

Briefcase 1 Outlines a stage-by-stage approach to capability procedures. Suggested formats for recording the process are included in briefcase 2.

Capability procedures

The Education Act of 2002 led to the School Staffing(England) Regulations 2003. These have recently been superceded by the School Staffing(England) Regulations 2009.

It is increasingly expected that headteachers hold their staff to account and are prepared to instigate capability procedures where there is:

- Low expectations of children
- Poor pupil progress
- Inadequate planning and preparation
- Classroom behaviour management issues
- Inability to respond to change

It is expected that informal procedures precede the formal stages of capability. This would include the normal route of performance management meetings. During these meetings teachers might have had their attention drawn to areas of concern. It would be expected that there would have been support provided in order to enable teachers to address any issues. However, if the need for improvement isn't addressed over a set period of time it is likely that formal procedures will be needed.

THE STAGES OF FORMAL CAPABILITY

Stage 1

A formal interview starts the formal procedure. At the end of the meeting it will be decided either to:

- Drop the matter
- Make an oral warning
- Issue a written warning
- Issue a final written warning (where there are very serious concerns)

A letter should be sent to the teacher immediately after the formal interview recording the result of the investigations, the main points discussed at the meeting and confirmation of the decision.

Stage 2

This is the first assessment stage with regular observation and monitoring over a proposed maximum period of 20 weeks. This culminates with an evaluation meeting. If there is no evidence of an improvement in performance at the evaluation meeting this will lead to a final written warning followed by a second assessment stage. If there is evidence of improvement and there is confidence that it can be sustained then procedures can end here with a letter from the line manager.

Stage 3

This is the second assessment stage and should last no longer than four weeks. It should culminate with a final evaluation meeting. If this evaluation is still not satisfactory then it should be referred to the Staff Dismissal Committee set up by the governing body. The date of the dismissal committee hearing should be recorded in a letter to the teacher.

Stage 4

This is the dismissal committee stage. At least three governors must be represented on the Staff Dismissal Committee. They will hear from the head/line manager, the teacher or the teacher's representatives. This meeting may lead to dismissal of the member of staff.

Stage 5

This is the staff appeal committee stage. If the teacher has been dismissed they can appeal to this committee who comprise of governors other than those involved in the dismissal committee.

General advice

- At least 5 working days notice should be given before meetings
- After each stage the teacher has 5 working days in which to make an appeal which should be heard within 10 working days of the notification of appeal
- The teacher is entitled to bring a union representative or colleague to formal meetings
- After each meeting written confirmation of the main points should be sent to the teacher

Formal warnings

Your letter should include information about:

- Professional shortcomings
- The improved standard of performance needed to end the capability procedure
- The support available and arrangements for monitoring
- The timetable for improvement
- The date for the next/final evaluation meeting
- The fact that failure to improve may lead to dismissal