

# Maximising Performance (Capability) Policy

(TPO/STA/34)

## Associated Policies

- Teaching Staff Performance Development and Career Progression Policy (TPO/STA/17)
- Support Staff Performance Development and Career Progression Policy (TPO/STA/05)
- Pay Policy (TPO/STA/08)
- Single Equality Policy (TPO/EO/01)

## Review Periods

Last reviewed: July 2024

Next review: July 2025

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## Policy Statement

The Brooke Weston Trust is committed to supporting all its employees to reach their potential. We understand that a high performing workforce ultimately has a positive effect on the children in our schools and their outcomes.

At the heart of our Trust's success lies the commitment and continuous development of our talented colleagues. We believe that great line management, characterised by regular coaching, development-focused one-to-ones, and a strong sense of belonging, is a powerful motivator for our employees.

Our performance management process is designed to maximize the potential of our team members through proactive measures. By focusing on prevention and early intervention and support, we aim to address challenges before the need to follow a formal process.

Sometimes, the level of performance of an employee falls below the expected standards. We want to ensure that, should this happen, our employees are fully supported to improve their performance and reach the required standards as soon as possible.

The aim of our Capability Policy is to set out a clear and consistent process to do this, including a structured procedure of formal meetings should performance fail to improve at an informal stage.

The Trust acknowledges that all stages in the policy will operate in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010.

This policy is non-contractual and may be amended from time to time.

The capability procedures within this policy have been implemented following consultation with trade union representatives, and the application of the policy will be monitored with recognised trade unions.

Where performance concerns are identified the formal capability process should last no longer than 6 months in total.

## Scope

The Capability Policy applies to all employees of Brooke Weston Trust with the exception of Early Career Teachers whose performance will be managed through the statutory induction process.

During probation, the Trust reserves the right to omit steps in the capability procedure.

We will work closely with colleagues during their probationary period to ensure they have a supportive induction process and clear expectations of their role and put in place additional support and development to maximise their opportunities to be successful in their role at the Trust. This includes regular reviews at 1, 3 and 5 months, which are set out in the Probation Policy.

On the rare occasion where underperformance in probation is identified, it will be considered in your probationary review and may lead to the termination of your employment at any point during probation.

Supply teachers and agency workers are not subject to the procedures set out in this policy. Should an agency worker or supply teacher not perform to the required standard the Trust reserves the right to end their assignment. The Trust will liaise with the employer of the agency worker or supply teacher regarding any performance concerns.

## **Overall roles and responsibilities**

The CEO has responsibility for ensuring all appropriate policies, systems and training are in place.

The Strategic Delivery Group is responsible for the review and implementation of this policy.

In each school, the Principal is accountable for ensuring compliance with this policy. In central teams, the Heads of Profession and Executive team members are responsible for ensuring compliance with this policy.

The Head of People is responsible for reviewing and updating this policy.

## **Sickness absence and capability**

It is in the interests of all parties to address performance concerns promptly and without undue delay. For those who are absent during the procedure, we will provide support and adaptations to the procedure, however we may proceed with capability procedure should we choose to do so. We may seek medical advice in these circumstances and you will be required to attend any medical reviews we arrange.

## **Reasonable adjustments**

Consideration will be given to whether your performance may be affected by a disability or long-term health condition. In these circumstances, we will seek to implement reasonable adjustments which may include proposing changes to your working arrangements or duties. Any procedures under this policy may be paused or amended should reasonable adjustments be required.

## **Support and wellbeing**

The Trust provides support for all its staff through a 24/7 advice and support line. Counselling can also be provided. Going through a formal process can be difficult to deal with, and we would advise all our staff to consider using this support line. If you are the subject of a capability procedure, you will be provided, with your agreement, with a mental health ambassador who can support you through the process. This could be a mental health first aider, an HR representative, or a manager. Your contact will not have any involvement in the capability procedure affecting you. You may decline this support should you wish to continue without it.

## Informal performance support

If a performance concern is identified this will be highlighted to you by your manager at the earliest opportunity. Your manager will meet with you to explain the standards that are expected in your role and where you are falling short of these.

If a training need is identified, the manager will organise the relevant training to ensure that you have all the skills to perform to the necessary standards and will continue to review your performance and provide support where necessary.

If it is established that there is no training need, or that all the relevant training has been addressed and you have been given sufficient time to put this into practice, and there is still a performance concern, then your manager will meet with you to discuss:

- The feedback about your performance, with clear examples and any associated evidence
- How the performance issues are impacting the pupils, your colleagues and/or team and the Trust or school as a whole
- The expected levels of performance, as set out in the relevant professional standards, your job description, the BWT values, additional goals linked to TLRs and other allowances and overall performance expectations
- Where you are falling short of these expectations
- What support can be offered to help you reach the required standard
- Your response to the examples and evidence given and any feedback or mitigation you may have
- The consequences of failing to improve your performance, i.e. moving to a Stage 1 capability hearing with the potential sanction of a written warning

## Support Plan

The manager will agree an informal support plan with you to assist you, which will clearly detail the current performance, the expected standards, and the support which will be put in place for each area of underperformance.

The manager will agree with you how long the support plan will be in place. The time period should be sufficient to allow you to improve, so it would normally be in place for four to six weeks, but this time period could be shorter or longer depending on the circumstances.

A template Support Plan is available [here](#).

Your manager will take notes of this meeting with you and send you a copy of the notes and the plan that has been agreed. Your progress against the plan will be monitored on a weekly basis, where notes will be taken and achievements will be noted. The plan will clearly show whether the areas of performance have been met or not. After each review meeting, the manager will send you a copy of the notes and you will have the opportunity to amend them if you feel anything has been missed.

At the end of the review period, your manager will decide whether:

- You are now meeting performance expectations and the informal performance support can cease
- Your performance has improved but there are still elements of the plan that are not met. In this case your manager may decide to extend the informal support plan and continue monitoring your performance informally or they may decide that the improvement is insufficient and therefore refer you to the capability procedure set out below. Ordinarily the plan should only be extended once, unless in exceptional circumstances.
- Your performance has not improved and they will therefore refer you to the capability procedure set out below

**Redeployment**

During the informal or formal process it may be suitable to discuss with the employee whether there is the option to redeploy them into a different role within the Trust that is more suitable. Where the employee is in agreement this should be explored. If there is an agreement to move an employee into a lesser paid role, this would be in line with the current evaluation for that position and pay protection would not apply.

**Roles and responsibilities in the process**

Employees must:

- Always make their best efforts to perform to an acceptable standard in their role and fulfil their contract of employment
- Follow the formal and informal procedures set out in this policy to manage performance
- Adhere to the stated timescales when responding to or appealing requests or decisions

The table below sets out the who has authority to hold meetings under this policy:

	Authority to hold the meeting (school-based staff)	Authority to hold the meeting (central teams)	HR Support
Informal meetings	Line manager	Line manager	Not required
Stage 1 – formal capability meeting	Senior Manager / Principal	Senior Manager/ Head of Profession	HR support
Stage 2 – formal capability meeting	Senior Manager / Principal	Senior Manager/ Head of Profession	HR support
Stage 3 – formal capability meeting	Principal	Head of Profession or Exec team member	HR support
Appeal hearing – Stages 1 & 2	Principal/ Executive Principal/ any member of the Executive Team	Usually CORO may be any member of the Exec team member or CEO	HR support

Appeal hearing – Stage 3	A panel of 2 selected by the Head of People  (see appeals section for further information)	A panel of 2 selected by the Head of People  (see appeals section for further information)	HR support
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In Schools, a Senior Manager is a member of the Senior Leadership Team. In the Central Team a Senior Leader is someone with Leadership Terms and Conditions.

Where a Senior Manager, Principal, Head of Profession or Executive Team member is the subject of this procedure, a more senior employee or employees must hold the meetings under this procedure. Where the subject of the procedure is the CEO, a member of the Board of Directors must hold the meetings.

**Capability procedure**

If your standard of performance is still below the high standards required following Informal Performance Support, then a formal capability procedure will begin.

You have a right to be accompanied by a work colleague or trade union representative at all formal meetings under this procedure. All meetings should be held promptly, and every effort should be made to adhere to the timelines set out in the procedure. Should you or your companion be unable to attend a meeting, you may request to reschedule the meeting no later than 7 calendar days from the date of the original meeting.

Failure to attend a capability meeting without good reason may result in a decision being taken in your absence.

**Formal capability meetings**

There are three formal absence review meetings: Stage 1, Stage 2, and Stage 3. If your performance does not improve to an acceptable level after the final formal capability meeting at Stage 3, you may be dismissed from your employment. However, throughout this procedure every effort will be made to support you to improve.

At least 7 calendar days’ notice will be given of a formal capability meeting, and will set out:

- The concerns about your performance, with clear examples, and an explanation of possible consequences
- Any written evidence, including notes from the weekly reviews and a copy of the support plan (at Stage 1 this is the informal support plan, at Stages 2&3 this is the formal support plan)
- The time and place of the meeting
- That you have the right to be accompanied by a work colleague or trade union representative
- The timescales for you to submit any evidence you would like to be considered, which must not be less than 3 calendar days before the meeting

The purpose of the meeting is to establish the facts, and to allow you to respond to the concerns and make relevant representations.

The table below shows who should be in attendance at a formal capability meeting:

	Subject of the hearing is school-based	Subject of the hearing works in the Trust's central team
Stages 1 & 2	<p>Senior Manager / Principal (chair)</p> <p>Line manager (to provide information from weekly review meetings and other evidence) if required</p> <p>HR Representative</p> <p>Employee</p> <p>Employee's companion (optional)</p> <p>Note-taker (if technological solution is not possible)</p>	<p>Senior Manager/Head of Profession (chair)</p> <p>Line manager (to provide information from weekly review meetings and other evidence) if required</p> <p>HR Representative</p> <p>Employee</p> <p>Employee's companion (optional)</p> <p>Note-taker (if technological solution is not possible)</p>
Stage 3 (possibility of dismissal)	<p>Principal (chair)</p> <p>Line manager (to provide information from weekly review meetings and other evidence)</p> <p>HR Representative</p> <p>Employee</p> <p>Employee's companion (optional)</p> <p>Note-taker (if technological solution is not possible)</p>	<p>Head of Profession or Executive Team member (chair)</p> <p>Line manager (to provide information from weekly review meetings and other evidence)</p> <p>HR Representative</p> <p>Employee</p> <p>Employee's companion (optional)</p> <p>Note-taker (if technological solution is not possible)</p>

### **Stages 1 & 2 – Formal capability meeting**

At Stages 1 or 2, the meeting will be conducted by a member of the senior management team for school-based employees or a senior manager or head of profession for central teams. Should a senior manager or Head of Profession be the subject of this procedure, the Trust will select a more senior manager or executive to hold the meeting. An HR representative will also be present. Notes of the meetings must be taken and where possible technology will be utilised to take a record of the meeting, either using Transcript on Teams or by using AI software such as Fathom. Where this is not possible a suitable notetaker will be present.

During the meeting the senior manager or Head of Profession will review:

- The expected levels of performance, as set out in the relevant professional standards, your job description, the BWT values, additional goals linked to TLRs and other allowances and overall performance expectations
- The informal support plan and any progress that has been made against the targets set, and where your performance is still falling short of expectations using clear examples.
- How the performance issues are impacting the pupils, your colleagues and/or team and the Trust or school as a whole
- What further support can be offered to help you reach the required standard
- Your response to the examples and evidence given and any feedback or mitigation you may have

The person conducting the meeting may adjourn should further investigation be required or if more time is needed to consider additional information presented.

### Possible outcomes – Stage 1

The person conducting the meeting will either:

- Decide that your performance is meeting expectations sufficiently and the procedure will come to an end
- Decide that your performance is not yet meeting expectations but that sufficient improvement has been made to refer you back to the Informal Performance Support process and extend the informal support plan further, without issuing any sanction
- Decide that your performance has not improved sufficiently and a written warning must be issued

If the latter, the person conducting the meeting will:

- Explain the expected standards that are not being met as set out in the relevant professional standards, your job description, the BWT values, the BWT career expectations document, additional goals linked to TLRs and other allowances and/or overall performance expectations
- Give clear guidance on the standard of performance needed to end the procedure
- Issue a formal support plan for a time period in which you could reasonably be expected to improve, which will include weekly reviews with your line manager
- Set out the timetable for improvement and explain how performance will be monitored and reviewed
- Warn you that failure to improve within this timetable could lead to dismissal

Following the meeting you will be sent a copy of the notes and confirmation of the outcome within 7 calendar days. If a formal warning has been issued you will also receive:

- A written record of the bullet points above
- Confirmation of the review period and a formal support plan for the duration of the review period
- Information about the timing and handling of the Stage 2 meeting
- Information about the procedure and time limits for appealing against the warning

If the concerns relate to lack of capability which presents a risk to the health, safety and well-being of students, or is likely to result in serious damage to students' education, a shorter timescale for review may be appropriate. In such cases, the senior manager may exceptionally decide to issue a final written warning.

Written warnings, including final written warnings, will remain active for 12 months. Should performance improve temporarily but then drop below acceptable standards again within 12 months of the warning, the Trust reserves the right to move to the next stage of the procedure.

## Possible outcomes – Stage 2

The person conducting the meeting will either:

- Decide that your performance is meeting expectations sufficiently and the procedure will come to an end
- Decide that your performance is not yet meeting expectations but that sufficient improvement has been made to extend the formal support plan further without issuing a final written warning
- Decide that your performance has not improved sufficiently and a final written warning must be issued

If the latter, the person conducting the meeting will:

- Explain the expected standards that are not being met as set out in the relevant professional standards, your job description, the BWT values, the BWT career expectations document, additional goals linked to TLRs and other allowances and/or overall performance expectations
- Give clear guidance on the standard of performance needed to end the procedures
- Extend the formal support plan for a period of time in which you could reasonably be expected to improve
- Set out the timetable for improvement and explain how performance will be monitored and reviewed
- Warn you that failure to improve within this timetable could lead to dismissal

Following the meeting you will be sent a copy of the notes and confirmation of the outcome of the meeting within 7 calendar days. If a final written warning has been issued you will also receive:

- A written record of the bullet points above
- A copy of the formal support plan for the duration of the review period, which will include weekly reviews with your line manager
- Information about the timing and handling of the Stage 3 meeting
- Information about the procedure and time limits for appealing against the warning

Final written warnings will remain active for 12 months. Should performance improve temporarily but then drop below acceptable standards again within 12 months of the warning, the Trust reserves the right to move to the next stage of the procedure.

### Stage 3 – Capability review meeting

Dismissal, which is always a last resort is a serious and important decision and has therefore only been delegated to Principals and members of the Executive Team plus Heads of Profession for central teams only.

Once the decision to dismiss has been taken, the person with the authority to dismiss will terminate the employment of the employee providing contractual or statutory notice, whichever is the longest.

At Stage 3, the meeting will be conducted by a Principal for school-based employees or a member of the Executive Team, or a Head of Profession for a member of the central team as appropriate. Should a Principal/ Head of Profession/ Executive Team member be the subject of this procedure, the Trust will select a more senior executive to hold the meeting. A member of the people team will also be present. Notes of the meetings must be taken and where possible technology will be utilised to take a record of the meeting, either using Transcript on Teams or by using AI software such as Fathom. Where this is not possible or suitable a notetaker will be present.

At least 7 calendar days' notice will be given of the decision meeting, and will explain:

- The time and place of the meeting
- The concerns about your performance, with clear examples, and an explanation that a possible outcome of the meeting could be dismissal
- Any written evidence, including notes from the weekly reviews and a copy of the support plan
- That you have the right to be accompanied by a work colleague or trade union representative
- The timescales for you to submit any evidence you would like to be considered

The person conducting the meeting may choose to:

- End the capability procedure if it is found that an acceptable standard of performance has now been achieved
- Extend the review period should they feel sufficient progress has been made to do so, and reconvene the Stage 3 Capability Review Meeting at a later date
- Dismiss you on the grounds of performance capability
- Redeploy you into another role within the Trust as an alternative to dismissal

We will write to you to confirm the outcome of the meeting within 7 calendar days. Should the decision be to dismiss you, the letter will inform you of:

- The reasons for the dismissal
- The date on which your employment contract will end
- The appropriate period of notice
- Their right of appeal and route to appeal

## Appeals

If you are not satisfied with the outcome of a review at any stage of this formal procedure, up to and including dismissal, you have the right to appeal the decision.

You should set out your grounds of appeal in writing within 7 calendar days and submit this to the Head of People.

An appeal is not designed to re-hear the matter but to examine the grounds of appeal. You should therefore be specific about the grounds of the appeal. However, a full re-hearing may be appropriate in exceptional circumstances.

The Head of People will appoint a relevant manager to hear the appeal in accordance with the table below.

For dismissal appeals, there will be a panel consisting of 2 people. Anyone hearing an appeal will be independent from any previous stage of the procedure. If the Head of People is the subject of the capability procedure, the Chief Operations and Resources Officer will take this role instead.

Appeals will be heard without unreasonable delay. We will write to you in advance with the time and place of the appeal meeting.

You have the same statutory right to be accompanied to the appeal meeting by a work colleague or trade union representative.

The chair of the appeal hearing may choose to uphold the appeal and overturn the original decision, which may include:

- bringing an end to formal procedures, or
- implementing a further review period with another formal Stage 3 meeting at the end of this period, or
- they may choose to dismiss the appeal; in which case the original decision will be maintained

The outcome of the appeal will be confirmed in writing by the chair of the appeal panel within 7 calendar days of the appeal. The decision of the appeal panel is final.

Table to show roles and responsibilities during the appeal process:

	Subject of the hearing is school-based	Subject of the hearing works in the Trust's central team
Where the appeal relates to Stage 1 or Stage 2 meeting	One person in one of the following roles: Principal/ Executive Principal/ Director of Primaries/ Director of Education  Manager who issued the warning  HR representative	One person in one of the following roles: Executive team member/ CEO  Manager who issued the warning  HR representative

	Note-taker (if technological solution is not possible)	Note-taker (if technological solution is not possible)
Where the decision was dismissal	<p>Either: Executive Principal/Director of Primaries/Director of Education (chair)</p> <p>Plus one more employee in the following role: School Governor, Principal.</p> <p>Manager who issued the final written warning notification</p> <p>HR representative</p> <p>Note-taker (if technological solution is not possible)</p>	<p>Either: Any Executive team member or CEO (chair)</p> <p>Plus one more employee in the following role: Principal, School Governor, other Executive team member</p> <p>Manager who issued the final written warning notification</p> <p>HR representative and notetaker</p> <p>Note-taker (if technological solution is not possible)</p>

The appeal hearing will always be chaired by a manager more senior than the manager who issued the sanction; therefore, the table above may be adjusted accordingly based on the circumstances.

Sanctions, up to and including dismissal, will not be delayed in order to hear the appeal, but sanctions may be overturned as a result of the appeal, up to and including reinstatement.

### Confidentiality

The Trust aims to deal with capability matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to the capability procedure.

The employee and anyone accompanying the employee to any meeting in set out in this policy, including both formal and informal meetings, must not make electronic recordings of any meetings or hearings conducted under this procedure without consent.

### Monitoring arrangements

This policy will be reviewed every three years but may be revised as needed in consultation with the recognised trade unions.

This policy will be approved by the Trust’s Strategic Delivery Group.

### Document control

<b>Date of last review:</b>	July 2024	<b>Author:</b>	Head of People
<b>Date of next review:</b>	July 2025	<b>Version:</b>	3
<b>Approved by:</b>	Strategic Delivery Group	<b>Status:</b>	Approved

### Summary of changes:

	Previous version	Current version
Stages in the capability procedure:	Informal Formal meeting to decide whether to start formal capability procedure Stage 1 Stage 2 Stage 3 (potential dismissal)	Informal Stage 1 Stage 2 Stage 3 (potential dismissal)
Roles and responsibilities	The implementation of this policy will be monitored by the Board of Directors of the Brooke Weston Trust, the CEO, Executive Principals and governors of each individual Academy	Amended all roles and responsibilities in accordance with the operational scheme of delegation.  Employees are responsible for attending work if they are fit to do so
Notice for informing employees of a formal meeting	7 working days	7 calendar days
Writing to inform of meeting outcome	Not stated	7 calendar days
First written warning remains live for...	A set timescale	12 months
Final written warning remains live for	A set timescale	12 months
Authority to issue initial and final formal warnings	Senior Manager nominated by the principal (schools) Senior Manager (central teams)	Senior Manager (schools) Senior Manager/Head of Profession (central teams)
Authority to dismiss	Principal for schools and CEO for central teams	Principal (schools) Head of Profession or exec team member (central teams)
Who else is in attendance at the dismissal hearing	HR representative Employee Companion (optional) Note-taker	HR representative Employee Companion (optional) Note-taker Line manager who has been reviewing performance
Maximum delay to accommodate companion	5 working days	7 calendar days
Time allowed for appeal	5 working days	7 calendar days
Appeals sent to	To the "Clerk" for warnings in schools, to the "Clerk of Governors" for warnings in central teams. For dismissal appeals to the CEO and the CEO will convene the appeals meeting	Head of People, and the Head of People will be responsible for convening the panel for the appeal hearing
Appeal panel consists of...	Panel consisting of at least 2 school governors at each stage of the procedure for academy employees.	<b>Written and final written warnings :</b> <u>Schools:</u> Principal/ Executive Principal/ Director of Primaries/ Director of Education – one person only

	No details of appeals panel for support staff.	<p><b>Central Teams:</b> Executive team member/ CEO (depending on seniority of the person giving the warning)</p> <p><b>Dismissal:</b> Panel of two</p>
Who else is in attendance at the appeal hearing	Not specified	<p>Manager who issued the warning (short-term absence procedure only) / Manager who dismissed the employee</p> <p>HR representative</p> <p>Note-taker</p> <p>Employee</p> <p>Companion (optional)</p>
Informal process	In a separate policy currently	Moved to Capability Policy under the heading of Informal Performance Support
Support plan	<p>Referred to in the informal process but not in the formal capability procedure</p> <p>Different support plan templates for teaching and support staff</p>	<p>A support plan is an expectation at formal and informal stages, to be reviewed and adapted, if necessary, in the formal meetings</p> <p>Same revised support plan used for both teaching and support staff</p>
Wellbeing support	N/A	For anyone going through a capability procedure we offer the support of a mental health ambassador, who will be unconnected to the procedure and who can provide support and signpost to mental health advice and guidance if needed.
Redeployment	N/A	Redeployment should be considered as an alternative to dismissal

## **APPENDIX 1: Model agenda for Capability hearing**

### **1. Introductions**

The Chair of the hearing introduces themselves and invites all others to introduce themselves. The Chair then runs through the agenda. The Chair advises that either party may request an adjournment during the course of the hearing.

The Chair checks that all parties have the relevant documents.

### **2. Presentation by management**

The manager presents the management's case and calls any witnesses.

### **3. Questions by member of staff**

The employee and/or representative may question the manager and each of the management's witnesses after they have given their primary evidence.

### **4. Questions by the Chair of the hearing**

The Chair may question the person presenting the management's case and each of the management's witnesses after they have given their primary evidence and been asked any questions by or on behalf of the employee.

### **5. Presentation by employee**

The employee and/or the representative presents their case. Witnesses may be called.

### **6. Questions by the management**

The manager may question the employee and each of the employee's witnesses after they have given their primary evidence.

### **7. Questions by the Chair of the hearing**

The Chair may question the employee, representative and each of the employee's witnesses after they have given their primary evidence and have been asked any questions by the manager

### **8. Final statement by management**

The manager may make a final statement.

### **9. Examining of witnesses**

Each side may re-examine their witnesses after they have been asked questions by the other side.

### **10. Final statement by employee**

The employee and/or representative may make a final statement.

## 11. Final statement by management

The manager may make a final statement.

## 12. Adjournment

The meeting is adjourned to allow the Chair to come to a decision. The HR representative remains to provide procedural advice to the Chair. The parties may be asked to remain available in case the Chair needs to clarify any point.

## 13. Meeting reconvened / decision

Once the Chair has reached a decision, they may choose to call the employee and their representative back to the meeting to deliver the outcome. Alternatively, the Chair may decide that the outcome will be delivered in writing. If the latter, the Chair will advise the employee and their representative of this.

The Chair sets out the reasons for the decision including how evidence from the manager and the employee and/or representative has been taken into consideration. The Chair will outline any mitigating factors that have been presented, and how these have impacted on the decision. If the Chair has delivered the outcome in person, they will then outline the route to appeal and advise that the outcome will be confirmed in writing.

## **APPENDIX 2: Model agenda for appeal hearing**

### **1. Introductions**

The Chair of the Appeal Panel introduces themselves and invites all others to introduce themselves. The Chair then runs through the agenda. The Chair advises that either party may request an adjournment during the course of the hearing.

The Chair of the Appeal Hearing checks that all parties have the relevant documents.

### **2. Presentation by member of staff**

The employee and/or representative present their case. Witnesses may be called.

### **3. Questions by the Chair of the Capability Hearing**

The person who made the decision to issue the sanction at the Capability Hearing may question the employee and each of the employee's witnesses after they have given their primary evidence.

### **4. Questions by the Chair of the Appeal Hearing and/or panel members**

The Chair of the Appeal Hearing (and each member of the panel if applicable) may question the member of staff and each of the employee's witnesses after they have given their primary evidence and have been asked any questions by Chair of the Capability Hearing.

### **5. Presentation by the Chair of the Capability Hearing**

The Chair of the Capability Hearing presents the management's case and calls any witnesses.

### **6. Questions by employee**

The employee and/or representative may question the Chair of the Capability Hearing and each of the management's witnesses after they have given their primary evidence.

### **7. Questions by the Chair of the Appeal Hearing and/or panel members**

The Chair of the Appeal Hearing (and each member of the panel if applicable) may question the person presenting the management's case and each of the management's witnesses after they have given their primary evidence and been asked any questions by or on behalf of the employee.

### **8. Examining of witnesses**

Each side may re-examine their witnesses after they have been asked questions by the other side.

### **9. Final statement by employee**

The employee and/or representative may make a final statement.

## 10. Final statement by management

The Chair of the Capability Hearing may make a final statement.

## 11. Adjournment

The meeting is adjourned to allow the Chair (and the panel where applicable) to come to a decision. The HR representative remains to provide procedural advice to the Chair. The parties may be asked to remain available in case the Chair needs to clarify any point.

## 12. Meeting reconvened / decision

Once the Chair has reached a decision, they may choose to call the employee and their representative back to the meeting to deliver the outcome. Alternatively, the Chair may decide that the outcome will be delivered in writing. If the latter, the Chair will advise the employee and their representative of this.

The Chair sets out the reasons for the decision including how evidence from the Investigating Officer and the employee and/or representative has been taken into consideration. The Chair will outline any mitigating factors that have been presented, and how these have impacted on the decision. If the Chair has delivered the outcome in person, they will then explain that there is no further route to appeal and advise that the outcome will be confirmed in writing.