

**Rudyard Kipling Primary School & Nursery**

**Schools' Human Resources Service**

**Management Toolkit: School Capability Procedure**

**February 2020**



## **Contents:**

### [Introduction](#)

### [Section 1 – Advice and Guidance](#)

#### [Managing Concerns about Performance Informally](#)

#### [Timescales and Arranging Meetings](#)

#### [Conducting a Formal Stage 1 Capability Interview](#)

#### [Conducting a Formal Stage 2 Capability Interview](#)

#### [Support and Monitoring in Review Periods](#)

#### [Conducting Review Meetings](#)

### [Section 2 – Document and Letter Templates](#)

<u><a href="#">CP1a</a></u>	<u><a href="#">Confirmation of Informal Review Period/Structured Support</a></u>
<u><a href="#">CP1</a></u>	<u><a href="#">Invite to Stage 1 Capability Interview</a></u>
<u><a href="#">CP2</a></u>	<u><a href="#">Outcome of Stage 1 Interview – Written Warning</a></u>
<u><a href="#">CP3</a></u>	<u><a href="#">Outcome of Stage 1 Interview – Continue Informal Monitoring</a></u>
<u><a href="#">CP4</a></u>	<u><a href="#">Outcome of Stage 1 Interview – No Further Action</a></u>
<u><a href="#">CP5</a></u>	<u><a href="#">Invite to Stage 2 Capability Interview</a></u>
<u><a href="#">CP6</a></u>	<u><a href="#">Outcome of Stage 2 Interview – Final Written Warning</a></u>
<u><a href="#">CP7</a></u>	<u><a href="#">Outcome of Stage 2 Interview – Extend Stage 1 Review Period</a></u>
<u><a href="#">CP8</a></u>	<u><a href="#">Outcome of Stage 2 Interview – No Further Action</a></u>
<u><a href="#">CP9</a></u>	<u><a href="#">Invite to Stage 3 Capability Hearing</a></u>
<u><a href="#">CP10</a></u>	<u><a href="#">Outcome of Stage 3 Hearing – Dismissal</a></u>
<u><a href="#">CP11</a></u>	<u><a href="#">Outcome of Stage 3 Hearing – Action Other Than dismissal</a></u>
<u><a href="#">CP12</a></u>	<u><a href="#">Decision to Cease Application of Formal Procedure</a></u>
<u><a href="#">CP13</a></u>	<u><a href="#">Invite to Appeal Against a Warning</a></u>
<u><a href="#">CP14</a></u>	<u><a href="#">Outcome of Appeal Against a First Written Warning</a></u>
<u><a href="#">CP15</a></u>	<u><a href="#">Outcome of Appeal Against a Final Written Warning</a></u>
<u><a href="#">CP16</a></u>	<u><a href="#">Invite to Appeal Against Dismissal</a></u>
<u><a href="#">CP17</a></u>	<u><a href="#">Outcome of Appeal Against Dismissal</a></u>
<u><a href="#">CP18</a></u>	<u><a href="#">Support Plan</a></u>
<u><a href="#">CP19</a></u>	<u><a href="#">Management Statement of Case for Stage 3 Capability Hearing</a></u>

## Introduction

It is essential that the performance of staff is managed in a careful, consistent and supportive way and that concerns about individual performance are addressed as early as possible, in order to have the best chance of resolving concerns without recourse to formal procedures.

However, schools must also have a clear process for managing consistently poor performance which in Brighton & Hove involves the use of the Capability Procedure for School Staff.

To support the effective management of concerns about individual performance and the operation of the formal capability procedure, this toolkit has been developed to provide practical advice, tools and assistance to those senior staff responsible for managing such issues.

All documents within the toolkit are consistent with the current recommended model School Capability Procedure however the procedure should always be read alongside the support available in the toolkit. The designated HR Advisory contact for your school can provide advice on the operation of the procedure, using the toolkit and on individual cases.

Where schools have adopted a different capability procedure to the one recommended by the council (for example in voluntary aided schools or academies), care will need to be taken to ensure that the individual school's procedure is adhered to as the documents in the toolkit are based on the LA model School Capability Procedure and, where referenced the LA model Appraisal Policy.

**Note:** The content of this toolkit is provided as advice and guidance for managers and do not form part of any formal procedure.

# ***Section 1 – Advice & Guidance***

## **Managing Concerns about Performance Informally**

It is essential that where concerns about an employee's performance are identified, these are addressed without delay in order to give the best opportunity for successfully resolving the issues without recourse to formal capability procedures. Depending on the circumstances, simply giving feedback as part of a wider discussion that covers positive aspects of performance as well will be all that is necessary to remedy a problem.

At all times the overarching aim of managing concerns will be to improve the individual's performance to satisfactory levels through the provision of structured feedback, support, monitoring and review.

### **Appraisal Policy**

Usually concerns about an individual's performance will, in the first instance, be managed under the appraisal policy/process or whatever normal day to day supervision process is in place (eg if different arrangements are in place for managing performance of non-teaching staff).

### **Pre-meeting Preparation**

Thorough planning and preparation before a meeting with an employee to discuss concerns is important and Headteachers/senior managers should consider the following questions to help this process:

- View the process objectively. What is the gap between the existing performance and a fully satisfactory performance? What are the key things that need to happen to 'bridge the gap'?
- Can I clearly articulate the standards of performance that are not being met and do I have clear evidence/examples of the concerns that will be discussed?
- Can the concerns be linked to documented standards such as job description, Teacher Standards, Post Threshold Professional Standards etc
- What support could be put in place that will enable the employee to improve in the specific areas identified?
- What will the employee need to do to demonstrate improved performance/how will this be measured?
- What length of time will be reasonable to allow support mechanisms to be put in place and then see an improvement in performance?

### **Conducting the Informal Meeting**

An appropriate time and venue should be chosen for the discussion taking care to ensure that there is enough time to have the conversation without being rushed and that there will be no interruptions. The environment should also be confidential.

#### *Giving Feedback*

It is important that feedback is given in an objective and supportive manner even where there are concerns. The BOOST model is a helpful guide for giving feedback in a constructive way:

Balance	Include positive elements about the individual's performance and reflection on what they do well as where improvement may be required.
Observed	Focus on what you have seen or observed. Look at behaviour rather than personality. Be as objective as possible and root judgements in evidence.
Ownership	Ideally both parties must own feedback for it to be useful – if resistance or disagreement arises refer back to observations, facts and evidence that support the judgements being made.
Specific	Keep feedback as specific as possible and factual to ensure clarity and understanding. Avoid objective value judgements or statements (eg I think you are struggling).
Time	Pick an appropriate time to give feedback and try and establish an atmosphere of trust.

*Key points to discuss in relation to concerns*

- Explain what the concerns are as precisely as possible referring to the evidence that has led to the concerns.
- Explore if there are any underlying causes and why the 'gap' in performance might exist
- Explain what needs to be done to show improvement/demonstrate satisfactory performance.
- Agree support to be put in place
- Set a review period
- Warn of implications of not improving in the required timescales (ie that formal capability procedures may be implemented)
- Keep written records
- Refer the individual to the relevant schools policies (eg school appraisal policy/capability procedure etc)

The **Example Support Plan (template CP18)** can be used to plan and document the review period, concerns to be addressed, required outputs and support to be put in place.

**CP1a Letter confirming informal review period** can be used to confirm the outcome of the meeting.

# **Timescales and Arranging Meetings**

## ***Timescales***

All timescales in the capability procedure refer to working days and weeks as explained in paragraph 4 of the procedure.

## ***Notice of Formal Meetings***

At least 5 working days notice must be given in writing for convening any formal meeting. The formal meetings in the capability procedure are:

- Stage 1 Capability Interview
- Stage 2 Capability Interview
- Stage 3 Capability Hearing
- Any Appeal Hearing convened under paragraph 12 of the capability procedure

Any documentation intended to be relied upon as evidence at a formal meeting will usually be enclosed with the written notification of the meeting but if not must be given to the employee no later than 5 working days before the formal meeting.

## ***Notice of Informal Meetings***

There are no specific requirements for notice to be given for informal meetings. However depending on the circumstances it may be appropriate to give reasonable notice of a meeting.

Regular review meetings during any review period should be schedule as part of the plan at the start of the review period.

## ***Arranging Meetings***

As a minimum when arranging a meeting to discuss concerns, sufficient time should be set aside to ensure that the issues can be discussed in detail without being rushed and an appropriate venue is chosen where interruptions are likely to be minimal and where confidentiality can be maintained.

Meetings will usually take place at the school where the employee works however depending on the circumstances and stage in the procedure it may be that an alternative venue could be more appropriate. Where HR are attending, meetings could be held at a Council office and can be arranged via the school's HR Advisory contact.

## ***Representation at Meetings***

Paragraph 6 of the model Capability Procedure sets out the rights of employees with regard to be accompanied at meetings under this procedure.

When organising meetings it is good practice to discuss availability of all relevant parties before writing to give notice of a meeting to minimise the potential of delays. Other parties include any adviser from HR but also the employee's Trade Union representative or their chosen accompanying colleague if they are known.

# Conducting a Formal Stage 1 Capability Interview

## Pre-meeting Preparation

Employees should be given at least 5 working day's notice of the meeting in writing using **template CP1**.

Thorough planning and preparation before the meeting is important and Headteachers/managers should consider the following questions to help this process:

- View the process objectively. What is the gap between the existing performance and a fully satisfactory performance? What are the key things that need to happen to 'bridge the gap'?
- Can I clearly articulate the standards of performance that are not being met and do I have clear evidence/examples of the concerns that will be discussed?
- Is the employee already aware of the concerns about their performance and opportunity been given for them to improve? (If not it may be more appropriate to consider managing the concerns informally under appraisal arrangements first)
- Can the concerns be linked to documented standards such as job description, the Teacher Standards, Post Threshold Professional Standards etc.
- What support could be put in place that will enable the employee to improve in the specific areas identified?
- What will the employee need to do to demonstrate improved performance/how will this be measured?
- What length of time will be reasonable to allow support mechanisms to be put in place and then see an improvement in performance?

## Conduct and Format of the Meeting

### *Introductions and Purpose*

- Ask all parties to introduce themselves and briefly describe their role in the meeting.
- Confirm the right for the employee to be accompanied by a Trade Union representative or a colleague from the school and if they are unaccompanied, confirm they were aware of this right prior to the meeting.
- Explain that the meeting is a formal one under the school's Capability Procedure and the purpose if the meeting is to discuss the areas of concern in relation to their performance, the improvements in performance required and the timescales for reviewing the situation and that the employee will be given the opportunity to respond and contribute to the discussion.
- Explain that the meeting will also consider whether it is necessary to issue a formal Written Warning in relation to the performance concerns.

### *Discussion of Areas of Concern*

- Explain the issues/concerns/performance standards that are not being met and where appropriate refer to the job description or any professional standards that support the expectations about the person's performance.
- Explain the evidence and examples from which these concerns arise or which demonstrate the underperformance.



- Review what support/monitoring has already been put in place
- Ask the employee to respond to the issues that have been raised. Where possible ask the employee if they can provide any explanation as to the concerns that have arisen and whether there could be an underlying reason that is affecting their performance.

#### *Decision on whether to issue a Formal Written Warning*

- If you are satisfied with the explanation and consider no further action is necessary, inform the employee of this and the importance of maintaining standards of performance going forward. Alternatively any informal monitoring and support period may be extended. **(Use letter template CP4 to confirm no further action or letter template CP3 to confirm that informal structured support, monitoring and review will continue for a period)**
- If concerns remain after considering the employee's response inform the employee that you are going to issue them with a formal written warning that continued failure to meet the identified standards of performance may lead to the issuing of a final written warning and ultimately could lead to their dismissal. Then move on to discuss the support and review mechanisms for the review period.

#### *Support and Review*

- Discuss with the employee the support that you intend to put in place in order to assist them in improving their performance to the specified standards and who will be responsible for providing/managing this support.
- Ensure the employee understands the improvements required and what they will need to demonstrate to show they have met the required standards and also how this will be measured.
- Confirm the timescales for review (usually between 4 and 10 weeks depending on the circumstances).
- Always ask the employee whether there is any support/ training/ guidance other than what has already been discussed that they feel would be beneficial and consider this.
- Wherever possible the support plan and timescales should be agreed with the employee but if this is not possible this may need to be imposed.
- Establish when reviews will take place. Informal reviews are recommended weekly and a final review at the end of the period.
- Use **Template CP18** to document the support and review period.

#### *Confirmation and Right of Appeal*

- Inform the employee that they have the right to appeal against the decision to issue a formal Written Warning and the details of the decision and the right to appeal will be confirmed in writing as soon as possible. It is advisable to confirm the outcome in writing within a week. **(Use Template CP2 to confirm the formal outcome).**

# Conducting a Formal Stage 2 Capability Interview

## Pre-meeting Preparation

Employees should be given at least 5 working day's notice of the meeting in writing using **template CP5**.

Thorough planning and preparation before the meeting is important and Headteachers/managers should consider the following questions to help this process:

- View the process objectively. What is the gap between the existing performance and a fully satisfactory performance? What are the key things that need to happen to 'bridge the gap'?
- Can I clearly articulate the standards of performance that are not being met and do I have clear evidence/examples of the concerns that will be discussed?
- Is the employee already aware of the concerns about their performance and opportunity been given for them to improve? (If not it may be more appropriate to consider managing the concerns informally under appraisal arrangements first)
- Can the concerns be linked to documented standards such as job description, the Teacher Standards, Post Threshold Professional Standards etc.
- What support could be put in place that will enable the employee to improve in the specific areas identified?
- What will the employee need to do to demonstrate improved performance/how will this be measured?
- What length of time will be reasonable to allow support mechanisms to be put in place and then see an improvement in performance?

## Conduct and Format of the Meeting

### *Introductions and Purpose*

- Ask all parties to introduce themselves and briefly describe their role in the meeting.
- Confirm the right for the employee to be accompanied by a Trade Union representative or a colleague from the school and if they are unaccompanied, confirm they were aware of this right prior to the meeting.
- Explain that the meeting is a formal one under the school's Capability Procedure and the purpose if the meeting is to discuss the areas of concern in relation to their performance, the improvements in performance required and the timescales for reviewing the situation and that the employee will be given the opportunity to respond and contribute to the discussion.
- Explain that the meeting will also consider whether it is necessary to issue a formal Final Written Warning in relation to the performance concerns.

### *Discussion of Areas of Concern*

- Explain the issues/concerns/performance standards that are still not being met, referring to the documented standards and targets previously established and where appropriate refer to the job description or any professional standards that support the expectations about the person's performance.

- Explain the evidence and examples from which these concerns arise or which demonstrate the underperformance.
- Review what support/monitoring has already been put in place during the previous review period.
- Ask the employee to respond to the issues that have been raised. Where possible ask the employee if they can provide any explanation as to the ongoing concerns and whether there could be an underlying reason that is affecting their performance.

#### *Decision on whether to issue a Formal Final Written Warning*

- If you are satisfied with the explanation given by the employee and consider no further action is necessary, inform the employee of this and the importance of maintaining standards of performance going forward. Alternatively if some progress has been made and more is likely you can extend the review period implemented at Stage 1. **(Use letter template CP8 to confirm no further action or letter template CP7 to confirm that the review period under Stage 1 will be extended)**
- If concerns remain after considering the employee's response inform the employee that you are going to issue them with a formal final written warning that continued failure to meet the identified standards of performance could lead to their dismissal. Then move on to discuss the support and review mechanisms for the review period.

#### *Support and Review*

- Discuss with the employee the further support that you intend to put in place in order to assist them in improving their performance to the specified standards and who will be responsible for providing/managing this support. This should be a continuation of the processes already implemented under earlier stages but explore whether any additional support may be helpful.
- Ensure the employee understands the improvements required and what they will need to demonstrate to show they have met the required standards and also how this will be measured.
- Confirm the timescales for review (usually between 4 and 10 weeks depending on the circumstances).
- Always ask the employee whether there is any support/ training/ guidance other than what has already been discussed that they feel would be beneficial and consider this.
- Wherever possible the support plan and timescales should be agreed with the employee but if this is not possible this may need to be imposed.
- Establish when reviews will take place. Informal reviews are recommended weekly and a final review at the end of the period.
- Use **Template CP18** to document the support and review period.

#### *Confirmation and Right of Appeal*

- Inform the employee that they have the right to appeal against the decision to issue a formal Final Written Warning and the details of the decision and the right to appeal will be confirmed in writing as soon as possible. It is advisable to confirm the outcome in writing within a week. **(Use Template CP6 to confirm formal outcome).**

## Support and Monitoring During Review Periods

The overall aim of capability procedures prior to a recommendation of dismissal is to secure the required improvements in performance through the provision of effective feedback and support. Therefore it is important that where concerns about an individual's performance are identified, a clear plan is put in place that sets out what the employee needs to do to demonstrate satisfactory performance and the timescales for this. This must be underpinned by a plan for provision of additional support for the employee, how this will be accessed and details of how progress will be monitored and measured. **Template CP18** is an example template for a support plan that can be used for this purpose but can be adapted to suit individual schools and circumstances.

### Support

Where concerns about performance exist, reasonable support must be put in place to assist the employee in achieving the required improvements. What is reasonable to put in place will depend on the circumstances of the case but the support should be relevant and linked to the gaps in performance and aimed at bringing about improvement in the area identified.

The support that is put in place can be in many forms and will very much depend on the circumstances, the nature of the performance concerns, the employee and organisational limitations. However, common forms of support are listed below:

- Training courses
- Online courses
- Shadowing work colleagues
- Mentoring
- Coaching
- Peer Support
- Observing a model lesson
- Observing in/ visiting other schools
- Observation by a senior member of staff of LA adviser with detailed feedback
- Professional advice and support eg. visits/support from LA advisers/officers
- Additional time during working day to address issues/develop knowledge

Support plans will always need to be tailored to the individual and the particular circumstances of their situation. Success in securing the required improvements in performance will always be more likely where the individual participates in the process and therefore it is crucial that the employee is involved in discussions about support and asked to provide their own ideas about what they would find helpful.

### Monitoring

The form of any monitoring that takes place during a review period will depend on the circumstances but should be sufficient to enable an accurate assessment of the individual's performance against the objectives and standards that have been set. The amount and nature of any monitoring should also be proportionate – excessive monitoring can lead to the employee feeling unduly stressed which could have an impact on their ability to successfully address the concerns that have been raised.

## Conducting Review Meetings

Where concerns about performance are raised with an employee, unless they are of a very minor nature, it will usually be necessary to agree a period of time over which you expect the issues to be addressed and, if appropriate, support put in place. During this period, depending on the concerns and the length of time, it may be appropriate to meet the employee on a regular basis to review progress but it will always be necessary to meet at the end of the review period to establish whether the necessary improvements have been made.

It is recommended that review meetings take place regularly throughout any review period at agreed intervals, whether formal or informal. This could be as frequent as once a week or every two weeks depending on the circumstances. At the end of the review period a meeting should take place to consider whether the required improvements have been made and what further action, if any, is required.

At a review meeting the person conducting the review should:

- Focus on the agreed support plan and review progress against any objectives to date.
- Provide feedback to the employee on progress against the required standards and any objectives. Feedback should be constructive and continue to offer advice and suggestions on improvement.
- Where progress is being made ensure this is emphasised and encouraged.
- Review any support that has been put in place and its impact.
- Ask the employee how they think the review period is going
- Consider whether any other support or any modification of the support plan is required (though wherever possible avoid adding additional objectives/requirements)
- Where progress appears to not be occurring highlight this observation, using objective evidence to support this conclusion, explore with the employee why this might be happening, whether they understand what has been asked of them and what it is that is not happening.

Notes of the meeting should be provided to the employee at the earliest opportunity after the meeting.

If the formal process has been implemented, the Headteacher/senior manager conducting the process can, at any time during the process, choose to cease application of the formal procedure if they are satisfied that performance has improved to a satisfactory level and this improvement is likely to be sustained. This decision is likely to be made after a review meeting. If this is the case **letter template CP12** should be used to confirm this decision.

# ***Section 2 – Document & Letter Templates***

# CP1a Confirmation of Informal Review Period/Structured Support

Dear <insert name>

## Informal Review Period and Structured Support

Further to our meeting on <insert date of meeting> I am writing to confirm the outcome.

We discussed concerns I have in relation to your performance in the following areas:

<insert summary detail of concerns>

<insert any relevant information from discussions, observations/comment from employee etc>.

I informed you that I am going to put in place additional structured support for a period of <insert agreed length of review period> aimed at helping you address the issues above. **The attached support plan** sets out in detail the issues that need to be addressed, what you need to do, the support that will be in place and the arrangements for monitoring and reviewing.

At the end of this period I will meet with you to discuss your progress. I am hopeful that with support you can successfully achieve the improvements required. However, I must inform you that should you not make sufficient progress I will need to consider implementing the formal capability procedure. **A copy of the School's Capability Procedure is attached** for your information.

I do want to support you as much as I can so if you have any concerns about this or any other matter, please do not hesitate to come and speak to me.

Yours sincerely

<insert name and job title>

## CP1 Invite to Stage 1 Capability Interview

Dear <insert name>

### Stage 1 Capability Interview

I am writing to advise you that you are required to attend a formal capability interview under the School's Capability Procedure on <insert date> at <insert time> at <insert venue>.

This interview has been convened because of the following concerns in relation to your performance:

**<insert the details of the concerns that will be discussed – be as specific as possible about the issues which are causing the concern – wherever possible refer to any applicable professional standards in place and/or contents of job description>**

**<where applicable, describe the support that has already been put in place for the individual>**

I will be conducting the interview and will be advised by <insert name and title of HR person – delete if not applicable>.

You will be given the opportunity at the meeting to respond to these issues and give your explanation of the matter(s). If you intend to present any documentation in support of your case, you must let me have copies of these documents no later than three days before the date of the interview.

**<delete if not applicable – the employee must be given copies of any documentary evidence in advance eg support plan put in place to date, written records of observations, any written evidence obtained, logs of incidents>** I enclose copies of the documents I will be referring to in the interview.

You should be advised that this meeting could result in you being issued a formal Written Warning under the procedure.

You have the statutory right to be represented/accompanied at the interview by either a Trade Union Representative or a colleague who works for the School. It is your personal responsibility to arrange your own representation.

Please contact me to confirm that you will be attending the interview.

Yours sincerely

**<insert name>  
<insert title>**

cc personal file



## CP2 Outcome of Stage 1 Interview – Written Warning

Dear <insert name>

### Outcome of Stage 1 Capability Interview

I am writing to confirm the outcome of the formal Stage 1 Capability Interview, convened under the School's Capability Procedure, which was held on <insert date>.

Having considered all the information available, including your explanation of the matter, and after due and careful consideration of all the factors, I have decided to issue you with a formal Written Warning that continued failure to reach the identified standards of performance may lead to the issuing of a final warning or consideration of a recommendation for dismissal. While you remain in the formal Capability procedure normal appraisal arrangements will not apply.

This action has been taken because <explain how the employee's performance has fallen short of the standards required>.

Your performance needs to improve in the following areas: <set out the standards of work performance expected of the employee in the areas of concern>. This will be monitored during a monitoring and review period of <insert length of review period>.

In order to support you in achieving these standards the following will be put in place during the review period: <insert details of further training/development, additional or closer supervision and any other remedial action to be taken – this can be detailed in a separate support plan>.

During the review period I will meet with you on a regular basis to review progress.

If you fail to reach a satisfactory level of performance during this review period and/or do not make sufficient progress against the targets that have been set during the review period, it will be necessary to convene a Stage 2 Capability Interview.

You have the right of appeal against my decision to issue you with a Written Warning. If you wish to do so, the appeal should be made in writing and should state the ground(s) for the appeal. The appeal must be received by the Headteacher **within five working days** of you receiving the written confirmation of this decision. Alternatively you may submit a letter of objection to this decision which would be held on file and would be considered in any future stage of the procedure.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this decision and that you understand the implications.

Yours sincerely

cc Personal File

Trade Union Representative (If appropriate)

## **CP3 Outcome of Stage 1 Interview – Continue Informal Monitoring**

Dear <insert name>

### **Outcome of Stage 1 Capability Interview**

I am writing to confirm the outcome of the formal Stage 1 Capability Interview convened under the School's Capability Procedure, which was held on <insert date>.

Having considered all the information available, including your explanation of the matter, and after due and careful consideration of all the factors, I have decided to take no formal action at this point but continue informal monitoring and support.

This action has been taken because <explain reason for not issuing formal warning and continuing informally>.

However your performance needs to improve in the following areas: <set out the standards of work performance expected of the employee in the areas of concern>.

In order to support you in achieving these standards the following will be put in place: <insert details of further training/development, additional or closer supervision and any other remedial action to be taken>.

Your progress towards these targets will be reviewed in <insert timescale>. You should be aware that if you do not make sufficient improvement in your performance despite the support being put in place it will be necessary to convene a further Stage 1 Capability Interview.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this letter and that you understand the content.

Yours sincerely

<insert name of Headteacher/Manager>  
<insert title>

cc Personal File  
Trade Union Representative (if appropriate)

## **CP4 Outcome of Stage 1 Interview – No Further Action**

Dear <insert name>

### **Outcome of Stage 1 Capability Interview**

I am writing to confirm the outcome of the formal Stage 1 Capability Interview convened under the School's Capability Procedure which was held on <insert date>.

Having considered all the information available, including your explanation of the matter, and after due and careful consideration of all the factors, I have decided that no further action will be taken.

You must maintain satisfactory performance and I need to make you aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed.

Normal supervision/appraisal arrangements will now resume.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this letter and that you understand the content.

Yours sincerely

<insert name of Headteacher/manager>  
<insert title>

cc Personal File  
Trade Union Representative (if appropriate)

## **CP5 Invite to Stage 2 Capability Interview**

Dear <insert name>

### **Stage 2 Capability Interview**

I am writing to advise you that you are required to attend a formal capability interview under the School's Capability Procedure on <insert date> at <insert time> at <insert venue>.

This interview has been convened because of the following concerns in relation to your performance:

**<insert the details of the concerns that will be discussed – be as specific as possible about the issues which are causing the concern – wherever possible refer to any applicable professional standards in place and/or contents of job description>**

**<where applicable, describe the support that has already been put in place for the individual>**

I will be conducting the interview and will be advised by <insert name and title of HR person – delete if not applicable>.

You will be given the opportunity at the meeting to respond to these issues and give your explanation of the matter(s). If you intend to present any documentation in support of your case, you must let me have copies of these documents no later than three days before the date of the interview.

**<delete if not applicable – the employee must be given copies of any documentary evidence in advance eg support plan put in place to date, written records of observations, any written evidence obtained, logs of incidents>** I enclose copies of the documents I will be referring to in the interview.

You should be advised that this meeting could result in you being issued a formal Final Written Warning under the procedure.

You have the statutory right to be represented/accompanied at the interview by either a Trade Union Representative or a colleague who works for the School. It is your personal responsibility to arrange your own representation.

Please contact me to confirm that you will be attending the interview.

Yours sincerely  
**<insert name>**  
**<insert title>**

cc personal file

## CP6 Outcome of Stage 2 Interview – Final Written Warning

Dear <insert name>

### Outcome of Stage 2 Capability Interview

I am writing to confirm the outcome of the formal Stage 2 Capability Interview, convened under the School's Capability Procedure, which was held on <insert date>.

Having considered all the information available, including your explanation of the matter, and after due and careful consideration of all the factors, I have decided to issue you with a Final Written Warning that continued failure to reach the identified standards of performance may lead to the consideration of a recommendation you're your dismissal. While you remain in the formal Capability procedure normal appraisal arrangements will not apply.

This action has been taken because <explain how the employee's performance has fallen short of the standards required>.

Your performance needs to improve in the following areas: <set out the standards of work performance expected of the employee in the areas of concern>. This will be monitored during a monitoring and review period of <insert length of review period>.

In order to support you in achieving these standards the following will be put in place during the review period: <insert details of further training/development, additional or closer supervision and any other remedial action to be taken – this can be detailed in a separate support plan>.

During the review period I will meet with you on a regular basis to review progress.

If you fail to reach a satisfactory level of performance during this review period and/or do not make sufficient progress against the targets that have been set during the review period, it will be necessary to convene a Stage 3 Capability Hearing where your continued employment will be at risk.

You have the right of appeal against my decision to issue you with a Final Written Warning. If you wish to do so, the appeal should be made in writing and should state the ground(s) for the appeal. The appeal must be received by the Headteacher **within five working days** of you receiving the written confirmation of this decision. Alternatively you may submit a letter of objection to this decision which would be held on file and would be considered in any future stage of the procedure.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this decision and that you understand the implications.

Yours sincerely

cc Personal File  
Trade Union Representative (If appropriate)

## **CP7 Outcome of Stage 2 Interview – Extend Stage 1 Review Period**

Dear <insert name>

### **Outcome of Stage 2 Capability Interview**

I am writing to confirm the outcome of the formal Stage 2 Capability Interview, convened under the School's Capability Procedure, which was held on <insert date>.

Having considered all the information available and your explanation of the matter, after due and careful consideration of all the factors, I have decided that your performance has not improved sufficiently against the standards specified and I am extending the Stage 1 Review Period for a further <insert number of weeks>. I have taken this decision because <insert reasons for decision, evidence of continued poor performance>.

Your performance needs to improve in the following areas: <set out the standards of work performance expected of the employee in the areas of concern>. This will be monitored during a further monitoring and review period of <insert length of review period>.

In order to support you in achieving these standards the following will be put in place during the extended review period: <insert details of further training/development, additional or closer supervision and any other remedial action to be taken – this can be detailed in a separate support plan>.

During the review period I will meet with you on a regular basis to review progress.

If you fail to reach a satisfactory level of performance during this review period and/or do not make sufficient progress against the targets that have been set during the review period, it will be necessary to convene a Stage 3 Capability Hearing where your continued employment will be at risk.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this decision and that you understand the implications.

Yours sincerely

cc Personal File  
Trade Union Representative (If appropriate)

## **CP8 Outcome of Stage 2 Interview – No Further Action**

Dear <insert name>

### **Outcome of Stage 2 Capability Interview**

I am writing to confirm the outcome of the formal Stage 2 Capability Interview convened under the School's Capability Procedure which was held on <insert date>.

Having considered all the information available, including your explanation of the matter, and after due and careful consideration of all the factors, I have decided that your performance has improved sufficiently against the standards specified and so no further formal action will be taken. Your performance will now/continue to be managed in accordance with normal appraisal arrangements.

You must now maintain this level of satisfactory performance and I need to make you aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed at the stage previously applied and could ultimately result in your dismissal, though this will be disregarded for capability purposes after a period of 12 months.

Normal supervision/appraisal arrangements will now resume.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this letter and that you understand the content.

Yours sincerely

<insert name of Headteacher/manager>  
<insert title>

cc Personal File  
Trade Union Representative (if appropriate)

## **CP9 Invite to Stage 3 Capability Hearing**

Dear <insert name>

### **Stage 3 Capability Hearing**

I am writing to advise you that you are required to attend a formal Capability Hearing under Stage 3 of the School's Capability Procedure on <insert date> at <insert time> at <insert venue>.

This hearing has been convened because of the following concerns in relation to your performance:

**<insert the details of the concerns that will be discussed – be as specific as possible about the issues which are causing the concern – wherever possible refer to any applicable professional standards in place and/or contents of job description>**

**<where applicable, describe the support that has already been put in place for the individual>**

The hearing will be conducted by the \*Headteacher/a panel of three governors <insert names> \*delete as applicable who will be advised by <insert name> and I will be presenting the management case, advised by <insert name>. The Clerk to Governors will be present to take notes <delete this if not applicable>.

You will be given the opportunity at the hearing to respond to the evidence provided and give your explanation of the matter(s). If you intend to present any documentation in support of your case, you must let me have copies of these documents no later than three calendar days before the date of the hearing. I enclose for your information the management statement of case which I will be referring to.

If you wish to call witnesses you may do so, but it is your personal responsibility to arrange for their attendance at the hearing. However, you must advise me no later than three calendar days before the hearing of the names of any witnesses you wish to call.

**<if applicable – insert names of witnesses being called by management>**

You have the statutory right to be accompanied / represented at the hearing by either a Trade Union representative or a colleague who works for the school. It is your personal responsibility to arrange your own representation. As this hearing could result in your dismissal I strongly recommend that you seek advice.

Please confirm to me you are able to attend this hearing.

Yours sincerely

cc Personal File  
Trade Union Representative (if appropriate)



## CP10 Outcome of Stage 3 Hearing – Dismissal

Dear <insert name>

### Outcome of Stage 3 Capability Hearing

I am writing to confirm the outcome of the Stage 3 Capability Hearing convened under the School's Capability Procedure which was held on <insert date>.

Having heard the evidence, including your explanation of the matter, and after due and careful consideration of all the factors, \*I/the panel have taken the decision to dismiss you on the grounds of capability.\***delete as applicable**

Dismissal action has been taken because <insert nature / details of poor performance that has been evidenced, support that has been put in place, any relevant response to the employee's case and any other information supporting the decision>.

Under your contract of employment you are entitled to <insert notice required in either weeks or months - this should be either the contractual or statutory notice period (whichever is the greater) of the employee concerned> and therefore your last day of service will be <insert date>. However, you will not be required to attend work during your period of notice. <Insert details regarding final salary payment, and holiday entitlement (if any) etc owed to the employee or to the School>.

You must ensure that you immediately return your I.D. badge, keys and any other School property which you currently have if you have not done so already.

<insert this paragraph if redeployment is appropriate> During your notice period, redeployment to a suitable alternative post will be sought for you and someone will be in contact with you shortly to discuss this process. However, should no suitable alternative post be identified during this period your employment will cease on the date specified above.

You have the right of appeal to an Appeal Panel of the Governing Body against this decision. If you wish to do so, the appeal should be made in writing addressed to the clerk to the governors and should clearly state the ground(s) for the appeal. The appeal must be received by the clerk to governors **within five working days** from the date of your receiving written confirmation of the decision. You have the statutory right to be accompanied / represented at the appeal hearing and it is your personal responsibility to arrange your own representation.

Yours sincerely

cc Personal File  
Trade Union Representative (if appropriate)

## **CP11 Outcome of Stage 3 Hearing – Action Other Than Dismissal**

Dear <insert name>

### **Outcome of Stage 3 Capability Hearing**

I am writing to confirm the outcome of the Stage 3 Capability Hearing convened under the School's Capability Procedure which was held on <insert date>.

Having heard the evidence, including your explanation of the matter, and after due and careful consideration of all the factors, \*I/the panel have taken the decision \***delete as applicable**:

**a) that you should cease to work in your current post at the school but be redeployed to the post of <insert details of alternative post and consequences or refusing this post ie notice of dismissal etc and termination of employment>.**

**OR**

**b) that the monitoring and support programme should be continued for a period of <insert number of weeks>.**

**OR**

**c) that you should continue to work for the school and that no further action under this procedure is required however you need to be aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed at the stage previously applied and could ultimately result in your dismissal, though this will be disregarded for capability purposes after a period of 12 months. Your performance will now/continue to be managed in accordance with normal appraisal arrangements.**

\*[insert whichever outcome above is applicable – other recommendations from the Headteacher/panel such as specific support or other actions may be added to these outcomes if appropriate]

The reasons for the decision are as follows: <insert reasons for he decision>.

<insert this appeal paragraph only for decision option a)>You have the right of appeal to an Appeal Panel of the Governing Body against this decision. If you wish to do so, the appeal should be made in writing addressed to the clerk to the governors and should clearly state the ground(s) for the appeal. The appeal must be received by the clerk to governors **within five working days** from the date of your receiving written confirmation of the decision. You have the statutory right to be accompanied / represented at the appeal hearing and it is your personal responsibility to arrange your own representation.

Yours sincerely

cc Personal File

Trade Union Representative (if appropriate)

# CP12 Decision to Cease Application of Formal Procedure

Dear <insert name>

Further to our meeting I am writing to confirm my decision to cease the application of the formal capability procedure and reinstate the school's normal appraisal /supervision arrangements.

I have taken this decision as I am satisfied that you have successfully addressed the concerns about your performance that I have identified and your performance has improved to a satisfactory level.

You must now maintain this level of satisfactory performance and I need to make you aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed at the stage previously applied and could ultimately result in your dismissal, though this will be disregarded for capability purposes after a period of 12 months.

Your performance will now/continue to be managed in accordance with normal appraisal arrangements.

Please sign, date and return to me the enclosed copy of this letter to indicate that you have received written confirmation of this letter and that you understand the content.

Yours sincerely

<insert name of Headteacher/manager>  
<insert title>

cc Personal File  
Trade Union Representative (if appropriate)

---

I have received written confirmation of the decision to cease the capability procedure and understand the content of this letter

Signed: ..... Date: .....  
<insert name>

## CP13 Invite to Appeal Against a Formal Warning

Dear <insert name>

### Formal Appeal Hearing under the School's Capability Procedure

Further to your notification of your appeal against formal capability action I am writing to advise you that a formal capability appeal hearing has been arranged for <insert date> at <insert time>. The meeting will be held in <insert venue>.

The appeal will be conducted by the \*Headteacher/a panel of school Governors <insert names of Governors> (\*delete as applicable) and they will be advised by <insert name and post title>. I will be presenting the management case, accompanied by <insert name and post title>. The following employees will be attending as management witnesses: <insert names, delete sentence if not applicable>.

The management statement of case is enclosed with this letter. Any documentation you wish to present as evidence must be submitted to me by no later than three calendar days before the date of the hearing. I intend to call the following witnesses <delete if not applicable>

If you wish to call witnesses you may do so, but it is your personal responsibility to arrange for their attendance at the hearing. However, you must advise me by no later than three calendar days before the date of the hearing of the names of any witness(es) you wish to call.

You have the statutory right to be accompanied / represented at the hearing by either a Trade Union representative or a colleague who works for the School. It is your personal responsibility to arrange your own representation.

Please contact me to confirm that you will be attending the hearing.

Yours sincerely

<insert name>  
<insert job title>

cc Personal File  
Trade Union Representative (if appropriate)

## **CP14 Outcome of Appeal Against a First Written Warning**

Dear <insert name>

### **Outcome of Capability Appeal Hearing**

I am writing to confirm the outcome of the formal appeal hearing convened under the school's Capability Procedure on <insert date>. This outcome was communicated to you verbally at the conclusion of the hearing.

Having heard the evidence, including your explanation of the matter, and after due and careful consideration of all the factors, \*I/the panel have decided (**\*delete as applicable**)

**a) to reject your appeal against the decision to issue you with a formal Written Warning and commence a formal period of monitoring, support and review as outlined in the original decision letter.**

**OR**

**b) to uphold your appeal against the decision to issue you with a formal Written, Warning but continued informal support should be made available for a further <insert number of weeks> after which your progress will be reviewed and if necessary a further formal Stage 1 Capability Interview will be convened.**

\*[insert whichever outcome above is applicable – other recommendations such as specific support or other actions may be added to these outcomes if appropriate]

The reasons for the decision are as follows:

**<insert reasons for decision>**

There is no further right of appeal under the school's procedures at this stage.

Yours sincerely

cc: Personal File  
Trade Union Representative (if appropriate)

## **CP15 Outcome of Appeal Against a Final Written Warning**

Dear <insert name>

### **Outcome of Capability Appeal Hearing**

I am writing to confirm the outcome of the formal appeal hearing convened under the school's Capability Procedure on <insert date>. This outcome was communicated to you verbally at the conclusion of the hearing.

Having heard the evidence, including your explanation of the matter, and after due and careful consideration of all the factors, \*I/the panel have decided (\*delete as applicable)

**a) to reject your appeal against the decision to issue you with a formal Final Written Warning and commence a formal period of monitoring, support and review as outlined in the original decision letter.**

**OR**

**b) to uphold your appeal against the decision to issue you with a formal Final Written Warning, and extend the Stage 1 monitoring, support and review period for a further <insert number of weeks> after which your progress will be reviewed and if necessary a further formal Stage 2 Capability Interview will be convened.**

**OR**

**c) to uphold your appeal against the decision to issue you with a formal Final Written Warning and that no further monitoring and support under this procedure is required. Therefore the application of the formal procedure should cease however you need to be aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed at the stage previously applied and could ultimately result in your dismissal, though this will be disregarded for capability purposes after a period of 12 months.**

\*[insert whichever outcome above is applicable – other recommendations such as specific support or other actions may be added to these outcomes if appropriate]

The reasons for the decision are as follows:

**<insert reasons for decision>**

There is no further right of appeal under the school's procedures at this stage.

Yours sincerely

cc: Personal File  
Trade Union Representative (if appropriate)

## CP16 Invite to Appeal Against Dismissal

Dear <insert name>

### Dismissal Appeal Hearing under the Council's Capability Procedure

I am writing to notify you of the arrangements that have been made to hear your appeal against the decision to dismiss you from your employment, taken at the Stage 3 Capability Hearing held on <insert date of hearing>.

Your appeal hearing has been scheduled for <insert date of appeal>, in <insert venue>, commencing at <insert time>. The Appeal Panel will comprise of three school Governors <insert the names of the panel members> and will be advised by <insert name and title of adviser>. The hearing will be conducted in accordance with the school's Capability Procedure.

I will present the Management Case, supported by <insert name and title of adviser>. A copy of the Management Statement of Case that I will be referring to is enclosed. I intend to call <insert names of any management witnesses> **delete if not applicable**.

You have the statutory right to be accompanied/represented at the appeal by either a trade union representative or a colleague who works for the school. It is your personal responsibility to arrange your own representation. Should you wish to call witnesses, you may do so but it is your responsibility to arrange this and you should notify me in writing no later than 3 calendar days before the appeal hearing of the names of your witnesses.

If you intend to present any documentation in support of your case, you must let me have copies of these documents no later than **3 calendar days** before the date of the hearing.

If you have any queries regarding the content of this letter please do not hesitate to call me on the above telephone number. Additionally, I would be grateful if you would confirm that you will be available to attend on this date.

Yours sincerely

<insert name>  
<insert title>

## **CP17 Outcome of Appeal Against Dismissal**

Dear

### **Outcome of Dismissal Appeal Hearing**

I am writing to confirm the outcome of the formal appeal hearing convened under the school's Capability Procedure on **<insert date>**. This outcome was communicated to you verbally at the conclusion of the hearing.

Having heard the evidence, including your explanation of the matter, and after due and careful consideration of all the factors, the panel has decided

**\* to reject your appeal and confirm the decision of the Stage 3 Capability Hearing of <insert date of the stage 3 hearing>.**

**OR**

**to uphold your appeal and substitute instead a decision that you should cease to work in your current post at the school but be redeployed to the post of <insert details of alternative post and consequences of not accepting, eg dismissal etc>.**

**OR**

**to uphold your appeal against the decision to dismiss you, and extend the Stage 2 monitoring, support and review period for a further <insert number of weeks> after which your progress will be reviewed and if necessary a further formal Stage 3 Capability Hearing will be convened.**

**OR**

**to uphold your appeal and substitute instead a decision that you should continue to work for the school and that no further action under this procedure is required however you need to be aware that any future failure to achieve a satisfactory level of performance will result in the formal procedure being resumed at the stage previously applied and could ultimately result in your dismissal, though this will be disregarded for capability purposes after a period of 12 months.**

**\*[insert whichever outcome above is applicable – other recommendations from the Governors such as specific support or other actions may be added to these outcomes if appropriate]**

The reasons for the panel's decision are as follows:

**<insert reasons for decision>**



There is no further right of appeal under the school's procedures.

Yours sincerely

**<insert name of Clerk to Governors or Panel Chair>**

cc: Personal File  
Trade Union Representative (if appropriate)

## CP18 EXAMPLE SUPPORT PLAN

PLEASE NOTE THAT THIS IS A TEMPLATE ONLY AND INDIVIDUAL VERSIONS WILL NEED TO BE MODIFIED ACCORDING TO THE CIRCUMSTANCES OF THE CASE AND THE STAGE IN THE PROCEDURE

Date plan prepared: .....

Employee Name: ..... Post/Job Title: .....

Summary of Identified areas of concern where improvement is required:

- 
- 
- 
- 

### Targets, Actions, Monitoring and Support

Area of Concern	Outputs required to demonstrate satisfactory performance	Arrangements for monitoring (including who and when)	Support to be put in place (include dates, who involved, who responsible for organising)


**Dates of Informal Review Meetings:**

**Start and End Date of Review Period:**

**Agreed by:** ..... (insert signature)      **Headteacher/Manager**

..... (insert signature)      **Employee**

*Note: If agreement on the targets, monitoring and support cannot be mutually agreed the senior manager/headteacher will determine the plan to be implemented*

# CP19 Management Statement of Case for Stage 3 Capability Hearing

*Start each paragraph as a separate numbered bullet point e.g 1.1, 1.2 etc*

**<insert employee name>**

**Management Statement of Case**

**Stage 3 Capability Hearing**

**<insert date of hearing>**

## **1. Introduction**

**<insert employee name>** has worked for the Council/school since **<insert start date>**, and currently works as a **<insert job title>** within **<insert section and department>**.

**<if relevant insert detail about the team /school and any background e.g. difficulties in recruitment, reliance on agency staff, etc>**

## **2. Allegation**

This capability hearing concerns allegations that despite the provision of support **<insert employee name>** continues to fail to meet the required standards of performance in their role as follows:

**<insert detail of the areas of concern>**

*Include reference to the relevant standards for the role – eg professional standards, teacher standards, job descriptions.*

## **3. Background & Chronology**

*This section is the most important and will contain the substantive evidence.*

*This section should show what has already happened, e.g. the meetings that have taken place, summary of the letters that have been sent, warnings given and append the actual letters to this document.*

*Include evidence used to support the judgement that performance is inadequate.*

*Include support plans that have been put in place.*

*List the support that has been provided and evidence of the impact this support made.*

## **6. Conclusion**

*This is your conclusion following the above i.e On the balance of the information above, you have found XXXXXX*

*State what you believe as a result of the process ie. You believe the employee lacks the capability to perform to the required standards for their position.*

*Usually for a dismissal to be reasonable you will need to show that the standards of performance have been made clear, where the failings are have been made clear, that warnings have been given and that reasonable support has been put in place to try and improve performance.*

*Mention again any mitigating circumstances, how this fits with your judgements and also comment on any contradictory views made by the employee and your explanations of this.*

*Describe the impact of the performance failings on the service/school/students.*

## **7. Recommendation**

The evidence supports the conclusion that **<insert employee name>** lacks the capability to undertake their role. I therefore recommend that they should be dismissed on the grounds of capability.

**<insert name>**

**<insert job title>**