

# Capability Procedure

# Policy Statement

At West Lindsey District Council, we trust and rely on our staff to provide a high standard of service for our residents. The council is committed to support staff to meet the required standards through its employee performance process.

To safeguard the interests of both the council and employees, when poor performance is highlighted as a problem, the capability procedure will be used to ensure that we meet the requirements of performance standards fairly and consistently.

Employees have a contractual responsibility to perform to a satisfactory level and should be given every help and encouragement to do so.

The review procedure is designed to help and encourage employees to achieve and maintain standards of performance.

There is a right of appeal at each stage of the formal process.

Before the capability procedure is invoked, it is the council's policy to provide support to any employee who is struggling to meet the standards of the job for which they were employed or who is not coping adequately with the requirements of the job, the volume of work or any other aspect of their employment.

Any employee who is experiencing such difficulties will be offered whatever support is felt to be appropriate including training, coaching, mentoring, supervisory guidance, referral for advice, medical treatment, counselling and/or time off work.

No disciplinary action will be taken against an employee whose performance has fallen below the standards that are regarded as satisfactory until the procedure below has been exhausted.

In contrast, where an employee's unsatisfactory job performance is clearly due to the employee's own lack of effort, carelessness or negligence, the issue will be dealt with under the disciplinary procedure.

## **Procedure**

Employees are encouraged to approach their line manager in the first instance, or to contact the HR team if they feel that they are not coping with any aspect of their job. No employee will be penalised or victimised for disclosing this sort of concern and every reasonable measure will be taken to provide support to the employee. A manager who notices that an employee is not adequately meeting the standards of their job or who is not coping adequately with the pressures of the job, the volume of work or any other aspect of their employment, should treat the matter as one of capability

### **Informal Discussion**

1. Where the manager first establishes that an employee's performance is unacceptable, an informal discussion will be held with the employee to establish the reasons for the poor performance.
2. Should the informal discussion establish that the poor performance constitutes employee misconduct or negligence, the disciplinary procedure should be followed.
3. If it is established that the poor performance relates to the employee's inability to do their job (eg due to a lack of certain key skills), a formal performance review procedure will be instigated in which the employee is obliged to participate. The purpose of the procedure will be to ensure that the employee is given an opportunity to achieve the standards expected.
4. If the discussion establishes that the performance problems are related to the employee's personal life, counselling/support may be offered as appropriate.

### **First Formal Performance Review**

1. A formal meeting will be arranged between the manager and the employee. The employee has the right to be accompanied by a trade union representative or a work colleague. The purpose of the meeting will be to agree the areas of the employee's work that need to improve, what actions will be taken and who will be involved in the process. HR colleagues will be available to attend if required.
2. The meeting can be postponed once if the employee or their companion cannot attend on the date selected and will be rescheduled no more than five days after the original date except in exceptional circumstances.
3. The employee's manager will set and agree objectives with the employee along with a reasonable timescale for improvement and a formal review date and meeting. This will be confirmed in writing and incorporated into a performance improvement plan.
4. The employee will be formally warned that a failure to improve to the required standard will result in a second and final performance review plan.

5. If the work performance of the employee is having a serious effect on the council's overall performance, the manager may omit the second formal review meeting and action plan for improvement and go straight to the final performance review meeting after the first formal review.

### **Second Formal Performance Review**

1. The meeting will take place on the date agreed at the previous formal review meeting.
2. The employee has the right to be accompanied by a trade union representative or a work colleague at the meeting.
3. The meeting can be postponed once if the employee or their companion cannot attend on the date selected and will be rescheduled no more than five days after the original date except in exceptional circumstances.
4. The employee will be told whether they have reached the required standard of performance. If the standard is reached, no further action will be taken and the outcome confirmed in writing.
5. If some, or all of the performance continues to be unacceptable, the manager will explain clearly to the employee the shortfall between the performance and the standard required.
6. The manager will set and agree objectives with the employee along with a timescale for improvement and a formal review date and meeting. This will be confirmed in writing and incorporated into an action plan.
7. The employee will be formally warned that a failure to improve to the required standard may result in dismissal.

### **Third and Final Formal Performance Review**

1. The meeting will take place on the date agreed at the previous formal review meeting.
2. The employee has the right to be accompanied by a trade union representative or a work colleague at the meeting.
3. The meeting can be postponed once if the employee or their companion cannot attend on the date selected and will be rescheduled no more than five days after the original date except in exceptional circumstances.
4. The employee will be told whether they have reached the required standard of performance. If the standard is reached, then no further action will be taken and the employee will be informed of the outcome in writing.

5. If the standard of performance continues to be unacceptable then the employee may be dismissed. Details of the dismissal, the date of termination and the right of appeal will be confirmed in writing to the employee.
6. As an alternative to dismissal, the council may be able to offer the employee a mutually agreed demotion or transfer to a more suitable role.

## **Appeal**

1. If the employee is dissatisfied with any formal decision affecting them, there is a right of appeal at each stage of the review process. Where possible, the appeal will be to the level of management immediately above that which the decision was taken.
2. The appeal must be put in writing, stating the grounds for the appeal and including any documentation or evidence relied upon in support.
3. The employee has 7 calendar days from the date of the formal warning or the date of dismissal in which to appeal in writing. The appeal must be sent directly to the HR team. The manager who will hear the appeal will have had no previous involvement in the performance review process.

The appeal hearing will be arranged as soon as is reasonably possible after receipt of the appeal letter and a letter will be sent to the employee confirming the details

JSCC approved:	
Corporate Policy and Resources Committee approved:	