ST CLARE

Catholic Multi Academy Trust

Capability Policy

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Status	Live
Policy Author	HR Manager
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Advisory Committee	
Linked Documents and Policies	Growth and Development Policy (Appraisal) Sickness Absence Policy Disciplinary Policy

This policy will be reviewed in accordance with the above review date, or earlier should there be a legal requirement, business requirement or any collective agreement that necessitates a change.

Changes to this edition

Date	Version	Details of changes
July 2025	1.0	First Edition
May 2026	2.0	Section 5.1 appointed persons responsible for different procedural stages updated to reflect the St Clare approach in other policies. Clarification about the monitoring of teacher performance at section 3.2.

Commitment to equality:

We are committed to providing a positive working environment which is free from prejudice and unlawful discrimination and any form of harassment, bullying or victimisation. We have developed several key policies to ensure that the principles of Catholic Social Teaching in relation to human dignity and dignity in work become embedded into every aspect of school life and these policies are reviewed regularly in this regard.

This Capability Policy and Procedure has been approved and adopted by St Clare Catholic Multi-Academy Trust for use in all its schools.

DEFINITIONS

In this Capability Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:

i. 'School' means any school operated by St Clare Catholic Multi-Academy Trust and includes all sites upon which St Clare undertaking is, from time to time, being carried out.

ii. 'Board' means the board of Directors of St Clare.

iii. 'Capability due to ill-health' means any health condition or any other physical or mental quality which results in unsatisfactory performance. In these cases, the Sickness Absence Policy and Procedure will apply.

iv. 'Chair' means the Chair of the Board as appointed from time to time.

v. 'Clerk' means the Clerk to the Board as appointed from time to time.

vi. 'Companion' means a willing work colleague not involved in the substance of the employee's performance issues under review by this Capability Policy and Procedure, a trade union official, or an accredited representative of a trade union or other professional association of which the employee is a member who should be available for the periods of time necessary to meet the timescales under this Capability Policy and Procedure.

vii. 'Diocesan Schools Commission' means the education service provided by the Diocese of Hallam which may also be known, or referred to, as the Diocesan Education Service.

viii. ‘Directors’ means directors appointed to the Board from time to time.

ix. ‘Governors’ means (if appropriate to the context), the governors appointed and elected to the Local Academy Committee, from time to time.

x. ‘Headteacher’ means the most senior teacher in St Clare who is responsible for its management and administration.

xi. ‘Local Academy Committee’ means the body carrying out the employment functions of schools in relation to St Clare.

xii. Misconduct means any action or inaction which contravenes the provisions of the employee’s contract of employment, the rules laid down by St Clare and/or any Professional Code of Conduct and Practice. In such cases the Disciplinary Policy and Procedure will apply and the Capability Policy and Procedure may also apply.

xiii. ‘St Clare’ means St Clare Catholic Multi-Academy Trust, which is the company responsible for the management of St Clare and, for all purposes, means the employer of staff at St Clare

xiv. ‘Vice-Chair’ means the Vice-Chair of the Board as elected from time to time.

xv. ‘Working Day’ means any day on which you would ordinarily work if you were a full-time employee. In other words, ‘Working Day’ will apply differently to teaching and non-teaching staff. However, part-time and full-time staff will not be treated differently for the purposes of implementing this Appraisal Policy and Procedure.

xvi. ‘Working Week’ means any week that you would ordinarily work.

This policy sets out the process that will be followed where St Clare has concerns about performance and the employee is not meeting the standards for their role. Head teachers and managers must ensure that they understand their employee's workload and must seek the advice of Human Resources when considering the application of this policy.

1. Scope

1.1 This Capability Policy and Procedure applies to all staff with a contract of employment with a school/ St Clare. (hereinafter referred to as an "employee" or "you").

1.2 Temporary or fixed term employees with a school/ St Clare contract of employment that is expected to be for 12 weeks or more can benefit from the provisions within this policy after 12 weeks of service.

1.3 This Policy does not apply during staff probation periods.

1.4 This policy does not apply to contractors engaged on a self-employed basis or by third party providers, agency/supply staff or workers engaged on a casual basis. It does not apply to those who are working under an apprenticeship contract.

Purpose

1.5 The purpose of the Capability Policy and Procedure is to establish a structure to support employees in improving their performance to the standards expected and to take appropriate action to address identified performance weaknesses.

1.6 The Capability Policy and Procedure will be initiated where day to day advice and supervision has not resulted in role expectations being met.

1.7 An employee is entitled to have access, by arrangement, to their staff file and to request the deletion of time-expired records in line with the provisions of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

1.8 St Clare delegates its authority in the manner set out in this policy.

1.9 St Clare is committed to ensuring respect, objectivity, and dignity of the individual, consistency of treatment and fairness in the operation of this Capability Policy and Procedure. This commitment extends to promoting equality and eliminating unlawful discrimination throughout the St Clare community which includes all our schools.

1.10 The management of performance and related investigations will be treated in confidence by all parties involved at all stages of this Capability Policy and Procedure.

1.11 St Clare will maintain records of all meetings and reviews which take place under this Capability Policy and Procedure for a period of up to 12 months or longer where necessary and where there is an applicable lawful basis under the DPA 2018 for extending the retention period. All data and evidence collected is to be shared between all the relevant parties, including the employee, and where there is an applicable lawful basis under the provisions of the GDPR.

2 PART A - INFORMAL SUPPORT

2.1 Through day-to-day interactions, an employee's line manager may have concerns regarding an employee's performance. When this happens, these concerns should be raised as quickly as possible with the employee, avoiding unnecessary delays.

2.2 An employee's line manger should identify whether there are any external factors affecting the employee's ability to undertake their role, by discussing this with them and consider ways in which the employee can be supported.

2.3 An employee's line manager may also provide informal advice and appropriate support which may include training, coaching, mentoring, counselling, monitoring, working in a professional learning community, learning and development opportunities, supervision, occupational health or discussing practice with advisory teachers or other employees (as appropriate to the employee's role). These arrangements will consider the employee's workload.

2.4 Where an employee is experiencing performance difficulties, the line manager should identify what the performance issues are, and the range of support required to address the performance gap.

2.5 Every effort should be made to support the employee and to provide opportunities for learning and development to bridge the performance gap. During the period of informal support written records should be kept detailing the performance issue and all the support provided. The employee will be provided with a copy of any written record and will be given five working days to comment on the written record in writing.

2.6 An employee's line manager may consider that a recent promotion or change of role has been a contributory factor in any unsatisfactory performance. In such a case, informal support should be taken as described in sections 2.3 and 2.4 to ensure that:

- the employee has undertaken an appropriate period of induction in their role; an up-to-date job description has been issued to them.
- professional standards and overall expectations of performance have been made clear, and the employee's performance has been monitored, and feedback has been provided to them.

3 INFORMAL PROCESS

3.1 During the period of informal support, an individual support plan should be implemented. This support plan will be drafted with the employee during the meeting at 3.4 below.

3.2 A discussion about performance against the employee's job description and or role standards will identify any performance gaps. Any performance gaps identified for teaching staff will require senior leaders to undertake assessment in accordance with a support plan produced jointly with teachers and heads of department. Any concerns will be raised promptly, with support offered.

3.3 When supporting an employee experiencing difficulties, the objective is to provide guidance and practical support to facilitate performance improvement.

3.4 The Head teacher/ manager will arrange to meet with the employee, giving 5 days notice. The purpose of the meeting is to:

- give clear written feedback about the nature, impact and seriousness of the concerns.
- give the employee the opportunity to comment on, discuss the concerns and identify targets for improvement.
- agree a support plan that will help resolve successfully specific concerns, (for example coaching, training, in-class support, mentoring, structured observations, Director support and diagnostics, visits to other classes or schools),
- discuss how progress will be monitored and when it will be reviewed and explain the implications and process if no, or insufficient improvement is made.

3.5 The employee's progress will continue to be monitored, and a reasonable time given for the performance to improve. This will depend upon the circumstances but will be for a period of 4 weeks, with appropriate support as agreed in the support plan, with the aim of providing sufficient time to improving performance. During this monitoring period the employee will be given regular feedback on progress and arrangements will be made to modify the support programme if appropriate, including the time period. Where an activity to facilitate improvement has been delayed or postponed the equivalent period will be added to the initial 4 weeks,

3.6 At the conclusion of this period, a meeting will be held, and the employee will be provided with 5 working days notice and the evidence that will be reviewed. If sufficient progress is made and they are meeting the requirements of their role, the process will end and they will be notified during the meeting. This will be confirmed in writing within 5 working days of the meeting. If some progress has been made, but concerns remain, the support plan period may be extended by a further 2 weeks, If no, or insufficient, improvement has been made during this period, the employee will be informed at the meeting that the formal capability procedure will be initiated.

4 PART B - FORMAL CAPABILITY PROCEDURE

4.1 The formal stage of this Policy will be initiated where the measures set out in Part A (informal stage) of this policy and procedure have been exhausted and the employee has not met the requirements of the role nor successfully completed the achievement of the support plan.

4.2 Where an employee is subject to the Part B (formal process) of this policy, they will no longer benefit from the St Clare Employee Growth and Development Policy and Procedure.

4.3 If a Headteacher is subject to this Policy they will normally continue to be responsible for the Employee Growth and Development process of the school. St Clare has discretion and reserves the right to remove such responsibilities from the Headteacher where it considers necessary and/or appropriate.

4.4 The Diocesan Director of Education must be advised when the capability procedure is implemented for any of the following posts:

- CEO
- Headteacher (including acting and executive headteachers) Executive posts within the St Clare Shared Services team.
- Any other reserved posts

5 CAPABILITY, FINAL CAPABILITY AND APPEAL MANAGER

5.1 The table below sets out the persons to be appointed throughout the stages of the Capability Procedure, depending on the person who is the subject of the capability proceedings:

Employee Level	***First/Second Capability Meeting – the Capability Manager***	***Final Capability Meeting – the Final Capability Manager***	***Appeal Manager (re Written Warnings)***	***Appeal Manager (re Dismissal)***
Chief Executive Officer	A Foundation Director	Directors' Capability Panel	A different Foundation Director	Directors' Appeal Panel
Exec Team Member	Chief Executive Officer	Directors' Capability Panel	A Foundation Director	Directors' Appeal Panel
Trust Central Team member/ Officer	Line Manager	Executive Team Member	A Foundation Director	Directors' Appeal Panel
Headteacher	Chief Executive Officer	Directors' Capability Panel	A Foundation Director	Directors' Appeal Panel
Other Leadership Spine	Headteacher	CEO	A Foundation Director	Directors' Appeal Panel
Other Teaching Staff	Sufficiently senior* member of staff appointed by the Headteacher	Headteacher	Chief Executive Officer	Directors' Appeal Panel
Other Support Staff	Sufficiently senior* member of staff appointed by the Headteacher	Headteacher	Chief Executive Officer	Directors' Appeal Panel

* This would be someone with appropriate knowledge, at a higher grade than the employee who is subject to the capability proceedings.

6 FIRST CAPABILITY MEETING

6.1 Where an employee's performance during the informal stage has not improved after regular reviews and development resulting in job role expectations not being met, St Clare will appoint a Capability Manager in accordance with the table at section 5.1. The Capability Manager will write to you inviting you to a First Capability Meeting. You will be given at least 5 working days' notice* of such meeting. The employee may bring their union rep or a work colleague. In advance of the meeting, the Capability Manager will also send you a copy of the Performance Report which they have prepared and which shall set out:

- what aspects of your performance are causing concern;
- what specific and achievable performance standards are expected of you; and the support that has been provided to you so far;
- If applicable, any agreed reasonable adjustments and an opportunity to reflect on their suitability; and your right to be accompanied.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

6.2 Any documentation that you wish to rely on must be submitted at least 3 days ahead of the Capability Meeting. Failure to provide documentation within this timescale may mean that it will not be considered at the meeting.

6.3 At the First Capability Meeting you will have an opportunity to respond to the Performance Report and provide evidence to support your response, to discuss any shortcomings, identify any possible support and/or guidance that may be required.

6.4 At the outcome of the First Capability Meeting the Capability Manager may:

- Decide that there is no case to answer
- Decide that your performance should continue to be assessed over an "Assessment Period".

6.5 Where the Capability Manager decides that an Assessment Period should be implemented, they will explain how your performance will be monitored during this period and confirm the improvements that are expected.

6.6 The length of the Assessment Period should normally be at least 4 working weeks and no more than 12 working weeks.

6.7 If, following the Assessment Period, the Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Policy and you will be notified in writing, within 5 working days of the decision.

6.8 If, following the Assessment Period, the Capability Manager considers that your performance is unsatisfactory you will be invited to a further Capability Meeting. You will receive a formal letter giving 5 working days' notice* of the meeting and explaining your right to be accompanied by a companion. This letter will include the relevant evidence from the first assessment period.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

6.9 If, following the Assessment Period, the Capability Manager decides that your performance should be monitored for a further Assessment Period. Where relevant, a further Capability Meeting will be held at the end of any further Assessment Period.

6.10 Where the Capability Manager decides that you should be issued with a First Written Warning, they will prepare an improvement and support plan which will:

- Detail performance objectives
- Give clear guidance on the improved standard of performance needed to successfully meet the standards required.
- Agree to arrange any support that will be available and agree how your performance will be monitored over a further Assessment Period
- Identify a reasonable timetable for improvement and provide a date for the Second Capability Meeting to be held at the end of the Assessment Period, where appropriate.
- State that a failure to improve may lead to dismissal; and notify you of your right to appeal.

6.1 In the case of a Headteacher, a First Written Warning will usually remain on record for 12 months. For all other employees a First Written Warning will remain on record for 6 months. If within that 12 or 6 month period respectively, the required standard of performance is not sustained, the Capability Manager will recommence the Capability Procedure at the stage it was previously concluded.

6.12 The length of the Assessment Period following a First Written Warning will be 4 working weeks

6.13 You may appeal against a First Written Warning in writing by submitting your request to St Clare Human Resources team at hr@stclarecmat.org.uk within 10 working days of receipt of the First Written Warning.

6.14 An appeal will not delay the commencement of the Assessment Period.

7 SECOND CAPABILITY MEETING

7.1 The Capability Manager will write to you at least 5 Working Days* prior to the Second Capability Meeting. You have the right to be accompanied by a union rep or another companion at the meeting. The Capability Manager will send you an updated performance report which sets out the assessments, support and evaluation of your performance during the Assessment Period.

7.2 Any documentation you wish to rely on during the Second Capability Meeting must be submitted at least 3 Working Days prior to the Second Capability Meeting.

7.3 At the Second Capability Meeting you will have an opportunity to respond to the updated Performance Report, about the continuing shortcomings, support and the guidance you need. .

*Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

7.4 The Capability Manager will write to you to confirm the outcome of the Second Capability Meeting within 5 working days of the date of such meeting.

7.5 If the Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Policy and will be notified in writing within 5 working days of the second capability meeting. If the required standard of performance is not sustained at any time during the life of the First Written Warning, the Capability Manager will recommence the Capability Procedure from the stage it was previously concluded.

7.6 Where the Capability Manager concludes at the end of the Second Capability Meeting that some progress has been made and that with a further period of monitoring an acceptable level of performance will be achieved, the Capability Manager may determine that you should be subject to an Further Assessment, however the total Assessment Period must not exceed 4 working weeks.

7.7 Where the Capability Manager concludes, at the end of the Second Capability Meeting, or at the end of the further Assessment Period that no, or insufficient, improvement has been made so that your performance remains unsatisfactory, you will be given a Final Written Warning setting a further Assessment Period of 4 Working Weeks and setting the date for a Final Capability Meeting to be held at the end of the further Assessment Period. You will be informed that failure to make satisfactory sustainable improvement during the further Assessment Period may result in your dismissal.

7.8 You may appeal against a Final Written Warning in writing by submitting an email to St Clare Human Resources team at hr@stclarecmat.org.uk within 10 working days of the receipt of the Final Written Warning, setting out the basis of your appeal.

7.9 An appeal does not delay the commencement of the further Assessment Period.

7.10 A Final Written Warning for all employees will remain on your record for 12 months from the date that it is issued.

8 FINAL CAPABILITY MEETING

8.1 The Final Capability Manager will write to you at least 5 working days* prior to the Final Capability Meeting which you will have been invited to in accordance with section 5.1 above. You may be accompanied at the meeting by a union rep or another companion. The Final Capability Manager will

send you a copy of the Final Performance Report which will include an evaluation of your performance and will detail any support provided during the Further Assessment Period.

*Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

8.2 Any documentation you wish to rely on during the Final Capability Meeting must be submitted at least 3 Working Days prior to the Final Capability Meeting.

8.3 At the Final Capability Meeting you will have an opportunity to comment upon the Final Performance Report and to discuss any continued shortcomings identified.

8.4 The Final Capability Manager will confirm the outcome of the Final Capability Meeting in writing within 5 working days of the date of such meeting.

8.5 Where the Final Capability Manager concludes that your performance is satisfactory you will no longer be subject to this Capability Policy. However, if the required standard of performance is not sustained at any time during the life of the Final Written Warning, the Final Capability Manager will recommence the Capability Procedure at the stage where it was previously concluded.

8.6 Where the Final Capability Manager concludes that your performance remains unsatisfactory and is not capable of sustainable improvement the Final Capability Manager will recommend that you will be invited to a Directors Panel who will decide whether your employment should be ended in accordance with your contract of employment. You will be given 5 working days' notice* of the Directors Appeal meeting. Where the Directors panel decide that your employment should be ended, the school/ St Clare will serve notice of the end of your employment, in accordance with your contract of employment.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

8.7 You may appeal against a decision to dismiss you in writing by submitting an email to St Clare Human Resources team at hr@stclarecmat.org.uk within 10 working days of being sent the notice of termination, setting out the basis of your appeal.

8.8 An appeal will not delay the commencement of the notice period and/or the expiry of such notice.

9 APPEALS AGAINST THE CAPABILITY MANAGERS DECISION AND/OR FINAL CAPABILITY MANAGER

9.1 An appeal against the decision of the Capability Manager or Final Capability Manager can be made at each stage of the procedure set out at sections 6, 7 and 8.

9.2 You should submit your appeal in writing, identifying the basis for appeal in detail to St Clare, Human Resources team at hr@stclarecmat.org.uk within 10 days of receiving the outcome.

9.3 An appeal will be heard by the relevant Appeal Manager appointed in accordance with section 5.1 within 20 working days of the HR team receiving your appeal letter.

9.4 The Appeal Manager will write to you giving 5 Working Days' notice* of an Appeal Meeting. The Appeal Manager will confirm in this letter what evidence will be relied upon at the Appeal Meeting and who will be on the panel. You will be provided with copies of the evidence with notice of the meeting.

* Note, if it is not possible for all parties, including a union rep, to attend the meeting, the notice period can be extended to meet within a further 5 days of the original meeting date.

9.5 You will be given an opportunity to comment on the evidence provided during the Appeal Meeting.

9.6 Any further documentation not submitted with the Appeal Registration Form, must be submitted at least 3 working days prior to the Appeal Meeting.

9.7 The Appeal Manager will confirm the outcome of the Appeal Meeting in writing to you within 5 working days of the date of the Appeal meeting. The decision of the Appeal Manager is final and there will be no further right of appeal. The potential outcomes of an appeal meeting are:

- the Appeal Manager may agree and uphold the decision of the Capability Manager or Final Capability Manager.
- substitute a different warning, where it is considered appropriate or in the case of an appeal against dismissal, the employee will be reinstated.

10 DIRECTORS' PANELS

10.1 Directors' Capability and Appeal Panels shall, where possible, usually comprise of three Directors not previously involved in the matter. The Chair or Vice-Chair will not usually be on any such Panel unless there are insufficient numbers of Directors not previously involved in the matter.

10.2 In the event that there are insufficient numbers of Directors available to participate in a Directors' Capability or Appeal Panel, St Clare may appoint appropriate associate members solely for the purpose of participating in the relevant Directors' Capability or Appeal Panel.

11 COMPANION

11.1 If you are required to attend a Formal Capability Meeting you may be accompanied by a Companion.

11.2 You must let the relevant Manager know who your Companion will be at least one working day before the relevant meeting.

11.3 If you need any reasonable adjustments to enable you to participate in the capability process for example, because you have a disability, or if English is not your first language you should raise this with your line manager as soon as possible so that this can be considered and if agreed the necessary arrangements can be made.

11.4 Your Companion can address the meeting in order to:

- put your case.
- sum up your case.
- respond on your behalf to any view expressed at the meeting; and ask questions on your behalf.

11.5 Your Companion can also confer with you during the meeting.

11.6 Your Companion has no right to:

- answer questions on your behalf.
- address the meeting if you do not wish them to; or prevent you from explaining your case.

11.7 Where you have identified your Companion and they have confirmed in writing that they cannot attend the date or time set for a meeting the meeting will be postponed for a period not in excess of five working days from the date set by St Clare Should your Companion subsequently be unable to attend any rearranged date, the meeting may be held in their absence or written representations will be accepted.

12 TIMING OF MEETINGS

12.1 The aim is that meetings under this Capability Policy and Procedure will be held at mutually convenient times but depending on the circumstances meetings may:

(a) need to be held when you are scheduled to teach (if that is appropriate to your role);

(b) exceptionally be held after the end of a school/ St Clare day.

(c) not be held on days on which you would not ordinarily work.

(d) be extended by agreement between the parties if the time limits cannot be met for any justifiable reason.

13 VENUE FOR MEETINGS

13.1 Any meeting held under sections 6, 7, 8 and 9 may be held at any St Clare site.