

# **Radyr & Morganstown Community Council**

## **CAPABILITY PROCEDURE**

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### **Introduction**

This procedure should be used primarily for supporting, enhancing and improving the performance of employees. In accordance with the Employment Rights Act 1996, Human Rights Act 1998 and the ACAS Code of Practice on Disciplinary Procedures this procedure sets out a framework for resolving issues relating to poor performance. The procedure aims to ensure that consistent and fair treatment is given to all employees of the Council.

### **Scope**

Where there are issues of misconduct or of negligence these should be dealt with under the Disciplinary Procedure. In addition for matters of sickness, disability or ill health a process relating to absence management will be used.

### **General Principles**

- The procedure is not a substitute for good management practices and should only be invoked when initial attempts to improve performance have been unsuccessful following discussions between the line manager and the employee (In the case of the Clerk, the Chairman of the Council will be designated as the line manager for this purpose).
- Employees must be given at least 5 working days notice of the requirement to attend a formal review meeting or an appeal.
- Employees have the right to be represented at formal review meetings or appeals.
- In the event of a formal warning or a dismissal employees have the right of appeal.

### **Representation**

Employees have the right to representation at hearings and appeals relating to any stage of the formal procedure. This can be a trade union representative, non-union Clerk representative or a friend/colleague.

Representatives can take an active part in review meetings.

### ***The Informal Procedure***

The Clerk/Chairman of the Council will be responsible for dealing with minor issues of poor performance in the first instance.

A meeting with the employee to discuss poor performance should be arranged and any problems or areas for concern should be raised with the employee. Appropriate support and training should be offered to assist the individual in meeting the required standards in the future. Realistic targets should be agreed with the individual and future expectations made clear to the employee. The Clerk/Chairman should record the points discussed in the meeting (see pro-forma – Appendix 1) and confirm this in writing to the employee along with the agreed plan to achieve acceptable levels of performance. A review meeting within 2 months should be arranged to assess whether targets have been met and whether performance is satisfactory.

In most cases these meetings should provide sufficient guidance, support and clarification of standards to rectify the situation.

However, the formal procedure will apply when:-

- previous informal advice or guidance has proved ineffective;
- the performance is so poor that informal discussions are unlikely to help.

### ***The Formal Review***

If informal discussions have proved unsuccessful in raising performance levels to the standards set by the Clerk/Chairman then the formal procedure will be invoked. There are three stages to the formal procedure and the employee will have the right of representation at each stage.

During each stage the employee's performance will be monitored closely. The method of doing this will be made clear to him/her at the conclusion of each review meeting.

### **Stage 1: The Capability Review**

The Capability Review should build on the informal discussions. It should be sufficiently specific for the employee to know exactly what it is about their performance that is unsatisfactory and how they can improve to the required standard. Two members of the Personnel Committee will carry out the Review.

The review has 4 main purposes:-

i) To allow the two members of the Personnel Committee to discuss with the employee:

- the standards of work required;
- what improvement is necessary;
- how the employee can be helped to achieve them;
- how improvement will be assessed and the timescale which must be reasonable.

ii) To allow the employee to:

- obtain a clear understanding of what is expected of them;
- give an explanation or comment on their work;
- give their views on how the problem can best be tackled.

iii) To allow the two members of the Personnel Committee and the employee to explore other options:

- additional instruction, training or personal development activity;
- referral to occupational health

iv) To make clear to the employee:

- the timescale for improvement;
- how and by whom their work will be monitored through the review period;
- the consequences if their work does not improve or if improvement is not maintained.

Ideally, standards of performance should be agreed between the two members of the Personnel Committee and employee. However, in the absence of such an agreement,

the two members of the Personnel Committee must themselves assess that any targets set are reasonable and non-discriminatory. If training has already been given then its effectiveness should be reviewed and any further training and support agreed.

If, at the conclusion of the review the two members of the Personnel Committee are satisfied that there is a shortfall in performance, the employee should be issued with a formal warning and an action plan, including timescales, to achieve. It should also be made clear that failure to achieve the action plan will lead to the next stage of the formal procedure. The length of time given to improve will depend on the nature of the job and the performance gap, but in normal circumstances it should not be more than 3 months. The two members of the Personnel Committee should confirm the outcome of the meeting in writing to the employee within 5 working days.

### **Stage 2 – The Capability Review**

If the employee fails to achieve the standards and/or the timescales set out in the action plan then Stage 2 of the procedure is invoked. This involves a further review, based on the same structure as that for Stage 1.

Stage 2 of the Capability Review will be conducted by the two members of the Personnel Committee. If it is concluded that there is still a performance issue to be addressed a further formal warning should be issued and action plan giving details of the standards of performance required and the timescales within which these must be achieved. The employee should be reminded that if the action plan is not achieved, then Stage 3 will be invoked. It needs to be made clear that Stage 3 may result in a decision to dismiss the employee. Again, the length of time given to improve will depend on the nature of the job and the performance gap, but in normal circumstances should not be more than 3 months. A letter to confirm the outcome of the meeting should be sent to the employee within 5 working days, it should also explain the employee's right to appeal against any warning issued.

### **Stage 3 – The Final Capability Review**

The Final Capability Review will be heard by the Personnel Committee.

The two members of the Personnel Committee who were involved in Stages 1 and 2 will be required to provide details of the previous review meetings and of the steps taken to encourage improvement in the employee's performance.

The employee will have the opportunity to respond and put forward any points they wish to be considered.

Consideration should be given to any alternatives to dismissal although this is unlikely to be feasible as the Council does not employ many employees.

The Committee must satisfy itself that they have heard all of the relevant information and that the employee has been given sufficient opportunity to improve. If they consider that the employee's performance remains unsatisfactory they must inform the employee that their employment is terminated on the grounds of capability or any alternatives to dismissal.

The employee's dismissal will be with notice or, if serving their notice period is not in the interests of the Council, they will receive pay in lieu of notice. The dismissal must be confirmed in writing within 5 working days, stating the reasons for it and informing the employee of their right of appeal.

### ***Levels of Authority***

Guidance is given here on the appropriate levels of authority although alternative arrangements may have to be made on occasion.

<b>Formal</b>	<b>Officer</b>	<b>Authority</b>
Stage 1 & 2	Two members of the Personnel Committee	Formal warnings
Stage 3	Personnel Committee	Dismissal

## **The Right of Appeal**

In the event of a formal warning or dismissal the employee has the right of appeal to the Council's Appeals Committee. The Appeal must be made in writing within 10 days of the date of the letter confirming the formal warning or dismissal.

The Appeals Committee (which may include externally appointed members) will hear the appeal, providing that they have had no previous involvement in the matter, assisted by an independent adviser.

The appeal will take place as soon as is practically possible. The Appeals Committee will consider the details of the poor performance presented by the Personnel Committee.

The decision of any appeal hearing is final.

Performance Improvement Plan (PIP)

Performance Improvement Plan for: \_\_\_\_\_

Review Undertaken by :-

Date Review Undertaken \_\_\_\_\_, 201\_

The performance gap (current performance compared to expected performance)	
Actions taken so far to get performance back on track	
The results of that action	
What the employee is required to do now	
The timescale over which performance is expected to reach acceptable levels	
The consequences of the employee not performing to acceptable levels within that timescale	
The support that will be given to the employee to help them reach and maintain acceptable performance levels.	
Signed:  Reviewers:  Date:	Signed:  Employee:  Date: