Capability and Performance Management Policy

Date of adoption: 1.4.2018
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Introduction

The policy applies to all academies within The Spencer Academies Trust. It has been developed in line with the Education (School Teachers” Appraisal) (England) Regulations 2012 (the Appraisal Regulations) in force at the date of adoption of the policy. Except where otherwise stated, the Spencer Academies Trust adheres to the Appraisal Regulations, with the intention of remaining compliant with all relevant legislation.

Purpose

The policy sets out the framework for a clear and consistent assessment of the overall performance of employees, and for supporting their development within the context of relevant documents including the Teachers Standards. Its purpose is to ensure a quality of teaching which supports all trust schools on the journey to outstanding education provision; high-performance leadership for trust academies, and to support reasonable expectations from other trust staff.

The policy sets out the appraisal process that applies when employees fall below the level of competence expected of them, and the formal capability process which may be invoked in the case of employees where serious concerns about performance have been registered and have not been remediated through performance management.

Performance Management

Performance management is a supportive process designed to ensure that all employees have the skills and support to carry out their role effectively. It is designed to ensure that teachers and support staff are able to continue to improve their professional practice and to develop as teachers and educationalists.

The performance management period runs for twelve months from 1st September to 31st August. Review meetings are held in the autumn term.

Performance management of employees with a fixed term contract of less than one year will be in accordance with the principles underpinning this policy. The length of the performance management review period on an individual basis will be determined by the duration of their contract.

Performance management principles for Spencer Academies Trust staff, executive and academy leadership including Principals are set out in the Trust Scheme of Delegation, which sits alongside this document. The Principal is responsible for performance management within academies, including the appointment of appropriate and qualified staff to carry out the performance management process.

Objectives

All employees are entitled to clear, reasonable objectives appropriate to their employed role. Objectives will be set before or as soon as practicable after, the start of each appraisal period.
Objectives for executive staff including staff directly employed by the Spencer Academies Trust are set under the terms of the Scheme of Delegation. Objectives for teaching and other academy staff will be specific, measurable, achievable, realistic and time-bound and appropriate to the role and level of experience.

Teaching staff will be set a minimum of three objectives, of which:

- one objective will be related to student progress and outcomes, in line with agreed academy objectives
- one objective will be related to improving teaching pedagogy

Additional objectives may be set if deemed appropriate. Responsibility holders will have an additional leadership and management objective. Other employees will have a minimum of three objectives, of which:

- where appropriate, one objective will be related to student progress and outcomes in line with agreed academy objectives
- one objective will be related to contribution to developing team performance
- one objective will be related to professional development in their current or potential future role(s)

Additional objectives may be set if deemed appropriate. Responsibility holders will have an additional leadership and management objective.

Where possible, objectives will be agreed between the staff member responsible for the performance manager process, ‘the appraiser,’ and the member of staff subject to performance management, ‘the appraisee:’ however, where objectives cannot be agreed, the appraiser will determine the objectives.

Before, or as soon as practicable after the start of each performance management cycle, each employee will be informed of the standards against which their performance will be assessed. This may include teachers’ standards, leadership frameworks or other professional standards and framework documents as appropriate.

Evidence from a range of quality assurance processes is used to inform the performance management process. In order to determine teaching quality over time a range of evidence may be used including direct observation, lesson observation, work scrutiny, marking and books, learning walks, display, data, student voice, feedback from classroom colleagues including QTS staff, and outcomes.

**Teaching observation**

Observation of classroom practice and other responsibilities is valued as a way to identify strengths and development needs. Teachers will have at least two formal lesson observations per cycle and will be given not more than three working days advance notice.

In secondary academies, teachers may choose the observed lesson in the summer and autumn terms, but spring term observations must be of a different key stage; selected and undertaken by a different observer.

Additional observations may be scheduled at the discretion of the Principal and may reflect specific concerns or themes for further investigation. If neither observed lesson in a cycle is assessed as having reached good or improved standard, additional observations may be directed by the Principal. This forms part of the professional development focus and may result in an offer of additional coaching or improvement goals being set.

Employees with leadership and management responsibilities outside of the classroom should expect to have their performance of those responsibilities observed and assessed.

**Self-review**

All employees are expected to undertake self-review against the appropriate standards at designated points in the
performance management cycle, preparing review documentation of performance against agreed objectives and any relevant performance frameworks. Evidence will be discussed during the review meeting and will be used to shape future objectives.

**Identifying performance concerns**
Where there are concerns about any aspects of performance the appraiser will meet the appraisee formally to give clear feedback about the nature and seriousness of the concerns and to give the appraisee the opportunity to comment and discuss the concerns. A formal documented support plan will be put in place and will include any support (e.g. coaching, mentoring, structured observations) that will be provided to help address those specific concerns.

The support plan will set out the ‘review period’, ordinarily between four and six weeks, during which progress will be reviewed. It will set out when the review progress meeting will take place, clearly setting out the implications and process if no or insufficient improvement is deemed to be made.

**Interim reviews**
Performance and development priorities will be reviewed and identified shortfalls are addressed through the interim review meeting which will take place during the spring term. Objectives may be revised at the interim review stage where appropriate.

**Annual performance management review**
The annual performance management review process culminates in the annual appraisal meeting, ordinarily held in the autumn term. The appraisee will provide the appraiser with a self-evaluation report against the job description, objectives and any other relevant professional frameworks.

An appraisal report will be completed, and includes:
- details of the objectives for the appraisal period in question
- an assessment of performance of the role and responsibilities against objectives, job description and any relevant professional frameworks or standards documents
- an assessment of training and development needs
- identification of any action that should be taken to address training and development needs
- recommendations on pay, where appropriate

Recommended suitability for pay progression will be made by the appraiser subject to the maximum of the employees pay range or grade, in accordance with the Trust Pay Policy. For teachers, this will take into account performance as a teacher and as a responsibility holder. For NQTs, pay decisions will be made with reference to the statutory induction process. For other employees, account will be taken of typicality and overall performance in role.

For all employees, a ‘no progression’ determination may be made without recourse to the capability procedure. In ordinary circumstances this would be the case where the maximum of the pay range or grade has been reached. The assessment of performance and of training and development informs the planning process for the following appraisal period.

**Probation review**
For trust staff, support and other eligible staff a probationary period will be specified on appointment. Initial performance targets will be set and a review will take place one month prior to the end of the probationary period. This performance review is independent of the normal review cycle.
The probation review process is designed to identify additional development or support requirements and may lead to an extension of the probationary period to a maximum probationary period of 12 months in total, to allow for further development in the role. Where an appraisee fails to meet the requirements of the role satisfactorily, the appraiser may recommend termination of the contract. Alternatively, once the appraiser is satisfied that the appraisee meets the requirements of the role, the appraiser will recommend that the appraisee is confirmed in post, the normal appraisal cycle is entered and formal objectives agreed.

Capability
The capability procedure applies only where serious concerns have been identified that the performance management process has been unable to remediate.

Under the capability process, the appraisee will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure. They will then be invited to a formal capability meeting. At least five working days’ notice will be given in writing of the formal capability meeting.

The letter of notice will contain sufficient information about the concerns identified, the shortfall in performance and the possible consequences of any continued failure to improve. The letter of notice will include copies of any written evidence; the details of the time and place of the meeting and will advise the employee of their right to be accompanied by a companion who may be a colleague or a trade union representative.

Formal capability meeting
The purpose of the formal capability meeting is to allow the employee to respond to concerns; to make representations, and to provide any further information for consideration.

Processes for capability proceedings at trust or executive level are set out in the Scheme of Delegation. Academy capability processes will be conducted by the Principal or their delegated representative.

The person conducting the meeting may conclude that there are insufficient grounds to continue the capability issue, in which case the process would be ended. They may decide that the meeting should be adjourned if further investigation is needed, or additional time required in order to consider additional information.

Conduct of the capability meeting
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 or other shortcomings, including against any relevant professional standards or framework
- give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures. This may include setting additional 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
- set out additional support that may be made available to help the employee improve their performance
- set out the timetable for improvement and explain how performance will be monitored and reviewed including any observations. In ordinary circumstances, the review period will be between four and ten weeks
- warn the employee in writing that failure to improve within the set period could lead to dismissal. In very serious cases, this warning may constitute a final written warning.
Notes will be taken of formal capability meetings and a copy provided to the employee.

The employee will be informed in writing of the outcome of any determination made under the headings above, and the procedure and time limits for appealing against any written warning.

**Capability monitoring and review**

A performance monitoring and review period will follow the formal capability meeting, with agreed formal monitoring, evaluation, guidance and support provided during this time.

Following completion of the capability monitoring and review 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.

At least five working days’ notice will be given. The letter of notice will advise the employee of their right to be accompanied by a companion who may be a colleague or a trade union representative.

- If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and standard performance management processes reinitiated. This decision will be communicated in writing.
- If some progress has been made and there is confidence that further improvement will take place, 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 employee will receive a final written warning.

Notes will be taken of formal meetings and a copy provided to the employee.

Where a final warning is issued, the employee will be informed in writing that failure to achieve an acceptable standard of performance within a disclosed period may result in dismissal. The process for appeal against final warning will be shared, and the employee invited to a decision meeting.

**Decision meeting**

At least five working days’ notice of the decision meeting will be given. The letter of notice will advise the employee of their right to be accompanied by a companion who may be a colleague or a trade union representative.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will cease and standard performance management processes reinitiated. This decision will be communicated in writing.

If performance remains unsatisfactory, a recommendation for dismissal will be made.

**Dismissal**

The employee will be informed in writing and as soon as is practical of the reasons for dismissal; the date on which the contract of employment contract will be terminated; any appropriate period of notice and their right of appeal.

**Appeal**

Employees may make an appeal in writing within five working days of the date of the written confirmation of the recommendation to dismiss, stating the grounds of their appeal in full. Appeals may be heard by the Trust Chief
Executive Officer or their delegated representative.

Appeals heard will be arranged 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 apply as with the hearing. Notes will be taken and a copy provided to the employee.

The employee will be informed in writing of the results of the appeal as soon as possible. There is no further right of appeal.

**Grievance raised during a capability proceeding**
Where a grievance is raised during a capability proceeding and the grievance raised has relevance to the proceeding, the process may be temporarily suspended until the grievance has been resolved or answered.

In the situation where there is more than one grievance from the same person these will be heard together.

If a grievance restates a complaint previously raised and resolved or answered, the appraisee will be asked to explain how the new grievance differs, what new incident has occurred and/or what new evidence has come to light. Where it is determined that no new information has been provided the grievance may be rejected without a formal grievance meeting.

**Sickness and absence during a capability proceeding**
Where long term sickness absence is reported as having been triggered by the commencement of a monitoring or formal capability procedure, the case will be dealt with in accordance with Trust attendance management processes. This may include referral to occupational health services. In some cases, it may be appropriate for monitoring and/or formal capability proceedings to continue during a period of sickness absence.