

# drb Ignite Multi Academy Trust

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## Teacher Appraisal and Capability Policy

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## Introduction

Appraisal arrangements are set out in the Education (School Teachers' Appraisal) (England) Regulations 2012 (the Appraisal Regulations).

The Appraisal Regulations set out the principles that apply to teachers in Trust schools, in each case where they are employed for one term or more.

The Trust will stay within the legal framework set out in the Appraisal Regulations and all Trust schools must adhere to any other relevant legislation that affects all employers (for example legislation on equality, employment protection and data protection).

The Trust is required to have an appraisal policy for teachers and a policy, covering all staff, which deals with capability. This policy applies only to teachers, including headteachers. It has been written in the context of schools, but the same principles apply to any centrally employed teachers.

The policy is arranged in two separate sections. Part A covers appraisal and should be used as a reference point by the Trust and its schools as they reflect on the Appraisal Regulations.

Part B of the policy sets out the Trust's formal capability procedure and reflects the ACAS Code of Practice on disciplinary and grievance procedures. Capability procedures apply only to teachers and headteachers about whose performance there are serious concerns that the appraisal process has been unable to address.

It is important that the Trust manages appraisal and capability processes in ways that avoid increased workload for all parties concerned, for example, reviewing the number and frequency of meetings and observations, and ensuring the process for collecting evidence is always proportionate.

In the policy:

**Text in bold** indicates statutory requirements contained in the Appraisal Regulations or the School Staffing Regulations.

*Text in italics* does not form part of the policy itself, but acts as additional advice for Trust schools.

## **Purpose**

This Trust policy sets out the framework for a clear and consistent assessment of the overall performance of teachers, including headteachers, and for supporting their development within the context of a Trust school's plan for improving educational provision and performance, and the standards expected of teachers. It also sets out the arrangements that will apply when teachers fall below the levels of competence that are expected of them.

## **Application of the Policy**

The policy is in two separate sections.

**Part A of the policy, which covers appraisal, applies to headteachers and to all teachers employed by the Trust, except those on contracts of less than one term, those undergoing induction (*i.e.* NQTs) and those who are subject to Part B of the policy.**

Part B of the policy, which sets out the Trust's formal capability procedure, applies only to teachers (including headteachers) about whose performance there are serious concerns that the appraisal process has been unable to address.

Both parts of the policy should always be applied in a way that is robust whilst minimising the impact on workload for teachers, line managers, headteachers and trustees.

## Part A – Appraisal

Appraisal in the Trust and its schools will be a supportive and developmental process designed to ensure that all teachers have or fully develop the skills and access to support they need to carry out their role effectively. It will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

### The appraisal period

**The appraisal period will run for twelve months** from September to September.

Teachers who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. **The length of the period will be determined by the duration of their contract and an individual teacher’s objectives should take account of the length of contract.**

*There is flexibility to have a longer or shorter appraisal period when teachers begin or end employment with a Trust school.*

### Appointing appraisers

**Headteachers of Trust schools will be appraised by the Trust Improvement Board, supported by a suitably skilled and/or experienced adviser who has been appointed by trustees for that purpose.**

In the Trust, the task of appraising headteachers, including the setting of objectives, is delegated to the Executive Director for School Improvement.

Individual school headteachers will decide who will appraise the teachers on their school.

### Setting objectives

**Headteacher objectives will be set by the Trust Improvement Board governance after consultation with the adviser.** The Trust Board has a duty to have regard to the work-life balance of headteachers and objectives will reflect this.

**Objectives for each teacher will be set before, or as soon as practicable after, the start of each appraisal period.** The objectives set for each teacher, will be ***Specific, Measurable, Achievable, Realistic and Time-bound*** and will be appropriate to the teacher's role and level of experience. Objectives and performance management discussions will not be based on teacher generated data and predictions, or solely on the assessment data for a single group of pupils. Objectives can be set in relation to robust assessment data, however, these will not be used in isolation and other factors will also be considered when making decisions about pay progression. The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives should be revised if circumstances change.

**The objectives set for each teacher will, if achieved, contribute to the school's plans for improving the school's educational provision and performance and improving the education of pupils at that school.**

**Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed.** *With the exception of those who are qualified teachers by virtue of holding and maintaining Qualified Teacher Learning and Skills (QTLS) status, all teachers must be assessed against the set of standards contained in the document called 'Teachers' Standards' published in July 2011 (updated July 2021).*

*For teachers who are qualified teachers by virtue of holding QTLS status, it is for the Trust Board to decide which standards are most appropriate.*

## **Reviewing performance**

### **Observation**

The Trust believes that observation of classroom practice and other responsibilities is important as a way of assessing teachers' performance in order to identify any particular strengths and areas for development they may have, gaining useful information which can inform school improvement more generally and enabling teachers to learn from each other and collaborate. All observation will be carried out in a supportive fashion and not add to teacher workload.

## Development and support

Appraisal is a supportive process which will be used to determine decisions on pay progression and inform continuing professional development. The Trust encourages a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. Professional development will be linked to Trust and school improvement priorities and to the ongoing professional development needs and priorities of individual teachers.

## Feedback

Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place or other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that require further development. Where there are concerns about any aspects of the teacher's performance the appraiser will meet the teacher formally to:

- give clear feedback to the teacher about the nature and seriousness of the concerns;
- give the teacher the opportunity to comment and discuss the concerns;
- set clear objectives for required improvement;
- agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
- make clear how, and by when, the appraiser will review progress (*it may be appropriate to revise objectives, and it will be necessary to allow sufficient time for improvement. The amount of time is up to the school but should reflect the seriousness of the concerns*);
- explain the implications and process if no, or insufficient, improvement is made – e.g., impact on pay progression and potential move to formal capability.

When progress is reviewed, if the appraiser is satisfied that the teacher has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.

## Evidence

The range and level of evidence collected for appraisal and pay determination purposes will always be proportionate and minimise workload.

## Transition to capability

If a teacher demonstrates serious underperformance, and has not responded to support provided within the appraisal process, the teacher will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a formal capability meeting. The capability procedures will be conducted as in part B of this policy.

## Annual assessment

**Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of headteachers, the Trust Board will consult the adviser.**

This assessment is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meetings which will take place termly.

**The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment on – an appraisal report (in practice the report could be produced using online performance management systems, which can help to reduce workload.** In the Trust, teachers will receive their appraisal reports in the Autumn Term (31 December for headteachers). **The appraisal report will include:**

- details of the teacher's objectives for the appraisal period in question;
- **an assessment of the teacher's performance of their role and responsibilities against their objectives and the relevant standards;**
- **an assessment of the teacher's professional development needs and identification of any action that should be taken to address them;**

- **a recommendation on pay where that is relevant** (*NB – pay recommendations need to be made by 31 December*)
- how the Trust will support the teacher's professional development.

The assessment of performance and of professional development needs will inform the planning process for the following appraisal period.

## Part B – Capability Procedure

This procedure applies only to teachers and headteachers where there is serious underperformance which the appraisal process has been unable to address. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and the possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. Teachers are entitled to request an alternative date which is within five days of the original date.

### Formal capability meeting

This meeting is intended to establish the facts. It will be conducted by the Chair of the Trust Improvement Board (for headteacher capability meetings) or headteacher (for other teachers). The meeting allows the teacher, accompanied by a companion if they wish, to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.

The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting *for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.*

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings, *for example which of the standards expected of teachers are not being met;*
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (*this may include the setting*

*of new objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);*

- explain any support that will be available to help the teacher improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in straightforward cases could be *(insert time period – e.g. between four and ten weeks. It is for the school to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place)*; and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning or other serious implications such as no pay progression.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

## **Monitoring and review period following a formal capability meeting**

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

## **Formal review meeting**

As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
- If no, or insufficient improvement has been made during the monitoring and review period, the teacher will receive a final written warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The teacher will be invited to a decision meeting.

## **Decision meeting**

As with formal capability meetings and formal review meetings, at least five working days notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start. If performance remains unsatisfactory, a decision, or recommendation to the Trust Board will be made that the teacher should be dismissed or required to cease working at the school.

Before the decision to dismiss is made, the Trust will discuss the matter with its HR adviser and the Diocese for its one Church of England school.

The teacher will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

## **Decision to dismiss**

The power to dismiss staff in the Trust rests with the Trust Board acting with the CEO and school headteacher.

The power to dismiss a headteacher in the Trust rests with the Trust Board and the CEO.

## **Dismissal**

Once the decision to dismiss has been taken, the Trust's CEO and Executive Director of School Improvement will dismiss the teacher with the appropriate notice.

The Trust will dismiss the teacher within **ten working** days of the date of the notification.

## **Appeal**

If a teacher feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five working days of the decision, setting out at the same time the grounds for appeal. The appeal should be addressed to the Chair of the *Disciplinary and Appeals Committee*.

Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the teacher.

The appeal will be dealt with impartially and, wherever possible, by the Trust's *Disciplinary and Appeals Committee*. This will be composed of trustees who have not previously been involved in the case.

The teacher will be informed in writing of the results of the appeal hearing within five working days.

## General principles underlying this Policy

### ACAS Code of Practice on Disciplinary and Grievance Procedures

Part B of the Policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

### Confidentiality

The Trust's appraisal and capability processes will be treated with strict confidentiality. However, the desire for confidentiality does not override the need for the Trust Board and headteacher to quality assure the operation and effectiveness of the appraisal system. For example, a headteacher or appropriate colleague might review all teachers' objectives and written appraisal records personally, in order to check consistency of approach and expectation between different appraisers.

### Consistency of treatment and fairness

The Trust Board is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The Trust Board is aware of the guidance on the Equality Act issued by the Department for Education.

### Definitions

Unless indicated otherwise, all references to *teacher* include headteachers.

### Delegation

Normal rules apply in respect of the delegation of functions by the Trust Board, Executive Leadership team and headteachers.

### Grievances

Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended in order to deal with the grievance. Where the

grievance and capability cases are related it may be appropriate to deal with both issues concurrently.

## Sickness

If long term sickness absence appears to have been triggered by the commencement of monitoring performance at any stage of the procedure or a formal capability procedure, the case will be dealt with in accordance with the Trust’s Absence Policy and will be referred immediately to the occupational health service to assess the member of staff’s health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## Retention of records

The Trust Board, CEO and headteachers will ensure that all written appraisal records are retained and stored in a secure place in line with the Trust’s Retention and Disposal Policy and GDPR requirements. For example, appraisal records are retained for six years, whilst a warning issued may be removed after a stipulated period. Where dismissal is the outcome, all documents relating to the process will be retained for six years and then destroyed.

## Monitoring and review

The Trust Board, CEO and headteachers will monitor the operation and effectiveness of teacher appraisal arrangements and capability procedures. This will include ensuring that the arrangements minimise the impact on workload for all parties involved. This Policy will be reviewed bi-annually by Trustees. At every review, the Policy will be finally approved by the full Trust Board.

|                               |                                                                                          |
|-------------------------------|------------------------------------------------------------------------------------------|
| <b>Monitoring and review:</b> |                                                                                          |
| <b>Links:</b>                 | Staff Code of Conduct<br>Pay Policy<br>Equality and Diversity Policy<br>Grievance Policy |
| <b>Staff responsible:</b>     | CEO<br>Executive Team<br>Headteachers                                                    |

|                                      |                                                                                                                 |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <b>Committee responsible:</b>        | Trust Improvement Board                                                                                         |
| <b>Date approved by Trust Chair:</b> | Date: December 2021                                                                                             |
| <b>Next review date:</b>             | <b>December 2023</b>                                                                                            |
| <b>Sign off by Chair of Trust:</b>   | <br><b>Date: December 2021</b> |

\* Please note that should there be any changes/further national guidance issued relevant to this Policy, it will be updated accordingly prior to the review date shown above and referred to the next Trust Board meeting.

## Change Management

| <b>Issue No:</b> | <b>Change date:</b> | <b>Change description:</b> |
|------------------|---------------------|----------------------------|
| 1.0              | Sept 2018           | Initial release            |
| 2.0              | Nov 2019            | Review and update          |
| 3.0              | Dec 2020            | Review and update          |
| 4.0              | Dec 2021            | Review and update          |