



Capability Policy and Procedure

Policy statement

It is Bradpole Preschool's policy to ensure that concerns regarding employee performance are dealt with fairly, consistently, and sensitively, and that appropriate steps are taken to establish the facts. This procedure provides a framework within which the Preschool Leads and management committee can work with employees to maintain satisfactory performance standards and encourage improvement where necessary.

Employees will not normally be dismissed or subjected to formal sanctions for poor performance unless:

- they have been provided with a written statement outlining the concerns regarding their performance;
- a fair capability hearing has taken place; and
- they have been given the right to appeal any formal decision, unless only an informal warning has been issued.

Employees will not usually be dismissed for performance reasons without prior warnings, except in cases involving:

- serious gross negligence; or
- employees who have not successfully completed their probationary period.

This procedure applies to all employees regardless of length of service or status. It does not apply to agency workers or self-employed contractors. This procedure is intended as guidance only and does not form part of an employee's contract of employment.

Each member of staff will participate in a 360° appraisal during the Summer Term, which will be reviewed annually. At each supervision meeting, staff will sign to confirm their agreement with the discussion, decisions made and any agreed actions. These actions will be reviewed at the next supervision meeting.

Disabilities

At each stage of this procedure, consideration will be given as to whether unsatisfactory performance may be related to a disability or medical condition.

Where appropriate, reasonable adjustments may be considered in accordance with the Equality Act 2010.

These may include adjustments to duties, working arrangements, training, supervision, or support.

Employees who experience difficulties relating to a disability or medical condition are encouraged to discuss these with the Chairperson or Preschool Leads as soon as possible.

Informal discussions

In the first instance, performance concerns should normally be addressed informally between the employee and the Preschool Leader as part of day-to-day management and supervision.

Informal discussions may be used to:

- identify areas of concern;
- clarify the required standards expected at Bradpole Preschool;
- identify possible causes of poor performance;
- identify any training or support needs;
- agree targets for improvement; and
- set a reasonable review timescale.



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A formal capability procedure may be used where:

- informal action has not resulted in sufficient improvement; or
- the concerns are sufficiently serious to require formal action.

Capability hearings

A capability hearing will normally take place at each formal stage of the procedure unless impracticable.

Employees will receive written notice of:

- the date, time, and location of the hearing;
- the concerns regarding their performance; and
- the basis for those concerns.

Employees will be given a reasonable opportunity to consider the information before the hearing.

The hearing will normally be conducted by the Preschool Leader. Employees have the right to be accompanied by a work colleague or trade union representative.

Employees are expected to make all reasonable efforts to attend hearings. Failure to attend without good reason may result in decisions being made in their absence.

If the employee or their companion cannot attend at the proposed time, an alternative date may be arranged where reasonable.

A hearing may be adjourned where:

- further investigation is required; or
- additional information needs to be considered.

Where new information arises, the employee will be given reasonable time to consider it before the hearing reconvenes.

Employees will receive written confirmation of the outcome, including reasons for the decision and the right of appeal, normally within one week of the hearing wherever practicable.

Stage 1: First capability hearing

Where performance remains unsatisfactory, and informal action has either failed or is inappropriate, a First Capability Hearing will be arranged.

The purpose of the hearing is to:

- explain the required standards that have not been met;
- identify the likely causes of poor performance;
- allow the employee the opportunity to respond and ask questions;
- discuss support measures such as additional training, mentoring, or supervision;
- agree targets for improvement; and
- set a review period.

Following the hearing, the employee may receive a First Written Warning outlining:

- the areas of concern;
- the required improvements;
- any support measures to be provided;
- the review period; and
- the consequences of failing to improve.



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The warning will normally remain active for six months for capability purposes.

A record of the warning will be retained on the employee's personnel file.

At the end of the review period:

- no further action may be taken if performance improves sufficiently;
- the matter may progress to Stage 2 if concerns remain; or
- the review period may be extended where there has been substantial but insufficient improvement.

Stage 2: Second capability hearing

If performance does not improve sufficiently within the review period, or further concerns arise while the First Written Warning remains active, a Second Capability Hearing will be held.

The purpose of the hearing is to:

- review the areas where standards have not been met;
- identify why previous support measures have not achieved the required improvement;
- allow the employee to respond and ask questions;
- consider additional support measures;
- set revised targets; and
- establish a further review period.

Following the hearing, the employee may receive a Final Written Warning.

The Final Written Warning will outline:

- the areas of continuing concern;
- required improvements;
- support measures to be provided;
- the review period; and
- the consequences of failing to improve further.

The Final Written Warning will normally remain active for twelve months for capability purposes.

At the end of the review period:

- no further action may be taken if performance improves sufficiently;
- the matter may progress to Stage 3; or
- the review period may be extended where appropriate.

Stage 3: Dismissal or redeployment

If performance remains unsatisfactory following the Final Written Warning, a Stage 3 Capability Hearing will take place.

The hearing will consider:

- areas where performance remains below the required standard;
- whether any further support or adjustments could reasonably be made;
- whether there is a realistic likelihood of improvement within a reasonable timeframe; and
- whether there are any suitable alternatives to dismissal, including redeployment where appropriate.

In exceptional circumstances, a further review period may be agreed where improvement is considered achievable.



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Where performance remains unsatisfactory, Bradpole Preschool may:

- redeploy the employee to another suitable role, where available; or
- dismiss the employee.

Dismissal will normally be with notice or payment in lieu of notice unless dismissal is due to gross misconduct, in which case dismissal without notice may apply in accordance with the Disciplinary Policy.

Appeals

Employees may appeal against the outcome of any stage of the formal capability procedure.

Appeals must:

- be submitted in writing;
- clearly state the grounds for appeal; and
- be addressed to the Chairperson within the specified timescale.

Where practicable, employees will receive between two days' and one week's written notice of the appeal hearing. The appeal will normally be heard by a manager or committee member not previously involved in the matter.

Employees may be accompanied by a work colleague or trade union representative at appeal hearings.

Where new matters are raised, further investigation may be carried out. Any new information will be shared with the employee before the appeal hearing.

Following the appeal, Bradpole Preschool may:

- confirm the original decision;
- revoke the original decision; or
- substitute an alternative outcome.

The outcome of the appeal will normally be confirmed in writing within ten working days wherever practicable.

There is no further right of appeal.

If dismissal is overturned on appeal, continuity of employment and pay will be restored without loss.

Legislation and guidance

This policy is based on the following legislation and guidance:

- Employment Rights Act 1996
- Equality Act 2010
- Employment Relations Act 1999
- Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR)
- Health and Safety at Work etc. Act 1974
- ACAS Code of Practice on Disciplinary and Grievance Procedures (current edition)
- Early Years Foundation Stage (EYFS) Statutory Framework (effective from September 2025)

This policy was adopted by the Bradpole Preschool Committee

During the Summer Term 2026

Date to be reviewed Summer Term 2027