

# Viking Academy Trust



## Capability Policy

This policy has been written following the DfE's model Capability Policy.

**Approved by the Trust: Term 1 annually.**

This is a statutory policy. It is reviewed annually.

**Last review date: Term 1 2025**

Signed



Chair of Trust

# Capability Policy

## The Viking Academy Trust

Empowering Children Through Education: One Childhood One Chance

### Schools in the Viking Academy Trust (VAT)

Chilton Primary School  
Ramsgate Arts Primary School  
Upton Junior School

This Capability Policy is for all the aforementioned schools.

#### Purpose

This policy sets out the arrangements that will apply in serious cases where there have been persistent failures to meet job expectations, resulting in negative consequences on pupils and the organisation. This procedure applies only to teachers and school leaders, where there is a capability issue that the appraisal process, including any informal support arrangements, have been unable to address.

#### Capability procedure

Notification of a formal capability meeting should never come as a surprise to the teacher concerned. Informal support and a performance improvement plan should mean that the teacher is fully aware of the concerns being raised and they should have had every opportunity to improve in a supportive environment. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. Teachers are entitled to reasonably request an alternative date where they are unable to attend the original date proposed (Section 10 of [Employment Relations Act 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1999/18))

#### Formal capability meeting

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This meeting is intended to establish the facts. It will be conducted by the Chair of the Trust (or PA committee) for EHT/DoE capability meetings, by the Executive Headteacher / Director of Education for Head of School teacher capability meetings or EHT, DoE alongside the Head of School for other teachers.

The meeting sets out the required standards which are believed to have been failed by the teacher. The meeting allows the teacher to respond to concerns about their performance and to make any relevant representations, with the option of being accompanied by a work colleague, union representative or an official employed by a trade union. This may provide new information or a

different context to the information/evidence already collected. During the meeting, evidence shall be presented, and witnesses shall be called where appropriate and necessary. The teacher shall be allowed to ask questions, present their own evidence and rely on their own witnesses where appropriate and necessary, and will be permitted to respond to the evidence and ask questions.

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 through the appraisal process. In such cases, the capability procedure will come to an end. The person conducting the meeting may also adjourn the meeting for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings, for example which of the standards expected of teachers are not being met;
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures (this may include the setting of new objectives focused 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);
- explain any support that will be available to help the teacher improve their performance;
- set out the timetable for improvement taking into account the teacher's personal circumstances. This may include any medical conditions, working pattern, well-being support needs, or disabilities protected by the Equality Act 2010. The timetable will depend on the circumstances of the individual case but in straightforward cases could be (insert reasonable time period. It is for the school to fairly determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and
- explain how performance will be monitored and reviewed. Warn the teacher formally that failure to improve within the set period could ultimately lead to dismissal.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

### **Monitoring and review period following a formal capability meeting**

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff

will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

### Formal review meeting

As with formal capability meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. Teachers are entitled to reasonably request an alternative date where they are unable to attend the original date proposed (for example a date that is within five working days of the original proposed date).

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease, and the appraisal process will re-start. In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
- If no, or insufficient, improvement has been made during the monitoring and review period, the teacher will receive a final written warning which will set out the areas where performance standards have not been met, targets for improvement, any measures (training and supervision) which will be taken to improve performance, a period for the review and the consequences of not meeting expected performance standards.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning wording will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The teacher will be invited to a decision meeting.

### Decision meeting

As with formal capability meetings and formal review meetings, at least five working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end, and the appraisal process will re-start. If performance remains unsatisfactory, a decision (if in regard to a teacher), or recommendation to the governing board or an appropriate member of the Trust (if in regards to a headteacher), will be made that the final written warning should be extended (where possible or appropriate), or the teacher should be dismissed or required to cease working at the school. Redeployment into an alternative role may be considered where appropriate and possible.

Before the decision to dismiss is made, the school will discuss the matter with the senior representative from the trust (EHT/DoE).

The teacher will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

### **Decision to dismiss**

The power to dismiss staff in this trust school has been delegated to the Executive Headteacher unless it is for a Head of School / DoE or EHT, in which case it will be for the Board of Trustees to delegate to the Personal and Appraisal committee (PA committee) acting with the Executive Headteacher.

### **Dismissal**

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Once the decision to dismiss has been taken, the governing board (or insert details of person or people to whom the power to dismiss has been delegated) will dismiss the teacher. Usually this will be with notice or pay in lieu of notice.

### **Appeal**

If a teacher feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken, and a copy sent to the teacher.

The appeal will be dealt with impartially and by managers or members of governance who have not previously been involved in the case.

The teacher will be informed in writing of the results of the appeal hearing as soon as possible.

## **General Principles Underlying This Policy**

### **ACAS Code of Practice on Disciplinary and Grievance Procedures**

The policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

### **Confidentiality**

The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the EHT, DoE, HoS and Board of Trustees to quality-assure the operation and effectiveness of the appraisal system.

### **Consistency of Treatment and Fairness**

The governing board is committed to ensuring consistency of treatment and fairness.

It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled teachers. The governing board is aware of the guidance on the Equality Act 2010 issued by the Department for Education.

## References

“If a teacher has been subject to formal capability procedures in the previous two years”, as stated in The School Staffing (England) (Amendment) Regulations 2012 and the Staffing and employment advice for schools, “this must be disclosed to new potential school employers when requested”.

[Staffing and employment advice for schools \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Staffing_and_employment_advice_for_schools.pdf)

## Definitions

Unless indicated otherwise, all references to “teacher” include the Executive headteacher (EHT) and Director of Education (DoE).

## Delegation

Normal rules apply in respect of the delegation of functions by governing boards and senior leaders within the Viking Academy Trust.

## Grievances

Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related, including as part of the capability process, it may be appropriate to deal with both issues concurrently.

## Sickness

If long term sickness absence appears to have been triggered by the commencement of monitoring performance at any stage of the procedure or a formal capability procedure, the case will be dealt with in accordance with the trust’s absence policy. (e.g. referred immediately to the occupational health service to assess the member of staff’s health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures). In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.

## Monitoring and Evaluation

The governing board and Executive Headteacher will monitor the operation and effectiveness of the school’s capability policy. This will include ensuring that the arrangements minimise the impact on workload for all parties involved.

## Retention

The governing board and Executive Headteacher will ensure that all written capability records are retained and stored in a secure place in line with their GDPR, Retention and Disposal Policy.