

Capability Policy and Procedure

The term “Capability” relates to an employee’s ability and competence in the performance of their work, as opposed to “Conduct” which relates to the standard of their behaviour at work. It is recognised that an employee’s work performance and efficiency can be affected by a wide range of factors, related to both the workplace and to life outside of work. The purpose of this policy is to enable North Halifax Partnership (NHP) to address any unsatisfactory work performance as soon as possible and to offer what support it can to employees, to enable them to improve their performance.

This policy is intended to link with the NHP’s Disciplinary policy where necessary. For all matters relating to conduct, see Code of Conduct.

The Capability Policy applies to all staff who have successfully completed their probationary period.

1 General Principles of Capability Policy

- 1.1 Whilst capability and conduct often go hand-in-hand, for the purpose of this policy it is important that there is some distinction made between the two terms. For example, an individual may be willing to undertake a task, or may think they are doing it acceptably, but they may not have the skills and experience required. This would be covered by the capability policy.
- 1.2 On the other hand, an individual may refuse to undertake a task, or may deliberately do it badly, demonstrating poor behaviour and attitude. This would be a conduct issue and would be dealt with using NHP’s Disciplinary policy instead.
- 1.3 Examples of potential capability-related issues are listed below. This policy would be implemented in cases including these examples: -
 - 1.3.1 **Low Output** – where an employee is capable of producing the work at the required standard but works slowly and fails to meet the standards or targets agreed.
 - 1.3.2 **Inability** – where an employee has been offered training and advice but is still unable to do their work at the level or standard required.

- 1.3.3 **Personal** – including domestic responsibilities which may be causing concern or performance issues at work.
 - 1.3.4 **Ill Health** – which has led to the decreased performance and is affecting the individual's ability to undertake the work but has not resulted in the individual being absent from work.
- 1.4 These examples provided are not a definitive list and managers should consider cases carefully and on an individual basis before deciding which policy is most appropriate to use to address the problem.

2 **Capability Procedure**

- 2.1 NHP recognises that matters relating to work performance can be sensitive and it will endeavour to treat staff with respect and courtesy in using this policy. NHP believes that employees need clear standards and targets implemented from the outset of employment and updated regularly as required. The probationary period is also intended to clarify standards and performance requirements, and this may be extended if there are concerns about an employee's capability.
- 2.2 All employees should have up-to-date job descriptions and all job descriptions should be thoroughly reviewed during probationary reviews, supervisions, and annual appraisals. If this is not the case and there has been a breakdown in this procedure, then it is the responsibility of line managers to address the situation as soon as possible and to rectify it via honest discussion with the employee concerned.
- 2.3 In cases where there is a shortfall in performance, the employee's manager will make arrangements to discuss this informally with the employee as part of the normal day-to-day dialogue. Clear examples of poor performance will be discussed, and the employee will be given the opportunity to comment on the manager's observations and to make suggestions as to how performance might be improved. The employee will be asked to propose reasons for the poor performance and to participate fully in rectifying the problems. In some cases, the performance problem will be temporary in nature and is likely to be resolved fairly quickly. In other cases, there could be a more serious or persistent deficit in performance and a more structured approach to resolving the issue will be required.
- 2.4 Managers are required to record these discussions, being clear on any actions agreed and the timescales and methods how any improvements will be monitored. Any training or support that the employee may benefit from should be facilitated. This would be part of the normal day-to-day dialogue with the employee.

2.5 Informal Review Meeting

- 2.5.1 The purpose of the review meeting is to confirm whether or not improvements in performance previously discussed and documented have taken place. In preparation for the meeting both manager and employee will be expected to have considered evidence of any improvement and any other relevant issues, which they might wish to raise.
- 2.5.2 Examples of measures which might be agreed between manager and employee are:
- further training or coaching.
 - counselling.
 - opportunities for self-guided learning.
 - observation of those who perform to high standards providing structured feed-back sessions.
 - transfer to a more suitable post if this is operationally beneficial.
- 2.5.3 This list is not exhaustive, and any measures taken will be considered within the overall context of the business and its operations. An informal Performance Improvement Action Plan (PIAP) will be discussed and confirmed in writing to the employee. The manager will be clear on what is expected of the employee in future. The action plan will record any actions agreed and the timescales and methods how any improvements will be monitored. Any training or support that the employee may benefit from should be identified.
- 2.5.4 The employee's performance against the agreed targets will be reviewed and monitored during the agreed timescales as set out in the (PIAP) (see 2.5.3 above). This period may range from several weeks to several months but typically would not exceed an initial review period of 3 months. During the review period the employee will be encouraged and supported to improve their performance and to raise any matters of concern or difficulty with their manager. This may be followed by one or more review meetings as appropriate.
- 2.5.5 Where an employee's performance has improved it is important that both the manager and the employee maintain commitment to sustaining this improvement. Therefore, a review meeting will be arranged to acknowledge the progress made and to encourage continued improved performance.

- 2.5.6 If performance has failed to improve despite measures taken by both manager and employee, the manager will continue to monitor performance under the formal procedure. The employee will be informed, in writing that the matter is being referred to the formal stages of the capability policy and will be invited to a formal review meeting.
- 2.5.7 At all formal stages of the procedure the employee will be entitled to be assisted or represented by a trade union official or by a work colleague.
- 2.5.8 The employee will be given a minimum of three days' notice of the date of the formal meeting. If the date proposed by the line manager for the formal review meeting is unsuitable because the employee's chosen representative is not available, an alternative date may be suggested provided it falls within 5 working days of the original date, or, where this is not reasonably practicable, as soon as reasonably practicable thereafter.
- 2.5.9 The employee will be provided with relevant information which led to consideration of formal action prior to the meeting. This would usually be in the form evidence documented within the informal PIAP.

2.6 First Formal Review

- 2.6.1 If performance has not reached the required level during the informal stage, a formal review meeting will take place to explain the ways in which performance has not reached the required level. Clear examples of poor performance will be provided by the manager and will include:
- areas where the employee is failing to perform adequately.
 - actions already taken by the manager to address the problems.
 - the impact of the individual's performance on the team/business
- 2.6.2 The employee will be given the opportunity to prepare their response prior to the meeting and will be given the opportunity to comment and raise any relevant issues for discussion with the manager.
- 2.6.3 The manager will confirm, in writing, a summary of the key points raised in the review meeting and a copy of the formal Performance Improvement Action Plan and subsequent review period.

- 2.6.4 Managers will endeavour to secure a venue and to arrange timing of any formal meetings in such a way that it is reasonable to both employee and manager.

2.7 Second Formal Review

- 2.7.1 If there are still concerns or performance has not improved as agreed, the line manager will arrange a follow-up meeting with the employee, during which they will be told clearly that their performance has not improved adequately, they will be reminded of the first meeting and of the targets set. They will be able to discuss any explanation they may have and may again be offered training or other support should the line manager feel that this will help.
- 2.7.2 The employee will be informed that continued failure to reach required levels of performance may result in his/her dismissal on the grounds of capability and this will be confirmed in writing to the employee.
- 2.7.3 The manager will confirm, in writing, a summary of the key points raised in the review meeting and a copy of the formal Performance Improvement Action Plan and subsequent review period.

2.8 Final Review Meeting/Possible Dismissal

- 2.8.1 Following the two formal review meetings, in cases where performance has not reached the required level, a third meeting will take place with the employee and their line manager at which the employee may make representations as to the performance issues. A Senior Manager will also be present and will chair this meeting.
- 2.8.2 The employee will be informed in writing of the basis and nature of the issues leading to the meeting, in advance of the meeting. The employee will be made aware that dismissal, with notice, on capability grounds may be an outcome to the meeting.
- 2.8.3 The Senior Manager, supported by an HR Adviser, will review the whole process and the evidence provided by both the employee and their line manager and will consider whether, in the light of all the circumstances of the case, the employee's performance

remains below the standard required. The decision will be confirmed to the employee in writing.

2.8.4 In the absence of any final mitigating evidence the employee may at this stage be dismissed on capability grounds. Alternatives to dismissal might be the voluntary acceptance by the employee of a suitable alternative post, which might be at a lower level of remuneration, and more appropriate to the skills, knowledge and experience of the employee. Any alternatives will be at management's discretion subject to operational and business considerations.

2.9 Appeal

2.9.1 In all cases, employees dismissed (or subjected to some other action short of dismissal, excluding warnings or paid suspension) as a result of their performance will have a right of appeal against the decision. Appeals should be made in writing to the Chief Executive within 10 working days of the dismissal letter/ decision letter being issued to the employee. The employee should outline their grounds for appeal in their submission. Appeals will be heard by a panel of the Personnel Sub Committee and will take the form of a meeting, with the decision to be confirmed in writing. The employee may be accompanied by a trade union official or by a work colleague at their appeal meeting.

2.9.2 The format of the appeal meeting will be as outlined in the Disciplinary Policy.

2.10 Non-Attendance at Review Meetings

2.10.1 If an employee fails to take reasonable steps to attend a meeting or hearing (whether an original or rearranged meeting or hearing) and/or if it is not reasonably practicable for any party to attend a rearranged meeting or hearing, NHP reserves the right to proceed without further recourse to this procedure. Management will endeavour to secure a venue and to arrange timing of any disciplinary hearing in such a way that it is reasonable to both employee and manager.