

**CATHOLIC EDUCATION SERVICE
MODEL CAPABILITY PROCEDURE (teachers & Headteachers)
FOR SCHOOLS WITH DELEGATED BUDGETS (2004)**

1. STATUTORY AND GOOD PRACTICE GUIDELINES

- 1.1 Statutory guidance on staffing under s.35[8] and s.36[8] Education Act 2002 recommends that:-

Headteachers should lead on staff dismissal decisions in all but a limited number of circumstances. These circumstances include “where the Governing Body of a school with a religious character has agreed staffing policies which provide for governor involvement in the interests of preserving the school’s religious character”. The Catholic Education Service recommends that this power is exercised and this is reflected in the governors’ role under this Procedure.

- 1.2 In the case of a voluntary aided school, the Diocesan authority should be given the same advisory rights in relation to the appointment, engagement or dismissal of teachers at the school as that enjoyed by the LEA... The rights should include a right to attend and offer advice at all proceedings relating to the appointment, engagement or dismissal of any teachers as applies for the LEA, and any advice offered must be considered by the Governing Body and/or any committee or person to whom functions have been delegated when reaching any relevant staffing decision.

2. SCOPE

For a variety of reasons, the performance of a teacher or Headteacher may give rise to concern because the evidence suggests that s/he is unable to carry out the duties and responsibilities of his or her post to a professionally acceptable standard, through lack of capability, aptitude, skill or ability and not through any lack of willingness or effort on his or her part. In these circumstances, the Procedure set out as follows should be used.

- 2.1 This Procedure complies with the Department for Education and Skills statutory guidance on Capability Procedures for teachers¹ to which Governing Bodies must have regard.

3. MATTERS OUTSIDE THE SCOPE OF THIS PROCEDURE

- 3.1 Disciplinary Procedures exist to deal with misconduct, wilfully deficient performance, refusal to follow instructions, negligence and other similar situations.
- 3.2 The assessment and treatment of teachers undergoing an induction or probationary period, or similar, should normally be dealt with according to the terms of their induction/probation, unless the teacher's performance falls so far below professionally acceptable standards as to require immediate action.

¹ Capability Procedures for Teachers - Statutory Guidance, DfEE 0125/2000

3.3 Where ill-health is identified as the principal cause of a failure in performance, this should be dealt with according to the school's adopted Sickness Absence policy (see Catholic Education Service Model Sickness Absence Procedure).

4. INFORMAL STAGE

4.1 The Headteacher or other line manager will meet the teacher to outline concerns regarding capability.

4.2 Where a (Head)teacher appears to be under-performing, the Headteacher or other line manager should arrange for performance to be monitored and arrange for appropriate training and support to be offered. The Chair of Governors must make arrangements for this to be done if the performance of a Headteacher is in question. As a result of this period of monitoring, the Headteacher (or the Chair of Governors in the case of a Headteacher's performance) may decide to:

- (a) Confirm that the (Head)teacher is working at an appropriate level of capability (*no case to answer or no further action required*)
- (b) Arrange counselling (*support without using the formal Procedure*)
- (c) Arrange a period of observation and assessment (with appropriate training and support) (*formal approach for more serious cases*)

4.3 The purpose of any action is threefold:

- (a) to identify and provide support to help a teacher or Headteacher overcome any difficulties;
- (b) to monitor performance, record progress and, if performance does not improve to a satisfactory level, to move into the formal stage of the Procedure;
- (c) to consider whether there are any underlying reasons for the difficulties (ie health, other personal reasons, workload, the work environment) and to take action where appropriate.

Care must be taken to see that support is positive and realistic and that monitoring does not put excessive burdens on someone with difficulties.

4.4 In the case of a Headteacher, the Chair of Governors should work closely with a representative of the Diocesan Schools' Commission² and an LEA officer appointed on behalf of the Chief Education Officer³.

² "Diocesan Schools' Commission" throughout this Procedure means the Diocesan Department for Education or Schools.

³ Throughout this Procedure, "Chief Education Officer" means the Chief Education Officer of the school's maintaining Local Education Authority or his/her representative officer(s). Schools will normally liaise with senior LEA Human Resources Officers on personnel matters.

4.5 Counselling

- 4.5.1 Counselling and informal coaching should aim to encourage and help the teacher to improve. It should be conducted discreetly. Explanations should be considered carefully and the matter dropped if it becomes evident that there is no case to answer. The teacher must be told what is required, how performance will be reviewed, the review period, and that the formal Procedure will commence if there is no improvement. Counselling should not go on too long, typically for not more than half a term⁴. A brief note of any counselling should be kept for reference. Discussion must not harass the teacher or turn into a formal interview.
- 4.5.2 If more serious concerns arise, or if the teacher expresses discontent or indifference to the counselling, the formal Procedure should be commenced to deal with the matter in a more structured and objective manner.

4.6 After the period of observation and assessment

- 4.6.1 After a period of review of not usually less than 30 working days involving observation and assessment a firm conclusion should be reached. The options will be to:
- confirm the teaching is working at an appropriate level of capability; or
 - continue with counselling and support, or
 - move into the formal stage of the Procedure.
- 4.6.2 The Headteacher (or Chair of Governors in the case of a Headteacher) will confirm in writing the outcome of the period of observation and assessment and his or her proposed course of action. Where the Headteacher (or Chair of Governors in the case of a Headteacher) decides to move into the formal stage of the Procedure, the letter should also explain that the formal Procedure may ultimately result in dismissal. Such a decision should only be taken after advice from a representative of the Diocesan Schools' Commission and the LEA.

5. FORMAL STAGE

5.1 Formal interview

- 5.1.1 The formal interview initiates the formal stage of the Capability Procedure. It provides an opportunity to deal with more serious problems in a structured way. It allows the (Head)teacher to prepare a response to allegations about performance and make a case in the company of a trade union representative or colleague. At least 10 working days (or 14 consecutive days out of term time) notice must be given for the interview in a letter which states:

⁴ References to terms throughout this Procedure mean the normal school term lengths for schools that operate a three term academic year. Any schools that operate on more than the normal three terms should make approximate pro rata adjustment to any references to terms.

- (a) The date, time and purpose of the interview and those to be invited (the date may be varied within reasonable limits to ensure the worker can be represented) if s/he wishes;
- (b) The nature of the alleged deficiency (ies) in performance;
- (c) The name of the person conducting the interview, and other parties who may be present to provide evidence or information. The Headteacher or Chair of Governors may request the appropriate Diocesan representatives or the LEA to be present;
- (d) The (Head)teacher's right to produce written statements. (Any written statements and/or evidence will normally be circulated to all parties at least five working days and whenever possible at least seven calendar days before the interview);
- (e) The (Head)teacher's right to state his or her case, to produce witnesses and the statutory right to be accompanied or represented by a colleague or trade union representative of his or her choice.

[See sample letter]

5.1.2 The interview may provide new information or a different perspective on evidence collected. If it becomes clear that further investigation is needed the interview should be adjourned for an appropriate length of time to allow this to happen. This should be no longer than 10 additional working days. It is possible to change the timescale for meetings but only by mutual agreement if this is to the benefit of those concerned.

5.1.3 There are four options at formal interview:

- (a) confirm the (Head)teacher is working at an appropriate level of capability;
- (b) counselling (except where already undertaken without improvement)

The options above are only relevant where new information, a different perspective on the information collected, or further investigation suggests that the matter is not as serious as it first seemed. In all other cases one of the following options will be appropriate:

- (c) an oral or first written warning, or
- (d) final written warning

These are relevant to any case where continued concern about the standard of performance is justified. The decision on which level of warning to issue will depend on the seriousness of the problem.

5.1.4 If performance is unsatisfactory a first written warning will normally be the next step and will invoke an assessment period of up to 100 working days. An assessment period will not normally be less than two terms (see paragraph 4.2) although this period can be shortened if concerns are more serious but where the education of children is not in jeopardy. An oral warning would only be appropriate where counselling has not already taken place.

5.1.5 In cases of particularly serious concern where the education of children is in jeopardy, it is possible to move directly to a final written warning (see paragraph 4.3). This will invoke an assessment period not exceeding 4 weeks.

5.1.6 A decision should be made after all the facts and any representations from the (Head)teacher have been considered. The Headteacher or Chair of Governors (where the capability of a Headteacher is under review) should confirm the decision to the (Head)teacher in writing. Any appeal against a warning must be made within 5 working days (or 7 consecutive days out of term time) of receiving written notification, where possible appeals will be heard within 10 working days (or 14 consecutive days out of term time) of notification of appeal, and must not interrupt the progress of the Procedure, unless the appeal decision leads to the matter being reconsidered.

5.1.7 Where a formal warning is issued, it should include:

- the result of the investigations;
- the main points discussed at the meeting;
- confirmation of the decision;
- the stage reached in the formal Procedure;
- the right of appeal to an appropriate Committee of the Governing Body;
- identification of the professional shortcomings;
- give clear guidance on the improved standard of performance needed to end the Capability Procedure.

It should also:

- negotiate the support that will be available, and how performance will be monitored over the following weeks;
- depending on the level of warning issued, identify the timetable for improvement and agree a date for the next/final evaluation meeting; and
- make it clearly understood that failure to improve may lead to dismissal.

5.1.8 At the completion of this meeting the Headteacher or Chair of Governors will consider whether the programme of assistance and support should be adjusted or continue in its existing form, or (subject to the agreement of the (Head)teacher) whether some other resolution of the situation (e.g. an offer of transfer to an alternative post or a different balance of duties) may be considered and, where feasible, implemented.

5.2 First assessment stage

5.2.1 **Weeks 1 to 20** - Regular observation, monitoring and evaluation of performance, with guidance, training if necessary, and support to the (Head)teacher. Observation, monitoring and evaluation will normally be provided by a separate individual to that who is providing guidance and support.

If at any point during this stage the circumstances suggest a more serious problem a decision may be taken to move directly to a final written warning.

- 5.2.2 **Week 20** - Evaluation meeting to assess performance over the previous weeks. At least 10 working days (or 14 consecutive days out of term time) notice must be given for the meeting and the (Head)teacher may be accompanied by a union representative or colleague. If the level of performance has been satisfactory and there is confidence that it can be sustained the Capability Procedure can end here with a letter from the Headteacher or Chair of Governors (where capability of a Headteacher is under review).
- 5.2.3 If performance continues to be unsatisfactory a **final written warning** should be issued by the Headteacher or Chair of Governors (where the capability of a Headteacher is under review). Formal monitoring, evaluation, guidance and support should continue for a further period. Arrangements for this should be explained at the meeting. The (Head)teacher must be told clearly that failure to achieve an acceptable standard, with confidence that it can be maintained, may result in dismissal. The decision and main points of the meeting should be recorded in a letter to the (Head)teacher. Any appeal against a final warning must be made within 5 working days (or 7 consecutive days out of term time), where possible appeals will be heard within 10 working days (or 14 consecutive days out of term time) of notification of appeal, and must not interrupt the progress of the Procedure, unless the appeal decision leads to the matter being reconsidered.

5.3 Second assessment stage

- 5.3.1 **Weeks 20 to 24** - Regular monitoring and evaluation of performance, with guidance, training if necessary, and support to the (Head)teacher.
- 5.3.2 **Week 24** - Final evaluation meeting to report the assessment of performance over the previous weeks. At least 10 working days (or 14 consecutive days out of term time) notice must be given for the meeting and the (Head)teacher may be accompanied by a union representative or colleague. If performance has been satisfactory, and there is sufficient confidence that it can be maintained, the Capability Procedure can end here.

If performance is unsatisfactory the (Head)teacher should be told that the matter will be referred to the Governing Body Staff Disciplinary Committee⁵. The result of the assessment, main points of the meeting and date of the Staff Disciplinary Committee hearing (if known), should be recorded in a letter to the (Head)teacher.

5.4 Disciplinary Committee stage

5.4.1 Preliminary

The Governing Body should set up a Staff Disciplinary Committee. This can be made up of any number of governors but should consist of three governors wherever possible (in any other case two governors). This must hear the representations and recommendations brought by the Headteacher, or other line manager (or Chair, where it relates to a Headteacher)

⁵ School Staffing (England) Regulations 2003 S. I. 2003/1963

conducting the capability evaluation, and any representations that the (Head)teacher may wish to make.

The Governing Body should also set up a Staff Appeal Committee with, normally, at least three governors. (Where there are not enough such governors available the appeal may be heard by two governors, but there should be no fewer than the number that made the initial decision) to hear any appeal against a dismissal decision.

None of the governors on the Staff Disciplinary Committee should be on the Staff Appeal Committee.

5.4.2 Procedure at Formal Hearing

5.4.2.1 The (Head)teacher and the Headteacher or Chair of Governors (where appropriate) are entitled to be present at all times except when any matter falls solely to the Staff Disciplinary Committee to consider.

5.4.2.2 All parties may be accompanied by a representative and if they so wish a scribe and all references to the (Head)teacher and the Chair of Governors shall be taken to include their representatives.

5.4.2.3 The Chair of the Staff Disciplinary Committee will invite the Headteacher or Chair of Governors (where appropriate) and the (Head)teacher in that order to make submissions to the meeting and invite cross examination.

5.4.2.4 The introduction of relevant additional documentary evidence will be allowed and the Chair of the Staff Disciplinary Committee will allow proper time for the receiving party and the Staff Disciplinary Committee to read and consider the evidence.

5.4.2.5 The Headteacher or the Chair of Governors and the (Head)teacher in that order will have the right to call witnesses who will be available for questioning by both the Headteacher or Chair of Governors (where appropriate), the (Head)teacher and the Staff Disciplinary Committee.

5.4.2.6 The Chair of the Staff Disciplinary Committee will invite Governors to ask questions of the Headteacher or Chair of Governors (where appropriate) and the (Head)teacher and their witnesses and any of them.

5.4.2.7 Witnesses will only remain in the meeting for so long as they are giving evidence or being questioned.

5.4.2.8 The Headteacher or Chair of Governors (where appropriate) and the (Head)teacher in that order will have the right to make a final or closing statement to the Staff Disciplinary Committee.

5.4.2.9 An LEA and/or Diocesan Officer should be invited to be present to advise the Staff Disciplinary Committee.

- 5.4.2.10 All other parties to the hearing will then withdraw and the Staff Disciplinary Committee will consider the matter and reach a decision. Any Diocesan or LEA officer present will provide advice as requested to assist the Committee but will not be entitled to any vote or have any role in the making of the decision.
- 5.4.2.11 The Clerk to the Governors if present should take no part in the proceedings but will remain with the Staff Disciplinary Committee to provide procedural advice – he shall also make available any notes taken of the evidence and will record the Staff Disciplinary Committee’s decision.
- 5.4.2.12 If the Staff Disciplinary Committee decides that further questions need to be asked or clarifications required the full meeting will be resumed.
- 5.4.2.13 The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to the Headteacher or Chair of Governors (where appropriate) the (Head)teacher, their representatives, and the Chair of the Staff Disciplinary Committee who heard the case within 3 working days of the conclusion of any meeting. The Clerk to the Governors will indicate the rights of appeal and the procedures for exercising those rights in the letter.
- 5.4.2.14 Where the Clerk to the Governors is not present the Clerking function will be carried out by a member of the Committee or an agreed alternative. The Clerk should be present in all but exceptional circumstances.

6. APPLYING THE PROCEDURES

6.1 Role of Governors

Governors should not normally be involved with a Capability Procedure before the Staff Disciplinary Committee stage. The exception to this is where a governor or governors are involved in considering an appeal against a warning, or in a Capability Procedure against a Headteacher when some governors may be involved in the monitoring and evaluation of performance. If this is the case, advice should be sought from representatives of the Diocesan Schools’ Commission and the LEA. It is important to be prepared for the possibility of dismissal. The use of governors to hear any grievances or appeals against warnings should be limited to ensure a sufficient number of impartial governors remain available for the Disciplinary and Staff Appeal Committees. It is recommended that at least three governors are required for the Staff Disciplinary Committee. Three governors should normally also participate in the Staff Appeal Committee (and not less than the number that took part in the original hearing).

When arranging interviews or a meeting of the appropriate Committee of the Governing Body under this Procedure, consideration should be given to:

- The timing of interviews/meetings of the Committees;

- Appropriate accommodation for all parties attending capability interviews;
- Appropriate accommodation for all parties (and their possible witnesses) in the event of a meeting of the Staff Disciplinary Committee;
- The facilities (including refreshments) for all parties (and their possible witnesses) in the event of a meeting of the Staff Disciplinary Committee.

It is recommended that, wherever possible, capability interviews and meetings of the Committee hearings are held during the school's normal working day. In addition, it is important that the different parties involved have privacy so that they can discuss issues with their representatives as appropriate, and suitable arrangements need to be made for this. In some cases, the school buildings will not be appropriate and consideration should therefore be given to arranging meetings at a mutually acceptable venue.

6.2 **Role of advisers**

Whenever governors are involved in Capability Proceedings, Diocesan and/or LEA advisers should also advise the Governing Body and, where appropriate, assist with the process, including classroom observation and providing support.

6.3 **Representation at formal interview, evaluation meetings and dismissal hearing**

A (Head)teacher has a legal entitlement to be accompanied by a colleague or union representative. If the (Head)teacher's chosen companion is not available at the time proposed for the interview, meeting or hearing, and the (Head)teacher proposes an alternative that is reasonable and falls within 5 working days of the day proposed for the interview, the school must rearrange the event to a time that is convenient to all parties.

6.4 **Notice**

Notice of 10 working days (or 14 consecutive days out of term time) must be given for an initial formal capability interview. The date of successive evaluation meetings should be fixed at the preceding interview or meeting and notice should only be necessary if it is rearranged. Notice of at least 10 working days (or 14 consecutive days out of term time) must be given for a Staff Disciplinary Committee or Staff Appeal hearing. Meetings should take place in term time in all but exceptional cases. Notice throughout this Procedure can be reduced from 10 to five working days (and from 14 to 10 consecutive days out of term time) in cases which require, at the Headteacher's or Chair of Governors' (in the case of a Headteacher) discretion, greater urgency.

6.5 **Support for the (Head)teacher**

Those monitoring the performance should offer feedback and instruction to help the (Head)teacher improve performance. If training courses or assistance from colleagues would be helpful these should be arranged as soon as possible but should not interrupt the timing of the Procedure.

6.6 Monitoring arrangements

Monitoring should include observations of a range of relevant duties and functions. An objective record of the monitoring should be kept and used to assist with the evaluation of performance.

6.7 Written records

A written record should be made of all interviews with the (Head)teacher and any action taken following such an interview. Except in agreed circumstances any formal warnings should be disregarded for disciplinary purposes after a specified period of satisfactory performance. These periods are 2 terms for a written warning and 6 terms for a final written warning.

6.8 Staff who are absent through illness during the Procedure

Absence which is triggered by the Capability Procedure, and which management believe is likely to be long term, is covered in the key points above and should be referred immediately to the Occupational Health Service Provider to assess whether the (Head)teacher is fit for continued employment. Short absences should not delay any part of the formal stage of the Capability Procedure. Reasonable steps should be made to enable the (Head)teacher to attend evaluation meetings, but where the (Head)teacher is unable to attend, these may proceed in the (Head)teacher's absence if delay would otherwise compromise the maximum time set aside for the Procedure. In such circumstances a full account of the evaluation should be provided in the letter confirming the decision taken.

6.9 Decisions on continuing the Procedure and recommending dismissal

Normally the decision to continue a Capability Procedure or recommend dismissal should be taken by the Headteacher, or by the line manager with the Headteacher's agreement (except where a Headteacher's performance is being considered). If there is a difference of opinion, the Headteacher's decision should prevail except where a Headteacher's performance is being considered).

6.10 Appeals against formal warnings

6.10.1 Preliminary

- (a) The Staff Appeal Committee shall consist of at least three governors. More governors should be used only where this does not compromise the availability of previously uninvolved governors to staff the Staff Disciplinary and Staff Appeal Committees. However, previous involvement does not necessarily mean that a governor is tainted and thereby ineligible to serve on a Staff Disciplinary or Staff Appeal Committee. Governors will be tainted in the majority of cases and advice should be sought from a Diocesan officer on the governor's eligibility to stand on a committee where they have previously been involved.

- (b) Appeals should normally be restricted to considering the reasonableness of the decision made, any relevant new evidence, or any procedural irregularities. A (Head)teacher is entitled to be accompanied at an appeal hearing by a colleague or trade union representative. The appeal decision should be confirmed in writing and the (Head)teacher told that there is no further appeal against the decision. Where the reasonableness of the decision is being questioned the test that should apply for overturning a formal warning is whether the decision was so unreasonable that it was one that no other Headteacher, line manager or Chair of Governors, as appropriate, acting with proper regard to his or her responsibilities, could have chosen to take.
- (c) Where an appeal is upheld the decision of the Staff Appeal Committee should be conveyed back to the Headteacher or line manager for further appropriate action. Further observation and support may be deemed necessary. Any monitoring or programme of training and support that is in place should continue (at the discretion of the Headteacher) while an appeal is pending.

6.10.2 Procedure on Appeal

- 6.10.2.1 Where the Staff Disciplinary Committee has not resolved the matter to the satisfaction of the (Head)teacher (including where the (Head)teacher believes that the first hearing was subject to a material procedural irregularity there will be a right of appeal to the Staff Appeals Committee of the Governing Body.
- 6.10.2.2 The (Head)teacher should submit his/her Notice of the Appeal, stating the grounds on which s/he is appealing, to the Clerk to the Governors within 10 working days of receiving written confirmation of the decision. The Clerk to the Governors will forward all papers previously considered by the Staff Disciplinary Committee to the Staff Appeals Committee.
- 6.10.2.3 The Appeal should follow the same procedure as the original hearing as set out in s.5.4.2. A meeting of the Staff Appeals Committee should be called within 10 days of receipt by the Clerk to the Governors of the Notice of Appeal and should normally take a further 10 working days.
- 6.10.2.4 An LEA and and/or a Diocesan Officer should be invited to be present to advise the Staff Appeal Committee.
- 6.10.2.5 The Staff Appeals Committee will re-hear the case and will make its decision orally to both parties at the end of the hearing and confirm the decision in writing within 10 working days. The decision of the Staff Appeals Committee will be final and no further rights of appeal or hearing will be allowed under this Procedure.

Capability Procedure Sample Letters

1. Letter to worker to confirm initial concerns about capability

Dear [Name],

Informal Discussion in relation to your Performance

As a result of our meeting on *(date)* at which we discussed some concerns I have about your performance, in particular that *(give brief details)*, I would like to take this opportunity to set out in writing the plan of action we have agreed.

(Give details of any arrangements for monitoring that have been agreed, including the length of the monitoring period and by whom the monitoring will be carried out; details of any training, support and counselling that will be provided).

I hope this period of support will enable your performance to improve to a satisfactory level. Please do not hesitate to discuss any concerns you have with the training and support during this period of monitoring with me or to put forward suggestions as to how you think it could be improved. Your opinion is valued.

At the end of the agreed period, I will review the progress you have made and will write to you again.

I enclose a copy of the school's Capability Procedure for your information. If there is any aspect of this Procedure which you do not understand, please contact me.

Yours sincerely

(Headteacher/Chair of Governors)

2. **Letter to worker to confirm outcome of initial period of observation and assessment, where no further action is necessary**

Dear *[Name]*,

Your Performance: Initial Period of Observation

Further to my letter dated (...), in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

I am pleased to confirm that you are now working at an appropriate level of capability. [If you agree it would be helpful, I suggest that you continue to receive additional training and support (give details) for a further (state number) of weeks. Please arrange a mutually convenient time for us to discuss this].

Yours sincerely

(Headteacher/Chair of Governors)

3. **Letter to worker to confirm outcome of initial period of observation and assessment, where further action is necessary (less serious)**

Dear *[Name]*,

Your Performance: Initial Period of Observation

Further to my letter dated (...), in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

I am pleased to confirm that your performance has improved during that period but believe you are not yet working at an appropriate level of capability. I therefore wish to agree a further period of additional training and support (give details) with you for a further (state number) of weeks.

Please arrange a mutually convenient time for us to discuss this.

Yours sincerely

(Headteacher/Chair of Governors)

4. **Letter to worker to confirm outcome of initial period of observation and assessment, where further action is necessary (serious)**

Dear [Name],

Your Performance: Initial Period of Observation

Further to my letter dated (...), in which I confirmed the details of our agreed action plan, I now write to confirm my conclusions having reviewed your performance over that period.

Unfortunately your performance has not improved during that period and it is now necessary to commence formal Capability Proceedings.

I therefore invite you to a meeting on *(date)* at *(time)* in *(place)* [at least 10 working days *(or 14 consecutive days out of term time)* notice must be given. Meetings should be heard in term time in all but exceptional circumstances.] I will conduct the meeting *(and will be advised by an officer from the Diocesan Schools' Commission and an officer from the LEA.)* You have the right to be accompanied by a representative of your trade union. If either you or your representative are unable to attend at this time, please advise me immediately in order that another date can be fixed.

The alleged deficiencies in your performance which will be considered at the meeting are...*(give details)*.

You have the right to produce written statements. These should be provided to me for circulation at least five days *(give date)* and preferably seven days before the meeting. You also have the right to produce witnesses. If you wish to do so, please provide me with their names and addresses at least five days before the meeting.

(I enclose a copy of the school's Capability Procedure for your information.) If there is any aspect of the Procedure which is not clear to you, please contact me for clarification.

Please confirm to me in writing that you have received this letter and your intention to attend the meeting.

Yours sincerely

(Headteacher/Chair of Governors)

5. Decision to impose a formal warning

Dear [Name]

Formal Capability Procedure

This letter refers to our meeting on (give date) which was held in accordance with section 4 of the school's Capability Procedure.

The initial period of monitoring and observation that we agreed revealed that (give brief details). We discussed these results at the meeting together with the reasons for your underperformance (give details).

I confirm that, having listened very carefully to all the evidence presented, I have concluded that your performance has failed to improve to the extent that it is necessary to impose a *written/final written* warning on you.

This written warning will remain in your Service Record File for a period of 100 working days from the date of this letter. At the end of that time, if your performance has improved to a satisfactory standard, it will be removed and destroyed.

The shortcomings in your current level of performance that have been identified are that (give details). To help you improve, we have agreed a programme of regular observation, evaluation, training and support. (Give full details). This will last for 100 working days.

The outcomes that we have agreed you will aim for are: (give details)

At the end of the 100 working day period (give date), I will write to you again to invite you to a further meeting to evaluate your performance. If at any time during the 100 day observation period, your performance deteriorates or new evidence emerges to suggest a more serious problem, a decision may be taken to impose a final written warning on you.

Failure to improve may result in the Governing Body deciding to dismiss you.

You have the right to appeal, in accordance with paragraph 6.10 of the Capability Procedure against this decision.

If there is any part of this process that is not clear to you, please contact me for clarification.

A copy of this letter is enclosed for your representative.

Yours sincerely

(Headteacher/Chair of Governors)

6. Decision to impose a formal warning Stage 2

Dear [Name]

Formal Capability Procedure

This letter refers to our meeting on (give date) which was held in accordance with section 4 of the school's Capability Procedure.

The period of monitoring, observation and training that we agreed has not resulted in the required improvement in your performance. (give brief details).

I confirm that, having considered very carefully all the evidence presented from the 100 day period of evaluation, your performance has failed to improve to the extent that it is necessary to impose a final written warning on you.

This written warning will remain in your Service Record File for a period of two calendar years from the date of this letter. At the end of that time, if your performance has improved to and been maintained at a satisfactory standard, it will be removed and destroyed.

The shortcomings in your current level of performance that have been identified are that (give details). To help you improve, we have agreed a further assessment period of 20 working days in which your performance will be observed, monitored and evaluated. Throughout this period you will also be provided with additional training and support (give details)

The outcomes that we have agreed you will aim for are: (give details)

At the end of the 20 working day period (give date), I will write to you again to invite you to a further meeting to evaluate your performance. If at any time during the 20 day observation period, your performance deteriorates or new evidence emerges to suggest a more serious problem, a decision may be taken to refer you to the Staff Disciplinary Committee, which has the power to decide to dismiss you.

You have the right to appeal, in accordance with paragraph 6.10 of the Capability Procedure against this decision.

If there is any part of this process that is not clear to you, please contact me for clarification.

A copy of this letter is enclosed for your representative.

Yours sincerely

(Headteacher/Chair of Governors)

7. **Letter to worker confirming decision to dismiss by the Staff Disciplinary Committee**

Dear [Name],

Capability Proceedings Against You

This letter refers to our meeting on (give date) which was held in accordance with sections 4.4. of the school's Capability Procedure.

I confirm that, having listened very carefully to all the evidence presented, the Staff Disciplinary Committee concluded that your performance has failed to improve during the agreed periods of observation and additional support to a satisfactory standard. The deficiencies in your performance are (give details)

I confirm that your level of performance is of such an unsatisfactory standard nature that the Staff Disciplinary Committee has decided to terminate your employment with effect from (date).

Under section 6.10 of the Procedure you may appeal against your dismissal. Notification of an intention to appeal must be sent to the clerk of the governors in writing at (give the address) within ten working days of receipt of this letter and should state the grounds on which the appeal is based.

In the event of an appeal, please send a copy of any papers you wish to present at the meeting, or the names of any witnesses you intend to call, to the Clerk of the Governors at (give address) at least five working days before the date of the hearing.

A copy of this letter is enclosed for your representative.

Yours sincerely,

(Chair of Governors/ Chair of Staff Disciplinary Committee)