Capability Policy and Procedure

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Contents

Changes to this Edition	
Commitment to Equality	
Definitions	
1.0	Scope
2.0	Part A – Informal Support
3.0	Support Plan
4.0	Part B – Formal Capability Procedure
5.0	Capability, Final Capability and Appeal Manager
5.0	First Capability Meeting
8.0	Final Capability Meeting
9.0	Appeals Against Decisions Made By Capability Manager and/Or Final Capability Manager
10.0	Director's Panels
11.0	Companion
12.0	Timing Of Meetings
13.0	Venue Of Meetings

Changes to this Edition

DATE	VERSION	DETAILS OF CHANGES
September 2025	1.0	First Edition
September 2026	2.0	No Change

Commitment to equality:

We are committed to providing a positive working environment which is free from prejudice and unlawful discrimination and any form of harassment, bullying or victimisation. We have developed a number of key policies to ensure that the principles of Catholic Social Teaching in relation to human dignity and dignity in work become embedded into every aspect of school life and these policies are reviewed regularly in this regard.

This Capability Policy and Procedure has been approved and adopted by St Francis Catholic Multi-Academy Trust for use in all its academies.

Definitions

In this Capability Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:

'Academy' means any academy or school operated by St Francis Catholic Multi-Academy Trust and includes all sites upon which the Academy undertaking is, from time to time, being carried out.

'Board' means the board of Directors of the Trust.

'Capability due to ill-health' means any health condition or any other physical or mental quality which results in unsatisfactory performance. In these cases, the Sickness Absence Policy and Procedure will apply.

'Capability due to lack of competence' means a lack of skill or aptitude leading to unsatisfactory performance. In these cases, this Capability Policy and Procedure will apply

'Chair' means the Chair of the Board as appointed from time to time.

'Clerk' means the Clerk to the Board as appointed from time to time.

'Companion' means a willing work colleague not involved in the substance of the employee's performance issues under review by this Capability Policy and Procedure, a trade union official, or an accredited representative of a trade union or other professional association of which the employee is a member who should be available for the periods of time necessary to meet the

timescales under this Capability Policy and Procedure subject to statutory provisions as per the Employment Relations Act 1999.

'Diocesan Schools Commission' means the education service provided by the Diocese of Hallam which may also be known, or referred to, as the Diocesan Education Service.

'Directors' means directors appointed to the Board from time to time.

'Governors' means (if appropriate to the context), the governors appointed and elected to the Local Academy Committee, from time to time.

'Headteacher' means the most senior teacher in the Academy who is responsible for its management and administration. Such teacher may also be referred to as the Head of School or Principal.

'Local Academy Committee' means the body carrying out the employment functions of the Trust in relation to the Academy.

Misconduct means any action or inaction which contravenes the provisions of the employee's contract of employment, the rules laid down by the Trust and/or any Professional Code of Conduct and Practice. In such cases the Disciplinary Policy and Procedure will apply and the Capability Policy and Procedure may also apply.

'Trust' means St Francis Catholic Multi-Academy Trust, which is the company responsible for the management of the Academy and, for all purposes, means the employer of staff at the Academy

'Vice-Chair' means the Vice-Chair of the Board as elected from time to time.

'Working Day' means any day on which you would ordinarily work if you were a full-time employee. In other words, 'Working Day' will apply differently to teaching and non-teaching staff. However, part-time and full- time staff will not be treated differently for the purposes of implementing this Appraisal Policy and Procedure.

'Working Week' means any week that you would ordinarily work.

Purpose

The Trust aspires to make our schools places where everyone loves to work – more specifically, where every individual, regardless of role, can thrive, reach their potential and be happy within a Christ-centred community. In demonstrating commitment and support to our employees, the Trust reflects the words from Matthew's Gospel "For where your treasure is, there will your heart be also". True value can be found where time, energy and attention is dedicated to that which holds great worth.

Occasionally employees are not able to achieve their full potential because of a lack of competency, skill and/or aptitude. This policy sets out the process that will be followed where the academy has concerns about capability due to a lack of competence, skill and/or aptitude and/or where an individual is not providing satisfactory performance. In line with Catholic social teaching principles, the Trust is dedicated to ensuring that human dignity remains at the forefront of any process undertaken. At all times, line managers must ensure that they have knowledge of an employee's workload and must be mindful of the impact of any discussions regarding performance on an employee's mental health and wellbeing.

Scope

1.1 This Capability Policy and Procedure applies to you if you are an employee or worker at the Academy (hereinafter referred to as an "employee" or "you").

1.2 For the avoidance of doubt, this Policy does not apply during staff probationary periods.

1.3 The purpose of this Capability Policy and Procedure is to establish a structure to support employees in improving their performance to the standards expected and to take appropriate action to address identified performance weaknesses.

1.4 This Capability Policy and Procedure shall be initiated when there is an identified need to address, with a view to remedying, performance that has not improved with day-to-day management and advice.

1.5 An employee is entitled to have access, by arrangement, to their personnel file and to request the deletion of time-expired records in line with the provisions of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

1.6 The Trust delegates its authority in the manner set out in this policy.

1.7 The Trust is committed to ensuring respect, objectivity, belief in the dignity of the individual, consistency of treatment and fairness in the operation of this Capability Policy and Procedure. This commitment extends to promoting equality of opportunity and eliminating unlawful discrimination throughout the Trust community which includes all of the academies in the Trust's group.

1.8 This Policy is intended to provide the potential for the expression of Christian qualities such as honesty, self-knowledge, respect for others and their gifts, recognition of the needs and achievements of others, challenge of self and others, personal growth and openness.

1.9 The management of unsatisfactory performance and related investigations will be treated in confidence by all parties involved at all stages of this Capability Policy and Procedure.

1.10 The Trust will maintain records of all interviews and reviews which take place under this Capability Policy and Procedure for a period of up to 12 months or longer where necessary and where there is an applicable lawful basis under the DPA 2018 for extending the retention period. All data and evidence collected is to be shared between relevant manager(s) including the employee, and where there is an applicable lawful basis under the provisions of the GDPR.

2.0 Part A – Informal Support

2.1 Through day to day interactions, an employee's line manager may have concerns regarding an employee's performance. When this happens, these concerns should be raised as quickly as possible with the employee, avoiding unnecessary delays.

2.2 An employee's line manger should identify whether there are any external factors affecting the employee's ability to undertake their role, this might include a disability or domestic issues and consider ways in which the employee can be supported.

2.3 An employee's line manager may also provide informal advice and appropriate support which may include training, coaching, mentoring, counselling, monitoring, working in a professional learning community, learning and development opportunities, supervision, occupational health or discussing practice with advisory teachers or other employees (as appropriate to the employee's role). These arrangements will take into account the employee's workload.

2.4 Where an employee is experiencing performance difficulties, the line manager should identify what the performance issues are, and the range of support required to address the performance gap.

2.5 Every effort should be made to support the employee and to provide opportunities for learning and development to bridge the performance gap. During the period of informal support written records should be kept detailing the performance issue and all of the support provided. The employee will be provided with a copy of any written record and will be given five working days to comment on the written record in writing.

2.6 An employee's line manager may consider that a recent promotion or change of role has been a contributory factor in any unsatisfactory performance. In such a case, informal support should be taken as described in paragraphs 2.3 and 2.4 to seek to ensure that:

- the employee has undergone an appropriate period of induction to their role; an up-to-date job description has been issued to them.
- professional standards and overall expectations of performance have been made clear, and the

employee's performance has been monitored, and feedback has been provided to them.

3.0 Support Plan

3.1 During the period of informal support, a support plan should be implemented. This support plan will be drafted during the meeting detailed in 3.4 below. This support plan is not part of the formal capability procedure and should not be disclosed to a potential employer in a reference.

3.2 A professional dialogue discussing performance against the employee's job description will identify any performance concerns. For teaching staff, senior leaders will carry out a usual work scrutiny on a half- termly basis, jointly with teachers and heads of department. Any concerns should be raised, with support offered, during the year in question.

3.3 When dealing with an employee experiencing difficulties, the objective is to provide support and guidance
in such a way that the employee's performance improves and the problem is, therefore, resolved.

3.4 The line manager will arrange to meet with the employee, giving 5 days-notice. The purpose of the meeting is to:

- give clear written feedback about the nature and seriousness of the concerns.
- give the employee the opportunity to comment on, discuss the concerns and identify targets for improvement;
- establish a bespoke agreed support plan that will help address those specific concerns, (for example coaching, training, in-class support, mentoring, structured observations, Director support and diagnostics, visits to other classes or Academies),
- discuss how progress will be monitored and when it will be reviewed and explain the implications and process if no – or insufficient – improvement is made.

3.5 The employee's progress will continue to be monitored, and a reasonable time given for the performance to improve. This will depend upon the circumstances but will be for a minimum period of 4 weeks, with appropriate support as agreed in the support plan, in order that the aim of

recovering and improving performance can be achieved. Where there may be mitigating circumstances, a maximum timescale of up to eight weeks may apply. During this monitoring period the employee will be given regular feedback on progress and arrangements will be made to modify the support programme if appropriate.

3.6 At the conclusion of this period, a meeting should be held, and the employee will be provided with 5 working days notice and the evidence to be reviewed. If sufficient progress is made such that the employee is performing at a level that indicates there is no longer a possibility of formal capability procedures being initiated the employee should be informed of this at the meeting. If some progress has been made, but there are still concerns, it may be appropriate to extend the period of the support plan.

If no, or insufficient, improvement has been made over this period, the employee will be informed at the meeting that formal capability will be initiated.

4.0 Part B - Formal Capability Procedure

4.1 This Policy should, be initiated where the measures set out in Part A (informal stage) of this policy and procedure have been exhausted and the employee has not responded to feedback in relation to unsatisfactory performance.

4.2 Where an employee is subject to the Part B (formal process) of this policy, they will no longer be able to

participate in the Trust's Employee Growth and Development Policy and Procedure.

4.3 If a Headteacher is subject to this Policy they will normally continue to be responsible for the Employee Growth and Development process of the Academy. The Trust in its absolute discretion, reserves the right to remove such responsibilities from the Headteacher where it considers necessary and/or appropriate.

4.4 The Diocesan Director of Education must be advised when the capability procedure is implemented for any of the following posts:

- CEO
- Headteacher (including acting and executive headteachers) Executive posts within the Trust central teams.

- Any other reserved posts

5.0 Capability, Final Capability and Appeal Manager

5.1 The table below sets out the persons to be appointed throughout the stages of the Capability Procedure, depending on the person who is the subject of the capability proceedings:

Employee Level	***First/Second Capability Meeting – the Capability Manager***	***Final Capability Meeting – the Final Capability Manager***	***Appeal Panel***
Chief Executive Officer	A Foundation Director	A Foundation Director	Directors' Appeal Panel
Exec Team member	Chief Executive Officer	A Foundation Director	Directors' Appeal Panel
Trust Central Team member/officer	Line Manager	Executive Team Member	Directors' Appeal Panel
Headteacher	Chief Executive Officer	A Foundation Director	Directors' Appeal Panel
Other Leadership Spine	Headteacher	Chief Executive Officer	Directors' Appeal Panel
Other Teaching Staff	Sufficiently senior* member of staff appointed by the Headteacher	Headteacher	Directors' Appeal Panel
Other Support Staff	Sufficiently senior* member of staff appointed by the Headteacher	Headteacher	Directors' Appeal Panel

This would be someone with appropriate knowledge, at a higher grade than the employee who is subject to the capability proceedings.

6.0 First Capability Meeting

6.1 In the event of where an employee fails to meet the relevant standards, and where matters are not resolved at check ins and through development, the CMAT will appoint a Capability Manager in accordance with the table above. The Capability Manager will write to you inviting you to a First Capability Meeting. You will be given at least 5 working days' notice* of such meeting. The employee may bring their union rep or a work colleague. In advance of the meeting, the Capability Manager will also send you a copy of the Performance Report which they have prepared and which shall set out:

- what aspects of your performance are causing concern;
- what specific and achievable performance standards are expected of you; and the support that has been provided to you so far;
- If applicable, any agreed reasonable adjustments and an opportunity to reflect on their suitability; and your right to be accompanied.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, another date within 5 working days of the original planned meeting date can be agreed.

6.2 Any documentation that you wish to rely on must be submitted at least 3 days ahead of the Capability Meeting. Failure to provide documentation within this timescale may mean that it will not be considered at the meeting.

6.3 At the First Capability Meeting you will have an opportunity to respond to the Performance Report and provide evidence to support your case against capability, to discuss any shortcomings, identify any possible support and/or guidance that may be required.

6.4 At the outcome of the First Capability Meeting the Capability Manager may:

- Decide there is no case for the Capability Policy and Procedure to be invoked.
- Determine that your performance should continue to be assessed over an "Assessment Period".

6.5 Where the Capability Manager determines that an Assessment Period should be implemented, they will explain how your performance will be monitored during that "Assessment Period" and confirm the improvements that are expected.

6.6 The length of the Assessment Period should normally be at least 4 working weeks and no more

than 12 working weeks.

6.7 If, following the Assessment Period, the Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Policy and you will be notified in writing, within 5 working days of the decision.

6.8 If, following the Assessment Period, the Capability Manager considers that your performance is unsatisfactory you will be invited to a Further Capability Meeting. You will receive a formal letter giving 5 working days' notice* of the meeting and explaining your right to be accompanied by a companion. This letter will include the relevant evidence from the first assessment period.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended with reasonable efforts made to meet within 5 working days.

6.9 If, following the Assessment Period, the Capability Manager may determine that your performance should be monitored for a further Assessment Period. Where relevant, a further Capability Meeting will be held at the end of any further Assessment Period.

6.10 Where the Capability Manager determines that you should be issued with a First Written Warning, they will prepare an improvement and support plan which will:

- Detail the professional shortcomings identified
- Give clear guidance on the improved sustainable standard of performance needed to exit the Capability Policy and Procedure
- Agree to arrange any support that will be available and agree how your performance will be monitored over a further Assessment Period
- Identify a reasonable timetable for improvement and provide a date for the Second Capability Meeting to be held at the end of the Assessment Period, where appropriate.
- State that a failure to improve may lead to dismissal; and Notify you of your right to appeal.

6.11 In the case of a Headteacher, a First Written Warning will remain on record for 12 months. In the case of all other employees a First Written Warning will remain on record for 6 months. If within that 12 or 6 month period respectively the required standard of performance is not sustained, the Capability Manager will recommence the Capability Procedure at the stage it was previously concluded.

6.12 The length of the Assessment Period following a First Written Warning should normally be at least 6 working weeks. And normally no more than 8 working weeks.

6.13 You may appeal against a First Written Warning by submitting the Trust Appeal Registration Form to the HR Manager within 10 working days of receipt of the First Written Warning.

6.14 An appeal will not delay the commencement of the Assessment Period.

7.0 Second Capability Meeting

7.1 The Capability Manager will write to you at least 5 working days notice prior to the Second Capability Meeting. You have the right to be accompanied by a union rep or another companion at the meeting. The Capability Manager will send you an updated performance report which sets out the assessments, support and evaluation of your performance during the Assessment Period.

7.2 Any documentation you wish to rely on during the Second Capability Meeting must be submitted at least 3 Working Days prior to the Second Capability Meeting.

7.3 At the Second Capability Meeting you will have an opportunity to respond to the updated Performance Report to discuss any continuing shortcomings, support and guidance required and how performance will be monitored going forward.

7.4 The Capability Manager will write to you to confirm the outcome of the Second Capability Meeting within 5 working days of the date of such meeting.

7.5 If the Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Policy and will be notified in writing within 5 working days of the second capability meeting. If the required standard of performance is not sustained at any time during the life of the First Written Warning, the Capability Manager will recommence the Capability Procedure from the stage it was previously concluded.

7.6 Where the Capability Manager concludes at the end of the Second Capability Meeting that some progress has been made and that with a further period of monitoring an acceptable level of performance will be achieved, the Capability Manager may determine that you should be subject to an Additional Assessment, however the total Assessment Period must not exceed 4 working weeks.

7.7 Where the Capability Manager concludes, at the end of the Second Capability Meeting, or at the

end of the Additional Assessment Period that no, or insufficient, improvement has been made so that your performance remains unsatisfactory, you will be given a Final Written Warning setting a Further Assessment Period of 4 Working Weeks and setting the date for a Final Capability Meeting to be held at the end of the Further Assessment Period. You will be informed that failure to make satisfactory sustainable improvement during such Further Assessment Period may result in your dismissal.

7.8 You may appeal against a Final Written Warning by submitting the an appeal to admin@stfranciscmat.com within 10 working days of the receipt of the Final Written Warning, setting out the basis of your appeal.

7.9 An appeal does not delay the commencement of the Further Assessment Period.

7.10 A Final Written Warning for all employees will usually remain on your record for 12 months from the date that it is issued.

8.0 Final Capability Meeting

8.1 The Final Capability Manager will write to you at least 5 working days prior to the Final Capability Meeting which you will have been invited to in accordance with paragraph 5.8 above. You may be accompanied at the meeting by a union rep or another companion. The Final Capability Manager will send you a copy of the Final Performance Report which shall contain an evaluation of your performance and will detail any support provided during the Further Assessment Period.

8.2 Any documentation you wish to rely on during the Final Capability Meeting must be submitted at least 3 Working Days prior to the Final Capability Meeting.

8.3 At the Final Capability Meeting you will have an opportunity to comment upon the Final Performance Report and to discuss any continued shortcomings identified.

8.4 The Final Capability Manager will confirm the outcome of the Final Capability Meeting in writing within 5 working days of the date of such meeting.

8.5 Where the Final Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Capability Policy. However, if the required standard of performance is not sustained at any time during the life of the Final Written Warning, the Final Capability Manager will recommence the Capability Procedure at the stage where it was previously concluded.

8.6 Where the Final Capability Manager concludes that your performance remains unsatisfactory and is not capable of sustainable improvement the Final Capability Manager will recommend that you will be invited to a Directors Panel who will determine whether your employment should be terminated in accordance with your contract of employment. You will be given 5 working days' notice of the Directors Appeal meeting. In the event that the Directors panel determine that your employment should be terminated, the CMAT will take the appropriate steps to terminate your employment on notice.

8.7 You may appeal against a decision to dismiss you, by submitting your request to admin@stfranciscmat.com within 10 working days of being sent the notice of termination, setting out the full grounds of your appeal.

8.8 An appeal will not delay the commencement of the notice period and/or the expiry of such notice.

9.0 Appeals against decisions made by capability manager and/or final capability manager

9.1 An appeal against a decision of the Capability Manager or Final Capability Manager can be made at each stage of the procedure set out at Paragraphs 6, 7 and 8.

9.2 You should submit your appeal in writing, identifying the grounds for appeal in detail to admin@stfranciscmat.com within 10 days of receiving the outcome.

9.3 An appeal will be heard by the relevant Appeal Manager appointed in accordance with section 5 within 20 working days of admin@stfranciscmat.com receiving your appeal letter.

9.4 The Appeal Manager will write to you giving 5 Working Days' notice of an Appeal Meeting. The Appeal Manager will confirm in this notice what evidence will be relied upon at the Appeal Meeting. If written evidence is to be relied upon you will be provided with copies of such evidence with notice of the meeting in order to enable you to prepare for the Appeal Meeting. If oral evidence is to be relied upon at the Appeal Meeting, you will be given details of who will be in attendance.

9.5 You will be given the opportunity to put your case to the Appeal Manager and comment on the evidence provided during the Appeal Meeting whether such evidence is given in writing or orally.

9.6 Any further documentation not submitted with the Appeal Registration Form, must be submitted at least 3 working days prior to the Appeal Meeting.

9.7 The Appeal Manager will confirm the outcome of the Appeal Meeting in writing to you within 5 working days of the date of the Appeal meeting. The decision of the Appeal Manager is final and there will be no further right of appeal. The potential outcomes of an appeal meeting are:

- the Appeal Manager may uphold the decision of the Capability Manager or Final Capability Manager;
- substitute a different warning, where it is considered appropriate or in the case of a dismissal, the employee will be reinstated
- the Appeal Manager may uphold the employees appeal and overturn the decision of the Capability Manager or Final Capability Manager

10.0 Directors' Panels

10.1 Directors' Capability and Appeal Panels shall, where possible, usually comprise of three Directors not previously involved in the matter. The Chair or Vice-Chair will not usually be on any such Panel unless there are insufficient numbers of Directors not previously involved in the matter.

10.2 In the event that there are insufficient numbers of Directors available to participate in a Directors' Capability or Appeal Panel, the Academy may appoint appropriate associate members solely for the purpose of participating in the relevant Directors' Capability or Appeal Panel.

11.0 Companion

11.1 If you are the subject of any formal Capability Meeting you may be accompanied by a Companion.

11.2 You must let the relevant Manager know who your Companion will be at least two working day before the relevant meeting.

11.3 If you need any reasonable adjustments to enable you to participate in the capability process for example, because you have a disability, you should raise with your line manager as soon as possible so that the necessary arrangements can be made.

11.4 Your Companion can address the meeting in order to:

- put your case.
- sum up your case.

- respond on your behalf to any view expressed at the meeting; and ask questions on your behalf.

11.5 Your Companion can also confer with you during the meeting.

11.6 Your Companion has no right to:

- answer questions on your behalf.
- address the meeting if you do not wish them to; or prevent you from explaining your case.

11.7 Where you have identified your Companion and they have confirmed in writing that they cannot attend the date or time set for a meeting the meeting will be postponed for a period not in excess of five working days from the date set by the Trust Should your Companion subsequently be unable to attend any rearranged date, the meeting may be held in their absence or written representations will be accepted.

12.0 Time of Meetings

is that meetings under this Capability Policy and Procedure will be held at mutually convenient times but depending on the circumstances meetings may:

(a) need to be held when you were timetabled to teach (if that is appropriate to your role);

(b) exceptionally be held after the end of the Academy Day.

(c) not be held on days on which you would not ordinarily work.

(d) be extended by agreement between the parties if the time limits cannot be met for any justifiable reason.

13.0 Venue for Meetings

13.1 To ensure meetings held under sections 6, 7, 8 and 9 are discreet, they may be held at a different Trust site to your normal place of work. You can make this request via the relevant manager.