



**St.Cuthbert's**  
Roman Catholic Academy Trust

## Support Staff Capability Policy

<b>Policy reviewed and adopted by the Board of Directors</b>	<b>15 June 2016</b>
<b>Version</b>	<b>1</b>
<b>Review frequency</b>	<b>Annually</b>
<b>Date of next review</b>	<b>June 2017</b>
<b>Responsible Officer</b>	<b>CFO</b>

## **INTRODUCTION**

1. The success of academy trust depends on the effective performance of its employees in order to provide high quality services to children and parents.
2. This policy is designed to be used in cases where employees are not achieving the standards of work expected of them due to poor performance/lack of capability or where the skills/aptitude to do their job deteriorates.
3. Employment Law defines 'capability' as 'capability assessed by reference to skill, aptitude, health or any other physical or mental quality'. This policy specifically applies to skills and aptitude. The academy has separate policies, eg sickness, which deal with health, physical or mental capability issues.

## **SCOPE**

4. This policy applies to all support staff of the academy except new employees serving a 24-week probationary period.

## **POLICY AIMS AND OBJECTIVES**

5. To ensure that all employees have the resources, training, supervision and support to enable them to achieve high standards in their work.
6. To identify constructive action which may be taken in order to improve an employee's performance.
7. To enable employees to achieve and maintain the required standard of work through constructive action, where poor performance has been identified.
8. To treat employees who are having difficulty in carrying out their duties to the required standard with sympathy and understanding.
9. To give help and support to improve an employee's performance.
10. To ensure that no employee will be dismissed on the grounds of poor performance/lack of capability unless, and until, the programme of improvement and assistance has been completed without the employee achieving satisfactory results, and there is little likelihood of an improvement within a reasonable time scale.
11. To ensure a consistent and fair procedure is followed to achieve performance to the required standard or to facilitate a move to an alternative post within the school or, in the last resort, termination of employment where remedial action has failed.

## Procedure

### INTRODUCTION

1. Headteachers or nominated managers will ensure that each employee is trained to carry out his/her duties and receives the necessary supervision and support. It is the responsibility of the headteacher or manager to continuously monitor performance and to advise and encourage employees as necessary. Most aspects of inadequate performance can be dealt with informally and corrected without the need to start this procedure.
2. Throughout this procedure, the term headteacher will be referred to or nominated manager as delegated by the headteacher with authority to take action. The headteacher or manager may wish to seek advice from the Human Resources provider before taking action under this procedure.

### EMPLOYEE SUPPORT

3. The Academy's Occupational Health and Safety Services, which includes an external counselling service, is available to employees who feel they need support during the application of this procedure.

### CONFIDENTIALITY

4. Confidentiality will be maintained at all times and the contents of interviews undertaken as part of this procedure will only be disclosed on a 'need to know basis'.

### INFORMAL ACTION – Advise concerns about the performance

5. When an employee's performance at work is giving rise to concerns, headteachers or nominated managers must first try to improve their employee's performance informally. Where normal monthly supervision meetings are carried out, this process should be in addition to, and separate from, those meetings. Although there is an expectation that the areas of concern will have been discussed at the supervision meetings.
6. Headteachers or nominated managers must discuss their concerns in full with the employee, give him/her the opportunity to state his/her point of view, this should include exploring any external or other contributory factors which may have a bearing on his/her performance and agree a programme of constructive action. This should be confirmed in writing to the employee.
7. An appropriate review period should be set during which time progress will be continuously reviewed.

## **STARTING THE FORMAL PROCEDURE**

8. If, following the review period, there has been no, or insufficient, improvement within the agreed timescales, the headteacher or manager will start the formal procedure.

### **ACTION – FIRST STAGE**

#### First Formal Interview – Formal Warning

9. When an employee's performance at work is still giving rise to concern, the headteacher or manager will require the employee to attend a meeting to discuss the problem. Notice of the meeting will be given in writing (at least 5 working days notice) and will include details of the inadequate performance and the nature of the proposed discussion. The employee has a right to be accompanied by a trade union representative or work colleague.
10. At the meeting, the headteacher or manager will reiterate the problem in clear and unambiguous terms and the employee will be given the opportunity to state his/her point of view and to raise any matter which may have a bearing on his/her performance at work. This should include exploring any external or other contributory factors which may have a bearing on his/her performance. The discussion at the meeting should be conducted by the manager in a sympathetic, understanding and constructive atmosphere.
11. A programme of constructive action will be drawn up to help the employee improve. This will be done by the headteacher or manager in full consultation with the employee. The essential elements of any programme, which must be set out in writing and given to the employee, are:-
  - a statement giving details of the inadequate performance;
  - the target level of performance to be achieved (i.e. the standard required);
  - the action to be taken by both headteacher or manager and employee to help the employee. This could include referral to the Occupational Health and Safety Services, additional training either from the academy or through the Human Resources provider, Learning and Development team, advice from Health and Safety Officers, increased supervision, rearrangement of workload etc;
  - a realistic time scale, the length of which will depend on the role and responsibilities of the post within which an improvement is to be achieved, with due regard to the particular problem; and
  - monitoring arrangements.

12. At the meeting the employee should be formally warned of the consequences of failure to improve to the required standard i.e. that if the required standard of work is not achieved, further formal action will be taken in accordance with this Procedure, and that their employment may be at risk. This should be confirmed in writing.
13. Progress will be continuously reviewed throughout the duration of the improvement programme and modifications made if necessary. At the end of the review period and without delay, a review meeting will be held. The employee will be notified in writing of the time, date, place and purpose of the meeting and advised of the right to be accompanied by a trade union representative or work colleague.

#### Satisfactory Improvement

14. If a satisfactory improvement, as required within the terms of the improvement programme, is achieved, the employee will be told and given confirmation in writing afterwards that he/she has reached the required level of performance and that no further action will be taken provided the improvement is maintained.
15. The headteacher or manager will monitor the employee's performance and should it not be maintained, further action will be taken under this procedure.

#### No Improvement or Insufficient Improvement

16. Should there be no improvement, or insufficient improvement, in the employee's performance, the review meeting will form the second stage of action.

### **ACTION – SECOND STAGE**

#### Second Formal Interview – Final Formal Warning

17. At this meeting, the headteacher or manager and the employee will review the improvement programme, discussing the specific area(s) in which the employee's performance is below standard, and in what respects. The headteacher or manager will again outline the standard of performance required. The employee will be asked to explain the reasons for the poor performance and the explanation will be considered against the facts. The discussion will again be conducted by the headteacher or manager in a sympathetic, understanding and constructive atmosphere and will include consideration of any external or other contributory factors which may have a bearing on the poor performance.
18. Full consideration will be given to what action can be taken to help the employee meet the required standard. A further programme of action will be drawn up as in paragraph 11 and a further review period set. The employee should again be formally warned (final formal warning) of the consequences of failure to improve to the required standard i.e. that if the required standard of work is not achieved, at the next (third) formal review meeting, then

consideration can be given to referring the case to the board of directors Staff Dismissal Committee (or relevant committee) for their consideration of dismissal under the policy and therefore the member of staff's employment will be at risk. This should be confirmed in writing.

#### Alternative Work

19. At this stage, and after full consultation with the employee, consideration may also be given to moving the employee to an alternative post within the school.
20. The headteacher will consider if alternative roles are available within the trust. If an alternative post is identified requiring skills which match those of the employee, he/she should be given a trial period of no more than 4 weeks in the alternative post.

### **ACTION – THIRD STAGE**

#### Final Review – Third Formal Interview – Referral to a Staff Dismissal Committee or a Dismissal if the Headteacher/Principal has delegated powers

21. At the end of the second review period, the employee should be seen again and his/her performance assessed and discussed. The employee has a right to be accompanied by a trade union representative or work colleague. If no, or insufficient, improvement has occurred, and no alternative work is available or acceptable to the employee, he/she will normally be referred to the Staff Dismissal Committee (or relevant committee) for their consideration of a dismissal on the ground of capability, unless the headteacher has been given delegated powers to dismiss.
22. The dismissal will be on the grounds of capability and must be confirmed in writing.
23. The employee will be given the full period of notice to which he/she is entitled but will not be required to attend work during the notice period. During this period, the salary/wages will be paid at the normal times and the termination date will be at the end of the notice period. Any outstanding holiday entitlement must be taken during the notice period.

### **REVIEW PERIOD**

24. The length of the review periods at all stages of the procedure will depend on the individual circumstances of the case, but should normally be between 3-8 weeks. For jobs involving basic skills, two or three weeks may be appropriate. For more complex jobs, a longer period might be necessary.
25. During the review periods, managers must keep notes on the employee's performance and meet the employee on a regular basis to discuss progress.

## **IMPROVEMENT**

26. Where the employee has improved to a satisfactory standard by the end of the review period, he/she must be interviewed and told his/her performance has improved to the standard required. A letter confirming the improvement must be sent to the employee.
27. The headteacher or manager must continue to monitor the employee's performance but not undertake a formal review unless deterioration occurs. At the end of a twelve month period, if the improved standard has been maintained, a letter must be sent to the employee confirming this.

## **DETERIORATION IN PERFORMANCE**

28. Where, within a reasonable time scale, (within 12 months of previous action under this policy and procedure), the employee's performance subsequently deteriorates, the headteacher or manager must interview him/her at an early stage and continue formal action under the procedure. Advice on this may be obtained from the Human Resources provider.

## **RIGHT OF APPEAL**

29. At each stage of the formal procedure, prior to dismissal, employees have the right of appeal to governors of an Appeals Committee against any warning issued or alternative work identified.
30. Employees dismissed on capability grounds have a right of appeal to the board or directros Appeals Committee.
31. All appeals must be made within 10 working days of the date of the letter confirming the warning/alternative work/dismissal. There is only one level of appeal in any particular case.