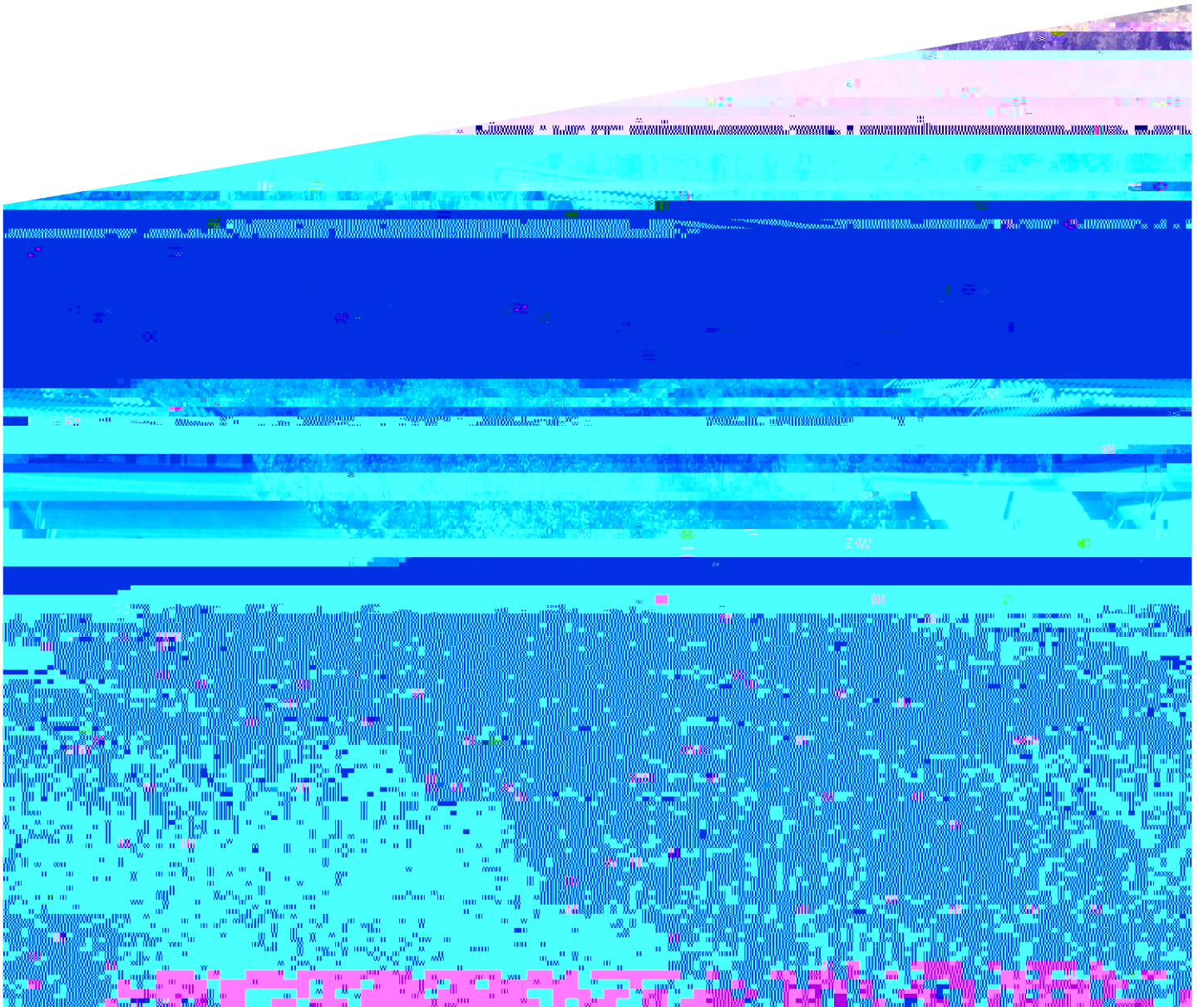


# Capability Policy (Performance Improvement)



ORGANISATIONAL DEVELOPMENT DIVISION

Issued: August 2022    Review: August 2025

# Version Control



2.4 Below are some examples of which procedure would be appropriate in certain circumstances:

Issue	Procedure
Poor attendance (including sickness)	Attendance Management Policy
Poor performance due to a poor attitude	Disciplinary Policy and Procedure
Persistent short term ill-health, where the Line Manager suspects that the absence is not genuine	Disciplinary Policy and Procedure & Attendance Management Policy
The reason(s) for incapability are related to misconduct e.g. secondary employment	Disciplinary Policy and Procedure
Consistent failure to perform duties to an acceptable standard	Capability Procedure

### 3. Scope

---

- 3.1 This policy applies to all employees of the Council with the exception of the Chief Executive, the Monitoring Officer, the Section 151 Officer, the Head of Democratic Services and those who are defined by Regulations (which may be amended from time to time) as a Chief Officer or Deputy Chief Officer.
- 3.2 School based employees under the delegated powers of the Governing Body are subject to a separate procedure.

### 4. Expectations and Responsibilities

---

#### 4.1 Manager

Have regular performance coaching meetings with employees about any areas of concern in relation to skills, attitude and aptitude at work. An employee should expect to receive informal advice and guidance on areas of improvement as part of the normal working relationship. Such information should be recorded as part of regular supervision meetings.

Ensure that effective recruitment, induction, performance coaching, training and development arrangements exist so that employees are prong and

Maintain confidentiality and not divulge any details of unsatisfactory performance to any unauthorised person.

Be open to the concerns of their employees.

- 4.1.1 Heads of Service and Corporate Directors are responsible for ensuring the consistent application of this policy/procedure and have overall responsibility for ensuring that managers are appropriately trained to deal with performance matters and for managing and/or overseeing all stages of the policy. Managers will be failing in their responsibilities if they do not address issues of capability amongst their employees.
- 4.1.2 **No formal action will be taken against an accredited Trade Union representative under this Policy until the Regional Trade Union officer has been informed.**

#### 4.2 **Employee**

Undertake the duties of their post to the very best of their abilities and to meet the requirements of the job.

5.2 Remember that there are many ways in which poor performance can be identified. Examples include, but are not limited to:

Targets not being met.

Complaints from colleagues or customers.

Poor attitude, behaviour and lack of commitment.

Line-managers and colleagues covering the responsibilities of the employee.

5.3

#### 6.4 **Review Periods**

Must be **reasonable** in length, depending on the nature of the job. In a job where there are few and simple tasks, a period of a few days may be reasonable, particularly where the performance matter relates to a task which is fundamental to the job and emerges in the early stages of appointment. Where the job is complex, and improvements cannot be assessed over a short period, a review period of several weeks, or longer, may be necessary.

#### 6.5 **Notes**

The manager should make a note of the meeting. The performance improvement plan should be agreed at the meeting and should be signed by the employee to evidence that they agree to the content of the plan. Unreasonable refusal to sign the plan will not prevent the plan remaining a live document and the individual continuing to be supported towards and assessed against its requirements.

#### 6.6 **Supportive Action Review Meeting**

At the end of the agreed review period a meeting will be arranged to review the progress made by the employee. The manager and the employee will attend the meeting.

6.7 The manager will review progress against the performance improvement plan during the review and the employee will also have the opportunity to provide feedback.

6.8 If the manager takes the decision that performance has improved to the required standard, no further action will be necessary. The manager must inform the employee of the satisfactory outcome of the review in writing. It should be noted at this stage, however, that it is expected that the individual will sustain this level of performance and the manager should continue to hold regular performance management meetings with the individual to discuss their ongoing performance.

6.9 Where performance does not improve, or where there is some improvement but the required standard is still not reached, the manager may consider a further review period or consider action that is more formal.

6.10 Where there has been no sustained and significant improvement, the manager will take the decision to progress to the first stage of the formal procedure of the policy and a meeting will be arranged.

## **7. Capability Stages**

---

7.1 If performance matters do not improve to the required standards during these stages, the following sanctions will be issued:

**First Stage** Written Warning (live for a period of 9 months)

**Second Stage** Final Written Warning (live for a period of 12 months)

**Third Stage** Consideration of options including dismissal







7.15 The decision to terminate employment must be confirmed in writing, informing the employee of the following:

The fact that they have been given notice of dismissal.

**The reason for dismissal.**

Confirmation of the date of termination and details of pay in lieu of notice where circumstances dictate (e.g. if the working of the notice risks affecting the service to an unacceptable degree).

## **8. Sustained Performance Period (SPP)**

## 9.2 **Appeals Against Warnings**

Where the appeal is in relation to sanctions issued in the first and second stages of the formal process, a Senior Officer (chairperson) from an alternative service area will review the decision will hear the appeal.

The decision of the Senior Officer (chairperson) shall be final. There shall be no further internal right of appeal.

## 9.3 **Appeals Against Dismissal**

Where the appeal is in relation to dismissal, an Appeals Panel consisting of three elected members, will review the decision taken to dismiss.

The decision of the Members Committee shall be final. There shall be no further internal right of appeal.

## 9.4 **APPEALS PROCEDURE - PRELIMINARY MATTERS**

All appeals in relation to the Capability Policy will be heard in line with this Procedure.

### 9.4.1 The Appeal will be heard as follows:

Where the appeal is in relation to sanctions issued in first and second stages of the formal process, a Senior Officer (chairperson) from an alternative service area wherever possible, who will review the decision will hear it. In all cases, the Senior Officer will not have been involved with the detail of the case, the original meeting or decision and where possible will be senior in authority to the person who took the decision to issue the sanction. In addition, an Organisational Development Representative from another operational team who has not previously advised or been involved in the case will attend the hearing to advise the Senior Officer (hereafter referred to as hearing.

Where the appeal is in relation to dismissal, an Appeals Panel consisting of three elected members, will review the decision taken to dismiss.

The Appeals Panel will be chaired by a Chair of a Scrutiny Committee and in all cases Committee Members will not have been involved with the detail of the case, the original meeting or decision. In addition, the Head of Legal & Corporate Compliance or their nominated representative will attend the hearing and act as Advisor to the Appeals Committee. An officer will also be present to take minutes of the hearing.

### 9.4.2 An Appellant (employee)595.32 841Fn /F1 12 Tfo 1 0 0 the is in rel6595.32s 0 thaiss.





## 10. Sickness Absence and Capability

---

- 10.1 If an employee is absent due to illness there may be a requirement for a referral to [\(Occupational Health Management Referral Form\)](#) for an assessment and to obtain the relevant information and advice.

## 11. Probationary Period

---

- 11.1 This Capability Policy does not apply to employees who are undertaking their probationary period. The probationary period is designed to offer both the employee and employer the monthly basis and any development needs should be discussed with the individual and any other appropriate officer(s) during this time.

## 12. The Equality Act 2010

---

- 12.1 During the application of this policy should a manager become aware that the employee has, is perceived to have or is associated with someone who has, what the Equality Act 2010 defines as a Protected Characteristic, and this is potentially s performance, further advice should be sought as to any reasonable adjustments that may need to be considered. Advice should be sought from Organisational Development.

## Appendix 1: Performance Improvement Plan

---

Identified Areas	Assessment Level (select key colour)	Success Criteria	Action: Support/Training required	Timescale for tasks to be achieved	
------------------	--------------------------------------	------------------	-----------------------------------	------------------------------------	--

## Appendix 2: Flowchart

