

**Capability Management**

 **Toolkit**

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# Introduction

It can be challenging as a manager to manage an employee’s poor performance, and at the same time ensure that you and your team deliver on your goals. As a manager you will need to work with the employee to help them improve and meet the performance expectations. There will be situations where an employee’s performance does not improve over time or cannot be maintained at the required standard. When an employee’s performance falls below expected standards, the Capability Policy is the School’s formal approach to encourage improvement and provide a pathway to resolution.

Invoking the Capability Policy and Procedure is a manager-driven process, and this toolkit aims to help you as a manager initiate and facilitate these for your employees.

**Goals for the Capability Procedure:**

* First and foremost, provide opportunities for employees to close gaps in performance in order to meet expectations in the role.
* Enable open communication between employees and managers about performance gaps, expected standards, timeframes to improve and consequences of failure to improve.
* Encourage the involvement of both the employee and the manager in performance improvement.

# APPENDIX 1: CAPABILITY PROCEDURE FLOW CHART

# APPENDIX 2: TEMPLATE PERFORMANCE IMPROVEMENT PLAN

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Identified Areas of Performance Concerns** | **Targets for Performance (SMART)** | **Support/Training required** | **Timescale for tasks to be achieved** | **Progress against Targets** |
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Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_

**Employee**

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_

**Manager**

# Template Letters & Forms:

## Template Letters:

Template Letter 1 – Invite to Capability Meeting

Template Letter 2 – Outcome of Capability Meeting

Template Letter 3 – Invite to First Capability Review Meeting

Template Letter 4 – Outcome of First Capability Review Meeting

Template Letter 5 – Invite to Second Capability Review Meeting

Template Letter 6 – Outcome of Second Capability Review Meeting

Template Letter 7 – Invite to Capability Hearing

Template Letter 8 – Outcome of Capability Hearing

Template Letter 9 – Invite to Extended Capability Review Meeting

## Forms and other correspondence:

Template Form 1 – Capability Hearing – Briefing Note for Head Teacher

Template Form 2 – Capability Hearing – Decision Record

### Template Letter 1 - Invite to Capability Meeting

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVITE Capability Meeting**

Following your recent Transition Meeting on *<insert date>* we discussed your performance at work and how this has been unsatisfactory. I therefore informed you that we would be progressing to the Capability Policy and Procedure. I now write to invite you to a Capability Meeting.

The identified areas of performance concerns are as follows:

**Identified Areas of Performance Concerns:**

*<Insert concerns>*

In order to address these concerns, I am writing to invite you to a Capability Meeting which will take place on:

Date:

Time:

Venue:

The aim of the meeting is to discuss my concerns and to agree with you a plan of action in order for you to achieve the required standard of performance. This will include an appropriate timescale with a future date for review.

I will lead the meeting and (insert name) will also be present to take a record of the meeting.

You have the right to be accompanied at the meeting by a School work colleague, recognised trade union representative or trade union official. Should you wish to arrange to be accompanied, you should do so without delay and contact me directly should any difficulties arise in making these arrangements.

If you or your companion are unable to attend the capability meeting, for good reason, you may request that it is rescheduled to take place within the following 5 days or as soon as is practicable. In this event, you will be advised of the rearranged date in writing.

The above is in accordance with School's Capability Policy and Procedure, a copy of which was provided to you at an earlier meeting.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher/Manager

### Template Letter 2 - Capability Meeting Outcome

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**Capability Meeting Outcome**

Following the Capability meeting held on **<insert date>** during which I raised concerns with regards to your current level of performance, I write to confirm a summary of these discussions.

Present at the meeting were **(insert names/designations)**.

(**Note - if the employee was unaccompanied, state that the meeting proceeded without representation).**

The identified areas of performance concerns I raised with you are as follows:

**Identified Areas of Performance Concerns:**

<Insert Concerns and explain why not meeting the specified standards>

***Outcome – please select***

I confirmed that it is not deemed necessary at this point to take any further actions under the Capability Procedure. I will continue to monitor these concerns through **<insert how this will be monitored e.g. through normal supervision meetings, appraisals>.** Failure to maintain an acceptable level of performance within a 12 month period may result in returning to this stage of the procedure.

Or

Consequently, I confirmed that your performance will be monitored under the Capability Procedure, a copy of your Performance Improvement Plan is enclosed for your information.

In order to assist you in achieving satisfactory levels of performance we discussed:

* the attached Performance Improvement Plan (PIP) including the support required to help attain the targets outlined
* a review period of <insert number of weeks – (minimum 4 working weeks)> during which it is expected that you will make a sustained improvement to meet the required standards
* progress meetings to monitor your improvement, which will take place on a <insert frequency weekly/fortnightly>basis. The first progress meeting will take place <time/date/venue>.

You were informed that at the end of the review period, a meeting will be held to establish your progress against the targets within the performance improvement plan the outcome of which may be:

* No further action - where performance has reached the required standards; you will be expected to maintain that level of performance and this will continue to be measured through your normal supervision meetings and appraisals. Failure to maintain an acceptable level of performance within a 12 month period may result in returning to this stage in the procedure.
* Extension of the review period – If you have made some improvements, but performance is still below acceptable standards a further review period will be set.
* Performance remains unsatisfactory - if it appears that your performance remains unsatisfactory, you will progress to a Second monitoring period. If after a Second Capability Review period, there is still no or little improvement in performance, a Capability Hearing will be arranged and a possible outcome of this could be dismissal.

I would like to reassure you of my commitment to providing you with advice, guidance and further development to support you in achieving the required standards of performance. We want you to succeed in your role, and encourage you to ask for further support if you believe it will assist you in achieving the targets outlined in your PIP.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher /Manager

### Template Letter 3 – Invite to First Capability Review Meeting

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVITE – First Capability Review Meeting**

Following the period of monitoring your capability, I am writing to invite you to a First Capability Review Meeting at <time> on <date> in <location>. Also present at the meeting will be <name and job title>.

I have enclosed a copy of your performance improvement plan we agreed at the meeting held on <insert date of capability meeting>.

You have the right to be accompanied at the meeting by a work colleague, recognised Trade Union Representative or recognised Trade Union Officer.

The above is in accordance with the School's Capability Policy, a copy of which was provided to you at an earlier meeting.

At the meeting a review will take place regarding the targets that have been set and I need to inform you that I may consider moving the matter into the next formal monitoring period if unsatisfactory progress has been made.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher/Manager

### Template Letter 4 - Outcome of First Capability Review Meeting

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

OUTCOME – First Capability Review Meeting

Further to the First Capability Review Meeting held on (insert date) during which we discussed your progress in relation to the Performance Improvement Plan, this letter serves as confirmation of the outcome of this meeting

***Outcome – please select***

**No Further Action**

You have reached the required levels of performance and the review period has ended. No further action will be taken provided that acceptable performance levels are maintained. Failure to maintain an acceptable level of performance within a 12 month period may result in returning immediately to this point in the procedure.

*\* Delete if not relevant*

\*Furthermore, I can confirm that HR Admin have been instructed to subsequently pay the increment that was withheld.

May I congratulate you on the effort you have put in to achieving these standards and I hope that you continue to maintain these.

**Extension of Review Period**

Although you have made some improvement regarding the standards required, your performance levels are still below acceptable standards. A further review period of <insert number of weeks> has therefore been set to continue to monitor you against these.

Your Performance Improvement Plan (PIP) was updated and amended accordingly, a copy of which is attached and we agreed that discussions will take place in our monthly / fortnightly progress meetings.

You were informed that at the end of the extended period a review meeting will be held to establish your progress against the targets within the performance improvement plan. You were made aware that should there be no or little improvement at the end of this extended review period, you will be required to enter a second monitoring period. Should your performance remain unsatisfactory after the Second monitoring period you will be required to attend a Capability Hearing, at which your dismissal on the grounds of capability may be considered.

**Performance Remains Unsatisfactory**

You have made no or little improvement and shown few signs that you will be capable of meeting the required standard I am therefore writing to confirm my decision to progress to a Second formal monitoring period and to inform you that your capability as <job title> at this school must improve to an acceptable and sustained standard.

In order to assist you in achieving satisfactory levels of performance we discussed:

• the attached Performance Improvement Plan (PIP) including the support required to help attain the targets outlined

• a review period of <insert number minimum 4 working weeks)> during which it is expected that you will make a sustained improvement to meet the required standards

• progress meetings to monitor your improvement, which will take place on a <insert frequency> basis.

You were informed that at the end of the second review period a meeting will be held to establish your progress against the targets within the performance improvement plan, the outcome of which may be:

• No further action - where performance has reached the required standards; you will be expected to maintain that level of performance and this will continue to be measured through your normal supervision meetings and appraisals. Failure to maintain an acceptable level of performance within a 12 month period may result in returning to this stage in the procedure.

• Extension of the review period – If you have made some improvements, but performance is still below acceptable standards a further review period will be set.

• Performance remains unsatisfactory - if it appears that your performance remains unsatisfactory, you will be invited to attend a Capability Hearing and a possible outcome of this could be dismissal.

I would like to reassure you of my commitment to providing you with advice, guidance and further development to support you in achieving the required standards of performance. We want you to succeed in your role, and encourage you to ask for further support if you believe it will assist you in achieving the targets outlined in your PIP.

The above is in accordance with the Capability Policy and Procedure, a copy of which was provided to you at an earlier meeting.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher

### Template Letter 5 – Invite to Second Capability Review Meeting

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVITE - Second Capability Review Meeting**

Following the period of monitoring your capability I am writing to invite you to a Second Capability Review meeting at <time> on <date> in <location>. Also present at the meeting will be <name and job title>.

I have enclosed a copy of your performance improvement plan we agreed at the meeting held on <insert date of formal capability review meeting>.

You have the right to be accompanied at the meeting by a work colleague, recognised Trade Union Representative or recognised Trade Union Officer.

The above is in accordance with the School's Capability Policy, a copy of which was provided to you at an earlier meeting.

At the meeting a review will take place regarding the targets that have been set and I need to inform you that if it is felt that satisfactory improvement has not been made I may consider moving the matter to a formal capability hearing, at which your dismissal on the grounds of capability may be considered.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher

### Template Letter 6 – Outcome Second Capability Review Meeting

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**OUTCOME – Second Capability Review Meeting**

Further to the Second Capability Review Meeting held on (insert date) during which we discussed your progress in relation to the Performance Improvement Plan, this letter serves as confirmation of the outcome of this meeting

***Outcome – please select***

**No Further Action**

You have reached the required levels of performance and the review period has ended. No further action will be taken provided that acceptable performance levels are maintained. Failure to maintain an acceptable level of performance within a 12 month period may result in returning immediately to this point in the procedure.

*\* Delete if not relevant*

\*Furthermore, I can confirm that HR Admin have been instructed to subsequently pay the increment that was withheld.

May I congratulate you on the effort you have put in to achieving these standards and I hope that you continue to maintain these.

**Extension of Review Period**

Although you have made some improvement regarding the standards required, your performance levels are still below acceptable standards. A further review period of <insert number of weeks > has therefore been set to continue to monitor you against these.

Your Performance Improvement Plan (PIP) was updated and amended accordingly, a copy of which is attached and we agreed that discussions will take place in our monthly / fortnightly progress meetings.

You were informed that at the end of the extended second review period a meeting will be held to establish your progress against the targets within the performance improvement plan. You were made aware that should there be no or little improvement at the end of this extended second review period, you will be required to attend a Capability Hearing, at which your dismissal on the grounds of capability may be considered.

**Performance Remains Unsatisfactory**

You have made no or little improvement and shown few signs that you will be capable of meeting the required standard and you will therefore be required to attend a Capability Hearing, at which your dismissal on the grounds of capability may be considered.

The above is in accordance with the Capability Policy and Procedure, a copy of which was provided to you at an earlier meeting.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher

### Template Letter 7 - Invite Capability Hearing

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**Invite Capability Hearing**

I write further to the Second Capability Review Meeting held on (insert date) in order to formally advise you that you are required to attend a Capability Hearing as detailed below:

Date:

Time:

Venue:

The hearing will be conducted by a panel of three Governors consisting of <names and title and indicating who will Chair the panel>

< Head Teacher> will present the details of your capability review to date. (Insert name) HR provider, and (insert name) note taker will also be in attendance.

You have the right to be accompanied at the meeting by a School work colleague, recognised trade union representative or a trade union official. Should you wish to arrange to be accompanied, you should do so without delay and contact me directly if you have any difficulties in making these arrangements.

I would remind you that the hearing may proceed in your absence should you or your representative fail to attend without advance notification to me and without good reason. In the event that you ask for the hearing to be postponed, for good reason, it will be rescheduled to take place within the following 5 days.

Please find enclosed the documentation, which will be presented at the hearing.

The specific concerns that will be considered at the hearing are:

**Identified areas of performance concerns:**

<Insert concerns>

At the hearing consideration will be given to the steps taken to improve your performance and outcomes following the review periods. You will be entitled to make a statement at the hearing either in writing or orally and you may use documents relevant to your case.

The Stage 3 Capability Hearing may result in one of the following outcomes:

1. No further action
2. Extension of second review period
3. Dismissal with contractual notice

Should you be dismissed on the grounds of capability you will have the right of appeal against the decision.

The above is in accordance with the Capability Policy and Procedure, a copy of which was provided to you at an earlier meeting.

Please acknowledge receipt of this letter by signing the attached copy and returning it to me in the pre-paid envelope provided by return of post.

Yours sincerely

<Name>

Clerk to Governors

Enc.

cc: <Head Teacher >

<Representative/ Union>

<HR Representative>

I acknowledge receipt of this letter inviting me to a Capability Hearing at <Venue> on <Day> <Date> <Time> and confirm I will be attending.

SIGNED…………………………………………… DATE…………………………..

NAME (Print)………………………………………

I will be forwarding my documentation for presentation at the hearing by no later than <insert date documents required> (this should be 5 working days prior to the hearing)

**Delete as appropriate:**

I will be represented at the Hearing

I will not be represented at the Hearing

Name--------------------------------------- Title-----------------------------------

### Template Letter 8 - Capability Hearing Outcome

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**Outcome of Capability Hearing**

I write to confirm the outcome of the Capability Hearing held on **(insert date)**. Present at the hearing were (insert names/designations).

**(Note - if employee was unaccompanied state hearing proceeded without representation. If employee and/or representative did not attend state this)**

At the hearing the following concerns were considered:

**Identified Areas of Performance Concerns:**

<Insert concerns>

The Panel took into account all the evidence provided at the hearing and considered any mitigating circumstances before confirming to you the decision.

<Insert details of main points raised and considered in reaching the decision >

***Outcome – Please select***

**No Further Action**

This letter serves as confirmation of the decision that you have reached the required levels of performance and the review period has ended. No further action will be taken provided that acceptable performance levels are maintained. Failure to maintain an acceptable level of performance within a 12 month period may result in returning immediately to this point in the procedure.

*\* Delete if not relevant*

\*Furthermore, I can confirm that HR Admin have been instructed to subsequently pay the increment that was withheld.

May I congratulate you on the effort you have put in to achieving these standards and I hope that you continue to maintain these.

**Extension of Review Period**

This letter serves as confirmation of the decision that you were given an extension to the review period in accordance with the Capability Policy and Procedure. Your performance improvement plan (PIP) will now be updated and you will be monitored for a further <insert time period

Should you not have made or maintained satisfactory progress at the end of this review period, the Capability Hearing will be reconvened. The outcome of this will result in one of the following:

* Extension of review period
* Dismissal with contractual notice

Should you be dismissed on the grounds of capability you will have the right of appeal against the decision.

The above is in accordance with the School’s Capability Policy and Procedure, a copy of which was provided to you in earlier correspondence.

**Dismissal with Notice**

Having considered all the available information, including that presented at the hearing, the decision of the Panel is that you be dismissed on the grounds of capability due to your continued unsatisfactory work performance.

Delete as appropriate:

Foundation/Aided/Academy:

As this is not a summary dismissal, I am issuing you with <number of weeks/months for teachers> paid notice from the <date> therefore your employment with the School will be terminated on <date>.

This date provides you with the appropriate period of notice in accordance with your terms and conditions of employment and the requirements of employment legislation.

Community/Controlled Schools:

I have forwarded a copy of this letter to the Director of Children’s Services to formally request that your employment be terminated on these grounds with effect from <date>.

As advised, you have a right of appeal against the decision to terminate your employment. If you wish to exercise this right, you should do so by writing to the Clerk to Governors care of the school postal address within 10 working days of receiving this letter. As identified in the enclosed Appeals Policy, you will need to identify the grounds for your appeal.

Finally, on behalf of Lincolnshire County Council may I express my regret that your employment has ended in these circumstances, thank you for your service and wish you well for the future.

Yours sincerely

Chair of Panel

### Template Letter 9 – Outcome of Extended Review

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

Outcome –Extended Review period

Further to the Capability Hearing held on (insert date) during which we discussed your progress in relation to the Performance Improvement Plan, this letter serves as confirmation of the outcome of this meeting.

***Outcome – please select***

**No Further Action**

You have reached the required levels of performance and the review period has ended. No further action will be taken provided that acceptable performance levels are maintained. Failure to maintain an acceptable level of performance within a 12 month period may result in returning immediately to this point in the procedure.

*\* Delete if not relevant*

\*Furthermore, I can confirm that HR Admin have been instructed to subsequently pay the increment that was withheld.

May I congratulate you on the effort you have put in to achieving these standards and I hope that you continue to maintain these.

**Extension of Review Period**

Although you have made some improvement regarding the standards required, your performance levels are still below acceptable standards. A further review period of <insert number of weeks > has therefore been set to continue to monitor you against these.

Your Performance Improvement Plan (PIP) was updated and amended accordingly, a copy of which is attached and we agreed that discussions will take place in our monthly / fortnightly progress meetings.

You were made aware that should there be no or little improvement at the end of this extended review period, the Capability Hearing will be reconvened, at which your dismissal on the grounds of capability may be considered.

**Performance Remains Unsatisfactory**

You have made no or little improvement and shown few signs that you will be capable of meeting the required standard and you will therefore be required to attend a reconvened Capability Hearing, at which your dismissal on the grounds of capability may be considered.

Please note that you will be informed of the arrangements for this reconvened Capability Hearing in due course.

The above is in accordance with Capability Policy and Procedure, a copy of which was provided to you at an earlier meeting.

Should you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

Head Teacher

### Template Form 1 – Capability Hearing Procedure – Briefing Note for Head Teacher

**Capability Hearing**

**(Name, School, Date)**

**Briefing Note**

**1. Introductions**

* General introductions
* This is a Capability Hearing under the Capability Policy
* If the employee is unaccompanied, check that he/she is happy to proceed without representation and make a note to that effect
* Electronic, audio or video recording by any device of the hearing will not be permitted
* Attendees will receive a copy of the notes following the meeting

**2. Purpose of meeting**

* For the Head to present the management position in relation to the employee's unsatisfactory performance level
* For the employee/representative to provide a response and any mitigation as to why the required progress has not been made and any further information they wish the Head Teacher to consider.
* Committed to giving full consideration of all the information presented, the level of progress made and the support given before deciding the outcome of the hearing.

**3. Head Teacher presents the management position in relation to the employee's unsatisfactory performance level.**

**3.1** Provide a summary of the process to date. Eg When concerns initially arose, TED process, progressing to formal Capability process. Briefly outline dates of meetings to evidence procedure followed.

**3.2** Outline the outcome of performance improvement plans to date, eg targets that have consistently not been met or only partially met and evidence to support this finding.

**3.3** Outline the support that has been provided

**4. Employee/their representative to present the employee's responses to the management position in relation to their capability and performance levels**

Also, are there any mitigating circumstances or further information they wish to be considered.

**5. Adjourn to consider outcome.**

Explain that there are 2 possible outcomes:

1. Significant improvement made but extension of previous monitoring period required. Should the employee not have made satisfactory progress at the end of this period, the capability hearing will be reconvened
2. Dismissal with contractual notice.

**6. Reconvene to inform Employee of outcome**

Refer to **Template Form 2 - Capability Hearing Decision Record**

### Template Form 2 - Capability Hearing Decision Record

Name of Employee: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Capability Hearing: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Union Rep: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Head Teacher: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DECISION**

The purpose of the hearing was to consider and seek your explanation in respect of the following performance concern(s) and issues:

Having taken into account all of the evidence presented at the hearing, my conclusion in respect of the concerns are:

My decision is therefore:

i. Significant improvement made but extension of previous monitoring period required. Should you not have made satisfactory progress at the end of this period, the capability hearing will be reconvened

A further meeting to be arranged to re-establish Performance Improvement Plan, monitoring period and support to be provided.

OR

ii. Dismissal with contractual notice.

You are dismissed on the grounds of capability and your termination date will be (insert date)………………….

You have the right to appeal against dismissal in accordance with the Appeals Policy. Any appeal will be heard by a panel of three Governors.)

You will receive written confirmation of the outcome of the hearing.

(In the case of dismissal, consider alternatives to placing the employee back into their place of work to serve out their period of notice e.g. paid leave of absence, redeployment into a non-teaching role, further supervision.)

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Head Teacher