

CAPABILITY POLICY

Responsible office	<i>Better Futures Multi-Academy Trust</i>
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CAPABILITY POLICY

Purpose

The purpose of this policy is to seek to ensure that employees are assisted to achieve standards of performance. BFMAT is committed to the avoidance of formal capability procedures wherever possible by addressing concerns as soon as they arise. At all stages of this procedure, expectations with regards to improvement in performance should be clearly set out and communicated to the employee concerned, together with an agreed timetable of meetings for further review of the employee's performance.

Scope

This policy applies to Better Futures Multi-Academy Trust which will be referred to as BFMAT for the purposes of the policy.

Terminology for job titles may vary across BFMAT. If this is the case, the terminology used within this policy is deemed to apply to staff/functions in equivalent roles and positions and of equivalent standing.

Definitions

Capability refers to an employee's ability to carry out their role to the required standard. There is a requirement for the employee to achieve professional objectives as set out to them in their job description and normal management targets. A lack of ability to do this may include:

- Inability to cope with reasonable workload;
 - Inability to work to identified and agreed targets.
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Equality Statement

Equality, freedom and treating all persons with dignity and respect are fundamental human rights. As such, BFMAT is committed to making these central in all its work.

A diverse student body and workforce benefit BFMAT's role as a provider of high quality education and employment in a modern and ever-changing society. BFMAT is firmly committed to the promotion of equality and will not unlawfully discriminate, or tolerate discrimination (direct or indirect, harassment or victimisation) on grounds of age, disability, ethnicity (including race, colour, caste and nationality), gender identity, marriage or civil partnership, pregnancy or maternity, religion or belief, sex and sexual orientation; this includes discrimination by association or due to perception. This policy will operate in furtherance of this.

The Policy

1. Introduction and Purpose

- 1.1 This policy applies to all staff who have successfully completed their probation period and establishes guidelines in relation to the management of under-performance.

- 1.2 The purpose of the procedure is to be supportive rather than punitive, with the prime objective of improving an individual's performance to the required level.
- 1.3 If performance problems are judged to result from conduct over which the employee has control, the disciplinary procedure will apply. The fundamental distinction between capability and conduct may be expressed as "can't" as opposed to "won't" respectively, the latter implying some degree of control, deliberation and/or choice.

Exclusions

Separate procedures will apply to staff serving a probationary period. If any employee begins a period of long-term sickness absence whilst being considered under the capability procedure, the employee will also be considered under the relevant sickness absence procedure. Sickness absence will not preclude any stages under the capability procedure, but consideration should be given to temporarily suspend the procedure during the period of sickness absence.

Matters relating to conduct should be dealt with under a separate disciplinary procedure.

2. General Principles

- 2.1 You will be set realistic and measurable standards of performance, and these standards will be explained to members of staff so that they can achieve the standards set.
- 2.2 All new members of staff will be given a full induction programme on commencement of their employment.
- 2.3 A member of the Human Resources Team will support the process at Steps 2 and 3 outlined below.
- 2.4 Where a staff member cannot achieve required standards due to a condition recognised by the Equality Act 2010, all reasonable adjustments and support will be provided.
- 2.5 Employees are entitled to be accompanied to formal meetings by a work colleague or Trade Union representative.

3.0 Step 1: Informal Discussion

- 3.1 When there is evidence that an individual is not performing at an acceptable level, the manager will convene a meeting to ascertain the reasons for the unsatisfactory performance. At this meeting the manager will:
 - a) Be specific and give evidence outlining the areas in which the individual's performance is below expectations.
 - b) Give the individual the opportunity to explain their under-performance and to raise any concerns they may have about the job, or the support and guidance they have been given to do it.
 - c) Ensure that the individual is aware of the level of performance required in relation to each element of the duties about which there is a concern.
 - d) Identify solutions to the problem, with consideration given to additional training, providing a mentor, coaching or other ongoing support to the individual.
 - e) Set a reasonable time frame within which improvement is expected and arrange a further review meeting that should take place no more than 4 weeks after the initial meeting.

- f) The manager will write to the individual confirming the outcome of the meeting, including the type of improvement required, any additional support or training that will be provided, any other agreed actions. This letter will advise that in the event that acceptable performance is not sustained or deteriorates at any time during the agreed time scale the manager may move immediately to Step 2.
- g) Additional support may include agreed action and one or more of the following:
 - (i) counselling;
 - (ii) a review of commitments and responsibilities
 - (iii) availability of suitable materials and resources
 - (iv) availability of training
 - (v) opportunities to see good practice within the college or other appropriate establishments

3.2 Following a satisfactory outcome of the informal process, the matter will be considered resolved and this will be confirmed in writing.

3.3 Step 2: Formal Meeting

3.3.1 If after informal action the performance remains below the required standard, or in cases when the first instance of underperformance is significantly serious, a formal meeting will be invoked, giving the employee 5 days' notice in which to attend. The employee will be entitled to bring to the meeting, a work colleague, or trade union representative.

3.3.2 At this meeting the manager will review the history of the case, including the informal steps that have been taken to support the individual to achieve the required level of performance. The staff member will be given the opportunity to respond and raise any issues that may have a bearing on their performance, which may include;

- New information
- Provide a different context to the information / evidence already made available

3.3.3 An action plan will be developed, setting out clear standards required, actions to be taken and timescales to meet the improvements.

3.3.4 The outcome of the meeting will be formally recorded in a letter to the employee within 7 calendar days of the meeting. This letter will advise that in the event that acceptable performance is not sustained or deteriorates at any time during the agreed time scale the manager may move immediately to Step 3.

3.3.5 If after careful consideration of the employee's explanation, concerns still exist, a first written warning will be issued to the employee for unsatisfactory performance. This will be issued to the employee in writing within 7 calendar days after the meeting. The letter will remain on the employees file for a period of 12 months and provide details of the unsatisfactory performance and expected improvements.

3.3.6 The employee will be informed that their job will be at risk if satisfactory performance levels cannot be achieved and subsequently maintained.

3.3.7 If, after the reasonable time period agreed at the formal stage, performance has improved and set targets are met, the employee will be informed that they are no longer being considered under the formal capability policy.

3.4 Step 3: Final Capability Hearing

3.5.1 If the staff member's performance has not improved following supportive action at Step 1 and/ or Step 2, then a final capability meeting will be convened. The purpose of this meeting will be to verbally clarify the next stage of the procedure with the employee and to allow them the opportunity to ask any questions about the next stage. The employee will be entitled to bring to the meeting a work colleague or trade union representative.

The hearing will consider:

- Whether to extend Step 2, This option will only be considered if there is persuasive evidence presented that further time is likely to lead to the required improvements in performance
- Whether to take alternative action, which may include redeployment or downgrading
- Whether to dismiss on the grounds of capability.

3.5.2 The manager will confirm the outcome in writing, within 7 calendar days of the meeting taking place.

3.5.2 A staff member who is dismissed will be entitled to notice pay and payment of any outstanding annual leave.

3.5.5 The staff member has a right of appeal against the decision. The appeal process will be outlined in the letter confirming the decision of the final capability meeting.

3.5.6 Where an employee raises a grievance during the capability procedure relating to the capability procedure, consideration may be given to suspend the procedure in order to expedite the concerns raised. The capability procedure will however, continue or resume if the employee seeks unreasonably to delay the consideration of the grievance. Where the grievance and capability cases are unrelated, it may be appropriate to deal with both issues concurrently. The appeal hearing cannot be a re-run of the original formal meetings or consider any new evidence but may address points which the member of staff considers were not properly considered at the original meetings.

INFORMAL CAPABILITY – STEP 1

Employee Name: Subject Area: Line Manager:

A copy of these meeting notes should be made available to:

- Line Manager
- Employee
- Human Resource Team

Informal Meeting Date:

Present:

Line Manager

HR

Employee

Details of areas of concern:

Evidence to support concerns:

Support & Guidance already offered to employee:

Employee's concerns and supporting evidence:

Solutions and Agreed actions

Consider, mentor, coaching, counselling, training review of commitments and responsibilities, availability of resources, good practice & information sharing with other institutions

Timescale for Improvement*: 1 month 3 months other please specify

Review progress Meeting Date:

(within 4 weeks from date set)

Progress made continue to monitor and review

Progress made employee achieved required standards set

Unsatisfactory progress made continue to Step 2

**In the event that acceptable performance is not satisfactory or not sustained or deteriorates at any time during the agreed timescale the manager may move immediately to Step 2.*

STEP 2 FORMAL MEETING

Date:

Present:

- Line Manager
- HR
- SMT / Chairing meeting...
- Representative

Line Managers review of evidence provided during Step 1 and review meeting/s

Employees additional information if available and supporting comments

Action Plan

1 First Written Warning Issued:

To remain in place for a maximum period of 12 months

- Review date set

2 Continue further review

Date set

Follow up action: Progress made no longer under capability review

First Written warning issued

Review Date

Continue to Step 3

3 Continue to Step 3

For Human Resource only

Formal record of evidence and actions from step 2 meeting will be made available in writing to the employee within 7 calendar days of the initial meeting.

Date Actioned by HR:

Step 3 FINAL CAPABILITY HEARING

Date:

Present:

- Line Manager
- HR
- SMT / Chairing meeting...
- Representative

Line Managers review of evidence provided during Step 1, Step 2 and review meeting/s

Employees additional information if available and supporting comments

Further action

Redeployment or down grading

Dismiss on grounds of capability

HR Action only

*The outcome of the above actions will be confirmed in writing to the employee within 7 days of the date of the Step 3 meeting

Actioned:

Grievance raised during any stage of these proceedings

Date Capability suspended to investigate

Date Capability proceedings resumed