

Support Staff Capability Policy

Policy Code:	HR30
Policy Start Date:	September 2017
Policy Review Date:	September 2020

Please read this policy in conjunction with the policies listed below:

- HR8 Equal Opportunities and Diversity Policy
- HR12 Staff Disciplinary Policy and Procedure
- HR18 Staff Sickness Policy
- HR13 Annual and Special Leave and Reporting Absences Policy

1 Policy Statement

- 1.1 The Priory Federation of Academies Trust (the Trust) seeks to provide each employee with the direction, development and support necessary to ensure a productive and rewarding career.
- 1.2 The Trust is committed to developing a culture where employees are supported and assisted in achieving the required standards of performance.
- 1.3 This policy does not form part of an employee's contract of employment and it may be amended at any time.
- 1.4 This policy does not apply to agency workers, consultants or self-employed contractors.
- 1.5 This policy does not apply to employees on a probationary period or fixed-term contract.
- 1.6 This policy does not form part of any employee's contract of employment and it may be amended at any time.

2 Roles, Responsibilities and Implementation

- 2.1 The Pay, Performance and HR Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. This committee delegates day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Head of Human Resources.
- 2.2 Leaders and Managers have a specific responsibility to ensure the fair application of this policy and all employee are responsible for supporting colleagues and ensuring its success.

3 Aims

- 3.1 To ensure that the Trust has fair and effective arrangements for dealing with work performance and capability matters. Before employees can be expected to reach appropriate standards of job performance, the Trust accepts they should be provided with appropriate training, guidance and support. Accordingly, this policy aims to:
 - a) improve and maintain the standard of work performance of an individual employee, through advice, coaching, guidance and support, with the emphasis on developing a series of performance improvement plans, which, wherever practicable, are mutually agreed

to reach the required standards;

- b) ensure that all employees are treated in a fair, consistent and understanding manner in relation to capability issues;
- c) ensure that the Trust is a fair employer, meeting all relevant legal requirements regarding any capability related decisions it may take in relation to any employee;
- d) support managers in carrying out their responsibilities for the maintenance of high standards of work performance by all employees;
- e) contribute towards the improvement of the performance and effectiveness of the Trust; and
- f) help protect the Trust, its employees and service users from the consequences of poor work performance.

4 Identification of Performance Issues

4.1 In the first instance, performance issues should be dealt with informally between the employee and their line manager as part of day-to-day management. Where appropriate, a note of informal discussions will be placed on an employee's personnel file but will be ignored for any future capability hearings. Informal discussions may help:

- a) clarify the required standards;
- b) identify areas of concern;
- c) establish the likely cause of poor performance and identify and training needs; and/or.
- d) set targets for improvement and timescales for review.

4.2 In more serious cases, or where an earlier informal discussion has not resulted in satisfactory improvement, the formal procedure may be used.

5 Disabilities

5.1 Consideration will be given to whether poor performance may be related to a disability. If this is the case, the Trust will consider whether it is appropriate to make a referral to Occupational Health. The Trust will consider any reasonable adjustments which could be made to working arrangements which are suggested by Occupational Health. The Trust may also consider making adjustments to the Capability Procedure in

these cases.

6 Confidentiality

- 6.1 The Trust aims to deal with performance matters sensitively and with due Respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to the Capability Procedure.
- 6.2 Employees will normally be told the name of any witnesses whose evidence is relevant to the hearing, unless the Trust believes the witness's identify should remain confidential.

7 Notification of Hearings

- 7.1 If the Trust considers there are grounds for taking formal action against an employee due to alleged poor performance, they will be required to attend a capability hearing. The Trust will write to the employee setting out it's concerns about performance, the reason for those concerns and the likely outcome if the Trust decides the performance has been unsatisfactory. The Trust may also, if appropriate, disclose any documents or relevant information which has been gathered as part of any investigation.
- 7.2 The Trust will give the employee written notice of the date, time and place of the capability hearing. The employee will be given at least five working days' written notice of the formal meeting.

8 Right to be Accompanied to Hearings

- 8.1 Any employee may bring a companion to any capability hearing or appeal hearing under this policy. The companion may be either a trade union representative or a colleague and the identity of any companion must be disclosed to the Trust in good time before the hearing.
- 8.2 Any employee who is asked to act as a companion will be allowed reasonable time off to fulfil these duties without any loss.
- 8.3 If an employee's choice of companion is unavailable for the hearing and will not be available for more than five working days after the hearing the Trust may require the employee to choose a different companion.

9 Procedure at Capability Hearings

- 9.1 Any hearing will normally be carried out by an employee's line manager and normally a member of the Human Resources Team will also be present.
- 9.2 The aims of a capability hearing will usually be:
- a) Setting out the required standard that the employee has failed to meet, including any relevant evidence which has been gathered;
 - b) Allowing the employee to ask questions, present evidence, respond to evidence, make representations and, if appropriate, call witnesses;
 - c) Establishing the likely causes of poor performance and identifying why measures taken so far have not improved performance;
 - d) Agreeing a Performance Improvement Plan (PIP) which will, where appropriate identify whether further measures may improve performance and set agreed targets for improvement.
 - e) If dismissal is a possibility, discussing whether there are any practical alternatives to dismissal such as redeployment.

10 Formal Hearing Process

Stage One Hearing

- 10.1 Following a Stage One hearing, if the Trust decides that an employee's performance is unsatisfactory, it will issue the employee with a first written warning. This will set out:
- a) The areas in which the employee has not met the required standards;
 - b) Targets for improvement;
 - c) Any measures, such as additional training or supervision, which will be taken with a view to improving performance;
 - d) A period for review; and
 - e) The consequences of the employee failing to improve within the review period and further unsatisfactory performance.
- 10.2 The warning will normally remain active for six months. In some

circumstances, longer active periods may be necessary. After the active period has expired the warning will remain on an employee's personnel file but will be disregarded for future capability proceedings.

- 10.3 The employee's performance will be monitored during the review period and they will be written to, to confirm the outcome of the review:
- a) If the Trust is satisfied with their performance, no further action will be taken;
 - b) If the Trust is not satisfied, the matter may progress to a Stage Two capability hearing;
 - c) If the Trust feel that there has been a substantial but insufficient Improvement, the review period may be extended.

Stage Two Hearing

- 10.4 If an employee's performance does not improve within the review period set out in the first written warning or there is further evidence of poor performance whilst the first written warning is active, the Trust may hold a Stage Two capability hearing.
- 10.5 Following a Stage Two hearing if the Trust decides that an employee's performance is unsatisfactory, it will issue the employee with a final written warning. This will set out:
- a) The areas in which the employee has not met the required standards;
 - b) Targets for improvement;
 - c) Any measures, such as additional training or supervision, which will be taken with a view to improving performance;
 - d) A period for review; and
 - e) The consequences of the employee failing to improve within the review period and of further unsatisfactory performance.
- 10.6 A final written warning will normally remain active for 12 months. In some circumstances, longer active periods may be necessary. After the active period has expired, the warning will remain on an employee's personnel file but will be disregarded for future capability

proceedings.

10.7 The employee's performance will be monitored during the review period and they will be written to, to confirm the outcome of the review:

- a) If the Trust is satisfied with their performance, no further action will be taken;
- b) If the Trust is not satisfied, the matter may progress to a Stage Three capability hearing;

- c) If the Trust feel that there has been a substantial but insufficient improvement, the review period may be extended.

Stage Three Hearing

10.8 The Trust may decide to hold a Stage Three capability hearing if it has reason to believe:

- a) An employee's performance has not improved sufficiently during a review period set out in a final written warning;
- b) An employee's performance is unsatisfactory while a final Written warning is still active; or
- c) An employee's performance has been grossly negligent such as to warrant potential dismissal without the need for a final written warning.

10.9 Following a Stage Three capability hearing, if the Trust finds an employees performance unsatisfactory, it may consider a range of options including:

- a) Dismissing the employee;
- b) Redeploying the employee into another suitable job at the same or lower grade;
- c) Extending an active final written warning and setting a further review period (in exceptional cases where the Trust believes substantial improvement is likely within a review period); or
- d) Giving a final written warning (where no final written warning is active).

10.10 If an employee is dismissed following a Stage Three hearing, this will normally be with full notice or a payment in lieu of notice, unless the employee's performance has been so negligent as to amount to gross misconduct.

11 Appealing Against Action Taken

11.1 If an employee feels that a decision about their poor performance under this procedure is wrong or unjust, they should appeal in writing, setting out their full grounds of appeal, to the Head of Human Resources within five days of the decision.

- 11.2 If an employee appeals against dismissal, the appeal will not delay the Dismissal. However if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.
- 11.3 If an employee raises any new matters in their appeal, then the Trust may need to carry out further investigations. If any new information comes to light, the employee will be provided with a summary and, where appropriate, copies of documents and witness statements.
- 11.4 Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place.
- 11.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision. This will be at the discretion of the Trust depending on the circumstances of each case.
- 11.6 The appeal will be dealt with impartially and, wherever possible, by a manager who has not previously been involved in the case.
- 11.7 Following an appeal hearing, the Trust may either confirm the original decision, revoke the original decision or substitute a different penalty.
- 11.8 There is no further right of appeal against the sanction or dismissal within The Priory Federation of Academies Trust.

12 Policy Changes

This policy may only be amended or withdrawn by The Trust.

The Priory Federation of Academies

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This Policy has been approved by the Pay, Performance and HR Committee:

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.