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SALWAY ASH PRIMARY SCHOOL

### **Appraisal and Capability Policy for Teachers**

To be read in conjunction with the Appraisal and Capability Procedure for Teachers and Guidance documents.

#### **1. Introduction**

1.1 Revised appraisal arrangements were introduced in 2012 in the Education (School Teachers' Appraisal) Regulations 2011. These arrangements are optional for academies.

1.2 From September 2014 pay progression for teachers has been based on their performance and achievement of objectives as reflected in their appraisal. The School's annual Pay Policy for teachers will set out what will be taken into consideration in determining pay progression. The text in bold in this policy covers information required by the Appraisal Regulations or School Staffing Regulations

1.3 Appraisal is central to both school improvement and teachers' personal development, as an on-going supportive process.

1.4 The school values good standards of performance and expects all employees to adhere to all school's standards, including Teachers Standards\*. Teachers' performance is assessed against the relevant standards and also against their objectives.

1.5 Performance management runs through from appraisal to capability, hence their combination in the format of this policy, which also reflects the approach in the DfE model Appraisal and Capability Policy.

1.6 Capability refers to the fitness and ability of an employee to carry out satisfactorily, the job they are employed to do. Capability is assessed by reference to skills, aptitude, health or any other physical or mental quality.

1.7 A lack of capability can be defined as 'a situation in which an employee fails consistently to perform their duties to an acceptable standard' (ACAS). There is a need to differentiate between the issues causing the consistent failing to perform their duties – it may be incapability due to a lack of skills and need for development or incapability due to an underlying medical issue (medical incapability), which is dealt with separately in accordance with the Attendance Management Policy.

1.8 This Capability policy specifically deals with incapability due to a lack of skills or aptitude; it will be applied when a teacher's performance has seriously fallen below required standards. The aim is to improve the achievement of staff and students and to raise standards across the school.

1.9 This policy is based upon the ACAS Code of Practice, incorporates relevant legislation and should be read in conjunction with the Appraisal and Capability Procedure for Teachers and

Guidance documents. It has been agreed following consultation with recognised trade unions and has been adopted by the Governing Body.

### **\*Teachers' Standards**

*The Teachers' Standards set a clear baseline of expectations for the professional practice and conduct of teachers and define the minimum levels of practice expected. The appraisal will include an assessment of the teacher's performance against the relevant standards.*

*The School has set out its expectations of the standards applying to teachers at different stages in their careers in Annex 2 which has been made available to teachers in the school.*

## **2 Scope**

2.1 The policy applies to all teachers, including the Head teacher employed by the school except teachers on contracts of less than one term and those undergoing induction (i.e. NQTs).

2.2 The Appraisal regulations do not apply whilst a teacher is the subject of the formal capability procedure

2.3 Where identified performance issues are in respect of the Head teacher, references to the Head teacher should be replaced by Chair of Governors.

2.4 Reference to Teachers' standards applies to all teaching staff where those standards apply (for academies and free schools state arrangement regarding use of standards).

## **3 Purpose**

3.1 This policy sets out the framework for a clear and consistent assessment of the overall appraisal of teachers, including the head teacher, and for supporting their development within the context of the school's improvement plan and the standards expected of teachers. It is not, however, intended to replace or restrict the normal day to day management and supervision of employees.

3.2 An effective appraisal process should:

- Identify, celebrate and disseminate good practice
- Identify areas for staff to improve their professional skills
- Identify performance that is below the standard expected and provide a supportive system to improve performance
- Include a recommendation on pay progression for the teacher
- Be an integral part of a school's self-evaluation process.

3.3 The aim of the Capability policy is to assist schools and employees in situations where the capability of a teacher is unsatisfactory; it provides a consistent and fair approach for dealing with capability issues where standards fall seriously short of requirements aiming to improve performance and raise standards.

## **4 Key principles**

4.1 Confidentiality

- The whole appraisal and capability processes and the statements generated under them, in particular, will be treated with strict confidentiality at all times.
- Only the Head teacher and the employee's line manager or, where s/he has more than one, each of her/his line managers will be provided with access to the employee's plan recorded in her/his statement, upon request, where this is necessary to enable the line manager to discharge her/his line management responsibilities. Employees will be told who has requested and has been granted access.

#### 4.2 Conflict of interest

In any circumstances where an individual believes that their part of the appraisal or capability process may constitute a 'conflict of interest' they should declare this and/or absent themselves from any part of the process where such a conflict would prevail.

#### 4.3 Consistency of treatment and fairness

The Governing Body is committed to ensuring consistency of treatment and fairness in the operation of appraisal, pay progression and capability processes.

To ensure this in relation to appraisals the following provisions are made regarding moderation, quality assurance and objective setting.

##### Quality assurance

The Head teacher has determined that s/he will:

be the reviewer for all teachers.

moderate all the planning statements to check that the plans recorded in the statements of teachers at the school:

- are consistent between those who have similar experience and similar levels of responsibility
- comply with the school's appraisal policy, the regulations and the requirements of equality legislation

#### 4.3 Support and facilitate improvement

4.3.1 The Head teacher and their Governing Body are committed to helping their employees achieve high quality performance standards and to ensure that employees are supported in achieving those standards.

4.3.2 The school will seek to ensure that all employees are provided with appropriate induction and supervision. All employees will receive regular appraisal as set out in the School's Appraisal Policy. Performance targets will be agreed, established and regularly reviewed.

4.3.3 Employees experiencing difficulties will be provided with appropriate support to facilitate their improvement.

#### 4.4 Monitoring and Evaluation

- The governing body will monitor the operation and outcomes of appraisal arrangements.
- The head teacher will provide the governing body with a written report on the operation of the school's appraisal policy annually. The report will not contain any information which would enable any individual to be identified. The report will include:

- ⌚ the operation of the Appraisal and Capability policy;
- ⌚ the effectiveness of the school's Appraisal Procedures;
- ⌚ Teachers' training and development needs.

- The Head teacher will also report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination under any of the categories above.

#### 4.5. Addressing Concerns

4.5.1 Any concerns will be addressed promptly, fairly and consistently.

4.5.2 Initial concerns regarding the standard of work performance of the teacher should generally be discussed with the employee by the Head teacher (or delegated Manager or Deputy) as appropriate, via the normal supervisory process or via the Appraisal cycle. The Capability Procedure applies only to teachers or Head teachers about whose performance there are serious concerns and provides a means whereby more serious issues may be dealt with.

#### 4.6 Appraisal/Capability and ill-health

If implementing the Appraisal/Capability policy triggers an episode of sickness absence a prompt referral to Occupational health will be arranged to assess the employee's health and fitness for employment. The Appraisal/Capability Policy will be on hold during any period of sickness absence and phased return to work.

### 5 APPRAISAL

#### 5.1 The Appraisal Cycle

- The appraisal cycle will run on an annual basis. The appraisal period will normally run from September to July.
- Appraisal planning, reviews and pay recommendations must be completed for all teachers by 31 October and for head teachers by 31 December.
- The appraisal cycle will begin with a planning meeting and end with a review meeting. Mid-year review meetings may also be held if agreed and considered necessary.
- Teachers, who are employed on a fixed term contract of less than one year, will have their appraisal managed in accordance with the principles underpinning the provisions of this policy. The length of the cycle will be determined by the duration of their contract.
- Where a teacher starts their employment at the school part-way through a cycle, the head teacher or, in the case where the teacher is the head teacher, the governing body shall determine the length of the first cycle for that teacher, with a view to bringing his cycle into line with the cycle for other teachers at the school as soon as possible.
- Where a teacher transfers to a new post within the school part-way through a cycle, the head teacher or, in the case where the teacher is the head teacher, the governing body shall determine whether the cycle shall begin again and whether to change the reviewer.
- Where an appraisal cycle is impacted by sickness absence, reviews should be rearranged as soon as practicable upon the employee's full return to work and there will be no detrimental effect

on the employee. The employee's performance will be evaluated on their work up to the point of their absence and account taken of the timescale of the cycle.

## 5.2 Appraisers

### 5.2.1 Appraisers (for the Head teacher)

- The head teacher will be appraised by the Governing Body, supported by an external adviser.

### 5.2.2 Appraisers (for Teachers)

- All reviewers must be appropriately trained to review appraisal effectively and ensure equal treatment.
- In the case where the Head teacher is not the teacher's line manager, the Head teacher may delegate the duties imposed upon the reviewer, in their entirety, to the teacher's line manager. In this school the head teacher has decided that:

The Head teacher will be the reviewer for all teachers in this school.

## 5.3 Objectives

- The objectives agreed with each appraisee will contribute to the school's plans for school improvement, improving pupil progress and the professional development of the teacher. *See guidance on 'Setting Objectives' Toolkit Appendix 4.*
- The objectives set will be rigorous, challenging, achievable, time-bound, fair and equitable in relation to teachers with similar roles/responsibilities, and experience and hours. They should reflect the need for a satisfactory work-life balance. For part-time staff they will be proportionate to hours worked.
- They shall also take account of the teacher's professional aspirations and any relevant pay progression criteria, including preparation for threshold application.
- The reviewer and appraisee will seek to agree the objectives but where a joint determination cannot be made the reviewer will make the determination. The objectives must be reasonable within the timescale allowed.
- The objectives should be fair when judged with employees in similar roles but will normally be more challenging as a teacher progresses.
- Appraisees who have responsibilities outside the classroom should normally expect to have objectives related to those responsibilities included, e.g. leadership of a subject.

In this school (choose as applicable):

- All teachers, including the head teacher, will have no more than 3 objectives. However, in certain circumstances (e.g. for part-time staff) fewer than 3 would may be appropriate (e.g. for part-time staff, where workload should be proportionate); in exceptional circumstances it may be acceptable to set more than 3 objectives but the workload attached to these must be proportionate to the workload involved in 3 objectives.
- Teachers, including the head teacher, will not necessarily all have the same number of objectives.

- Though appraisal is an assessment of the overall appraisal of teachers and the head teacher, objectives cannot cover the full range of a teacher's roles or responsibilities. Objectives will, therefore, focus on the priorities for an individual for the cycle.
- At the review stage it will be assumed that those aspects of a teacher's roles or responsibilities not covered by the objectives or any amendment to the statement which may have been necessary in accordance with the provisions of the regulations and professional standards have been carried out satisfactorily.

#### 5.4 Review

##### 5.4.1 Observation

- The number and type of classroom observation will depend on the individual circumstances of the appraisee and the overall needs of the school. Normally no more than three visits will be made unless additional visits are required to address significant concerns have been identified and these have been documented with appropriate evidence.
- In any observation of a teacher's practice, clear criteria about how that practice will be judged should be established and shared with the teacher before any observation has taken place.
- Toolkit Appendix 2 is a model observation policy and it is strongly recommended that schools adopt this policy.
- This school will not grade observations for the purpose of appraisal.
- In addition to formal observation, head teachers or other leaders may "drop in" in order to evaluate the standards of teaching and learning and to check that high standards of professional performance are established and maintained. This will be part of the school's self-evaluation and is not part of the appraisal process. The school has a separate protocol for drop-in visits.

##### 5.4.2 Development and Support

Appraisal is a supportive process which will be used to inform continuing professional development – see 5.5 below.

##### 5.4.3 Feedback

Appraisees will receive feedback on their performance throughout the year and as soon as practicable after any observation and normally within 5 working days.

##### 5.4.4 Formal Assessment

- At the end of the cycle, each appraisee's performance will be formally assessed.
- This assessment is the end point to the formal process but performance and development priorities will be considered and addressed on a continuous basis throughout the year in a series of informal meetings which will take place once a term. This process should not lead to additional objectives being set but there could be modification to existing objectives.
- There should be no 'surprises' at the end of the review period. If the reviewer has any concerns about performance, these should be discussed with the appraisee as soon as possible so that s/he has an opportunity to address these issues.
- The appraisee will receive – and have the opportunity to comment on - a written appraisal report. The appraisal report will include:

- ⌚ Details of the appraisee's objectives
- ⌚ an assessment of the appraisee's performance against their objectives for the relevant period and the relevant standards expected of teachers, having regard to their job description/role in the school;
- ⌚ a determination of the teacher's training and development needs and the actions that will be taken to address them;
- ⌚ a recommendation on pay progression

## 5.5 Training and Support

- The school wishes to encourage a culture in which all teachers expect to undertake a programme of continuing professional development that is linked to school improvement priorities and to their own individual ongoing professional development priorities and needs.
- The school's CPD programme will be informed by the training and development needs identified in the training annex of the appraisees' planning and review statements.
- The Governing Body will ensure in the budget planning that, as far as possible, appropriate resources are made available in the school budget for any training and support agreed for appraisees.
- An account of the training and development needs of teachers in general, including the instances where it did not prove possible to provide any agreed CPD, will form a part of the head teacher's annual report to the governing body about the operation of the appraisal in the school.

## 5.6 Appeals

- At specified points in the appraisal process teachers and head teachers have a right of appeal against any of the entries in their planning and review statements.
- Where an appraisee wishes to appeal on the basis of more than one entry this would constitute one appeal hearing.
- Appeals will be heard by the nominated governor . If this does not resolve the appeal, a panel of three governors will review the appeal.

## 6 Pay progression linked to performance

6.1 Performance-related pay progression enables schools to recognise and reward a teacher's performance through an increase in pay. The appraisal (and pay) process should allow teachers to demonstrate their overall performance and act as an incentive for continuous improvement; the quality of the appraisal system is critical to the effectiveness of this (refer to DfE 'Implementing your school's approach to Pay').

6.2 The Governing Body will review teachers' salary annually within the relevant pay ranges and will set out clearly in the school's Pay Policy how pay progression will be determined.

6.3 Where teachers are eligible for pay progression the recommendation will be based on an assessment of performance against agreed performance objectives; teachers will need to have made good progress towards achieving their objectives and have demonstrated that they are competent in all elements of the Teachers' standards.

6.4 All pay recommendations should be clearly attributable to the performance of an employee.

6.5 A pay recommendation will be made in writing as part of a teacher's annual appraisal report

## **7 Teachers experiencing difficulties**

7.1 When dealing with a teacher experiencing difficulties, the objective is to provide support and guidance through the appraisal process in such a way that the teacher's performance improves and the problem is therefore resolved.

7.2 Where it is apparent that a teacher's personal circumstances are leading to difficulties at school, support will be offered as soon as possible, without waiting for the formal annual assessment.

7.3 The appraiser, the Head teacher, or a member of the leadership team, will, as part of the appraisal process meet the teacher (for details refer to procedure).

7.4 Where issues are identified outside of that process, then exceptionally the informal process outlined at Procedure Appendix 1, which mirrors the above Appraisal process should be followed initially, except in cases of gross incompetence.

7.5 The timescale for monitoring an employee being supported by an action plan will typically be between 4-10 weeks but will depend upon the circumstances of the case, in serious cases a shorter period is more likely to be appropriate.

7.6 The teacher will receive regular feedback and support will be modified if necessary throughout the monitoring period. A review meeting will be held at the end of the monitoring period to confirm whether there has been sufficient progress or not.

7.7 If sufficient progress is made such that the teacher is performing at a level that indicates there is no longer a possibility of the Capability procedure being invoked the teacher should be informed of this at a review meeting and the appraisal process will continue as normal.

## **8 Transition to Capability**

8.3 If no, or insufficient, improvement has been made over this period, the teacher will be invited to a transition meeting (instead of a 'Review meeting') with the appraiser or Head teacher to determine whether formal capability proceedings need to be commenced or the appraisal process remains in place. They will have the right to be accompanied by a trade union representative or work colleague. This is not part of the formal capability procedure.

8.4 Action under the Capability Policy and Procedure is designed primarily to achieve improvement through consistent, appropriate and reasonable support mechanisms rather than to exact a penalty. When dealing with issues of capability, the approach taken will be supportive, fair and objective at all times. The emphasis will be on facilitating improvement as far as possible.

8.5 The Formal Capability Procedure should only be invoked after support and guidance has been provided to the teacher under the Appraisal Process (or the Informal Procedure outlined at Procedure Appendix 1). If no, or insufficient progress is made during this time then the Formal Capability Process can be invoked.

8.6 Dismissal may arise following the exhaustion of reasonable avenues provided by the Capability Procedure.



8.7 The employee will be encouraged to contact their trade union representative at the commencement of the procedure and the employee will have the right to be represented at all stages of the formal procedure.

8.8 The Head teacher may seek advice from Learning and Inclusion advisers regarding appropriate educational targets and standards within action plans.

8.9 The Capability procedure must be followed fully and properly within an adequate timeframe, with adequate support to facilitate improvement, as not to do so may render any action taken unfair.

8.10 Employees will be made aware that whilst they are subject to the capability procedure normal appraisal arrangements will be suspended.

## **Annex 1 Legal context and reference documents**

Revised appraisal arrangements come into force on 1st September 2012. They are set out in the Education (School Teachers' Appraisal) Regulations 2011 which replace The Education (School Teacher Performance Management) (England) Regulations 2006.

Further reference documents

- Appraisal and Capability Policy and toolkit for Teachers
  - This provides detailed policy guidance in regards to Appraisals and Capability. There is further guidance on conducting hearings and appeal hearings as well as presenting cases at hearings. Also provided in the toolkit are model letters for use at specific stages of the procedure.
- Management of Attendance Policy and Toolkit for School Based Employees
  - This provides detailed policy guidance with regards to Management of Attendance. It would be appropriate to refer to this policy when dealing with cases of medical incapability.
- Disciplinary Policy and Toolkit for School Based Employees
  - This provides detailed policy guidance with regards to conduct. It would be appropriate to refer to this policy to distinguish between capability and conduct.
- Guidelines for referrals to Occupational Health
  - These guidelines should be referred to when referring cases of medical incapability to Occupational Health.
- Stress Management Policy for School Based Employees
  - 🕒 This policy should be referred to when dealing with cases of stress.
- Equal Opportunities in Employment
  - 🕒 This policy can be referred to in order to ensure adherence to Equal Opportunities throughout the capability procedure.

## **Legal Context**

The Employment Rights Act 1996 states that a dismissal is fair if it:

'relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employment to do' S.98(2)

'Capability' in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality S.98(3)(a)

'Qualifications', in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held. S.98(3)(b)

The determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) - S.98(4)

- a) Depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and
- b) Shall be determined in accordance with equity and the substantial merits of the case.

The ACAS, Code of Practice - 'Discipline at Work' sets out some key points regarding under performance:

- Careful recruitment, selection and training will minimise the risk of poor performance.
- When employment begins, the standards of work required, the consequences of failure to meet them and conditions attaching to any probationary period should be fully explained.
- Where warnings are in operation, an employee should be given both time to improve and, where appropriate, training.
- The availability of suitable alternative work should be considered before dismissal action is taken.

Other legal considerations

The Education Act 2002

School Staffing (England) Regulations

Teachers' Standards 2012

Should further guidance be required, please contact your Human Resources Adviser.

## **Annex 2 Salway Ash School Teacher's Standards**

<https://www.gov.uk/government/publications/teachers-standards>

*Salway Ash teachers standards reflect the DfE standards to be found using the link above.*