



## Appraisal and Capability Policy

<b>Date Published</b>	<b>June 2016</b>
<b>Version</b>	<b>5</b>
<b>Last Approved Date</b>	<b>April 2022</b>
<b>Review Cycle</b>	<b>1 Year</b>
<b>Review Date</b>	<b>April 2023</b>

“Learning together, to be the best we can be”

## 1. Context

- 1.1. This policy will be reviewed and revised annually so that it complies with the most recent publication of the School Teacher Pay and Conditions Document (STPCD). It meets with the revised appraisal arrangements set out in the Education (School Teachers' Appraisal) (England) Regulations 2012 which replace the Education (School Teacher Performance Management) (England) Regulations 2006.
- 1.2. The revisions give schools more freedom to differentiate pay progression for teachers based on performance. This places greater importance on the appraisal process and on any pay recommendations contained within the annual appraisal statement in informing the decisions of the Nexus Multi Academy Trust Board in terms of pay.
- 1.3. The Trust's Pay Policy should be read in conjunction with this policy.

## 2. Scope

- 2.1. This policy relates to all academies and settings across Nexus MAT and supersedes any local policies and procedures that have been in use prior to the academy conversion. Where required, an individual Nexus MAT academy – in agreement with the Trust Chief Executive Officer - may publish a supplementary policy guidance document or procedure in line with this policy, to ensure that any idiosyncrasies associated with that specific academy are covered in their local policy library.

## 3. Purpose

- 3.1. This policy sets out the framework for a clear and consistent assessment of the overall performance of employees of Nexus Multi Academy Trust including the Chief Executive Officer, central Trust staff (such as the Chief Finance Officer), Headteachers, Teachers, and support staff, and for supporting their development within the context of the Trust's plan for improving educational provision and performance, and the standards expected of all employees. It also sets out the arrangements that will apply when employees fall below the levels of competence that are expected of them.

3.2. There is a clear link between the operation of the appraisal policy and the pay policy.

## 4. Application of the policy.

4.1. The policy is in two separate sections.

4.1.1. **Part A** (section 5 – chapter 12) of the policy, which covers appraisal, applies to all those employed by the Trust either centrally or within one of its constituent academies, except those on contracts of less than one term and those who are subject to Part B of the policy.

4.1.2. **Part B** (chapter 13 – chapter 21) of the policy, which sets out the formal capability procedure for those whose performance there are serious concerns that the appraisal process has been unable to address.

## 5. Part A – Appraisal

5.1. Appraisal in the Trust will be a supportive and developmental process designed to ensure that all employees have the skills and support they need to carry out their role effectively and to contribute to the Trust's improvement. It will help to ensure that teachers (including senior seniors) are able to continue to improve their professional practice and to develop as teachers, whilst also ensuring that executive leaders and support staff are challenged to improve and develop.

5.2. Governors will have regard to the outcomes of the annual appraisal process in making any decisions on pay and progression.

5.3. The appraisal period will run for twelve months from **October to October** each year.

5.4. Employees who are employed on a fixed term contract of less than one year 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.

5.5. Where a teacher ceases employment other than at the end of the appraisal period applying in the Trust's academies the appraisal period ends with the

last day of such employment. In this situation an appraisal statement will be produced by the academy to reflect performance against the relevant standards and progress against objectives.

## 6. Appointing Appraisers

- 6.1. The Chief Executive Officer and Chief Finance Officer will be appraised by committees of the Trust Board, supported by a suitably skilled and/or experienced advisor should this expertise not be available from the appointed Board of Directors. The subcommittees will have a membership of no less than 2 Directors. The CEO pay committee **must** include the Chair of the Trust Board or the Vice Chair in its membership. The CFO pay committee **must** include the CEO in its membership.
- 6.2. Headteachers will be appraised by their line manager. The local governance chair may also be invited to attend.
- 6.3. Headteachers will decide who will appraise other members of the school workforce. Staff are typically allocated appraisers on the basis of who line manages them.

## 7. Setting objectives

- 7.1. The Chief Executive Officer's objectives will be set by the committee of the Trust Board, taking into account the Trust's strategic plan and the Nolan Principles.
- 7.2. The Chief Finance Officer's objectives will be set by the committee of the Trust Board, taking into account the Trust's strategic plan.
- 7.3. The Headteacher objectives will be set by their line manager, taking into account Head Teacher Excellence Standards.
- 7.4. Objectives for each employee will be set as soon as practicable after the start of each appraisal period. The objectives set for each employee will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the employee's role and level of experience. Consideration will be given to any support or training needed by the employee to achieve the objectives. Consideration should also be given to how performance against

the objectives will be monitored and measured. The appraiser and employee will seek to agree the objectives but, if that is not possible, the appraiser will determine the objectives. Objectives may be revised if circumstances change.

- 7.5. The objectives set for each employee will, (if achieved) contribute to the academy's plans for improving educational provision and performance. This will be ensured by quality assuring all objectives against the aims of the school improvement plan, or the curriculum areas raising attainment plans, or the individual employees' development needs.
- 7.6. At the same time as setting objectives each employee will be informed of the standards against which their performance during that appraisal cycle will be assessed. All teachers will be assessed against the Teachers' Standards and against any specific role or responsibility they hold within school e.g. TLR.

## 8. Reviewing performance

- 8.1. The Trust believes that observation of classroom practice and other responsibilities is important both as a way of assessing employee performance in order to identify any particular strengths and areas for development they may have and of gaining useful information which can inform school improvement more generally.
- 8.2. An employee's performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the employee and the overall needs of the academy. There will not be a one-off lesson observation directly linked to an employee's appraisal, as the Trust believes it is important to assess the quality of an employee's performance over time to gain an accurate evidence base. In addition to formal observation, the Headteacher(s) or other leaders with responsibility for teaching standards may "drop in" in order to evaluate the standards of teaching and learning and to check that high standards of professional performance are established and maintained. The length and frequency of "drop in" observations will vary depending on specific circumstances.
- 8.3. It is important that any evidence collected, as part of the quality of employee performance monitoring and evaluation schedule, is triangulated and is subject to internal and external quality assurance checks. Monitoring and evaluative activities include planning and work scrutiny, data outcomes,

progress made towards pupil action plan targets and pupil wellbeing and involvement.

- 8.4. Teachers (including Headteachers) and support staff who have responsibilities outside the classroom should also expect to have their performance of those responsibilities assessed.

## 9. Development and Support

- 9.1. Appraisal is a supportive process which will be used to inform continuing professional development. The Trust wishes to establish and maintain a culture in which all employees take responsibility for improving the teaching and learning of children through appropriate professional development for staff.
- 9.2. Professional development will be linked to academy improvement priorities and to the ongoing professional development needs and priorities of individual employees.

## 10. Feedback and reflection

- 10.1. All employees will receive constructive feedback on their performance throughout the year and as soon as practicable after an observation has taken place or other evidence has come to light. Feedback will highlight particular areas of strength as well as any areas that need development. Where there are concerns about any aspects of the employee's performance the appraiser will meet them formally to:
- give clear feedback to the employee about the nature and seriousness of the concerns;
  - give the employee the opportunity to comment and discuss the concerns;
  - agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
  - make clear how, and by when, the appraiser will review progress (*it may be appropriate to revise objectives at this stage, and it will be necessary to allow sufficient time for improvement. The amount of*

*time is up to the school but should reflect the seriousness of the concerns);*

- explain the implications and process if no or insufficient improvement is made.

10.2. The employee and appraiser will agree a Support Plan which includes the above points. When progress is reviewed, if the appraiser is satisfied that the employee has made, or is making, sufficient improvement, the appraisal process will continue as normal, with any remaining issues continuing to be addressed through that process.

## 11. Transition to capability

11.1. If the appraiser is not satisfied with progress, the employee will be notified in writing that the appraisal system will no longer apply and that their performance will be managed under the capability procedure, and will be invited to a Stage 1 formal capability meeting. The capability procedures will be conducted as in part B of this policy.

## 12. Annual assessment

12.1. Each employee's performance will be formally assessed in respect of each appraisal period.

12.2. This assessment 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 meetings between the employee and their appraiser and also by their curriculum line manager.

12.3. Teachers and support workers will receive their written appraisal reports by 31 October (31 December for the Head Teachers). The appraisal report will include:

- details of the employee's objectives for the appraisal period in question;
- an assessment of the employee's performance of their role and responsibilities against their objectives and the relevant standards;
- an assessment of the employee'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);
- an indication of the employee's career aspirations.

12.4. Teachers who are paid on the Main Pay Spine (MPS) will secure a one point increment on the pay spine each year as a result of meeting both Part A (appraisal targets) and Part B (overall performance) of the appraisal process, including verification and evidence that they have fulfilled their job description and met the requirement of any additional responsibilities; and have met the relevant standards at a level appropriate to their career stage. Teachers who have made exceptional progress or significantly exceeded targets in Part A and Part B may receive enhanced pay progression.

12.5. Where a teacher is applying for progression to Upper Pay Range (UPR), or is eligible for further progression on UPR, the reviewer should indicate whether criteria (a) and (b) have also been met:

- a) the teacher continues to be highly competent in all areas of the Teachers' Standards; and
- b) the teacher's achievements and contribution to the academy continue to be substantial and sustained.

12.6. Non-teaching employees, such as support workers, are subject to different terms and conditions, and will only be eligible to annual spinal point increments of one spinal point per year.

12.7. The assessment of performance and of training and development needs for all employees will inform the planning process for the following appraisal period.

## 13. Part B – Capability Procedure

13.1. This procedure applies to all employees whose performance there are serious concerns that the appraisal process has been unable to address in an acceptable period of time.

## 14. Informal Capability Stage

- 14.1. To ensure there is a “no surprises” culture within the Trust, there will be an informal element to the capability procedure to ensure there has been opportunity for the employee to improve their performance via a support plan. This should form part of the usual appraisal process.
- 14.2. The first steps in attempting to improve performance are to identify the reasons or causes of the problem and consider any positive support that can be provided.
- 14.3. Informal measures of providing additional management support can be beneficial in addressing concerns about an employee’s performance; therefore this option should be explored before moving to Formal Measures.
- 14.4. It is for the Appraisal (in conjunction with the line manager, where one aren’t the same) to determine the time period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place. No more than a 12 month appraisal cycle should be used, though this may naturally be less if issues are identified at the mid review point.
- 14.5. Additional management support could include offering the facility to observe good practice; receive advice from an experienced colleague or line manager; having a mentor or access to appropriate training or resources.
- 14.6. The employee may be able to suggest other methods of support they feel would assist them. This list should not be seen as exhaustive or a requirement but gives an indication of the types of support a manager may consider providing.
- 14.7. If there is no time or space at a review meeting or concerns about the employee’s performance arise before the next scheduled review, a specific meeting should be arranged to allow discussions between the appraiser and employee to take place in an open and constructive atmosphere and should be regarded as part of the normal working routine. However, the employee requested may be accompanied by their Trade Union/Professional Association.

- 14.8. The specific aim of these discussions will be to identify ways in which the employee can be encouraged and helped to improve performance. The employee should refer to this Policy/Procedure document.
- 14.9. This meeting will provide an opportunity for:
- the appraiser to clearly identify and illustrate the areas of concern;
  - the employee to respond to the concerns outlined;
  - the employee to acknowledge their own responsibility to fully engage with the procedure and improve their own performance;
  - the appraiser to outline the standards of performance required to exit the capability procedure;
  - identification of any difficulties which may be preventing satisfactory performance;
  - confirmation of the level of support which will be provided during the period of review;
  - agreement of a reasonable timescale for monitoring and date for an appraisal review.
- 14.10. Support or guidance from the wider Trust (or beyond) may be enlisted if deemed appropriate by the appraiser.
- 14.11. The appraiser should confirm in writing to the employee the required improvements and how they will be measured, a programme of support, as well as the timescale over which improvement is to be achieved. In addition, any points raised by the employee will be recorded. The details will be collated into a support plan.
- 14.12. Regular monitoring and feedback should take place during the period given for improvement, with the appraiser meeting with the employee at least fortnightly.
- 14.13. At the end of the agreed review period the appraiser should meet with the employee concerned to discuss: the extent to which performance has improved; the need to sustain the performance and the potential for this to be achieved; and any outstanding areas of concern. A brief written record of this meeting and the outcomes arising from it should be kept.
- 14.14. It is hoped that the vast majority of cases will be resolved at this Informal Stage and it will only be necessary to proceed to the Formal

Stage in those cases where advice and additional support have not achieved the required improvement.

- 14.15. Where it has not been possible to eliminate concerns about an employee's performance by informal means or improvement has not been sustained Formal Measures may be taken.
- 14.16. The decision to move on from informal measures lies with the Chief Executive Officer (for direct reportees and central Trust staff) or the Headteacher (for staff employed in their school/academy). It is recommended that advice be sought from the Trust's HR Advisor before moving to the formal stage.

## 15. Formal capability procedures

- 15.1. At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence including the outcome of the informal stage; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.
- 15.2. The **first formal meeting** is intended to establish the facts. It will usually be chaired by the line manager (for the Headteachers capability meeting or other central Trust staff) or the Headteacher for other academy employees. The meeting allows the employee 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.
- 15.3. In the unlikely event that 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, then the formal capability procedure will come to an end. 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.

15.4. In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a warning being issued or ultimately dismissal, the person conducting the meeting will:

- identify the professional shortcomings, for example which of the standards expected of the employee are not being met;
- 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 area of development 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*);
- explain any support that will be available to help the teacher improve their performance;
- 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 could be between four and ten weeks. (*It is for the academy to determine the set period however, it should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place*); and
- warn the employee formally that failure to improve within the set period could lead to appropriate action e.g. Final written warning or where appropriate dismissal.

15.5. Notes will be taken of the formal meeting and a copy sent to the employee. 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.

## 16. Monitoring and review period following a formal capability meeting

- 16.1. A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. 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).

## 17. Formal review meeting

- 17.1. As with formal capability meetings, at least five working days' notice will be given. Notification will give details of the time and place of the meeting and will advise the employee of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.
- 17.2. If the person conducting the meeting is satisfied that the employee has made sufficient improvement, the capability procedure will cease and the appraisal process will re-start. In other cases:
- 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;
  - If no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning.
- 17.3. 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. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The employee will be invited to a decision meeting.

## 18. Decision meeting

- 18.1. The same notification period and details will be issued as with formal capability meetings and formal review meetings.
- 18.2. If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will continue to the same targets as set previously (or refreshed if a new appraisal cycle has started).
- 18.3. If performance remains unsatisfactory, a recommendation to the Chief Executive Officer will be made that the employee should be dismissed or required to cease working at the academy.
- 18.4. Before the decision to dismiss is made, the Headteacher should discuss the issue with the Chief Executive Officer of the Trust.
- 18.5. 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 and their right of appeal.

## 19. Dismissal

- 19.1. The Chief Executive Officer must dismiss an employee within fourteen days of the date of the notification.

## 20. Appeal

- 20.1. 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. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply as with formal capability and review meetings and, as with other formal meetings, notes will be taken and a copy sent to the employee.
- 20.2. The appeal will be dealt with impartially by the Trust Board and, wherever possible, by Directors who have not previously been involved

in the case. The employee will be informed in writing of the results of the appeal hearing as soon as possible.

## 21. General Principles Underlying this Policy

- 21.1. Part B of the policy will be implemented in accordance with the provisions of the ACAS Code of Practice.

## 22. Confidentiality

- 22.1. The appraisal and capability processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the Chief Executive Officer, Headteachers, the Trust Board and Local Governing Bodies to quality-assure the operation and effectiveness of the appraisal system. Therefore, for example, the Headteachers or appropriate colleagues might review all employees' objectives and written appraisal records, in order to check consistency of approach and expectation between different appraisers.

## 23. Monitoring and Evaluation

- 23.1. The Trust Board, Chief Executive Officer and Headteachers will monitor the operation and effectiveness of the Trust's appraisal arrangements. Where a Headteacher chooses to delegate appraiser responsibilities to another senior leader, in these circumstances the Headteacher will moderate a sample of the employee objectives and written appraisal reports to ensure they comply with the Trust's appraisal policy and to check the consistency of approach between different appraisers. The Headteacher will also be made aware of any pay recommendations, so that these may be reported to governors annually.

## 24. Consistency of Treatment and Fairness

- 24.1. The Nexus Multi Academy Trust Board is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

## 25. Delegation

- 25.1. Any and all delegation of decision making powers are listed in the Nexus Multi Academy Trust's Scheme of Delegation, which is compliant with Department for Education guidance; requirements of the Education & Skills Funding Agency; and the expectations of the Charities Commission.

## 26. Grievances

- 26.1. Where a member of staff raises a grievance during the capability procedure the capability procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and capability cases are related it may be appropriate to deal with both issues concurrently.

## 27. Sickness absence

- 27.1. If long term sickness absence appears to have been triggered by the commencement of monitoring or a formal capability procedure, the case will be dealt with in accordance with the Trust's absence policy and will be referred immediately to the occupational health service to assess the member of staff's health and fitness for continued employment and the appropriateness, or otherwise, of continuing with monitoring or formal procedures. In some cases, it may be appropriate for monitoring and/or formal procedures to continue during a period of sickness absence.