

Appraisal and Capability Policy



Bourn Church of England Primary Academy

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1. Introduction

- 1.1. The Governing Body of Bourn Primary Academy adopted this policy and it applies to all teachers and the Head Teacher and all support staff employed at the School as defined in the definitions below.

2. Definitions

- 2.1. The term “Head Teacher” also refers, where appropriate, to any other title used to identify the Head Teacher.
- 2.2. The term “employee” refers to any member of the School staff employed to work solely at the School.
- 2.3. The term “Senior Manager” refers to any member of the Leadership Group, as defined by the School Teachers’ Pay and Conditions Document, or a senior support employee in cases involving support staff, delegated by the Head Teacher to deal with an appraisal and/or capability matter under these procedures. A Senior Manager may only make a decision to issue a sanction up to and including a final written warning.
- 2.4. If the Head Teacher, following consultation with the Chair of Governors, considers that there is no Senior Manager to whom s/he can reasonably delegate a specific capability matter then the Head Teacher will take the role of the Senior Manager for that specific case and the role of the “Head Teacher” under this procedure will be performed by the Appeals Panel of the Governing Body. The Appeals Panel will not consist of fewer than 3 (three) Governors (except in circumstances provided for in the Secretary of State’s guidance on the Staffing Regulations), none of whom will have had previous involvement in the case.
- 2.5. Where the appraisal and/or capability being reviewed is that of the Head Teacher, the role of the Head Teacher will be undertaken by appropriate Governors as indicated.
- 2.6. “Lack of capability” is defined as a situation in which an employee fails to consistently perform his/her duties to a wholly satisfactory standard of performance over a period of time.

3. Purpose

- 3.1. This policy sets out the framework for:
 - 3.1.1. a clear and consistent assessment of the overall performance of employees covered by this Appraisal policy;
 - 3.1.2. supporting their development within the context of the School’s plan for improving educational provision and performance;

- 3.1.3. the standards expected of employees in their respective roles;
- 3.1.4. the arrangements that will apply if employees fall below the levels of competence that are expected of them.
- 3.2. This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation. The School may also vary any parts of this procedure, including any time limits, as appropriate in any case.

4. Application of the policy

- 4.1. The policy is in two separate sections.

4.2. Part A – Appraisal Process

- 4.2.1. Part A of the policy, which covers appraisal, applies to all teachers / all employees, including the Head Teacher, employed by the School. The only exceptions are 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.

4.3. Part B – Capability Procedure

- 4.3.1. Part B of the policy, which sets out the formal Capability Procedure, applies to all employees of the School, including the Head Teacher. Concerns about an employee's performance will have been identified under the Appraisal Process, but the employee has been unable to address these to a satisfactory standard.
- 4.4. The School occasionally purchases the services of additional staff from a specialist company. In these circumstances, it is the responsibility of the company or organization who directly employs the member of staff to carry out a suitable appraisal in accordance with their own policy. The School reserves the right to meet with the company and member of staff to discuss on site performance if it is felt necessary. The services currently out-sourced are as follows:

- P.E. coaching – CG Swim School

Part A – Appraisal Process

5. Purpose

- 5.1. The appraisal policy in this School 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 are able to continue to improve their professional/employment practice and to develop in their respective roles.
- 5.2. Regular appraisals will give the employee and their line manager the opportunity to develop a clear view of progress, recognise achievements, set new objectives and identify the support and development needed in order to meet them. Appraisal provides an excellent opportunity to recognise 'a job well done' and the Appraisal Process will have a direct link to consideration for pay progression.
- 5.3. In some cases, the Appraisal Process will also be used to address concerns that are raised about an employee's performance. If concerns cannot be resolved through the Appraisal Process, consideration will be given to whether to commence the Capability Procedure.

6. The Appraisal Period

- 6.1. The appraisal period will run for twelve months from 1st September to 31st August.
- 6.2. 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 and an individual teacher's objectives should take account of the length of contract.
- 6.3. 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.
- 6.4. Where a teacher starts their employment at the School part-way through an appraisal cycle, the Head Teacher or, in the case of the Head Teacher, the Governing Body, will determine the length of the first cycle with a view to bringing his/her cycle into line with the cycle for other teachers as soon as possible.
- 6.5. There is some flexibility to have a longer or shorter appraisal period if an employee transfers to a new post part-way through a cycle. The Head Teacher will determine this, or in the case of the Head Teacher's appraisal, the Governing Body will determine whether the cycle should begin again.

7. Appointing Appraisers

- 7.1. The Head Teacher will be appraised by the Governing Body, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Governing Body for that purpose.
- 7.2. The task of appraising the Head Teacher, including the setting of objectives, will be delegated to a sub-group consisting of 2 (two) or 3 (three) members of the Governing Body.
- 7.3. The Head Teacher will decide who will appraise other employees covered by the policy.

8. Setting Objectives

- 8.1. The Head Teacher's objectives will be set by the Governing Body after consultation with the external adviser. The Governing Body has a duty to have regard to the work-life balance of the Head Teacher and objectives will reflect this.
- 8.2. 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.
- 8.3. Objectives will not be based on externally generated data and predictions, or solely on the assessment data for a single group of pupils. Objectives will be set in relation to robust assessment data. However, these will not be used in isolation and other factors will also be considered.
- 8.4. The appraiser and employee will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change.
- 8.5. The objectives set for each employee will, if achieved, contribute to the School's plans for improving the School's educational provision and performance and improving the educational opportunities of pupils at the School. This will be ensured by quality assuring all objectives against the School Development Plan and appropriate whole-school targets.

9. Overall Performance of Teachers

- 9.1. 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 current document called "Teachers' Standards" published in July 2011 and any subsequent

amendment thereof.

- 9.2. The Head Teacher or Governing Body (as appropriate) 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.

10. Reviewing Performance

10.1. Observation

10.1.1. The School believes that observation of classroom practice and other responsibilities for teachers, and support staff who support teachers in the classroom, are important to

- assess performance to identify any particular strengths and areas for development;
- gain useful information which can inform School improvement more generally;
- enable colleagues to learn from each other and collaborate.

10.1.2. All observations will be carried out in a supportive fashion and not add to workload. These will be in accordance with an observation protocol determined by the Head Teacher.

10.1.3. 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.

10.1.4. Classroom observation of teachers will be carried out by those with QTS.

10.1.5. Employees who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

10.2. Support Staff

10.2.1. 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.

11. Drop-Ins

11.1. In addition to formal observation, the Head Teacher or other leaders with responsibility for teaching standards may "drop in" 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.

11.2. All "drop-ins" will be carried out in accordance with a protocol determined by the Head Teacher.

12. Development and Support

- 12.1. Appraisal is a supportive process that will be used to inform continuing professional development. The School wishes to encourage a culture in which all employees take responsibility for improving their performance through appropriate development.
- 12.2. Teachers' professional development will be linked to School improvement priorities and to the ongoing professional development needs and priorities of individual teachers.

13. Feedback

- 13.1. 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. Verbal feedback will be given within 48 working hours wherever possible, followed by written feedback.

14. Support Plan

- 14.1. 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, establish the likely causes of poor performance and identify any training needs/support needed (e.g. coaching, mentoring, structured observation);
 - clarify the required standards and 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;
 - revise objectives, if appropriate, and, if 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 (e.g. that performance may be managed under the formal capability procedure and the potential impact on pay progression).
- 14.2. 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.

- 14.3. 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 paragraph 16.4). If required, this will inform any decision on transition to the Capability Procedure.

15. Transition to Capability

- 15.1. If the appraiser is not satisfied with 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 in Part B of this policy (from section 17).

16. Annual Assessment

- 16.1. **The performance of each employee covered by the appraisal policy will be formally assessed in respect of each appraisal period.**
- 16.2. **In assessing the performance of the Head Teacher, the Governing Body must consult the external advisor.**
- 16.3. This assessment is the end point 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 twice yearly.
- 16.4. **The employee will receive a written appraisal report as soon as practicable following the end of each appraisal period** and have the opportunity to comment in writing on it.
- 16.5. Teachers will receive their written appraisal reports by 31 October (31 December for the Head Teacher) and support staff by 31 December.
- 16.6. The appraisal report will include:
- details of the employee's objectives for the appraisal period in question;
 - **an assessment of the employee's performance of their role and responsibilities against their objectives and, for teachers, against the relevant standards;**
 - **an assessment of the employee's training and development needs and identification of any action that should be taken to address them. The assessment of performance and of training and development needs will inform the planning process for the following appraisal period;**
 - **a recommendation on pay where that is relevant.** Pay recommendations will be made by 31 December for the Head

Teacher, by 31 October for other teachers and by 31 December for support staff.

Part B - Capability Procedure

17. Purpose

- 17.1. The School values its employees and recognises their competence, effectiveness and ability to perform to expected standards.
- 17.2. This procedure applies only to employees about whose performance there are serious concerns that the Appraisal Process has been unable to address.
- 17.3. The Capability Procedure is separate from the Staff Discipline Policy which deals with conduct and is designed to deal with employees who are unable to perform to the required standards rather than those who choose not to do so.
- 17.4. The aim is to restore the teacher to the point where s/he is capable of sustaining effective standards of performance.

18. Formal Capability Meeting

- 18.1. If under Part A above, the Appraisal Process, an employee's performance is not wholly satisfactory, the Senior Manager, or another person with line management responsibility for the employee, will invite the employee to a formal Capability Meeting to discuss the identified poor performance as soon as possible.
- 18.2. The Senior Manager will write to the employee at least 5 (five) working days in advance to inform them about:
 - the date, time and place of the meeting;
 - the basic details of the concerns about the employee's performance;
 - the employee's right to be accompanied by a representative of their trade union or a workplace colleague of their choice;
 - the titles of enclosed copies of any documents to be used at the meeting;
 - names of any witnesses to be called;
 - their right to call witnesses on their behalf;
 - the name and office of any adviser who will accompany the Senior Manager at the meeting.
- 18.3. An extra copy, together with any enclosures, will be provided for

the employee's companion.

- 18.4. This meeting is intended to establish the facts. It will be conducted by a Senior Manager delegated by the Head Teacher (or the Chair of Governors for the Head Teacher). 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.
- 18.5. The Senior 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. In such cases, the Capability Procedure will come to an end.
- 18.6. The Senior Manager 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. The further process should be agreed as soon as possible after the meeting. In other cases, the meeting will continue.
- 18.7. During the meeting, or any other meeting which could lead to a formal warning being issued, the Senior Manager will:
 - in the case of a teacher, identify the poor performance, including which of the teacher standards set out in the School Teachers' Pay and Conditions Document 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. This may include the setting of new objectives that are focused on the specific area/s of poor performance that need to be addressed. This guidance 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.
- 18.8. Notes will be taken of formal meetings and a copy sent to the employee and any companion. If the notes of the meeting cannot be agreed, the teacher's comments will be added to the notes as a separate appendix.
- 18.9. Where a first warning is issued, the employee will be informed in writing of the matters discussed in 18.7 above.
- 18.10. The employee 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.
- 18.11. If the concerns relate to a lack of capability that poses a risk to the health, safety or well-being 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 pupils to serious risk in terms of their health, safety, well-being or educational prospects.

19. Sickness Absence and the Use of this Procedure

- 19.1. 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 School.
- 19.2. 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 School may also consider making adjustments to this procedure in appropriate cases, e.g. moving from this procedure to the Management of Sickness Absence Policy and Procedure, used by the School to terminate the employment of the employee on the grounds of ill health.

- 19.3. If an employee's medical condition is not serious enough to warrant a 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 the Capability 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.

20. Performance Monitoring and Review Period Following a Formal Capability Meeting

- 20.1. A performance monitoring and review period will follow the formal Capability Meeting. Formal monitoring, evaluation, guidance and support will continue during this period.
- 20.2. Following this monitoring and review period, the employee will be invited to a formal Review Meeting (see section 21), unless they had been issued with a final written warning, in which case they will be invited to a Decision Meeting (see section 23).

21. Formal Review Meeting

- 21.1. At least 5 (five) working days before the date of the formal Review Meeting, a written reminder will be given to the employee together with details of the meeting, as set out in paragraph 18.2 above.
- 21.2. The formal Review Meeting will follow a similar procedure to that identified for the formal Capability Meeting as set out in paragraph 18.7 above.
- 21.3. If the Senior Manager (or Chair of Governors for the Head Teacher) is satisfied that the employee has made sufficient improvement, the formal Capability Procedure will cease and the Appraisal Process will re-start in the case where the employee is subject to Part A above. The employee will receive a letter acknowledging his/her efforts to improve, confirming their performance has been assessed as satisfactory and confirming that the Capability Procedure no longer applies in their case.
- 21.4. 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. The employee will receive a letter confirming the details of the improvements still required, any further support to be provided, and the time scale for the extended review period. Review periods must not continue indefinitely.
- 21.5. Where no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning. The Senior Manager will set a further timescale for improvement

following which a decision will be made on whether or not the employee should be dismissed.

- 21.6. Notes will be taken at the formal Review Meeting and a copy will be sent to the employee and any companion.
- 21.7. Where a final 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. The employee 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.
- 21.8. At this stage, rather than refer the matter to a Decision Meeting (section 23), 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 and salary safeguarding would not apply.

22. Right of Appeal Against a Formal Written Warning

- 22.1. If an employee feels that a decision to issue a first and/or final written warning is wrong or unjust, they may appeal in writing against the decision.
- 22.2. Appeals against a written warning shall be restricted to considering the reasonableness of the decision made by the Senior Manager, any relevant new evidence not previously available to the Senior Manager or any procedural irregularities. A statement giving the reasons for the appeal should be submitted to the Clerk to the Governors within 5 (five) working days of the formal written warning having been received.
- 22.3. All appeal hearings will be held as soon as possible after receipt of the appeal at an agreed time and place.
- 22.4. The appeal will be heard by the Appeals Panel of Governors. The number of Governors on the Appeals Panel of Governors will not be less than two. The panel may be advised by a person engaged for the purpose by the Governing Body. The panel can either confirm the warning, reduce a final warning to a warning, or cancel the warning. The employee will be informed in writing of the results of the appeal hearing as soon as possible.
- 22.5. The same arrangements for notification and the right to be accompanied by a companion will apply for an appeal hearing as for the formal Capability and Review Meetings and, as with those meetings, notes will be taken and a copy sent to the employee and any companion.
- 22.6. 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.

23. Decision Meeting

- 23.1. At least 5 (five) working days before the date of the Decision Meeting a reminder will be given in writing together with details of the meeting as in paragraph 18.2 above. The meeting will be conducted by the Head Teacher (or Governor Panel for the Head Teacher).
- 23.2. 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 where the employee is subject to Part A above.
- 23.3. 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.
- 23.4. If performance has remained unsatisfactory, a decision will be made that the employee will be dismissed. The employee will be informed in writing (section 25), 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 whether there will be pay in lieu of notice, and the right of appeal.

24. Right of Appeal Against a Decision to Dismiss

- 24.1. The employee has a right of appeal to the Appeals Panel of the Governing Body against a decision to dismiss.
- 24.2. The Appeals Panel shall consist of not less than 3 (three) Governors, none of whom will have had any previous involvement in the case.
- 24.3. The employee's notice of appeal should be sent to the Clerk to the Governors within 5 (five) working days of receipt of the written decision to dismiss, setting out the grounds of appeal.
- 24.4. Appeal hearings should be held as soon as possible after receipt of the appeal and will be conducted in the same way as appeals referred to in section 22 above.

25. Notice of Dismissal

- 25.1. Following a decision to dismiss, the Governing Body will notify the employee in writing that the employee is to be dismissed, whether with notice or with pay in lieu of notice in accordance with the decision of the Head Teacher (or Disciplinary Committee).

- 25.2. In the event that the Appeals Panel of the Governors decides not to uphold the decision to dismiss, the employee shall be informed immediately and the notice of dismissal shall be immediately withdrawn.

26. Grievances Arising during the Procedure

- 26.1. 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 (section 22). 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.

27. Trade Union Officials

- 27.1. Although normal performance standards must apply to an employee who is a lay trade union official, no disciplinary action, beyond an informal oral warning will be taken until the circumstances of the case have been discussed with the relevant professional trade union officer.

28. Confidentiality

- 28.1. The School aims to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this Capability Procedure.
- 28.2. No one involved in this procedure, whether manager, employee, companion, witness or representative may make electronic recordings of any meetings or hearings conducted under this procedure. Failure to observe confidentiality could be a reason for disciplinary action under the School's disciplinary procedure.

29. Records

- 29.1. The Head Teacher will retain a copy of the papers relating to any action under the formal Capability Process in the employee's personal file.

30. Monitoring and Review of this Policy

- 30.1. The Head Teacher and the Resources committee of the Governing Body will review this policy as necessary and at least annually.

31. Related Policies

- Management of Sickness Absence Policy and Procedure
- Disciplinary Procedure Relating to Misconduct for all Employees