

# LANCASHIRE TEACHING AGENCY

## CAPABILITY PROCEDURE (SEPTEMBER 2022)

### **1. Introduction**

This procedure is intended to give clear guidance to all concerned where issues of professional capability are at stake. The procedure is published as a part of the LTA's staffing policies and is designed to uphold and safeguard the standards maintained by LTA supply teachers in Lancashire.

### **2. Scope**

This procedure applies to all teachers employed by Lancashire County Council through the LTA in Schools as centrally managed staff. Schools in which a supply teacher may be placed have no formal role in applying this procedure.

This procedure is concerned with situations where a teacher may be experiencing significant difficulty in discharging their professional responsibility. Where possible, support will be provided through the LTA CPD Policy.

This procedure does not cover issues regarding misconduct, which will be dealt with in accordance with LTA's Disciplinary Procedure, or incidents involving safeguarding matters, which will be handled in accordance with Keeping Children Safe in Education .

Where complaints are made against supply teachers that do not relate to their capability, the Complaints Procedure will be used. At the conclusion of any investigation under the Complaints Procedure, it may be determined that subsequent action under this procedure may follow.

### **3. General Principles**

In most cases, issues relating to professional capability can be dealt with informally through professional advice and support without recourse to the formal Capability Procedure. However, where issues of capability are raised, supply teachers are advised to consult their trade union.

It is not compulsory for supply teachers to engage with the Capability Procedure unless the Supply Teacher wishes to continue working for the LTA. Therefore, the Supply Teacher can elect to de-register from LTA as an alternative to engaging with the procedure, which will lead to the teacher being removed from the LTA register. In the absence of the Supply Teacher making a declaration that they wish to de-register, it is expected that the Supply Teacher will engage with the procedure. Non-compliance will result in de-registration.

At all meetings convened under this procedure, the right to representation by a trade union representative or work colleague applies.

Where concerns about a supply teacher's capability are raised, and a decision is taken to conduct an investigation under this procedure, the LTA reserves the right, at its discretion, not to offer the supply teacher any placements pending further

investigation. For this reason, lesson observations will not form part of the package of support agreed under this procedure.

Where it is assessed, using this procedure, that a supply teacher does not meet the required standard of professional capability for LTA, the supply teacher will be de-registered and will not be able to work for LTA until they have demonstrated the required standard of professional capability.

In the unlikely event that a LTA supply teacher is judged to have failed in their professional duties to the extent that the safety and welfare of pupils in their care are put at risk, in addition to de-registration, a report will be made to the Disclosure and Barring Service and the Teaching Regulation Agency as appropriate.

#### **4. Assessment of Professional Capability**

The LTA undertakes to ensure professional capability at initial registration and throughout the period of employment with LTA. The registration of supply teachers is done through a process of checking evidence obtained from pre-recruitment checks, interviews, references and the employee's explanations of their own experience and areas of expertise. When the LTA is satisfied that the supply teacher meets the professional standards, then 'Registration' occurs.

LTA Professional Standards are a list of expectations placed on supply teachers that are agreed to during the registration procedure. In addition, supply teachers' performance should be assessed against the [Teacher Standards](#). Supply teachers are also subject to the terms of the School Teachers Pay and Conditions Document, relevant School, LTA and County Council policies and procedures, and the Burgundy Book (Conditions of Service for School Teachers in England and Wales).

LTA's quality assurance monitoring covers feedback from schools regarding the performance of supply teachers during their placements. Supply Teachers can also access performance management arrangements – the LTA CPD Policy and the Performance Management Policy for centrally managed teachers set out these arrangements.

These processes ensure that supply teachers are clear about the expectations of them within their role, and provide LTA with information and evidence to act upon in circumstances where the capability of the supply teacher is questioned.

#### **5. Informal stage**

##### CPD Policy

It is recognised that there are particular points in a teacher's career where additional or concentrated advice or support may be necessary. Under-performance or lack of capability can affect teachers at all levels at any time in their career and, in such circumstances, teachers are entitled to sympathetic consideration and support. Where difficulties are being experienced these will be discussed by the LTA Branch Manager with the supply teacher, with a view to identifying the origin of the difficulties and appropriate support and guidance through the LTA CPD Policy. The aim of this is to help the teacher in the better performance of their duties, in the interests of both the teacher and the LTA.

## 6. Formal Stage

### Stage 1 – LTA Branch Manager Level

Where the CPD Policy cannot be used to address the areas of concern about the supply teacher's capability and there is the possibility of deregistration being considered, the LTA Branch Manager will conduct an investigation to establish the facts.

Where the LTA Branch Manager determines that further action is required, a referral to the Authority will be made in order that a package of support can be arranged for the supply teacher.

The supply teacher will be invited to attend a support meeting, so that the pre-identified areas of concern can be discussed and a package of support (action plan) agreed for the supply teacher, using Annex 1 as a model framework. A date will be agreed between the Manager conducting the meeting and the supply teacher to review progress.

The supply teacher will be warned by the LCC Branch Manager that a failure to improve to the required standard at stage 1 could lead to action being taken at Stage 2.

If it is decided that sufficient improvement is evident, the supply teacher may be made available for future placement. From this time, the feedback reports received from schools in which the supply teacher is placed will be monitored to ensure the improvement is maintained.

If it is decided that insufficient improvement is evident, the matter will be considered under Stage 2 of the procedure.

### Stage 2 – LCC LTA Project Manager Level

Where there has not been sufficient improvement at Stage 1, the LTA Branch Manager will refer the matter to the LCC LTA Project Manager for further action. The supply teacher will be provided with a copy of the report.

The LCC LTA Project Manager will request that a further support meeting is arranged for the supply teacher.

The supply teacher will be invited to attend a further support meeting, so that the pre-identified areas of concern can again be discussed and a package of support (action plan) agreed for the supply teacher, using Annex 1 as a model framework. A date will be agreed between the Manager conducting the meeting and the supply teacher to review progress.

The supply teacher will be warned that a failure to improve at Stage 2 to the required standard could lead to de-registration.

If it is decided that sufficient improvement is evident, the supply teacher may be made available for future placement. From this time, the feedback reports received

from schools in which the supply teacher is placed will be monitored to ensure the improvement is maintained.

If it is decided that insufficient improvement is evident, the De-registration Procedure will be instigated (see Annex 2). The supply teacher will be notified of this decision in writing.

Any appeal against a decision to de-register the supply teacher will be heard by an appropriate LCC Senior Manager under the De-registration Appeal Procedure (see Annex 3).

There is no longer a statutory referral process for matters of capability involving teachers. However, where a teacher has been removed from the LTA register due to capability concerns, this information must form part of any future reference provided for the supply teacher.

### **Stage 3 – Appeal against de-registration**

The supply teacher has the right to appeal against the decision to de-register to the LCC Senior Manager responsible for the LTA. The appeal must be submitted within 5 days of receipt of the letter of confirmation of de-registration.

The relevant LCC Senior Manager will hear the appeal against de-registration, and the decision will be notified to the supply teacher, in writing, within 3 working days of the appeal hearing. The procedure to be followed at the appeal hearing is that outlined in Annex 3.

The decision of the LCC Senior Manager is final.

**ANNEX 1**  
**THE PROFESSIONAL CAPABILITY OF TEACHERS MODEL FRAMEWORK**

PROBLEM AREA	CURRENT PERFORMANCE	EXPECTATIONS	HOW TO ACHIEVE	HOW/WHO MONITORS
Define the problem area.	Define the problem in greater detail - how does the problem present itself?	Set out what you would like to see in place. This should be in clear, measurable and achievable terms.	Indicate how you see the teacher reaching your expectations. Make arrangements for support clear.	Who will monitor progress and give feedback. Head/Deputy are key figures in process as is the School's Adviser.

## **Annex 2: Deregistration Procedure**

- 1.1. The LCC LTA Project Manager will convene a meeting where the supply teacher's case will be considered. Also in attendance may be a LCC Human Resources Representative who will advise on procedure and evidence. The LTA Branch Manager will also be invited to attend the meeting.
- 1.2. The supply teacher will be given 5 days' notice of the meeting and will have the right to be represented by a trade union representative or work colleague. They will also be provided with copies of any documentation that will be referred to during the meeting, including this procedure.
- 1.3. The LCC LTA Project Manager will consider all of the information obtained during the period of monitoring and review, including information from the LTA Branch Manager.
- 1.4. The supply teacher and/or their representative will have the right to ask questions related to the procedure of those present.
- 1.5. The supply teacher and/or their representative will be invited to respond and present their case.
- 1.6. The LCC LTA Project Manager and LTA Branch Manager will have the right to ask questions of the supply teacher.
- 1.7. The supply teacher and/or their representative will be invited to make a closing statement.
- 1.8. At the conclusion, the employee and all parties will withdraw except the LCC LTA Project Manager and the HR representative, in order that the LCC LTA Project Manager can deliberate in private. Should any party need to be recalled to clarify any points of uncertainty, all parties should return, even if the point giving cause for concern relates to one party only.
- 1.9. The supply teacher will be verbally informed of the decision, which will be confirmed in writing within 5 days, including details of the right of appeal.

### **Annex 3: Deregistration Appeal Procedure**

The LCC Senior Manager will be advised at the meeting by a LCC Human Resources Representative who will advise on Procedure and evidence.

#### **1 Procedure to be followed at the hearing**

- 1.1 The Management case will (normally) be presented by the LCC LTA Project Manager, who may be accompanied by the LTA Branch Manager.
- 1.2 The employee and/or their representative and the LCC Senior Manager will be entitled to question the persons referred to at 1.1 above.
- 1.3 The employee and/or their representative will be entitled to present a statement of case and will be entitled to call witnesses to support the case.
- 1.4 The LCC LTA Project Manager and the LCC Senior Manager will be entitled to question the persons referred to at 2.3 above.
- 1.5 The LCC LTA Project Manager will have the opportunity to sum up. No new evidence may be introduced at this stage.
- 1.6 The employee and/or their representative shall then also have the opportunity to sum up. No new evidence may be introduced at this stage.
- 1.7 At the conclusion, all parties will withdraw except the LCC Senior Manager and the HR representative, in order that the LCC Senior Manager can deliberate in private. Should any party need to be recalled to clarify any points of uncertainty, all parties should return, even if the point giving cause for concern relates to one party only.
- 1.8 The supply teacher will be verbally informed of the decision, which will be confirmed in writing within 5 days
- 1.9 There is no further right of appeal against de-registration.