



MANOR
MULTI ACADEMY TRUST

Capability Policy and Procedure

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MULTI ACADEMY TRUST

Capability Policy and Procedure

Manor Multi Academy Trust

Date adopted by the MAT	July 2022
This policy is scheduled for review on	Annually

This policy does not form part of the contract of employment and may be amended from time to time in consultation with the recognised trade unions.

This policy has been fully consulted on with the following trade unions ASCL, NASUWT, Unison, NEU and GMB and was implemented by Manor Multi Academy Trust on the above Date

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Introduction

Manor Multi Academy Trust (MMAT) is committed to adopting policies and procedures to encourage a positive working environment and a health and safety culture to improve and maintain performance of all Teachers and Support staff working in the Trust. This policy is designed to support employees in improving their practice and the procedure aims to ensure that any capability issue is dealt with in a fair, prompt and supportive manner.

It is strongly recommended that the Headteacher/Head of School/Executive Head/Deputy CEO/CEO/Chair of the Trust Board seek advice and support from the Trust's HR Provider to determine the appropriate procedure before commencing any case under this policy and to ensure attendance at relevant meetings/hearings/appeals. Failure to follow the adopted policy could undermine the process.

This policy has been adopted after consultation with the recognised trade unions and professional associations. MMAT are responsible for ensuring the effective implementation of this Policy. As part of equality monitoring MMAT will review and monitor the operation and impact of the Policy on a regular basis and in line with the policy review date. All future amendments to the policy will be consulted on with the recognised trade unions.

Any documentation or evidence collected in conjunction with the application of this policy will be treated as confidential and information will only be shared with parties on a need-to-know basis. All data collected and stored will be in line with the Data Protection Act 2018 and the Trust's Data Protection Policy.

The data recorded in the application of this policy will be subject to an equality impact assessment. The results of this assessment will be discussed and consulted on as part of the policy review process.

1. Scope

- 1.1 This Policy and Procedure applies to all employees of MMAT, with the exception of newly qualified teachers, who have their performance managed through the Early Careers Teacher's induction process. For employees that are subject to TUPE and have more favourable contractual terms, then these will continue to apply.
- 1.2 This procedure is for Headteachers/Head of Schools/Executive Heads/Deputy CEO/CEO/Chair of the Trust Board to follow when dealing with capability issues.

2. Principles

- 2.1 Headteachers and Heads of Schools or their nominee will apply the Procedure. Where the Procedure is to be applied to the Headteacher, it will be applied by the Deputy CEO/CEO/Chair of Trust Board, acting with professional HR advice.

2.2 In respect of trade union or professional association representative no action will be taken under the formal review stage until the circumstances of the case have been discussed with a senior representative or paid official of the relevant trade union or professional association.

2.3 Trust Board Members should be aware that their involvement in the early stages of these procedures will prevent their subsequent involvement should a dismissal and appeals meeting be required.

3. Employees' Responsibilities

3.1 Employees have a contractual responsibility to perform the requirements of their job to a satisfactory level and in line with the appropriate standards. To achieve this, employees are expected to:

- Use allocated resources effectively and make requests for additional resources where they feel necessary and work within Trust regulations to achieve all the requirements of their role to the required standard and within the required timescales
- Work to the best of their ability and participate in self-development activities as agreed with their line manager – full CPD opportunities will be provided by the Trust.
- Attend work in accordance with their Conditions of Employment and make the best use of their time at work
- Fully engage in discussions about their role and performance and development, including the Appraisal process.

4. Manager's Responsibilities

4.1 Good management should lead to the ability to give advice, support and encouragement as part of the day-to-day management function and shall not form any part of an employee's record.

4.2 It is the responsibility of the employer to ensure that the employees are aware of the standards of performance required of them, that they have been provided with reasonable opportunity to fulfil those requirements and understand the consequences of not meeting them. Managers should ensure that employees:

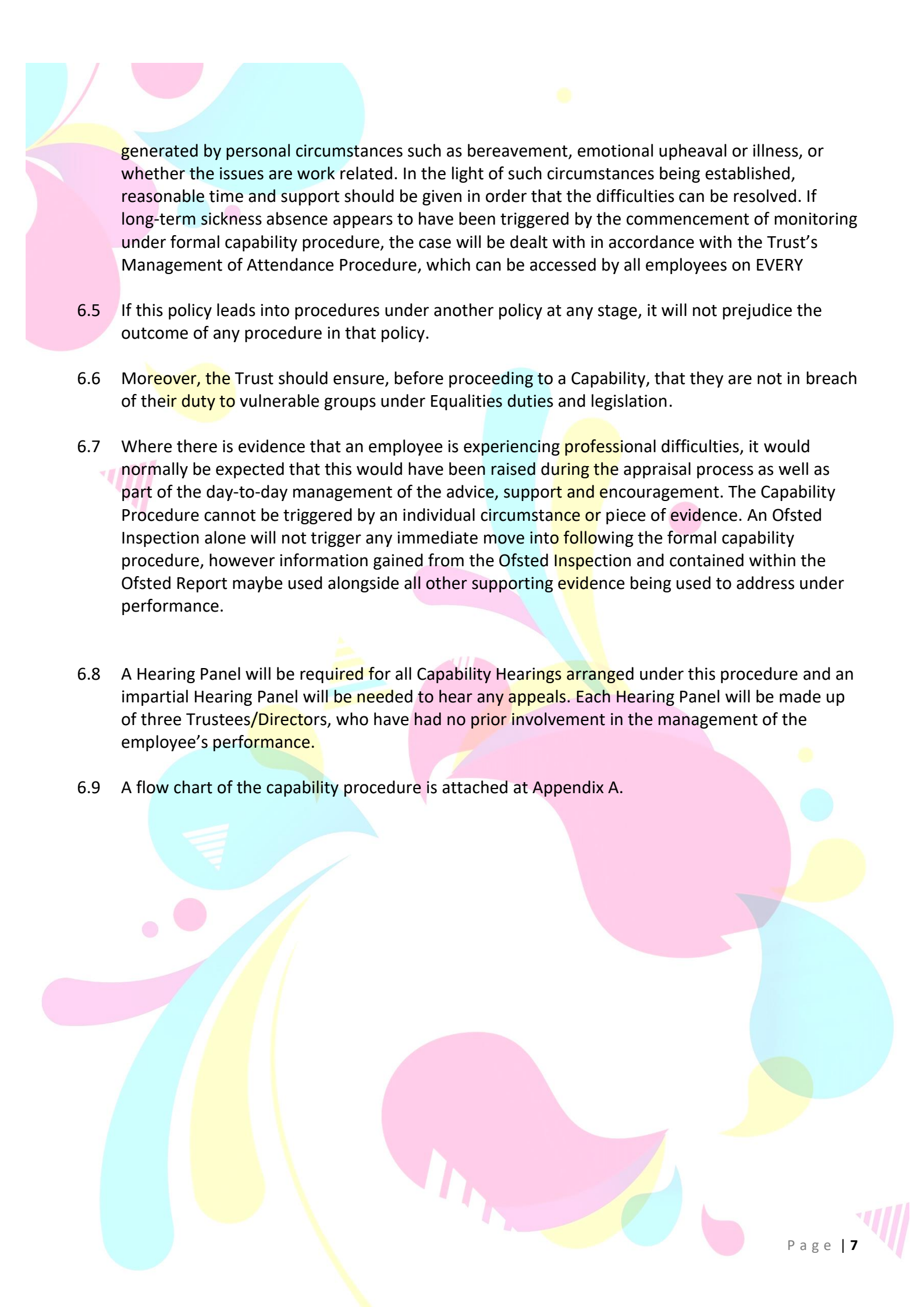
- Are aware of what is expected of them in their role and function
- Are given the necessary guidance, training and resources to fulfil their role and to meet required standard of performance
- Receive regular feedback on their work and performance

5. Equal Opportunity Policy

- 5.1 The Trust recognises that the Equality Act 2010 covers the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.
- 5.2 Under the Equality Act 2010 it is unlawful to discriminate against a disabled person for reasons related to their disability. Disability covers both physical and mental impairments that have a substantial and long term effect (i.e. has lasted or is expected to last for at least 12 months) on the person's ability to carry out normal day to day activities.
- 5.3 Progressive conditions, such as HIV, cancer and multiple sclerosis, are considered a disability immediately from the point of diagnosis and do not need to last for a year. However, addictions to non-prescribed substances are specifically excluded.
- 5.4 Where an employee meets the definition of disabled person under the Equality Act 2010 employers are required to make reasonable adjustments to any elements of the job which place a disabled person at a substantial disadvantage compared to non-disabled people. Employers are only required to make adjustments that are reasonable. Factors such as the cost and practicability of making an adjustment and the reasons available to the employer may be relevant in deciding what is reasonable.

6. Procedure

- 6.1 The success of any school is dependent upon the performance and wellbeing of its employees, therefore, schools within MMAT should be committed to making the best use of their potential by improving and maintaining their development and performance.
- 6.2 It is important to recognise that many potential problems and difficulties that may arise can be and should be resolved by provision of additional informal support identified through an extended appraisal process. This procedure is intended to operate in respect of formal action only. Good management should lead to the ability to give advice, support and encouragement as part of the day to day management function and shall not form any part of an employee's record. Before embarking on a formal capability procedure, the Deputy CEO/CEO/Chair of the Trust board (in the case of Headteachers or Heads of School) or Executive Headteachers/Headteachers/Heads of School (in the case of other employees) must be able to evidence that every aspect of support has been fully exhausted and have failed to achieve the required improvements.
- 6.3 The formal procedures should only be used in those situations where clear triangulated evidence shows that the employee is failing to consistently to perform their duties to a professionally acceptable standard and where issues remain unresolved after various methods of support have failed to achieve a satisfactory outcome.
- 6.4 In addition, in order to identify the cause of a decline in performance or failure to meet required standards of an employee, the Trust should investigate whether the situation has been



generated by personal circumstances such as bereavement, emotional upheaval or illness, or whether the issues are work related. In the light of such circumstances being established, reasonable time and support should be given in order that the difficulties can be resolved. If long-term sickness absence appears to have been triggered by the commencement of monitoring under formal capability procedure, the case will be dealt with in accordance with the Trust's Management of Attendance Procedure, which can be accessed by all employees on EVERY

- 6.5 If this policy leads into procedures under another policy at any stage, it will not prejudice the outcome of any procedure in that policy.
- 6.6 Moreover, the Trust should ensure, before proceeding to a Capability, that they are not in breach of their duty to vulnerable groups under Equalities duties and legislation.
- 6.7 Where there is evidence that an employee is experiencing professional difficulties, it would normally be expected that this would have been raised during the appraisal process as well as part of the day-to-day management of the advice, support and encouragement. The Capability Procedure cannot be triggered by an individual circumstance or piece of evidence. An Ofsted Inspection alone will not trigger any immediate move into following the formal capability procedure, however information gained from the Ofsted Inspection and contained within the Ofsted Report maybe used alongside all other supporting evidence being used to address under performance.
- 6.8 A Hearing Panel will be required for all Capability Hearings arranged under this procedure and an impartial Hearing Panel will be needed to hear any appeals. Each Hearing Panel will be made up of three Trustees/Directors, who have had no prior involvement in the management of the employee's performance.
- 6.9 A flow chart of the capability procedure is attached at Appendix A.

7. Capability

7.1 Capability vs Disciplinary

A distinction must be drawn between the procedure for capability and the procedure for disciplinary issues. Capability applies to those situations where an employee's performance is unacceptable because they are unable to perform their duties to the required level (due to lack of ability, skill, experience or inadequate training).

7.2 Disciplinary issues apply to those situations where the employee is capable but willfully refuses to perform to the required standard. Such neglect of duty usually involves an element of culpability which may have arisen from lack of motivation or inattention to detail. These latter issues are a matter of conduct and should not be dealt with under the capability procedure but should be dealt with in accordance with the MMAT Disciplinary Procedure, which can be accessed by all employees on EVERY. Apparent lack of motivation or inattention to detail can also be a sign of an underlying health or personal issue, if through the process of the disciplinary investigation there is evidence of this the Trust will seek to resolve these issues in a sensitive manner.

7.3 HR advice should be sought prior to proceeding and throughout either procedure.

8. Preliminary Capability Meeting

8.1 Only the Headteacher/Head of School/ Executive Head/Deputy CEO/CEO/Chair of the Trust Board can commence a capability process.

8.2 Where the capability procedure is being considered for either the Headteacher/Head of School or other employees, the Executive Head/Deputy CEO/CEO/Chair of the Trust Board (in respect of the Headteacher/Head of School) or Headteacher/Head of School (in respect of other employees) will convene a meeting.

8.3 This preliminary meeting is to provide an opportunity for the information collated to be discussed. It is intended to establish the facts and may provide additional information. At least five working days' notice will be given. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the employee to prepare a response. It will also contain copies of all evidence; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a work colleague or a trade union official, or a trade union representative who has been certified by their union as being competent.

8.4 Employees who are unable to attend the preliminary capability meeting, for a valid reason (including if they need more time to prepare), or because their trade union representative or work colleague cannot attend may offer a reasonable alternative date within five working days of the original date. In instances where the employee becomes sick or has a stress related illness the matter should be dealt with under the Management of Attendance procedure.

- 8.5 At this meeting where the evidence of underperformance will be considered the employee and /or their representative will be able to offer explanation and/or refutation of the allegations and provide any supporting evidence.
- 8.6 The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns informally. In such cases, the formal capability procedure will not be instigated. The person conducting the meeting may also adjourn the meeting if, for example, they decide that further investigation is needed, that more time is needed in which to consider any additional information.
- 8.7 At the preliminary meeting or following the adjournment, the person conducting the meeting will decide whether or not to commence a capability process. If the capability process is to be commenced then a meeting should be held to formally suspend the appraisal process prior to moving forward, at this stage an initial action plan, support and timeframes for improvement will be agreed. The employee will receive all outcomes in writing within five working days of the meeting.
- 8.8 The employee will be given an initial timeframe of no less than six weeks to make improvements at the end of which the employee will be invited to a preliminary review meeting with at least five working days' notice given. At the review meeting the person conducting the meeting will need to consider if sufficient improvements have been made. Evidence will be discussed and the employee and/or their representative will be able to offer explanation and/or refutation of the allegations and provide any supporting evidence.
- 8.9 The outcome of the review meeting will be confirmed to the employee in writing within five working days of the meeting. The person conducting the meeting should make one of the following decisions:
- a) There has been sufficient improvement and so the appraisal process will be reinstated.
 - b) There has been no/insufficient improvement and so the employee will move to stage one of the formal capability process and will be invited to a Formal Capability Meeting
 - c) Further information is needed to establish a) or b)

9. **Formal Capability Meeting**

In line with Section 6.3 of this policy. The formal procedures should only be used in those situations where an employee fails consistently to perform his or her duties to a professionally acceptable standard and which remain unresolved after various methods of support have failed to achieve a satisfactory outcome.

- 9.1 At least five working days' notice will be given. The notification will contain a copy of the procedure, copies of any written evidence, the details of the time and place of the meeting and will advise the employee of their right to be accompanied by a work colleague or a trade union official, or a trade union representative who has been certified by their union as being competent. The notification will contain sufficient information about the concerns about performance. The employee will be allowed to make a submission/response/submit evidence in

2 working days in advance of the Formal Capability Meeting if they wish to. Employees who are unable to attend the formal capability meeting, for a valid reason (including if they need more time to prepare), or because their trade union representative or work colleague cannot attend may offer a reasonable alternative date within five working days of the original date. In instances where the employee becomes sick or has a stress related illness the matter should be dealt with under the Management of Attendance procedure.

9.2 During the meeting, the person conducting the meeting will:

9.2.1 Confirm which areas of performance, previously identified as a concern, still remain and provide clear evidence to support this conclusion, for example, which of the standards expected of the employees not being met;

9.2.2 Ask the employee to contribute to the meeting and make suggestions to improve their performance;

9.2.3 Give clear guidance on the improved standard of performance needed to ensure that the employees can be removed from formal capability procedures (this should include the precise descriptions of improvements that are required, focus on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);

9.2.4 Detail and agree the support that will be available to help the employee improve their performance, for example, coaching, training, in-class support, mentoring, peer mentoring, structured observations, visits to other classes or schools or discussions with advisory staff (this is not an exhaustive list);

9.2.5 Set out an agreed timetable for improvement and support and explain how performance will be monitored and reviewed. The timetable will depend on the circumstance of the individual case. It should be realistic, reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place. As a minimum the timescale for improvement should be no less than six working weeks.

9.2.6 Warn the employee that failure to improve within the set period could lead to dismissal.

9.3 Notes will be taken of formal meetings and a copy sent to the employee. The employee will be informed in writing, within five working days of the matters covered in the bullet points above and given information about the timing, handling of the review stage.

9.4 As well as the preliminary meeting, there will be a minimum of two formal capability meetings, known as stage one and stage two, before a referral to a capability hearing can be made.

10. Monitoring and Review Period

10.1 The agreed performance monitoring and review period will follow each formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The employee will be invited to a formal review meeting. As well as the preliminary monitoring

and review period, there will be a minimum of two monitoring and review periods within stages one and two of the formal capability process of no less than six weeks each.

11. Formal Review Meeting

11.1 The Executive Headteacher/Headteacher/Head of School (or Deputy CEO/CEO/Chair of the Trust Board in the case of the Headteacher/Head of School) will chair the meeting.

11.2 The evidence gathered during the monitoring and review period, any evidence presented and representations from the employee will be considered before reaching a decision.

11.3 A short adjournment should be taken to consider the information discussed at the meeting, in order to decide that;

a) The employee has made sufficient improvement. In this case the procedure will cease and the appraisal process will be reinstated. However, the employee is to be made aware that in achieving this, they are expected to continue to maintain the required standards. Should an employee's satisfactory improvement prove only to be of a temporary nature (less than 12-months) and the performance concerns are related, they are to be made aware of the option once the evidence has been assessed to return immediately to this point in the procedure.

b) Some progress is made and there is confidence that more is likely. In this case it may be appropriate to extend the monitoring and review period, for a reasonable amount of time No less than two weeks. Consideration will be given as to whether there are any additional support/further reasonable adjustments that could assist the employee to reach the required standard.

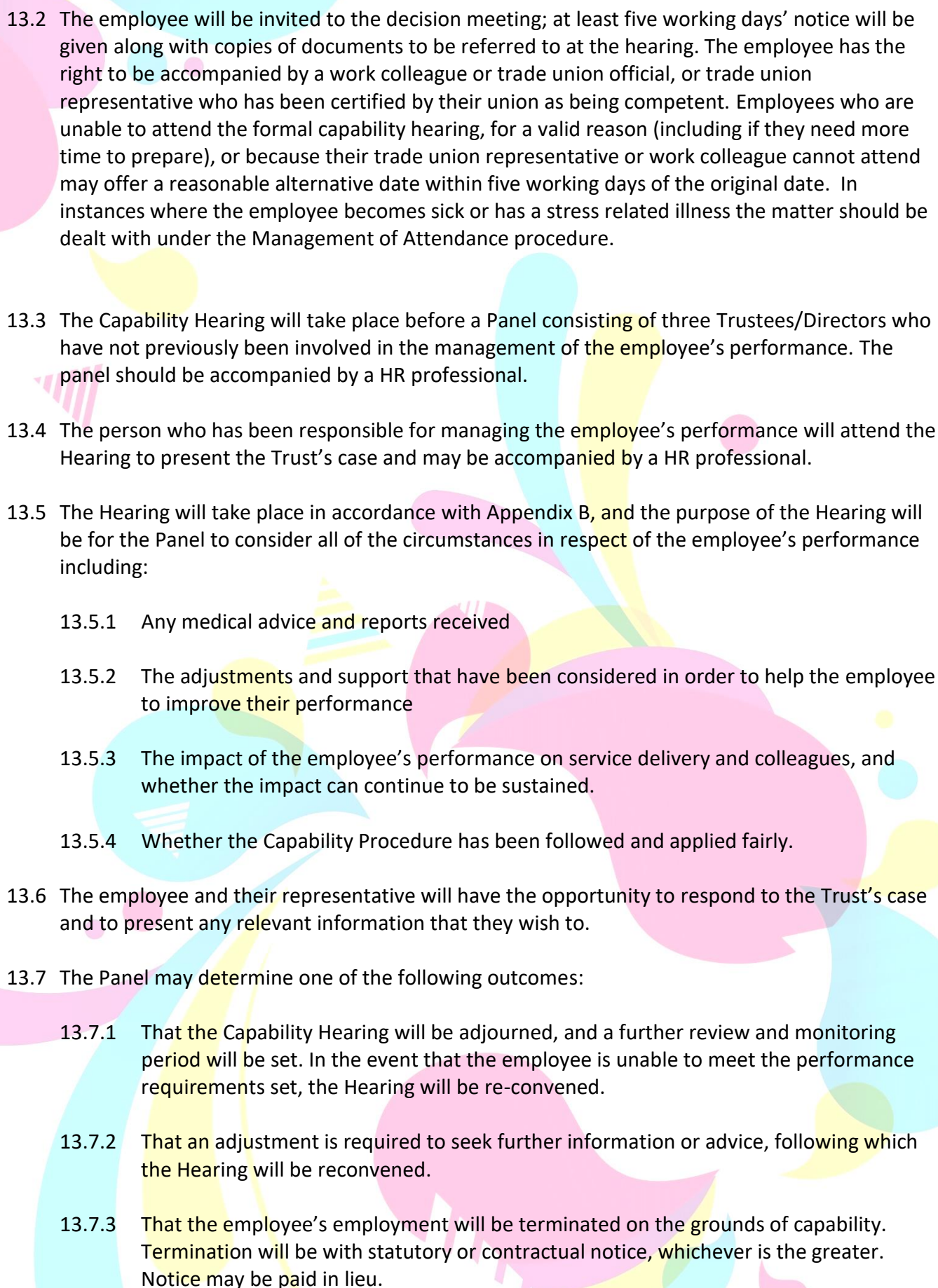
c) No or insufficient progress has been made during the initial monitoring and review period or the extended monitoring and review period. Following the first review meeting the employee should be informed that they are moving to stage two of the Formal Capability Process, they will be given no less than six weeks to make improvements. If no or sufficient progress is made within this timeframe then the employee should be informed that a Capability hearing will be convened, and their employment may be terminated on grounds of capability.

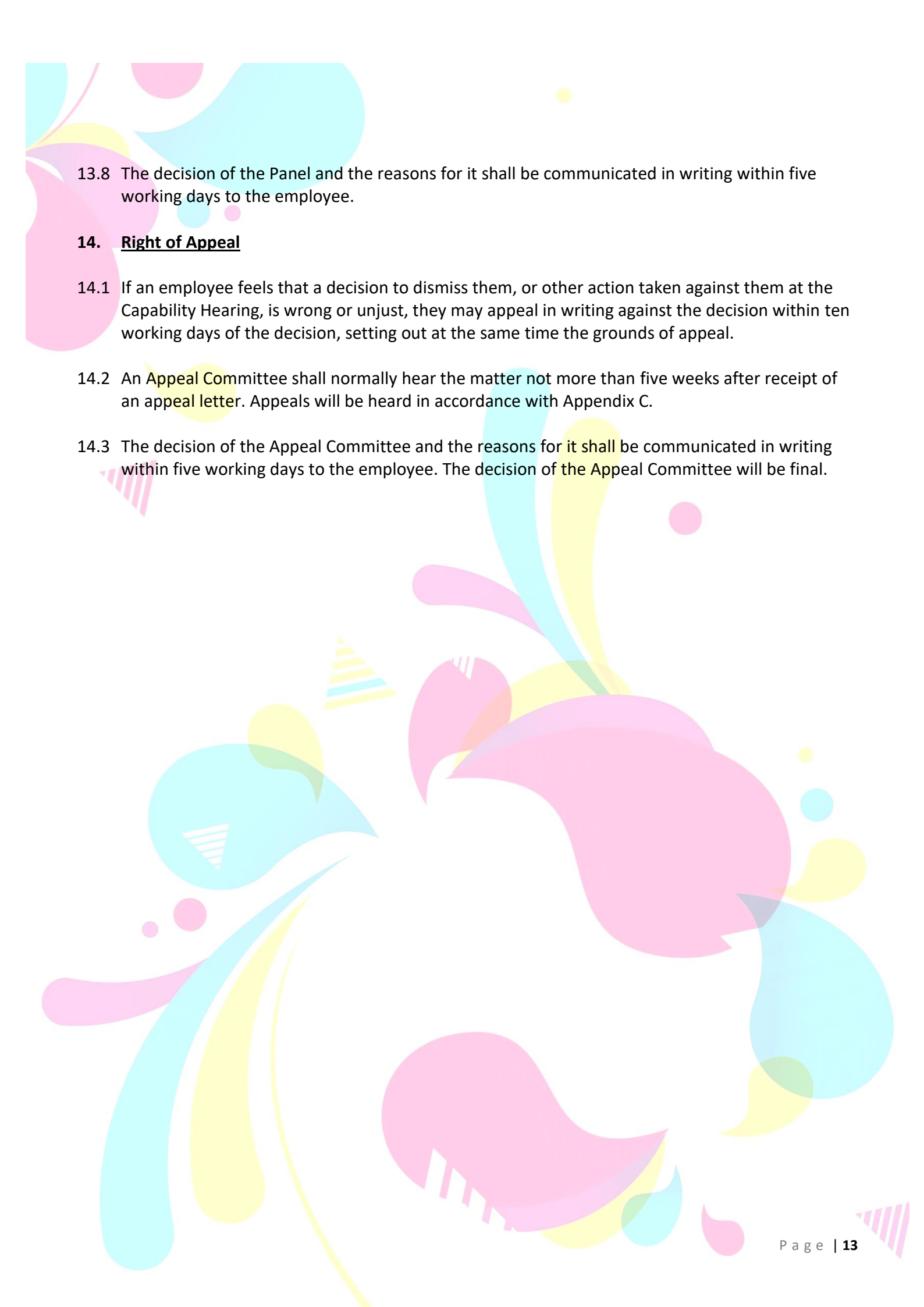
12. Confirming the Outcome of the Review Meeting

12.1 The outcome of the review meeting should be confirmed to the employee in writing, normally within five working days of the decision.

13. Referral to Capability Hearing

13.1 Cases may be referred where no or insufficient progress has been made following at least two monitoring and review periods within stages one and two of the formal process. The employee must also have been notified in writing following the formal monitoring and formal review meetings that their employment will be at risk if they are unable to meet the performance standards required.

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- 13.2 The employee will be invited to the decision meeting; at least five working days' notice will be given along with copies of documents to be referred to at the hearing. The employee has the right to be accompanied by a work colleague or trade union official, or trade union representative who has been certified by their union as being competent. Employees who are unable to attend the formal capability hearing, for a valid reason (including if they need more time to prepare), or because their trade union representative or work colleague cannot attend may offer a reasonable alternative date within five working days of the original date. In instances where the employee becomes sick or has a stress related illness the matter should be dealt with under the Management of Attendance procedure.
- 13.3 The Capability Hearing will take place before a Panel consisting of three Trustees/Directors who have not previously been involved in the management of the employee's performance. The panel should be accompanied by a HR professional.
- 13.4 The person who has been responsible for managing the employee's performance will attend the Hearing to present the Trust's case and may be accompanied by a HR professional.
- 13.5 The Hearing will take place in accordance with Appendix B, and the purpose of the Hearing will be for the Panel to consider all of the circumstances in respect of the employee's performance including:
- 13.5.1 Any medical advice and reports received
 - 13.5.2 The adjustments and support that have been considered in order to help the employee to improve their performance
 - 13.5.3 The impact of the employee's performance on service delivery and colleagues, and whether the impact can continue to be sustained.
 - 13.5.4 Whether the Capability Procedure has been followed and applied fairly.
- 13.6 The employee and their representative will have the opportunity to respond to the Trust's case and to present any relevant information that they wish to.
- 13.7 The Panel may determine one of the following outcomes:
- 13.7.1 That the Capability Hearing will be adjourned, and a further review and monitoring period will be set. In the event that the employee is unable to meet the performance requirements set, the Hearing will be re-convened.
 - 13.7.2 That an adjustment is required to seek further information or advice, following which the Hearing will be reconvened.
 - 13.7.3 That the employee's employment will be terminated on the grounds of capability. Termination will be with statutory or contractual notice, whichever is the greater. Notice may be paid in lieu.



13.8 The decision of the Panel and the reasons for it shall be communicated in writing within five working days to the employee.

14. Right of Appeal

14.1 If an employee feels that a decision to dismiss them, or other action taken against them at the Capability Hearing, is wrong or unjust, they may appeal in writing against the decision within ten working days of the decision, setting out at the same time the grounds of appeal.

14.2 An Appeal Committee shall normally hear the matter not more than five weeks after receipt of an appeal letter. Appeals will be heard in accordance with Appendix C.

14.3 The decision of the Appeal Committee and the reasons for it shall be communicated in writing within five working days to the employee. The decision of the Appeal Committee will be final.

Capability Procedure

Informal Support: Concerns Identified, Line manager to implement appropriate support mechanisms		
Multiple sources of documentary evidence identify continual failure to perform to a satisfactory level		
Invite letter to employee for a preliminary capability meeting. Giving at least five working days' notice.		
Preliminary Capability Meeting		
Outcome (a) Insufficient grounds to proceed	Outcome (b) Sufficient grounds to proceed	Outcome (c) Meeting Adjourned Review Information to determine outcome (a) or (b)
No Further Action	Meeting Held to Formally Suspend the Appraisal Process Employee advised of initial timeframe for improvements to be made (no less than six weeks)	
Invite Letter to employee for a Preliminary Capability Review Meeting. Giving at least five working days' notice		
Preliminary Capability Review Meeting		
Outcome (a) Satisfactory Progress	Outcome (b) No/Insufficient Improvement	Outcome (c) Meeting Adjourned Review Information to determine outcome (a) or (b)
Appraisal process reinstated	Invite Letter to employee for a Formal Capability Stage One Meeting. Giving at least five working days' notice.	
Formal Capability Stage One Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board Employee advised of Timeframe for improvements to be made (no less than 6 weeks)		
Invite Letter to employee for a Formal Capability Stage One Review Meeting. Giving at least five working days' notice.		
Formal Capability Stage One Review Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board		
Outcome (a) Satisfactory Progress	Outcome (b) No/Insufficient Improvement	Outcome (c) Some Progress Extend Monitoring (no less than 2 weeks)
Appraisal process reinstated		Invite Letter to employee for a Formal Capability Stage One Review Meeting. Giving at least five working days' notice.
		Formal Capability Stage One Review Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board
		Outcome (a) Satisfactory Progress
		Appraisal process reinstated

Invite Letter to employee for a Formal Capability Stage Two Meeting. Giving at least five working days' notice.		
Formal Capability Stage Two Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board Employee advised of Timeframe for improvements to be made (no less than 6 weeks)		
Invite Letter to Employee for Formal Capability Stage Two Review Meeting. Giving at least five working days' notice		
Formal Capability Stage Two Review Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board		
Outcome (a) Satisfactory Progress	Outcome (b) No/Insufficient Improvement	Outcome (c) Some Progress Extend Monitoring (no less than 2 weeks)
Appraisal process reinstated		Invite Letter to employee for a Formal Capability Stage Two Review Meeting. Giving at least five working days' notice.
		Formal Capability Stage Two Review Meeting Heard by Executive Headteacher/Headteacher/Head of School/Deputy CEO/CEO/Trust Board
		Outcome (a) Satisfactory Progress
	Appraisal process reinstated	

Invite Letter to Employee for a Formal Capability Hearing. Giving at least five working days' notice		
Formal Capability Hearing (Appendix B) Heard by a panel of three Trustees/Directors		
Outcome (a) Dismissal	Outcome (b) Other Appropriate Action	Outcome (c) Further Monitoring and Review
Outcome letter sent within five working days with right to appeal		Return to the Final Stage Two Review Meeting part of the process
Appeal Process (Appendix C)		

Capability Hearing

1. Preliminary Matters

- 1.1 Any Member of the Capability Meeting who has been involved in the particular action taken, or who is to be called as a witness, or who is in any material way an interested party, shall not participate in the proceedings.
- 1.2 The meeting shall take place in private session and parties shall be reminded that proceedings are confidential.
- 1.3 The employee and Presenter shall have the right to call witnesses and the employee shall have the right to be accompanied/represented by a work colleague or a trade union representative.
- 1.4 It should be established whether the services of an interpreter are required.
- 1.5 Facilities shall be provided for each side to meet separately.

2. Outline of Procedure to be Followed

- 2.1 It shall be confirmed that the preliminary matters in paragraph 1 above have been carried out.
- 2.2 The witnesses shall be instructed not to discuss the matter outside the hearing and advised at which point they may no longer be required. Witnesses will only be present in the hearing when giving evidence or being questioned.
- 2.3 At the commencement of the meeting a procedure shall be agreed which it is suggested should follow the format set out below.

3. Opening Remarks by Chair

- 3.1 Introducing those present at the hearing.
- 3.2 Advising that an adjournment may be requested at any time during the hearing.
- 3.3 Outlining the procedure to be followed.
- 3.4 Outlining the reason(s) for calling the Capability Hearing.

4. The Procedure

- 4.1 The Case Against the Employee:
 - 4.1.1 Opening remarks by the Presenter including any evidence they may wish to offer.
 - 4.1.2 The subject or their representative may question the Presenter of the case on any evidence which they have given.

4.1.3 The Presenter may then call and question the first witness.

4.1.4 The subject of the action and/or their representative may then question the witness. The witness then withdraws.

4.1.5 Subsequent witnesses may then be called and treated in the same manner. In the light of evidence presented further questions may be asked of the Presenter.

4.1.6 In exceptional circumstances, witnesses may be recalled.

4.2 The Case for the Employee:

4.2.1 Opening remarks by the subject or their representative including any evidence they may wish to offer.

4.2.2 The Presenter may question the subject of the case or their representative on any evidence which they have given.

4.2.3 The subject may then call and question the first witness.

4.2.4 The Presenter may then question the witness. The witness then withdraws.

4.2.5 Subsequent witnesses may then be called and treated in the same manner. In the light of evidence presented further questions may be asked of the subject.

4.2.6 In exceptional circumstances witnesses may be recalled.

4.2.7 A closing statement which shall not include new material may be made by the subject or their representative.

4.3 The Decision:

4.3.1 The subject and their representative will withdraw. The panel will consider the evidence presented to determine the facts of the case. They may seek the advice of any attending officer on questions of law and procedure only.

4.3.2 The Capability Panel shall reach a decision and inform the subject.

4.3.3 This decision will be confirmed in writing within five working days.

Appeals Procedure

1. Preliminary matter

- 1.1 Any Member of the Appeals Committee who has been involved in the particular action taken, or who is to be called as a witness, or who is in any material way an interested party, shall not participate in the proceedings.
- 1.2 The meeting shall take place in private session and all parties shall be reminded that proceedings are confidential.
- 1.3 The employee and Presenter shall have the right to call witnesses and the employee shall have the right to be accompanied/represented by a work colleague or a trade union representative.
- 1.4 It should be established whether the services of an interpreter are required.
- 1.5 Facilities shall be provided for each side to meet separately.

2. Outline of Procedure to be Followed

- 2.1 The Clerk to the Committee shall confirm that the Committee is correctly constituted and that the preliminary matters in paragraph 1, above, have been carried out.
- 2.2 The Committee shall, at the commencement of the meeting, agree a procedure which it is suggested should follow the format set out below.
- 2.3 The witnesses shall be instructed not to discuss the matter outside the hearing and advised at which point they may no longer be required. Witnesses will only be present in the hearing when giving evidence or being questioned.
- 2.4 The parties to the matter, with their representatives, if any, should be invited into the meeting.

3. Opening Remarks by Chair of the Appeals Committee

- 3.1 Introducing those present at appeal.
- 3.2 Advising that an adjournment may be requested at any time during the appeal.
- 3.3 Outlining the reason(s) for calling the hearing.

4. The Procedure

- 4.1 The Case Against the Employee:
 - 4.1.1 Opening remarks by the Presenter of the case including any evidence they may wish to offer.

4.1.2 The subject or their representative and members of the Committee may question the Presenter of the case on any evidence which they have given.

4.1.3 The Presenter may then call and question the first witness.

4.1.4 The subject of the action and/or any member of the Committee may also ask questions of the witness on the evidence presented. The witness then withdraws.

4.1.5 Subsequent witnesses may then be called and treated in the same manner. In the light of evidence presented further questions may be asked of the Presenter.

4.1.6 In exceptional circumstances, witnesses may be recalled.

4.2 The Case for the Employee:

4.2.1 Opening remarks by the subject or their representative including any evidence they may wish to offer.

4.2.2 The Presenter and members of the Committee may question the subject of the case or their representative on any evidence which they have given,

4.2.3 The subject may then call and question the first witness.

4.2.4 The Presenter of the action and any member of the Committee may also ask questions of the witness on the evidence presented. The witness then withdraws.

4.2.5 Subsequent witnesses may then be called and treated in the same manner. In the light of evidence presented further questions may be asked of the subject.

4.2.6 In exceptional circumstances witnesses may be recalled.

4.2.7 Closing statements which shall not include new material will be made by:


(i) the Presenter

(ii) the subject or their representative

4.3 The Decision:

4.3.1 All parties will then withdraw. The Committee will consider the matter to determine the facts of the case. They may seek the advice of any attending officer on questions of law and procedures only. If the Committee decides to recall either side to clarify any points, then both parties will be invited to return for that clarification.

4.3.2 The Committee shall reach a decision and inform all parties. This decision is final and there will be no recourse to any other procedures.



4.3.3 This decision will be confirmed in writing to all parties within five working days by the Clerk to the Committee.