

Beyond Limits Dumfries & Galloway provides policies and procedures to promote safe and consistent practice across the Organisation. The framework laid down within our policies and procedures lets everyone know how we work and reflects our values and mission statement. Our policies and procedures are written to help us, employees of Beyond Limits Dumfries & Galloway, to make good, safe decisions.

Beyond Limits Dumfries & Galloway expects all employees to be familiar with the contents of all policies and procedures relevant to their role and to understand how to apply them within their daily work.

None of these documents stand alone, all fit within the larger framework of the way we work and any associated policies which are particularly relevant will be directly referenced.

# Capability

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## Capability Procedure – what this means to Beyond Limits Dumfries & Galloway

The primary aim of this procedure is to provide a framework within which the organisation can work with employees to maintain satisfactory performance standards and to encourage improved performance where necessary.

The organisation exists to support people to live the life they choose. The people we support deserve high quality support and therefore it is our duty to ensure this occurs in the best way possible.

The organisation recognises the difference between a deliberate or careless failure on the part of the employee to perform to the standards of which they are capable (in which case the organisation will use the disciplinary procedure) and a case of incapability, where the employee is lacking in knowledge, skill or ability and so cannot perform to the standard required (in which case the organisation will use the capability procedure in an attempt to improve the employee's performance).

The organisation also recognises that during an employee's employment, capability to carry out their duties may deteriorate. This can be for a number of reasons; the most common ones being that either the job changes over a period of time and the employee fails to keep pace with the changes or the employee changes and can no longer cope with the work.

Minor capability issues will be dealt with informally through counselling and training. Informal discussions may be held with a view to clarifying the required work standards and the level of performance expected of the employee. The aim of these discussions been to, identify areas of concern, establishing the likely cause of poor performance, identifying any training or supervision needs. Setting targets for improvement and agreeing a time-scale for review. However, in cases where informal discussion with the employee does not lead to a satisfactory improvement in performance, or where performance issues are more serious, the following capability procedure will be used. At all stages of the procedure, minutes will be taken as part of the process.

## Purpose

The purpose of the procedure is to:

- Assist and encourage all employees to achieve and maintain effective standards of job performance
- Provide managers with a framework and guidance to improve the performance of employees
- Ensure consistent and fair treatment for all employees who experience difficulties in performing satisfactorily the duties required of the post
- This policy and procedure should be applied in situations where an employee's competence is preventing them from carrying out their role to a required standard. A list of circumstances where the Capability Procedure should be applied is listed below.

## Management Responsibilities

Managers have a responsibility to ensure:

- New starters have been properly assessed against the job description/person specification for the job they are employed to do
- The employee is given the proper induction with regard to the organisation/team/department and the job itself

- The employee receives initial and ongoing job training and that training needs are reassessed following any job changes
- The expectation of work is realistic
- The volume of work is reasonable
- Adequate advice and supervision is available
- Staff are regularly assessed through support and supervision and a formal annual performance appraisal takes place
- Consideration of adjustments are reasonable, particularly in the case of employees with disabilities

Managers must ensure that employees have a reasonable and realistic chance of succeeding in the job, with appropriate training and developments being identified.

Managers must ensure that they share with staff, documents relating to their post, including job descriptions, person specifications and in the case of support staff; working polices and service designs around the person being supported. Documents relating to any meetings regarding an employee's capability must also be shared with the employee.

### **Stress**

Managers must consider that stress can be an important factor affecting employee performance. In addressing the poor performance caused by stress, managers must consider a range of options including possible temporary adjustments to the job, Employee Assistance Programme (EAP) referral and other factors identified below.

## **Sickness Absence/Misconduct**

Where ill health/disability is the reason for unsatisfactory work performance the organisation's Attendance Management policy will be followed. It may be appropriate to do so in conjunction with the Capability Procedure if the circumstances of the case require this.

Where misconduct is deemed the reason for unsatisfactory work performance, the organisation's Disciplinary Procedure should be followed.



## Performance Monitoring and Review

An annual appraisal is available for all staff and is where personal development plans can be agreed. Appraisal is a continuous process and should not be limited to a formal review. It is essential where work performance problems arise, they are addressed at the time, rather than waiting for a formal review.

## Unsatisfactory Work Performance

Unsatisfactory work performance may be due to the following:

- Lack of aptitude, skill, ability or experience
- Re-organisation or re-definition of role
- Poor overall organisation of work
- Changes in the nature and allocation of work
- Changes in workload
- Absence of facilities crucial to the employees performance
- Personal problems
- Health problems (e.g. stress)
- Problem drinking/substance misuse
- Disability
- Bullying/harassment at work

This list is neither exclusive nor exhaustive, but is provided as a guide for managers.

## Addressing Unsatisfactory Work Performance

In many cases, an informal conversation between the employee and the line manager will be sufficient to gain an improvement in performance. In order to determine whether there is a capability issue the following questions should be asked:

- What are the indications that the employee is not measuring up to the requirements of the job?

- Have there been complaints or criticisms from colleagues/people we support/family members?
- What factual grounds are there to indicate inadequate performance?
- Has the employee requested assistance to overcome the problem?

At all stages, consideration will be given as to whether the unsatisfactory performance is related to a disability, and if so, whether there are reasonable adjustments that could be made to the requirements of the employee's job or other aspects of the working arrangements. Downgrading/redeployment by mutual agreement may be considered as an option at any stage of this procedure.

### **Stage 1**

#### **Counselling**

Where an employee is experiencing difficulties and this is affecting performance, the problem should be addressed informally when it first becomes apparent, this would usually take place at support and supervision.

This should be a positive and constructive discussion to provide the employee with an opportunity to express their opinion and for the team leader/service leader/line manager to consider factors which may be contributing to their current performance. Specific examples of where the employee is not reaching the required standards should be given to the employee during this meeting.

The purpose of the meeting is to ensure a clear understanding of the standard(s) required and an identification of areas in which this is not being achieved.

At the meeting, an action plan must be agreed. The action plan should identify the following:

- Clarify the standards of performance expected
- Whether further training is required
- Clarify if any support is required and who will provide the support
- Whether there needs to be redistribution of workload
- Whether the amount of supervision needs to be adjusted e.g. 2 weekly rather than 6/8 weekly
- Any other relevant factors (e.g. resources, ways of working etc.)
- Confirm consequences if no improvement is achieved in agreed timescales



The action plan must detail in writing the improvements required, the targets and timescale.

Continuous monitoring and assessment should take place over a predetermined period of time (depending on the required improvements) which will not normally be more than 3 months following the meeting unless the review period is triggered by an event rather than a timescale (e.g. examination failure)

## **Stage 2**

### **First Formal Interview**

If it becomes apparent that an informal approach to improving performance has been unsuccessful then the team leader/service leader/line manager will advise the employee in writing and confirm that the formal capability procedure will commence. A formal interview should take place no later than 3 months after the counselling.

A team leader/service leader/line manager will inform the Director when formal capability procedures are introduced.

The organisation's HR advisor service, Scottish Engineering should be kept up to date with proceedings and their advice should be sought in relation to inviting the employee to attend the meeting.

A letter should be written and should include the following:

- The purpose of the meeting with reference to the formal stage of the procedure applicable
- The arrangements for the meeting providing a reasonable amount of time for the employee to prepare
- The right to be accompanied
- Details of previous informal actions and outcome
- Detail any evidence that supports under performance
- A review date (4-6 weeks)
- Enclose a copy of the procedure



Following the meeting, the outcome should be confirmed in writing to the employee by the manager in conjunction with Scottish Engineering, normally within 5 working days. This should include:

- Key points discussed
- Details of required improvements
- Details of support and/or training agreed
- A statement that continued failure to improve to an acceptable standard could lead to dismissal
- Inform the employee of his/her right to appeal
- All letters should be discussed with Scottish Engineering

### **Review Meeting**

During the improvement period, you should hold at least one informal progress meeting. At this meeting, you should assess the employee's performance against the targets that were set at the Stage 2 meeting. You should discuss how the employee feels he/she is progressing and any concerns that he/she has. Offer further reasonable support and/or training, if appropriate.

### **Formal Review Meeting**

At the end of the improvement period, you should reconvene on the specified date to formally review whether the employee has met the required standards.

## **Stage 3**

### **Second Formal Interview**

Failure to improve following the first formal interview and improvement period will be followed by a repeat of Stage 2 with a letter been sent to the employee, this will set out the areas in which the employee has still not met the required performance standards. At Stage 3, it will be necessary to review the support measures previously identified and discuss with the employee if they should continue or if any additional/alternative measures would be more appropriate to assist/support them. A further timescale for review and the likely consequences of failing to improve to the required standards within the further review period i.e. that dismissal will probably result.

A full and thorough review of the continuing poor work performance will take place. The employee must be given an opportunity to state their case. The employee will be given a caution, confirmed in writing, that failure to improve may result in re-deployment to a suitable alternative post, downgrading or termination of employment.



## **Stage 4**

### **Final Interview**

Failure to improve following the second formal meeting and improvement period will be followed by a final interview at which any available suitable opportunities for re-deployment will be discussed. The organisation will endeavor to make such opportunities available; however, can only do so if a suitable vacancy exists.

### **Dismissal**

If no re-deployment opportunity is available, or one is not accepted, notice of termination of contract will be given at this final interview on the grounds of capability. Whilst the employer is under notice, opportunities for suitable re-deployment will continue to be sought so that dismissal is the final option. There may be circumstances where it would not be appropriate to require a member of staff to work their notice.

### **Downgrading**

Downgrading is an alternative to dismissal and this option should be considered.

Employees are not afforded protection rights as a result of downgrading under this procedure.

### **Appeals**

An employee is entitled to appeal against either a warning given at Stage 3 or the decision at Stage 4 to dismiss. The appeal must be made in writing to the Director identifying the grounds for appeal within 5 working days of the date of the meeting. The appeal will be heard by an appropriate senior member of staff and the employee will be informed of the appeal decision in writing normally within five working days of the hearing. The appeal decision is final.

### **Employees with Short Service**

This capability procedure does not apply to any employee who has been employed by the organisation for less than two years.