

NEDDC & BDC PERFORMANCE CAPABILITY PROCEDURE

Version History

Version	Date	Detail	Author

Links and Dependencies

Performance Capability Procedure

1. Purpose

This procedure sets out the approach to managing performance when it fails to meet or falls below the expected standard.

The overriding aim of performance management is to achieve continuous improvement within a supportive framework. However there will be occasions when performance does not meet the required standard. Individual performance is monitored and reviewed through the Council's Personal Development process.

2. Scope

This procedure applies to all employees.

3. Key principles

This procedure is in accordance with legislative requirements and ACAS guidance.

- The aim of the procedure is to improve performance to a satisfactory level through support, training and review.
- The expected standard of performance should be agreed and progress reviewed on a regular basis.
- Where the employee can perform to the required standard but chooses not to, the disciplinary procedure is more appropriate.
- Capability issues need to be dealt with fairly and confidentially.
- The manager must be able to provide evidence of under performance and raise this with the employee promptly.
- The manager should maintain full documentation throughout in applying this procedure.
- The manager must consider whether there are any underlying problems or impacting personal circumstances, and provide support as appropriate.
- Reasonable adjustments should be considered for employees where relevant, in accordance with the Equality Act.
- The employee will be given the opportunity to input to action plans aimed at improving their performance. Sufficient time should be given for the employee to demonstrate improvement.
- The employee should be given the opportunity to improve in their current job.

- The employee has a right to be accompanied at formal meetings, normally by a colleague or trade union representative.
- Neither party is allowed to electronically record meetings held as part of this procedure. The use of recording equipment by either party without consent may constitute a disciplinary matter.

4. Roles and responsibilities

Line managers are responsible for managing the performance of their employees. HR will provide support and guidance to managers on the operation of the procedure. Manager guidance supplements this procedure.

5. Managing under – performance

Managers should review performance against agreed objectives through regular Personal Development Plan one to one meetings, and any issues should be dealt at the earliest opportunity. Ideally most should be resolved on an informal basis.

Stage 1: Informal meeting

If however there is no improvement, the employee should be informed at the next one to one meeting that the concerns about performance are being considered now under the informal stage of the Performance Capability Procedure. This one to one should be documented and include:

- details of the under performance,
- the improvement required,
- the timescale for achieving this improvement,
- a date for review (up to a maximum of three months review),
- any support or training that will be provided to assist the employee.

Review period

The period of review will be 1 to 3 months, dependent on circumstances, during which time performance will be monitored and regular feedback provided through one to one meetings. These meetings should be documented. Managers should provide support and training as appropriate during this period. At the end of the review period, the manager should confirm the outcome in writing:

- the employee has reached the expected standard and there is no longer cause for concern.
- there has been some improvement but not to the required standard overall, and the review period will be extended.

- if there has been no improvement, the employee should be invited to a Stage 2 meeting.

Stage 2: Formal meeting

The employee should be invited to attend a formal meeting to discuss the shortfall in performance. This should be in writing and give seven days' notice. The discussion should include:

- Evidence of the lack of progress during the review period and support offered.
- Any extenuating circumstances that may be affecting performance.
- A formal warning that failure to improve performance could lead to dismissal.
- Further targets for improvement.
- Further support/training that may assist.
- Any reasonable adjustments, if appropriate, that may be required.
- What will happen during the forthcoming review period.

The formal warning and action plan should be confirmed in writing to the employee.

Review period

The period of review will be from 1 to 3 months, dependent on circumstances, during which time performance should be closely monitored and regular feedback provided as a minimum on a monthly basis which should be documented. At the end of the review period, the manager should confirm the outcome in writing:

- If the employee has reached the expected standard and there is no longer cause for concern.
- There has been some improvement but the employee is not yet fully at the required standard and the review period will be extended. Consideration should be given to a further written warning in these circumstances.
- If there has been no improvement, or consistent inadequate improvement, the employee should be invited to a Capability Hearing.

Stage 3: Capability Hearing

This should be arranged if performance has not improved to the required standard overall and stages 1 and 2 have been followed. The employee should be asked in writing to attend a formal hearing, and seven calendar days' notice should be given. The letter should explain that dismissal is a potential outcome and provide or refer to the evidence that will be considered during the hearing.

The Hearing will be chaired by a manager from the Head of a Service team and an HR officer will advise. The decision of the Chair will be notified at the hearing. Outcomes may include:

- Dismissal with notice.
- Redeployment to another role at the same level that better meets the skills and experience of the employee.
- Redeployment into a job which incurs a reduction in grade. This will not attract pay protection.
- Final written warning with a further review period.
- No sanction appropriate.

A letter confirming the outcome of the hearing will be sent to the employee within 7 calendar days.

6. Appeal

The employee has a right of appeal:

- Appeals against dismissal are to Directors and must be registered in a letter to the Director of Legal Services within 7 calendar days of receipt of the written notification of the hearing decision.
- An appeal against any other outcome will be heard by an Elected Member and must be registered in a letter to the appellant's Director within the same timescales.

The employee will receive a reply to the appeal letter within 7 calendar days, acknowledging the registering of the appeal which will take place as soon as practicable. There will be a minimum of 7 calendar days' notice of the appeal date.

Any statements of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal Panel and other party at least 7 calendar days prior to the hearing.

A legal adviser will be present at any appeal against dismissal.

The employee has a right to be accompanied at the appeal by a colleague or trade union representative.

The employee will be informed of the outcome of the appeal in writing within 7 calendar days. That outcome is the final stage within the Council's procedures.

