

**Extra Mile
Ober Funkia
Goderich
Freetown
Sierra Leone**

School Staff Capability Policy

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| Date Adopted | <i>4th November 2020</i> |
| Date ratified by Trustees | <i>4th November 2020</i> |
| Date of review | <i>4th November 2021</i> |
| Chair of Trustees | Mike Fielding |

School Staff Capability Policy

1. Definitions

- 1.1 In this Capability Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:
- 1.1.1 'The School' means the school named at the beginning of this Capability Policy.
 - 1.1.2 'Board' means the board of trustees of the Extra Mile charity.
 - 1.1.3 'Chair' means the Chair of the Board of Trustees or the Chair of the Board of Governors appointed from time to time, as appropriate.
 - 1.1.4 'Clerk' means the Clerk to the Board of Governors, as appropriate.
 - 1.1.5 'Companion' means a willing work colleague not involved in the substance of the employee's performance under review by this Capability Policy.
 - 1.1.6 'Trustees' means trustees appointed to the Board of the Extra Mile charity.
 - 1.1.7 'Governing Board or Governing Body' means the Board of Governors of the Extra Mile School.
 - 1.1.8 'Governors' means the governors appointed and elected to the Board of Governors of Extra Mile School, from time to time.
 - 1.1.9 'Standards' means the relevant standards incorporated into the Teacher's contract of employment as agreed by the Board of Trustees.
 - 1.1.10 'Teacher' means a teacher employed by the Extra Mile charity to work at the Extra Mile School and, where the context so admits, includes the Headteacher.

2. Scope

- 2.1 This Capability Policy applies to you if you are an employee or worker at the Extra mile School (hereinafter referred to as an "employee" or "you").
- 2.2 The purpose of this procedure is to establish a structure to improve performance to the standards expected and to take appropriate action to address this where there has not been sufficient improvement.
- 2.3 The Board of Trustees of Extra Mile delegates its authority in the manner set out in this policy.
- 2.4 There may be some occasions where an employee's lack of capability could also be described as Misconduct. This Capability Policy and the school's Disciplinary Policy may be used concurrently whilst the Board endeavours to ascertain if the employee's lack of capability is due to Misconduct or lack of competence.
- 2.5 There may be occasions where an employee's lack of capability could relate to their health. This Capability Policy may be used concurrently with the Extra Mile's Sickness Absence Policy. In particular, if an employee is absent from work on sick leave following this

Capability Policy being invoked, the Board may use its Sickness Absence Policy. The process of managing unsatisfactory performance due to capability will not necessarily cease where the employee is absent on the grounds of sickness.

- 2.6 The Board of Trustees of Extra Mile is committed to ensuring respect, objectivity, belief in the dignity of the individual, consistency of treatment and fairness in the operation of performance management. This Capability Policy offers opportunities to ensure justice for teachers, support staff and students alike.
- 2.7 This Capability Policy can be invoked at any time during any Capability Period as determined in accordance with the Board of Trustees' Capability Policy.
- 2.8 The Capability Policy does not form part of any other procedure but relevant information from the performance management process, including the performance management report, may be taken into account in this Capability Policy and/or the Disciplinary Policy.
- 2.9 All parties involved at all stages of this Capability Policy will treat the management of unsatisfactory performance and related investigations in confidence as far as possible.
- 2.10 The Extra Mile School will maintain records of all interviews and reviews, which take place under this Capability Policy. All data and evidence collected is to be shared between all the relevant parties, where appropriate.
- 2.11 In this policy "working day" means any day on which you would ordinarily work if you were a full-time employee. In other words, it could be different for teaching and non-teaching staff but will not be different based on whether an employee is full-time or part-time.
- 2.12 In this policy "working week" means any week that you would ordinarily work.

3. Performance Management - Teachers experiencing difficulties

- 3.1 This Capability Policy should, except in exceptional circumstances, only be invoked:
 - 3.1.1 where the measures set out in Extra Mile's Performance Management Policy for Teachers and for
 - 3.1.2 Support Staff have been exhausted; and
 - 3.1.3 the employee has made insufficient, or no, improvement as required under such policy after feedback;
 - 3.1.4 and/or is failing to respond to feedback in relation to unsatisfactory performance;
- 3.2 If a Principal is subject to this Capability Policy, he or she will normally continue to be responsible for the performance management process of the Extra Mile School.

4. Capability, Final Capability and Appeal Manager

The table in Appendix 1 sets out the persons to be appointed throughout the stages of this Capability Policy depending on the person who is the subject of the capability proceedings.

5. First Capability Meeting

- 5.1 Where the Extra Mile School has fully exhausted the procedures in the Performance Management Policy in accordance with Paragraph 2 above, including the appeals process under that Policy, the Extra Mile School will appoint a Capability Manager in accordance with Paragraph 3 above. The Capability Manager will write to you inviting you to a First Capability Meeting. You will be given at least five working days' notice of such meeting. At the same time as sending you the letter inviting you to the First Capability Meeting, the Capability Manager will also send you a copy of the Performance Report which they have prepared and which shall set out:
- 5.1.1 What aspects of your performance are causing concern;
 - 5.1.2 What specific and achievable performance standards are expected; and
 - 5.1.3 The support that has been provided to you so far.
- 5.2 At the First Capability Meeting you will have an opportunity to comment upon the Performance Report and to discuss the professional shortcomings, possible support and guidance and how performance should be monitored going forward.
- 5.3 If the Capability Manager concludes that your performance is satisfactory, you will no longer be subject to this Capability Policy and shall be notified in writing. The Extra Mile Performance Management Policy shall resume.
- 5.4 If the Capability Manager concludes that your performance is unsatisfactory you will be given a First Written Warning and an improvement and support plan which will:
- 5.4.1 Identify the professional shortcomings
 - 5.4.2 Give clear guidance on the improved sustainable standard of performance needed to exit the capability procedure
 - 5.4.3 Explain the support that will be available, and how performance will be monitored over a period of time, referred to in this Capability Policy as the Assessment Period
 - 5.4.4 Identify the timetable for improvement and agree a date for the Second Capability Meeting
 - 5.4.5 Make it clearly understood that failure to improve may lead to dismissal.
- 5.5 The length of the Assessment Period following a First Written Warning will be at least 4 working weeks and no more than 12 working weeks
- 5.6 If the Assessment Period is less than 12 working weeks, at any time during the Assessment Period the timeframe may be extended by the Capability Manager to a maximum of 12 working weeks in total, if there is sufficient evidence that the employee is progressing towards achieving the standards required.
- 5.7 You may appeal against a First Written Warning by writing to the Country Director within 5 working days of being sent the First Written Warning.
- 5.8 The fact of the appeal does not delay the commencement of the Assessment Period.
- 5.9 In the case of a principal/headteacher, a First Written Warning will remain live for 12 months. In the case of all other employees, a First Written Warning will remain live for 6

months. If within that 12 or 6-month period the employee's required standard of performance is not sustained, the Capability Manager will recommence the Capability Procedure at the stage it was previously concluded.

6. Second Capability Meeting

- 6.1 The Capability Manager will write to you inviting you to a Second Capability Meeting. You will be given at least five working days' notice of such meeting. At the same time as sending you the letter inviting you to the Second Capability Meeting, the Capability Manager will also send you a copy of the Updated Performance Report, which they have prepared and which shall set out the assessments, support and evaluation of your performance during the Assessment Period.
- 6.2 At the Second Capability Meeting you will have an opportunity to comment upon the Updated Performance Report and to discuss the professional assessment and any continuing shortcomings, possible support and guidance and how performance should be monitored going forward.
- 6.3 The Capability Manager will confirm the outcome of the Second Capability Meeting in writing within 5 working days of the date of such meeting.
- 6.4 Where the Capability Manager concludes that the standard of performance is satisfactory you will no longer be subject to this Capability Policy and shall be notified in writing. The Extra Mile Performance Management Policy shall resume. However, if the required standard of performance is not sustained during the life of the First Written Warning, the Capability Manager will recommence the Capability Procedure at the stage it was previously concluded.
- 6.5 Where the Capability Manager concludes 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 consider extending the Assessment Period determined in accordance with paragraph 4.6 by up to an additional 4 weeks.
- 6.6 Where the Capability Manager concludes 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 the Final Capability
- 6.7 Meeting. You will be informed that failure to make satisfactory sustainable improvement will result in your dismissal.
- 6.8 You may appeal against a Final Written Warning by writing to the Country Director within 5 working days of being sent the Final Written Warning.
- 6.9 The fact of the appeal does not delay the commencement of the Further Assessment Period.
- 6.10 A Final Written Warning for all employees will remain live for 12 months and if, within that 12 months, the employee's required standard of performance is not sustained the

Capability Manager will recommence the Capability Procedure at the stage it was previously concluded.

7. Final Capability Meeting

- 7.1 The Final Capability Manager will write to you inviting you to a Final Capability Meeting. You will be given at least 5 working days' notice of such meeting. At the same time as sending you the letter inviting you to the Final Capability Meeting, the Final Capability Manager will also send you a copy of the Final Performance Report which they have prepared and which shall set out the assessments, support and evaluation of your performance during the Further Assessment Period.
- 7.2 At the Final Capability Meeting, you will have an opportunity to comment upon the Final Performance Report and to discuss the continued professional shortcomings, where appropriate.
- 7.3 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.
- 7.4 Where the Final Capability Manager concludes that the standard of performance is satisfactory you will no longer be subject to this Capability Policy and shall be notified in writing. The Extra Mile Performance Management Policy shall resume. However, if the required standard of performance is not sustained 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.
- 7.5 Where the Final Capability Manager concludes that your performance remains unsatisfactory and is not capable of sustainable improvement the Final Capability Manager will recommend to the Board of Trustees that your employment be terminated in accordance with your contract of employment and the Board of Trustees will take the appropriate steps to terminate your employment.
- 7.6 You may appeal against a dismissal with notice by writing to the Country Director within 10 working days of being sent the notice of termination.
- 7.7 The fact of the appeal does not delay the commencement of the notice period.
- 7.8 In the event that your employment is terminated in accordance with Paragraph 7.4 above:
 - 7.8.1 If your contract of employment contains a garden leave clause the Board of Trustees may exercise that clause so that you are not required to attend the Extra Mile School during the notice period but remain employed and so bound by the terms of your contract of employment until the expiry of the notice period; or
 - 7.8.2 If your contract of employment contains a payment in lieu of notice clause, the Board of Trustees may exercise that clause to end your contract with immediate effect.

8. Appeals against decisions made by Capability Manager and/or/Final Capability Manager

- 8.1 An appeal against a decision of the Capability Manager or Final Capability Manager can be made at each stage of the procedure set out at Paragraphs 5, 6 and 7 above.
- 8.2 In all cases, your appeal letter must set out the grounds of your appeal in detail.
- 8.3 Any appeal should normally be heard by the relevant Appeal Manager appointed in accordance with Paragraph 3 within 20 working days of the Country Director receiving your appeal letter.
- 8.4 The Appeal Manager is not required to hear oral evidence and may rely on written evidence.
- 8.5 If the Appeal Manager does decide to hear oral evidence, you will be given an opportunity to comment on it by attending the meeting or by reviewing the notes of that oral evidence after the meeting (if you were not present at the meeting where such oral evidence was given).
- 8.6 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 outcomes of the Appeal Meeting are that:
 - 8.6.1 The Appeal Manager may uphold the decision of the Capability Manager or Final Capability Manager; or
 - 8.6.2 The Appeal Manager may uphold the employee's appeal, overturn the decision of the Capability Manager or Final Capability Manager and refer the matter back to the Capability Manager or Final Capability Manager for reconsideration.

9. Trustees' Panels

- 9.1 Trustees' Capability or Appeal Panels shall comprise three non-staff trustees not previously involved in the matter and shall not comprise the Chair unless there are insufficient numbers of non-staff trustees not previously involved in the matter, in which case the Chair may be appointed to a Trustees' Capability or Appeal Panel.
- 9.2 In the event that there are insufficient trustees available to participate in a Trustees' Capability or Appeal Panel, the Board of Trustees may appoint independent panel members from within the Board's working groups to participate in the appropriate Trustees' Capability or Appeal Panel.

10. Companion

- 10.1 If you are the subject of any Capability Meeting, a Companion may accompany you.
- 10.2 You must let the relevant Manager know who your Companion will be at least one working day before the relevant meeting.

- 10.3 If you have any particular reasonable need, for example, because you have a disability, a suitable helper may also accompany you.
- 10.4 Your Companion can address the meeting in order to:
 - 10.4.1 put your case;
 - 10.4.2 sum up your case;
 - 10.4.3 respond on your behalf to any view expressed at the meeting; and
 - 10.4.4 ask questions on your behalf.
- 10.5 Your Companion can also confer with you during the meeting.
- 10.6 Your Companion has no right to:
 - 10.6.1 answer questions on your behalf
 - 10.6.2 address the meeting if you do not wish it or
 - 10.6.3 prevent you from explaining your case.
- 10.7 Where you have identified your Companion to the relevant Manager and they have confirmed in writing to the relevant Manager that they cannot attend the date or time set for the meeting, the relevant Manager will postpone the meeting for no more than five working days from the date set by the Extra Mile School to a date or time agreed with your Companion provided that it is reasonable in all the circumstances. Should your Companion subsequently be unable to attend the rearranged date, the meeting may be held in their absence or written representations will be accepted.

11. Timing of Meetings

11.1 Meetings under this procedure may:

- 11.1.1 need to be held when you were timetabled to teach.
- 11.1.2 exceptionally be held during planning, preparation and administration time if this does not affect lesson preparation.
- 11.1.3 be held after the end of the Extra Mile School day.
- 11.1.4 not be held on days on which you would not ordinarily work.
- 11.1.5 be extended by agreement between the parties if the time limits cannot be met for any justifiable reason

12. Assistance

12.1 In all cases involving any sanction in relation to the Principal or to a person on the leadership team, or to potential or actual dismissal of any other member of staff, the Board of Trustees may use technology such as Zoom to provide a representative to advise the Capability Manager, Final Capability Manager or Appeal Manager.

APPENDIX 1

| 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) |
|--------------------------|--|--|--|---|
| Principal | Chair or a non-staff Trustee nominated by the Chair | Trustees’ Capability Panel appointed by the Chair | A non-staff Trustee (other than the Chair) nominated by the Chair | Trustees’ Appeal Panel appointed by the Chair |
| Other Leadership Members | Principal | Chair or a non-staff Trustee nominated by the Chair | A non-staff Trustee (other than the Chair) nominated by the Vice-Chair | Trustees’ Appeal Panel appointed by The Chair |
| Other Teaching Staff | (1) A member of the Leadership Team (other than the Principal) appointed by the Chair or, in the event that (1) above cannot be complied with, (2) a person appointed by the Principal | Principal | Chair or a non-staff Trustee nominated by the Chair | Trustees’ Appeal Panel appointed by the Chair |
| Support Staff | A person appointed by the Principal | Principal | Chair or a non-staff Trustee nominated by the Chair | Trustees’ Appeal Panel appointed by the Chair |



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