



Three
Spires
TRUST

'Life in all its fullness'

Performance Improvement Policy

Policy owner	Director of School Improvement
Approved by	Trust Board
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This policy has been consulted upon with all recognised professional associations who form part of the Joint Negotiating Committee in line with the Three Spires Trust Trade Union Recognition Agreement.

1. Introduction

- 1.1.1 The Trust is committed to delivering excellence for its pupils and their families, staff and the local communities it serves. It seeks to deliver against this commitment by ensuring there is a highly knowledgeable, skilled and competent workforce.
- 1.2 The Trust encourages open communication between employees and their managers, enabling potential performance improvement issues to be dealt with through supervisory support. This policy aims to provide a framework for a fair, consistent and supportive approach to managing capability situations that cannot be resolved through other performance management mechanisms.
- 1.3 The 'Performance Improvement policy' and procedure apply where an employee is unable to carry out the work to the required standard due to skill, aptitude, ability and/or any other physical or mental capacity. This may include*:
- lack of qualification or knowledge
 - lack of aptitude, skill or experience
 - lack of training and development
 - lack of proficiency or professionalism
 - changes to the role and associated responsibilities
 - changes in the nature and allocation of work
 - personal/family difficulties

*This list is not exhaustive.

- 1.4 This policy does not apply where unacceptable performance is due to lack of care or wilful refusal by the employee. These situations are dealt with under the disciplinary policy.
- 1.5 The procedure applies to all colleagues, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions. The procedure does not apply once a colleague has left the employer.
- 1.6 This policy does not apply to self-employed workers or workers contracted by other organisations (including employment agencies) who are covered by their own employer's policies.
- 1.7 Informal Performance Process for Early Career Teachers: If it becomes clear during a termly progress review or at the first formal assessment point that an ECT is not making sufficient progress, the Director of School improvement should be notified and the procedure will follow that outlined in the TST ECT Policy

2. Roles and Responsibilities

- 2.1 All employees and managers have a personal responsibility to provide efficient, professional and courteous services at all times in accordance with:

- their job role, job description and terms of employment
- The Staff Code of Conduct
- Professional Standards appropriate to their role
- Trust policies and procedures
- statutory requirements

2.2 Managers are responsible for the continual professional growth and appraisal of their staff in line with Trust policies. This ensures staff understand the expectations of them and are set realistic and measurable standards of performance. Where concerns emerge regarding the standard of performance, managers are responsible for:

- ensuring staff are aware that their performance falls below the required standard
- intervening promptly where minor capability concerns are identified
- implementing the informal and formal Performance Improvement Procedure as outlined within this policy

2.3 The Trust is responsible for developing and updating this policy in accordance with statutory and Trust requirements, as well as providing fair and consistent advice to managers and employees regarding the application of this policy and associated procedures.

2 Written records

2.1 A written record should be made of all meetings with the teacher and any action taken following the meeting. All documentation to be sent to those involved including the Director of School Improvement.

3. Principles

3.1 Minor capability concerns are often effectively addressed through an informal discussion between an employee and their line manager. In some cases, additional training, coaching and advice may be what is needed. Where possible, this should be resolved outside the scope of this procedure. There will be situations where matters are more serious or where an informal approach has been tried but has not worked.

3.2 In applying this procedure, managers will have due regard to the principles and requirements of the Equality Act 2010. This may include considering reasonable adjustments and/or seeking an occupational health assessment as appropriate.

3.3 Where performance concerns are raised, the employee will be notified promptly by the line manager and relevant support, bespoke to the needs of the employee, will be put in place. This could include: coaching, observations of colleagues, modelling and team planning, external CPD etc. The line manager will monitor progress on a basis agreed by both parties and subsequent support will be amended accordingly.

Colleagues are expected to take ownership for their progression towards achieving and sustaining acceptable performance and any identified performance improvement.

- 3.4 Where possible and appropriate, every effort will be sought to resolve issues on an informal basis.
- 3.5 Meetings held under the provisions of this policy will be held in an appropriate environment that is free from distractions and interruptions.
- 3.6 All parties involved in the procedures must ensure they maintain confidentiality. Disclosure of information may occur if there is a legal requirement or duty of care to do so; in all other cases a disclosure may be considered gross misconduct and lead to disciplinary action.
- 3.8 Any employee who is subject to formal proceedings will be offered a named contact who will provide appropriate support for them. They will also be encouraged to liaise with their Trade Union Representative if they have one, to receive any additional support which may be available.
- 3.9 Any employee who is subject to this policy will be reminded of the Trust's Wellbeing and Counselling Service as offered by Health Assured. This is a free and confidential service offering information, guidance and support.
- 3.10 The Trust is committed to ensuring that employees and their representatives do not experience any disadvantage due to a disability or any special requirement. Employees are encouraged to raise any queries relating to disability or other needs with the Trust at the earliest opportunity. This will enable the Trust to consider and accommodate any reasonable request(s).
- 3.11 Employees have the right to be accompanied at all formal stages of the Performance Improvement Procedure by a trade union representative or workplace colleague. Employees must provide the name and role of their companion no less than 3 working days before any meeting.
- 3.12 If the capability issue relates to a trade union representative, the Trust will seek the employee's permission to discuss the matter with a full-time trade union official before initiating the performance improvement procedure.
- 3.14 The employee or any person acting on their behalf will not normally be permitted to electronically record any meeting held under the Performance Improvement Procedure. Any breach of this provision may be considered gross misconduct and lead to disciplinary action.
- 3.15 Occasional days of absence arising from ill health will not usually delay the timescale or review period for any stage of the procedure. However, in the case on long term sickness absences, the procedure may be suspended whilst absence management procedures are applied. In this instance, the Performance Improvement Procedure will resume upon the employees return to work.
- 3.16 The expectation is that the formal meetings will take place at the date and time stipulated by the academy giving appropriate notice. In exceptional circumstances, where the time is not suitable for either the employee or their companion, there may be one postponement of up to 5 working days. If

the employee is unable to attend the rescheduled meeting, this will continue in their absence. The employee may provide a written submission for consideration.

- 3.17 In exceptional cases, where employees fail to cooperate with the procedure and makes it impracticable, action may be taken through the equivalent stage of the Staff Disciplinary Policy.
- 3.18 Employees may be referred to the formal or informal stages of this policy following an investigation or hearing under the Disciplinary Policy, where it is established that there are issues of capability rather than conduct.
- 3.19 There is an expectation that Principals consult the academy Senior HR Consultant during all stages of the Performance Improvement Procedure. They will be present to advise and assist at all formal review and appeal meetings.
- 3.20 Timescales and procedures referred to in this policy should be followed wherever possible, however there may be circumstances where they can be varied subject to agreement by all parties.
- 3.21 All documentation relating to a performance improvement procedure must be treated on a confidential basis. Copies of warnings will be kept on the employee's personnel file until it has been spent.
- 3.22 Any formal warning issued to a member of staff previously will be taken into consideration at all stages of this procedure.
- 3.23 Personal data obtained during the implementation of this policy will be used, stored and disposed in accordance with GDPR.

4 Links with Other Policies and Procedures

- 4.1 **Grievance Policy** – Where a complaint is submitted during performance improvement proceedings, this will not normally stop the proceedings from progressing. Where they raise a grievance during performance improvement proceedings:
 - The performance improvement proceedings may be temporarily suspended in order to deal with the grievance
 - or*
 - The grievance and performance improvement proceedings may be run concurrently where they are related

Where it is asserted that the performance improvement proceedings being undertaken are unlawfully discriminatory or are motivated by reasons other than poor performance, a grievance can be raised.

- 4.2 **Managing Attendance at Work Policy** - Where you are absent due to sickness, the managing attendance at work procedure will apply as normal. Under these arrangements due regard will be had for what is said by Occupational Health and any information you may wish to provide from your GP. We will arrange for you to see Occupational Health as soon as possible for them to assess your health generally and whether or not you are fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the performance improvement procedure progressing.

Well-being policy – To enable good mental health and wellbeing in the workplace, internal and external help, support and guidance can be found in the Trust's Well-being policy.

5. Informal Procedure

5.1 To invoke the informal procedure, a manager will arrange to meet with the employee to conduct an informal review meeting. This should be arranged promptly without unreasonable delay. Where practicable, the informal meeting will take place within 5 working days of the capability concern being identified or escalated from insufficient improvement.

5.2 There is no legal right to representation at this stage, however employees are able to be accompanied on the basis that there is no delay to convening a meeting. Where employees are unable to be accompanied, they are encouraged to seek advice from their trade union prior to the informal meeting and during the review period as necessary.

5.3 The informal review meeting will include the following points:

- the expectations of the employee
- how the employee is falling short of the expectations
- required improvement to performance
- the duration of the review period
- the employee's explanation and any mitigating factors
- actions agreed to address mitigating factors where possible
- potential consequence of not achieving the required improvement within the timescale

5.4 During the review meeting, the employee and manager will develop a performance improvement plan (PIP) (template in appendix d) that outlines the measures that will be put in place to support improvement. This may include some or all of the following*:

- further instruction or training
- schedule of one to ones, coaching or mentoring
- providing equipment or resources
- reviewing working arrangements and targets
- timescales and monitoring arrangements

*This list is not exhaustive.

5.5 A review date should be set following the informal capability meeting in line with the review period. This will usually be 4 to 6 weeks after the date of the meeting, however will be determined on a case-by-case basis. Informal monitoring and assessment will take place during this period.

If there is satisfactory progress within the agreed timescale, the matter will be considered resolved. Records of the informal process will remain on the employees file for a six-month period and form part

of a formal procedure if further capability issues arise during this period. If no further issues arise during this timescale, records will be removed from the employee's file.

5.6 If there is insufficient progress within the review period, the matter will progress to the formal procedure.

6. Formal Procedure: Stage One

6.1 **Stage one** of the formal procedure will be invoked where there is insufficient improvement during the informal stage, or the concern is considered sufficiently serious.

6.2 A **stage one** letter will be sent out by the employee's line manager inviting them to a meeting. A note taker will be present. Where applicable, the letter will refer to relevant documentation collated during the informal procedure (support plans, minutes from meetings, observation notes etc) and provide a summary of the performance concerns in question.

6.3 The employee will receive 5 working days' notice to attend a stage one formal review meeting and will receive a copy of all documentation that will be referred to. This meeting constitutes the date of entry into the formal procedure.

6.4 The employee is entitled to be accompanied by a trade union representative or workplace colleague. Where the meeting time is not suitable for the employee or their companion, there may be one postponement of up to 5 working days. If the employee is unable to attend the rescheduled date the appeal will continue in their absence, and the employee may provide a written submission for consideration.

6.5 A **stage one** formal review meeting will be a full and explorative discussion where the manager seeks to establish the facts relating to the capability concern. The meeting will include the points referred to in 5.3.

6.6 Where possible an outcome will be decided during the meeting and confirmed to the employee verbally. However, a manager may adjourn the decision to allow for further investigation and/or deliberation if required. The decision will be made and confirmed in writing within 5 working days of the meeting.

6.7 If the capability concerns are satisfied during or following the meeting, the matter will be considered resolved. Records of the formal process will remain in the employee's file.

6.8 If the concerns are sufficiently serious and are not satisfied during the meeting:

- a **written warning** will be issued and live for a period of 6 months, after which time it is considered spent. This will state the employee's shortcomings and make it clear that further action may be taken if improvement is not achieved within a defined timescale, up to and including dismissal.
- the employee and their manager will **agree a PIP** that outlines the measures that will be put in place to support improvement.

- a **review date** will be put in place. This will usually be between 4-6 weeks from the date of the meeting, however will be determined on a case-by-case basis.

In exceptional circumstances, where the concerns raised are considered to be severe, a final written warning may be issued at this stage.

- 6.9 At the end of the review timeframe identified on the PIP, the manager will arrange a formal review meeting to review and assess progress. If the intended improvement has been achieved, the employee should be notified, and the procedure concluded. Should any further capability issues arise during the period that the first written warning is live, progression towards stage two of the formal capability process will be considered.
- 6.10 If insufficient progress has been made the employee should be notified accordingly and the matter referred to stage two of the formal procedure.

7. Formal Procedure: Stage Two

- 7.1 **Stage two** of the formal procedure will be invoked where there is insufficient improvement during stage one of the formal procedure.
- 7.2 A **stage two** letter will be sent out by a Manager/ Principal inviting them to a meeting. A note taker will be present. Where applicable, the letter will refer to relevant documentation collated during the informal/stage one procedure (support plans, minutes from meetings, observation notes etc) along with a summary of the performance concerns in question.
- 7.3 The employee will receive 10 working days' notice to attend a stage two formal review meeting and will receive a copy of all documentation that will be referred to.
- 7.4 The employee is entitled to be accompanied by a trade union representative or workplace colleague. Where the meeting time is not suitable for the employee or their companion, there may be one postponement of up to 5 working days. If the employee is unable to attend the rescheduled date the appeal will continue in their absence, and the employee may provide a written submission for consideration.
- 7.5 A **stage two** formal review meeting will be a full and explorative discussion where the manager seeks to establish the facts relating to the unresolved capability concern. The meeting will include the points referred to in 5.3 and will seek to ascertain the reason for insufficient progress at the previous stages.
- 7.6 Where possible an outcome will be decided during the meeting and confirmed to the employee verbally. However, a chair may adjourn the decision to allow for further investigation and/or deliberation if required. The decision will be made and confirmed in writing within 5 working days of the meeting.
- 7.7 If the performance improvement concerns are satisfied during or following the meeting, the matter will be considered resolved. Records of the formal process will remain in the employee's file.
- 7.8 If the concerns are sufficiently serious and are not satisfied during the meeting:

- A **final written warning** will be issued and live for a period of 12 months, after which time it is considered spent. This will state the employee's shortcomings and make it clear that further action may be taken if improvement is not achieved within a defined timescale, up to and including dismissal.
- The employee and their manager will **agree a final PIP** that outlines the measures that will be put in place to support improvement.
- A **review date** will be put in place. This will usually be between 4-6 weeks from the date of the meeting, however will be determined on a case-by-case basis.

7.9.1 At the end of the review timeframe identified on the PIP, the chair will arrange a formal review meeting to review and assess progress. If the intended improvement has been achieved, the employee should be notified, and the procedure concluded. Any further capability issues will immediately invoke stage three of the formal capability process during the period that the final written warning is live.

7.9.2 If insufficient progress has been made the employee should be notified accordingly and the matter referred to stage three of the formal procedure.

8. Formal Procedure: Stage Three

8.1 **Stage three** is the final stage of the formal procedure. This will be invoked if there is insufficient progress arising from the stage two process.

8.2 A **stage three** letter will be sent out on behalf of a panel inviting the employee to a meeting. A note taker will be present. Where applicable, the letter will refer to relevant documentation collated during the informal / Stage one and Stage two procedure (support plans, minutes from meetings, observation notes etc) along with a summary of the performance concerns in question.

7.3 The employee will receive 10 working days' notice to attend a stage three formal review meeting and will receive a copy of all documentation that will be referred to.

A **stage three** meeting will be chaired by a panel in accordance with the delegation of responsibility matrix (appendix b). A note-taker will be present. They will receive and refer to all documentation collated during the informal procedure and stage one and two of the formal procedure, as well as any other supporting evidence.

8.3 The employee will receive 5 working days' notice to attend a final formal review meeting along with copies of documentation that will be referred to. This notice must state that there are a number of possible outcomes arising from the meeting up to and including dismissal.

8.4 A **stage three** formal review meeting will be a full and explorative discussion where the chair seeks to establish the facts relating to the unresolved capability concern. The meeting will include the points referred to in 5.3 and will seek to ascertain the reason for continued insufficient progress at the previous stages.

8.5 Where possible, an outcome will be decided during the meeting and confirmed to the employee verbally. However, a chair may adjourn the decision to allow for further investigation and/or deliberation if required.

8.6 The possible outcomes are:

- The employee is deemed to have made **sufficient progress** and the matter is closed. The final warning will be live for the timeframe referred to above.
- **Extension to the review period** – this may be appropriate where the chair is confident that the progress is likely within a reasonable timeframe
- **Redeployment** – an offer of redeployment does not need to be at the same level, salary or hours of work. In making an offer, the manager should stipulate a timeframe for consideration and inform the employee of the consequences of refusing it. Pay protection would not apply in any instance of redeployment for this reason.
- **Dismissal** – the employee will be given notice of the termination of their employment on the grounds of capability, with appropriate contractual notice

8.7 In all cases, the decision will be confirmed in writing within 5 working days.

9. Appeal Process

9.1 Where a formal warning has been issued and the employee is dissatisfied with the decision, this can be appealed at all formal stages. The appeal must be in writing and include the additional information which will be relayed at the appeal hearing. The appeal must be sent to the Chair of the Appeals committee within 5 working days of receiving the formal warning.

9.2 The employee will be invited to the appeal hearing in writing and will be given at least 5 working days' notice of the appeal meeting and have the right to be accompanied at the appeal meeting by a companion.

9.3 Following the appeal hearing, the chair will call a short adjournment to deliberate the employee's arguments. They will invite the employee back into the meeting to confirm the outcome. The possible outcomes are:

- **Uphold the appeal** – the sanction is fully revoked
- **Partially uphold the appeal** – where there are multiple points to the appeal, it is possible that some may be upheld and some rejected. This may result in an amendment to the sanction which is no more severe than the initial decision.
- **Reject the appeal** – the sanction will remain in place

9.4 The appeal outcome will be confirmed in writing within **5 working days** of the appeal hearing. There is no further right of appeal.