



South Tyneside Council



Teacher Capability Policy

Our Council Values

Our Values are the things we most care about. In applying every policy and process, we must consider and uphold our PROUD Values. These define what we stand for as an organisation, how we work and how we act.

- Professional – we uphold high standards.
- Respectful – we value people.
- Open and honest – we trust each other.
- Understanding and engaging – we care about people.
- Deliver what we say we will - we provide great services.

Under each Value is a set of guiding behaviours. These apply to every person who works for or represents South Tyneside Council. They are our promise to residents, each other and to all who interact with the Council.

Purpose

The capability Policy sets out the arrangements that will apply in serious cases where there have been persistent failures to meet job expectations, resulting in negative consequences on pupils and the organisation. The policy provides a framework for managing underperformance in a fair and consistent manner, with the primary focus being to improve performance to reach the required standard.

This procedure applies only to teachers and school leaders, where there is a capability issue that the appraisal process, including any informal support arrangements, have been unable to address.

Informal Support

Except in the most serious cases of persistent failures to meet job expectations, resulting in negative consequences on pupils and the organisation, teachers and school leaders should not be placed on capability procedures without first undergoing a period of informal support. This support should have clear objectives, timescales, and goals that are achievable.

A teacher should be made fully aware of the concerns that are being raised. Informal support should be provided for a reasonable period (for example a maximum of 6 weeks) to allow for performance improvement. The duration will be determined on specific circumstances, with specific support in place to facilitate improvement. If no, or insufficient improvement has been made over this period, the process should move to the formal capability procedures.

Capability Procedure

Notification of a formal capability meeting should never come as a surprise to the teacher concerned. Informal support and a performance improvement plan should mean that the teacher is fully aware of the concerns being raised and they should have had every opportunity to improve in a supportive environment. 10 working days' notice will be given of the formal capability meeting, unless otherwise agreed.

The written notification of the formal capability meeting 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 colleague or a trade union representative (not a

family member). Teachers are entitled to reasonably request an alternative date where they are unable to attend the original date proposed. An alternative time must be reasonable.

While a teacher or school leader is in capability procedures, pay progression should be withheld. If the teacher makes the required improvement, the capability procedure will come to an end, and the appraisal process will recommence. Pay progression will be reinstated once the appraisal process recommences.

Formal Capability Meeting - Stage 1

This meeting is intended to establish the facts. It will be conducted by the Chair of Governors or an appropriate member of the Trust (for headteacher capability meetings) or headteacher/other suitable senior member of staff (for other teachers) (schools to insert any alternative arrangements). The meeting confirms the required standards which are believed to have not been met by the teacher.

The meeting allows the teacher to respond to concerns about their performance and to make any relevant representations, with the option of being accompanied by a work colleague, or a trade union representative. This may provide new information or a different context to the information/evidence already collected.

During the meeting, the teacher shall be allowed to present their own evidence and will be permitted to respond to the evidence and ask questions.

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. This will be confirmed in writing to the employee within 5 working days.

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:

- confirm the areas of performance and professional shortcomings that remain a concern, with evidence to support this.
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (this may for example include the setting of smaller targets linked to the original objectives, which focus 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 taking into account the teacher's personal
- circumstances. This may include any medical conditions, working pattern, wellbeing,
- support needs, or disabilities protected by the Equality Act 2010. The timetable will depend on the circumstances of the individual case but in straightforward cases the period could be 6 weeks. It is for the school to fairly determine the set period. The nature of any support and training required will be taken into account in determining the timetable for improvement. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place and:
- explain how performance will be monitored and reviewed. Warn the teacher formally that failure to improve within the set period could ultimately lead to dismissal.

At the Formal Capability meeting the teacher may be issued with a Written Warning. Depending upon the seriousness of the case, they could be issued with a Final Written Warning. A written warning will remain on the personal file for 6 months and a final written warning 12 months.

Where a warning is issued, the teacher will be informed in writing of the level of the warning, 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 – Stage 1

A performance monitoring and review period of 6 weeks 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 – Stage 1

As with formal capability meetings, 10 working days' notice will be given, unless otherwise agreed, 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 trade union representative or colleague (not a family member). Teachers are entitled to reasonably request an alternative date. An alternative date must be reasonable.

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. This will be confirmed in writing to the teacher within 5 working days

In other cases:

- If some progress has been made and there is confidence that more progress 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 which will set out the areas where performance standards have not been met, targets for improvement, any measures (training and supervision) which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards.

The teacher should be notified in writing of the outcome of the meeting.

The final written warning wording 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.

Monitoring and Review period following a Final Written Warning – Stage 2

Where a teacher has been issued with a Final Written Warning at the Formal Review meeting, a further monitoring and review period will be undertaken. A period of 6 weeks is recommended, but this may vary depending upon the circumstances. The teacher will be invited to a decision meeting at the end of the review period.

Decision Meeting – Stage 3

As with formal capability meetings and formal review meetings, 10 working days' notice will be given, unless otherwise agreed, 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 trade union representative or colleague (not a family member).

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 will be made that the final written warning should be extended (if appropriate), or the teacher should be dismissed or required to cease working at the school. Redeployment into an alternative role may be considered where appropriate and possible.

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

Either: Where the Governing Board or Trust is the employer, the power to dismiss rest with this Board/Trust.

Or: Where the local authority is the employer, the power to dismiss rests with them, following a recommendation from the Governing Board.

The power to dismiss centrally employed teachers rests with the local authority (as the employer)

Dismissal

Either: Where the Governing Board or Trust is the employer, once the decision to dismiss has been taken, the Governing Board or Trust will dismiss the teacher. Usually this will be with notice or pay in lieu of notice.

Or: Where the local authority is the employer, once the Governing Board has decided that the teacher should no longer work at the school, it will notify the local authority in writing of its decision and the reasons for it.

Where teachers work solely at this school, the local authority must dismiss them with notice within fourteen days of the date of the notification. Where they work in more than one school as a teacher, the local authority must require them to cease to work at this school.

The decision to dismiss a centrally employed teacher will be made by the local authority.

Appeal – Stage 3

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 ten working days of the written decision, setting out at the same time the grounds for appeal. 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 trade union representative or colleague (not a family member) will apply as with formal capability and review meetings.

The appeal will be dealt with impartially and by managers or governors who have not previously been involved in the case. The teacher will be informed in writing of the outcome of the appeal hearing as soon as possible.

Appeals against dismissal for centrally employed teachers will be considered by the Council's Employment Appeals Panel.

General Principles Underlying This Policy ACAS Code of Practice on Disciplinary and Grievance Procedures

The policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

Confidentiality

The capability process will be treated with confidentiality in accordance with data protection guidelines.

Consistency of Treatment and Fairness

The local authority and governing board are 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 a disability, in line with the Equality Act 2010.

References

If a teacher has been subject to formal capability procedures in the previous two years, this must be disclosed to new potential school employers when requested.

Definitions

Unless indicated otherwise, all references to "teacher" includes the Headteacher.

Delegation

Normal rules apply in respect of the delegation of functions by governing boards, Headteachers and local authorities.

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, including as part of the capability process, it may be appropriate to deal with both issues concurrently. An appropriate person not involved in the capability process will deal with the grievance.

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 school's absence policy. (e.g. 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 formal procedures). In some cases, it may be appropriate for formal procedures to continue during a period of sickness absence if supported by Occupational Health.(e.g. attendance at meetings)

Information on the absence management policy, and the occupational health service can be obtained from the school and the Council website.

The procedures will continue on the member of staff's return from sickness absence.

Monitoring and Evaluation

The Governing Board and Headteacher will monitor the operation and effectiveness of the school's capability policy. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

Retention

The Governing Board and Headteacher will ensure that all written capability records are retained and stored in a secure place in line with their Retention and Disposal Policy.

Monitoring the impact of the policy

The Governing Board will monitor the outcomes and impact of this policy on a regular basis.

Recognised Trade Unions & Professional Associations are customarily involved with consultations on changes to staffing structures.

Equality and Diversity Statement

South Tyneside Council is committed to promoting equality and valuing diversity. An equality check on this policy was carried out in September 2025, and no equality check implications were identified.

Policy approved:	May 2026
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Review date:	May 2027
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