude. Where poor work performance is assessed to be due to a deliberate or wilful failure to fulfil the duties of an employee's role and / or deliberate lack of care, the matter will be dealt with under the School's Disciplinary Procedure as this is a conduct concern.

Where an employee wilfully and unreasonably refuses to co-operate with the application of the Capability Procedure, the matter will be dealt with under the Disciplinary Procedure.

There are three stages to the Capability Procedure, as follows:-

- Stage 1 – Formal Capability Meeting
- Stage 2 – Final Review Meeting
- Stage 3 – Decision Meeting Stage.

9. Formal capability meeting

9.1 At least five 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 member of staff 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 them 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. The employee, or their representative / colleague, must submit their information to arrive at least 3 working days before the meeting.

9.2 This meeting is intended to establish the facts. It will be conducted by the advisory board for Headteacher capability meetings or arrangements made by the Proprietor for the other staff. The meeting allows the member of staff, 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.

9.3 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.

9.4 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 expected standards are not being met;
- Give clear guidance on the improved standard of performance needed to ensure removal 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 them 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 should be between four and ten weeks;
- Warn the member of staff 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.

9.5 Minutes will be taken of formal meetings and a copy sent to the member of staff to sign and return. Where a warning is issued, they 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.

10. 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).

11. Formal Review Meeting

11.1 As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the member of staff 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.

11.2 If the person conducting the meeting is satisfied that the member of staff has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.

11.3 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 member of staff will receive a final written warning.

11.4 As before, minutes will be taken of formal meetings and a copy sent to the member of staff to sign and return. 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 timetable), 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. They will be invited to a decision meeting.

12. Decision Meeting

12.1 As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the member of staff 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.

12.2 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 Board will be made that the member of staff should be dismissed or required to cease working at the school.

12.3 Before the decision to dismiss is made, the school may discuss the matter with the local authority.

12.4 The member of staff 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.

13. Decision to Dismiss

The power to decide that members of staff should no longer work at this school rests with the Proprietor.

14. Fast-track procedure

In very serious cases it may be necessary to issue a Final Warning at a Stage 1 meeting. In such cases, if the necessary improvement in performance is not achieved during the review period, the Proprietor will proceed to Stage 3.

15. Gross Incapability

When an employee's performance is regarded as gross incapability it would be inappropriate to take them through a staged procedure, particularly if the health and safety of pupils or other employees is in serious jeopardy or there are serious consequences for the school, to the extent that dismissal is justified. In such cases, a full investigation must take place and the employee must be given the opportunity to respond. The matter would normally be referred straight to the Proprietor for an advisory board hearing and a potential outcome is that the employee is summarily dismissed on the grounds of gross incapability.

16. Requirement for schools to pass on information about a teacher's capability to a new employer

The school staffing (England) (Amendment) Regulations 2012 requires schools to pass on information to a prospective employer about any teacher or Headteacher who has been on the Capability Procedure in the last two years. Specifically they will need to provide details of the duration of capability and an explanation of the outcome. Whilst the Regulations do not apply to the Academies, Academies can also ask for the information as part of their recruitment processes.

17. Dismissal

Once the Proprietor has decided that the member of staff should no longer work at the school, it will notify the Local Authority of its decision and the reasons for it.

18. Appeal

18.1 If the member of staff 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 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, minutes will be taken and a copy sent to the member of staff.

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

18.3 The member of staff will be informed in writing of the results of the appeal hearing as soon as possible unless otherwise agreed at the meeting.

Signed: *C.Redgrave*

Date: September 2020

Headteacher and Proprietor

General Principles Underlying this Policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

Part B of this 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 head teacher and proprietors to quality-assure the operation and effectiveness of the appraisal system. This will be achieved by the senior leadership team reviewing staffs' objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers.

Consistency of Treatment and Fairness

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

Definitions

Unless indicated otherwise, all references to 'teacher' or 'staff' include the head teacher.

Delegation

Normal rules apply in respect of the delegation of functions by advisory board, head teachers 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.

Sicknesses

If long term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school's absence policy and will be 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. It may be appropriate for monitoring and / or formal procedures to continue during a period of sickness absence.

Monitoring and Evaluation

The proprietor (also Headteacher) will monitor the operation and effectiveness of the school's appraisal arrangement

Retention

The proprietor (also Headteacher) will develop procedures that enable all written appraisal records to be retained in a secure place for six years and then destroyed.