

*Vision: Inspiring Success*  
*Values: Determination, Courage, Respect*

# The Orchard Capability Policy

## for school support staff

### 2021

This policy is based on the model commended by Surrey County Council.

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<b>Policy Scope and Purpose</b>	
<b>Scope and Purpose:</b>	This policy outlines the school's approach to managing underperformance, once it has been established that this is due to an employee's performance capability in their job role, which is not associated with reasons related to either their conduct or medical condition.
<b>Aims and Objectives</b>	<ul style="list-style-type: none"> <li>• To support, guide and advise employees who may be experiencing difficulties in performing their duties to the required standard;</li> <li>• To provide line managers with a clear framework to manage employees who may be underperforming in their role in a fair and consistent manner;</li> <li>• To support a culture of continuous development and improvement.</li> <li>• To ensure that the children and young people, employees, public and other recipients of the school's services are protected from the consequences of an employee's unsatisfactory work performance, potentially due to a lack of capability in their job role.</li> </ul>
<b>Start point of the Policy:</b>	When an employee's work performance is unsatisfactory, potentially due to a lack of capability in their job role.
<b>End Point of the Policy:</b>	<p>The outcome may be one of the following:</p> <ul style="list-style-type: none"> <li>• That work performance has reached a satisfactory level during the informal or formal procedure; however employees may return to the policy at the point they left if performance deteriorates.</li> <li>• It may end when it is identified that another policy or procedure is more appropriate e.g. sickness absence policy.</li> <li>• Dismissal if work performance fails to reach a satisfactory standard by within the timescales of the formal procedure.</li> </ul>
<b>Legislative requirements:</b>	The core principles are set out in the Acas Code of Practice which are adhered to in this policy and associated procedure. The law on unfair dismissal requires employers to act reasonably. What is classed as reasonable behaviour will depend on the circumstances of each case.
<b>Who uses this Policy:</b>	<ul style="list-style-type: none"> <li>• This policy applies to all support staff including employees on Surrey Pay terms and conditions of employment at the school except those who are within their probationary period of employment.</li> <li>• This procedure assumes that the power to dismiss staff remains with the governing body and has not been delegated to the head teacher.</li> <li>• Schools with different models of delegated power will need to amend references to roles and responsibilities accordingly. For further advice or assistance with this, please contact your HR Provider.</li> </ul>
<b>Roles and Responsibilities:</b>	<ul style="list-style-type: none"> <li>• The Governing Body, Head Teachers and Line Managers are responsible for implementing the policy in a fair and consistent manner</li> <li>• All employees will be responsible for engaging with and adhering to this policy and procedures</li> <li>• Trade Unions will be consulted regarding the content of the policy and will be reasonably available to support and represent their members</li> <li>• The School's Human Resource service provider will be responsible for providing guidance and direction</li> </ul>

Is there a procedure attached to this policy?	Yes. The procedure provides a series of steps to be followed in a consistent way.

## 1. Introduction

- 1.1. The governing body is committed to ensuring that high standards of behaviour are aspired to within the school and recognises that most staff members meet or exceed the standards required of them. In pursuit of this commitment, the governing body expects managers to lead by example, demonstrating a high level of competence, integrity and sound judgement, promoting effective working practices and supporting and encouraging school staff when difficulties arise. In return, the governing body expects all employees to strive for high personal standards of conduct, seeking guidance and support from their manager when necessary and at an early stage.
  
- 1.2. The governing body acknowledges that minor issues relating to standards of performance can, and should, be dealt with openly, supportively and constructively, in a dialogue between manager and employee, as a normal part of the performance management process. In addressing circumstances where a member of staff's performance fails to reach an acceptable level, or where there is a sudden and serious deterioration in these standards, the governing body will seek to ensure through the application of this procedure that a focus is placed first and foremost on support and improvement. In so doing, the governing body also acknowledges its duty to give high priority to the education of young people and will therefore take into account the likely impact on pupils when considering what progress must be made and in what timeframe.

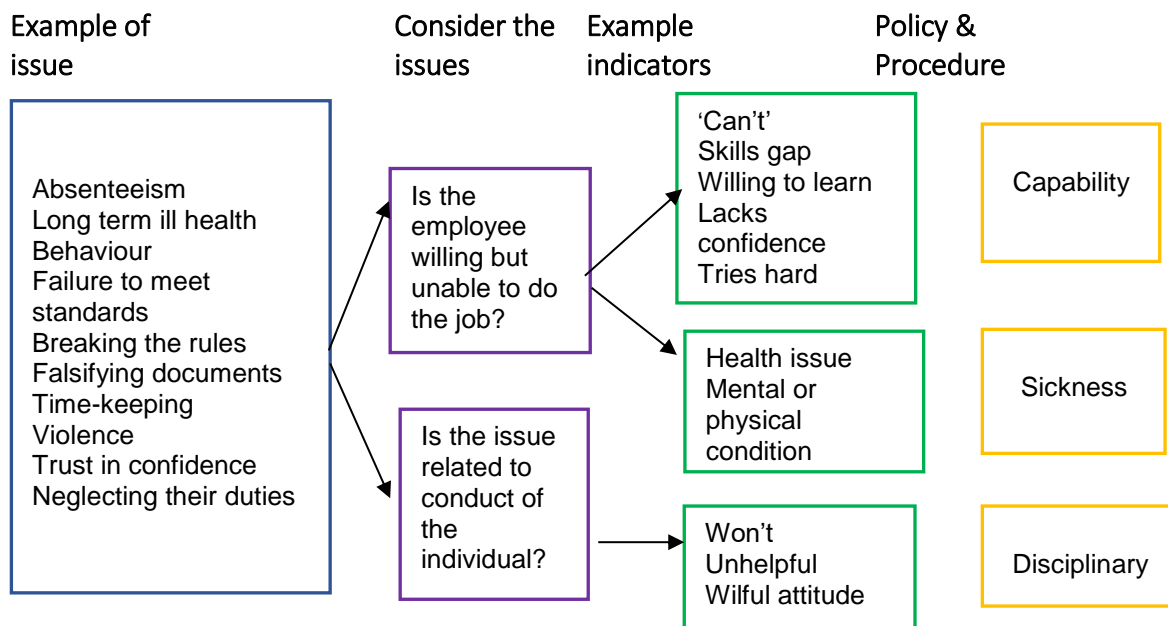
## 2. Guiding Principles

- 2.1 The following guiding principles underpin the performance capability policy and should be observed in order to maximise overall benefit for the school and its employees:
- 2.2 The application of the performance capability procedure should be fair, transparent and consistent; providing sufficient evidence for assessing an employee's performance.
- 2.3 Employees will be given the opportunity to challenge claims of poor performance at an early stage. Additionally, the right of appeal is included when any formal sanction is applied. For formal action the employee will:
  - be informed of the nature of the issue(s) of concern against them;
  - be given the opportunity to offer an explanation before any decision is made;
  - be given reasonable notice of any formal meeting or hearing;
  - be given the right to be accompanied to any formal hearing by a trade union representative or work colleague;
  - be able to request to be accompanied at a performance capability meeting;
  - be notified of the outcome of any formal meeting or hearing in writing within the timescales set out in the performance capability procedure.

- 2.4 Employees will be committed to achieving and maintaining required levels of performance, and support such standards being maintained.
- 2.5 Employees to co-operate with any action taken under this policy and the associated procedure.
- 2.6 Line managers play a fundamental role in driving performance capability – this includes making the necessary time required to apply this procedure and supporting the employee who is experiencing difficulties.
- 2.7 This policy and procedure should support and develop those that have been identified as not meeting agreed expectations or who are underperforming in their job role.
- 2.8 Both the head teacher, or another appropriate senior manager where the head teacher has chosen to delegate this responsibility, and the employee will avoid unnecessary delays and seek to conclude a case within a reasonable timescale.
- 2.9 HR advice should be sought by the governing body, head teacher, or appropriate senior manager, in advance of any formal action being taken.

### **3 Defining capability**

- 3.1 Performance capability can be referred to as an employee's inability to perform work which is expected as part of their job role to a required standard due to insufficient skill level or aptitude. Where capability issues stem from sickness, ill health or disability, the formal stages of the school's Sickness Absence policy should be used.
- 3.2 The school has separate disciplinary, capability and sickness procedures, it is important to understand when each procedure would apply. The illustration below provides an outline of when each should be applied:



3.3 This policy and its associated procedure will only apply in cases of performance capability. In circumstances where there are concerns about the performance and capability of an employee arising due to ill health or disability, these should be managed using the school's Sickness Absence Management policy and procedure.

3.4 Where an employee's poor performance is believed to be the result of deliberate negligence or misconduct, or where serious errors have been made by them to the detriment of the school, managers should use the school's Disciplinary policy and procedure.

#### 4 Informal - performance management and supervision

4.1. The governing body recognises that, in many cases involving minor or early-stage concerns about work performance, the matter is best addressed and resolved discreetly through discussion between the manager and the employee concerned. Such concerns might include, for example, minor inaccuracies in work undertaken, instances of poor timekeeping or an unexplained deterioration in standard of work. These initial discussions, aimed at understanding any underlying causes for the concerns about performance and what corrective action might resolve the issue, will take place within the context of normal supervision/performance management.

4.2. Managers have both a right and a responsibility to bring such concerns to an employee's attention to allow him/her the opportunity to respond and to rectify the situation with the appropriate provision of guidance, support and any relevant training.

4.3. It is important that supervisions/performance management conversations not only focus on the issues but also take into account the possible reasons around the unsatisfactory performance. For example, whether or not the employee may be experiencing personal problems, or if they have recently moved into the role, or where there may have been significant changes in their role etc. Consideration should also be given as to whether or not there is an underlying medical condition. HR should always be contacted if in doubt.

## **5 Formal – performance capability policy and procedure**

5.1. The performance capability policy allows for a formal approach to be taken to address the issues of performance. Implementation of the capability policy and procedure should not be seen as a forerunner to dismissal, although there may be instances where ultimately dismissal is applied due to no improvement.

5.2. Once it has been established with HR that the approach under the normal performance management conversations/supervision has been exhausted, the formal stages of the performance capability policy and procedure should be applied – please refer to the performance capability procedure document.

## **6. Employee support**

6.1. Some schools have engaged specialist services who provide an Employee Assistance Programme (EAP). Where available these services provide confidential and independent guidance for home and work issues. Your manager will be able to let you know if your school has an EAP and how to access it.

## **7. Equalities impact and review**

7.1. HR is responsible for monitoring the impact of this policy on the workforce and ensuring it is not applied disproportionately to certain staff groups. The policy will be kept under review and amended from time to time.