



ACET

CAPABILITY POLICY

PHASE	JUNIOR & SECONDARY
POLICY LEAD	GEMMA SHORE (Senior HR Manager)
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INTRODUCTION

Under the Education Act, 1996, and Articles of Government, Governing Bodies of Schools and Principals/Principals have a responsibility for ensuring that the performance of all staff employed at their schools is properly monitored.

Professional Standards underpin the work of all staff employed in schools: The Professional Standards framework for Teachers, and the National Occupational Standards for support staff. All staff employed in a school should have a Job Description and be included in the appraisal (teaching) or Professional Development Review (support) arrangements. Schools have a responsibility to facilitate access by all staff to on-going professional development. Where a member of staff is failing in a significant or persistent way to carry out his/her responsibilities or duties to sufficiently high standard it is the duty of the Governing Body to ensure that steps are taken to attempt to bring about an improvement in the individual's performance. In the vast majority of instances it is possible for an individual to succeed in reaching an acceptable standard of performance with appropriately targeted support and guidance within the context of the appraisal/PDR arrangements.

In a small number of instances, where sufficient improvement has not been secured within appraisal/PDR cycle, it may prove necessary to use the Capability Procedures. The process is designed to enable the individual to make accelerated progress outside of the usual appraisal/PDR arrangements, with the ambition that he/she will rejoin the appraisal/PDR cycle as soon as possible. However, if such steps were to prove unsuccessful the Local Governing Body has a duty to resolve the matter, or, in the last resort, by removing the member of staff from employment.

The processes outlined in this document apply equally to teachers support staff (*where differences apply these are noted*). The management of any procedures adopted by the Local Governing Body will be the responsibility of the Principal. If the member of staff giving rise to serious concern is the Principal, it will be the responsibility of the Local Governing Body to apply the process. If the member of staff giving concern is senior ACET staff not linked to a specific academy, it will be the responsibility of Trustees to apply the process.

PRINCIPLES UNDERPINNING THE CAPABILITY PROCESS

The process adopted by the local governing body should:

- Build on effective and rigorous appraisal/PDR
- Reflect the expectations of performance defined by the relevant professional standards
- Be constructive and not punitive, in that it attempts to identify the underlying cause(s) of professional difficulties and devise strategies to support the individual to overcome these
- Be supportive in ensuring access to well targeted professional development and training experiences to assist the member of staff to improve their performance
- Be characterised by fairness, consistency and the principles of natural justice
- Enable the individual to be clear how and by when they need to improve and to what standard
- Enable the individual to know exactly at which stage in the process they currently are
- Be based on a secure and appropriately documented evidence base and record of the process
- Ensure appropriate involvement of Trade Unions if the individual wishes
- Involve Human Resources representatives to support with the process and helping to ensure fairness
- Ensure that only genuine issues of capability (i.e. where the individual is *unable* to meet the required standard of performance) are addressed using the process

WHEN IS IT APPROPRIATE TO USE THE CAPABILITY PROCESS?

The use of the capability procedure is not designed to address issues which arise through the normal process of improving the quality of teaching and learning, and/or quality of overall provision. In all schools this would be achieved through whole school, team and individual development activity including through the school's appraisal cycle. Nor is this process designed to address issues where a member of staff has chosen not to comply with acceptable standards of performance which should be addressed as a conduct issue in line with the Disciplinary and Dismissal Policy. When focusing on an employee's capability, it is important to recognise that not all staff will perform at the same standard all the time, and, even in the context of whole-school improvement activity, some individuals will require a greater level of support in order to implement changed approaches or new requirements. The capability process is designed for use only when a Principal determines that the normal process of professional development in the context of appraisal/PDR has been *unsuccessful* in bringing about an acceptable standard of performance and *serious concerns* remain. Ofsted inspection evidence *alone* should not trigger an immediate move into the Local Governing Body Capability process. Such evidence will however, entirely properly be used to *complement* the Principal's own evidence as he/she seeks to address under-performance.

- A decision will be made to move to **Capability Stage 1** when clear evidence exists of serious concerns and appraisal/PDR has been unsuccessful in achieving the necessary improved performance.
- A decision will be made to move to **Capability Stage 2** when serious concerns still remain after use of the Stage 1 process.
- A decision will be made to move to **Capability Stage 3** when serious concerns remain and have failed to be satisfactorily addressed through Stage 2

OVERVIEW OF THE CAPABILITY PROCESS AND SUPPORTING INFORMATION

The first part of the attached diagram (see **Appendix i**), illustrates the process to be followed **before** it would be appropriate to consider using the capability process, and an overview of key points and nature of evidence gathering at each stage in the capability process.

At Stage 3 of the Capability process, where sanctions may be taken against a member of staff, initial meetings and subsequent hearings under Stage 3 need to follow a more rigid format. This is set out in **Appendix iii**.

Model letters for use during the capability process

To achieve consistency for all employees throughout the stages of the capability process, model letters are provided in the **Appendix ii**. See Overview of the Capability process for further information about the stages at which different letters need to be used.

Sources of support, advice and guidance

It will be the responsibility of the Principal to make a decision as to whether the capability process is to be used to support an individual to achieve the required standard of performance, and to lead the process. Where use of the capability process is being considered, Principals are strongly urged to discuss this with Human Resources.

Dismissal

Where the outcome following Stage 3 of the Capability process is that a decision is taken to dismiss the member of staff, a notice of dismissal will be issued within 14 days. Notice of dismissal can be issued subject to appeal.

OVERVIEW OF THE CAPABILITY PROCESS

EMPLOYEE STILL IN THE APPRAISAL/PDR CYCLE

STAGE 1

STAGE 2

STAGE 3

Yearly cycle (with mid-year review for teachers)

STAGE 1 and STAGE 2 recommended to be completed in approximately one term with Stage 2 recommended to take no more than 2 weeks

Approximately one term

STILL IN APPRAISAL/PDR CYCLE

Focus at this point is on the Relevant Standards framework with objective setting, support and monitoring arrangements through the usual appraisal/PDR arrangements. Only if a decision has been taken that **serious concerns** remain and appraisal/PDR has been *unsuccessful* in achieving the necessary improved performance would the individual move into Capability Stage 1 and be provided with a copy of the Capability process

Principal writes to the employee to alert to **serious concerns which need to be dealt with outside the appraisal/PDR arrangements** and invites the employee to a Capability Stage 1 meeting using **LETTER A**

EVIDENCE GATHERING - EMPLOYEE STILL IN APPRAISAL/PDR

Principal moderates all appraisal statement(s) and ensures that evidence of emerging concerns is collated. This would include dates when emerging concerns were shared with the individual, additional targeted support to enable improvement to be made, and the outcomes of monitoring activity



SERIOUS CONCERNS REMAIN



STAGE 1

An employee at this stage requires a more targeted approach than appraisal/PDR within a much shorter timescale. Meetings in Stage 1 need to be recorded with individualised improvement targets, support and monitoring arrangements. Stage 1 meetings will have HR support if necessary.

During Stage 1 it is recommended that the individual is taken through not less than 2 review cycles which would each include:

- Meeting to identify improvement targets
 - Support arrangements
 - Monitoring arrangements
 - Date for next review (approximately 4-5 week cycle)
- Each cycle ends with a written record of the meeting. **LETTER B** models how the meeting should be recorded. Employees should be advised that they can be accompanied by their trade union or a colleague in the second cycle meetings.

If *sufficient* progress is made, the employee would be notified in writing of their return to the school's appraisal arrangements. **LETTER C**

If *insufficient* progress is made, after the second cycle, the Principal will invite the employee to a Capability Stage 2 meeting using **LETTER D**

EVIDENCE GATHERING DURING STAGE 1

During Stage 2 the Principal will need to ensure that internal evidence continues to be collated including:

- Support provided
- Lesson observations and drop-ins
- Pupil progress data
- Outcomes of work scrutiny
- Scrutiny of performance related to specific improvement targets
- Where Leadership improvement targets have been identified, evidence of performance related to these will continue to be necessary

Additional external evidence **may** be provided during Stage 1 e.g. from Ofsted

STAGE 2

If required improvement not evident after 2 cycles in Stage 1, Stage 2 includes one further short cycle of no more than 2 weeks, providing a last opportunity to the employee to demonstrate that s/he can meet the required standards. Stage 2 meetings will have HR representation. Employee may be accompanied by their Trade Union or a colleague at Stage 2 meetings. **LETTER E** models how the meeting should be recorded.

If *sufficient* progress is made, the employee would be notified in writing of their return to Stage 1 to ensure improvement is sustained until return to Appraisal/PDR is appropriate. i.e. one cycle **LETTER C**

If *insufficient* progress is made, Principal will invite the employee to a Capability Stage 3 meeting using **LETTER F**

EVIDENCE GATHERING DURING STAGE 2

During Stage 2 the Principal will need to ensure that evidence continues to be collated as in Stage 1 including the support provided.

In addition, at Stage 2 **it will be necessary** for evidence to be provided by a third party e.g. AIT, member of SLT

STAGE 3

At this stage formalised target setting, support and monitoring will take place, determined at an Initial Stage 3 meeting. A record of the initial meeting will be provided using **LETTER G**.

If *sufficient* progress is made after the initial 4-5 week cycle, the employee would be notified in writing of their return to Stage 1 to ensure improvement is sustained until return to Appraisal is appropriate i.e. one cycle **LETTER C**

If *insufficient* progress made, then there would normally be 3 cycles with reviews/hearings held after each 4-5 week cycle during Stage 3, and the following sanctions considered and communicated:

- Written warning (**LETTER H**)
- Final warning (**LETTER J**)
- Dismissal

(For specific guidance on the structure of meetings during Stage 3 see Appendix iii)

Stage 3 meetings will have HR representation. Employees may be represented by their Trade Union during Stage 3.

EVIDENCE GATHERING DURING STAGE 3

This will continue as in Stage 2 with the nature of evidence and support appropriate to the continuing concerns and formal targets. The same person should not conduct the reviews/hearings and gather/present the evidence at the meetings.

EVIDENCE OF SERIOUS CONCERNS

Before signalling the intention to move out of Appraisal, the Principal must already have documented evidence of the serious issues of concern remaining, the steps taken so far to support improved performance and the outcomes of this. This would be expected to include notes/feedback following observations & drop-ins, outcomes of pupil progress meetings, work & planning scrutiny and pupil tracking data (for teachers), and/or other documented concerns appropriate to the employee's role and responsibilities. Where performance concerns relate to Leadership issues other evidence will also be necessary e.g. observations of meetings and/or other leadership practice, documentation, analysis of performance data

KEY to ABBREVIATIONS

HR – Human Resources
AIT – Academy Improvement Team
LA – Local Authority
PM – Performance Management
SLT – Senior Leadership Team

APPENDIX ii MODEL LETTERS TO SUPPORT THE CAPABILITY PROCESS

Model LETTER A	This letter is the invitation to the Capability Stage 1 initial meeting following decision to move out of appraisal/PDR
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Dear

Invitation to Capability Stage 1 meeting

As you were made aware on (*insert date*) I have had some concerns about your performance and support has been provided to enable you to make the necessary improvements within the context of the appraisal/PDR arrangements. The purpose of this letter is to inform you that I have taken the decision that the concerns about your performance cannot continue to be satisfactorily addressed within the appraisal/PDR arrangements and will now be addressed under the capability process adopted by the local governing body. A copy of this process is attached for your information.

I would like to invite you to attend a Stage 1 meeting on (*insert date + time + venue*). As outlined in the attached document, the purpose of this meeting is to identify the specific areas of your performance where serious concerns exist, ensure you are clear about the improvement that is required and identify the support and monitoring arrangements that will be put in place.

Please be assured that the capability process is designed to be supportive in enabling an employee to meet the required standards of performance. However, you may wish to contact your Trade Union representative should you wish to seek their guidance and support in this matter. If you have any questions regarding this letter please do not hesitate to contact me.

Yours sincerely

Principal

Copied to:

- Employee
- School Personnel File
- Human Resources Manager

Model LETTER B	<p>This letter is used to record the outcomes of meetings in Stage 1 to clarify areas of serious concern, improvement targets, timescales, monitoring and progress review arrangements. This letter would be used on at least 2 occasions at the start of each cycle within Stage 1.</p> <p>NB In cycle 2, additional wording needs to be added as shown</p>
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Dear

Summary of Capability Stage 1 meeting

Thank you for attending the meeting on (*insert date and time*). In addition to yourself, the following were present (*insert names/job titles*). As indicated in the meeting, this was convened under the governing body capability process at Stage 1. This letter is designed to record the key points of the meeting which were:

- Areas of your performance causing serious concern:
 - (*insert key areas of concern shared during the meeting. These should where possible be cross referenced to relevant professional standards*)
- Specific improvement targets
 - (*insert clear targets for improvement which are achievable with both support from the school and commitment/effort by the employee*)
- Timescale for achieving the targets identified
 - (*insert date by which the targets need to be met*)
- Monitoring and evaluation arrangements
 - (*insert the evidence that will be gathered and by whom*)
- Support to be provided to assist you in meeting the above targets
 - (*insert the range of support that will be provided by the school/individuals to enable the employee to reach the standards expected*)
- Date of the review meeting to review progress made against the above targets
 - (*insert date, time and venue of the meeting*).

For cycle 2 meetings only

Please be advised that you may invite your trade union or a colleague to accompany you to cycle 2 Meetings.

Yours sincerely

Principal

Copied to:

- Employee
- Personnel File
- Human Resources Manager

Model LETTER C	<p>This letter to be used to confirm the arrangements when an employee is judged to have made sufficient progress during a stage of the Capability process.</p> <p>NB the wording will be different when moving out of different stages. Please delete as appropriate</p>
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Dear

Following the Capability Stage 1/Capability Stage 2/Capability Stage 3 (**delete as applicable**) meeting on (**insert date**). I am pleased to confirm that you were judged to have made sufficient progress in the areas identified as requiring improvement.

EITHER

Following Stage 1 meetings

- i) You will now re-join the appraisal/PDR arrangements.

OR

Following Stage 2 meetings

- ii) You will now return to Capability Stage 1 for one cycle. This will enable me to be satisfied that you have sustained the standard of performance which you have now achieved. I hope that with your continued commitment to improve your practice, you will, after one cycle, be able to return to the appraisal/PDR arrangements.

OR

Following Stage 3 meetings

- iii) You will now return to Capability Stage 1 for one cycle. This will enable me to be satisfied that you have sustained the standard of performance which you have now achieved. I hope with your continued commitment to improve your practice, you will, after one cycle, be able to return to the appraisal arrangements.

Please be advised that if you feel in need of additional support to further improve your performance at any stage, you must speak to me and/or your line manager.

Yours sincerely

Principal

Copied to:

- **Employee**
- **School Personnel File**
- **Human Resources Manager**

Model LETTER D	<p>This letter to be used to invite the employee to a Capability Stage 2 meeting if insufficient progress has been made during Capability Stage 1 and a decision is taken that the matter will move to Capability Stage 2.</p> <p>NB If sufficient progress has been made during Stage 1, then the employee would need to be informed in writing that they will return to the appraisal/PDR arrangements. (LETTER C)</p>
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Dear

Invitation to Capability Stage 2 meeting

Further to the Capability Stage 1 review meeting held on **(insert date)** I can confirm that it is my judgement that you have made insufficient progress in relation to the specific improvement targets that were set for you.

As a result of this the matter will now move to Stage 2 of the Capability Process. You are therefore invited to attend a meeting to be held on **(insert date and time)**. You may be accompanied by your Trade Union representative or a colleague.

Also present at the meeting will be **(insert names/job titles)**.

I have attached a copy of the Capability Process for your information.

Yours sincerely

Principal

Copied to:

- Employee
- School Personnel File
- Human Resources Manager

Model LETTER E	This letter is used to record the outcomes of the meeting held at the start of Capability Stage 2 to restate areas of serious concern, improvement targets, timescales, monitoring and progress review arrangements.
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Dear

Summary of Capability Stage 2 meeting

Thank you for attending the meeting on *(insert date and time)*. In addition to yourself, the following were present *(insert names/job titles)*. As indicated in the meeting, this was convened under the Capability process at Stage 2. This letter is designed to record the key points of the meeting which were:

- Areas of your performance causing serious concern:
 - *(insert key areas of concern shared during the meeting. These should where possible be cross referenced to relevant professional standards)*
- Specific improvement targets
 - *(insert clear targets for improvement which are achievable with both support from the school and commitment/effort by the employee)*
- Timescale for achieving the targets identified
 - *(insert date by which the targets need to be met)*
- Monitoring and evaluation arrangements
 - *(insert the evidence that will be gathered and by whom)*
- Support to be provided to assist you in meeting the above targets
 - *(insert the range of support that will be provided by the school/individuals to enable the employee to reach the standards expected)*
- Date of the review meeting to review progress made against the above targets
 - *(insert date, time and venue of the meeting)*
 - *You may be accompanied by your trade union or a colleague at this review meeting.*

Yours sincerely

Principal

Copied to:

- Employee
- School Personnel File
- Human Resources Manager

Model LETTER F	<p>This letter to be used to invite the employee to a Capability Stage 3 meeting if insufficient progress has been made during Capability Stage 2 and a decision is taken that the matter will move to Capability Stage 3.</p> <p>NB If sufficient progress has been made during Stage 2, then the employee would need to be informed in writing that they will return to Stage 1 to ensure improvement is sustained until return to the Appraisal/PDR arrangements is appropriate. (LETTER C)</p>
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Dear

Initial Capability Stage 3 meeting

Further to the Capability Stage 2 review meeting held on **(insert date and time)** I can confirm that it is my judgement that you have made insufficient progress in relation to the specific improvement targets that were set for you.

As a result of this the matter will now move to Stage 3 of the Capability Process. You are therefore invited to attend a meeting to be held on **(insert date and time)**. You may be represented by your Trade Union representative or a colleague.

Also present at the meeting will be **(insert names/job titles)**.

I have attached a copy of the Capability Process for your information.

Yours sincerely

Principal

Copied to:

- **Employee**
- **School Personnel File**
- **Human Resources Manager**

Model LETTER G	This letter is used to record the outcomes of the meeting held at the start of Capability Stage 3, to restate areas of serious concern, improvement targets, timescales, monitoring and progress review arrangements. This letter includes reference to the potential consequences if sufficient progress is not made.
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Dear

Outcome of Initial Capability Stage 3 meeting

Thank you for attending the meeting on ***(insert date and time)***. In addition to yourself, the following were present ***(insert name(s))***. As indicated in the meeting, this was convened under the governing body Capability process at Stage 3. This letter is designed to record the key points of the meeting which were:

- Areas of your performance causing serious concern:
 - ***(insert key areas of concern shared during the meeting. These should where possible be cross referenced to relevant professional standards)***
- Specific improvement targets
 - ***(insert clear targets for improvement which are achievable with both support from the school and commitment/effort by the employee)***
- Timescale for achieving the targets identified
 - ***(insert date by which the targets need to be met)***
- Monitoring and evaluation arrangements
 - ***(insert the evidence that will be gathered and by whom)***
- Support to be provided to assist you in meeting the above targets
 - ***(insert the range of support that will be provided by the school/individuals to enable the employee to reach the standards expected)***
- Date of the meeting/hearing to review progress made against the above targets
 - ***(insert date, time and venue of the meeting)***
 - You have the right to be represented by your trade union at this meeting/hearing.

You are reminded that should the outcome of the Stage 3 hearing/review meeting be that you are judged to have made insufficient progress against the specified targets, a formal sanction may well result.

Yours sincerely

Principal

Copied to:

- Employee
- School Personnel File
- Human Resources Manager

NB If sufficient progress has been made during Stage 2, then the employee would need to be informed in writing that they will return to Stage 1 to ensure improvement is sustained until return to the school's Appraisal arrangements is appropriate. (LETTER C)

Model LETTER H	<p>This letter is used to record the outcome of the Capability Stage 3 review hearing where insufficient progress was judged to have been made. The letter includes the sanction determined ie WRITTEN WARNING</p> <p>NB If sufficient progress has been made during Stage 3, then the employee would need to be informed in writing that they will return to Stage 1 to ensure improvement is sustained until return to the school's Appraisal arrangements is appropriate. (LETTER C)</p>
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Dear

Outcome of Capability Stage 3 Review Hearing

I am writing to confirm the outcome of the Stage 3 review hearing under the Capability Process held on **(insert date and time)**. At the hearing you were represented by **(insert name and TU where appropriate)**. Also present were **(insert names/titles)**.

The hearing was convened to consider your progress in relation to the specific improvement targets, set as a result of serious concerns regarding your performance.

It was my decision, after considering the evidence presented, that you had made insufficient progress in relation to the targets and I therefore issued you with a formal **written warning**. This warning will remain live on your record for a period of **9 months**.

I also confirmed that the specific improvement targets would continue to apply and that a further Stage 3 review hearing was set for **(insert date and time)**. You will be entitled to be represented by your Trade Union representative or a colleague at this hearing.

I would confirm that should you be judged at the next review hearing to have continued to make insufficient progress then a further, more serious, sanction may well be the outcome.

You are entitled to appeal against this decision. Any appeal should be made in writing to the Clerk to Governors within 7 days of your receipt of this letter. The letter should set out the grounds of your appeal.

Yours sincerely

Principal

Copied to:

- Employee
- School Personnel File
- Human Resources Manager

Model LETTER J	<p>This letter is used to record the outcome of the SECOND Capability Stage 3 review hearing where insufficient progress was judged to have been made. The letter includes the sanction determined ie: FINAL WRITTEN WARNING</p> <p>NB the wording of Letter J (Option A or Option B) will depend on whether, or not, the governing body have delegated authority to dismiss employees to the Principal.</p>
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Dear

Outcome of second Capability Stage 3 Review Hearing

I am writing to confirm the outcome of the Stage 3 review hearing under the Capability process held on **(insert date and time)**. At the hearing you were represented by **(insert name and TU where appropriate)**. Also present were **(insert names/post titles)**.

The hearing was convened to consider your progress in relation to the specific improvement targets, set as a result of serious concerns regarding your performance.

It was my decision, after considering the evidence presented, that you had made insufficient progress in relation to the targets and I therefore issue you with a **final written warning. This warning will remain live on your record for a period of 18 months.**

I also confirm that the specific improvement targets would continue to apply and that a further Stage 3 review hearing was set for **(insert date and time)**. You will be entitled to be represented by your Trade Union representative or a colleague at this hearing.

EITHER – Option A (if the Principal *does* have delegated authority to dismiss and employee)

I would confirm that should you be judged at the next review hearing to have continued to make insufficient progress, then a further, more serious sanction, including dismissal from your employment, may well be the outcome.

OR – Option B (if the Principal *does not* have delegated authority to dismiss an employee)

I would confirm that should you be judged at the next review hearing to have continued to make insufficient progress, then it is likely that I will present a case to the Governing Body at a formal hearing recommending that you be dismissed from your employment with the school.

You are entitled to appeal against this decision. Any appeal should be made in writing to the Clerk to Governors within 7 days of your receipt of this letter. The letter should set out the grounds of your appeal.

Yours sincerely
Principal

Copied to:

- **Employee**
- **School Personnel File**
- **Human Resources Manager**
- **School Effectiveness Service**

APPENDIX C

CONDUCTING MEETINGS AT CAPABILITY STAGE 3

At all meetings/hearings held during Capability Stage 3, the relevant Human Resources should be present. The Principal will chair meetings/hearings

CAPABILITY STAGE 3 – STRUCTURE OF THE INITIAL MEETING

The Principal will:

1. restate the specific areas of concern regarding performance
2. identify, for each of the areas of concern, the standard of performance required
3. allocate formal targets/objectives for each of the areas of concern
4. offer the opportunity to the member of staff/trade union representative to seek any clarification needed and raise any areas of concern
5. set out for the member of staff/trade union representative the following:
 - Who will be responsible for collating the evidence to be reported to the Review Hearing (NB *this will be someone other than the Principal*).
 - The nature and scope of the evidence that will be gathered.
 - How the evidence will be gathered (e.g. scrutiny of pupils work, planned and unannounced observations; observations by internal staff and School Effectiveness Service staff).
6. detail any arrangements for mentoring/support to be provided to the member of staff.
7. notify all those present of the date of the Stage 3 Review Hearing and the potential consequences of a failure to meet the required standard of performance.
8. confirm all of the above in writing (LETTER G)

CAPABILITY STAGE 3 – STRUCTURE OF THE REVIEW HEARING(S)

The Principal will chair the Review Hearings at Capability Stage 3. Another member of staff e.g. deputy Principal, Head of Department, will present the evidence to the hearing (*presenting officer*)

The Principal will:

1. remind the employee of the agreed targets and process from the Initial Stage 3 meeting.
2. request the evidence to be presented to the hearing.
3. asks any questions of the presenting officer.
4. offer the opportunity to the employee/trade union representative to ask any questions of the presenting officer.
5. ask for representations from the employee/trade union representative.
6. adjourn the hearing to consider action (advised by HR).
7. reconvene the hearing to convey the decision (to be confirmed in writing using LETTER H or J as appropriate).