

## **EMPLOYMENT MATTERS COMMITTEE**

**16 MARCH 2011**

### **CAPABILITY PROCEDURE (SCHOOL BASED STAFF)**

Report from: Tricia Palmer, Assistant Director, Organisational Services

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#### **Summary**

This report details the Council's proposals to implement a new Capability Procedure for school based staff.

#### **1. Budget and Policy Framework**

1.1 The procedure lies within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

#### **2. Background**

2.1 The current Capability Procedure was agreed in 2004 by the Employment Matters Committee.

2.2 Since its approval, in practice, capability issues have not been managed and resolved as swiftly as they could have been. This is due to the lack of clarity regarding timescales for dealing effectively with underperformance.

2.3 The attached Capability Procedure (Appendix 1) is a new document and will provide schools with a clear process on how to manage cases of underperformance. It will also give employees a better idea of what to expect should they be subject to capability proceedings.

#### **3. Options**

3.1 The options available are to remain with the current procedure which, whilst still legal was written for the council seven years ago. Over the years operational issues have arisen which hinder cases being managed efficiently.

3.2 The second option is to agree the new procedure which is intended to help schools manage cases of underperformance in a more structured and speedy way.

#### 4. Advice and analysis

4.1 Capability refers to an employee's skills, ability, aptitude and knowledge in relation to the job that he or she is employed to do. The key feature of lack of capability is that it is not the employee's fault. Very few employees choose to perform their work badly, make mistakes, fail to complete tasks or have poor relationships with colleagues.

4.2 In the event that an employee is underperforming the line manager must be prepared to examine the circumstances and give support to the employee to help him or her to improve to the required standard of competence in a realistic timescale.

4.3 This new procedure will enable managers to take prompt action, as soon as underperformance is noticed. Delaying, or worse doing nothing, may cause the performance problem to escalate and impact adversely on the educational attainment of children. The result of this could be that the line manager subsequently has to face a major problem caused by underperformance rather than dealing with the problem while it is still in its infancy. In effect the manager is not performing his/her job at the required level and giving the member of staff the support that they are entitled to receive. An Employment Tribunal would not look favourably on this situation.

4.4 This new procedure allows and encourages line managers to deal with instances of poor performance in an informal way as quickly as it is noticed. This may be through normal day-to-day supervision. In cases where an informal discussion is not enough or the review targets have not been met there is a clear formal process for the manager and employee to follow. However, formal action will be deemed only necessary if informal action has proved ineffective or where serious or gross incompetence is under consideration.

4.5 The table below gives an indication of the indicative timescales for the new procedure:

<b>Action</b>	<b>Maximum time (weeks)</b>
Informal action	8
Formal process	20
Possible dismissal	28
Total weeks to dismissal	40

- 4.6 In some circumstances it may be appropriate to move straight to the formal stage of the procedure. If issues come to light that there is evidence that the education of pupils is being put in jeopardy, the health and safety of pupils is at risk, or where the situation requires an immediate intervention, then the procedure will automatically commence at stage three (i.e. 4 weeks duration in total to improve sufficiently, otherwise dismissal could occur).
- 4.7 Unnecessary delays have been caused in the past when an employee who is subject to the capability procedure invokes the grievance procedure part way through. As a result the capability procedure is put on hold until the grievance is resolved. The new policy does not allow for the capability procedure to be interrupted in this way.
- 4.8 The new procedure will provide a clearer process for line managers to manage underperforming staff in a structured way which will lead to an acceptable level of performance to the benefit of both parties and the school.

## **5. Consultation**

- 5.1 This procedure has been consulted upon with the trades unions and legal services.
- 5.2 A number of suggested amendments were made and wherever possible, the suggestions were taken on board. The discussions with the trade unions were particularly positive and the procedure is an agreed document.
- 5.3 Diversity Impact Assessment (DIA) has been undertaken on the proposals and it has been found that it is not necessary to carry out a full impact assessment. The screening form is attached at appendix 2 to the report.

## **6. Risk Management**

- 6.1 A legally sound capability procedure reduces the risk of Employment Tribunal claims, and increases employee morale and motivation.

## **7. Financial and legal implications**

- 7.1 There are no direct financial implications. However the maximum compensatory award payable for unfair dismissal cases at Employment Tribunal is £68,400. There is no statutory cap on compensation payable under the Equalities Act 2010.
- 7.2 The leading statutory authority lies with:

Employment Rights Act 1996  
Employment Relations Act 1999  
Employment Act 2002

Employment Act 2002 (Dispute Resolution) Regulations 2004 SI  
2004/752  
ACAS Code of Practice on Disciplinary and Grievance Procedures.

## **8. Recommendations**

- 8.1 That the Employment Matters Committee agrees to the implementation of the revised Capability Procedure for schools based staff, as set out in appendix 1 to the report.

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### **Background papers**

XPERTHR (LEGAL WEBSITE)

# Medway Council



## Procedure for the Management of Capability within Schools

( SCHOOL )

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# Procedure for the Management of Capability within Schools

The procedure for the Management of Capability sets out a fair and systematic approach to address shortfalls in employees' performance. This procedure applies to both teaching and support staff within schools/colleges who have more than one years service.

## Key Points

- There is an agreed procedure for managing capability that must be followed.
- It is important to manage performance fair and consistent way.
- Headteachers/principals and line managers are responsible for managing performance with support from Human Resources (Schools)
- The overall objective is for the manager to assist the employee in the most appropriate way to improve their performance in their current post through open discussion, guidance, training and support.
- Incidents of poor performance should be identified and dealt with as soon as possible, preferably in an informal way.

## 1. What is capability?

- 1.1 It is performance that falls below the standards that have been set or that could reasonably be expected of a member of staff. Under the Employment Rights Act 1996 an employee's performance can be assessed by reference to skill, aptitude, ability and/or any other physical or mental capacity, for example, lack of skill or ability in achieving business objectives such as frequent errors in work.

## 2. How does it differ from discipline?

- 2.1 In the beginning it may not be clear whether the problem is due to misconduct or capability. If it is misconduct then the manager will need to refer to the Disciplinary Procedure. If a case is initially dealt with under the Disciplinary Procedure it should be transferred to the Procedure for the Management of Capability immediately it becomes clear that performance issues are involved.

## 3. Who is responsible for managing the process?

- 3.1 The headteacher/principal or a delegated member of the senior management team. In the case of the capability of a headteacher/principal the responsibility lies with the chair of governors. For clarity within this policy the delegated manager's role is referred to as a headteacher/principal throughout.

NB. If the school has delegated to the headteacher/principal the authority to make the initial dismissal decision, it will be more

appropriate, where possible, for another member of the senior management team to manage the process.

#### **4. What if an employee's health is affecting their performance?**

- 4.1 If it is clear that an employee's health is affecting their attendance at work and/or their performance, the headteacher/principal should contact HR (Schools) for advice and refer to the Managing Absence Procedure.
- 4.2 The headteacher/principal may need to consider whether an employee is covered under the Equalities Act 2010 and therefore whether reasonable adjustments need to be made. Guidance and advice on the DDA is available from HR (Schools).
- 4.3 Where an employee's health is a factor in his/her poor performance at work, the Occupational Health Adviser is available to assist. In addition, employees may become unwell during a period of performance monitoring. In that event, consideration would need to be given to establish how matters should be taken forward. In normal circumstances, it would be expected that the process would resume on the employee's return to duty.

#### **5. Why is it important to manage capability?**

- 5.1 It is important to manage capability because of the impact on the individual, the pupils and the school as a whole:
  - pupil's education can suffer as a result of lack of capability
  - team morale within the school may dip when a member of staff is not performing
  - if capability is not managed, it can waste valuable time and energy for managers to rectify the situation.
  - to support the individual to improve.

#### **6. Who is covered by the procedure?**

- 6.1 The procedure applies to all members of staff employed in a school/college, with the exception of support staff on probation who are covered by the Probation Policy and Newly Qualified Teachers (NQTs) who are covered by the Induction Regulations.

#### **7. Can an individual grievance be raised during this process?**

- 7.1 This procedure will not be affected or interrupted by the employee raising a grievance. Any grievance raised during the course of these proceedings, that relates to action being considered or taken in respect

of unacceptable performance, will be dealt with as part of the Capability or appeal hearing.

## **8. Accredited trade union representatives**

8.1 Formal action for alleged incompetence against an accredited union representative can lead to a dispute if it is seen as an attack on the functions of a trade union. Therefore, although normal standards shall apply to trade union representatives as employees, formal action under this procedure will not be taken against accredited representatives without the circumstances of the case first being discussed with a senior trade union representative or full-time official.

## **9. Who can offer support to the employee during the process?**

9.1 If at anytime during this process the employee wishes to seek counselling they can do so from the Care First advice, information and counselling confidential service on Tel: 0800 174 319.

## **10. Representation**

10.1 Employees may be accompanied by a recognised trade union representative or work-place colleague at all stages of this procedure. There is no right to legal representation at any stage of this procedure.

10.2 It is the responsibility of each employee to arrange their own representation.

## **11. The informal procedure**

11.1 Once the headteacher/principal has identified a performance issue an employee will normally be assisted to improve standards through the informal procedure as identified in this section. The importance of supportive action before any formal procedures are involved should not be underestimated.

11.2 The Informal Procedure should begin with a meeting between the headteacher, an HR representative, the employee and their representative to identify areas of concern and agree a positive way forward.

11.3 The purpose of the meeting is to establish:

- that the employee is fully aware of the standards required
- that the standards have been set at a reasonably attainable level
- whether the context in which the employee works has altered significantly

- and explore if there are any underlying health problems that may be affecting performance in which case a referral to occupational health should be discussed
  - whether there are any professional, personal or domestic circumstances which may be affecting the employee's performance
  - whether poor performance is a training issue to be addressed
  - that support will be given to assist the employee
  - a programme of action with agreed timescales and support designed to improve performance
  - the timescale for this informal stage
  - an agreed review date.
- 11.4 Failure at this stage could lead to formal stages of the Capability Procedure and ultimately dismissal.
- 11.5 Areas for discussion should include mechanisms to support the employee in reaching the desired level of performance e.g. reasonable lesson observations, further training and development, an agreed temporary removal of additional responsibilities, closer supervision by a senior colleague including regular feedback sessions and the observation of other colleagues' practices within the school.
- 11.6 The timescale to monitor improvement will depend on the complexities of the job, the targets set, the advice, support and monitoring provided and the method of evaluation. Normally a period of 8 weeks should be allowed with review meetings at 4 and 8 weeks.
- 11.7 At the end of the meeting, both parties should have a clear agreed understanding of the performance issues causing concern, the levels of support to be put in place, the targets set and the periods set for review. This should be confirmed in writing.
- 11.8 If the employee experiences any difficulty during the review period, they should immediately contact their headteacher/principal to discuss these issues rather than waiting until the review meeting.
- 11.9 At the end of the review period, (normally 8 weeks), a meeting to assess performance will take place.
- 11.10 Review meetings normally at 4 and 8 weeks

Review meetings should determine whether or not there has been an improvement in the areas of performance identified as causing concern and in establishing whether or not, while under monitoring, other areas

of concern have emerged. The programme for monitoring and support should be reviewed and a decision made as to whether or not:

- informal monitoring and support should be discontinued because of the achievement of satisfactory performance
- informal monitoring and support should continue
- the formal monitoring procedure should commence.

11.11 Arrangements for the support and monitoring programme might include one or more of the following:

- direct supervision/support from an appropriate member of staff within the school
- support and monitoring visits by an advisor (or other external support adviser) to undertake a range of support to be determined by the advisor concerned in consultation with the headteacher/principal and the employee
- an opportunity to observe other colleague's practices within the school
- an opportunity to visit other education establishments identified as being appropriate centres of good practice
- attend training sessions
- the provisions of written guidance and/or programmes of work.

NB For employees who only work in term time, the proceedings must be suspended over the school holidays.

11.12 However in some circumstances it may be appropriate to move straight to one of the formal stages. The decision to dispense with the informal stage of the process should be made by the headteacher/principal in conjunction with HR (Schools) and having heard representations from the employee and their representative. Examples of the kind of behaviour that can lead to the process starting at one of the formal stages are as follows:

- where an employee's performance has already been reviewed as part of this procedure, only for it to deteriorate again in a relatively short period of time
- if the health and safety of pupils or staff is put at risk
- if issues come to light that there is evidence that the education of the pupils is being put in jeopardy, the health and safety of pupils is at risk or where the situation requires an immediate intervention, then the procedure will automatically commence at stage three. Where this is

the case, the school/college will provide evidence (supported by an external adviser) to support the decision, which will include an explanation as to why the problem was not noticed at an earlier stage.

NB this is not intended to be an exhaustive list:

## **12. Formal procedure**

- 12.1 When a headteacher/principal considers that an employee is not performing to the appropriate standard and informal discussions have not resulted in improvement, or the matter is serious enough to miss out the informal stages, then the headteacher/principal should commence formal monitoring.
- 12.2 Full and detailed records should be kept by the headteacher/principal at each stage of the procedure identifying the reasons for the employee's failure to meet the required standards of performance. The headteacher/principal response and any action should be logged and dated to ensure timescales are adhered to. Notes of all meetings should be kept and made available to the employee. The headteacher/principal dealing with performance issues at the formal stages of this procedure should seek advice from HR (Schools).
- 12.3 At all stages of the formal procedure the employee is entitled to five working days notice of any meetings and has the right to accompaniment, as detailed earlier in the procedure.
- 12.4 The process has three formal stages:
- 12.5 **Stage one – 8 weeks duration in total**

The discussion should be full and wide-ranging in an environment of support. The employee's poor performance must be identified clearly and openly. If documentary evidence is available, it must be discussed with the employee and copies made available. The employee's explanations must be considered and explored to determine precise reasons for unacceptable performance.

The headteacher/principal needs to agree and then confirm in writing the standard of work expected, the improvement needed and the appropriate action and time scale for achieving this. Targets for both short term and long term improvements should be included. A timetable of regular monitoring sessions will be arranged.

The concerns and arrangements should be confirmed in writing and the employee may respond in writing to any points made.

The timetable will include two formal review meetings (usually after 4 and 8 weeks) to discuss and recognise progress, identify any further

concerns not previously identified and review the support and monitoring programme.

### **First review meeting – at four weeks**

Progress should be discussed and recognised. If there are any further concerns these must be identified at the meeting, the support and monitoring in place should be reviewed. Any progress made should be discussed and recognised with the employee.

The outcomes of the meeting should be confirmed in writing and the employee has the right to be accompanied and has the right to respond to any points raised in writing.

### **Second review meeting – at eight weeks**

In the meeting, the headteacher/principal should consider any representations made by the employee and then in conjunction with the results of the monitoring and support, determine whether or not satisfactory progress has been made.

If satisfactory progress has not been made, then the headteacher /principal should issue a formal warning to the employee and move to stage two of the formal process. The employee does have the right to appeal such a warning. Any appeal must be made in writing within five working days of the date on which the written warning was received. The appeal to the warning is to be heard by an appeal body authorised for such a purpose. The formal warning issued at stage one will remain live for a period of 12 months.

Alternatively, the headteacher/principal may extend the period of monitoring and support at stage one, or return to informal monitoring and/or normal management supervision.

## **12.6 Stage two – 8 weeks duration in total**

Stage two is the same as stage one, with review meetings at three and six weeks.

The results of stage one and the monitoring process will be fully discussed with the employee and reviewed objectively. The employee will give their assessment of the progress achieved, and the support and training made available during stage one.

The headteacher/principal will consider how far performance has improved, whether it has been sustained and the shortfall(s) against the target(s) set during stage one. A new action plan will be identified, agreed and confirmed in writing clearly outlining targets to be achieved in order to bring the level of performance up to an acceptable standard during stage two.

Again, a timetable of regular monitoring sessions with the headteacher/principal should be arranged to include a further two formal review meetings (usually after four and eight weeks) to discuss progress and review the monitoring and support programme.

### **First review meeting – at four weeks**

Again, the process is the same at stage one with the first review meeting being held at three weeks. The same outline structure of meeting should be followed as at stage one.

### **Second review meeting – at eight weeks**

Again the process is the same at stage one with the second review meeting being held at six weeks. The same outline structure of meeting should be followed as at stage one.

If satisfactory progress has been made and the employee achieves the required improvement by the specified date, they will be informed in writing, the formal performance monitoring will cease and any ongoing support through management supervision will be clarified. The formal warning issued at stage one will remain live for a period of 12 months. If there is a recurrence of the unacceptable performance within 12 months then it will be appropriate to re-enter this procedure at stage two.

After the second formal review meeting at stage two, if the employee is still underperforming, the headteacher/principal should issue a formal warning in writing, that the performance continues to be unsatisfactory and that failure to improve could lead to their dismissal. This warning will remain live for 18 months. If there is a recurrence of the unacceptable performance within 18 months, then it will be appropriate to re-enter this procedure at stage three.

The employee has the right of appeal against this warning. Any appeal must be made in writing to the headteacher/principal within five working days of the date on which the written warning was received. The appeal will be heard by an appeal body authorised for this purpose.

Alternatively, the headteacher/principal may extend the period of monitoring and support at stage two or return to informal monitoring and/or normal management supervision.

## **12.7 Stage three – 4 weeks duration in total**

A formal meeting should be convened to outline concerns and emphasise the seriousness of the situation. A final programme of

support and monitoring should be discussed and agreed, emphasising that significant and rapid improvement in performance is required.

A final review meeting should be arranged (usually after 4 weeks).

The format of the meeting will be as at stages one and two and the employee has the right to be accompanied.

### **Final review – at four weeks**

The format is the same as the review meetings at stage one and two.

The purpose of the final formal review meeting will be to determine whether or not satisfactory progress has been made. If yes, then the employee will be informed in writing and any ongoing support through management supervision will be clarified. The formal warning issued at stage two will remain live for a period of 18 months. If there is a recurrence of the unacceptable performance within 18 months, then it will be appropriate to re-enter this procedure at stage three.

If the employee's performance remains unacceptable, a decision may be taken to recommend the employee's dismissal on the grounds of capability. If this is the case then the employee should be suspended (with pay) pending the dismissal hearing, which should be arranged as soon as possible following the final review meeting.

## **13. Dismissal hearing due to unacceptable performance**

- 13.1 Where it is decided to refer the case to a dismissal or appeal hearing, the employee will be given at least ten full working days notice, or a shorter period as may be mutually agreed.
- 13.2 At the same time (i.e. ten working days in advance) the employee is to be supplied with the management statement of case and any supporting information, including witness statements, which will be referred to at the meeting, and the details of any witnesses (if applicable) that are to be called.
- 13.3 The employee is required to submit their statement of case, supporting information including witness statements, which will be referred to at the meeting, and the details of any witnesses (if applicable) that are to be called three full working days before the hearing.
- 13.4 All paperwork will therefore be circulated to both parties involved, at least three working days before the dismissal hearing, as no additional written documentation will be accepted as evidence on the day.

## **14. Attendance at the dismissal hearing**

- 14.1 If the school has given delegated powers of dismissal to the headteacher/principal, then the headteacher/principal accompanied by a HR adviser will hear the case. Alternatively the dismissal hearing will be heard by a panel of three governors accompanied by a HR adviser.
- 14.2 The employee will attend the hearing and is entitled to be accompanied by a trade union representative or workplace colleague. There is no right to legal accompaniment.
- 14.3 If the employee is unable to attend the hearing, an alternative date will be arranged, ideally within five working days of the first date. If they are unable to attend that hearing it will be held in their absence, but a representative will be given the opportunity to present the employee's case on their behalf.

**15. Witnesses**

- 15.1 As detailed above, the identity of the witnesses must be disclosed to the other side in advance; it is preferable that witnesses who have made statements attend the hearing, although this cannot be mandatory.
- 15.2 Each witness will join the hearing to give evidence and leave after doing so, although they may need to be recalled if necessary.

**16. Role of the panel**

- 16.1 The role of the panel is to listen to the evidence and to decide what action they wish to take. It is important that governors remember that the degree of proof is on the balance of probability that there is reasonable belief that the performance of the employee is unacceptable and has not shown the required improvement to reach a satisfactory level.
- 16.2 The panel should consider any mitigating circumstances when considering the case. A consistent approach must be used.

**17. The format of the hearing**

- 17.1 Normally the following stages would be followed at the hearing. This assumes that the headteacher/principal presents the case to a panel of governors. The panel of Governors will be advised by a HR Adviser.

Stage	Event
Welcome and Detail of events	The chair of the panel hearing the case for dismissal, will make introductions and outline the process to be followed to ensure that everyone present understands what is going to happen. The headteacher/principal will be advised

	throughout the hearing by a HR Adviser. A note taker will take notes of the meeting which will be available to all parties present. The school/college is responsible for arranging the note taker.
1	The headteacher/principal presents the case in the presence of the employee and his/her representative. This includes as appropriate: <ul style="list-style-type: none"> <li>• referring to the written documents and other written evidence</li> <li>• the calling of witnesses.</li> </ul>
2	The employee (or his/her representative) has the opportunity to ask questions on the evidence given by the headteacher/principal, and of any witnesses, as they are called.
3	The panel of governors hearing the case have the opportunity to ask questions on the evidence given by the headteacher/principal, and or any witnesses as they are called. Witnesses will leave the meeting once they have given evidence and answered questions.
4	The employee (or his/her representative) puts forward his/her case in the presence of the headteacher/principal. This includes as appropriate: <ul style="list-style-type: none"> <li>• referring to the written documents and other written evidence</li> <li>• the calling of witnesses.</li> </ul>
5	The headteacher/principal has the opportunity to ask questions on the evidence given by the employee, and of any witnesses called, as they are called.
6	The panel of governors hearing the case have the opportunity to ask questions on the evidence given by the employee, and of any witnesses called, as they are called. Witnesses will leave the meeting once they have given evidence and answered questions.
7	The headteacher/principal sums up their case.
8	The employee sum up their case.
9	The headteacher/principal and employee plus representatives withdraw from the hearing.
10	Adjournment for panel to consider their decision, they must deliberate in private with their advisor. The panel may

	recall the headteacher/principal or the employee to clarify uncertain points, however if recall is necessary both parties must return, even if one is not required for clarification of points.
11	<p>The decision of the panel of governors will be notified to the employee at the meeting and then confirmed in writing within 5 working days of the meeting.</p> <p>The Panel need to:</p> <ul style="list-style-type: none"> <li>• confirm the decision made</li> <li>• the reasons why this decision was reached</li> <li>• give details of how the employee may appeal against the decision.</li> </ul>

**NB the panel can choose to adjourn at any point and can consider requests from either side to do likewise.**

## **18. The decision of the panel**

18.1 The panel of governors hearing the case may make one of the following decisions:

1. determine that the employee should cease to work in his/her present post at the school and be dismissed
2. determine that the employee should cease to work in his/her present post in the school but offer employment in another post at the school. This might be at a lower salary level in which case the question of salary protection should be considered
3. determine that the employee should continue to undergo formal performance monitoring for a defined period of time
4. take no formal action.

18.2 If the dismissal is confirmed then the employee will be given contractual notice on full pay, the employee should be told not to attend work during the notice period.

## **19. The Appeal process**

19.1 An employee may appeal against dismissal under this procedure, in writing to the Chair of the Appeals Panel within 5 working days of receipt of the written decision; the reason for the appeal must be clearly stated in the letter.

19.2 A panel of three different governors will hear the appeal; no governors hearing the appeal shall have been involved in the decision to dismiss.

19.3 Within 20 working days of receipt of the request for an appeal, arrangements will be made for the appeal to be heard. The employee must be given ten working days notice of the date of the appeal hearing, unless a shorter period is mutually agreed.

19.4 The format of the meeting is the same as above and so are the deadlines for the sharing of paperwork and details of how witnesses may be called.

## **20. The decision of the appeal panel**

20.1 The panel of governors hearing the appeal can decide to either **confirm or quash** the decision. If the decision is quashed the panel, in conjunction with HR advice, should then either:

1. determine that the employee should continue to undergo formal performance monitoring for a defined period of time
2. take no formal action.

20.2 The appeals panel will consider the matter in private and decide whether or not the case against the employee has been substantiated. If further clarification or information is required in order for a decision to be reached, both parties will be recalled or the appeal can be adjourned until the required information is provided.

20.3 The employee will normally be asked to wait for the panel's decision. However if the case is a complex one, the employee will be given the opportunity to leave and called back at a later time to receive the decision (accompanied wherever possible by their representative). In any event a decision will be made **within 2 working days** of the conclusion of the appeal hearing.

20.4 The decision of the appeals panel is **FINAL** and there is no further right of appeal under this policy.

Date last reviewed	February 2011
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<b>Directorate</b>  <b>Business Support Department</b>	<b>Name of Function or Policy or Major Service Change</b>  <b>Capability Procedure (School based staff)</b>		
Officer responsible for assessment  Ralph Edwards----Head of Human Resources (Schools)	Date of assessment  1 February 2011	New or existing?  Existing	
<b>Defining what is being assessed</b>			
<b>1. Briefly describe the purpose and objectives</b>	Ensures fair treatment of individuals in order to support them to achieve acceptable standards of work performance.  Establishes a fair procedure in accordance with statutory requirements.  Resolves capability issues speedily and informally whenever possible.		
<b>2. Who is intended to benefit, and in what way?</b>	Staff are intended to benefit by being supported to achieve acceptable performance at work. Line managers are intended to benefit by becoming confident and competent in applying the procedure fairly and consistently. The result will be that pupils will benefit by being taught by a competent workforce. Medway will benefit by enhanced pupil achievements.		
<b>3. What outcomes are wanted?</b>	The procedure is fairly and consistently applied leading to an improvement in employee performance to an acceptable standard at an early and informal stage. This will lead to a decrease in formal action and dismissals which could also lead to a fall in Employment Tribunal applications.		
<b>4. What factors/forces could contribute/detract from the outcomes?</b>	Contribute  .Comprehensive training for managers and staff  .Good staff induction  .Managers dealing with issues informally and at an early stage  .Consistent application of the procedure  .Appropriate and up to date job descriptions and person specifications	Detract  .Managers failing to implement the procedure speedily and consistently  .Employees refusing to co-operate with informal management support  .Line management confidence and competence to manage effectively  .Appropriate resourcing(management and HR ) to implement the	

		procedure .Trades union resistance
<b>5. Who are the main stakeholders?</b>	Managers and employees	
<b>6. Who implements this and who is responsible?</b>	HR Services (Schools) and managers implement the procedure. HR Services (Schools) is responsible for the procedure.	

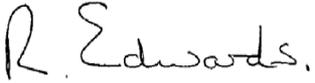
<b>Assessing impact</b>		
<b>7. Are there concerns that there <u>could</u> be a differential impact due to <i>ethnicity/ racial groups</i>?</b>		Currently we do not report or monitor capability cases in relation to ethnicity.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds of ethnicity or racial groups.	
<b>8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?</b>		Currently we do not report or monitor capability cases in relation to disability.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds of disability.	
<b>9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?</b>		Currently we do not monitor or report capability cases in relation to gender.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds due to gender.	
<b>10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?</b>		Currently we do not monitor or report capability in relation to sexual orientation.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds due sexual orientation.	
<b>11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?</b>		Currently we do not monitor or report capability in relation to religion or belief.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds of religion or belief.	
<b>12. Are there concerns there <u>could</u> be a differential impact due to <i>age</i>?</b>		Currently we do not monitor or report capability in relation to age.
	NO	
<b>What evidence exists for this?</b>	No evidence to support a differential impact on grounds of age.	

13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?		Currently we do not monitor or report capability in relation to being transgendered or transsexual.
	NO	
What evidence exists for this?	No evidence to support a differential impact on grounds due transgendered or transsexual.	
14. Are there any other groups that would find it difficult to access/make use of services, or who might experience unfavourable treatment, as a result of the function/ policy/ service change (eg people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?		If yes, which group(s)?
	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a differential impact due to <i>multiple discriminations</i> (eg disability <u>and</u> age)?]		
	NO	
What evidence exists for this?	No evidence exists in order to determine whether there could be a detrimental impact or not.	

<b>Conclusions &amp; recommendation</b>		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	Monitoring of cases could highlight some differential impact.
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?		The procedure should be applied consistently to all staff in line with the Medway Council Equal Opportunities Policy.
	NO	

<b>Recommendation to proceed to a full impact assessment?</b>		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
	What is required to ensure this complies with the requirements of the legislation?	

	<b>Give details of key person responsible and target date for carrying out full impact assessment</b> (see DIA Guidance Notes)	
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<b>Planning ahead: Reminders for the next review</b>		
<b>Date of next review</b>	3 years time.	
<b>Areas to check at next review (eg new census information, new legislation due)</b>	Check whether any particular groups have experienced: i. difficulties in accessing or making use of the function/policy/service; ii. the application of the function/policy/service has been fair and consistent across the council.	
<b>Is there <i>another group</i> (eg new communities) that is relevant and ought to be considered next time?</b>	Check that the function/policy/service continues to be accessible and fairly applied to members of the Council's workforce, including any additional demographic groups, including any additional demographic groups.	
<b>Signed (completing officer/service manager)</b> 	<b>Date</b>	10 February 2011
<b>Signed (service manager/Assistant Director)</b>	<b>Date</b>	

<b>Related documents</b>
List here