



Mission Statement

"A Caring Christian Family Where We Grow Together"

CAPABILITY PROCEDURE INCLUDING APPRISAL

Effective Date: 01/04/2017

Review Date: Sept 2024 Annual

Review Date	Signed Head Teacher	Signed Director RCSAT
23/10/19	<i>J. L. J. J.</i>	<i>P. B. B.</i>
30/09/2020	<i>J. M. Badger</i>	<i>P. B. B.</i>
14/10/21	<i>J. M. Badger</i>	<i>P. B. B.</i>
30/09/2022	<i>J. M. Badger</i>	<i>P. B. B.</i>
30/09/2023	<i>J. M. Badger</i>	<i>P. B. B.</i>

Persons Responsible for Policy:	Executive Headteacher RCSAT
Approval Date	01/04/2017
Signed:	Director RCSAT
Signed:	Executive Headteacher RCSAT



Capability Procedure for All Staff

Contents

1.0 Appraisal and Capability: Transition

1.1 Within RCSAT schools it is expected that any problems with an employee's performance should be identified and responded to at the earliest time within normal Appraisal arrangements and practices see appendix 1.

1.2 This procedure applies only to employees about whose performance there are serious concerns that the appraisal process has been unable to address.

1.3 The employee will have been told by their Appraiser, at a review meeting that their progress has not been satisfactory and that the appraisal system will no longer apply. The employee will then have up to 5 working days to consider and review their position.

1.4 After this, the employee will be notified in writing that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting.

2.0 Capability Meeting: Stage 1

2.1 The Principal/EHT/manager/Board of Trustees will arrange a date for a formal stage 1 capability meeting. At least five working days' notice will be given and the notification will contain sufficient information regarding the concerns about performance and their possible consequences to enable the employee to prepare to answer the case. It will also contain copies of any written evidence, the details of the time and place of the meeting, and will advise the employee of their right to be accompanied by a work colleague or a trade union official. A copy of the Capability Policy and Procedure will be enclosed.

2.2 This meeting is intended to establish the facts. It will be conducted by either the Principal/EHT/manager/Board of Trustees who may be supported by a Schools HR Adviser. The Appraiser will attend to present the concerns which have prompted the move to formal capability.

2.3 The employee will have the opportunity 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.

2.4 The Principal/EHT/manager/Board of Trustees will take full account of the employee's circumstances both at work and, if appropriate, outside work. In particular, s/he should be careful to explore fully the circumstances behind an apparent lack of capability, including any disability, and give the individual every opportunity to present his/her view or explanation of the situation. 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 concerns through the appraisal process. In such cases, the capability procedure will come to an end.

2.5 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.



2.6 During the meeting the person conducting the meeting will consider:

- Alterations/adaptations to duties/working environment consistent with the needs of the school and which do not change the general character of the job.
- Seeking alternative work initially within the school.
- Agreed and voluntary termination of contract.

2.7 At the conclusion of the meeting the person conducting the meeting will:

- identify the professional/performance shortcomings, for example which of the standards expected of teachers are not being met;
- set out the standard of performance that will enable the employee to be removed 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 standard has been reached);
- agree any support that will be available to help the employee improve their performance;
- set out the timescale for improvement and/or Action Plan and explain how performance will be monitored and reviewed. The timescale will depend on the circumstances of the individual case but should not exceed one term or equivalent and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this could be without a further review period.

2.8 A performance monitoring and review period will follow the formal capability meeting.

Monitoring, evaluation, guidance and support will continue during this period. Dates for review meetings with the appropriate manager will be agreed. At the end of the period, the member of staff will be invited to a formal review meeting.

2.9 The person who conducted the meeting will write to the employee within 5 working days confirming the details advised at 2.8.

3.0 Review Meeting

3.1 The Principal/EHT/manager/Board of Trustees will write to the employee to convene a formal Review Meeting. 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 employee of their right to be accompanied by a work colleague or a trade union official.

3.2 The meeting will be conducted by either the Principal/EHT/manager/Board of Trustees who may be supported by a Schools HR Adviser. The Appraiser will attend to present the evidence of progress during the review period.

3.3 The employee will have the opportunity to respond to concerns about their performance and to make any relevant representations.

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

3.5 If the person conducting the meeting is satisfied that some progress has been made and there is confidence that more progress is likely, it may be appropriate to extend the monitoring and review period but remain within Stage 1;

3.6 If no, or insufficient improvement has been made during the monitoring and review period, the employee will be advised that the management of their performance is now within Stage 2 of the Capability Procedure.

4 Capability Meeting: Stage 2

4.1 The Principal/EHT/manager/Board of Trustees will arrange a date for a formal stage 2 capability meeting. At least five working days' notice will be given and the notification will contain sufficient information regarding the concerns about performance and their possible consequences to enable the employee to prepare to answer the case. It will also contain copies of any written evidence, the details of the time and place of the meeting, and will advise the employee of their right to be accompanied by a work colleague or a trade union official. A copy of the Capability Policy and Procedure will be enclosed.

4.2 During the meeting the person conducting the meeting will again consider:

Alterations/adaptations to duties/working environment consistent with the needs of the school and which do not change the general character of the job.

- Seeking alternative work initially within the school.
- Mutual agreement to termination of contract.

4.3 At the conclusion of the meeting the person conducting the meeting will:

- confirm the professional/performance shortcomings,
- set out the standard of performance that will enable the employee to be removed 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 standard has been reached);
- explain any support that will be available to help the employee improve their performance;
- set out the timescale for improvement and/or Action Plan and explain how performance will be monitored and reviewed. The timescale will depend on the circumstances of the individual case but should not exceed six weeks and
- warn the teacher again that if (at the end of the period or at any review meeting during the period) sufficient progress has not been made then the employee may be called to a decision meeting at which it may be recommended that their employment be terminated on grounds of incapability.

4.4 The person who conducted the meeting will write to the employee within 5 working days confirming the details advised at 4.3.

4.5 A further performance monitoring and review period will follow the formal review meeting.

Monitoring, evaluation, guidance and support will continue during this period. Dates for review meetings with the appropriate manager will be agreed.

4.6 At the end of the period, the manager will hold a final review meeting and advise the member of staff that they will be invited to a Decision Meeting and whether the manager will report that an acceptable standard of performance has been reached or that performance remains unsatisfactory and that the Decision Meeting will consider a recommendation for dismissal.

5.0 Decision Meeting

5.1 Where it is necessary to make the initial dismissal decision (IDD), or where an acceptable standard of performance has been reached, the employee will be called to a Decision Meeting chaired by the EHT.

5.2 Alternatively, where the Principal/EHT is the subject of the proceedings or the principal/manager does not have delegated power to dismiss, the Decision Meeting will be conducted by a Panel of one or more directors to whom the Board of Trustees has delegated the power to take the initial decision to dismiss.

5.3 Where a Decision Meeting is to be convened the employee will be informed by letter. The letter will enclose a copy of this Procedure and advise him/her of:

- the place and time of the Meeting
- details of the alleged incapability
- the right to be accompanied by a trade union official or work colleague
- the right to call witnesses

The letter will either be handed to the employee or sent by recorded delivery and first class post. Reasonable time (a minimum of five working days) must be allowed between the receipt of the letter and the Meeting so as to allow the employee to prepare his/her case.

5.4 The conduct of the Decision Meeting will be as set out in Appendix 1 to this Procedure.

5.5 The EHT/Panel will be supported by a Schools HR Adviser as may the manager presenting the case. In the case of Community, Voluntary Controlled, Community Special and Maintained Nursery school, the Schools HR Adviser will normally act as the representative of the Director of Children, Families and Adults.

5.6 The Principal/EHT/manager/Board of Trustees (except where s/he is the person concerned or is conducting the Meeting) will present the management case and may call witnesses in support

5.7 The EHT/Panel may dismiss the employee or may impose a lesser sanction e.g. demotion or no sanction at all.

5.8 The decision will be confirmed by letter, which will either be handed to the employee or sent by recorded delivery and first class post.

5.9 In the case of a dismissal the letter will state:
(i) The reasons for this and the right of appeal; and
(ii) The date from which the dismissal will take effect.

In the case of alternative sanctions the letter will state:

- (i) The sanction being applied;
- (ii) The reasons for this; and
- (iii) the right of appeal.

5.10 The dismissal letter will be written on behalf of the Board of Trustees

6.0 Decision to Dismiss

Either: The power to dismiss staff in this school rests with the Board of Trustees.

Or: The power to dismiss staff in this school has been delegated *to the Principal/to one or more Directors/to one or more Directors acting with the Principal (delete as appropriate).*

Or: The power to decide that members of staff should no longer work at this school rests with the Board of Trustees.

7.0 Appeals

7.1 An employee has the right to appeal against dismissal or demotion under this Procedure which will be dealt with in accordance with Appendix 2. Appeals must be made, in writing, stipulating the grounds of the appeal, within ten working days of receipt of the letter confirming the action.

7.2 The conduct of the Appeal Hearing will be carried out in accordance with Appendix 1 to this Procedure. i.e. as a full re-hearing of the case by an Appeal Panel of the Board of Trustees made up of three Directors (excluding any governor involved in the Decision Meeting)

7.3 At any appeal the employee has the right, if they so wish, to be accompanied by a trade union official or work colleague.

7.4 If an appeal reverses the decision to dismiss the termination notice will be rescinded

8.0 Timescales

8.1 Where the formal capability procedure is applied, action over both Stages should be taken over no more than two terms or their equivalent.

9.0 Absence

9.1 Where application of the Procedures results in absence of the employee the advice of Occupational Health will be obtained immediately as to how long the absence could be expected to last for.

9.2 The employee will be advised in writing that the performance issues which prompted the application of the Procedure will be addressed on their return to school and that the Procedure will be applied at the point reached when the absence began.

9.3 The employee's absence will be managed under the school's Managing Attendance Procedure.



10.0 Links with Grievance Procedure

- 10.1 An employee who has been advised at a review meeting that their performance is to be managed under the Capability Procedure may not raise concerns under the Grievance Procedure except where these are about matters unrelated to their performance or its management.
- 10.2 Any concerns/grievances an employee has about the application or progress of the Capability Procedure should be raised within that procedure. Consideration may be given to the suspension of proceedings while these are addressed but it is generally expected that these will be dealt with as part of or in parallel to the performance monitoring and review process and not lead to an extension of the timescale for improvement.
- 10.3 If an employee has a grievance about an unrelated matter, this may be pursued simultaneously but arrangements under this procedure will take precedence over those relating to that grievance.

11.0 Referral to the Secretary of State

By law, where an employer –

- (a) has ceased to use a teacher's services on grounds relating to his professional incompetence; or
- (b) might have ceased to use a registered teacher's services on such a ground had the registered teacher not ceased to provide those services, the employer may report the facts of the case to the Secretary of State and provide him/her with certain information in relation to the teacher.

Therefore, where a teacher is dismissed for incompetence, the School/Council will refer the case to the Secretary of State. A teacher may also be referred to the Secretary of State if s/he leaves his/her job (even under the terms of a Compromise Agreement) while within formal procedures. A teacher may not be referred to the Secretary of State if s/he leaves his/her job while within formal procedures but improving, and it was considered improbable that dismissal would have been the outcome.

Equality

The Board of Trustees should ensure that when implementing the model Capability procedure, no employee will be disadvantaged on the basis of their gender, transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

Monitoring

Data relating to capability cases will be collated and monitored regularly to ensure that the policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

In formulating this policy account has been taken of other relevant legislation and policies including the Human Rights Act, the Equality Act 2010 and the Schools HR Consultancy model whistleblowing procedure.

Implementing the Procedure

The Executive Headteacher shall have overall responsibility for the implementation of this Procedure and shall ensure that all aspects of the procedure are managed appropriately.

To facilitate this, the Executive Headteacher has designated named staff and Directors to manage aspects of this procedure, including co-ordination, health and safety governance overview and daily checks on the conditions of the premises, reporting any issues to the Executive Headteacher.

The named persons are detailed in Appendix 2 of the procedure.



Teacher Appraisal Procedure

APPENDIX 1

1. Standards

- 1.1. Teachers shall be assessed against the 'Teachers' Standards' and any other standards relating to teachers' performance as the Board of Trustees or principal determines is applicable to the performance of any individual teacher and that they have been informed of at the start of the appraisal period.
- 1.2. The principal shall be assessed against the National Standards for Head teachers and any other standards relating to teachers' performance as the Board of Trustees determines is applicable to their performance and that they have been informed of at the start of the appraisal period.

2. Objective Setting

- 2.1. The objectives set shall be rigorous, challenging, achievable, time-bound, fair and equitable in relation to teachers with similar roles/responsibilities and experience, and will have regard to what can reasonably be expected of any teacher at a given point of their career progression.
- 2.2. RCSAT Directors recognize the desirability of staff being able to achieve a satisfactory work-life balance.
- 2.3. Objectives set shall take account of any relevant pay progression criteria and, where possible, the teachers' professional aspirations. They shall be such that, if they are achieved, they will contribute to improving the education of pupils at the school and the implementation of any plans of the Board of Trustees or head teacher designed to improve the school's education provision and performance.
- 2.4. Objectives shall be set as soon as practicable after the beginning of the appraisal period.
- 2.5. The appraiser and appraisee shall seek to agree the objectives but where a joint determination cannot be made the appraiser will make the determination.
- 2.6. In RCSAT schools, all teachers, including the principal, shall have no more than three objectives.
- 2.7. Teachers, including the principal, shall not necessarily all have the same number of objectives.
- 2.8. All teachers, including the principal, shall have a whole school objective and a personal development objective, as appropriate.
- 2.9. Although appraisal is an assessment of overall performance of teachers and the principal, objectives cannot cover the full range of a teacher's roles/responsibilities. Objectives shall, therefore, focus on the priorities for an individual for the cycle.

3. Reviewing Progress

- 3.1. At the end of each appraisal cycle, the appraiser(s) shall assess the performance of the teacher or principal against:
 - 3.1.1. The 'Teachers' Standards' or the National Standards for Head teachers as applicable, and
 - 3.1.2. Any other set of standards relating to teachers' or principals' performance about which the teacher has been notified at the beginning of the appraisal period,
 - 3.1.3. The teacher or principal's objectives, and
 - 3.1.4. The teacher or principal's professional development needs.
- 3.2. The appraiser(s) shall also where relevant under the School Teachers' Pay and Conditions Document, make a recommendation relating to the teacher or principal's pay.
- 3.3. Assessment of performance against an objective shall be on the basis of the performance criteria set at the beginning of the cycle.
- 3.4. Good progress towards the achievement of a challenging objective even if the performance criteria have not been met in full, shall be assessed favourably.
- 3.5. The appraisal cycle shall be annual, but on occasions it may be appropriate to set objectives that will cover a period over more than one cycle.
- 3.6. In such cases, the basis on which the progress being made towards meeting the performance criteria for the objective shall be assessed at the end of the first cycle and will be recorded in the report at the beginning of the next cycle.

4. Appraisal Report



- 4.1. As soon as practicable following the end of each appraisal period, teachers shall be provided with a written report which will record the assessment of their performance against:
 - 4.1.1. The 'Teachers' Standards', and
 - 4.1.2. any other set of standards relating to teachers' performance agreed by the Board of Governors and about which the teacher has been notified at the beginning of the appraisal period,
 - 4.1.3. the teacher's objectives, and
 - 4.1.4. shall record the teacher or principal's professional development needs and any action that is to be taken to address these.
- 4.2. The report shall also, where relevant under the School Teachers' Pay and Conditions Document, record a recommendation relating to the teacher or head teacher's pay.

5. Appeals

- 5.1. Where a member of staff is dissatisfied with the application of the appraisal process (except for decisions on pay), they shall have recourse to the school's Grievance Procedure to pursue the matter.
- 5.2. Where a member of staff is dissatisfied with the recommendation or decision on pay, they shall have the right of appeal through the appeals mechanism of the School Pay Policy.

6. Confidentiality

- 6.1. The appraisal process and the reports generated under it shall be treated with confidentiality at all times.
- 6.2. The appraiser line manager or, where s/he has more than one, each of her/his line managers and the principal shall be provided with access to the appraiser's plan and review recorded in her/his report.
- 6.3. Directors shall be given access to the appraisal report of any teacher, on request and where they are being asked to make a decision on pay.
- 6.4. Appraisers shall be informed who has requested and has been granted access to their report.
- 6.5. Directors directly involved in the principal's appraisal and the external adviser will be provided with access to the principal's planning and review record in his/her report.
- 6.6. Details of the principal's objectives will be reported to the full Board of Trustees as soon as practicable after the beginning of the appraisal cycle.
- 6.7. Directors not directly involved in the principal's appraisal shall be given access to the review of his/her performance, on request, and where they are being asked to make a decision on pay.

7. Training and Support

- 7.1. The school's CPD programme shall be informed by the training and development needs identified during the appraisal process.
- 7.2. The Board of Trustees shall ensure in the budget planning that, as far as possible, appropriate resources are made available in the school budget for any training and support agreed for appraisers.
- 7.3. An account of the training and development needs of teachers in general, including the instances where it did not prove possible to provide any agreed CPD, shall form a part of the principal's annual report to the Board of Trustees about the operation of appraisal in the school.
- 7.4. With regard to the provision of CPD in the case of competing demands on the school budget, a decision on relative priority shall be taken with regard to the extent to which:
 - 7.4.1. the identified CPD training and support is deemed as essential to the school meeting its priorities and
 - 7.4.2. the CPD identified as essential for the to meet their objectives.
- 7.5. The school's priorities shall have precedence.
- 7.6. Teachers shall not be held accountable for failing to make good progress towards meeting their performance criteria where the support recorded in the appraisal report has not been provided.

8. Appointment of Appraisers for the Executive Headteacher

- 8.1. In RCSAT, the Board of Trustees is the appraiser for the Executive Headteacher and to discharge this responsibility appoints three Directors.
- 8.2. Where the Executive Headteacher is of the opinion that any of the Directors appointed by the Board of Trustees under this regulation is unsuitable for professional reasons, s/he may submit a written request to the Board of



Trustees for that governor to be replaced, stating those reasons.

9. Appointment of External Adviser

- 9.1.** The Board of Trustees shall appoint an external adviser to provide advice and support in relation to the appraisal of the Executive Headteacher.
- 9.2.** The Board of Trustees shall consult the external adviser before setting the Executive Head teacher's objectives.

10. Appointment of Appraisers for Teachers

- 10.1.** The principal shall ensure the appraisal of every other teacher employed in the school.
- 10.2.** The principal may delegate this duty to the teacher's line manager or another member of the leadership team.
- 10.3.** In RCSAT the principal has decided that:
 - 10.3.1.** The principal shall be the appraiser for those teachers s/he directly line manages and will delegate the role of appraiser to the relevant line manager or another member of the leadership team for some or all other teachers.
 - 10.3.2.** Line managers shall be the appraisers for all those teachers they line manage.
 - 10.3.3.** Where a teacher has more than one line manager the principal shall determine which line manager will be best placed to manage and review the teacher's performance.
- 10.4.** Where it becomes apparent the appraiser will be absent for the majority of the cycle, the principal may perform the duties him/herself or delegate them to another teacher.
- 10.5.** Where this teacher is not the appraises line manager, the teacher shall have an equivalent or higher status in the staffing structure as the teacher's line manager.
- 10.6.** The appraisal cycle shall not begin again in the event of the appraiser being changed.
- 10.7.** All line managers to whom the principal has delegated the role of appraiser shall receive appropriate preparation for that role.

11. The Appraisal Period

- 11.1.** The appraisal period shall be 12 months.
- 11.2.** The appraisal cycle in this school shall run from September to September for teachers, and from October to October for the principal/EHT.
- 11.3.** Teachers, who are employed on a fixed term contract of less than one year, shall have their performance managed in accordance with the principles underpinning the provisions of this policy.
- 11.4.** The length of the cycle shall be determined by the duration of their contract.
- 11.5.** Where a teacher starts their employment at the school part-way through a cycle, the principal or, in the case where the teacher is the principal, the Board of Trustees shall determine the length of the first cycle for that teacher, with a view to bringing this cycle into line with the cycle for other teachers at the school as soon as possible.
- 11.6.** Where a teacher transfers to a new post within the school part-way through a cycle, the principal or, in the case where the teacher is the principal, the Board of Trustees shall determine whether the cycle shall begin again and whether to change the appraiser.

12. Monitoring

- 12.1.** The Board of Trustees shall ensure that all teachers, including the principal, have their performance appraised on an annual basis.
- 12.2.** The principal shall provide the Board of Trustees with a written report on the operation of the school's appraisal policy annually.
- 12.3.** The report shall not contain any information which would enable any individual to be identified.
- 12.4.** The report shall include:
 - 12.4.1.** the operation of the appraisal policy;
 - 12.4.2.** the effectiveness of the school's appraisal procedures;
 - 12.4.3.** teachers' training and development needs.

13. Equality Impact Assessment



- 13.1.** The Board of Trustees is satisfied that the terms of this procedure will not impact adversely on members of staff who have a protected characteristic within the meaning of the Equality Act 2010.
- 13.2.** The Board of Trustees is committed to promoting equality and shall ensure that the appraisal process is fair and non-discriminatory and that monitoring data should be included in the head teacher's report covering each of the protected characteristics within the Equality Act 2010.
- 13.3.** The principal shall also report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination under any protected characteristics.

14. Review of the Procedure

- 14.1.** The Board of Trustees shall review the appraisal policy every school year at its Summer term FGB meeting.
- 14.2.** The Board of Trustees shall take account of the principal's report in its review of the appraisal procedure.
- 14.3.** The procedure shall be revised as required to introduce any changes in regulation and statutory guidance to ensure that it is always up to date.
- 14.4.** The Board of Trustees shall seek to agree any revisions to the procedure with the recognised trade unions having regard to the results of the consultation with all teachers.
- 14.5.** To ensure teachers are fully conversant with the appraisal arrangements, all new teachers who join the school shall be briefed on them as part of their introduction to the school.

15. Access to Documentation

- 15.1.** Copies of the school improvement and development plan and SEF are published on the school's intranet and/or can be obtained from the school office.

RESPONSIBILITIES**APPENDIX 2**

Area of Responsibility	Person Responsible
Overall responsibility	Executive Headteacher
Co-ordinator in School	Principal Bunbury Principal St Oswald's Principal Warmingham
Governor	LGCs
Daily checks	

