



**North East
Derbyshire**
District Council

Capability Policy

July 2019



North East
Derbyshire
District Council

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CONTROL SHEET FOR CAPABILITY POLICY

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CAPABILITY POLICY

1. Introduction

1.1 The Capability Policy is designed to ensure employees are given the support, encouragement, development and guidance they need to achieve the levels of performance required and expected in their job role. The policy provides a framework for managing underperformance in a fair and consistent manner for all employees, when an employees' work performance falls below that expected for the role.

2. Scope

2.1 This policy applies to all employees of the Council regardless of whether they are full time, part time, fixed term or casual employees. It also pays due regard to the principles of the Equality Act 2010 covering age, disability, gender, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

It excludes new employees currently within their probation period, agency workers, volunteers and Elected Members who are covered under separate policies.

3. Principles

3.1 Purpose of the Capability Policy

- To inform employees of the expected level of performance required and to support employees to achieve these standards.
- To provide the employee with the opportunity to demonstrate they have the ability to undertake the role
- To manage underperformance in a fair and consistent manner

4. Statement

4.1 Responsibilities

- **Manager** – responsible for identifying underperformance together with implementing, managing, monitoring and assessing employees in accordance with this policy
- **Employee** – responsible for performing to the best of their ability together with fully engaging with and co-operating with the application of this policy
- **HR** – responsible for supporting the manager and employee and providing advice on the implementation of this policy in practice

4.2 Capability Process

It is recognised each case is treated on its' merits and the table below includes indicative timescales.

<u>Stage</u>	<u>Indicative Timescales</u>
Informal	1 to 2 months
First Formal Meeting	Following informal stage
Second Formal Meeting	At the latest 4-6 weeks after First Formal Meeting

Third Formal Meeting	At the latest 4-6 weeks after Second Formal Meeting
Meeting convened with Head of Service/Director	Following Third Formal Meeting if performance standards continue not to be met

The objective of the informal and formal meetings are as follows:

- To identify and address any underlying factors impacting on an employee's performance
- To establish, discuss, set targets for and monitor performance
- To identify development and support needs
- To identify any concerns on either side and ways of resolving these
- To provide an opportunity for positive and constructive feedback on both sides
- An Employee Support Plan should be completed by the manager and given to the employee (see Appendix One) at the **formal stage** (this tool can also be used at the informal stage).
- Alternatively, a Corporate Work Tracker can be used in lieu of the above where appropriate (see Appendix Two) at the **informal stage**
- The employee will be informed of the potential consequences of failing to improve their performance i.e. it may result in consideration of termination of employment.
- The manager will explain how the capability process aligns with the Councils Competency Framework (see Appendix Three) and how the employee's performance will be assessed against the requirements of the job role.

It is considered good practice for the manager to keep written notes at all stages of the capability process.

4.3 The employee will be given 5 working days notice of the **formal stage** meetings and be offered the right to be accompanied at the meeting by a Trade Union or other Representative. The meeting can be held sooner at the agreement of both parties. A representative from HR may be present at the meeting in an advisory capacity.

4.4 The manager has the discretion to bring forward review meetings if appropriate and following consultation with HR, subject to the requirements of paragraph 4.3.

4.5 The possible outcome of the informal and formal meetings are:

- The employee **has met** the performance standards required and no further action will be taken
- The employee **has not met** the performance standards required and the matter will be progressed to the next stage.
- The employee may be issued with a warning (see 4.13) and notified of the potential consequences of failing to improve their performance i.e. that it may result in the Head of Service considering the termination of the employee's employment.
- Some **progress has been made** towards the performance standards required by the employee. The review period will be extended for a short period within the current stage for a timescale appropriate and reasonable to the circumstances of the case, but for no longer than 4 weeks. The purpose of the extension is to enable the employee to demonstrate further improvement towards the achievement of the performance standards required.

4.6 Following a formal meeting, the employee will receive from their manager:

- An updated copy of their Employee Support Plan
- Written confirmation of the outcome of the meeting

4.7 The manager will also schedule regular meetings/catch ups with the employee in addition to the above in line with normal management best practice. The frequency and format of the meetings will vary from one service to another due to the difference in nature of these services.

4.8 It is important to note the capability process can be twin tracked with other associated policies and procedures such as:

- Sickness Absence Management
- Disciplinary Process
- Grievance Process

NB The above is not an exhaustive list

4.9 If the employee has demonstrated improved performance over a reasonable period of time and met the level of performance required, then this will be confirmed to the employee in writing and the process will end.

4.10 However, it is important to note that should an employee's performance decline within the 12 month period following a formal capability process being undertaken, then the formal process will recommence at the stage at which the employee had reached previously.

4.11 If an employee fails to co-operate with the policy, the manager can escalate the process and bring forward the meeting with the Head of Service/Director. If an employee fails to attend any meetings held in accordance with this policy without good reason, the meeting will proceed in their absence.

4.12 Issuing a Capability Warning

A capability warning is issued by the manager to the employee when issues of concern have been raised with the employee and at the next review meeting subsequent to this no improvement has been achieved. The employee will be informed that failure to improve will place their ongoing employment with the Council at risk. The employee has the right to be accompanied by a Trade Union or other representative at the meeting.

- First level capability warning – issued at the second formal meeting if performance standards have not been achieved
- Final level capability warning - issued at the third formal meeting if performance standards have not been achieved

4.13 The warnings will be removed following the conclusion of a formal capability process. However, it is important to note that should an employee's performance decline within the 12 month period following a formal capability process being undertaken, then these warnings will be considered live.

4.14 What happens if an employee continues not to meet performance requirements?

The employee will be informed that a meeting will be convened with the Head of Service/Director to review the position and consider whether the employee's contract of

employment should be terminated. Advice should be sought from HR by the manager at the earliest opportunity in these cases.

4.15 Meeting Convened with Head of Service or Director

A meeting is convened with the Head of Service/Director to consider the employee's ongoing employment with the Council in cases where the employee has clearly failed to either:

- Meet expected performance requirements
- OR a capability warning has been issued

The manager will consult with HR prior to proceeding to this stage.

The employee will be given 5 working days notice of the meeting and offered the right to be accompanied at the meeting by a Trade Union or other Representative. The meeting can be held sooner at the agreement of both parties. A representative from HR will be present at the meeting in an advisory capacity.

4.16 The meeting with the Head of Service/Director will provide the opportunity for the manager to present their case and for the employee to present any information they wish to be considered relevant to the process. The Head of Service/Director will consider all the information presented and make a decision.

The possible outcomes of the meeting will be:

- Reaffirm capability warning and/or extend the capability period for up to a further four weeks
- Withhold pay progression
- Consider alternatives to dismissal such as exploring the option of redeployment
- Dismissal with notice or pay in lieu of notice

4.17 The employee will receive written notification of the outcome of the meeting within five working days and if dismissed the employee will be offered the right to Appeal in accordance with the relevant Council's Appeals Procedure.

5. Appendices (if applicable)

Appendix A - Employee Support Plan

Appendix B - Corporate Work Tracker

Appendix C – Competency Framework