



**Truro and Penwith
Academy Trust**

Capability Policy & Procedure

Review Summary

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Truro and Penwith Academy Trust

Capability Policy & Procedure

Paragraph	Subject	Page
	Contents List of the Capability Policy & Procedure and page numbers	2
1	Introduction	3
2	Overview	3
3	Procedure	3-5
3.1	Formal Stage	3-5
3.1.1	First Stage Formal Meeting	3-4
3.1.2	Second Stage Formal Review Meeting	4
3.1.3	Final Stage Meeting	5
3.2	Appeal	5
4	Review	5
<p>Further administrative guidance and example letters & forms can be found on TPAT's Intranet Site under Central Services, HR & Payroll – Workplace Issues & Solutions</p> <p>Link - Workplace Issues & Solutions - TPAT ConnectED (ourhub.io)</p>		

Capability Policy and Procedure

1 Introduction

- 1.1 Truro and Penwith Academy Trust (TPAT) is referred to as 'the Trust' throughout the document. 'Board of Trustees' or 'Board' refers to the trustees of Truro and Penwith Academy Trust. 'Local Monitoring Committee' refers to the Local Monitoring Committee (LMC) at each member school of Truro and Penwith Academy Trust.
- 1.2 The Trust Board will endeavour to ensure that all staff achieve and maintain the required standard of performance in their job. The standard required will be established with each member of staff by way of Trust Values, Professional Standards and skill levels through the Induction and Professional Growth Processes.
- 1.3 This procedure is to be used when a member of staff is not meeting the required standard for their job. The reasons for this will be established and the member of staff will be given all the support needed to enable them to meet the required standard. In the case of a Headteacher not meeting the required standards, appropriate employees from the Trust will manage the process detailed below.

2 Overview

- 2.1 Formal capability should only be entered into where prior to the formal stages below, there have been informal meetings, coaching and / or action planning to address issues of poor performance. The staff member will have been aware that there are performance issues and will have had a chance to address their performance.
 - 2.1.1 For our Headteachers and Teachers, the Headteacher & Teachers' Standards define the minimum level of practice expected of teachers from the point of being awarded qualified teacher status (QTS).
 - 2.1.2 For all other employees, the key skills and attributes set out in their job descriptions and person specifications.
- 2.2 Concerns about capability should not be confused with disability. Where a member of staff has become disabled during their employment it is important to ensure that every effort should be made to retain them in their original job role through reasonable adjustments or redeploy them to a suitable alternative post, in line with the requirements of the [Equality Act Equality Act 2010 \(legislation.gov.uk\)](#).
- 2.3 In exceptional circumstances, it may be necessary to temporarily redeploy or suspend a member of staff who is not meeting the required levels of performance in their normal job.
- 2.4 All staff have the right to be represented and accompanied by a representative of a trade union or workplace colleague at any stage of the formal Capability Procedure.
- 2.5 The capability procedure may be run in parallel with other Trust procedures as appropriate.
- 2.6 Any member of staff subject to any formal stage of this procedure will not receive automatic pay progression. Automatic pay progression can only be reinstated in the September following the ceasing of formal capability processes (see [Pay Policy Pay Policy - TPAT ConnectED \(ourhub.io\)](#)).

3 Procedure

3.1 Formal Stage

3.1.1 First Stage Formal Meeting

After making the individual aware that there are serious concerns around their performance the Headteacher / Senior Manager should invite the staff member to a formal meeting to review their capability in post. The member of staff has the right to be accompanied at the meeting by

a Trade Union representative or a Trust employed colleague. A member of TPAT HR may be present in an advisory capacity. The meeting should not be delayed unreasonably.

At this meeting, the member of staff should be informed of the specific performance issues. The member of staff should be given an opportunity to respond to the issues and discuss any difficulties they have been having before the Headteacher / Senior Manager decides what action should be taken.

At the formal meeting, the Headteacher / Senior Manager may decide to issue a written capability warning. This will clearly indicate the further stages of the process and possible outcomes if improvement is not achieved. The decision needs to be confirmed in writing with objectives specified via an action plan and giving clear indication of how they will be measured.

Monitoring, assessment and support should continue for a further period of between **one and three months**.

If a capability warning is given the staff member has the right to appeal this decision. Any appeal should be made within **5 working days** in writing, to the Headteacher / Senior Manager of the department in which the staff member works. The Senior Manager will hold the appeal or appoint an appropriate manager to hear the appeal. The person holding the appeal must be more senior than the manager who issued the warning and someone not previously involved in issuing the warning. If the warning was issued by the Headteacher the appeal must be heard by a LMC Member. A member of TPAT HR should attend the appeal in an advisory capacity. The staff member has the right to be accompanied by a Trade Union representative or a Trust employed colleague. The meeting should not be delayed unreasonably.

3.1.2 **Second Stage Formal Review Meeting**

The member of staff should be formally invited to this meeting and has the right to be accompanied at the meeting by a Trade Union representative or a Trust employed colleague. A member of TPAT HR may be present in an advisory capacity. The meeting should not be delayed unreasonably.

The Headteacher / Senior Manager should review the action plan and if targets are met the member of staff should be moved out of the formal capability procedure. This should be confirmed in writing to the staff member. Improvement will need to be continued and sustained. Failure to continue to improve after the review period, or further issues of performance should be followed by a repeat of the First Stage meeting. At this stage a final capability written warning may be issued, or, an alternative role may be considered.

If an alternative role is considered then the offer should be made in writing, explaining why it is being made. The member of staff should respond within **5 working days**. The Trust is under no obligation to create a job for the staff member but should consider appropriate available job roles.

Ordinarily the First and Second Stage meetings will be between the member of staff, Headteacher / Senior Manager and where appropriate a member of TPAT HR, together with an appropriate professional advisor if necessary. The member of staff has a right to be accompanied by a Trade Union representative or Trust employed colleague.

If a final capability written warning is given, the staff member has the right to appeal this decision. Any appeal should be made within **5 working days** in writing to the Headteacher who will liaise with the Trust HR Team. An appropriate senior manager will hold the appeal or appoint an appropriate employee or LMC member to hear the appeal. The person holding the appeal must be someone not previously involved in issuing the warning. A member of TPAT HR should attend the appeal in an advisory capacity. The staff member has the right to be accompanied by a Trade Union representative or a Trust employed colleague. The meeting should not be delayed unreasonably.

3.1.3 Final Stage Meeting

If there is no evidence of improved performance, or the impact of the capability has a very serious and detrimental effect on other staff, pupils or the Trust, the staff member should be invited to a formal Final Stage meeting. The meeting should be conducted by the Headteacher, a senior member of TPAT HR, together with the member of staff. The member of staff will be advised of their right to be accompanied by a Trade Union representative or a Trust employed colleague. If after review, it is found that the requirements of the agreed action plan have not been met, the member of staff may be dismissed on the grounds of lack of capability.

If dismissal is the outcome, the member of staff should be dismissed in accordance with the dismissal procedure and should be informed of their right to appeal.

3.2 Appeal

Members of staff have the right to appeal against action to dismiss under the Capability Procedure. The appeal should be made in writing to the Headteacher. Written notice of an intention to appeal, and the grounds on which it is based should be submitted within **5 working days** of the date of action. Appeals against action taken will be held by a panel consisting of the Headteacher (unless involved in the dismissal), or another senior manager (not previously involved in the case) or a TPAT Trustee. A member of TPAT HR will be present in an advisory capacity. Where Trust senior leaders / Headteacher have already been involved in the process the panel will consist of three members who may be members of an LMC, Trustees or a Senior Leader from within TPAT.

4 Review

This Policy and Procedure will be reviewed regularly and at least **every 3 years**.