



## **Wellspring Academy Trust**

### **Performance Management and Capability Policy – Teaching Staff**

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Date approved by the Board:	July 2019
Date of Review:	July 2022
Responsible Department:	Human Resources
Policy Applies to:	Wellspring Trust and all Academies within the Trust

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*The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:*

- *eliminate discrimination and other conduct that is prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- *foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.*

*In the development of this policy due regard has been given to achieving these objectives.*

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## **1.0 Scope**

- 1.1 This policy and procedure applies to all staff employed as teachers, whose conditions of service fall under the terms of the Teachers Pay and Conditions Document employed by the Academy/Trust. However, with reference to Performance Appraisal, it applies to all teachers except those on contracts of less than one term those undergoing induction (i.e. NQT's) and those who are the subject of a support plan/formal capability procedures.
- 1.2 This policy is not contractual and does not form part of an employee's terms and conditions of employment.

## **2.0 Principles**

### **Performance Appraisal**

- 2.1 Wellspring Academy Trust recognises that performance management should be a supportive and developmental process designed to ensure that all teaching staff have the skills and support they need to carry out their role effectively.
- 2.2 This policy will also help teachers to continually improve their professional practice. It will also enable underperformance to be identified at the earliest opportunity and for the appropriate support to be put in place.

### **Pay**

- 2.3 The starting salary of a newly appointed teacher on either the main pay scale or the upper pay scale will be determined having regard to the requirements of the post; any specialist knowledge required for the post; the experience required to undertake the specific duties of the post; the wider context, for example the ability to recruit and retain staff. There is no assumption that a teacher will be paid at the same rate as they were being paid in a previous school.
- 2.4 Every qualified teacher will have their pay reviewed annually, with effect from the 1<sup>st</sup> September and no later than the 31<sup>st</sup> October. All teachers will be given a written statement setting out their salary. Reviews may take place at other times of the year to reflect any changes in circumstances that lead to a change in the basis for calculating pay.
- 2.5 Where teachers are eligible for pay progression, the assessment of performance throughout the cycle against the performance criteria will be the basis on which the recommendation is made by the reviewer.

### **Capability**

- 2.6 Should underperformance continue to be of concern despite appropriate support, this policy will enable underperformance to be managed fairly and consistently.

- 2.7 This policy is a guide and not a definitive set of rules. Advice should be sought from HR where there are exceptional or unusual circumstances.

### **General**

- 2.2 Employees have the right to be accompanied by their trade union representative or a work colleague at the formal stages of the Capability Procedure. It is the employee's responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professional such as solicitors and barristers.
- 2.3 All employees have the right of appeal against any formal capability sanction.
- 2.4 All documentation relating to Performance Management matters will remain confidential and will be retained on the employees personal file.

### **3.0 Responsibilities and Expectations**

- 3.1 The aims of the policy are to:
- 3.1.1 Maximise the quality of teaching and learning.
  - 3.1.2 Support the recruitment and retention of a high quality teacher workforce.
  - 3.1.3 Enable the Trust/Academy to recognise and reward teachers appropriately for their contribution.
  - 3.1.4 To ensure that decisions on pay are managed in a fair, just and transparent way.
  - 3.1.5 Enable underperformance to be managed fairly and consistently.

### **4.0 The Performance Appraisal Cycle**

- 4.1 The performance appraisal period will run from the 1<sup>st</sup> September to the 31<sup>st</sup> August with a mid-year review.
- 4.2 At the start of the appraisal process, the appraiser and appraisee will agree when the final appraisal meeting will take place. This may either be at the end of the summer term or on commencement of the autumn term. However, for any employee leaving the Academy/Trust, the appraisal will be completed before the cessation of the summer term.
- 4.3 Teachers appointed on a fixed term contract will have their performance managed in accordance with the principles underpinning this policy. The length of the period will be determined by the length of their appointment.
- 4.4 Performance Management should be seen as an ongoing process, not just restricted to the Performance Management and Performance Management Review Meetings. This can be achieved through a number of ways; for example through team meetings and One to One's. One to One meetings should be convened regularly and also documented. The discussions should include an

ongoing update regarding targets and objectives and the prioritisation of day to day workloads to ensure that the objectives set are met.

## **5.0 Teachers absent due to maternity or sickness**

- 5.1 Where a teacher is absent due to maternity leave, it is unlawful for the Academy/Trust to deny that teacher an appraisal and subsequent pay decision because of her maternity.
- 5.2 In these circumstances, consideration should be given to conducting the performance appraisal prior to the maternity leave commencing, even if it is early in the appraisal year, and base any pay determination on the evidence of performance to date for that year. Evidence from previous Performance Management appraisals may also be taken into account. KIT (Keeping in Touch Days) are not to be used for the purposes of appraisal. The same approach should be considered for teachers who are absent due to long-term sickness.

## **6.0 Observations**

- 6.1 Teachers will be observed regularly as part of the Performance Management Cycle, but this will not be the only information that is taken into account. The amount and type of classroom observation will depend on the individual circumstances of the teacher and the overall needs of the academy.
- 6.2 Classroom observations will be carried out only by those with the appropriate training and professional skills to undertake observation, provide constructive oral and written feedback and support.
- 6.3 Where possible the observer will have relevant experience or knowledge of the key stage/subject area. Observations will be arranged with the teacher no less than 5 working days in advance. Observations will be spaced with a reasonable amount of time between each lesson observation and/or drop ins. Should the teacher be subject to an informal/ formal Support Plan, observations will be agreed as part of the Support Plan. In these circumstances it will be necessary for observations to take place much more frequently.
- 6.4 Planning for observations will take place at the start of the Performance Management Cycle and will include details of the amount of observations and the focus of observations, the duration of the observation, when during the Performance Management Cycle it will take place and who will conduct the observation.
- 6.5 Oral feedback will be given as soon as possible after the observation.
- 6.6 Written feedback will be provided within 5 working days of the observation taking place. If issues emerged from an observation that were not part of the focus of the observation as recorded in the planning and review statement, these should also be covered in the written feedback and the appropriate action plan discussed with the teacher.

## **7.0 Preparing for the Performance Appraisal Meeting**

### **The Line Manager (Reviewer)**

- 7.1 Teachers' should be given adequate notice (no less than 5 working days) of the meeting and they should be given Form PA1 to complete (**Appendix 1**) (or other appropriate template) and return at least 2 days prior to the Performance Management Meeting taking place. Adequate time should also be set aside for the meeting, ideally in a quiet room where it can be guaranteed there won't be any interruptions.
- 7.2 Objectives should be considered and some prepared in advance of the meeting for discussion and agreement.
- 7.3 Most teachers will have 3 objectives:
- An Academy Excellence objective linked to their Academy Development Plan;
  - A student progress objective;
  - A personal objective;
  - Staff with key responsibilities will be expected to have more than the minimum 3 performance management objectives – members of SLT will have a minimum of 2 leadership or quality assurance objectives.

Appraisal objectives will become more challenging on progression.

- 7.4 Teachers must be able to understand their objectives and know what they need to do in order to achieve them. They should be SMART i.e. specific, measurable, achievable, realistic and time bound.
- 7.5 The form should be read when returned in preparation for the meeting.
- 7.6 Any appropriate supporting evidence that will aid discussion should be collated, ready for the meeting.

### **The teacher (Reviewee)**

- 7.7 In preparation for the Performance Management Meeting the teacher should complete the relevant form and also give consideration to collating any supporting evidence.
- 7.8 The form should be returned to the reviewer no less than 2 working days in advance of the meeting.

## **8.0 The Performance Appraisal Meeting**

- 8.1 Importance should be placed on creating an informal atmosphere. Where regular informal meetings and interim reviews have been carried out both the Line Manager and the teacher will have a good idea of how the year has gone. This meeting is not the place to raise serious issues of underperformance for the first time.
- 8.2 It is always advisable to discuss the teachers' strong points first and place emphasis on good work already done.
- 8.3 Teachers should be encouraged to suggest ways in which their good work can be continued and their views sought on how they can achieve further improvement.

- 8.4 Open questions should be used i.e. questions starting with who, what, why and when, rather than using leading questions which may require a “yes” or “no” response.
- 8.5 Using the relevant form to lead the discussion, the meeting should be a two-way discussion.
- 8.6 The reviewer and reviewee should complete Form PA2 (**Appendix 2**) (or other appropriate template) during the meeting (or immediately afterwards) and both the reviewee and reviewer should sign the document to confirm agreement to its content.
- 8.7 A date for the Performance Management Review Meeting should be agreed and recorded. The review meeting will be to discuss progress against the objectives to date, any necessary changes to objectives and a review of any concerns raised (where the concerns are minor). Form relevant form should be used to record the review meeting.

## 9.0 Pay determinations/ progression

- 9.1 In order for pay progression to be processed the reviewer is required to complete the Pay Review Recommendation form (**Appendix 3**) (or other appropriate template). This document is very important and should be stored on the teacher’s personal file for audit purposes and Ofsted Inspection.
- 9.2 The process is as follows:
  - Completion of the form (**Appendix 3**) by the reviewer as part of the Performance Management Review of the teacher.
  - The completed form should be passed to the appropriate member of SLT for moderation. The SLT link will sign the form to confirm that they have completed the moderation process and pass it to the Head of School/Principal/ Executive Principal.
  - The Head of School/Principal/Executive Principal shall scrutinise the documentation and then make pay recommendations in accordance with the Local Governing Body (LGB) Pay Committee – Terms of Reference. This can only be done if all the standards have been met and all sections of the form have been completed and signed.
  - In the case of Principal/Executive Principal Pay Decisions, these will be made in accordance with the Local Governing Body (LGB) Pay Committee – Terms of Reference.
  - The teacher shall be notified in writing of the decision and, where progression has not been approved, the reasons shall be notified in writing and a meeting shall take place to discuss and explain those reasons. In such cases, the teacher will also be advised of the rights of appeal against the decision.

## 10.0 Main Pay Scale progression

- 10.1 To progress within MPS, teachers need to achieve all their objectives, or in the professional judgement of the reviewer, have made significant progress towards achieving them (for example if an objective runs over a two year period), and show that they are competent in all elements of the Teachers Standards (**Appendix 4**).
- 10.2 Where a teacher's performance has been of a sustained high quality, exceeding academy expectations, and their individual objectives, a teacher may be awarded further progression points within the limits of the Main Pay Scale.
- 10.3 As a teacher progresses within MPS there should be evidence that demonstrates:
- an increasing positive impact on student progress;
  - an increasing impact on wider outcomes for students;
  - improvements in specific elements of practice identified to the teacher e.g. behavior management, planning etc;
  - an increasing contribution to the work of the Academy;
  - an increasing impact on the effectiveness of the team/department.

### Threshold – progression from MPS to UPS1

- 10.4 Any qualified teacher may apply to be paid on the upper pay scale and applications may be made at least once a year.
- 10.5 It is the responsibility of individual teachers to decide whether or not they wish to apply to be paid on UPS. Where a teacher is eligible for UPS progression, targets should have been set to reflect this. The closing date for applications is the 31<sup>st</sup> August each year, however, exceptions will be made for teachers on maternity or sick leave.
- 10.6 Teachers who are simultaneously employed to teach at two or more academies may submit separate applications to both (or all) if they wish to apply to be paid on UPS in both (or all). Each academy will make its own assessment and decisions by one academy will not be binding on the other.
- 10.7 Process for application.
- The employee must complete the form contained in **Appendix 5** and return it to their Line Manager along with all relevant supporting documentation which may include that held within the Academy.
  - The employee will receive written notification of the outcome of their application by the 31<sup>st</sup> October.
  - Where the application is unsuccessful, the written notification will include the areas where, in the professional judgement of the reviewer, it was felt that the teacher's performance did not satisfy the relevant criteria.



- Feedback will normally be provided within 10 working days of notification of the outcome of the application. Feedback should be constructive and will include advice and support on areas for improvement in order to meet the relevant criteria.

10.8 Progression to UPS1 will be dependent on evidence confirming that:-

- the teacher is highly competent in all elements of the relevant standards, and
- the teacher's achievements and contribution to the Academy are substantial and sustained.

10.9 The following are definitions of these skills and characteristics.

- **Highly Competent** – the teacher's performance is assessed as having excellent depth and breadth of knowledge, skill and understanding of the Teachers Standards in the particular role they are fulfilling and the context in which they are working.
- **Substantial** – the teacher's achievements and contribution are significant not just in raising standards within their own remit, but also in making a significant wider contribution to Academy and/or Trust improvement, which impacts on pupil progress and the effectiveness of colleagues.
- **Sustained** – the teacher must have had successful performance management report(s) in the Academy(ies) and have achieved their objectives during this period. They will have been expected to have shown that their teaching expertise has grown over the relevant period and is of a consistently high quality.

10.10 Where there are circumstances of exceptional performance, progression can be to any point on UPS.

#### **Post Threshold – Progression to UPS2 and UPS3**

10.11 The pay review will be led by the reviewer but the teacher will be required to demonstrate how they have met the appropriate criteria for Upper Pay Scale progression.

10.12 Further progression will be dependent on:

- successful performance review(s);
- evidence that the teacher has maintained high competency in all elements of the relevant standards, and
- the teacher's achievements and contribution to the Academy continue to be substantial and sustained.

10.13 Where there has been exceptional performance, progression can be from UPS1 to UPS3. Pay recommendations of this nature must be approved in accordance with the Local Governing Body (LGB) Pay Committee – Terms of Reference.

10.14 With reference to all pay progression decisions, any significant concern(s) about standards of performance must have been raised in writing with the teacher during the annual Performance Management Cycle(s) and sufficiently addressed through appropriate support provided by the Academy if the review is to be judged unsatisfactory. The Academy can withhold pay progression without any requirement to initiate or consider action under the Performance Management and Capability Policy.

### **11.0 Leading Practitioners pay determinations**

11.1 Performance appraisal objectives will be agreed for the leading practitioner within the normal performance appraisal cycle.

11.2 When reviewing pay, the Academy will have regard to the results of the leading practitioner's appraisal.

11.3 The Academy will take account of other evidence. The evidence should show the leading practitioner: -

- has achieved their objectives, or in the professional judgement of the reviewer, have made significant progress towards achieving them (for example if an objective runs over a two year period);
- is an exemplar of teaching skills which should impact significantly on pupil progress within the Academy and wider community, if relevant;
- has made a substantial impact on the effectiveness of staff and colleagues including any specific elements of practice that have highlighted as in need of improvement;
- is highly competent in all aspects of the Teachers Standards;
- has shown strong leadership in developing, implementing and evaluating policies and practice in their workplace that contribute to improvement.

11.4 Highly competent and substantial are defined in section 10.9.

11.5 The Academy will determine pay progression such that the amount is clearly attributable to the performance of the leading practitioner through the Teacher Appraisal process.

11.6 Annual pay progression within the range is not automatic. The Leading Practitioner will be required to demonstrate how they have met the appropriate criteria for pay progression within this pay scale.

### **12.0 Unqualified Teachers pay on appointment**

12.1 The Academy will pay any unqualified teacher in accordance with the STP&CD.

12.2 The Academy will determine where a newly appointed unqualified teacher will enter the scale, having regard to any qualifications or experience s/he may have, which they consider to be of value. Usually this will be one point on the unqualified scale for every three years of relevant experience.

12.3 The Academy will consider whether it wishes to pay an additional allowance in accordance with the STP&CD.

### **13.0 Unqualified Teachers pay determinations**

13.1 In order to progress in the unqualified teacher range, unqualified teachers will need to show that they have achieved their objectives, or in the professional judgement of the reviewer, have made significant progress towards achieving them (for example if an objective runs over a two year period).

13.2 If the evidence shows that a teacher has demonstrated exceptional performance the (Executive) Principal may award enhanced pay progression of one point.

13.3 Decisions will be properly rooted in evidence. As unqualified teachers progress within the scale this evidence should show:

- an improvement in teaching skills;
- an increasing positive impact on pupil progress;
- an increasing impact on wider outcomes for pupils;
- improvements in specific elements of practice identified to the teacher;
- an increasing contribution to the work of the Academy;
- an increasing impact on the effectiveness of the team/department.

### **14.0 Part Time Teachers**

14.1 Teachers who are employed by the Academy but work less than a full working day or week are deemed to be part time. The Academy will give these teachers a written statement detailing their working time obligations and the standard calculation used to determine their pay, subject to the provisions of the statutory pay arrangements and by comparison with the timetabled teaching week for a full time teacher in an equivalent post.

### **15.0 Allowances and payments**

#### **15.1 Teaching and Learning Responsibility Points (TLRs)**

The Academy/Trust may award a TLR to a teacher in accordance with the STP&CD. TLR 1 or 2 will be for a clearly defined and sustained additional responsibility in the context of the organisation's structure for the purpose of ensuring the continued delivery of high quality teaching and learning. All job descriptions will be regularly reviewed and will make clear, if applicable, the responsibility or package of responsibilities for which a TLR is awarded.

#### **15.2 Recruitment and Retention Payments**

The Academy will consider where recruitment and retention difficulties are apparent within the context of the organisation structure. The Academy has the discretion to award incentives and benefits in accordance with the STP&CD. The duration of the awards will be made clear from the

outset and will be reviewed at a clearly defined date at which point the Academy has the discretion to remove it.

### 15.3 SEN Allowance

A SEN allowance is payable to a classroom teacher in any SEN post that requires a mandatory SEN qualification and involves teaching pupils with SEN as detailed in the STP&CD.

### 15.4 Acting Allowance

Where a teacher is assigned and carries out duties of a Headteacher, Principal, Deputy Headteacher, Assistant Headteacher or Assistant Principal, the Executive Principal and Chair of the LGB Pay Committee must, within the four weeks beginning on the day on which such duties are first assigned and carried out, determine whether or not an allowance (“acting allowance”) must be paid in accordance with the STP&CD.

## 16.0 Approval of pay determinations

16.1 All pay determinations must be approved in accordance with the Local Governing Body (LGB) Pay Committee – Terms of Reference.

## 17.0 Appeals against pay determinations

17.1 Teachers have the right to raise formal appeals against pay determinations if, for example, they believe that the person or committee by whom the decision was made

- (a) incorrectly applied the pay policy;
- (b) incorrectly applied any provision of the STPCD;
- (c) failed to have proper regard to statutory guidance;
- (d) failed to take proper account of relevant evidence;
- (e) took account of irrelevant or inaccurate evidence;
- (f) was biased; or
- (g) unlawfully discriminated against the teacher.

17.2 Any appeals must be addressed to the (Executive) Principal within 10 working days’ of receipt of the decision, and the process that will be followed is contained in **Appendix 3**

## 18.0 Managing Performance Concerns Informally

18.1 There may be occasions when, despite adequate support, a teacher’s performance consistently fails to reach the required standard. Line Managers should discuss performance concerns with their teachers at the earliest opportunity, identifying support and the required improvement within specific timescales. This could be additional training, mentoring or coaching, or just some on the job support or shadowing from an experienced colleague. During this conversation it may become

apparent that underperformance may be due to causes outside of the teacher's control.

Consideration should be given to this.

- 18.2 An informal Support Plan should then be put in place (an example template is contained in **Appendix 7**). Realistic and achievable targets should be set and a suitable review period agreed. This is usually between 4-6 weeks so teachers have adequate time to demonstrate improvements.
- 18.3 Progress must be regularly reviewed during the informal performance period to ensure support is adequate and effective. Template letters are contained in (**Appendix 8**). An informal Support Plan should be updated regularly and signed by the teacher and the Line Manager.
- 18.4 Where adequate improvements have been made over the time period specified, the teacher should be informed in writing that the Support Plan is being lifted.
- 18.5 Where adequate progress has been made on some of the targets but not all in the time period specified, but there is a confidence all targets can be met, the informal Support Plan can be extended by no more than 4 weeks. This should be confirmed in writing with the revised informal Support Plan enclosed.
- 18.6 If the required improvements have been made to the required sustained standards, the teacher should continue to be managed through the above Performance Management process.
- 18.7 If the required standard is not maintained and the teacher demonstrates serious underperformance, the Capability Procedure may be invoked.
- 18.8 The Line Manager should be confident that the informal performance support has been exhausted and does not have a realistic chance of success within a reasonable time period. Advice should be sought from the HR Business Partner to consider whether the teachers' underperformance falls under the Capability or Disciplinary Policy before proceeding any further.
- 18.9 In exceptional cases where there are serious and significant concerns relating to the performance of the teacher (in accordance with the Teachers Standards) (including where the education of students may be in jeopardy), a decision shall be made by the (Executive) Principal, in liaison with HR, to move the Teacher directly from the Performance Appraisal Procedure to Capability Policy.

## **19.0 The Capability Policy**

- 19.1 Where the teacher has not met the required standards and demonstrates serious underperformance after an informal Support Plan, a formal Capability Meeting will be convened (**Appendix 6**), whereby a formal sanction could be issued (e.g. written warning/ final written warning).

### **19.2 Formal Capability Meeting**

The decision to progress to a formal Capability meeting will be confirmed in writing and must include:

- Details of the concerns in relation to underperformance.
  - All supporting evidence including any corroborative documentation to be referred to in the meeting.
  - The date/ time/ location of the meeting, giving 10 working days' notice.
  - The employees' right to be accompanied as set out in the Principles.
- 19.3 If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will, however, be allowed to address any formal hearing and present the employees' case.
- 19.4 Every reasonable effort should be made by the employee and representative to be available for the meeting. If the employees representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 working days' of the original date, this will be accommodated.
- 19.5 The Line Manager will outline the ongoing areas of concern, the support that has already been given and state clearly why the teacher has not met the required standard. The teacher will be requested to respond and provide any mitigation.
- 19.6 At the end of the meeting the Line Manager will make a decision as to whether it is appropriate to issue a written warning/ final written warning (where the performance of a teacher is so bad the education of the students may be in jeopardy) in conjunction with any further support deemed appropriate to enable the teacher to meet the required standards.
- 19.7 The teacher has the right to appeal against any formal sanctions within 5 working days of the sanction being issued (see **Appendix 6**).
- 19.8 Any further support must be formalised in a Support Plan (adapting **Appendix 7**). Realistic and achievable targets must be set and a suitable review period agreed. This is usually between 4-6 weeks so teachers have adequate time to demonstrate improvements. It is also important to monitor and review the teacher's progress during the period so time must be set aside to meet on a weekly basis to review and to ensure support is being effective. Notes should be taken of the weekly meetings and signed by both parties as being an accurate reflection of the meeting held. The formal Support Plan template may also need to be updated to highlight any amendments to objectives.
- 19.9 The teacher must be advised that failure to reach the expected standards may lead to the next stage of the procedure, which could lead to their dismissal.
- 19.10 Where adequate improvements have been made over the time period specified, the teacher should be informed in writing that the Support Plan is being lifted.
- 19.11 When the required improvements have been made to the expected sustained standards the teacher will be managed through the above Performance Management process.
- 19.12 Where adequate progress has not been made in this period, the teacher will be informed both verbally and in writing that a further Capability meeting will be convened to consider issuing a Final Written

Warning and a further appropriate monitoring period (4-6 weeks) will be agreed, unless a Final Written Warning was issued at 19.2.3 (please then refer to 19.8).

19.13 Where adequate progress has not been made within this further monitoring period and the employee has been issued a Final Written Warning, they will be informed both verbally and in writing that the matter will progress to a Formal Capability Hearing where their ongoing employment will be considered which may lead to their dismissal. The employee will be suspended at this meeting.

## 20.0 Formal Capability Hearing

- 20.1 The decision to progress to a formal Capability Hearing will be confirmed in writing and must include:
- Details of the concerns in relation to underperformance.
  - All supporting evidence including any corroborative documentation to be referred to in the hearing including a brief overview of the case.
  - Witness statement (s) (where relevant).
  - The date/ time/ location of the meeting, giving 10 working days' notice.
  - The name(s) of the person(s) hearing the case.
  - A copy of the procedure.
  - The employees' right to be accompanied.
- 20.2 In some case, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 5 working days' prior to the hearing. Where relevant, the employee must also confirm which witnesses they wish to call and make arrangements for their attendance.
- 20.3 It is expected that all internal witnesses attend the hearing to be questioned. However, in some circumstances, it may be impracticable or unacceptable for the witnesses to be present at the meeting. Where internal or external witnesses do not attend for whatever reason, it is for the panel to determine the weight placed on the evidence presented in the witness statement.
- 20.4 Should the employee request their representative attend on their behalf or if they wish to provide a written submission, the person hearing the case will consider this.
- 20.5 Every reasonable effort should be made by the employee and representative to be available for the meeting. If the employees representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 working days' of the original date, this will be accommodated. Where no agreement can be reached the hearing date will be set by the Line Manager.
- 20.6 Should the employee/ their representative fail to attend without any reasonable explanation, the person hearing the case will make a decision whether to proceed in their absence.
- 20.7 The hearing will be conducted as detailed in **Appendix 1**.
- 20.8 Membership of panels will consist of between one and three members, depending on the specific circumstances.

- 20.9 The panel will comprise of members of the Trust's Executive and Senior Management Team who have had no previous involvement in the matter and are not conflicted (i.e. the CEO, Executive Principals, Principal, Executive Vice Principals, Heads of School or members of the Support Centre's Leadership Team).
- 20.10 In instances where a hearing relates to an Executive Principal, Principal, Executive Vice Principal or Head of School, the Hearing panel members should comprise of the relevant Local Governing Body (LGB) Chair or Vice Chair (or another LGB member appointed by the LGB Chair), along with up to two members of the Trusts Executive Management Team (i.e.) the CEO, Executive Principals or members of the Support Centre's Leadership Team). The composition of the panel will be agreed jointly between the LGB Chair and the Trust.
- 20.11 If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the panel and present the employees' case.

## **21.0 Right of Appeal**

- 21.1 Employees have the right of appeal against any sanction given as a result of a hearing within 10 working days' of receiving their confirmation letter and (where appropriate) should provide supporting evidence (for example, if new evidence has come to light). The Appeal Form in Appendix 5 should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.
- 21.2 Membership of all appeals Panels will consist of between one and three members, depending on the specific circumstances.
- 21.3 The Panel will be drawn from the Trust's Executive and Senior Management Team who have had no previous involvement in the matter and who are not conflicted (i.e. the CEO, Executive Principals, Executive Vice Principals, Heads of School or Members of the Support Centre's Leadership Team) and/or a member of the LGB with agreement of the LGB Chair.
- 21.4 In instances where an appeal hearing relates to an Executive Principal, Principal, Executive Vice Principal, or Head of School, the Panel will comprise of the relevant LGB Chair or Vice Chair (or another LGB member appointed by the LGB Chair), along with the CEO (or a person appointed to deputise for the CEO) and up to one member of the Trusts' Executive Management Team (i.e. the CEO, Executive Principals, or members of the Support Centre's Leadership Team). The composition of the Panel will be agreed jointly between the LGB Chair and the CEO.
- 21.5 The employee will be given 10 working days' notice of the Appeal Hearing and be informed of: -
- The name(s) of the person(s) who will hear the case.
  - The date, time and location of the hearing.
  - The right to representation



- A copy of the relevant policy.
- 21.6 The appeal will be conducted having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter of the Capability hearing.
- 21.7 The person(s) hearing the appeal will receive the Appeal Form and/or letter, relevant documents referred to in the Capability Hearing and a copy of the letter confirming the outcome of the Capability Hearing.
- 21.8 At the appeal stage, either party may decide that it is relevant for witnesses to attend the meeting. In circumstances whereby it is impracticable or unacceptable for witnesses to attend, the person hearing the appeal will determine the weight placed on the evidence provided.
- 21.9 Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 days of the original date, this will be accommodated.
- 21.10 If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, the person hearing the appeal may determine that the appeal is withdrawn.
- 21.11 The appeal should normally be conducted in one day except in exceptional circumstances.
- 21.12 If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the appeal panel and present the employees' case.
- 21.13 The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing (see Appendix 1).
- 21.14 The person(s) hearing the appeal has authority to confirm, reduce, or revoke the original outcome. The decision of the person(s) hearing the appeal is final.
- 21.15 Where possible the decision will be given to the employee at the conclusion of the meeting and confirmed in writing no more than 5 working days' after the hearing.
- 21.16 The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.
- 21.17 All documents pertaining to this procedure should be retained on the employee's personal file as per point 3.9.

## **22.0 Monitoring and Review**

- 22.1 The policy will be monitored to ensure consistency of application and adherence to Equalities legislation.
- 22.2 This policy will be reviewed annually.