

Capability Procedure

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1. Aim

This Procedure should be read in conjunction with the Capability Policy.

The aim of the Capability Policy is to provide a framework for addressing unsatisfactory performance and ensuring fairness and consistency in management approach.

An employee may no longer be capable of performing at a satisfactory level for several reasons relating to skills, technical ability, aptitude and job specific required behaviours. Performance expectations and the associated skills and behaviours required to perform effectively will evolve as the needs of our Authority evolve.

The formal Capability Procedure will be instigated in cases where informal steps and active management have not delivered a satisfactory improvement in performance to the required level. It is expected that managers will be able to demonstrate that an informal process has occurred in which;

- the employee has been made aware of the issue(s) and the standards expected in the future,
- additional support has been provided, where this is appropriate e.g. coaching, training,
- Performance has subsequently been reviewed and insufficient progress has been made.

This does not form part of any employee's contract of employment. It may be amended from time to time.

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2. Vision and Values

Our vision is for a prosperous and sustainable Cambridgeshire and Peterborough. Driven by our values and using our collective voice and strengths, we seek inclusive good growth for an equitable resilient, healthier and connected region.

Our values define what is important in the way we deliver this vision. At Cambridgeshire and Peterborough Combined Authority our core values are Collaboration, Integrity, Vision, Innovation and Leadership. We are committed to ensuring our culture enables our employees to display these values regardless of their roles within the organisation. Managers and employees alike must ensure our core values are upheld when implementing this policy.

3. Definitions

The Performance Improvement Plan template will be used in all cases managed under the Capability Policy. It is designed to be a complete record of all performance discussions, actions and timescales and progress against agreed outcomes. The key components of the Performance Improvement Plan are:

- Performance Expectations (including SMART objectives)
- Current Performance Gap (including examples)
- Learning & Support Interventions
- Review Date
- Progress Update (to be completed at each scheduled review meeting)

If at any stage during the process it becomes apparent that the concerns are wholly or partially conduct related the employee will be subject to the Disciplinary process.

4. Outline

The Capability Procedure consists of the following stages:

- Informal stage – Stage 1.
- First Performance Review Meeting – stage 2.
- If performance has improved to a satisfactory level, this will be confirmed in an informal meeting. If performance has not improved to a satisfactory level, a Final Performance Review Meeting will be scheduled.

The length of the informal and formal review periods can vary; however they will usually be between 4 to 8 weeks.

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5. Record of meetings and meeting locations

Where it is not possible to hold a face-to-face meeting under this procedure, we will conduct the process remotely. We will ensure that you and your representatives have access to the necessary technology for participating. Your rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

A written record of all formal meetings conducted under this procedure will be made, usually by a member of the HR Team. These will be issued within 7 days of the meeting.

6. Informal Process

When a manager identifies that the work performance of a member of staff is unsatisfactory, they should arrange to meet with the employee informally to discuss specific examples and concerns.

The purpose of the meeting is to attempt to identify solutions to the problem. The employee should be provided with factual examples of his/her unsatisfactory performance and the employee should have the opportunity to respond to the concerns about their work performance.

The line manager should consider if there are any mitigating circumstances which have impacted on the employee's performance.

As part of the informal Performance Management process, a Performance Improvement Plan (PIP) must be completed. This should include:

- Clear guidance on the required standards to be achieved.
- Any training or support necessary to help the employee to achieve the standards.
- A realistic timescale for improvement; and
- A plan for regular review

Where the reason for unsatisfactory performance is lack of the required skills, the employee should be given every reasonable support to enable the duties of the post to be fulfilled. This may include regular meetings with the line manager as well as extra training on and off the job to enable them to improve on their unsatisfactory work performance.

The performance of the employee should be monitored and assessed objectively over an appropriate period of time. As a guide a review period of 4-8 weeks should be considered. However, the review period should be based on the nature and complexity of the job and the improvements required and should allow sufficient time for the employee to achieve and sustain an acceptable standard of work performance.

During the review period the manager and employee should meet on a regular basis; notes of these meetings detailing what has been discussed and any actions agreed should be kept on the employee's personnel file

If at the end of the review period the employee's performance has improved to the required standard, the line manager should meet with the employee to confirm that no further action will be taken as long as the improvement is sustained on an on-going basis. Otherwise, if the

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issues reoccur, the manager reserves the right to invoke the next stage of the Capability Procedure. This will be confirmed in writing within 7 calendar days of the meeting and a copy of this letter will be kept on employee's personnel file.

The employee has the right to raise a grievance if they feel they have been treated unfairly or that the process has not been followed correctly. (See Grievance Policy & Procedure).

7. First Formal Performance Review Meeting

Where the informal process does not lead to a satisfactory or sustained improvement in your performance, you will be invited to a First Formal Performance Review Meeting.

The letter should set out:

- the reason for the meeting
- details of the concerns about the employee's work performance
- date, time and place of the meeting
- who will conduct the meeting and who else will be present
- the employee will also be informed of their right to be accompanied by a work colleague or trade union representative.

The purpose of this meeting is to discuss your performance and decide what measures should be taken to help you to improve your performance to an acceptable level. The meeting will be conducted by your manager. A member of the HR department will also be present, to take notes and to provide advice to the Manager.

At the meeting, you will be given an opportunity to ask questions, comment on the issues and put forward any explanation you may have for the matters identified by your manager as amounting to poor performance.

Outcome of the First Formal Performance Review Meeting

Your Line Manager (also referred to here as the Hearing Manager) may adjourn proceedings while they come to a decision. Everyone except the HR team member supporting the Hearing Manager will withdraw. The decision is a matter for the Hearing Manager and while they may choose to consult the HR team member supporting them, it is not that person's role to decide the outcome, they can only advise on matters of policy, consistency and review their notes of the hearing discussion.

The Hearing Manager may decide, for example:

- That the performance has not improved, or not improved significantly. Therefore, they will issue a Formal Warning for Capability. The Performance Improvement Plan (PIP) may be updated from the informal stage, or the targets may remain the same. A formal review period should be set; or
- That the performance has improved enough. In this instance, the improvement must be sustained for a period of 12 months. If during the next 12 months, there are further concerns about Capability, the next stage of the process will be invoked, and a First Formal Performance Review Meeting would be arranged; or
- refer the matter for investigation under the disciplinary procedure.

(This list is neither exhaustive nor exclusive).

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Within 7 days of the First Formal Performance Review Meeting the employee will receive the outcome letter and notes.

The outcome letter will include the following:-

- The finding.
- In the case of an extension to the informal review period or issuing of a Formal Warning for Capability (with formal review period), to confirm the Performance Improvement Plan (PIP) in writing. This should include confirmation of the duration of the review period.

In the case of a Formal Warning being issued, the letter will also:

- Confirm that the Authority reserves the right to withhold pay increments to employees who are subject to formal capability procedure who are in receipt of a formal warning which has been issued in the previous 12 months following a formal hearing for capability reasons.
- Confirm that the employee has the right to appeal against the Formal Warning should they feel that they have been treated unfairly or that the process has not been followed correctly. Please see the Appeals Policy for more information.

8. Formal Review Period

The performance of the employee should be monitored and assessed objectively over an appropriate period of time. As a guide a formal review period of 4-8 weeks should be considered. However, the review period should be based on the nature and complexity of the job and the improvements required and should allow sufficient time for the employee to achieve and sustain an acceptable standard of work performance.

During the review period, 1 to 1 meetings should be set up at regular intervals between the employee and line manager to ensure effective monitoring and that support is maintained.

As a guide, meetings every two weeks should suffice, but depending on the progress required, the line manager and employee may agree on more or less frequent meetings.

Notes of these meetings should be kept, and the line manager should complete and regularly update the Performance Improvement Plan (PIP).

9. At the end of the Formal Review Period

If, at the end of the review period, the employee's performance has improved to the required standard, the line manager should meet with the employee informally to confirm that no further action will be taken as long as the improvement is sustained during the next 12 months. Otherwise, if the issues reoccur, the manager reserves the right to invoke the next stage of the Capability Procedure. This will be confirmed in writing within 7 calendar days of the meeting and a copy of this letter will be kept on employee's personnel file.

However, if during the 4–8-week formal review period, the employee does not improve their performance a Final Formal Meeting should be arranged.

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10. Final Formal Performance Review Meeting

The purpose of the Final Formal Meeting will be to consider whether, in line with legal obligations, there are any further actions that the Authority and employee can take to assist the employee in continuing their employment or whether the employment should be terminated due to the employee's incapability to perform their duties to the expected standard.

The Final Formal Performance Review Meeting will be chaired by the appropriate manager with the authority to dismiss, accompanied by a member of the HR team. In the case of a senior manager being the subject of the Capability Procedure, a more senior manager will chair the meeting.

Employees will have the right to be accompanied by a trade union representative or a work colleague.

The employee should be invited to a Final Formal Meeting, giving him/her at least 5 business days' notice. The letter should set out:

- the reason for the meeting
- details of the concerns about the employee's work performance
- date, time and place of the meeting
- who will conduct the meeting and who else will be present
- the employee will also be informed of their right to be accompanied by a work colleague or trade union representative.

Prior to the meeting, the line manager should prepare a report providing an overview of the employee's performance, the support offered to the employee during both the informal and formal review periods, and the potential impact on the service delivery and the team. The report should be supported with evidence gathered during these periods, including the performance improvement plan.

The Hearing Manager and employee must be provided with the report and any supporting documentation to be referred to during the meeting at least 3 business days before the meeting.

The employee must also provide any documentation they wish to be considered to the Hearing Manager and line manager at least 3 business days before the meeting.

The line manager will present the case and explain how the employee's performance has continued to be assessed as unsatisfactory, referring to specific examples. The line manager will also explain what support/actions have been implemented during the informal and formal stages of the capability procedure. A member of the HR team who has been supporting the line manager will attend the meeting.

Another member of the HR team will also be present to take notes of the meeting, provide support to the Hearing Manager and to ensure consistency in approach across the Authority. The employee and his/her representative will have the opportunity to explain any mitigating circumstances.

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At the meeting, the Hearing Manager will ask questions necessary to:

- establish the reasons for under-performance including any underlying causes
- establish what actions have been taken by the Authority and the employee to achieve the expected standards (this would include a Performance Improvement Plan, also known as PIP, and may also include training, etc.)
- assess if the poor performance is due to lack of capability, i.e. skills, ability and/or knowledge
- establish what actions have been taken to support the employee in seeking alternative employment, if appropriate
- consider medical advice received, if appropriate
- establish and consider the impact of employee's lack of capability on service delivery.

This list is not exhaustive, and the weight attached to each will depend on the circumstances of the case.

In all instances employees will be treated in a fair and reasonable manner, appropriate to their particular case whilst still ensuring commitment to consistency

Once the line manager and the employee have had the opportunity to present their cases and ask/answer questions, the Hearing Manager will adjourn the meeting to make a decision.

The possible outcomes of the Final Formal Meeting are:

- to dismiss the employee on the grounds of lack of capability
- to consider any further options for redeployment to another role as an alternative to dismissal.
- in exceptional circumstances, the Hearing Manager may decide that a Final Warning and Final Review period would be appropriate to allow for additional performance monitoring and any additional management support. This Final Review period should be no longer than 4 weeks and the employee will be advised that no improvement during this period will result in a recommendation for dismissal

The decision to dismiss together with the reasons for dismissal will be set out in writing and sent to you. Any dismissal will be with full notice, or a payment in lieu of notice.

Where possible, the employee will be informed verbally of the decision, which will be confirmed in writing within 7 days of the meeting.

If the Hearing Manager feels that further action could be taken, the line manager, with assistance from HR, is responsible for putting that action into place.

If the Hearing Manager considers that dismissal on the grounds of capability is the appropriate action, they will make a decision to dismiss. The employee will be informed, in writing, of the notice of termination of employment and the date it will take effect from.

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11. Ongoing review

Following the successful completion of a performance improvement programme, your performance will continue to be monitored. If, at any stage during the following 12 months, your performance again starts to fall short of an acceptable standard, your manager can initiate the next stage of this procedure.

12. Appeal

If an employee feels that they are being treated unfairly with regards to the application of this procedure or the manner in which a meeting has been conducted, they have the right to raise a complaint using the Grievance Policy.

An employee also has the right to appeal against a Formal Warning issued during the formal process, or dismissal following a Final Formal Meeting. If the employee is dissatisfied with the outcome of their grievance, they may appeal in accordance with the Appeals Policy and Appeals Procedure.

13. Document Retention

The Hearing Manager should forward copies of all paperwork relating to the Meetings to the HR Department. Any such correspondence should be labelled for the attention of the HR Department and marked as 'Strictly Private and Confidential'.

Any paperwork provided will be stored and/or destroyed in accordance with the CPCA's Data Retention Policy.

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Governance – Capability Procedure

References:

Appeals Policy & Procedure
 Capability Policy
 Data Retention Policy
 Equality and Diversity Policy

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Document control sheet

Purpose of document	This document provides useful information on the Capability process
Type of document	Guidance
Document checked by Legal	No
If applicable, has an initial Equality Impact assessment (EIA) been completed?	Yes
Document Lead and Author	HR Team
Dissemination	
What other documents should be read in conjunction with	Document listed in this guidance
Who will review the document (job title)	HR Team
Why is this document being reviewed	N/A

Revisions

Version No.	Page/ Paragraph No.	Description of amendment	Date approved