

Dated 12<sup>th</sup> March 2024



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## CAPABILITY POLICY

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## **DEFINITION & INTRODUCTION**

Capability refers to an employee's ability to perform the work expected of them to the standard required. This may be assessed by reference to an employee's skill, aptitude, health or any other physical or mental quality in relation to the job that he or she is employed to do.

The purpose of this Capability Policy is to provide a framework for managing underperformance, and in some cases extended sick absence, in a fair and consistent manner. The Policy differs from the Disciplinary Policy as its primary focus is that of improving performance to the standard required.

## **POLICY STATEMENT**

The Company has a responsibility to its Clients' for maintaining certain contractual levels of service, both in terms of manning levels, but also by way of agreed service levels and expected performance standards.

All Employees should be familiar with expected performance standards. This would be provided through the statutory training required for an individual to obtain an SIA License, in addition to any Site Specific Training. As such, members of staff are required to perform their duties to an acceptable standard, and whilst the majority of staff meet or exceed the standards required of them, performance problems may arise.

It is the responsibility of Contracts Managers to ensure that any performance issues are addressed at an early stage and where possible resolved on an informal basis without recourse to the formal procedure.

Where any instances of underperformance are identified, the Capability Policy provides a framework for managing cases in a constructive, fair and consistent manner. The focus of the Capability Policy and procedure is to resolve performance problems by providing appropriate support to enable the employee to perform to the standard required.

It is recognised that capability problems may result from underlying work problems or personal issues that may be outside the employee's direct control. Consequently there is a need to treat all capability issues with care and sensitivity and to identify and (where appropriate) address the underlying causes.

## PROCEDURE - OVERVIEW

- 1) In implementing this Policy and the associated guidance, due regard will be given to relevant legislation and the ACAS Code of Practice.
- 2) This Policy is not contractual and may be amended. The Policy is not intended to remove any existing protections or entitlements afforded to employees under their contracts of employment.
- 3) All employees who are the subject of this procedure have the right to be accompanied to formal meetings held under the procedure by a trade union representative or work colleague.
- 4) Managers should be supportive of employees, help them to take action to improve their performance and consider any mitigating circumstances that may be affecting their performance.
- 5) Employees are responsible for co-operating with their manager in improving their performance and attending meetings under this procedure.
- 6) This Policy seeks to ensure that performance matters are dealt with sensitively and with due respect for the privacy of any individuals involved. All those involved must treat as confidential any information shared with them under this procedure.
- 7) Electronic recordings of formal or informal meetings under the Capability procedure are not permitted.
- 8) Where performance issues are either a) significant, b) persistent, c) extremely serious, d) potentially detrimental to the contractual performance of the Site, and/or e) potentially detrimental to the Company's relationship with the Client – an individual may be dealt with under the Disciplinary Policy.
- 9) Every effort will be made to comply with the timescales stated in this Policy. However, sometime due to the complexity and/or specific circumstances of a case, timescales may need to be extended. The Employee will in any case be advised throughout the process.

## **CONDUCTING INFORMAL DISCUSSIONS**

- 1) In the first instance Contract Managers should seek to resolve performance issues informally and as early as possible as part of normal day to day management. Ideally this would be within a few days of the issues being identified.
  
- 2) Informal discussions should:
  - a. explain the nature of the concerns (providing specific examples as appropriate);
  - b. set out the expected standards of performance;
  - c. establish the likely causes of underperformance and identify any actions required by the employee or manager to aid improvement eg. training or other sources of support;
  - d. set targets and timescales for improvement and review dates. Where possible these will be agreed between the employee and the manager; and
  - e. explain the potential consequences of not achieving the required improvements in performance
  
- 3) The manager may consider a range of actions including the provision of advice and guidance, training, coaching, mentoring, work shadowing or other informal action e.g. counselling.
  
- 4) The manager may confirm the outcomes of any informal discussion in writing to the employee and retain any notes of these informal discussions or meetings for reference purposes. However, such notes will only be used for the purposes of reviewing the standards and expectations set during the informal stage of the procedure.
  
- 5) Where there is satisfactory improvement, the matter will be considered to be resolved.

## **CONDUCTING FORMAL MEETINGS**

- 1) If performance does not meet acceptable standards, and informal action is not considered appropriate or has not succeeded in addressing the problem, the manager should consider whether there are grounds for undertaking formal action under this procedure. The assessment necessary will depend on the circumstances but may involve reviewing the employee's personnel file, gathering relevant documents, monitoring the employee's work and, if appropriate, interviewing the employee and

witnesses confidentially regarding the employee's work.

- 2) Where there are grounds for taking formal action regarding alleged underperformance, the employee will be required to attend a capability meeting.
- 3) The employee should receive at least 2 days written notice of the capability meeting. The letter inviting the employee to the meeting will outline the purpose of the meeting, the performance issues to be considered and the possible outcome if it is decided that the employee's performance has been unsatisfactory. Where there is additional relevant information provided to the employee this will be sent with the letter. The letter will also inform the employee of the date, time and place of the meeting and of the employee's right to be accompanied. The companion may be either a trade union representative or a colleague.
- 4) The meeting will be held by the employee's Contracts Manager or an alternative Senior Manager within the business.
- 5) The aims of a capability meeting will include:
  - a. setting out the required standards that it is considered the employee has failed to meet and considering any relevant evidence;
  - b. giving the employee the opportunity to ask questions, present evidence, call witnesses, respond to evidence and make representations;
  - c. establishing the likely causes of underperformance including any reasons why measures taken so far have not led to the required improvement;
  - d. identifying whether there are any further measures, such as additional training or supervision, which may improve performance;
  - e. discussing and agreeing where possible targets for improvement and a timescale for review. Ensuring a reasonable period of time is provided for the individual to demonstrate improved performance; and
  - f. if dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable timeframe and whether there is any practical alternative to dismissal.
- 6) A meeting may be adjourned if it is necessary to gather further information or to give further consideration to matters discussed at the meeting.
- 7) The Employee will be informed in writing of the outcome of the formal capability

meeting and the reasons for it within five working days.

## **POTENTIAL OUTCOMES**

- 1) The Employee may be offered an Improvement Notice, setting out the improvement in performance required, targets and timescales for improvement (“the review period”), any support to be provided and the consequence of not meeting the performance targets within the review period. It will also set out the employee’s right of appeal.
  - a. The Company may continue to monitor the employee’s performance during any review period and hold regular review meetings with the employee. The Company will record actions taken and progress made during the review period. On completion of the review period, the manager will write to the employee to inform them of the outcome that either:
    - i. the employee has met the performance standards set and no further action will be taken; or
    - ii. the employee has not met the performance standards set and the matter will be progressed, potentially subject to the Disciplinary Procedure; or
    - iii. progress has been made towards meeting the standards set, but they have not been achieved fully (or other factors have been present e.g. sickness or leave) and the review period will be extended or other options considered.
- 2) The Company may look to initiate Disciplinary Proceedings against an individual where:
  - a. their performance is not improving, or is unlikely to improve, or where any continuation of employment might reasonably put the business at risk;
  - b. an individual has been away from the business on extended sick absence, and where there is no reasonable prospect of them returning to work, and where no reasonable adjustments have been proposed or recommended, and/or where there is no positive prognosis from a medical professional.

## **CONSIDERATIONS**

In approaching capability issues or concerns, we must sensibly consider our Client expectations. Contractual and/or operational ramifications must also be considered when implementing follow up training and/or reasonable adjustments. The key aspect in all of this, CPP-03

is of course, to provide and maintain an high level of service to our Clients. We must therefore ensure that when addressing the capability of individual, we are doing so in a collective effort to meet or exceed such levels.

## **APPEALS**

Employees who feel that they have been treated unreasonably under any section of the Capability procedure can, in the first instance, raise the matter with HR Support, their Contracts Manager, or a Company Director. Ultimately employees have the right to raise the matter through the Grievance Procedure. Employees also have a right to appeal against a decision to issue an Improvement Notice, other sanction or dismissal in accordance with the relevant procedures.

## **WHEN CAPABILITY MEETS DISCIPLINARY ?**

Whilst this policy is designed to steer individuals into performing better at work, there may be times when disciplinary action is required by either the Contracts Manager, or indeed, the Client.

There may of course be sufficient cause to jump straight to a disciplinary where someone's performance is seen as intentionally obstructive and/or disruptive. The Employment Rights Act 1996 s.98 makes sufficient reference to capability and qualifications being adequate reason for a disciplinary (and by extension, a dismissal, where appropriate).

*This Policy was Last Reviewed on 12<sup>th</sup> March 2024*