



CAPABILITY POLICY

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WELLBEING POLICY
DEVELOPMENT
STRATEGY HUMAN PEOPLE
RESOURCES
CHANGE MANAGEMENT
SUCCESSION PLANNING
CONFIDENTIALITY

Collaborate Ability to work effectively as a team

Empower Ability to take initiative and problem solve in order to improve performance

Lead To lead by example and achieve shared goals

Transformation Ability to recognise a need for change and adapt accordingly



CELT Vision

Our vision is for our trust to be a learning organisation in the truest sense.

At the heart of our vision for education is a self-improving school-led system which has the best evidence-led practice and in which every child fulfils their potential. This is a learning community in which:

- Our leaders are driven by moral purpose. They are outwards focused and not afraid to take risks to achieve system transformation. The focus of policy is on continually improving the quality of teaching.
- Our teachers strive to be outstanding. They work across organisational boundaries to promote a collective sharing of knowledge, skills, expertise and experience in order to deepen pupil learning.
- The individual talents and strengths of our pupils are recognised and nurtured. A passion and curiosity for learning is sustained in every child from the moment they join us. A CELT pupil leaves our family of academies with a purpose, and the confidence to fulfil that purpose.
- Our parents are engaged in our learning community and actively work in partnership with us to raise the level of attainment and aspiration of every child.

CELT Mission

“Learning together to help every child achieve more.”

We believe there is no limit to what every child can achieve, and that every child deserves the chance to fulfil their potential.

As a learning community we are on an ambitious journey. We want to deliver a model for education in the 21st century which instils curiosity and a love for learning in every child so that they develop into young adults who contribute to humanity, follow their passions, and think for themselves.

By learning and improving together – as part of a global learning community – we create much richer and more sustainable opportunities for rigorous transformation than can be provided by any one of our academies alone.

**COLLABORATE
EMPOWER
LEAD
TRANSFORM**

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Introduction

- 1.1 Cornwall Education Learning Trust (CELT) is committed to providing high quality teaching and learning. Through our workforce we aim to provide opportunities for all of our pupils, whatever their ability. Each employee will therefore be given support to help them continually improve their performance and develop to their full potential, which will in turn help improve outcomes for our young people.
- 1.2 Having an effective performance management process in place is one of the ways we can support our employees and deal with performance matters as they arise; this is set out in our Performance Management Policy.
- 1.3 This policy sets out the arrangements that will apply when an employee falls below the levels of competence and performance that are expected of them and serious concerns have been raised which the Performance Management Policy has been unable to address.
- 1.4 This policy has been designed to comply with current legislation and ACAS.
- 1.5 This policy has been consulted on with the recognised trade unions.
- 1.6 This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation with recognised trade unions. We may also vary the procedures set out in this policy, including any time limits, as appropriate in any case.

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Scope and purpose

- 2.1 The purpose of this policy is to provide a framework within which CELT can work with employees to improve and maintain satisfactory standards of performance where serious concerns have been raised.
- 2.2 This policy will be applied where there is underperformance, and informal support as set out in the Performance Management Policy has been provided and the required improvement has not been made.
- 2.3 This policy applies to all employees of CELT, including teachers and support staff, excluding those who are in the probationary period. It does not apply to agency workers.

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Notification and procedure for formal meetings

- 3.1 An employee will be given 10 working days' written notice if required to attend any formal meeting under this procedure.
- 3.2 The written notification will also contain:
 - 3.2.1 Sufficient information about the performance concerns and their possible consequences (including the possibility of issuing a warning or dismissal) to enable the employee to prepare to answer the case at the formal meeting.
 - 3.2.2 Copies of any written evidence
 - 3.2.3 Copies of witness statements and details of witnesses attending (if appropriate)
 - 3.2.4 Details of the time and place of the meeting
 - 3.2.5 Your right to be accompanied (see 3.4)
- 3.3 Formal meetings will be conducted by the Head Teacher/Manager or other Senior Leader delegated this responsibility by the Head Teacher/Trust ELT.
- 3.4 An employee has the right to be accompanied to any formal meeting under this procedure by a companion, who may be a colleague or a trade union representative. Employees are entitled to request an alternative date which is within five days of the original date, if their representative is unable to attend the meeting.
- 3.5 The employee's Line Manager may attend the meeting to present the management case. Relevant witnesses may be called by the person conducting the meeting and an employee may request that relevant witnesses are called to any formal meeting.
- 3.6 A formal meeting under this procedure will:
 - 3.6.1 identify performance shortcomings;
 - 3.6.2 allow an employee to respond to those concerns, ask questions and make any relevant representations which may provide new information or a different context to the evidence already collected;
 - 3.6.3 find out if there are any issues (both in or outside of work) that are affecting their performance that need to be considered;
 - 3.6.4 identify what action (including support provided) has been taken to date and what the outcome was;
 - 3.6.5 where appropriate, identify and explain any support that will be available to help the employee improve performance;
 - 3.6.6 where appropriate, warn an employee formally that failure to improve within the set period could lead to dismissal or other serious implications such as no pay progression; and

- 3.6.7 confirm the timescales for the monitoring and review period which will follow a formal meeting where a warning is issued. The timetable will depend on the circumstances of the individual case but the period will be reasonable and proportionate ensuring that the arrangements minimise the impact on workload for all parties involved, and should provide sufficient opportunity for an improvement to be made. Formal monitoring, evaluation, guidance and support will continue during this period.
- 3.7 The person conducting the meeting may adjourn the meeting, for example for further investigation or to consider if additional information is required.
- 3.8 If at any stage the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start.
- 3.9 Following a formal meeting, the matters covered in 3.6 and any other relevant points will be confirmed in writing. Where a warning has been issued the letter will set out the length of the monitoring and review period and the procedure and time limits for appealing against the warning. If under performance occurs again shortly after the end of the live period of the warning, we reserve the right to deal with the matter at the same stage of the procedure and not return to earlier stage (including not returning to the appraisal policy).
- 3.10 Minutes will be taken of all formal meetings and the employee will be sent a copy following the meeting.

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Formal capability meeting (Stage 1)

- 4.1 If we consider that there are serious performance concerns The employee will be invited to a formal capability meeting to establish the facts.
- 4.2 Where a warning is issued at stage 1, this will usually be a first written warning. Serious cases or in cases where performance issues have been dealt with previously under the formal capability procedure and there are still concerns should be initiated at stage 2. The implications in relation to pay progression will be set out in writing.
- 4.3 The warning will normally remain active for twelve months from the end of the monitoring and review period. During this time any further performance concerns will be considered at the next stage of the process (stage 2). After the active period the warning will remain on the employees personnel file but will be disregarded in deciding the outcome of any future capability proceedings.
- 4.4 Monitoring & Review Period (1)
 - 4.4.1 The standard set length of the monitoring and review period following the formal capability meeting in CELT is normally 6 weeks. However, in some cases it may be appropriate for a shorter period of four weeks to be set. In exceptional circumstances, this period can be extended up to a maximum of 10 weeks.
 - 4.4.2 At the end of the monitoring and review period the employee will be invited to a formal review meeting, unless the employee were issued with a final written warning in which case the employee will be invited to a decision meeting.

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Formal review meeting (Stage 2)

- 5.1 If the person conducting the formal review meeting decides that sufficient progress and improvement has been made, then the capability procedure will cease and the appraisal process will restart.
- 5.2 If the person conducting the formal review meeting decides that some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period up to a maximum of 4 additional weeks.
- 5.3 If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning. A further Monitoring and Review Period will follow in accordance with 4.4.
- 5.4 The warning will normally remain active for twelve months from the end of the further monitoring and review period. During this time any further performance concerns will be addressed at the next stage of the process (stage 3). After the active period the warning will remain on the employee's personnel file but will be disregarded in deciding the outcome of any future capability proceedings.
- 5.5 Monitoring & Review Period (2):
 - 5.5.1 At the end of the further monitoring and review period, the employee will be invited to a decision meeting.
 - 5.5.2 At this stage and by agreement with the employee, instead of progressing to a decision meeting it may be appropriate to consider whether there is a vacant post and if so whether this may be more suited to the employee's capabilities. If there is a vacant post which we agree with the employee is suitable, this would be a permanent change in role and if the alternative post is at a lower salary level, the substantive lower salary would apply. The capability procedure would cease on commencing in the new post and the appraisal process would re-start.

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Decision meeting (Stage 3)

- 6.1 The decision meeting will usually be conducted by the Head Teacher/Senior Leader if they have not previously been involved or a panel of governors not previously involved in the case, which could include the Head Teacher/Senior Leader. Dismissal is a possible outcome of a decision meeting.
- 6.2 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.
- 6.3 If performance is deemed to have improved but not reached the required standard a further monitoring and review period can be imposed. There will be a further decision meeting at the end of that extended monitoring and review period.
- 6.4 If performance remains unsatisfactory and of serious concern, a decision will be made that the employee should cease working at the Trust/school. The employee will be informed in writing as soon as possible of the dismissal, the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and the right of appeal.

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Appeal

- 7.1 The employee has the right to appeal against the action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Headteacher/Manager within 10 working days of the date on which the employee was informed of the decision.
- 7.2 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 they will be reinstated with no loss of continuity or pay and benefits.
- 7.3 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 7.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be arranged within 10 working days. The employee has the right to bring a companion to the appeal hearing.
- 7.5 Where possible, the appeal hearing will be conducted by a panel of a minimum of two and a maximum of three, consisting of a Senior Manager and/or LGB/ Trustees not previously involved in the case. The hearing may be a complete re-hearing 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 (in which case the format would be reversed so that the appellant would present their appeal first). The format of the meeting would be at the employee's request. In any event the appeal will be dealt with as impartially as possible.
- 7.6 Following the appeal hearing the Headteacher/Manager/panel may:
 - 7.6.1 confirm the original decision;
 - 7.6.2 revoke the original decision; or
 - 7.6.3 substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation.
- 7.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

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Sickness

- 8.1 If at any stage long term sickness absence appears to have been triggered at any stage of this procedure, the case will be dealt with in accordance with the Trust's sickness absence policy.
- 8.2 The employee will be referred immediately to the occupational health service to assess their 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.

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General principles underlying this policy

9.1 Confidentiality

The capability process will be treated confidentially. However, it needs to be recognised that, in supporting employees through this process, some degree of information sharing is likely to be necessary to be necessary to quality-assure the operation and effectiveness of the process.

9.2 Consistency of Treatment and Fairness

CELT are 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 employees. CELT are aware of the guidance on the Equality Act issued by the Department for Education.

9.3 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 it may be appropriate to deal with both issues concurrently, and at the same meeting.

9.4 Retention and data protection

As part of the application of this policy, CELT may collect, process and store personal data in accordance with our data protection policy. We will comply with the requirements of the Data Protection Legislation (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018). Records will be kept in accordance with our Workforce Privacy Notice, our Retention and Destruction Policy and in line with the requirements of the Data Protection Legislation.

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Review of policy

This policy is reviewed and amended annually by the Trust in consultation with the recognised trade unions. We will monitor the application and outcomes of this policy to ensure it is working effectively. Consideration of the equality impact of this policy will be given to ensure that no groups or individuals with protected characteristics are unintentionally disadvantaged by the policy or practice.

Appendix History of Changes

Version	Date	Page	Change	Origin of Change
1.0	30.11.2022		Original Draft	