



West Dean Parish Council

Capability Procedure

1. Introduction

This procedure is used to support, enhance and improve the performance of employees of West Dean Parish Council. This procedure sets out a framework for resolving issues relating to poor performance, in accordance with the Employments Rights Act 1996, Human Rights Act 1998 and the ACAS Code of Practice on Disciplinary and Grievance Procedures. This procedure aims to ensure that consistent and fair treatment is given to all individuals.

2. Scope

Where there are issues of misconduct or of negligence, these will be dealt with under the Disciplinary Procedure. For matters of sickness, disability, or ill health the Absence Management Policy will be used.

3. General Principles

This procedure is not a substitute for good management practices. It should only be invoked when initial attempts to improve performance have been unsuccessful following discussion between the employee and their manager.

The employee must be given at least 5 working days' notice of the requirement to attend a formal review meeting or an appeal.

The employee has the right to be represented at formal review meetings or appeals.

In the event of a formal warning or a dismissal, the employee has the right of appeal.

4. Related Procedures

When using the procedure, it may be necessary to refer to the contents of other agreed documents such as:

- The Equal Opportunities Policy
- The Grievance Procedure
- The Disciplinary Policy
- The Absence Management Policy – (to be approved at next Governance Mtg.)
- The Performance Management Policy
- The Training & Development Policy

5. 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 or work colleague.

Representatives can take an active part in review meetings.

6. The Informal Procedure

The Clerk/RFO (or Chair of the Staffing Committee in relation to matters concerning the Clerk/RFO) should deal 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 of concern should be raised by the Clerk. Appropriate support and training should be offered to assist the individual towards meeting the required standards in the future. Realistic targets should be agreed with the

individual and future expectations made clear by the Clerk. The Clerk will record the points discussed in the meeting and confirm this in writing to the employee along with an agreed plan to achieve acceptable levels of performance. A review meeting should be arranged within 2 months to assess whether the targets have been met and whether the performance is satisfactory.

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

However, the formal procedure will apply when:

- Previous informal advice or guidance has proved ineffective: or
- The performance is so poor that informal discussions are unlikely to help.

7. The Formal Review

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

During each stage, the employee's performance will be closely monitored. The method of monitoring will be made clear to them at the conclusion of each review meeting.

7.1 Stage 1: The Capability Review

The Capability Review should build on the informal discussions. It should be sufficiently specific so that the employee knows exactly what it is about their performance that is unsatisfactory and how they can improve to the required standard. The Clerk/RFO (or Chair of Staffing Committee, in relation to matters concerning the Clerk/RFO) will carry out the review.

The review has four main purposes:

- i. To allow the Clerk/RFO to discuss with the employee: the standards of work required; what improvement is necessary; how the employee can be helped to achieve them; and 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; to give an explanation or comment on their work and give views on how the problem can best be tackled.
- iii. To allow the Clerk/RFO and the employee to explore other options, such as additional instruction; training or personal development activity; or referral to occupational health.
- iv. To make clear to the employee: the timescale for improvement; how and by whom their work will be monitored during the review period and the consequences if their work does not improve or if improvement is not maintained.

Ideally, standards of performance should be agreed between the Clerk/RFO and employee. However, in the absence of such an agreement, the Clerk must satisfy themselves 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 the Clerk is satisfied at the conclusion of the review that there is a shortfall in performance, the employee will be issued with a formal written warning, if required, and an action plan, including timescales, to achieve. It will 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 Clerk will confirm the outcome of the meeting with the employee within 5 working days.

7.2 Stage 2: The Capability Review

If the employee fails to achieve the standards or the timescale set out in the action plan are not met then Stage 2 of the procedure is invoked. This involves a further review based on the same structure as Stage 1.

Stage 2 of the Capability Review will be conducted by the Clerk (or Chair of Staffing in relation to matters concerning the Clerk). If it is concluded that there is still a performance issue to be addressed, a further formal written warning, if required, should be issued along with an action plan giving details of the standards of performance required with the timescale 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 it 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 employees fights to appeal against any warning issued.

7.3 Stage 3: The Final Capability Review

The Final Capability Review will be heard by three members of the Staffing Committee.

The Clerk who conducted Stages 1 and 2 should also be present 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, such as redeployment or options of downgrading. However, this may not always be possible and will depend on each individual situation and the circumstances of the Council.

The panel must satisfy themselves that they have heard all the relevant information, and that the employee has been given sufficient opportunity to improve. If they consider 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 that are offered.

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

7.4 Levels of Authority

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

Formal	Officer	Authority
Stage 1 & 2	Clerk/RFO	Formal Warnings
Stage 3	Staffing Committee	Dismissal

7.5 The Right to Appeal

In the event of a formal warning or dismissal, the employee has the right to appeal to the Clerk/RFO (or Chair of Staffing Committee, in relations to matters concerning the Clerk). The Appeal must be made in writing within 10 working days of the date of the letter confirming dismissal.

Three members of the Council, who are not members of the Staffing Committee, will hear the appeal, providing they have had no previous involvement in the matter. They will be assisted by an independent adviser, who may be a Clerk from another authority.

The appeal will take place as soon as practically possible. The Appeal Panel will consider the details of the poor performance presented by the Chair of the Final Capability Review and will consider the comments of the employee.

The decision of any appeal hearing is final.

7.6 Training

Appropriate training will be given to the Clerk or any Members who might be involved in capability or appeals meetings to ensure that they fulfil their responsibilities under this procedure.

APPENDIX 1: CAPABILITY REVIEW FORM

Please complete a new form for each review

EMPLOYEE'S DETAILS

Name:

Job title:

AT WHAT STAGE IS THIS REVIEW? (please tick)

☐ 1 month

☐ 2 month

☐ 3 month

Date:..... Date:..... Date:.....

<i>(please tick)</i>	Improvement required	Satisfactory	Excellent
Quality and accuracy of work			
Efficiency			
Attendance			
Time Keeping			
Work relationships (teamwork and interpersonal communication skills)			
Competency in the role			

Please provide evidence to support the ratings given above. Please refer to specific areas and provide examples.

If improvement in some areas is required, please complete the table below:

In what area(s) is improvement required? (e.g. customer service, punctuality, report-writing etc.)	What standards of performance or conduct are required? (i.e. what is expected of the employee?)	By when?	What support / training / development will be provided? (if applicable*)

* May not be applicable if related to conduct e.g. punctuality

My current assessment is that:

- ☐ I consider the employee's performance to be satisfactory, or better.
- ☐ I consider the employee's performance to be currently unsatisfactory, and measures have been put in place to support them to improve.
- ☐ I consider the employee's underperformance to be so significant, that it will be referred to the Staffing Committee Members for consideration.

To be completed at the 3-month review:

- ☐ The employee's capability period has been successful, and their appointment is confirmed.
- ☐ The employee's performance is unsatisfactory and will be referred to the Staffing Committee Members for consideration.

Manager's Name

Manager's Signature:

Date:

Employee's Name

Employee's Signature:

Date:
