

# Capability Policy Checklist

## **PURPOSE OF THE CHECKLIST**

A capability policy is necessary to assist in the management of alleged underperformance for promoting fairness and order in the treatment of individuals. It should be used to promote reasonable expectations of those perceived to be underperforming, as well as fairness and consistency in the treatment of all employees.

It should be designed to support an employee in improving their practice and not used as a punitive process to expedite a method of dismissal. It should also set out the capability procedure to be followed by the employer and the governing body.

The capability policy should include:

- a clear statement that the policy is designed to support employees in improving their practice;
- a statement that the capability process will not apply to Early Career Teachers (ECTs), who have their performance managed through the induction process;
- a statement that, as part of their day-to-day management, line managers may from time to time have discussions about performance with a teacher and that these discussions do not form part of informal or formal capability process;
- a statement that the formal capability process should only be invoked where there is clear, triangulated evidence of sustained underperformance that the appraisal process has failed to address, following an informal process;
- a statement that where the formal capability is instigated, performance management/appraisal processes will be suspended;
- a statement that the instigation of a capability procedure should not come as a surprise to the employee concerned;
- statements that the employee will be advised to contact their union whenever either a formal or informal capability process may be invoked, and representation is permitted at all capability meetings;
- provisions that employees can only be represented by work colleagues or representatives of a trade union, a trade union being defined as a body appearing on the Certification Officer's list;
- the provision that only the headteacher/principal can commence a capability process;
- a first capability meeting where the evidence of underperformance will be considered and the employee and/or their representative will be able to offer explanation and/or refutation of the written evidence produced of underperformance;
- provision for the headteacher to decide, following the first meeting, whether or not to commence an informal capability process;
- provisions that, following the first meeting, the action plan, support and timescales will be agreed;
- timescales for improvement not less than 13 weeks;
- following the first meeting, and time period for improvement, a second meeting, where the evidence of underperformance will be considered and the employee and/or their representative will be able to offer explanation and/or refutation of the written evidence produced of underperformance;
- the provision that the second meeting will decide whether sufficient progress has been made, in which case the process ends, or a further support period is enacted;

- provisions that, following the second meeting, the move to the formal capability process will occur and an action plan, support and timescales will be agreed, if required;
- timescales for improvement not less than 13 weeks;
- a third decision/meeting where the evidence of underperformance will be considered and the employee and/or their representative will be able to offer explanation and/or refutation of the allegations, the outcome of which will either be the conclusion of the procedure, further support, or move to dismissal;
- dismissal hearings only with the governing body;
- appropriate arrangements for appeal at all stages;
- a commitment that any shortening of the process will only occur in the most extreme circumstances; and
- an undertaking that the policy will be monitored and reviewed by the relevant body in conjunction with union representatives on an annual basis. An annual written report on the operation of the capability policy, including an equality impact assessment, will be provided to union representatives.