

## **CAPABILITY POLICY**

May 2025

[Review May 2028]

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### **Purpose**

This policy sets out the obligations of the Council and employees in addressing capability issues that arise in the workplace from time to time.

The Council recognises that during your employment your capability to carry out your 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 you fail to keep pace with the changes, or you change (most commonly because of health reasons) and you can no longer cope with the work.

The Council is keen to enable employees to work effectively and must take steps to address any issues that arise without disciplinary action. This is always the last resort, and a management solution will be sought to assist an employee to address any capability issues that may arise.

### **Job changes/general capability issues**

- 1) If the nature of your job changes or if the Council has general concerns about your ability to perform your job, the Council will try to ensure that you understand the level of performance expected of you and that you receive adequate training and supervision. Concerns regarding your capability will normally first be discussed in an informal manner and you will be given time to improve.
- 2) If your standard of performance is still not adequate you will be warned in writing that a failure to improve and to maintain the performance required could lead to your dismissal. The Council will also consider the possibility of a transfer to more suitable work if possible.
- 3) If there is still no improvement after a reasonable time and the Council cannot transfer you to more suitable work, or if your level of performance has a serious or substantial effect on our Council or reputation, you will be issued with a final warning that you will be dismissed unless the required standard of performance is achieved and maintained.
- 4) If such improvement is not forthcoming after a reasonable period of time, you will be dismissed with the appropriate notice.

### **Assessment of capability**

Capability is assessed on an ongoing basis during the whole of the employment relationship.

Right from the outset, an assessment of capability is made during the recruitment and selection process. Most new starters will require training during their induction phase to welcome them into the Council, familiarise themselves with Council processes and help them adapt to the Council's

ways of working. Training needs will be addressed in the induction and also during the probationary review processes and meetings that are arranged during that time, to ensure the new starter's training requirements are adequately met so that the employee's capability is put on as firm a footing as possible for the remainder of their employment relationship.

All employees are provided with an induction programme tailored to their particular job role.

Capability is continuously assessed during employment but specifically at the annual appraisal. During the appraisal discussions, the line manager will raise any concerns with an employee's performance and the employee may raise any issues or barriers they face with their line manager. An action plan may need to be formulated if there are specific capability concerns.

### **Responsibilities of the employee**

Employees should work effectively, performing their duties to a high standard.

Employees who find themselves struggling in their work should raise this with their line manager so that steps can be taken early to address any training, re-training or support needs. An agreement can be reached on the way forward to address the capability issues, taking into account the Council's budget and relevance of the training to the job role being performed. It may need to be training on specific areas essential to the role rather than on subjects that are 'nice to have' knowledge bases.

The employee will then be responsible for working through the training/re-training offered by the line manager put in place to improve their performance and skillsets.

### **Responsibilities of the line manager**

Induction programmes are the responsibility of the line manager, with the programme to be devised and conducted by the line manager to meet the specific needs of the job role. Any issues that were identified during interview that may give rise to some training needs should be included by the line manager in the induction programme.

Appraisals will be conducted by the line manager in line with the appraisals policy. Capability issues raised by employees or otherwise identified by the line manager during the appraisal should be documented. A plan should be implemented by the line manager with the liaison of the employee, to address the requirements of the job role in respect of the deployment of training.

The training may be provided internally by other colleagues, or may require external training courses to be sourced and funded for the employee.

Targets set for employees should be realistic, measurable and achievable.

The line manager is responsible for monitoring employees to confirm that progress is being made under any action plans devised in appraisals or elsewhere. Any issues raised can be addressed with the employee either informally, at the next appraisal or through capability proceedings.

All employees are expected to be supported by their line manager so they can perform at their best.

## **Succession planning**

Employees often have hidden potentials to work well in roles beyond their own and they may benefit from additional training now to ready them for future roles.

Through the appraisal scheme or otherwise, the line manager may identify individuals that have the potential to work in other roles or other areas of the Council and can nurture that inherent talent through the process of providing training and opportunities to that employee to facilitate their promotion.

Employees can be offered training courses, coaching, mentoring or job shadowing to build their skills.

Employees on succession plans should have the above types of training focused specifically to the possible senior roles they could apply for in the future.

Formal succession plan programmes can train an existing employee for a future more senior role, focusing on the additional capabilities that those employees will need to be capable of in the future.

Employee expectations should be managed in this regard to ensure no problems arise in relation to the take up of any future roles, interview process etc.

## **Promotion**

Promotion is usually given on merit but, even so, the new line manager of that employee will need to meet to agree any training issues specific to the new role that may arise.

## **Monitoring of capability issues**

Responsibility for monitoring of capability issues rests with the line manager for that employee.

Employees who are not achieving their targets should receive arrangements targeted to improve their performance. If, after measures have been put in place, there are no improvements to the performance, and capability remains an issue, the line manager should contact the HR department for further guidance.

It may be that further training is required, or redeployment to another role which the employee may agree is more suitable or ultimately action under the capability procedure.

## **Personal circumstances/health issues**

- 1) Personal circumstances may arise which do not prevent you from attending for work, but which prevent you from carrying out your normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises, the Council will normally need to have details of your medical diagnosis and prognosis so that the Council can have the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking your own doctor for a medical report. Your permission is needed before the Council can obtain such a report and the Council will expect you to co-operate in this matter should the need arise. When the Council has obtained as much information as possible regarding your condition and after consultation with you, a decision will be made about your future employment with us in your current role or, where circumstances permit, in a more suitable role.

- 2) There may also be personal circumstances which prevent you from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances the Council will need to know when the Council can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report or by making whatever investigations are appropriate in the circumstances. When the Council has obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with the authority in your current role or, where circumstances permit, in a more suitable role.

## **Medical examination Occupational health**

If the Council has cause to be concerned about the employee's health, e.g., the employee has had a number of periods of sickness absence for the same reason in a short period, or the employee's absence has become long term *defined by the council as an absence lasting for four weeks or more* then the employee's line manager may suggest that the employee undertake an assessment with the Council's preferred medical provider.

In certain circumstances, especially if the employee's sickness absence may impact on the employee's long-term employment, then the Council may ask the employee to consult a medical practitioner of its choice, to have the employee's fitness to work arrangements assessed and confirmed. It is a condition of the employee's contract that the employee comply with any request from the Council to attend an appointment with a medical practitioner of the Council's choice.

Should the Council seek further medical information, the employee will be provided with detailed information relating to the report, and the employee's access to it, and the employee will be asked to provide written consent.

## **Access to medical reports**

The Council may need to request a copy of the employee's medical reports or medical records to assist in the assessment of the employee's medical condition. The employee's consent, in line with requirements under the Access to Medical Reports Act 1988, will be obtained prior to the Council making contact with the employee's GP and the employee is entitled to see a copy of the documentation provided. In line with data protection legislation, the employee will also be given details on the reason for the examination, what the Council intends to do with the data obtained and the lawful basis for processing the data.

Should medical information be obtained by either route, the Council will meet with the employee to discuss it. There may be changes required to the employee's work or the Council's processes as a result of the medical information obtained, in which case this will be discussed and agreed with the employee where business requirements allow. Any outcomes will subsequently be provided to the employee in writing.

## **Frequent and short-term absences Trigger points**

Absence triggers enable the Council and line managers to address all absences and ensure absences are managed fairly and consistently.

The Council aims to apply these on a consistent basis but accepts that there may be times when these triggers need to be adapted to accommodate certain long term or temporary medical conditions.

The absence triggers are as follows:

### **Triggers for employees within their probationary period.**

<b>Criteria</b>	<b>Trigger</b>
Number of absence events	2
Continuous calendar days of absence	3

### **Triggers for employees who have completed their probationary period.**

<b>Criteria</b>	<b>Trigger</b>
Number of absence events	3 in a rolling 365 <i>day</i> period
Absence events totalling more than 10 working days (pro-rated)	2 in a rolling 365 <i>day</i> period
Continuous calendar days of absence	30

Only one of the triggers needs to be reached for the line manager to be required to review the employee's sickness records.

### **Informal meeting**

The line manager should meet informally with the employee to discuss the fact that an absence trigger has been reached and to discuss necessary actions, such as considering a referral to Occupational Health; implementing reasonable adjustments that may be necessary in relation to disability or other medical condition; or any possible formal disciplinary action. The line manager may establish that there is an underlying medical condition, and it may be that advice is required from HR as to the best course of action to take. Should this be required, a further meeting will be held to discuss the outcome. Disciplinary procedures may not be necessary or appropriate in those circumstances.

A summary of the meeting will be kept for the employee's personnel file and a copy given to the employee.

### **Escalation to formal proceedings**

Following the informal meeting, should no improvement be seen in the sickness absence and/or a further trigger point be reached, an investigation into the absence will take place with the employee. A meeting will be held to discuss the absences, and again seek to establish if there is an underlying cause that needs to be accommodated and/or further investigated. Should this not be the case, the employee's line manager may proceed to formal disciplinary action for high absence levels. A verbal warning may be the result of a subsequent disciplinary hearing.

Following a verbal warning, should further triggers be hit, and the absence continues to be a concern, further investigations will take place. Should the outcome of the investigation be that the absence levels remain unacceptable, then further disciplinary proceedings may take place. Should

the previous warning still be in place, this may be built on following disciplinary proceedings with a written warning.

Following a written warning, should further triggers be hit, and the absence continue to be a concern, further investigations will take place. Should the outcome of the investigation be that the absence levels remain unacceptable, then further disciplinary proceedings may take place. Should the previous warning still be in place, this may be built on following disciplinary proceedings with a final written warning.

## **Dismissal**

Following a final written warning, should further triggers be hit, and the absence continue to be a concern, further investigations will take place. Should the outcome of the investigation be that the absence levels remain unacceptable, then further disciplinary proceedings may take place. Should the previous warning still be in place, this may be built on following disciplinary proceedings with a dismissal, following a full examination of the facts and where no reasonable adjustments are appropriate.

## **Long-term sickness**

While the Council is keen to assist employees who are absent, it cannot offer indefinite support. The Council will be eager to get any employees on long-term sickness absence back into the workplace as effectively as possible, but the employment may need to be terminated if this cannot be achieved. Once the employee has exhausted their 28-week entitlement to statutory sick pay, or before, the employee's line manager will discuss with the employee their likely return to work date and what work duties they may be able to fulfil. If necessary, the Council will ask the employee's permission to approach their doctor or ask them to consult with a medical practitioner of the Council's choosing, in order to determine the likely length of the absence and identify any reasonable adjustments. If it appears that a return to work in the near future is not reasonably practicable, the Council will discuss the situation with the employee, and it is possible that the employee's employment may be terminated under medical grounds.

The Council will usually require employees who have been absent for one month or more, or are expected to be absent for one month or more, to return some or all of their equipment. This may be requested so that the equipment can be redeployed to other employees. Equipment will be returned to affected employees immediately upon their return to work.

If there are regular or persistent absences due to illness, injury etc, the Council is unlikely to be able to support this indefinitely, after making reasonable adjustments. Ultimately, employment may be terminated after full compliance with the Council's termination procedures in these circumstances. See the dismissal section below for more information.

Should this happen, the employee will receive pay in lieu of the employee's contractual or statutory notice period, whichever is longer, and any outstanding holiday pay. The employee may appeal against the decision to dismiss. Any appeal should be made in writing to [*the Council's appeal panel*] within five working days. The employee has the right to be accompanied to the appeal hearing.

The employee is encouraged to re-apply to join the Council once the employee is fit to return to work. If there is a suitable vacancy, the employee's application will be given sympathetic

consideration. *[Optional]* If the employee re-joins within six months of leaving because of ill-health, the employee's employment will be considered to be continuous.

### **Updates during sickness**

The employee is expected to keep their line manager updated with details of their health and expected date of returning to work.

Line managers will arrange periodic meetings with the employee to discuss their ongoing absence, so that each side is kept up to date with developments.

The location of these meetings will usually be at the employee's usual place of work but, if a virtual meeting or home visit is necessary due to the nature of the employee's absence, this can be accommodated.

### **Disability**

The Council has a duty to make reasonable adjustments where an employee has a disability covered by the Equality Act 2010.

If the absence is because of a disability or the illness leaves the employee in a mental or physical condition which falls within the definition of a disability, the Council will do whatever it can to make reasonable adjustments to their job to enable them to carry on working. If effective adjustments cannot be made, dismissal may have to take place.

The duty to make the adjustments is 'reasonable' so if the suggested adjustment is not viable it will not be made. It may also be the case that no reasonable adjustments are possible to facilitate a return. There may be no alternative roles or employment available and if there is no prospect of the employee being able to return to work in the near future, it may be inevitable that a decision to dismiss is the last and only option.

The duty to make reasonable adjustments covers elements, such as making changes and adjustments to working hours, adjusting existing equipment, provision of different equipment and amending workplace practices, if the employee is placed at a substantial disadvantage. It may also involve physical changes, such as to the building entrance points, or alterations to the floor plan, furniture etc.

The employee will be consulted fully on these.

*[Optional]* Where the employee has a disability, time off for rehabilitation will be paid, subject to medical confirmation, and will not be counted as sickness absence.

If the absence is because of the employee's association with another person who is disabled, then the Council will consider reasonable adjustments to enable them to keep their absence to a minimum.

### **Dismissal and the right to appeal**

If long-term sickness absence leads to dismissal, the employee will be provided with the reasons for the dismissal in writing.

The reasons for dismissal should set out the circumstances that led to the decision to dismiss. Employees have the right to appeal the decision and they should do so within five working days, to *[the Council's appeal panel]* setting out the reasons for their appeal.

The appeal itself will be dealt with in accordance with the rules on appeals set out in the Council's disciplinary process.

### **Protecting the employee's data**

All personal data obtained during sickness absence or performance related procedures will be handled with the utmost integrity and confidentiality and in line with the Council's data protection policy. Employees may be reminded of the types of data the Council holds, including data on health, and our practices in relation to that data by reviewing the Council's privacy notice which is available *[insert details]*.

*(Source: CIPD)*