

CAPABILITY PROCEDURE

Last Review:	January 2019
Approved by Governors:	
Next Review:	January 2021

Vision

Loreto College is centred in God, rooted in Christ and animated by the spirit of Mary Ward, the founder of the Institute of the Blessed Virgin Mary. Our vision is that it will be an educational community where each person has the experience of being loved and valued as a sacred individual created by a loving God; a community where students enjoy an enriching and liberating education that helps them grow into the fullness of life and empowers them to be men and women of courage who are alive to the needs of humanity and committed to making a better world.

Introduction

The College aims to be an educational community which gives expression to the core values of Mary Ward - freedom, justice, sincerity, truth, joy, excellence and internationality.

Loreto College has the highest expectations of personal, academic and professional excellence. This document sets out the procedures that the College will follow in the event that an issue of professional capability arises. In doing so, the College will be mindful of its core values and of its duty of care to all its staff and students and will endeavour to act at all times with justice, compassion and respect for the dignity and worth of all those involved in the process.

Preamble

This procedure is intended to give clear guidance to all concerned where issues of professional capability arise. The procedure is published as part of the College's staffing policies and is designed to uphold and safeguard the high standard maintained by College staff. This is not designed to deal with matters of alleged misconduct for which separate procedures have been agreed. Employees are recommended to seek professional advice at all stages. In the case of union members this may be provided through their union representative.

This procedure should be read in conjunction with the College's Safeguarding Children and Adults Policy and Attendance Management Policy. It is designed to be applicable to all staff except those Designated Senior Post Holders listed in the Performance Management Procedure for Senior Post Holders and those staff within 12 months of their appointment for whom separate procedures apply.

This policy

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At any stage of this procedure, the employee is entitled to be accompanied by a trade union representative or work colleague. The employee and the employer should notify HR who will accompany them, at least 24 hours before any arranged meeting.

1. STAGE 1 – INFORMAL STAGE

- 1.1 It is the responsibility in the first instance of the line manager, with the support of HR, to offer suitable help and advice to employees where alleged incompetence such as a lack of skill, aptitude and/or ability or unsatisfactory performance is identified.
- 1.2 The nature of the alleged shortcoming will determine the nature of the help to be provided. The help could include one or more of the following:
 - (i) counselling;
 - (ii) a review of commitments and responsibilities;
 - (iii) availability of suitable materials (e.g. for teaching staff; curricular guidelines and programmes);
 - (iv) availability of training;
 - (v) opportunities to see good practice within the College or other appropriate establishments.
- 1.3 The actions taken, the support given, the staff involved and the agreed review timescales and methods will be shared by HR with the employee, their line manager and Principal or Designated Alternate.

2. STAGE 2 – FORMAL STAGE

- 2.1 If, after help and advice given under Stage 1, the employee's performance is still unsatisfactory, the line manager must inform the Principal or Designated Alternate and advise the employee in writing that her/his performance is still unsatisfactory.
- 2.2 The Principal or Designated Alternate will nominate a senior member of staff who will establish the facts and seek ways of improving the employee's performance. This person may invoke the help of other appropriate persons to assist.
- 2.3 Where, after an agreed reasonable time, there has been no marked improvement in performance, or improvement has not been maintained, the nominated person will inform the employee in writing that adverse criticism persists.
- 2.4 S/he will also be informed of the areas where improvement is still necessary and the period for which appropriate support will continue to be made available.

- 2.5 The actions taken, the support given, the staff involved and the agreed review timescales and methods will again be shared by HR with the employee, their line manager and Principal or Designated Alternate.

3. STAGE 3

NB: Although the procedures outlined below follow the same stages as in the Disciplinary procedures, capability is not a disciplinary matter.

- 3.1 If, after receiving the advice and support outlined above, the employee's performance continues to be unsatisfactory following the review processes determined in Stage 2, an informal oral warning may be issued. An informal oral warning issued in this way is not part of the formal procedure.
- 3.2 If the issue is more serious, or the employee's performance continues to be unsatisfactory, the issuing of further guidance and additional ongoing support will at the same time represent a first formal warning. A first written warning should be issued to the employee and if desired to his/her representative, setting out the nature of the capability issue(s), the improvement requirement, agreed review timetables and the likely consequences of inadequate improvement being made. A record of this should be kept on file. At the same time, the employee should be informed of her/his right to appeal against the warning (see Section 4).

If, in the opinion of the person(s) responsible for managing this process, there is little progress being made, the facility exists to omit stages of the warning process and even for the view to be taken that the capability is of such a serious nature to be deemed gross incompetence and subject to consideration of summary dismissal.

- 3.3 Where, after the agreed review timescales, there is still inadequate improvement in the employee's performance, a final written warning may be issued. Other possible forms of action which may be considered appropriate are alteration of duties and responsibilities, transfer to another post, or demotion.
- 3.4 If performance is still unsatisfactory and/or the employee still fails to reach the prescribed standards then dismissal may result. If the Principal (or Designated Alternate if the authority to dismiss has been formally delegated to another holder of a senior post) does decide to dismiss, the employee and, if desired, her/his representative should be given written reasons for dismissal, the date on which employment will terminate and the right of appeal (see Section 4).
- 3.5 If the employee does decide to appeal against the notice to dismiss, then the dismissal shall not take effect until the appeal has been determined, unless the dismissal has been summary as the result of gross incompetence.

4. APPEAL

- 4.1 The ACAS Code of Practice 1: Disciplinary and Grievance Procedures provides for an appeal against any formal disciplinary action, or formal action taken under Stage 3 of this

procedure (which would not, therefore, include informal oral warning under paragraph 3.1 above) which must be to a higher authority. If action has been taken by the Principal, then the appeal must be to the Board of Governors (or a sub-committee of the Board of Governors or the Chair of the Board of Governors if so delegated under the Articles). If, however, the Principal empowers another member of staff (Delegated Alternate), e.g. an Assistant Principal to take formal action, then the appeal should be considered by the Principal.

- 4.2 The employee may be accompanied by a work colleague or trade union representative at the appeal hearing.
- 4.3 The appeal should be lodged in writing with the Clerk to the Governors within ten working days of receipt of the letter informing the employee of the decision.
- 4.4 The decision at appeal is final.

5. RESERVATION

- 5.1 It is the intention that the procedures provided for in this document shall be followed in sequence. The College reserves the right, however, to determine that the incompetence is of a sufficiently serious nature that any or all of the stages may be omitted. Dismissal, other than summary dismissal, however, is not an option if no previous warning has been issued and is extant.

6. CONFIDENTIALITY

- 6.1 As part of the application of this policy, the College may collect, process and store personal data in accordance with the 'Data Protection Policy GDPR' in the collecting, holding and sharing of information in relation to our workforce.