

# Capability Policy (Management Procedures)

*We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.*

# WHEATLEY CARE

## PROCEDURE FOR MANAGEMENT OF POOR PERFORMANCE UNDER THE CAPABILITY POLICY

### 1. Introduction

When an unacceptable level of performance is identified, action is required in the interests of the organisation and the employee. A failure to deal with such issues may adversely affect other staff and ultimately the service to tenants and service users.

In all cases where management believe an employee's performance is falling short of the required standard, the primary objective must be to assist him or her to improve to the required standard

### 2. Identifying if there is a Capability Issue

Managers should consider the following questions when considering the issue of capability:

- What are the indications that the employee is not measuring up to the job?
- Have there been complaints about the employee's work from colleagues, tenants, service users, relatives or external agencies?
- Is there factual evidence to indicate inadequate performance?
- Does the manager's own observations indicate poor performance?
- Has the employee requested help to overcome a problem?
- Has there been recurrence of a problem?

### 3. Addressing Capability Issues

When addressing capability issues, managers are reminded of the following:

- The procedure for managing employee capability must be used in all cases of poor performance, where conduct is not an issue.
- Emphasis must be placed on supporting the employee
- The manager must provide a written rationale of the extent to which the employee's performance is deficient.
- The manager must discuss the unacceptable performance with the employee to establish the reasons for it and determine the most appropriate action to address the problems identified
- A course of action with specified time limits must be agreed and the appropriate reviews undertaken

- The manager, employee and representative must be aware that the issues are not being dealt with under the disciplinary procedure.

#### **4. Guidance in Addressing Capability Issues**

The possible reasons for poor performance are described on page 2 of the policy. As they are varied the possible solutions for dealing with poor performance are therefore varied. The list below is not exhaustive, but a guide to managers when addressing such issues. Each case should be considered individually.

1. Provision of training
2. Flexible working (reference should be made to Flexible Working Policy)
3. Referral to Occupational Health Services
4. Relocation/Transfer
5. Referral to Employee Counselling Services
6. Redeployment
7. Mentoring scheme
8. Temporary adjustment, eg. reduction of hours/duties

#### **5. Informal Process**

When a manager has identified poor performance and has substantiated it through written evidence, an informal discussion should take place with the employee. The discussion should focus on the specific areas of the performance the manager has identified as being below acceptable standards. The purpose of the meeting is to ascertain if the employee accepts that there is a problem and if so respond positively to constructive support and assistance.

The Manager must:

- Outline the problem
- Encourage the individual to give their version
- Encourage the employee to discuss general issues which may conceal details of the problem
- Be aware of possible contributing factors, eg. domestic problems and seek to identify them.
- Agree possible solutions and an action plan with timescales
- Agree a review mechanism

The employee may respond in the following ways:

- Accept that there is a problem and agree to suggestions to resolve it
- Express doubt as to the existence of a problem, but be willing to agree to suggestions for improvement. Manager must agree most appropriate action through agreement.

- The employee denies the existence of a problem. The employee must be encouraged to discuss the issues and be given every opportunity to improve.
- The employee may be absent due to sickness. The process will then be implemented on the employee's return. Sickness absence should be dealt with according to the attendance management policy in the meantime.

The outcome of the meeting at this stage should be confirmed in writing, including issues discussed, agreement reached and action plan and timescales agreed where appropriate. The employee should be advised of the possibility of progression to the formal stages of this procedure should there be inadequate improvement.

## **5.1 Review**

If following review, the employee's performance has improved to the extent that capability is no longer an issue, then the employee must be informed in writing.

## **6. Formal Process**

If following review, there has been inadequate improvement, a more formal process will be required. The Manager must ensure, prior to this that the employee has received the necessary training and support to undertake the job and that any contributing factors have been acknowledged and support provided.

### **6.1 Stage 1**

Where an employee is failing to perform to acceptable standards despite having been given initial informal guidance and support, a meeting will be arranged with the employee by the line manager. The employee will be given at least 5 working days' notice of the meeting. The written confirmation of the meeting will include the following details:

- The procedure and stage being used
- Clear description of the shortfall in performance
- Supporting documentation
- Details of informal discussion to date
- Right of representation

The purpose of the meeting at this stage is to discuss and agree:

- Areas in which performance is unsatisfactory
- Improvement which is required and how it will be measured
- Action plan for addressing performance issues, including timescales
- Date for next review
- Action which will be followed should the required improvement not be achieved.

It will be clearly explained to the employee at the meeting the exact nature of the deficiencies in their performance. The employee must have the opportunity to answer any points raised and explain any difficulties they may be having.

The outcome of the meeting will be formally recorded. The letter to the employee must include:

- Areas where performance is unsatisfactory
- Improvements required
- Agreed action plan to achieve improvement
- Timescale for improvement with date for review
- Details of the right of appeal
- Consequences if improvement is not achieved.

## **6.2 Stage 2**

If at the review of Stage 1, the desired improvement has not been achieved, a further meeting with the employee will be arranged. The employee will be given at least 5 working days' notice of the meeting as in Stage 1. The purpose and the format of the meeting will remain as Stage 1.

The support measures previously agreed may need reviewed and discussion should take place over any additional measures required. The employee must be given every opportunity to answer concerns raised and provide relevant information.

If appropriate at this stage, redeployment may be discussed, if the employee is agreeable to this option. The manager must notify the Section Head of this, so that alternative posts may be identified.

Where redeployment is made to a lower graded post, the new post would not normally attract protection. This must be made clear to the employee at this stage.

The outcome of the meeting will be formally recorded and confirmed to the employee in writing as Stage 1. Any discussions regarding redeployment will be included in the letter.

### 6.3 Stage 3

If an improvement has not been achieved following a review as agreed at Stage 2, a meeting must be convened by a manager with authority to dismiss. The arrangements and information provided to the employee are as Stage 1.

Present at the meeting will be the Senior Manager, the line manager of the employee, the employee and his/her representative.

The line manager will outline the concerns regarding the employee's performance. The employee will have the opportunity to respond.

The Senior Manager will determine the outcome of the meeting, based on the information provided by the line manager and the employee. The outcome of the meeting may be:

- 1/ The Senior Manager believes adequate improvement has been made within the time set and this is confirmed in writing to the employee.
- 2/ The Senior Manager believes adequate improvement may be made within a reasonable time period. Agreement will be made as Stage 2.
- 3/ The Senior Manager believes that performance will not become acceptable in the current post. Further consideration will be given to permanent redeployment and if the employee will be able to perform at the required standard for the alternative post.
- 4/ The Senior Manager may determine that dismissal is the only option.

The employee will be advised in writing of the outcome of the meeting and the method of appeal if appropriate.

## 7. Appeal

The right to an appeal applies to all stages of the formal procedure. Management decisions may not be delayed pending an appeal, but they may be reversed or amended as a result of an appeal hearing.

### Stage 1

An employee aggrieved at the decision made at Stage 1, has the right to appeal to the next level of line management. Any appeal should be made in writing and should be received within 5 working days of the letter confirming the decision of the line manager being received.

### Stage 2

An employee who is aggrieved at a decision made at Stage 2, has the right to appeal to the next level of line management. Any appeal should be made in

writing and should be received within 5 working days of the letter of confirmation being received.

### Stage 3

An employee who is aggrieved at the decision made at Stage 3, has the right to appeal to the Wheatley Care Coordinating Management Group. The appeal should be made in writing within 5 days of the confirmation letter being received.

The Association will convene a meeting with at least two senior members of the organisation. The panel will include a member of the Coordinating Management Group and a member of the relevant Board. No member of the panel will have had any previous knowledge of the case.

Should the procedure apply to a member of the Senior Management Team, they would have the right of appeal to the Director of Wheatley Care at Stage 1, 2 and to the Chair of the relevant Board at Stage 3. Where the Senior Manager reports to the Director of Wheatley Care, appeals would be made to the relevant Chair at Stage 1, 2 and 3.

The employee will be advised of the following information in writing:

- The date, venue and time of the appeal hearing
- The names of the senior officers who will hear the appeal
- Their right to be accompanied at the appeal hearing

The employee and the senior manager will be asked to submit a written statement of case 10 working days prior to the date of appeal, along with the names of any witnesses they may wish to call. It is responsibility of the Manager and the employee to ensure the witnesses are made aware of arrangements for the appeal hearing.

At least 5 working days prior to the appeal hearing, copies of written cases along with the names of witnesses will be circulated to the panel, the employee and the senior manager.

Following appeal, the employee will receive written confirmation of the decision.