



# Truro and Penwith Academy Trust

## Capability Policy and Procedure

### 1. INTRODUCTION

- 1.1 Truro and Penwith Academy Trust is referred to as 'the Trust' throughout the document. 'Board of Directors' or 'Board' refers to the directors of Truro and Penwith Academy Trust. 'Governing Body' refers to the local governing body at each member school of Truro and Penwith Academy Trust
- 1.2 The Trust Board will endeavour to ensure that all staff achieve and maintain the required standard of performance in their job. The standard required will be established with each member of staff by way of Trust Values, Professional Standards and skill levels through the Performance Management Process. In short, all staff will know what is expected of them. Performance will be monitored and staff given appropriate training and support to meet the required standard.
- 1.3 This procedure is to be used when a member of staff is not meeting the required standard for their job. The reasons for this will be established and the member of staff will be given all the support needed to enable them to meet the required standard.
- 1.4 Throughout this procedure, the term 'line manager' is a generic term.

### 2. OVERVIEW

- 2.1 Formal capability should only be entered into where either of the following circumstances exists:
  - 1) Prior to the stages below line management have carried out informal meetings, coaching and /or action planning to address issues of poor performance. The staff member will have been aware that there are performance issues and will have had a chance to address performance
  - 2) Or the impact of the capability has a very serious and detrimental effect on other staff, pupils or the Trust e.g. very poor exam results, retention rates or achievement.

It is important to recognise that many issues of poor performance can be, and should be, resolved without recourse to the formal Capability Procedure. The formal procedure is intended as a framework and may need to be adapted to suit the needs of each situation.

- 2.2 Concerns about capability may arise from a number of factors, including but not limited to:
  - Lack of proficiency and poor overall organisation
  - Poor results in key areas of achievement
  - Student/parent complaints
  - Lesson observations for teaching staff
  - Lack of aptitude, skill or experience
  - Absence from work
  - Resources available which are crucial to the member of staff's performance



- 2.3 Concerns about capability should not be confused with disability. Where a member of staff has become disabled during their employment it is important to ensure that every effort should be made to retain them in their original job role through reasonable adjustments or redeploy them to a suitable alternative post, in line with the requirements of the Disability Discrimination Act 1995.
- 2.4 In exceptional circumstances, it may be necessary to temporarily redeploy or suspend a member of staff immediately from their normal job.
- 2.5 Throughout this procedure, the term 'line manager' is a generic term.
- 2.6 All staff have the right to be represented and accompanied by a representative of a trade union or workplace colleague at any stage of the formal Capability Procedure.
- 2.7 The capability procedure may be run in parallel with other Trust procedures as appropriate.

### **3. PROCEDURE**

#### **3.1 FORMAL STAGE**

##### **3.1.1 First Stage Formal Meeting**

After making the individual aware that there are serious concerns around their performance the line manager should invite the staff member to a formal meeting to review their capability in post. The member of staff has the right to be accompanied at the meeting by a Trade Union representative or a Trust employed colleague. A member of Trust HR team may be present in an advisory capacity. The meeting should not be delayed unreasonably.

At this meeting, the member of staff should be informed of the specific performance issues. The member of staff should be given an opportunity to respond to the issues and discuss any difficulties they have been having before the line manager makes a decision as to what action should be taken.

At the formal meeting, the line manager may decide to issue a written capability warning. This will clearly indicate the further stages of the process and possible outcomes if improvement is not achieved. The decision needs to be confirmed in writing with objectives specified via an action plan and giving clear indication of how they will be measured. An example of an action plan is shown in Appendix A. Monitoring and assessment should continue for a further period of between one and three months.

If a capability warning is given the staff member has the right to appeal this decision. Any appeal should be made within 5 working days in writing, to the senior manager of the department in which the staff member works. The senior manager will hold the appeal or appoint an appropriate manager to hear the appeal. The person holding the appeal must be more senior than the manager who issued the warning and someone not previously involved in issuing the warning. If the warning was issued by the Head Teacher the appeal must be heard by a Governor. A member of Trust HR team should attend the appeal in an advisory capacity. The staff member has the right to be accompanied by a Trade Union representative or the Trust employed colleague. The meeting should not be delayed unreasonably.

##### **3.1.2 Second Stage Formal Review Meeting**

The member of staff should be formally invited to this meeting and has the right to be accompanied at the meeting by a Trade Union representative or a Trust employed colleague. A member of Trust HR team may be present in an advisory capacity. The meeting should not be delayed unreasonably.



The line manager should review the action plan and if targets are met the member of staff should be moved out of the formal capability procedure. This should be confirmed in writing to the staff member. Improvement will need to be continued and sustained. Failure to continue to improve after the review period, or further issues of performance should be followed by a repeat of the 1<sup>st</sup> Stage meeting. At this stage a final capability written warning may be issued, or, an alternative role may be considered.

If an alternative role is considered then the offer should be made in writing, explaining why it is being made. The member of staff should respond within 5 working days. The Trust is under no obligation to create a job for the staff member but should consider appropriate available job roles.

Ordinarily the 1<sup>st</sup> and 2<sup>nd</sup> stage meeting will be between the member of staff, line manager and where appropriate a member of the Trust HR team, together with an appropriate professional advisor if necessary. The member of staff has a right to be accompanied by a Trade Union representative or work based colleague.

If a final capability written warning is given, the staff member has the right to appeal this decision. Any appeal should be made within 5 working days in writing, to the senior manager of the department in which the staff member works. The senior manager will hold the appeal or appoint an appropriate manager to hear the appeal. The person holding the appeal must be more senior than the manager who issued the warning and someone not previously involved in issuing the warning. If the warning was issued by the Head Teacher the appeal must be heard by a Governor. A member of Trust HR team should attend the appeal in an advisory capacity. The staff member has the right to be accompanied by a Trade Union representative or a Trust employed colleague. The meeting should not be delayed unreasonably.

### **3.1.3 Final Stage Meeting**

If there is no evidence of improved performance, or the impact of the capability has a very serious and detrimental effect on other staff, pupils or the Trust, the staff member should be invited to a formal final stage meeting. The meeting should be conducted by the Head Teacher, a senior member of Trust HR team, together with the member of staff. The member of staff will be advised of their right to be accompanied by a Trade Union representative or a Trust employed colleague. If after review, it is found that the requirements of the agreed action plan have not been met, the member of staff may be dismissed on the grounds of lack of capability.

If dismissal is the outcome, the member of staff should be dismissed in accordance with the dismissal procedure and should be informed of their right to appeal.

## **3.3 APPEAL**

Members of staff have the right to appeal against action to dismiss under the Capability Procedure. The appeal should be made in writing to the Head Teacher. Written notice of an intention to appeal, and the grounds on which it is based should be submitted within 5 working days of the date of action. Appeals against action taken will be held by a panel consisting of the Head Teacher (unless involved in the dismissal), or senior manager or deputy (not previously involved in the case) or a Trust Governor. A member of the Trust HR team will be present in an advisory capacity. Where Trust senior leaders/Head teacher have already been involved in the process the panel will exist of two Governors, one must be either the Chair or Vice Chair of the Local Governing Body of a Trust Director.

## **4. REVIEW**

This Policy and Procedure will be reviewed regularly and at least every 3 years.