

THE COAL AUTHORITY

CAPABILITY PROCEDURE

Introduction

The Authority recognises the importance of the contribution of its employees to meeting its objectives. This policy is designed to promote best practice and is primarily an enabling process intended for all staff to identify and manage issues of work related performance.

This policy is not to be used when dealing with issues of misconduct. In such circumstances, the Authority's disciplinary procedure should be applied.

Occasionally it may be necessary to activate the Sickness Absence Management Procedure alongside the Capability Procedure.

The main aim of the procedure is to encourage and help employees to improve their standard of work.

Scope

The policy applies to all employees of the Authority with the exception of those who are serving a probationary period.

Principles

It is the duty of all employees to conduct themselves appropriately and to undertake their work to the required standards of performance. Every employee will receive a job description to ensure that they are aware of the core duties to be carried out in their role.

Line Managers should ensure that employees fully understand the standards of performance expected by the Authority.

The Authority will ensure that all employees are trained and competent to undertake their duties.

Where an employee's ability to perform the duties of their post gives rise to a concern the situation will be investigated in accordance with the terms of this procedure.

The employee will have the right to be accompanied by a work colleague or Trade Union Representative at any formal interview

Procedure

Informal Stage

Any concerns regarding the performance of an employee should initially be drawn to the employee's attention informally through the normal line management process, with an opportunity for the employee to explain their opinion of their performance. Any underlying reasons for the performance should be discussed. The line manager should agree an action plan with the employee to ensure that improvements are made.

Any additional training needs should be identified at this stage. The Authority will support employees to ensure they reach the required standard.

The line manager should make a note of this discussion and any actions that have been agreed.

Formal Stage

Stage 1

Where the employee fails to achieve a satisfactory standard of work following informal action, Human Resources will write to the employee inviting them to attend a formal interview. This letter will summarise the nature of the employee's incapability with details of any supporting evidence.

The interview will be conducted by the employee's line manager and a member of the HR team.

At the interview the line manager will explain why the employee's standard of work is unsatisfactory, outlining the gap between actual performance and required performance.

The employee will be given an opportunity to explain any underlying reasons for the unsatisfactory performance.

The line manager and the employee should agree an action plan the purpose of which should be to;

- Agree the required standard of performance
- Set a timescale, within which the required standard is to be achieved
- Identify necessary and reasonable development required
- Set up dates for review meetings
- Monitoring progress

The employee will be advised that failure to meet the required standards may result in further action which could ultimately result in their dismissal.

Where at any stage, the employee's performance improves to an acceptable level they will be notified of this in writing.

Stage 2

If the employee's standard of work is still unsatisfactory at the end of the review period, a second formal interview will be held. The line manager will explain why the standard of work is still not acceptable and the employee will be given an opportunity to provide reasons why the required standard has not been met.

If reasons given by the employee are not acceptable one of the following actions may be taken;

- The period for improvement may be extended
- An alternative action plan may be implemented

At this stage the employee will be given final written notification that failure to meet the required standard of work within the timescale may result in their dismissal.

Appropriate supervision, coaching, encouragement, and monitoring will continue and line managers must keep notes of all actions taken along with their outcomes.

Where at any stage the employee's performance improves to an acceptable level they will be notified of this in writing.

Stage 3

Where the employee's standard of work is still unsatisfactory after a final written warning and where in the opinion of the managers involved in the process, an appropriate amount of time has been given in which to improve, the employee will be invited to attend a further formal interview. The interview will be conducted by the Director of the employee's department and the Human Resources Manager.

The Line Manager will also be present to provide evidence of the process followed to date. They will discuss the gap between the employee's actual standard of work and the required standard and the measures taken to assist the employee to achieve a satisfactory standard of work.

The employee will be given the opportunity to explain their unsatisfactory standard of work and why their performance has not improved given the support and time they have received.

The Director will make a decision on the action to be taken having heard all the evidence.

If the Director is satisfied that the employee's standard of work is still below the required standard and that sufficient measures have been taken to help the employee. He/She may consider the following options;

- The extension of the period for improvement

- The modification of targets
- Dismissal on the grounds of incapability, with the appropriate contractual notice. As an alternative to dismissal the Director may wish to seek alternative employment for the employee within the Authority. This could be a post in a different area or post on a lower grade. There is no right to salary protection if a person accepts a post on a lower grade, as a result of the Capability process nor does the employee have an automatic right to be redeployed. If redeployment or demotion is considered it is important that this will depend upon whether there is a suitable vacancy available and the employee's ability to perform the duties. All offers of redeployment will be made in writing specifying a trial period in which performance will be assessed. The implications of non acceptance or an unsuccessful trial period should also be made clear to the employee. The new manager will determine the trial period in consultation with HR but in any case the trial will not exceed 6 months

Right of Appeal

The employee will have the right of appeal against any formal warning taken under this procedure.

Appeals will be heard by an appropriate panel of two independent Authority employees who have not previously been involved in considering the matter. One member of the panel should be the Chief Executive.

All letters of appeal should clearly set out the grounds upon which the appeal is made.

The employee will be notified in writing of the arrangements for the appeal hearing, including their right to be accompanied by a work colleague or trade union representative, at the earliest opportunity. No less than seven days notice will however be given of the date of the appeal hearing. If the Trade Union representative or work colleague are not available on the proposed date, an alternative date will be offered in the period up to seven days after the original date.

Following the appeal hearing one of the following decisions may be taken;

- Appeal rejected
- Appeal upheld – the action taken is withdrawn and any written reference removed from the employee's file
- Sanction altered – the action taken may be substituted with an alternative sanction.

At the completion of the appeal the decision will be given as soon as possible.

No further right of appeal will be available.

Revised October 2008

