



**STOUR VALE
ACADEMY
TRUST**

CAPABILITY POLICY

**TO BE READ IN CONJUNCTION WITH THE
STAFFING POLICY STATEMENT**

VERSION / DATE	VERSION 1.0 SEPTEMBER 2024
NEXT VERSION DUE BY	SEPTEMBER 2027

Contents

Contents	2
1. Introduction.....	3
2. Transition to Capability.....	3
3. Capability Meeting (Meeting 1).....	3
4. Review Period	5
5. Capability Review Meeting (Meeting 2).....	5
6. Capability Hearing (Meeting3).....	6
7. Alternative employment.....	7
8. Sickness Absence.....	7

1. Introduction

This Capability Policy must be read and applied in conjunction with Stour Vale Academy Trust's Staffing Policy Statement.

The aim of this Policy is to provide a framework within which serious concerns about an employee's performance will be addressed.

This Policy will apply where concerns about an employee's performance have not been resolved during Structured Support, as set out in Stour Vale Academy Trust's Performance Development Policy.

2. Transition to Capability

If performance concerns have not been resolved through Structured Support (Performance Development Policy), the employee will be advised, in writing, that their performance will be managed under the Capability Policy. At this point, the employee will be invited to a formal capability meeting.

Meetings held under the Capability Policy constitute formal meetings and should be arranged in conjunction with Stour Vale Academy Trust's Staffing Policy Statement.

In advance of the formal capability meeting, the employee will be provided with an overview of the performance concerns and any documents that may be discussed during the meeting.

The meeting will be conducted by an appropriate Senior Leader. It is intended to establish facts and to enable the employee 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 already collected.

Advice will be sought from Trust Central HR Team when an employee's performance requires to be managed under the Capability Policy.

3. Capability Meeting (Meeting 1)

The Capability Meeting will be conducted to ensure that the following is discussed:

- The expected standards that it is believed are not being met. Reference can be made to Teachers' Standards or other standards relevant to the individual's role, career stage expectations and/or job description.
- The employee is given an opportunity to ask questions, present evidence, call witnesses, respond to evidence and make

representations.

The Senior Leader conducting the meeting may then decide one of the following outcomes:

- Conclude that there are insufficient grounds for pursuing the performance concerns through the Capability Policy and refer the matter back to an extended period of Structured Support or other method of performance management.
- Decide to adjourn the meeting if it is decided that further investigation is needed, or that more time is needed, in which to consider any additional information.
- Conclude that there is evidence of underperformance and therefore:
 - Likely causes of underperformance are identified, including any reasons that indicate why support measures that have been implemented have not led to the required level of improvement.
 - Provide clear guidance on the improved standard of performance required in order for the employee to be removed from formal capability procedures. This may include:
 - Setting of objectives that are focused on the specific area(s) of underperformance that need to be addressed.
 - Any success criteria that are appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made.
 - Identify whether there are further measures which may improve performance and explain any support that will be put in place to help the employee.
 - Set out the timetable for improvement and explain how performance will be monitored and reviewed.
 - In normal circumstances, the review period will be between four and ten weeks, but this will depend on the circumstances of the individual case and must be reasonable, proportionate and provide sufficient opportunity for improvement to take place.

- Provide the employee with a first written warning and advise that failure to improve within the review period could lead to a final written warning which could then lead to their dismissal.
- Advise the employee that pay progression will be withheld as a result of the formal capability procedure being in place.
- Agree with the employee, and any companion, the date of the formal review meeting.
- Inform the employee of the right of appeal.

The outcome of the meeting, along with a record of the key discussion points and agreed actions, will be provided to the employee in writing. It will also be saved on the individual staff file. This will usually be provided to the employee within 5 working days of the meeting.

In exceptional circumstances, and if the concerns relate to a lack of capability that poses a risk to the health, safety or wellbeing of children, or is likely to result in serious damage to pupils' education, a shorter timescale may be appropriate. In such cases, the Senior Leader may decide to issue a first and final written warning, if to do otherwise would expose pupils to serious risk in terms of their health, safety, wellbeing or educational prospects.

4. Review Period

During the Review Period, as set in the Capability Meeting, objectives, actions and support will be proactively monitored.

The Line Manager or appropriate Senior Leader will ensure that the employee is able to access reasonable and appropriate support during the Review Period, to maximise their chances of achieving their objectives.

Following the Review Period, the employee will be invited to a Capability Review Meeting (Meeting 2), unless they had been issued with a final written warning, in which case they will be invited to a Capability Hearing.

5. Capability Review Meeting (Meeting 2)

The Capability Review Meeting will review the objectives, actions and support that was agreed in the Capability Meeting. The following outcomes may be determined:

- If the Senior Leader conducting the meeting is satisfied that the employee has made sufficient improvement, the Capability Policy will cease to apply.

- If it is deemed that some progress has been made and there is confidence that further improvement is likely, it may be appropriate to extend the Review Period.
- If insufficient improvement has been made during the Review Period, the employee will receive a final written warning.

Where the decision is to issue a final written warning, a further Review Period will be set, and the employee will be advised that failure to improve within the review period could lead to dismissal.

The outcome of the meeting, along with a record of the key discussion points and agreed actions, will be provided to the employee in writing. It will also be saved on the individual staff file.

The employee will be notified of their right of appeal.

6. Capability Hearing (Meeting 3)

If the Senior Leader does not feel that an acceptable standard of performance has been achieved during the further Review Period, they will refer to the matter to a Capability Hearing.

The Capability Hearing will be conducted by a Panel, in accordance with the Scheme of Delegation.

The Capability Hearing Panel will review the objectives, actions and support that were identified and implemented during the Capability meetings and Review Periods. The Panel will hear representations from the Senior Leader who has managed the Capability procedure and the employee for whom there are performance concerns.

The following outcomes may be determined:

- If the Panel is satisfied that the employee has made sufficient improvement, the Capability Policy will cease to apply.
- If it is deemed that significant progress has been made and there is confidence that further improvement is likely, it may be appropriate to extend the Final Written Warning and the Review Period.
- If performance remains unsatisfactory, the Panel will decide to dismiss the employee on the grounds of capability, with appropriate contractual notice. The Panel will decide whether the notice is to be served or whether there will be pay in lieu of notice.

The outcome of the meeting, along with a record of the key discussion

points and agreed actions, will be provided to the employee in writing. It will also be saved on the individual digital staff file.

The employee will be notified of their right of appeal.

7. Alternative employment

At any stage during the Capability procedure, consideration may be given to the employee being given a different range of duties or an alternative post. By agreement, this may include transfer to a post suited to the employee’s capabilities. If this post is at a lower salary level, the substantive lower salary would apply.

8. Sickness Absence

It is important that sickness absence should not delay or avoid the implementation of the Capability Policy as it is in the interests of all parties to address concerns about performance without undue delay.

If an employee hits the trigger levels, set out in the Sickness Absence Policy, while having performance concerns addressed under the Capability Policy, advice will normally be sought from Occupational Health to determine the employee’s fitness to work and also their fitness to attend formal meetings. If the employee is not fit to attend a Capability meeting, they will be fully supported to present a written submission for consideration and/or be represented by a companion in their absence but the Capability process will not automatically cease or pause.

Consideration will be given to whether underperformance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee’s working arrangements.

Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
May 2024		New Policy Statement	Review of Stour Vale Academy Trust policies New policy framework

Policy Owner	Central HR Team
Date Adopted	24 September 2024
Last Reviewed	
Next Review Date	
Category	A Policy
<i>Stour Vale Academy Trust Policy Categories</i>	
A policy	To be determined by Trust Board and adopted by LGB/IEB. Central Team will add to draft LGB/IEB agenda for adoption.
B policy	To be determined by Trust Board. HT and LGB/IEB discuss appendices to apply locally and consult staff locally on these. Central Team will add to draft LGB/IEB agenda for adoption.
C policy	Trust introduction and/or government guidance provided by Central Team. HT and LGB/IEB discuss draft policy and consult staff locally. Central Team will add to draft LGB/IEB agenda for adoption.
D policy	HT and LGB/IEB discuss draft policy and consult staff locally. Schools to decide at which meeting D policies are approved and add to LGB/IEB agenda.