



Capability Policy for support staff at Wincle CE Primary School



Version: APPROVED

Updated: November 2023

Wincle CE Primary School
Wincle
Macclesfield
Cheshire
SK11 0QH
Tel: 01260 212 592
Headteacher: Mrs S Smith
Chair of Governors: Dr J Miller

CAPABILITY POLICY WINCLE C. E. SCHOOL

Version control

Date updated:	Brief summary of changes:
November 2023	No changes

Our school's vision:

Wincle School creates an enriching and outstanding rural education, nurturing the whole individual: body, mind and soul, inspiring rounded, happy, courageous children who exhibit a passion for learning, a confident faith, a loving concern for community and an inclusive respect for all.

The governors of Wincle School value all members of the school community: staff, pupils and parents and **nurture** everyone's strengths and weaknesses. Support is given in a **respectful** and **compassionate** way when it is required.

We encourage our pupils to 'Shine like Stars' (Philippians 2:15) and to do this run with the following acronym:

S	Service	<p style="text-align: center;">★ No act of kindness, no matter how small, is ever wasted." Aesop</p> <p>★ We would like our pupils to have the confidence to know that they can make a difference: have hope for the future.</p> <p style="text-align: center;">★ We encourage our pupils to challenge injustice and inequality</p>
T	Theology	<p>★ Our principles are founded on the truth that we are loved by the Father, Saved by the Son and Sanctified by the Holy Spirit.</p> <p>★ We want to ignite passion and curiosity for learning, providing an exciting curriculum to inspire all learners to be the best they can be.</p>
A	Attitude	<p style="text-align: center;">★ We encourage our pupils to show integrity</p> <p>★ We would like our pupils to have the courage to fight for what is important</p> <p>★ When things are challenging, we would like our pupils to display perseverance and not give up.</p> <p>★ Learn from yesterday, live for today, hope for tomorrow" Albert Einstein</p>
R	Relationships	<p style="text-align: center;">★ We nurture the whole individual: body, mind and soul</p> <p>★ We encourage the pupils to respect every living creature and show compassion.</p> <p>★ We would like our children to treat other people as they would like to be treated following Jesus' example.</p> <p style="text-align: center;">We are all unique</p> <p style="text-align: center;">We help all children build trusting relationships</p> <p>★ Clothe yourselves with compassion, kindness, humility, gentleness and patience.' (Colossians 3:12)</p>
S	Shine like stars	<p>★ "I am the Light of the world; he who follows Me will not walk in the darkness, but will have the Light of life." (John 8:12)</p> <p>★ We would like our pupils to shine in their behaviour, attitudes, relationships and learning.</p>

SCOPE

This policy and procedure applies to all support staff of Wincle CE Primary School. This policy and procedure only applies to employees. It does not apply to agency workers or self-employed contractors. It does not form part of any employee's contract of employment and therefore the School may amend it at any time.

POLICY STATEMENT

The School believe that it is important employees are recognised and valued for their efforts and achievements, and that honest and meaningful feedback is provided on areas where employees can improve and develop their talent; both for their own benefit and that of the School. Where problems or issues with an employee's work performance do occur, it is equally important that there is a proper framework for dealing with these in order that people can be treated fairly and consistently.

Capability issues (non-health related) should normally be resolved within two terms.

This policy explains:

- What an employee can expect from the School and what the School expects of them.

CAPABILITY POLICY WINCLE C. E. SCHOOL

- The importance attached to the School's aim to resolve matters at the earliest possible opportunity.
- The action that may be taken under a formal capability process.
- An employee's rights under that process, including the right to be accompanied and the right to a fair hearing.

WHAT AN EMPLOYEE CAN EXPECT FROM THE SCHOOL

The School will:

- Seek to ensure that employees mental health and wellbeing is always treated as a priority, making sure they are supported if facing such issues.
- Set out clear standards and performance objectives with realistic timescales for delivery, including what behaviours and competencies an employee is required to demonstrate.
- Ensure that employees are given the necessary training to carry out their job effectively.
- Work with employees, enabling them to do their best work every day with the right resources, tools and technology.
- Provide employees with regular, meaningful and constructive feedback on their performance through one-to-ones and performance review meetings.
- Recognise and value employees hard work and contribution, giving praise and recognition for things they have done well whilst identifying any areas for improvement.
- Aim to resolve matters informally, wherever possible.
- Ensure that Managers receive training to enable them to deliver on behalf of the School and this is properly recorded.
- Ensure that if an employee has a disability, reasonable adjustments are made where practicable to support them in the workplace.
- Listen, respond and act appropriately and in a timely manner when an employee tells the School about something that is inappropriate or wrong.

The Head Teacher is key to enabling the school's commitment to its employees

WHAT THE SCHOOL EXPECTS OF ITS EMPLOYEES

The School expects employees to:

- Apply themselves and work to the best of their ability at all times.
- Actively seek opportunities to improve, in particular take up any training and development opportunities that may be available.
- Engage honestly with their Head Teacher and ask for help when needed.
- Be prepared to take responsibility if things are not going well and work with their Manager to put them right.

CAPABILITY POLICY WINCLE C. E. SCHOOL

- Tell their Head Teacher if they see or experience anything that is inappropriate or wrong so that the issue or complaint may be properly investigated in a timely manner and, if appropriate, action taken.

Act reasonably and co-operate with the terms of the policy.

ACKNOWLEDGING GOOD PERFORMANCE

It is important that employees receive regular, meaningful and constructive feedback from their Manager, particularly when it is acknowledged that they are performing well. Recognition of good performance is appropriate where someone has:

- Done something “above and beyond the call of duty”.
- Significantly improved performance by their own efforts.
- Consistently met all expectations over a long period of time.

IDENTIFYING AREAS FOR IMPROVEMENT

There may also be times when things are not going well, and the Head Teacher may need to speak to an employee about areas where they need to improve. It is important that these conversations are conducted honestly with genuine intentions to provide constructive and helpful feedback. An employee may also feel that they would benefit from extra training or there may be other factors that could be temporarily affecting their performance.

It is important therefore that any discussion about improvement is a two-way conversation and that both parties come away with a clear understanding of what needs to be done.

DEALING WITH PROBLEMS INFORMALLY

Having regular, meaningful and constructive one to one conversations with their Head Teacher will improve communication and reduce the likelihood of problems or concerns with work performance arising. However, in circumstances where problems with work performance do occur, the School believe it should be possible to resolve these quickly and informally. Often, the right word at the right time and in the right manner is sufficient to make someone aware that there has been a shortfall in their performance and what they need to do to address it.

The one to one conversations will enable both the employee and their Head Teacher to reach an understanding of any issues, develop and agree an Action Plan with set objectives to address and improve performance. Although these meetings are informal, employees will have regular performance review meetings which will be recorded appropriately. This will provide additional support and identify any issues which could be affecting their ability to undertake the activities agreed in the Action Plan. Where problems continue after previous informal discussions and following a further assessment, it may be necessary to progress to the School's formal Capability process.

Where appropriate, a note of any such informal discussions may be placed on the employees' personal file but will be disregarded for the purposes of any future capability hearings. The formal

CAPABILITY POLICY WINCLE C. E. SCHOOL

procedure should be used for more serious cases, or in any case where an earlier informal discussion has not resulted in a satisfactory improvement.

At the same time, if an employee believes at any time that they have been subject to inappropriate behaviour or conduct from another person, then they must report this to their Head Teacher who will treat it seriously and consider how the matter should be dealt with.

DISABILITIES

Consideration will always be given to any disability related issues. Disability is defined under the Equality Act 2010 as a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on an individual's ability to do normal daily activities.

If any aspect of a shortfall in an employee's performance may relate to a disability, advice will be taken from the School's occupational health provider in order to consider whether any reasonable adjustments may need to be made to their working arrangements, including changing duties, providing additional training or, if appropriate, making adjustments to the application of the procedure. If an employee wishes to discuss this or inform the School of any medical condition they consider relevant, they should speak to their Head Teacher. There is no automatic obligation for an employee to disclose a disability or health condition to the School, although they should inform their Head Teacher if they consider their disability and/or health condition affects their ability to undertake their work and/or poses a health and safety risk. It should also be noted that the School is under no obligation to consider making reasonable adjustments unless it is made aware that an employee has a disability.

If an employee is a member of a trade union, they can also request advice or support from their union with regards to a disability(s) at any point.

Furthermore, if an employee advises the School that they have any disability related needs that should be considered to enable them to participate in such a meeting, then the School will make any reasonable adjustments that are required, to enable them to do so. It will also do the same for any subsequent capability or appeal hearings.

FORMAL CAPABILITY PROCESS

Lack of capability can be defined as a situation where someone is unable to effectively carry out the reasonable and fundamental requirements of their job and/or is unable to consistently demonstrate the necessary skills and aptitude, to an acceptable standard. Causes could include a lack of skills, inadequate training, lack of support or resources, problematic working relationships, a change in health, outside stressors, lack of communication or a misconception about their role, standards and responsibilities. Whatever the causes, it is important that these are identified quickly so that an employee can bring their performance up to the required standard as soon as possible.

"Capability" is different to "misconduct" which is a situation where someone is not performing satisfactorily as a result of wilful negligence, carelessness, or lack of effort. Such cases will be dealt with under the School's Disciplinary Policy and Procedure as misconduct.

CAPABILITY POLICY WINCLE C. E. SCHOOL

SAFEGUARDING

If an employee works directly with children and it is identified that they may have a capability issue, the School may decide to remove them from normal duties, in order to provide further training or to enable them to job shadow with another colleague. They will not resume their normal duties until such time as their Head Teacher is satisfied that a return to post will not compromise the School's safeguarding responsibilities. During this period of training and support, their employment terms and conditions will remain unchanged.

PERFORMANCE FALLS SHORT OF ACCEPTABLE STANDARDS

An employee will be invited to a formal Capability Review Meeting if they have not maintained performance to an acceptable level following normal day to day management support and guidance, and if it is considered that there are grounds for taking formal action. The employee will be notified in writing of the concerns in relation to their performance, the reasons for those concerns, and the likely outcome if it is decided after the hearing that their performance has been unsatisfactory.

FORMAL REVIEW MEETINGS

The Capability Review Meeting will be conducted with the Head Teacher, who will act as the Review Manager. Before the meeting the Review Manager will write to the employee, detailing the evidence as to why their performance is considered to be unsatisfactory and reminding them of the right to be accompanied at the meeting. An employee may be accompanied by a companion at such a meeting. Their companion may be a fellow worker, a trade union representative or an official employed by a trade union.

An employee will be given advance notice of at least 5 working days for formal meetings (Stage 1 and Stage 2) and at least 10 working days for a hearing (Stage 3) in order that they can come to the meeting fully prepared to discuss their concerns.

The employee may ask relevant witnesses to appear at the meeting, provided that they give the School sufficient advance notice to arrange their attendance. The meeting also gives the employee the opportunity to tell the Review Manager if there are any particular problems or information, they want them to be aware of and to discuss whether the School can do anything to help. A written note will be taken during any meetings that are arranged as part of this process.

If the employee or their companion cannot attend the meeting, they should inform the School immediately, who will usually arrange an alternative time. If their companion is unavailable at the time a hearing is scheduled and will not be available for more than 5 working days, the School may require the employee to choose someone else. The employee must make every effort to attend the meeting, and failure to attend without good reason may be treated as misconduct. If the employee fails to attend without good reason or are persistently unable to do so, the School may have to take a decision based on the available evidence, including any written representations the employee has made.

At the meeting, the Review Manager will discuss with the employee:

CAPABILITY POLICY WINCLE C. E. SCHOOL

- Specific examples to illustrate why their performance is not considered satisfactory and setting out the required standards the employee may have not met.
- Details of any induction and training that has been undertaken and identifying any additional training, supervision or other measures that may assist with performance.
- Assessments from recent performance development reviews.
- Any evidence of complaints from colleagues, stakeholders, partners or members of the public.
- Performance statistics or targets relevant to their contractual job role.
- The likely causes of poor performance including any reason(s) (including personal issues) why measures taken so far have not led to the required improvement.
- If dismissal is a possibility, establishing the likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal.

The Review Manager will also consider all individual circumstances of the case and the employee will also have the opportunity to ask any questions and present any evidence.

The Review Manager will consider, in particular any disability related issues. If any aspect of the shortfall in performance may relate to a disability the Review Manager must always seek advice from the School's occupational health provider in order to consider whether any reasonable adjustment may need to be made in the circumstances.

During the meeting, the Review Manager will discuss and consider what action needs to be taken to enable the employee to maintain a satisfactory level of performance. This discussion will enable both the employee and their Head Teacher to reach an understanding of the problem and develop and agree an Action Plan to improve performance.

An agreed Action Plan should:

- Identify the areas in which the employee has not met the required performance standards.
- Confirm what improvements need to be made.
- Set a realistic timescale for a performance improvement, e.g., 3 to 6 months, and identify review periods for the performance improvement to be demonstrated, having regard to the nature of the job role and improvements that are required.
- Identify all necessary training and guidance to be provided to support the improvement.
- Be supportive, and where appropriate, seek to identify and assist with any issues affecting wellbeing
- Schedule regular meetings to discuss progress.
- Identify an agreed appropriate method of reviewing performance.
- Set out the implications of not meeting the required standards within the review period or of further unsatisfactory performance.

The Review Manager will also consider whether it is now appropriate to issue a formal written Improvement Notice (see below).

CAPABILITY POLICY WINCLE C. E. SCHOOL

Please note if, during either the review period or at any time throughout the process, it is found that an employee's performance has been grossly negligent such as to warrant dismissal without the need for a final written warning, they will be invited to a Stage 3 Capability Hearing.

FIRST FORMAL STAGE – FIRST WRITTEN IMPROVEMENT NOTICE

A first written Improvement Notice will be issued where it is found that performance falls short of acceptable standards. This will set out:

- the areas in which the employee has not met the required performance standards;
- the level of improvement that is required, including targets for improvement;
- any measures, such as additional training or supervision which will be taken with a view to improving performance;
- how long the review period will last, e.g. half a term/ a full term or applicable weeks in accordance with the agreed Action Plan;
- the implications of not meeting the required standard(s) within the review period or of further unsatisfactory performance, i.e., that it may lead to a final written Improvement Notice; and
- the right of appeal against the decision (see [Appeals](#) section).

A review period will be agreed, in line with the agreed Action Plan, during which time performance will remain under review. At the end of the review period, if performance has improved to the required standard(s), the employee will be advised of this in writing and normal review arrangements will be resumed (see note below). If there has been some, but insufficient, improvement, the review period may be extended.

Note. A record of this Improvement Notice will be kept but will be disregarded for capability purposes after a period of 9 months, subject to achieving and maintaining satisfactory performance during this period. This means that if an employee is advised that normal review arrangements will be resumed but their performance falls short of acceptable standards during the lifespan of the first Improvement Notice, their Head Teacher may move them to the Second Formal Stage (see below).

SECOND FORMAL STAGE – FINAL WRITTEN IMPROVEMENT NOTICE

If, during either the review period or at any time throughout the lifespan of a first written Improvement Notice, there is found to be insufficient improvement in performance the employee will be invited to a further Capability Review Meeting which will be conducted in line with the arrangements for [Formal Review Meetings](#) as set out previously, and details of the agreed Action Plan will be reviewed.

A final written Improvement Notice will be issued where it is found that performance has continued to fall short of acceptable standards. This will set out:

- the areas in which the employee has not met the required performance standards;

CAPABILITY POLICY WINCLE C. E. SCHOOL

- the level of improvement that is required, including targets for improvement;
- any measures, such as additional training or supervision which will be taken with a view to improving performance;
- how long the review period will last, e.g., half a term or full term/ or applicable weeks in accordance with the agreed Action Plan;
- the implications of not meeting the required standard(s) within the review period or of further unsatisfactory performance, i.e., that it may lead to dismissal; and
- the right of appeal against the decision (see [Appeals](#) section).

A further review period, in line with the agreed Action Plan, will be agreed during which time performance will remain under review. At the end of the review period, if performance has improved to the required standards the employee will be advised of this in writing and normal review arrangements will be resumed (see note below). If there has been some, but insufficient, improvement, the review period may be extended.

Note. A record of this Improvement Notice will be kept but will be disregarded for capability purposes after a period of 12 months, subject to achieving and maintaining satisfactory performance during this period. This means that if the employee is advised that normal review arrangements will be resumed but their performance falls short of acceptable standards during the lifespan of the second Improvement Notice, their Head Teacher may move them to the Third Formal Stage (see below).

THIRD FORMAL STAGE – CAPABILITY HEARING

If, during either the review period or at any time throughout the lifespan of a final written Improvement Notice, there is found to be insufficient improvement in an employee's performance or as noted earlier if performance has been grossly negligent such as to warrant dismissal without the need for a final written warning, the employee will be invited to a Stage 3 Capability Hearing. This hearing will be chaired, if not previously involved, by the Head Teacher. Where there has been previous involvement from the Headteacher a Governor will be elected. The hearing will be conducted in line with the arrangements for [Formal Review Meetings](#) as set out previously, and written notification will be sent to the employee.

If after consideration of all the available evidence, the Head Teacher or Governor finds that the employees performance remains unsatisfactory, and they are satisfied that the employees had every opportunity to state their case and the Head Teacher or Governor has sufficient information on which to reach a decision, a decision will be taken with regard to the employees continued employment.

At this point the employee may be:

- redeployed into another suitable job if there is a suitable opportunity;
- dismissed with notice (or payment in lieu of notice); or
- a further review period may be set.

CAPABILITY POLICY WINCLE C. E. SCHOOL

They will be informed in writing of the decision and reasons for it usually within 5 working days of the hearing (The employee will be contacted and kept updated if they are not informed within 5 working days). Also, wherever possible the School will also explain this information in person.

If the School find that performance has been so negligent as to amount to gross misconduct, the employee may be dismissed without notice or any pay in lieu. Where a decision is made to terminate an employee's employment, they will be provided in writing the reasons for dismissal, the date on which the employment will terminate and advised of their right of appeal (see [Appeals](#) section below).

With regard to community and controlled schools, a letter will also be sent from the local authority.

APPEALS

If an employee is given a formal written Improvement Notice or is dismissed under this procedure, they have the right to appeal. If an employee wishes to appeal, they must do so in writing using the employee Capability Appeal Form, within 10 working days of receipt of the outcome letter, to:

- the Head Teacher who issued the Improvement Notice at the First or Second Formal Stage; or
- the Chair of Governors in the first instance when appealing against dismissal or any sanction imposed at the Third Formal Stage.

They must also set out the grounds on which they believe that the decision was flawed or unfair. An appeal hearing will not be arranged until the grounds have been received.

An appeal must have proper grounds that should normally relate to one of the following:

- there have been serious shortcomings in the procedure;
- new evidence, not available during the original Review Meeting/Hearing, has emerged; or
- the decision/conclusion reached by the Review/Hearing Manager is wholly unreasonable, having regard to the evidence presented.

If an employee raises any new matters in their appeal, the School may need to carry out further investigation. The employee should provide copies of any additional relevant documents and witness statements they intend to rely on at the appeal at least 5 working days before the appeal date to allow the School a reasonable opportunity to consider the information before the hearing and decide whether it needs to carry out further investigation in which event the hearing may be adjourned. The employee will be given a reasonable opportunity to consider any new information that may come to light following any further investigation.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the School's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

CAPABILITY POLICY WINCLE C. E. SCHOOL

The employee will be invited to an Appeal Hearing and the aim will be for it to take place in no more than 30 working days following the receipt of the appeal. The employee may be accompanied at the appeal hearing by a companion. The companion may be a fellow worker, a trade union representative or an official employed by a trade union.

The Head Teacher will nominate a trained independent Governor who will act as the Appeal Manager. At the Appeal Hearing, the original decision and any sanction imposed will be reviewed. Appeals against dismissal will be considered by an Appeal Panel of the Governing Body with full delegated power. An appeal panel will consist of at least three governors who have not previously been involved with the case (i.e., it must exclude members of the Hearing Panel). Where insufficient such governors are available, the appeal may be heard by two governors, but there will be no fewer than the number that made the initial decision.

Following the appeal hearing the School may:

- confirm the original decision;
- revoke the original decision; or
- substitute a different sanction.

The outcome of the appeal will be confirmed in writing, explaining the grounds on which the decision was reached. Any decision on appeal will be final.

DATA PROTECTION

The School will ensure that personal data is handled in accordance with the organisation's data protection policy and policy on processing special categories of personal data.

The aim is to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this capability procedure.

The employee, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

The employee will normally be told the names of any witnesses whose evidence is relevant to the capability hearing, unless it is believed that a witness's identity should remain confidential.

EQUALITY

The School is committed to promoting equal opportunities in employment. employees (and any job applicants) will receive equal treatment regardless of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, religion or belief, sex or sexual orientation or caring responsibility. This means that the application of the policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

CAPABILITY POLICY WINCLE C. E. SCHOOL

MONITORING AND REVIEW

The School will monitor this policy to ensure that it is operating fairly, consistently, and effectively. The policy will be reviewed in the light of operating experience and/or changes in legislation.