



**Policy for Managing Performance and  
Dealing with Capability Issues for all staff of the Nene Education Trust  
POLICY NUMBER HR2**

Key Manager	<b>Chief Executive Officer</b>
Ratified by Directors	<b>July 2018</b>
Review Dates:	<b>Autumn 2019</b>
Location of Policy:	<b><a href="#">Trust</a> Intranet</b>
Access to Policy:	<b>Open</b>
Policy Context:	<b>This Policy applies to all staff of the Nene Education Trust.</b>

Revision History

<b>Revision Date</b>	<b>Description</b>	<b>Sections Affected</b>	<b>Revised By</b>	<b>Approved By</b>
17/07/2018	Annual Reivew	Whole policy and Trust references	H R Director	
Autumn 2019				

**Aims of the Nene Education Trust**

To create a culture of constant improvement and secure outstanding quality in every aspect of the Trust's provisions and further improve the educational experiences and outcomes of the young people in our Academies

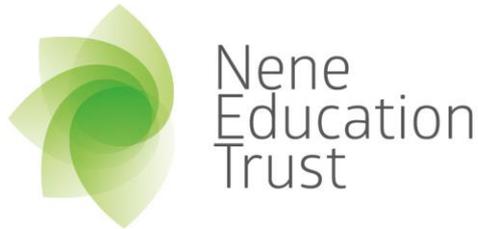
Performance Management is an opportunity to develop and promote a shared commitment to high performance to the benefit of our students, staff and our Trust.

It enables us to provide appropriate and effective personal training and development to improve job satisfaction, create a high level of expertise amongst our staff, and opportunities for progression. Through Performance Management we can place continuous professional development at the heart of our organisation. That is why Performance Management is important.

This policy is linked to the Trust's Pay Policy.

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This policy applies to all employees of the MAT employed on permanent and temporary contracts with the exception of teachers completing their Induction year, support staff within their probationary periods and those training to be teachers. It does not apply to agency workers, contractors or volunteers.

## 1. Purpose

- 1.1 This policy sets out the framework for a clear and consistent assessment of the overall performance of employees covered by the Performance Management policy and for supporting their development within the context of the Nene Education Trust's plan for improving educational provision and performance, and the standards expected of employees in their respective roles. It also sets out the arrangements that will apply when employees fall below the levels of competence that are expected of them.
- 1.2 This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary any parts of this procedure, including any time limits, as appropriate in any case.
- 1.3 The Trust is committed to ensuring consistency of treatment in the operation of Performance Management. The CEO and Principals will delegate the reviewer role in those circumstances where they are not the line manager. In these circumstances, the CEO/Principal will arrange to moderate a sample of Professional Objectives of teachers and support Staff to ensure that they comply with The Trust's Performance Management Policy and the regulations and the requirements of equality legislation.

## 2. Application of the policy

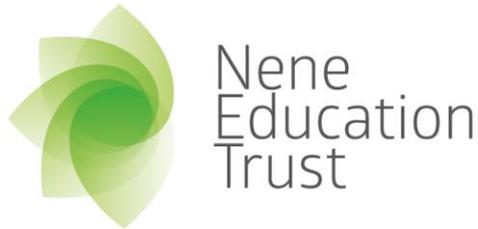
The policy is in two separate sections.

Part A of the policy, which covers Performance Management, applies to all staff employed by the Nene Education Trust, as detailed above except those staff who have been transferred to Part B of the policy.

Part B of the policy, which sets out the formal capability procedure, applies when concerns about an employee's performance have been identified by the Performance Management process and it has not been possible to address them under Part A of the Policy.

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## **Part A Performance Management**

The Performance Management policy will be a supportive and developmental process designed to ensure that all employees identified by the policy have the skills and support they need to carry out their role effectively. It will help to ensure that all employees are able to continue to improve their professional/employment practice and to develop in their respective roles.

### **1. The Performance Management period**

- 1.1 The Performance Management period will run for twelve months from 1 September to 31 August.
- 1.2 Employees who are employed on a fixed term contract of less than one year will have their performance managed in accordance with the principles underpinning this policy. The length of the review period will be determined by the duration of their contract.
- 1.3 Employees will not normally be dismissed for performance reasons without previous warnings. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

### **2. Appointing reviewers**

- 2.1 The CEO will be performance managed by the Trustees (3, but if an external adviser is involved, a minimum of 2). If requested or appropriate, supported by a suitably skilled and/or experienced external adviser who has been appointed by the Trustees for that purpose.
- 2.2 The task of performance managing the Principal, including the setting of objectives, will be delegated to the CEO and the Chair of the Local Governing Body. If requested or appropriate, supported by a suitably skilled and/or experienced external adviser who has been appointed by the CEO for that purpose.
- 2.3 The Principals in each Academy will decide who will review other employees covered by the policy. This will be notified to staff annually. The CEO will determine reviewer arrangements for the Central Services team.
- 2.4 Advice and guidance on the application of this policy should be sought, when required from the Trust's HR team.

### **3. Setting objectives**

- 3.1 Objectives for each employee covered by the policy will be set as soon as practicable after the start of each Performance Management period. The objectives set will be Specific, Measurable, Achievable, Realistic and Time-bound and will be appropriate to the employee's role and level of

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experience. The reviewer and employee will seek to agree the objectives but, if that is not possible, the reviewer will determine the objectives. Objectives may be revised if circumstances change.

- 3.3 The objectives set for each employee will, if achieved, contribute to the Academy's plans for improving the Academy's educational provision and performance and improving the educational opportunities of pupils at that Academy. This will be ensured by quality assuring all objectives against the Academy improvement plan.
- 3.4 The objectives for the CEO and Central Services team will, if achieved contribute to delivering on the Trust's vision for promoting a culture of constant improvement, securing outstanding quality in every aspect of the Trust's provisions and improving the educational experiences of all the young people in the Trust,

#### **4. Overall Performance of Teachers**

- 4.1 Before, or as soon as practicable after, the start of each Performance Management period, a teacher will be informed of the standards against which that teacher's performance in that Performance Management period will be assessed. Each teacher will be assessed against the set of standards contained in the document called "Teachers' Standards" published in July 2011 and any subsequent amendment thereof.
- 4.2 The Trustees have also determined that in assessing performance for all teachers, reference will be made to the Trust's Career Stage Expectations Descriptors and that certain teachers will be assessed against the Trust's Leadership and Management standards and any other sets of standards published by the Secretary of State that are relevant to them.

#### **Performance of Support staff**

Before, or as soon as practicable after, the start of each Performance Management period, support staff will be informed of any sets of standards that are relevant to them and against which their performance in that Performance Management period will be assessed.

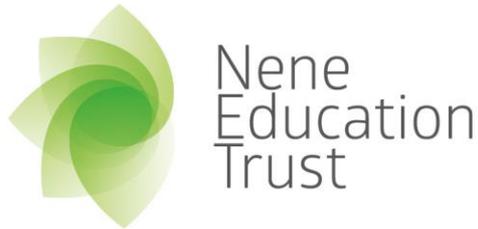
#### **5. Reviewing performance**

##### **5.1**

- 5.1.1 The performance of all staff will be reviewed on an on-going basis, evaluating information from a range of sources and not just the performance management meetings. The Nene Education Trust believes it is important that a variety of methods is used to check that high standards of professional performance are established and maintained, identify any particular strengths and areas for

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development employees may have and gain useful information which can inform Academy improvement more generally.

- 5.1.2 For teachers, this will include formal observation of classroom practice, lesson dips/drop ins or learning walks, work scrutiny, data analysis and other methods to assess associated responsibilities such as planning and marking and any other post holder responsibilities.
- 5.1.3 All observations, lesson dips and learning walks will be carried out in a supportive fashion and in accordance with the observation protocols determined by the Principal following consultation with the staff to whom it applies. Refer to each Academy's observation protocols for more details.
- 5.1.4 Teachers' performance will be regularly observed but the amount and type of classroom observation will depend on the individual circumstances of the employee and the overall needs of the Academy.
- 5.1.5 All classroom observations will be carried out in a supportive fashion and by trained observers with QTS.
- 5.1.5 Employees who have responsibilities outside the classroom should also expect to have their performance of those responsibilities observed and assessed.

## **5.2 Support staff**

- 5.2.1 Support staff performance management will focus on the job description of the employee and the expected standards of performance will be made clear by the reviewer (taking account of relevant performance standards).

## **6. Development and support**

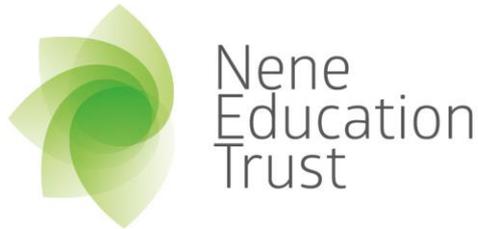
- 6.1 Performance management is a supportive process which will be used to inform continuing professional development. The Nene Education Trust wishes to encourage a culture in which all employees take responsibility for improving their performance through appropriate development.
- 6.2 Professional development will be linked to Academy improvement priorities as well as the on-going professional development needs and priorities of individuals.

## **7. Feedback**

- 7.1 Employees will receive constructive feedback on their performance throughout the year. Following an observation of work performance, feedback will be provided as soon as practicable and no later than 5 days after an observation has taken place or other evidence has come to light.

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Feedback will highlight particular areas of strength as well as any areas that need attention.

Whilst it is perfectly normal for progress through the Performance Management cycle to be monitored and additional support provided where necessary, occasionally a staff member may be identified as having particular difficulties in achieving a satisfactory standard of performance.

## **8. Informal Support Arrangements**

8.1 Where concerns arise about an employee's performance through monitoring, observations of performance or via other sources of information (for example parental complaints), the reviewer will meet with the employee to discuss these concerns and a way forward as part of a Support and Challenge programme. The meeting will:

- give clear feedback about the areas of concern;
- give the employee the opportunity to comment and discuss the concerns and establish the likely causes of poor performance and identify any training needs/support needed (e.g. coaching, mentoring, structured observation) ;
- clarify the required standards and agree any support (e.g. coaching, mentoring, structured observations), that will be provided to help address those specific concerns;
- make clear how, and by when, the reviewer will review progress
- if it is appropriate to revise objectives, it will be necessary to allow sufficient time for improvement.
- the amount of time agreed for the Support and Challenge programme will reflect the seriousness of the concerns but should not be longer than 6 weeks
- the reviewer should explain the implications and process if no, or insufficient, improvement is made.

8.2 When progress is reviewed, if the reviewer is satisfied that the employee has made, or is making, sufficient improvement, the performance management process will continue as normal, with any remaining issues continuing to be addressed through that process.

8.3 The reviewer will keep a note of any concerns, the support given and the review judgement. A copy of this note will be given to the employee. (See 13.4 below). If required, this will inform any decision on transition to the capability procedure.

## **9. Transition to capability**

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- 9.1 If the reviewer is not satisfied with progress, the employee will be notified in writing that the Performance Management system will no longer apply and that his/her performance will be managed under the capability procedure. The employee will be invited to a formal capability meeting. The capability procedures will be conducted as in part B of this policy.

## 10. Annual assessment

- 10.1 Performance and development priorities will be reviewed and addressed on a regular basis throughout the year. The employee will receive as soon as practicable following the end of each Performance review period, a written Performance Management report and will have the opportunity to comment in writing.
- 10.2 The performance of each employee covered by the Performance Management policy will be formally assessed at the end point of the annual Performance Management cycle.
- 10.3 All staff will receive their completed written Performance Management reports by 31 October, except Principals and CEO who will receive theirs by 31 December.
- 10.4 The completed Performance Management report will include:
- details of the employee's objectives for the Performance Management period in question;
  - an assessment of the employee's performance of their role and responsibilities against their objectives and, for teachers, against the relevant standards; for support staff consideration against relevant performance standards.
  - an assessment of the employee's training and development needs and identification of any action that should be taken to address them. The assessment of performance and of training and development needs will inform the planning process for the following Performance Management period.
  - a recommendation on pay where that is relevant. Pay recommendations will be made by 31 December for the CEO and Principals and no later than 31 October for all other staff.

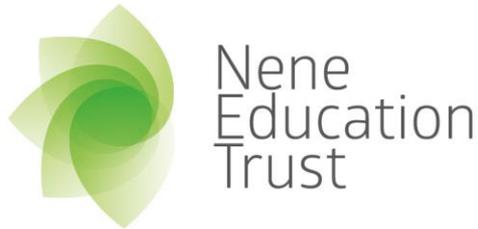
## 11. Appeals

- 11.1 Staff will have the right to comment on the Performance Management report and through discussion the need to appeal may be avoided.

Reviewers have a right of appeal against any of the entries in their Performance Management written report. Details of the appeals process

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are available from the HR Director. The first line of appeal will be by making representations at a meeting with the reviewer. If the matter is still unresolved after this stage the matter will be heard by the Principal (CEO, if the Principal is the reviewer). The final right of appeal would be to the Appeals Committee of the Trustees using the Trust's grievance procedures.

Appeals on matters relating to pay progression will be dealt with under the procedure set out in the Trust's pay policy.

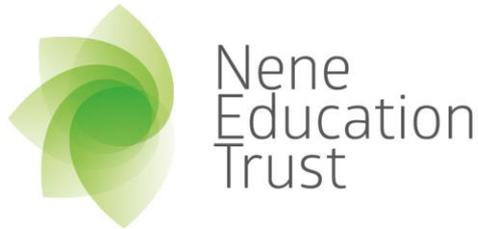
## **Part B - Capability Procedure**

### **1. Formal Capability Meeting**

- 1.1 This procedure applies only when there are serious concerns about an employee's performance that the Performance Management process has been unable to address. If under Part A above an employee's performance, who is covered by Part A, is not wholly satisfactory, the senior manager, or other person with line management responsibility for the employee, will invite the employee to a formal capability meeting to discuss with the employee the identified poor performance as specifically as possible.
- 1.2 The senior manager will write to the employee at least 5 working days in advance to inform him/her about:
  - a) the date, time and place of the meeting.
  - b) the basic details of the concerns about the employee's performance
  - c) the employee's right to be accompanied by a representative of his/her trade union or a workplace colleague of his/her choice
  - d) the titles of enclosed copies of any documents to be used at the meeting.  
names of any witnesses to be called  
his/her right to call witnesses on his/her behalf.
  - e) The name and office of any adviser who will accompany the senior manager at the meeting.An extra copy, together with any enclosures, will be provided for his/her companion.
- 1.3 This meeting is intended to establish the facts. It will be conducted by a senior manager delegated by the Principal (or the CEO for Principal). The meeting will allow the employee to respond to concerns about his/her performance and to make any relevant representations. This may provide new information or a different context to the information/evidence already collected.
- 1.4 The senior manager may conclude that there are insufficient grounds for pursuing the capability issue and that it would be more appropriate to continue to address the remaining concerns through the Performance Management process. In such cases, the capability procedure will come to an end.

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- 1.5 The senior manager may also adjourn the meeting if it is decided that further investigation is needed, or that more time is needed in which to consider any additional information. In other cases, the meeting will continue.
- 1.6 During the meeting, or any other meeting which could lead to a formal warning being issued, the senior manager will:
- Identify the poor performance and in the case of a teacher which of the teaching standards are not being met;
  - Ensure the employee is given an opportunity to ask questions, present evidence, call witnesses, respond to evidence and make representations;
  - Establish the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement;
  - give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal capability procedures which may include the setting of new objectives focused on the specific area/s of poor performance that need to be addressed. It will include any success criteria that are appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made;
  - identify whether there are further measures which may improve performance and explain any support that will be considered and planned to help the employee, e.g. in-service training, visits to other Academy's, discussion with appropriate colleagues or professionals;
  - set out the timetable for improvement and explain how performance will be monitored and reviewed.
  - the timetable will depend on the circumstances of the individual case but will be reasonable and proportionate, between four and ten weeks in normal circumstances, and will provide sufficient opportunity for improvement to take place. The length of time required will depend on the concerns raised with the employee, the nature of any support and training required, and sufficient time to establish whether performance has improved; and
  - warn the employee formally that failure to improve within the set period could lead to a final written warning which could then lead to his/her dismissal.
  - informed the employee of the right of appeal
  - agree with the employee and any companion the date of the formal review meeting

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- 1.7 Notes will be taken of formal meetings and a copy sent to the employee and any companion. Where a first warning is issued, the employee will be informed in writing of the matters discussed in 1.6 above. S/he will also be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in a final written warning which could then lead to dismissal if wholly satisfactory performance is not achieved, together with the time limit for appealing against the first written warning.

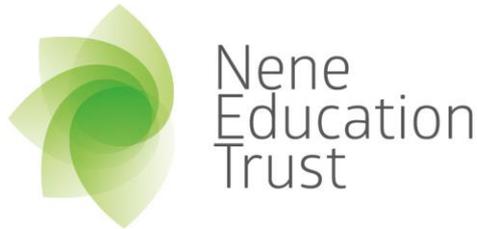
If the concerns relate to a lack of capability that poses a risk to the health, safety or well-being of children, or is likely to result in serious damage to pupils' education, the shorter timescale may be appropriate. In such cases, the senior manager may exceptionally decide to issue a first and final written warning if to do otherwise would expose students to serious risk in terms of their health, safety, well-being or educational prospects.

## **2. Sickness absence and the use of this procedure**

- 2.1 It is important that sickness absence should not delay or avoid the use of formal capability procedures. It is in the interests of all parties to address concerns about performance without undue delay. When sickness absence occurs, arrangements will normally be made to seek medical advice from an occupational health adviser to assess the employee's health and fitness for continued employment with the Nene Education Trust.
- 2.2 Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements, including changing the employees duties or providing additional equipment or training. We may also consider making adjustments to this procedure in appropriate cases e.g. moving from this procedure to policies used by the Trust to terminate the employment of the employee on the grounds of ill health. In these circumstances, the Trust will seek medical advice from an occupational health adviser.
- 2.3 If an employee's medical condition is not serious enough to warrant a consideration of termination of employment on the grounds of ill health, the occupational health adviser will normally be asked to assess whether an employee absent through sickness is fit enough to attend a meeting under this procedure. In the event that the employee is deemed not fit to attend a formal capability meeting, in most circumstances, the meeting will go ahead as planned and s/he may present a written submission for consideration and/or be represented by a companion in her/his absence.

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2.4 If sickness absence occurs at any stage in the process, the Senior Manager reserves the right to retain agreed timescales for the monitoring and review period but will give due consideration to individual circumstances.

### **3. Monitoring and review period following a formal capability meeting**

3.1 A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. Following this monitoring and review period, the employee will be invited to a formal review meeting (see paragraph 4 below), unless s/he had been issued with a final written warning, in which case s/he will be invited to a decision meeting (see paragraph 6 below).

### **4. Formal review meeting**

4.1 At least 5 working days before the date for the formal review meeting a written reminder will be given to the employee together with details of the meeting as set out in paragraph 1.2 above.

4.2 The formal review meeting will follow a similar procedure to that identified for the formal capability meeting as set out in paragraph 1.6 above.

4.3 If the senior manager (CEO for the Principal) is satisfied that the employee has made sufficient improvement, the formal capability procedure will cease and the Performance Management process will re-start where the employee is subject to Part A above.

4.4 In cases:

- where some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period;
- where no, or insufficient improvement has been made during the monitoring and review period, the employee will receive a final written warning.

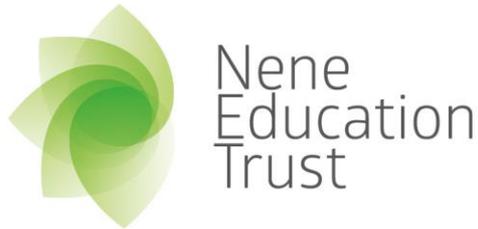
4.5 Notes will be taken at the formal review meeting and a copy will be sent to the employee and any companion.

4.6 Where a final warning is issued, the employee will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale), may result in dismissal and will be given information about the further monitoring and review period and the procedure and time limits for appealing against the final written warning. The date of the decision meeting will be agreed with the employee and any companion.

4.7 At this stage, rather than refer the matter to a decision meeting, consideration could be given to the employee being given a different range of duties or an alternative post. By agreement, this may include transfer to a

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post suited to the employee's capabilities. If this post is at a lower salary level, the substantive lower salary would apply.

## **5. Right of Appeal against a formal written warning**

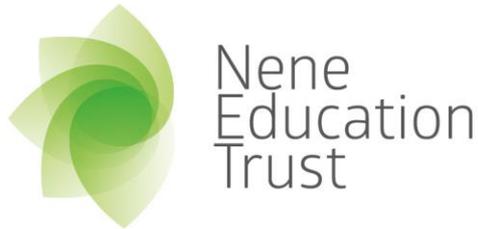
- 5.1 If an employee feels that a decision to issue a first and/or final written warning, is wrong or unjust, s/he may appeal in writing against the decision
- 5.2 Appeals against a written warning shall be restricted to considering the reasonableness of the decision made by the senior manager, any relevant new evidence not previously available to the senior manager or any procedural irregularities. A statement giving the reasons for the appeal should be submitted to the Clerk to the Trustees within 10 working days of the formal written warning having been received.
- 5.3 All appeal hearings will be held as soon as possible after receipt of the appeal at an agreed time and place.
- 5.4 The appeal will be heard by the Appeals Committee of the Trustees. The number of Trustees on the Appeals Committee will not be less than three. The panel may be advised by the HR Director (if not previously involved in the case) or an external person engaged for the purpose by the Trustees. The Committee can confirm the warning, reduce a final warning to a warning, or cancel the warning. The employee will be informed in writing of the results of the appeal hearing as soon as possible.
- 5.5 The same arrangements for notification and the right to be accompanied by a companion will apply for appeal hearings as for the formal capability review meetings and, as with those meetings, notes will be taken and a copy sent to the employee and any companion.
- 5.6 Pending any appeal the employee will be expected to continue to work in accordance with targets set for the next stage of the procedure and his/her progress towards the achievement of these targets may be monitored during this period.

## **6. Decision meeting**

- 6.1 At least 5 working days before the date of the decision meeting a reminder will be given in writing together with details of the meeting as in paragraph 1.2 above. For Academy based staff, the meeting will be conducted by the Principal. For the Principal and Central Services Team the meeting will be conducted by the CEO. For the CEO, the meeting will be conducted by the Trustees' HR Review Committee.

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- 6.2 If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the Performance Management process will re-start where the employee is subject to Part A above.
- 6.3 If progress has been made and there is confidence that wholly satisfactory performance will be achieved by a short extension, it may be appropriate to extend the monitoring and review period rather than to dismiss. The final written warning will be extended for a short specified assessment period.
- 6.4 If performance has remained unsatisfactory, a decision will be made that the employee will be dismissed. The employee will be informed in writing as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and whether the notice is to be served or there will be pay in lieu of notice, and the right of appeal.

## **7. Right of Appeal against a decision to dismiss**

- 7.1 The employee has a right of appeal to the Appeals Committee of the Trustees against a decision to dismiss.
- 7.2 The Appeals Committee shall consist of at least 3 Trustees, none of whom will have had any previous involvement in the case.
- 7.3 The employee's notice of appeal should be sent to the Clerk to the Trustees within 10 working days of receipt of the written decision to dismiss, setting out the grounds of appeal.
- 7.4 Appeal hearings should be held as soon as possible after receipt of the appeal and will be conducted in the same way as appeals referred to in paragraph 5 above.

## **8. Notice of Dismissal**

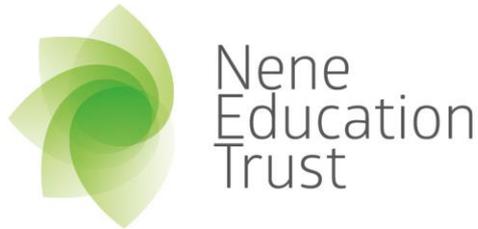
- 8.1 Following a decision to dismiss, the employee will be notified in writing of the dismissal and whether it will be with notice or with pay in lieu of notice in accordance with the decision of the Principal (or CEO).
- 8.2 In the event that the Appeal Committee of the Trustees decides not to uphold the decision to dismiss, the employee shall be informed immediately and the notice of dismissal shall be immediately withdrawn.

## **9. Grievances arising during the procedure**

Where an employee has a grievance against the way the senior manager has conducted the procedure this will normally be dealt with under the appeals process

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set out above. However, in very exceptional circumstances, where the behaviour of the senior manager is the cause of the grievance, it may be appropriate to suspend this procedure for a short period until the grievance has been considered.

#### **10. Trade Union Officials**

Although normal performance standards must apply to an employee who is a lay trade union official, no disciplinary action, beyond an informal warning will be taken until the circumstances of the case have been discussed with the relevant professional trade union officer.

#### **11. Confidentiality**

11.1 Our aim is to deal with performance 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 this capability procedure.

11.2 The employee, and anyone accompanying the employee (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure. Failure to observe confidentiality could be a reason for disciplinary action under the Nene Education Trust's disciplinary procedure.

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