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* *Set your logo in the Header*
* *Use the select all then replace all to amend the document for the Name of NGB*
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**CAPABILITY POLICY**

1. **INTRODUCTION**

(Name of NGB) places great importance on maintaining levels of attendance and performance at an acceptable standard and the capability procedure provides a fair and objective process to enable managers to ensure that those standards are met in every aspect of the company’s operations.

**Definition:**

For the purpose of this Capability Procedure, capability is defined as:

"*Where a member of staff is failing in a significant or persistent way to carry out their responsibilities or duties in a satisfactory manner, either due to a lack of ability, inadequate training or lack of experience. Such failings will be identified by use of the following procedures and steps taken to improve performance. Where such steps prove unsuccessful the member of staff may have their employment terminated on the grounds of incapacity*".

The procedures set out in this document aim to ensure that there is:

1. A means of monitoring performance and establishing performance criteria.
2. A degree of consistency in how staff with widely differing responsibilities and duties are given opportunities to attain satisfactory levels of performance.
3. Assistance in identifying the most appropriate form(s) of support and providing that support.
4. If a member of staff fails to overcome their difficulties, any consequent action will be based on:

* Adequate evidence that the member of staff is incapable of performing their duties satisfactorily.
* A fair procedure.
* The fact that the member of staff was given all reasonable assistance to overcome such failings.

1. **INFORMAL PROCEDURE**

Your line manager will meet with you and explain his/her concerns. S/he will give examples to demonstrate the perceived problem. You will be asked to clarify any areas of uncertainty. If necessary, an investigation will be carried out to obtain as many facts about the problem as possible. If it’s clear that there is a problem, you will be asked to comment on whether there are underlying causes for the problem and inform your line manager on whether you have taken any action to resolve the problem. If the problem is excessive sickness absence, occupational health advice will be sought, subject to your consent, and you will be expected to comply with the recommendations made. (Name of NGB) will consider any reasonable adjustments that will help you to attend work at a reasonable level and to carry out your work effectively.

After the initial meeting, your line manager will advise you of the improvements to be made. This is likely to include a monitoring process. Your line manager will inform you of any consequences should you fail to make the required improvements.

If the monitoring process doesn’t result in an end to the problem, then the following Capability Procedure will apply.

If the individual’s performance improves adequately over the timescale, then the process will terminate at this stage. If performance remains unsatisfactory, then the formal procedure will be invoked by the Line Manager as set out below.

1. **FORMAL CAPABILITY PROCEDURE**

The formal capability procedure will be as follows:

If performance remains unsatisfactory or if you have reached any of the trigger point in the Sickness Absence Management Policy **\***, you will be requested to attend a meeting with your Manager so you can comment on the concerns raised. The meeting will enable your Manager to remind you of the expected performance standards. The request will be made, in writing, informing you of the date, time and location of the meeting. The letter will provide written details of the issues raised, the possible consequences, information collated and any witnesses that may be called upon. You will be given at least five days’ notice of the meeting in order for you to prepare.

**\*** Example template available on WSA website

Where you are unable or unwilling to attend a capability meeting without good cause your manager will arrange a further hearing, if you are unable or unwilling to attend this re-arranged meeting your manager make a decision on the evidence available.

You have the right to be accompanied by a work colleague or a trade union representative. The representative may address those conducting the meeting, confer with you, and respond on your behalf to any views expressed during the meeting. The representative may not answer questions on your behalf, address those conducting the meeting if you do not wish it, or prevent you from explaining your case. If the chosen representative is not available for the meeting, or where the chosen representative may prejudice the hearing, you may propose a reasonable suitable alternative representative.

In addition to yourself and a representative (if you so elect to have one), the meeting will be attended by your Manager and the Human Resources Manager/CEO, or suitable alternative

At least two days prior to the meeting, you must supply (Name of NGB), or suitable alternative, with copies of any papers you intend to produce at the meeting, together with the names of any witnesses to be called and the person who will be accompanying you. (Name of NGB) reserves the right to defer the meeting if you provide extensive documentary support. This will ensure that adequate time is given to its consideration.

At the meeting your line manager will explain the problem/allegation and go through the evidence that has been gathered. You will have the opportunity of responding to the concerns raised. The capability meeting will then adjourn to allow your Manager and the Human Resources Manager, or suitable alternative, to review the information. You will be advised when the meeting will be reconvened.

Your manager will meet with you within two working days of the capability meeting to let you know what the decision is and what action will be taken and, if necessary, your right to appeal and the procedure for any appeal.

You will receive a letter confirming the outcome of the meeting and detailing any performance improvements required, the timescale for improving your performance, a review date and any support (Name of NGB) would provide to assist you, along with any consequences should you fail to make the required improvements.

If an improvement is required, an action plan will be drawn up which will include:

* targets,
* any additional support to be provided, eg. training, adjustments to your working environment, etc,
* target and review dates,
* additional supervision/coaching.

This will be confirmed to you in writing. Your line manager will be responsible for monitoring the action plan.

Where your performance has improved considerably within the timescale of the first warning issued to you, but you have failed to reach the standard expected, the period of review specified may be extended by a further fixed timescale.

If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, then monitoring should be discontinued subject to a clear indication to the member of staff that it may be reintroduced if the problem(s) reappear.

1. **SECOND AND THIRD CAPABILITY HEARINGS**

If poor performance continues, the process set out in the above stage should be repeated. The time scale for improvement will depend on the nature of the duties and responsibilities of the employee concerned and the seriousness of the complaint(s).

If the conclusion of the second hearing is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a final warning should be issued.

The letter confirming the decision as well as covering the points made at the original meeting, should clearly state that if an improvement is not forthcoming, the Name of NGB will convene a final meeting at which it will consider terminating the contract of the member of staff involved on the grounds of capability.

The appropriate manager/CEO/Chair will conduct the third hearing at which if previous advice, training and warnings have not had the desired effect, he/she will terminate the contract of the employee concerned.

1. **ABSENCE MANAGEMENT WARNINGS**

Where any shortfall in expected performance arises from long term or persistent illness the

(Name of NGB) shall refer to the Sickness Absence Management policy for appropriate sanctions.

1. **YOUR RIGHT TO APPEAL**

If you feel that you have been unjustly treated at any stage of the capability procedure, for example, by policies not being followed, or by issues not taken into account, or misunderstood, you may appeal in writing within five working days of the dismissal or other action. The appeal should state, in sufficient detail, the grounds on which the capability action should be reviewed. At each stage you will be informed of the appropriate person to whom an appeal should be made. The appeal will be considered by a panel who are independent of the procedures previously conducted. If possible, the appeal will be held within ten working days of receiving your written grounds for appeal, subject to the availability of those considering the appeal.

An appeal will usually involve a review of all the relevant documentation including your grounds for appeal, and will involve a further hearing. Any hearing will be attended by the manager who made the decision, for consultation only.

You have the right to be accompanied at any appeal hearing by a representative and will be given every opportunity to state your case. The Human Resources Manager, or other suitable individual, will also attend the hearing to advise on procedural matters and to keep a record of the proceedings.

The outcome of the appeal will be relayed to you in writing as soon as possible after the appeal has been held. Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which you were originally dismissed, not the date of the appeal hearing. You will have no further right of appeal.

In the event that a decision made at any part of the capability procedure is found to be unwarranted on appeal, the decision will be withdrawn. All written references to such action, including any notes or documentation, will be removed from your personal file, if appropriate.