



## Staff Probation Policy

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<b>Approved by:</b>	Board of Trustees
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## Associated documents

Form ONE80-01 – Probation Review Form

Template letters

## 1. Introduction

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- 1.1 As set out in the Scheme of Delegation for ONE Academy Trust, the trustees retain powers to set human resources policies and procedures (as the legal employer to all staff), developing appropriate terms and conditions of service across the trust.
- 1.2 This policy sets out the framework for applying probation periods to new staff appointments.
- 1.3 The purpose of the probationary period is to ensure that employees understand and are supported to achieve the required standards of performance, conduct and attendance required by the school/trust.
- 1.4 This procedure applies to all new employees regardless of their permanent, fixed-term, full or part-time status with the exception of Early Career Teachers. The Early Career Teachers Policy sets out the arrangements for Early Career Teachers. Where a new employee is employed on a fixed term/temporary contract of six months (or less) the probationary period will run concurrently with the contract.
- 1.5 The probation procedure is intended to provide a consistent and fair framework for monitoring and reviewing the performance of new employees in relation to:
  - Quality of work and understanding of role
  - Attitudes and motivation
  - Conduct and attendance
  - Compliance with all policies and procedures particularly those relating to safeguarding and promoting the welfare of children and young people
  - Adherence to health and safety responsibilities

- Leadership and management (if appropriate)
- 1.6 The expected standards of conduct and behaviour set out in the ONE Academy Trust policies and procedures including (but not limited to) the Staff Code of Conduct, the Bullying and Harassment Policy, the Sickness Absence Policy and the definitions of conduct set out in the ONE Academy Trust Disciplinary Policy apply to the employee whilst on probation. **The procedures for dealing with issues of conduct and capability may differ during the probation period.** If issues of conduct, poor performance or attendance arise during the probation period, the probation procedure will normally be used to address such matters.
  - 1.7 The trust/school may terminate the appointment at any time during the probationary period if a new employee clearly falls below the required standards of performance, conduct and/or attendance levels and if there is good reason to believe that insufficient improvement will be made in a reasonable timescale.
  - 1.8 This policy has been consulted on with staff and the recognised trade unions.
  - 1.9 This policy complies with our funding agreement and articles of association.
  - 1.10 This policy is non-contractual and may be amended at any time.
  - 1.11 This policy links to the following documents and trust policies:
    - ONE Academy Trust Appraisal and Capability Policy
    - ONE Academy Trust Staff Code of Conduct
    - ONE Academy Trust Sickness Absence Policy
    - ONE Academy Trust Bullying & Harassment Policy
    - ONE Academy Trust Staff Disciplinary Policy
    - ONE Academy Trust Staff Grievance procedures
    - ONE Academy Trust Safer Recruitment Policy & Procedures
    - ONE Academy Trust Equality and Diversity policies and procedures

## **Equality and Diversity**

- 1.12 The Board of Trustees recognises its responsibilities under relevant legislation, including the Equality Act 2010, the Employment Relations Act 1999, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, and the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.
- 1.13 The trust is committed to developing, maintaining and supporting a culture of equality and diversity in employment. The impact of the procedure will be monitored in accordance with the Equality Act 2010. See our Equality Objectives, associated Action Plan and our Equality Duty Report.
- 1.14 If employees need assistance or adjustments to understand and comply with this procedure and/or attend meetings, they should contact their line manager.
- 1.15 An Equality Impact Assessment has been conducted on the impact of this policy to:
  - Assess whether the policy has a differential impact on individuals or groups with protected characteristics.
  - Ensure the policy promotes equality of opportunity and eliminates discrimination.
  - Identify any potential barriers or adverse impacts and propose mitigating actions.

## **Definitions**

- 1.16 Unless indicated otherwise, in this policy the term:

- 'Teacher' refers to classroom teachers, middle and senior leaders, and the headteacher and any staff covered by the STCPD and Burgundy Book.
- 'Support staff' relates to all staff covered by the Green Book.
- 'Headteacher' also refers to any other title used to identify the Headteacher, where appropriate, or other Senior Manager delegated to deal with the matter by the Headteacher.
- 'Companion' refers to a person chosen by the employee to accompany them at a Formal Hearing, who shall be a trade union representative or a workplace colleague.
- 'Line Manager' refers to the person delegated to manage the probation period. This may be a Senior Manager other than the direct Line Manager.

1.17 A 'Probationary Appeal Committee' may be convened to hear an appeal against a decision to dismiss.

1.18 A 'Formal Hearing' is a meeting at which a recommendation to dismiss the probationary employee is considered. A Formal Hearing may be required at any stage during the probationary period.

1.19 Throughout this policy, reference to working days refers to school days (Monday to Friday during school term time and excluding bank holidays).

## **2. Probation period**

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2.1 The probation period for a new employee is six (6) months from the start date of employment and may be extended by an additional three months, where required. School holiday periods should be taken into account when determining the dates of the review periods and/or any extension of the probationary period.

2.2 Where a six month (or less) fixed-term contract is issued the probationary period will run concurrently with the contract.

## **3. Line manager responsibilities**

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3.1 The Line Manager will normally be the person responsible for the induction of a new member of staff. The appraisal process will run alongside the probationary procedure however in cases where a probationary employee's performance is not to the required standard, this will be dealt with, in accordance with the Probationary Policy.

3.2 It is the responsibility of the Line Manager to:

- ensure the new employee is aware of probationary policy and procedure;
- explain the expected standard of performance, conduct and attendance and how this will be monitored;
- complete probationary reviews and associated paperwork in accordance with the timelines specified in this policy;
- notify the new employee of the date/time of the probationary review meetings in advance, allowing sufficient time to prepare;
- identify any performance, conduct or attendance issues and take appropriate action in a timely manner, including seeking Human Resources (HR) advice;

- ensure systems are in place to support the new employee throughout the probationary period.

3.3 Line managers should adopt a supportive approach in the probationary review meetings, ensuring there is a two-way discussion about the employee's performance conduct and attendance.

#### **4. Employee responsibilities**

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4.1 New employees are required to advise their line manager of any information which could impact upon their performance, such as health conditions, to enable appropriate provisions to be made where possible.

4.2 Probationary employees are encouraged to raise any concerns they have about their role, training or support being provided, as part of the probationary review meetings.

4.3 Probationary employees should take an active part in the probationary review meetings and are required to attend all meetings specified in this policy.

#### **5. Disciplinary matters**

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5.1 Where allegations have been made against a probationary employee, a management investigation will be conducted into the matter. In cases of alleged serious misconduct/gross misconduct the Headteacher/CEO may suspend the probationary employee pending an investigation (see Disciplinary Policy for Definitions).

5.2 A suspension should only occur if one or more of the following applies:

- it is necessary in order to allow a proper investigation to take place;
- the continued presence of the employee at work may be prejudicial to a fair probationary hearing taking place;
- the allegations are serious enough to warrant consideration of dismissal.

5.3 Any suspension of an employee shall be with full pay.

5.4 The reason for the suspension shall be made clear to the employee in writing as soon as possible, including details of the allegations. Since suspension is not a formal sanction, an employee has no right of appeal against the decision.

5.5 Suspension should be regularly reviewed and kept to as short a period as possible. The employee should be kept informed of progress. The suspended individual will be provided with a named contact and subsequent contact details for support reasons.

#### **6. The procedure**

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6.1 The new employee will be provided with a copy of/access to this procedure and indicative dates for the probation meetings.

6.2 In the event that the probationary employee's standards fall below expectations, the line manager is responsible for initiating and taking action in accordance with this procedure.

6.3 The line manager should, in normal circumstances, conduct three reviews with the probationary employee, after 1 calendar month, 3 calendar months and 5 calendar months. Adjustments may need to be made to take account of school holiday periods. Reviews should take the form of a confidential meeting between the line manager and the probationary employee.

- 6.4 Additional probationary review meetings can be held (in addition to the 3 review meetings specified) where there are concerns that the probationary employee is failing to meet the standards required.
- 6.5 In circumstances, where there are serious concerns over the suitability of a probationary employee, the line manager may decide to progress straight to the final review/formal hearing or to reduce the time between the review meetings. This may include serious concerns about the probationary employee's ability to meet the required standards of performance, attendance or conduct, substantiated safeguarding or health and safety concerns or allegations that may constitute gross misconduct. In cases where there are serious concerns about suitability and there are reasonable grounds, the Trust reserves the right to cut short the probationary period and terminate the employment. HR advice must always be sought.
- 6.6 Employees must be informed from the outset of their employment of the purpose of probation and the standards of performance, attendance and conduct expected of them. They must be told that their progress will be monitored by their manager throughout the probation period and they should be encouraged to seek help and guidance whenever necessary.
- 6.7 The line manager must ensure they discuss any concerns with the employee as they arise rather than waiting until the pre-planned reviews or the end of the probationary period.
- 6.8 The appraisal of probationary employees is a continuous process. Managers should make regular checks of the employee's work, attendance and conduct and tell them how their progress is viewed. They should also be ready to listen to the employees.
- 6.9 Notes will be taken of all meetings and a copy sent to the employee.

#### **The First Review Meeting:**

- 6.10 To be completed approximately one month after the probationary employee's start date (taking into account any adjustments for school leave periods).
- 6.11 The purpose of this meeting is for the Line Manager to evaluate the probationary employee's performance and discuss any key issues. In cases where improvements in performance are required, full details should be given about the level of performance expected, where the employee is falling short based on their current performance and what additional support/training is to be provided.
- 6.12 Upon completion of this review meeting, the Line Manager should complete the Probation Period Review Form (Appendix 1). This should be signed by the Line Manager and the probationary employee. A copy should be given to the probationary employee and a copy saved on the employment file.

#### **The Second Review Meeting:**

- 6.13 To take place approximately 3 months after the probationary employee's start date (taking into account any adjustments for school leave periods).
- 6.14 The purpose of this meeting is to review the probationary employee's performance over the first three months. Where the First Review indicated that improvements in performance were required, the Second Review Meeting should be used to review the extent of any improvement that may or may not have taken place.
- 6.15 Where the probationary employee has not met the required standards, they will be informed that either:
  - (1) Continued failure to meet those standards could result in termination of contract.
  - (2) The probation period may be extended

(3) A final review meeting will be held early to consider terminating the contract. This will be constituted as a Formal Hearing.

- 6.16 In cases where improvements in performance are required, full details should be provided to the probationary employee about what aspects of their role they are required to improve on and the timeline for improvements to be made. The Line Manager should ensure the probationary employee has the appropriate level of training and support in place to achieve the required standard.
- 6.17 In cases where it appears evident that a further period of probation will not result in an improvement (e.g. misconduct, unacceptable attendance record without known mitigating factors), the Final Review Meeting will be brought forward and constituted as a Formal Hearing to consider dismissal as an outcome.
- 6.18 Upon completion of the Second Review Meeting, the Line Manager should complete the Probation Period Review Form (Form 80-01). This should be signed by the Line Manager and the probationary employee, and a copy should be given to the probationary employee and a copy saved on the employment file.
- 6.19 Where improvements are required, the Line Manager should monitor the probationary employee's performance regularly and may meet informally with the employee in addition to the review meetings specified in this policy.

#### **The Final Review Meeting:**

- 6.20 To take place approximately 5 months after the probationary employee's start date (taking into account any adjustments for school leave periods).
- 6.21 Prior to the Final Review meeting, which normally takes place after the probationary employee has completed five months' service, the Line Manager should decide whether:
- The probationary employee has passed their probation or;
  - The probation period should be extended. Consideration to extend may include the following, but this is not an exhaustive list:
    - Performance concerns have not been fully addressed but there is a reasonable expectation that satisfactory performance standards may be met by the end of an extension of the probation period.
    - The probationary employee has had an extended period of permitted absence and it has not been possible to assess performance.
    - Other exceptional circumstances.
  - The Final Review Meeting should be constituted as a Formal Hearing to consider termination of contract.

#### **The new employee has passed probation**

- 6.22 Upon completion of the final review meeting, if the probationary employee has passed their probation the Line Manager will complete the Probation Period Review Form (FORM ONE80-01). This will be signed by the Line Manager and the new employee. A copy of the form should be provided to the probationary employee and a copy should be placed on the employment file.

#### **The probation period is extended**

- 6.23 Where the decision is to extend the probation period, this will normally be limited to one extension and the extension will be no longer than 3 months (except in exceptional cases) unless the extension period includes school holidays, in which case it may be longer.

6.24 Before extending the probation period, the Line Manager should seek HR advice. The Line Manager will meet with the probationary employee for the final review meeting and will inform them that their probation period is being extended and the reason for the extension. The Line Manager will confirm the terms of the extension in writing to the probationary employee, including:

- The length of the extension, the date on which the extension will end and dates of review meetings, adjusted according to the extension.
- The reason for the extension and, if the reason is unsatisfactory performance, details of how and why performance has fallen short of the required standards.
- The performance standards or objectives that the employee is required to achieve by the end of the extended period of probation.
- Any support, for example further training, that will be provided during the extended period of probation and a statement that, if the employee does not fully meet the required standards by the end of the extended period of probation, the employment will be terminated.

6.25 There is no right of appeal to the extension of a probation period.

### **Termination of contract (dismissal)**

6.26 If the Line Manager decides that there is sufficient reason to terminate the employment contract before or at the end of the probation period, they will write to the probationary employee to inform them as soon as practicably possible that the Final Review Meeting will be conducted as a Formal Hearing.

6.27 The advice of the HR manager must be sought if it is intended to terminate a contract during the probation period.

6.28 If dismissal is a potential outcome of the Final Review Meeting, the meeting will be conducted by the line manager or in some cases, a senior manager may conduct the meeting instead of the line manager i.e.:

- The CEO (for the headteacher and executive team)
- Headteacher (for other teachers)
- Headteacher/member of the Senior Leadership Team (for support staff)
- The CEO appraisal committee of the board of trustees (for the CEO).

6.29 At least 10 working days' notice will be given of the Formal Hearing. The notification will contain sufficient information about the concerns about performance (including conduct and/or absence) and the possible consequence to enable the employee to prepare to answer the case at a formal hearing. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent. Employees are entitled to request an alternative date which is within 5 days of the original date.

6.30 The probationary employee must provide the Line Manager of the following at least 3 working days in advance of the Formal Hearing:

- The name and designation of their companion.
- Any written documentation that they wish to be considered at the hearing.

6.31 The employee will have the opportunity to state their case and provide supporting evidence, before a decision is made.

6.32 The Headteacher/senior manager may decide:

- To terminate employment from the date of the formal hearing with probation period notice.
- In exceptional circumstances to extend the probation period for up to a further 3 months. This will revert the process back to the Line Manager who will continue to monitor.

6.33 The Headteacher/line manager will notify the employee as soon as possible after the decision is made and follow this up in writing to the employee within 5 working days of the hearing confirming the decision.

6.34 If during an extension to the probation period, the required standards are not achieved and sustained throughout the remaining period, the Final Review Meeting (Formal Hearing) should be reconvened and the termination of contract confirmed.

6.35 Notes will be taken of the meeting and a copy sent to the employee.

## **7. Decision to dismiss**

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7.1 If a decision to dismiss is taken, the employee will be advised as soon as practicable that their contract is to be terminated. The notice period that applies will be as set out in the employee's contract. **Where necessary, a probation period will be extended to cover the contractual notice period that applies.**

7.2 A letter confirming the decision and the right of appeal must be sent no later than 5 working days following the Formal Hearing.

7.3 The employee must indicate their intention to appeal in writing in accordance with the timescales set out in Paragraph 8 below.

## **8. Appeal**

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8.1 The employee has a right of appeal against a decision to terminate a contract of employment during the probation period.

8.2 An appeal should be made in writing to the HR manager, stating the grounds for appeal in full, within 10 working days of the date of the written decision.

8.3 If an employee considers that a decision made to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision.

8.4 The appeal must be lodged with the headteacher (for school staff), Chief Executive Officer (for management and executive team staff), or the chair of the board of trustees (for the CEO), in writing, within 15 working days of the date of the decision letter and setting out the grounds for appeal.

8.5 The appeal will be heard by an appeal panel comprising a senior leader/manager plus two senior leaders, governors or trustees, none of whom shall have had any previous involvement in the case. The appeal panel may have a HR adviser present.

8.6 All appeal hearings will be held without unreasonable delay and, where possible, within 15 working days after receipt of the appeal. They will be held at an agreed time and place (in person, or over video conferencing if relevant). Employees' statutory right to be accompanied by a companion will apply.

8.7 Notes will be taken and a copy sent to the appellant.

- 8.8 The outcome will be confirmed in writing as soon as possible and usually within 5 working days of the appeal hearing. The appellant will be notified if any additional time is required for consideration of the appeal.
- 8.9 The appeal panel may:
- Uphold the decision to terminate the employment contract during the probation period
  - Recommend reinstatement. In the event that the appeal panel decides not to uphold the decision to dismiss, the employee will be reinstated without loss of pay. Where no previous extension has been made to the probationary period, in cases of re-instatement, the appeal panel may decide to extend the probationary period up to a maximum of 3 months.
- 8.10 An appeal decision will be final and there will be no further right of appeal.
- 8.11 Where a probationary employee's performance, attendance or conduct remains unsatisfactory following management support and intervention taken as the result of a successful appeal, the Formal Hearing will be reconvened with a view to dismissal. There is no further right to appeal.

## **9. Timescales**

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- 9.1 Probation reviews should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied by management. The employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.
- 9.2 The minimum notice period for all probationary employees (teaching and support staff) is set out in individual contracts of employment.
- 9.3 School holiday periods and periods of authorised absence should be taken into account when determining the length/dates of review periods and/or any extension to the probationary period.

## **10. Sickness during the probationary period**

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- 10.1 If an employee is absent due to sickness during their probationary period, the absence will be recorded and monitored as part of the probation review process. In situations where it is deemed the new employee has an unacceptable level of absence, after appropriate support/reasonable adjustments have been made, this will be taken into consideration when a decision is being made about the outcome of the probationary period.
- 10.2 Any time taken as sickness absence during the probationary period may result in the extension of the probationary period to allow for a full and fair assessment of the employee's performance and suitability for the role.
- 10.3 If a new employee has a disability which impacts on their performance or attendance at work, the Trust/School will consider all reasonable adjustments and provide these, where possible.
- 10.4 Where it is identified that the employee's health is impacting on their performance and/or attendance at work, the Trust/School will discuss with the employee what additional support they may require. The Trust/School may require the employee to attend an Occupational Health assessment, where appropriate. Any recommendations or guidance provided by Occupational Health will be taken into consideration when assessing the employee's ability to fulfil the

requirements of the role and when making decisions regarding the outcome of the probationary period.

## **11. Record keeping and data protection**

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- 11.1 Notes will be kept of all interviews and meetings and the actions agreed. Where reasonably possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.
- 11.2 Records will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and records retention schedule.
- 11.3 Personal data will be treated as confidential and will only be processed and shared in line with our data protection responsibilities under the Data Protection Act 2018 and the UK GDPR. Please refer to our privacy notice for staff members for more information on how data will be processed.

## **12. Monitoring & Review**

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- 12.1 The trustees will monitor the outcomes and impact of this policy to assess its effectiveness and the trust's continued compliance with equalities legislation. As part of this commitment, the trust is establishing a process for annual monitoring against protected characteristics, pay grade, employment status and contract type.
- 12.2 This policy will be reviewed every 3 years as a minimum but can be revised as needed and any substantive changes to policy consulted with the recognised trade unions.
- 12.3 This policy will be approved by the Board of Trustees.