



Revision:	4.0
Date:	28/08/2023
Approved by	GK

## CAPABILITY POLICY

### POLICY STATEMENT AND GENERAL PRINCIPLES

The primary aim of this procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. This procedure will apply in the event that an employee's performance fails to meet the standards required as a result of inadequate skills, knowledge or aptitude. The overall aim of this procedure is to identify and address areas of concern at an early stage in order to ensure that our standards are achieved and maintained and that employees receive the opportunity and support required to improve. In summary the policy will apply in situations that are "can't do" rather than "won't do".

It is our policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

In the event of performance falling below satisfactory standards, the following principles will apply:

- The employee will be made aware of areas of under-performance and given a full opportunity to discuss underlying issues.
- Additional training and support will be provided where it is felt that this may address the issues identified.
- A reasonable amount of time, reflecting the circumstances of each case, will be allowed for improvement to be demonstrated.
- If appropriate, assistance will be provided in identifying any suitable alternative working arrangements or internal positions for which the employee may be eligible to apply.
- In some circumstances the manager may consider the employee's unsatisfactory performance amounts to, or has become, a matter of misconduct. In these circumstances the Disciplinary procedure may be initiated.

This procedure does not form part of any employee's contract of employment, and it may be amended at any time. The company reserves the right to also vary any parts of this procedure, including any time limits, as appropriate in any case.

### What is covered by the policy?

This policy is used to deal with poor performance. It does not apply to Sickness Absence, Disciplinary and Grievance. In those cases, reference should be made to the appropriate policy or procedure.

## Identifying performance issues

In the first instance, performance issues should normally be dealt with informally between the employee and their supervisor as part of day-to-day management. A note of any such informal discussions will be placed on the employee's personnel file. Where unsatisfactory performance persists, it will be necessary to meet with the employee again. At this meeting objectives will be discussed and set for a specific period. The period will be appropriate to the circumstances but will not normally be less than 1 month.

Objectives (either tasks with a specific target or outcome, or demonstration of a particular skill or behaviour) will be realistic and capable of being measured within the set timescales. The employee will be advised clearly about where improvement is required, the action needed to achieve improvement, the priorities (if any) and the timescales.

During this period progress against the objectives will be monitored regularly and discussed with the employee.

The formal procedure will be used for more serious cases, or in any case where an earlier discussion has not resulted in a satisfactory improvement or objectives set have not been met.

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.

If we have concerns about the employee's performance, we will undertake a review to decide if there are grounds for taking formal action under this procedure. The procedure involved will depend on the circumstances but may involve reviewing the employee's personnel file including any appraisal records, gathering any relevant documents, monitoring the employee's work and, if appropriate, interview the employee and/or other individuals confidentially regarding the employee's work.

## Disabilities

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 your duties or providing additional equipment or training. Any medical condition considered relevant by the employee should be advised to their supervisor.

## Notification of a capability hearing

If the company considers that there are grounds for taking formal action over alleged poor performance, the employee will be required to attend a capability hearing. The company will notify the employee in writing of our concerns over their performance, the reasons for those concerns, and the likely outcome if it is decided after the hearing that the employee's performance has been unsatisfactory. The company will also include the following where appropriate:

A summary of relevant information gathered as part of any investigation.

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A copy of any relevant documents, including witness statements which will be used at the capability hearing. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary an appropriate summary of the evidence gathered will be given to the employee.

The company will give the employee written notice of the date, time and place of the capability hearing. The employee will be given a reasonable amount of time, not less than 2 working days to prepare for the hearing.

### **Right to be accompanied at hearings**

The employee may bring a companion to any capability hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the manager conducting the hearing who their chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

The choice of companion is a matter for the employee, but the company reserves the right to refuse to accept a companion whose presence would undermine the process.

### **Procedure at capability hearings**

If the employee or their companion cannot attend the hearing, we will usually arrange an alternative time within 5 working days. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If an employee fails to attend without good reason or is persistently unable to do so the company may take a decision based on the available evidence.

The capability hearing will normally be held by your supervisor. The employee's companion may make representations, ask questions, and sum up your case, but will not be allowed to answer questions on your behalf.

A hearing may be adjourned if the company needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The employee will be informed in writing of the decision and the reasons for it, usually within five days of the capability hearing.

### **Stage I hearing:**

Following a Stage I capability hearing the company may decide to cease performance monitoring where the employee has made considerable sustained improvement.



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The company may also decide to continue performance monitoring for a period of time to ensure that considerable improvement made is sustained.

If the company decides that the employee's performance is unsatisfactory, the employee will be given a first written warning setting out:

- The areas in which the employee has not met the required performance standards.
- Targets for improvement.
- Any measures, such as additional training or supervision, which will be taken with a view to improving performance.
- A period for review.
- The consequences of failing to improve within the review period, or of further unsatisfactory performance.

The warning will normally remain active for six months from the end of the review period, after which time it will be disregarded for the purposes of the capability procedure.

### Stage 2 hearing: final written warning

If the employee's performance does not improve within the review period set out in a first written warning, or if there is further evidence of poor performance while the employee's first written warning is still active, we may decide to hold a Stage 2 capability hearing. The hearing will be notified as set out at paragraph 5 above.

Following a Stage 2 capability hearing the company may decide to cease performance monitoring where the employee has made considerable sustained improvement.

The company may also decide to continue performance monitoring for a period of time to ensure that considerable improvement made is sustained.

If the company decides that the employee's performance is unsatisfactory, the employee will be given a final written warning setting out:

- The areas in which the employee has not met the required performance standards.
- Targets for improvement.
- Any measures, such as additional training or supervision, which will be taken with a view to improving performance.
- A period for review.
- The consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for 12 months from the end of the review period, after which time it will be disregarded for the purposes of the capability procedure.



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### Stage 3 hearing: dismissal or redeployment

The company may decide to hold a Stage 3 capability hearing if there is reason to believe the employee's performance:

- has not improved sufficiently within the review period set out in a final written - warning.
- is unsatisfactory while a final written warning is still active; or
- has been grossly negligent such as to warrant dismissal without the need for a final written warning.

Notification of the hearing will be given as set out above.

Following the hearing, if the company finds that the employee's performance is unsatisfactory, a range of options may be considered including:

- Dismissing the employee.
- Redeploying the employee into another suitable job at the same or a lower grade.
- Extending an active final written warning and setting a further review period.
- Giving a final written warning where no final written warning is currently active.

Dismissal will normally be with full notice or payment in lieu of notice, unless the employee's performance has been so negligent as to amount to gross misconduct, in which case the company may dismiss the employee without notice or any pay in lieu.

### Appeals against action for poor performance.

The employee has the right to appeal against the outcome of any capability hearing. The appeal must be in writing and received within ten working days of the decision being communicated to them.

An appeal will normally be heard within ten working days of being received. Depending on the nature of the appeal, further investigations might be necessary which would delay the meeting. The company will make every effort to arrange a meeting which is suitable for both the employee and their companion, keeping them informed of any delays.

A hearing may be adjourned if the person chairing the appeals needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The company will inform the employee in writing of their final decision as soon as possible, usually within one week of the appeal hearing or reconvened appeal hearing. There will be no further right of appeal.

If an appeal against dismissal is successful, the employee will be reinstated with no loss of continuity or pay.



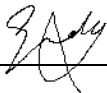
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**IMPL-10**

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This policy statement will be regularly reviewed and updated as necessary. The management team endorses these policy statements and are fully committed to their implementation.

Signed  Date: 28/08/2023

G. Kennedy, Director

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