



## **BIRCHENSALE MIDDLE SCHOOL**

# **Teacher Appraisal and Capability Policy**

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**Mrs W Rigby – Chair of Governors**

# Birchensale Middle School Teacher Appraisal and Capability Policy

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## Statement of intent

This policy sets out the framework for clear and consistent assessment of the overall performance of teachers, including the headteacher. It is designed to support teachers' development, within the context of the school's plan for improving educational provision and performance, and the standards expected of teachers. It sets out the arrangements that will apply when teachers fall below the expected levels of competence.

Section 4 of the policy, which covers appraisal, applies to the headteacher and to all teachers employed by the school, except those on contracts of less than one term, those undergoing induction and those who are subject to section 5.

Section 5 of the policy, which sets out the formal capability procedure, applies only to teachers, including the headteacher, whose performance raises serious concerns.

## 1. Legal framework

1.1 This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- The School Staffing (England) Regulations 2009 (as amended)
- The Education (School Teachers' Appraisal) (England) Regulations 2012
- DfE (2019) 'Governance handbook'
- DfE (2019) 'Teacher appraisal and capability: A model policy for schools'
- ACAS (2015) 'Code of practice on disciplinary and grievance procedures'

1.2 This policy operates in conjunction with the following school policies:  
Staff Disciplinary Policy and Procedure including Grievance Policy  
Teachers' Pay Policy  
Staff Leave of Absence Policy

## 2. Roles and responsibilities

### 2.1 The governing board is responsible for:

- Ensuring the effectiveness of this policy by monitoring and reviewing it annually.
- Ensuring that the appraisal and capability process is managed in a way that avoids increased workload for all parties concerned.
- Appraising the headteacher and setting their objectives, following consultation with an external adviser.
- Ensuring all objectives contribute to the SDP and improve the education of pupils at the school.
- Consulting an external adviser on all matters concerning the assessment of the headteacher's performance.
- Providing the headteacher with their appraisal report.
- Conducting formal capability meetings where there are concerns about the headteacher's performance.
- Once a decision to dismiss has been taken, dismissing the teacher or headteacher in question with notice.
- Ensuring consistency of treatment and fairness and abiding by all relevant equality legislation.

### 2.2 The headteacher is responsible for:

- The day-to-day implementation of this policy.
- Ensuring that the appraisal and capability process is managed in a way that avoids increased workload for all parties concerned.
- Deciding who will appraise teachers.
- Informing teachers of the standards against which their performance in the set appraisal period will be assessed.
- Conducting drop-in observations, where necessary, to evaluate standards of teaching and ensure high standards of professional performance are maintained.
- Conducting formal capability meetings where there are concerns about a teacher's performance.
- Providing teachers with their appraisal reports.

### 2.3 Teaching staff are responsible for:

- Improving their teaching through proactive engagement in appropriate CPD opportunities.

### 3. General principles underlying this policy

#### **ACAS ‘Code of Practice on Disciplinary and Grievance Procedures’**

3.1. **Section 5** of the policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

#### **Confidentiality**

3.2. The appraisal and capability processes will be treated with confidentiality; however, the desire for confidentiality does not override the need for the headteacher and governing board to quality-assure the operation and effectiveness of the appraisal system.

3.3. This will be achieved by the headteacher and governing board:

- Personally reviewing all teachers’ objectives and appraisal records for consistency.
- Remaining informed of any pay recommendations that have been made.

#### **Consistency of treatment and fairness**

3.4. The governing 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 teachers with disabilities. The governing board is aware of the guidance on the Equality Act 2010 issued by the DfE.

#### **Definitions**

3.5. Unless indicated otherwise, all references to “teacher” include the headteacher.

#### **Delegation**

3.6. Normal rules apply in respect of the delegation of functions by the governing board and headteacher.

#### **Grievances**

3.7. Where a teacher raises a grievance during the capability procedure, the 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.

3.8. Grievances should be handled in accordance with the school’s Grievance Policy.

#### **Sickness**

3.9. If long-term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the school’s Staff Leave of Absence Policy. The

case will be referred immediately to the occupational health service, to assess the teacher's health and fitness for continued employment. Additionally, the suitability of continued monitoring or formal procedures will be evaluated in relation to the teacher's health. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## 4. Performance appraisal

- 4.1. Appraisal at this school will be supportive, and the developmental process is 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.
- 4.2. Appraisal outcomes will be used to inform pay progression decisions.

### **The appraisal period**

- 4.3. The appraisal period will run for 12 months from 1<sup>st</sup> September to 31<sup>st</sup> August.
- 4.4. 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.

### **Appointing appraisers**

- 4.5. The headteacher will be appraised by the governing board, supported by a suitably skilled and/or experienced external adviser who has been appointed by the governing board for that purpose.
- 4.6. The task of appraising the headteacher, including the setting of objectives, will be delegated to a sub-group consisting of two members of the governing board.
- 4.7. The headteacher will decide who will appraise other teachers.

### **Setting objectives**

- 4.8. The headteacher's objectives will be set by the governing board after consultation with the external adviser, taking into account the headteacher's work-life balance.
- 4.9. Teachers' work-life balance will be taken into consideration when objectives are set.
- 4.10. Teachers' objectives will take into account the length of their contract to ensure objectives are realistic and fair.

- 4.11. Teachers will be informed by the headteacher of the standards against which their performance in the set appraisal period will be assessed. The standards used in relation to appraisal are the 'Teachers' Standards' and school's expectations of UPS teachers.
- 4.12. Objectives for each teacher will be set before, or as soon as practicable after, the start of each appraisal period.
- 4.13. 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.
- 4.14. Objectives and performance management discussions will not be based on teacher generated data and predictions, or entirely on assessment data for a single group of pupils.
- 4.15. Objectives may be set in relation to robust assessment data, but these will not be used in isolation and additional factors will always be considered when making pay progression decisions.
- 4.16. The appraiser and teacher will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives.
- 4.17. Objectives may be revised if circumstances change.

#### Observation

- 4.18. This school believes that observation of classroom practice and other responsibilities is important, both in assessing teachers' performance to identify any particular strengths and areas for development they may have, and for gaining useful information which could inform improvement. Observation can also enable teachers to learn from each other and collaborate.
- 4.19. The following guidelines will be adhered to:
- The number of official observations will not normally exceed three sessions each year
  - Observations will not exceed one hour per session
  - The focus and timing of annual observation sessions will be agreed in consultation with the teacher
  - Observations will be conducted with professionalism, integrity and courtesy
  - Observations will be conducted objectively
  - Observation reports will be accurate and fair
  - The confidentiality of the information in the report will be respected
  - Observations will not add to teachers' overall workload.
- 4.20. Classroom observation will be carried out by those with QTS.

## **Evidence**

4.21. The range and level of evidence collected for the purposes of appraisal and pay determination will always be proportionate and the impact on workload will be minimal.

## **Development and support**

4.22. Appraisal is a supportive process which will be used to inform CPD. The school encourages a culture in which all teachers take responsibility for improving their teaching through appropriate professional development.

4.23. Professional development will be linked to improvement priorities and to the ongoing professional development needs and priorities of individual teachers.

## **Feedback**

4.24. Teachers will receive constructive feedback on their performance throughout the year and as soon as practicable after observation has taken place, or when other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that require attention.

4.25. Teachers will also receive an assessment of their professional development requirements and any action that should be taken to address them.

4.26. 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 an opportunity to comment and discuss the concerns.
- Agree any support that will be provided to help address those specific concerns.
- Make clear how and by when, the appraiser will review progress.
- Explain the implications and process if no or insufficient improvement is made, for example, the impact on pay progression and the potential for movement into formal capability proceedings.
- Set clear objectives to be met to achieve the required improvement.

4.27. 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.

## **Transition to capability**

4.28. If the appraiser is not satisfied with the teacher's progress, the teacher will receive written notification that their performance will be managed under the capability procedure instead of the appraisal system and will be invited to a formal capability

meeting. The capability procedures will be conducted in accordance with section 5 of this policy.

### **Annual assessment**

- 4.29. Each teacher's performance will be formally assessed in respect of each appraisal period. In assessing the performance of the headteacher, the governing board will consult the external adviser.
- 4.30. 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.
- 4.31. The teacher will, as soon as practicable, receive and have the opportunity to comment on an appraisal report (this may be written in hard copy format or made available online). In this school, teachers will receive their appraisal reports by 31 October and the headteacher by 31 December. 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 their 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.
- 4.33. The assessment of performance and of professional development needs will inform the planning process for the following appraisal period.

## **5. Capability procedure**

- 5.1. This procedure applies only to teachers whose performance raises serious concerns that the appraisal process has been unable to address.
- 5.2. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about performance-related concerns and their possible consequences to enable the teacher to prepare a defence for the formal capability meeting.
- 5.3. Teachers are entitled to request an alternative date which is within five days of the original date.
- 5.4. The notice 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.

## **Formal capability meeting**

- 5.5. This meeting is intended to establish the facts. It will be conducted by the chair of governors (for headteacher capability meetings) or headteacher (for other teachers). The meeting allows the teacher 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 or evidence already collected.
- 5.6. 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.
- 5.7. The person conducting the meeting may also adjourn the meeting if they decide that further investigation is needed, or more time is needed to consider additional information.
- 5.8. 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 of the teacher.
  - Give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures.
  - Explain any support that will be available to help the teacher to improve their performance.
  - Outline the timetable for improvement and explain how performance will be monitored and reviewed.
  - Formally warn the teacher that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.
- 5.9. Notes will be taken of formal meetings and a copy sent to the teacher. Where a warning is issued, they 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 appeals.

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

- 5.10. A performance monitoring and review period will follow the formal capability meeting.
- 5.11. Formal monitoring, evaluation, guidance and support will continue during this period.
- 5.12. The teacher 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.

## **Formal review meeting**

- 5.13. 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.
- 5.14. 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 restart. 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 staff member will receive a final written warning.
- 5.15. As before, notes will be taken of formal meetings and a copy sent to the teacher. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, teacher will be informed in writing that failure to achieve an acceptable standard of performance within the set timescale may result in dismissal. They will also be 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**

- 5.16. As with formal capability meetings and formal review meetings, at least five working days' notice will be provided, and the notification will give details of the time and location of the meeting. The notice will also 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.
- 5.17. 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 restart. If performance remains unsatisfactory, a decision or recommendation to the governing board will be made that the teacher should be dismissed or required to cease working at the school.
- 5.18. Before the decision to dismiss is made, the school will discuss the decision with the MAT.
- 5.19. The teacher will be informed as soon as possible of the reasons for their dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

### **Decision to dismiss**

5.21. The power to dismiss staff in this school has been delegated to the Local Governing Board acting with the headteacher.

### **Dismissal**

5.22. Once the decision to dismiss has been taken, the governing board or delegated authority will dismiss the teacher with notice.

### **Appeals**

5.24. If a teacher feels that a decision to dismiss them, or another action taken against them, is wrong or unjust, they may appeal in writing against the decision within five working days, setting out the grounds for appeal at the same time. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place.

5.25. The same arrangements for notification and the 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.

5.26. The appeal will be dealt with impartially and, wherever possible, by managers or governors who have not previously been involved in the case.

5.27. The teacher will be informed in writing of the results of the appeal hearing as soon as possible.

## **6. Monitoring and evaluation**

6.1. The governing board and headteacher will monitor the operation and effectiveness of the school's appraisal arrangements.

6.2. The governing board and headteacher will ensure that all written appraisal records are retained in a secure place for six years in line with the school's Records Management Policy and in accordance with DfE guidance.