

Leytonstone School

Appraisal and Capability



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PART A – APPRAISAL POLICY AND PROCEDURE (FOR TEACHERS)

1. INTRODUCTION

1.1 This policy is based on the national revised appraisal arrangements which came in to force on 1st September 2012. They are set out in the Education (School Teachers’ Appraisal) (England) Regulations 2012 (the Appraisal Regulations) which replace the Education (School Teacher Performance Management) (England) Regulations 2006 (the 2006 Regulations).

1.2 The Appraisal Regulations set out the principles that apply to teachers in all maintained schools and unattached teachers employed by a local authority, in each case where they are employed for one term or more.

1.3 The governing bodies of maintained schools and local authorities must stay within the legal framework set out in the Appraisal Regulations and where they are an employer, comply with other relevant legislation that affects all employers (for example legislation on equality, employment protection and data protection).

2. SCOPE

2.1 The policy is in two separate sections. Part A of the policy, which covers appraisal, applies to the head teacher and to all teachers employed by the school or local authority, except those:

- a) Staff on contracts or less than one term
- b) Newly Qualified Teachers (NQTs) who are covered by the Induction policy.
- c) For the avoidance of doubt, this policy does not apply to agency workers.

Part B of the policy, which sets out the formal capability procedure, applies only to teachers (including the headteacher) about whose performance there are serious concerns that the appraisal process has been unable to address.

Both parts of the policy should always be applied in a way that is robust whilst minimising the impact on workload for teachers, line managers, headteachers and governance boards.

3. THE APPRAISAL PERIOD

3.1 This Appraisal policy and procedure in this school will be a supportive and developmental process designed to ensure that all teachers have the skills and support they need to carry out their role effectively. It will help to ensure that teachers are able to continue to improve their professional practice and to develop as teachers.

3.2 The appraisal period will run for 12 months from September to August each year.

3.3 Where teachers/head teachers are employed on a fixed term contract of less than one year, they will have their performance managed in accordance with the principles underpinning this policy. The length of the period will be determined by the duration of their contract.

3.4 Where a teacher/head teacher starts their employment at the school part-way through a cycle, the head teacher or, in the case where the employee is the head teacher, Senior Leader overseeing appraisals shall determine the length of the first cycle for that teacher, with a view to bringing their cycle in line with the cycle for other teachers as soon as possible.

4. APPOINTING APPRAISERS

4.1 All appraisers of teachers, other than those appraising head teachers, will be teachers and will be suitably trained and experienced.

4.2 The head teacher will be appraised by the Governing Body, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Governing Body for that purpose.

- 4.3 The task of appraising the Head teacher, including the setting of objectives, will be delegated to a committee consisting of normally 3 members of the Governing Body. These governors should not be members of staff employed at the school.
- 4.4 Where a head teacher is of the opinion that any of the governors appointed by the Governing Body is unsuitable to act as their appraiser, they may submit a written request for that governor to be replaced, stating the reasons for the request
- 4.5 The Senior leader overseeing appraisals will decide who will appraise other teachers, typically this will be the line manager. Where teachers have an objection this choice, their concerns will be carefully considered and, where possible, an alternative appraiser will be offered. All appraisers appointed by the head teacher will be qualified teachers and will be suitably trained and experienced.

5 SETTING OBJECTIVES

- 5.1 The head teacher's objectives will be set by a committee of the Governing Body after consultation with the external adviser, in line with current Dfe regulations/guidance, and the Head teacher. The provisions of 5.4 and 5.5 below should also be applied.
- 5.2 Objectives for each teacher will be set before or as soon as practicable after, the start of each appraisal period. The objectives set for each teacher will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the teacher's role and level of experience.
- 5.3 The appraiser and teacher will seek to agree the objectives but, if that is not possible, the Senior Leader overseeing Appraisals will determine the objectives. Objectives may be revised if circumstances change.
- 5.4 The agreed objectives will contain a description of what success may look like. In the circumstances in which the teacher works it will be recognised that factors outside of a teachers control may significantly affect success.
- 5.5 Normally teachers will be given three objectives.
- 5.6 These objectives could include: a) Student Attainment objective (based on FFT50) b) Teaching and Learning objective and c) Professional Development and Contribution to Whole School objective
- 5.7 The appraiser will take into account the effects of an individual's circumstances, including any disability, when agreeing objectives. For example, this might include a reasonable adjustment to allow an individual slightly longer to complete a task than might otherwise be the case. When a teacher returns from a period of extended absence, objectives may be adjusted to allow them to readjust to their working environment.
- 5.8 Before, or as soon as practicable after, the start of each appraisal period, each teacher will be informed of the standards against which that teacher's performance in that appraisal period will be assessed.
- 5.9 All teachers should be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2011.

5.10 The appraiser will assess the Teacher against the Teachers' Standards, the starting point will be that the teachers is meeting the standards. However if it becomes apparent at any time the teacher should be alerted immediately and the given the appropriate support and sufficient time to improve.

6 PAY PROGRESSION

6.1 Where teachers who achieve their objectives and are eligible for pay progression, a recommendation should go to the Senior Leader overseeing Appraisals and Head teacher for this to be awarded. The decision made will be based on the statutory criteria and guidance set out in the School Teachers' Pay and Conditions Document (STPCD) and the relevant teacher standards.

6.2 The Governing Body has agreed the pay policy of the school and has considered the implications of the appraisal policy with respect to the arrangements relating to teachers' pay in accordance with the STPCD. The Governing Body will ensure that decisions on pay progression are made by 31 December for head teachers and by 31 October for other teachers.

7 OBSERVATION

7.1 The effective and efficient operation of the appraisal process requires lesson observation to be a confidential process of constructive engagement within an atmosphere of support and co-operation.

7.2 Accordingly, observations will be carried out in a supportive fashion, with professionalism, integrity and courtesy, will be evaluated objectively and reported accurately and fairly and will take account of particular circumstances which may affect performance on the day.

7.3 At least 5 working days' notice of the date and time of the observation will be given and verbal feedback provided by the end of the next school day and written feedback within 5 working days.

7.4 Classroom observation will be carried out by qualified and suitable trained teachers.

7.5 For the purposes of appraisal, teachers' performance will be observed on no more than 3 occasions of up to 1 hour. Unless in which in exceptional circumstances where concerns have been raised about a teacher's performance, or where the teacher requests additional observation visits.

7.6 For the purpose of professional development, feedback about lesson observations should be supportive.

7.7 Teachers (including the Head teacher) whose posts have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

8 DEVELOPMENT AND SUPPORT

- 8.1 Appraisal is a supportive process which will be used to inform continuing professional development. The school wishes to encourage a culture in which all teachers take responsibility for improving their teaching through appropriate professional development. Professional development will be linked to school improvement priorities and to the ongoing professional development needs and priorities of individual teachers.
- 8.2 The school's CPD programme will be informed by the training and development needs identified as part of the appraisal process. The Governing Body will ensure, in the budget planning, that, as far as possible, resources are made available in the school budget for appropriate training.

9 ANNUAL ASSESSMENT

- 9.1 Each teacher's performance will be formally assessed in respect of each appraisal period. There will be a mid-review progress assessment, for Appraisers and teachers to discuss progress and put actions in place to achieve the objectives by the end of review period. In assessing the performance of the head teacher, the Governing Body must consult an external adviser in line with current DfE regulations/guidance.
- 9.2 This assessment (end of review period) is the end point to the annual appraisal process, but performance and development priorities will be reviewed and addressed on a regular basis throughout the year in interim meeting, referred to as 'mid-term review period'. This does not preclude the expectation that concerns will be addressed immediately.
- 9.3 The teacher will receive as soon as practicable following the end of each appraisal period – and have the opportunity to comment in writing on - a written appraisal reports by 31st October (31st December for the Head teacher).
- 9.4 The appraisal report will be completed by the Appraiser and teacher and will include: details of the teacher's objectives for the appraisal period in question and whether they have been met, partially met or not met; an assessment of the teacher's performance of their role and responsibilities against their objectives and the relevant standards; an assessment of the teacher's training and development needs and identification of any action that should be taken to address them; a recommendation on pay where that is relevant (in line with section 6.2)
- 9.5 Should a teacher disagree with any of the comments detailed within the report they have the right to have their views recorded and considered against the appropriate entries on the written appraisal report.
- 9.6 The assessment of performance and of training and development needs will inform the planning process for the following appraisal period.

10 TEACHERS EXPERIENCING DIFFICULTIES

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

- 10.2 Where it is apparent that a teacher's personal circumstances are leading to difficulties at school, support will be offered as soon as possible, without waiting for the formal annual assessment.
- 10.3 Where concerns are raised during the appraisal the Head teacher/Senior member of the Leadership Team will convene a meeting with the employee. At the meeting the Head teacher/Senior member of the Leadership Team will:
- a) Outline the specific performance shortcomings,
 - b) Explore the reasons for underperformance (is it work or non-work related?),
 - c) Explain the standards expected,
 - d) Agree the performance standards required (Performance Improvement Plan) and the timeframe (the 'Informal Review Period') in writing,
 - e) Decide on the support that is required and to ensure that it is targeted/appropriate to the individual's needs.
 - f) Ensure SMART targets are set.
- 10.4 The employee must be supported for a period of time which is reasonable considering the role and the nature of the shortcoming(s). Where possible an agreement will be sought for the length of period required for each individual case. This would normally be between 4-6 weeks, however where there are serious capability concerns the Head teacher will have the discretion to use shorter timescales.
- 10.5 There will be interim review meetings to assess progress against the employee's Performance Improvement Plan. These will take place at regular intervals during the Informal Review Period.
- 10.6 A date must also be set for a meeting to review progress at the end of the Support Period. Depending on progress, this meeting will serve one of two purposes:
- a) Where the employee's performance improves to the standard required the employee should be informed of this and also reminded of the need to maintain the improved standard.
 - b) If the employee's performance does not reach the standard required, this meeting will inform the employee that the process is moving to the Formal Process under the school's capability procedure. A letter should be issued to the employee inviting them to a Formal Capability meeting to take place 5 working days after the date of the review meeting. They will be advised to bring a union representative.
- 10.7 It is important that the employee is made aware of the consequences of the failure to improve and if performance remains unsatisfactory at the end of the Support Period then the Formal Process will be commenced, which could result in the issue of a First Written Warning.
- 10.8 The outcome of the Support Period, including the various review dates will be confirmed in writing within 5 working days. A copy of this letter should be held on the employee's personnel file.

11 CONFIDENTIALITY

- 11.1 All parties involved in the implementation of this policy will be expected to observe the principle of confidentiality in relation to the content of appraisals and any documentation that is created during the appraisal process.

- 11.2 Any documentation arising from, or the content of any discussions during the appraisal meetings may be shared by the head teacher/appraiser with individuals involved in monitoring performance, or those involved in any capability proceedings that may follow and for quality assurance/moderation purposes. The appraisee will be informed if documentation relating to their appraisal is shared.
- 11.3 Documentation arising from, or the content of any discussions during the appraisal meetings, will be stored securely. To prevent unauthorised access, maintain data accuracy and ensure confidentiality, the school will have in place, appropriate electronic and managerial procedures, to ensure the information held is protected.
- 11.4 Appraisal information will be retained for a maximum period of six years.

PART B – CAPABILITY PROCEDURE

12. INTRODUCTION

- 12.1 This policy is designed to ensure that an employee whose standard of performance falls below the expected standard is clearly informed of what standards are expected and receives support towards achieving those standards.
- 12.2 This policy has been developed to assist governing bodies, Head teachers and managers to manage the capability of staff who work within their schools.
- 12.3 The purpose of this Capability framework is to ensure that pupils and students receive their entitlement to a high-quality educational provision. It requires that the educational offer made by school management, employees and support staff meets pupil and student needs, and aims to provide a fair and consistent process to bring about improvements in the accuracy and quality of work, where improvement is needed.
- 12.4 Governors and Headteachers have a right to expect high-quality performance from staff, and members of staff have the right to expect appropriate support for their present and continuing professional development (CPD) needs.

13. SCOPE

13.1 This policy covers all members of staff who are employed within a school on a permanent, fixed-term or secondment basis, including Headteachers and deputy Headteachers, with the exception of:

- a) Support staff on probation who are covered by the Probation policy
- b) Newly Qualified Teachers (NQTs) who are covered by the Induction policy.
- c) For the avoidance of doubt, this policy does not apply to agency workers

14. APPLYING THE POLICY

14.1 This policy and procedure should be used when the quality of work of a member of staff fails to meet the expected standard. However, if poor performance is due to wilful intent, sickness or disability, or is the result of drug or alcohol use, then, other policies may apply.

14.2 In applying this procedure, it is important to distinguish between capability and disciplinary matters.

14.2.1 Generally, the Disciplinary policy and procedure applies when a member of staff is capable but underperforming for a variety of reasons.

14.2.2 The Capability policy and procedure applies when acceptable performance standards are not met due to professional incapability.

15. KEY PRINCIPLES

The following principles apply:

15.1 This policy does not replace the normal day-to-day interaction between an employee and the Headteacher on issues of performance. It should only be used when options such as regular one to ones, supervision and annual appraisal have failed to produce a satisfactory result. It is therefore important to ensure that these mechanisms to review performance are in place and operating accordingly.

15.2 The policy set out in this document aims to ensure that there is:

- a) Assistance in identifying the most appropriate forms of support and providing that support.
- b) A means of monitoring performance and establishing reasonable and appropriate performance criteria.

15.3 If an employee does not meet the required standard of performance any consequent action will be based on:

- a) Evidence that the employee is incapable of performing their duties satisfactorily.
- b) Evidence that the employee knew of and was given reasonable support and assistance to overcome the shortfalls.

- 15.4 It is expected that the Headteacher/ Senior member of the Leadership team will conduct the initial Support Period meeting as well as the Formal Capability meetings. Although advice and guidance will be sought from your Traded HR provider at any point in the process.
- 15.5 Should the process progress to the final stage (Decision Meeting), and dependent upon the delegated responsibility for dismissals at each individual school, the Decision Meeting will be conducted by the Headteacher or by a Panel of three governors. At any Decision Meeting and Appeal Hearing the Headteacher (if chairing) or panel of governors will be accompanied and advised by a representative from their traded Human Resources provider.
 - 15.5.1 For Community Schools only when the process has reached the Decision Meeting and Appeal Hearing a representative of the Local Authority may also attend the meeting should dismissal be a possible outcome.
- 15.6 In serious capability cases where the safeguarding or education of pupils is jeopardised the School the Headteacher reserves the right to suspend the employee immediately. A full investigation will then be required to determine whether it is a lack of capability and whether this is the correct policy to apply. In these situations, the Headteacher will take advice from their traded HR Provider.
- 15.7 Any decision to initiate the formal stages of this procedure will be taken only after application of the School's Appraisal policy and with proper safeguards for the member of staff.
- 15.8 A support period of coaching and counselling should normally be adopted before formal action is implemented.
- 15.9 An employee has the right to appeal against a sanction issued under the Formal Process. However, the submission of an appeal will not halt the progress of any Formal Review Period which will run concurrently with the appeals process.
- 15.10 The provisions of the Equality Act 2010 will be applied throughout the implementation of this policy.
- 15.11 In some underperformance cases where possible, consideration will be given for reasonable adjustments to the employee's role/ working pattern/working environment etc on either a short or long period with the aim of preserving the employment of the individual. Advice should be sought from the School's traded HR provider.
- 15.12 If issues of underperformance relate to a Trade Union/Professional Association representative, the union's senior local convenor and regional officer must be notified. No further action should be taken until they have been informed.

16. ROLES AND RESPONSIBILITIES

16.1 Employee Responsibilities

Demonstrate the level of commitment required to improve performance, including taking all reasonable steps to maintain/update skills levels.

- a) Achieve an acceptable and sustained level of performance.
- b) Seek help with any work problem.
- c) Understand the Capability policy and procedure.
- d) Co-operate with any investigation into capability, and any further action that may result from such an investigation.
- e) Attend all relevant counselling, support or review meetings.
- f) Inform the appropriate person, in writing, of any wish to appeal against a decision taken under the formal stage of this procedure

16.2 Management Responsibilities - Governors/Headteachers

In respect of any member of staff they manage, all managers have responsibility to:

- a) Ensure standards of work are established for every member of staff and that current and agreed job descriptions are in place.
- b) Advise, coach and support staff to ensure the role and the required standard of performance is understood.
- c) Ensure appropriate induction and CPD is provided.
- d) Set and monitor standards of performance and provide feedback to assist staff in achieving the required levels of performance.
- e) Ensure staff understand the procedure and their rights if it were to be applied.
- f) Take action promptly and ensure that performance problems are addressed within the appropriate timescales.
- g) Investigate problems of work performance that may lead to formal action under the procedure, gathering evidence of the shortfall and of the support provided.
- h) Keep written records of performance concerns and actions taken at all stages of the procedure.
- i) Ensure the correct procedures are followed and that all correspondence regarding the capability concerns are stored in line with the Data Protection Act 1998.

16.3 Human Resources London Borough of Waltham Forest (LBWF) Responsibilities

16.3.1 As the Local Authority representative, attend any hearing which may result in the dismissal of a member of staff where LBWF is the employer.

16.3.2 Provide high level advice as appropriate to the Chair of Governors if the capability of a Headteacher is to be considered.

16.4 Human Resources Service Provider Responsibilities

- a) Advising and supporting the Headteacher and Governors in the application of this policy.
- b) Attending in an advisory capacity at formal hearings / appeal hearings

17 ACCOMPANIMENT, REPRESENTATION AND REQUESTS FOR POSTPONEMENTS

17.1 Agreement will be sought for the date and time of any meeting but this may not be possible in all cases. Therefore, the employee or their representative is unable, for good reason, to attend the Formal Capability Meeting on the date proposed, the Headteacher in consultation with the trade union representative will reschedule the meeting to take place normally no later than 5 working days after the date of the original meeting.

18 SUPPORT PERIOD

18.1 Concerns about performance will be raised through the Appraisal process (see the School Appraisal Policy) and where necessary a support period will be initiated prior to any formal action under this procedure.

18.2 The support period following performance concerns raised during appraisal would be as detailed in points 18.3 to 18.7.

18.3 Where concerns are raised during the appraisal the Headteacher/Senior member of the Leadership Team will convene a meeting with the employee. An employee would not normally be accompanied at this meeting. At the meeting the Headteacher/Senior member of the Leadership Team will:

- a) Outline the specific performance shortcomings,
- b) Explore the reasons for underperformance (is it work or non-work related?),
- c) Explain the standards expected,
- d) Agree the performance standards required (Performance Improvement Plan) and the timeframe (the 'Informal Review Period') in writing,
- e) Decide on the support that is required and to ensure that it is targeted/appropriate to the individual's needs.
- f) Ensure SMART targets are set.

18.4 The employee must be supported for a period of time which is reasonable considering the role and the nature of the shortcoming(s). Where possible an agreement will be sort for the length of period required for each individual case. This would normally be between 6 and 8 weeks, however where there are serious capability concerns the Headteacher will have the discretion to use shorter timescales.

18.5 There will be interim review meetings to assess progress against the employees Performance Improvement Plan. These will take place at regular intervals during the Informal Review Period. A date must also be set for a meeting to review progress at the end of the Support Period. Depending on progress, this meeting will serve one of two purposes:

- a) Where the employee's performance improves to the standard required the employee should be informed of this and also reminded of the need to maintain the improved standard.
- b) If the employee's performance does not reach the standard required this meeting will inform the employee that the process is moving to the Formal Process under the school's capability procedure. A letter should be issued to the employee inviting them

to a Formal Capability meeting to take place 5 working days after the date of the review meeting.

- 18.6 It is important that the employee is made aware of the consequences of the failure to improve and if performance remains unsatisfactory at the end of the Support Period then the Formal Process will be commenced, which could result in the issue of a First Written Warning.
- 18.7 The outcome of the Support Period including the various review dates will be confirmed in writing within 5 working days. A copy of this letter should be held on the employees personnel file.

19 FORMAL CAPABILITY MEETING

- 19.1 This meeting is intended to establish the facts. It will be conducted by the Chair of Governors (for Headteacher capability meetings) or Headteacher (for other employees). The meeting allows the employee to be accompanied by a companion or trade union representative, to respond to concerns about their performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.
- 19.1.2 The person conducting the meeting may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the appraisal process. In such cases, the capability procedure will come to an end.
- 19.1.3 The person conducting the meeting may also adjourn the meeting for example if they decide that further investigation is needed, or that more time is needed in which to consider any additional information.
- 19.1.4 In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:
- a) identify the professional shortcomings, for example which of the standards expected of employees are not being met;
 - b) give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures (this may include the setting of new objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);
 - c) explain any support that will be available to help the employee improve their performance;
 - d) set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable will depend on the circumstances of the individual case but in straightforward cases should be up to ten weeks. It is for the school to determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place); and

- e) afford the employee the opportunity to provide evidence on their performance.
- f) warn the employee formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.

19.1.5 Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the employee will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

20 MONITORING AND REVIEW PERIOD FOLLOWING A FORMAL CAPABILITY MEETING

20.1 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will be given during this period. Any observations during this period should be focused on the areas identified for improvement

20.2 The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

21 FORMAL REVIEW MEETING

21.1 The person conducting the meeting will review what improvement has been made as a result of this:

- a) If the expected standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will re-start.
- b) If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period; A further review meeting will need to take place at the end of any extended/further review period.
- c) If insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning and they will move to the next stage of the procedure (Decision Meeting).

21.2 As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued.

21.3 Where a final warning is issued, the member of staff will be informed in writing that failure to achieve the expected standard of performance (within the set timescale), may result in dismissal.

22 DECISION MEETING

22.1 The decision meeting will be chaired by either the Headteacher with the authority to dismiss (providing the Headteacher has not already been involved in the process) / Panel of 3 Governors.

22.2 The Headteacher/Panel of Governors will consider:

- a) the process that has been followed at all stages of the procedure.
 - b) any reasonable alternatives to dismissal,
 - c) recommendation for dismissal due to the employee not meeting the expected standard.
- 22.3 Before any decision to dismiss is made, the school will discuss the matter with the local authority (*N.B. this is not a legal requirement but schools may find it helpful*).
- 22.4 The employee will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice or payment in lieu and their right of appeal.

23 APPEAL

- 23.1 If an employee feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within five days of the decision, setting out at the same time the grounds for appeal.
- 23.2 Appeals will be heard without unreasonable delay
- 23.3 The appeal will be dealt with impartially and, wherever possible, by a panel of Governors who have not previously been involved in the case.
- 23.4 The employee will be informed in writing of the results of the appeal hearing as soon as possible.

24 CONFIDENTIALITY

- 24.1 Confidentiality should be maintained by all those involved, including the member of staff, at all stages throughout the Capability procedure by ensuring that only those people who need to know have access to details
- 24.2 While respecting confidentiality, it is important that the member of staff is free to discuss issues with their trade union representative or work colleague who may be able to assist or support them through what is acknowledged to be difficult circumstances.
- 24.3 Written records of capability issues will be treated as confidential and kept no longer than is necessary in accordance with the Data Protection Act 1998.

25 SICKNESS DURING PROCESS

- 25.1 Reasonable steps should be taken to enable attendance at meetings and hearings, certified absence and entitlement to sickness pay do not of themselves represent grounds for deferring this framework.
- 25.2 A member of staff who is medically unfit to attend a meeting or hearing must provide a medical certificate stating physical incapability of attending and/or inability on mental or psychological grounds to participate reasonably in the proceedings.

- 25.3 The Chair of the Panel will consider whether the meeting or hearing should go ahead in the absence of the individual. A considerate, sympathetic approach should be adopted but in general any justification for delay should be discussed with Occupational Health (OH) and HR.
- 25.4 If a meeting or hearing is to go ahead in the absence of the member of staff, the member of staff and the relevant trade union representative or work colleague should be notified, giving at least 5 working days' notice of the meeting. In such circumstances a full account of the meeting or hearing should be provided to the member of staff in writing, confirming any decision taken.
- 25.5 If sickness absence occurs during the Capability procedure. Short absences would not normally delay any part of the procedure. Where there is longer term absence advice will be sought from occupational health.