



St Paul's School
FOUNDED 1509

Staff Capability & Performance Procedure

Author/reviewer responsible:	Director of HR	ISI DOC CODE:	N/A
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This policy is available on the Handbook page of the School Intranet and policies page of the School website and can be made available in large print or other accessible format if required; such requests can be made by email to policyquery@stpaulsschool.org.uk

Application and scope

1. This Procedure sets out the steps to be followed where possible issues concerning a member of staff's performance are identified. The procedure below is a statement of the Schools' (St Paul's School and St Paul's Juniors) policy and (apart from the School's right to suspend you below), does not have contractual effect. Furthermore, the School reserves the right to depart from the precise requirements of this procedure, or to miss out one or more stages of the procedure, in appropriate cases

General provisions

2. Members of staff who are the subject of a formal meeting or appeal hearing under this Procedure have the right to be accompanied and represented at such meetings or hearings by a work colleague, a trade union representative, or an official employed by a trade union. (A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker). The member of staff's chosen companion can take a note of the proceedings, address the meeting/hearing, respond on behalf of the member of staff to any views expressed at the meeting and confer with the member of staff but may not answer questions on his/her behalf or prevent the line manager (or other School representative as appropriate) explaining his or her position.

3. Members of staff should make every effort to attend meetings, as requested. Where a member of staff is repeatedly unable or unwilling to attend a meeting without good cause, the School may make its decision on the evidence available to it.
4. At any stage in the process, if necessary for operational reasons, the member of staff may be suspended from work on full pay by the High Master, or a designated nominee. The member of staff will be told why suspension was thought necessary. Suspensions will be reviewed periodically. During any period of suspension, the member of staff will be required to cooperate fully with any investigation and to be available for interview during their normal working hours. During such period of suspension, the member of staff will not normally be entitled to access any School premises (except to attend meetings at the School's request) or to use the School's internet/intranet/email facilities or to engage in their normal day to day duties, without express permission.
5. It is expected that all staff involved in this process will maintain the confidentiality of the process and of School documents. Any breach of confidentiality by the member of staff may be treated as a disciplinary offence. This is subject to an individual's right to seek and obtain appropriate confidential legal advice or make a disclosure under the Public Interest Disclosure Act 1998 or otherwise as required by law or any statutory authority.
6. Concerns that arise will be dealt without unreasonable delay and meetings, decisions or confirmation of those decisions will be communicated promptly. Before any sanction is imposed, any necessary investigation will be undertaken to gather relevant evidence. All investigations carried out may be reviewed by a DSL so that any safeguarding implications (or previously held information that may be relevant) may be considered, whether or not the complaint is overtly relevant to safeguarding.
7. Where a member of staff raises a grievance in the course of proceedings under this procedure the procedure may be temporarily suspended so that the grievance can be dealt with, if appropriate. Where the grievance and the performance issue are related, the two issues may be dealt with together.
8. Where at any stage of proceedings under this procedure it emerges that the member of staff's performance or capability may have been wholly or partly influenced by a medical condition (which may be a disability for the purposes of the Disability Discrimination Act 1995), the line manager or another person conducting the proceedings may, at their discretion and if they consider it appropriate, adjourn any meeting or hearing in order to obtain such reports and advice as they may deem necessary. When the meeting is reconvened, the manager will inform the member of staff of their decision as to how the meeting will proceed taking into account as appropriate the member of staff's medical condition. In such circumstances, the line manager or other person having responsibility for the proceedings may invite to any meeting or hearing, for the purpose of providing advice, an appropriately medically qualified person who has had no previous involvement with the case under consideration.

Informal Process

- 1.1. In cases of minor lapses in performance, or lapses which appear to an individual's line manager to be uncharacteristic, transitory or arising from misunderstood expectations, the line manager may issue advice and guidance to the member of staff. Since this is an informal discussion the member of staff involved will not normally be invited to be accompanied at such a meeting, which may be arranged informally and at short notice.

It should be noted that even when an informal process of support has begun, these informal discussions are part of the procedure and are linked to the capability process.

Formal Procedure

Stage 1 - Initial Review Meeting

9. Where the line manager believes that the member of staff's performance is such as to warrant a formal approach or where informal action or guidance have proved ineffective, the line manager will convene a formal review meeting with the member of staff. The line manager may involve a member of HR staff in this meeting. The letter inviting the member of staff to the meeting will be issued by HR and will set out the issues to be considered and the possible consequences so as to enable the member of staff to prepare his or her response. The member of staff will normally be sent copies of any written evidence with the letter or if not, as soon as practical thereafter.
10. After the meeting, and if deemed appropriate, HR will issue a written warning to the member of staff that makes clear the performance problem, the improvement that is required within a set review period and the consequences if improvement is not achieved. The letter will also set out details of any training or other measures identified to support the member of staff and of the steps the member of staff should take if he or she wishes to appeal.

Stage 2 - Review Meeting

11. If it is considered that the member of staff has not met the required improvements by the conclusion of the Stage 1 review period (or sooner if the performance issues are worsening), or if the seriousness of the performance issues necessitates dispensing with stage 1, the HR Department will write to the member of staff inviting them to a Stage 2 review meeting. An SMT / Executive team member may also be involved in this meeting, which will be supported by a member of HR staff. The letter inviting the member of staff to the meeting will be issued by HR and will set out the issues to be considered and the possible consequences so as to enable the member of staff to prepare their response. The member of staff will also be sent copies of any written evidence with the letter or if not, as soon as practical thereafter.
12. At the conclusion of the Stage 2 review meeting, the line manager and the SMT / Executive team member, if involved, will decide what action, if any, needs to be taken including asking HR to issue a final written warning to the member of staff that makes it clear the improvement that is required and the consequences if improvement is not achieved. The letter will also set out details of any training or other measures identified to support the member of staff and of the steps the member of staff should take if he or she wishes to appeal.

Stage 3 - Final Review Stage

13. If the member of staff does not improve as specified in the final written warning issued under the Stage 2 review above, or where serious performance issues arise or gross negligence is alleged such that it is appropriate to dispense with Stages 1 and/or 2, after such investigation as is appropriate in the circumstances, the member of staff will be invited to a formal meeting of a panel comprising a member of the SMT/ Executive Team (in the chair) and another manager or member of the SMT/Executive team. A member of the HR Department will support the meeting.
14. The member of staff will be advised in writing of the grounds that have led to the meeting being called, including full details of the alleged performance issues and a warning that one consequence of the meeting may be the termination of employment. The member of staff will also be sent copies of any written evidence with the letter or if not, as soon as practical thereafter.

15. At the meeting the member of staff will be given the opportunity to state their case and to raise any factors they wish to have considered.
16. If having considered all of the evidence, the Panel is satisfied that the member of staff's performance is not likely to improve to the required standard, HR will write to the member of staff informing them of the performance problem and of the decision which may include but not be limited to:
 - dismissal (without notice in the case of gross negligence);
 - as an agreed alternative to dismissal, the award of a reasonable sum by way of compensation, either to the School or to an individual, in respect of identified and quantified loss;
 - the withholding of any forthcoming salary increase;
 - the demotion to a post of a lower level;
 - the removal of any title or office held in addition to the substantive appointment.

The decision and sanction will be communicated in writing by HR and the member of staff will be notified of their right of appeal and the appeal process that will apply.

Appeals

17. You will have the right to appeal against any decision under this procedure. Your appeal must be in writing and must set out the grounds on which the appeal is made. An appeal must be sent to the High Master or their nominee so that it is received within 7 calendar days of the date of the capability or dismissal letter. An Appeal hearing will be held as soon as is reasonably practicable by either the High Master or a senior manager not involved in the original capability matter. If the High Master conducted the original capability hearing, and/or if the outcome was dismissal, the appeal will be heard by an independent panel of governors. You will be invited to the appeal hearing and advised of your right to be accompanied. The decision following the appeal will be final and cannot be further appealed. You will be notified of the outcome in writing as soon as possible.

Teaching Regulation Agency (formerly known as NCTL) referrals

18. Where a teacher is dismissed (or would have been dismissed had they not resigned) for misconduct (or serious capability concerns), separate consideration will be given as to whether a referral to the Teaching Regulation Agency should be made, For information, the reasons for the Teaching Regulation Agency to consider whether a prohibition order might be appropriate are: 'unacceptable professional conduct', 'conduct that may bring the profession into disrepute' or a 'conviction, at any time, for a relevant offence'.