

## Procedures on: CAPABILITY ISSUES

### 1. INTRODUCTION:

PMR London Ltd and our clients place great importance on maintaining levels of performance at an acceptable standard and the capability procedure provides a fair and objective process to enable managers to ensure that those standards are met in every aspect of the company's operations.

#### **Purpose**

This procedure is designed to deal with those cases where the employee is lacking in some area of knowledge, skill or ability, resulting in a failure to be able to carry out the required duties to an acceptable standard. It is to be used where there is a genuine lack of capability, rather than a deliberate failure on the part of the employee to perform to the standards of which he is capable (for which, use of the disciplinary procedure is appropriate). A genuine lack of capability may have been present for some time or could have occurred more recently due to a change in personal circumstances, ill health and job content, or even due to a recent promotion.

The procedures set out in this document aim to ensure that there is:

1. A means of monitoring performance and establishing performance criteria.
2. A degree of consistency in how employees with widely differing responsibilities and duties are given opportunities to attain satisfactory levels of performance.
3. Assistance in identifying the most appropriate form(s) of support and providing that support.
4. If an employee fails to overcome their difficulties, any consequent action will be based on:
  - Adequate evidence that the employee is incapable of performing their duties satisfactorily.
  - A fair procedure.
  - The fact that the employee was given all reasonable assistance to overcome such failings.

### 2. PROCEDURE:

#### **Informal Procedure:**

Where an employee of the Company exhibits an inability to perform their duties satisfactorily, the Company will attempt to resolve the matter informally via a meeting between the Manager and the employee. The aim of this meeting is for the Manager to explain the concerns to the employee, and for both employee and Manager to jointly identify how the performance can be improved. This is a one-to-one meeting, which should be regarded as ongoing supervision.

The nature and date of the meeting will be recorded and a letter sent to the employee indicating the nature of their unsatisfactory performance and how such performance can be improved to the satisfaction of the Manager.

At this meeting, the line manager will agree performance standards with the employee and a time period (normally two months) over which improvement will be expected. They will set SMART objectives (specific, measurable, achievable, realistic and timed). They will also agree how the individual's performance will be monitored.

If the employee's performance improves adequately over the timescale, then the process will terminate at this stage. If performance remains unsatisfactory, then the formal procedure will be invoked by the Manager.

### **Formal Procedure – Stage 1 Capability hearing:**

Before starting the formal procedure the Manager must seek advice from the HR Operations Manager. If it is decided that the formal procedure is to be started, then the employee will be asked to attend a formal meeting. Prior to the meeting the manager should gather evidence to support their case, this can include file notes, meeting notes and details of training/support given. The employee must be given at least 2 working days' notice of the meeting in writing. This will include an explanation of the concerns together with any other appropriate documentation. It will also inform the employee of the right to be accompanied by a colleague or Union Representative. A member of the HR department will normally be present at the meeting.

*If the allegation is found to be justified, then a decision on the action to be taken must be made. Depending on the nature, frequency and seriousness of the allegation(s) it is expected that at this stage a Warning will be given and this will be confirmed in writing.*

*A letter should be sent to the member of staff confirming the decision and the reason(s) why it was made. The letter will also indicate that the member of staff's progress will continue to be monitored and how this will be carried out. A time scale for performance to improve and a review date(s) will be specified.*

*If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, then monitoring should be discontinued subject to a clear indication to the member of staff that it may be reintroduced if the problem(s) reappear.*

### **Second Capability Hearing:**

If poor performance continues, the process set out in stage 1 should be repeated. The time scale for improvement will depend on the nature of the duties and responsibilities of the employee concerned and the seriousness of the complaint(s).

If the conclusion of the second hearing is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a final warning should be issued.

The letter confirming the decision as well as covering the points made at Stage 1, should clearly state that if an improvement is not forthcoming, the Company will convene a final meeting at which it will consider terminating the contract of the member of staff involved on the grounds of capability.

### **Third Capability Hearing:**

The Manager will conduct the third hearing at which if previous advice, training and warnings have not had the desired effect, he/she will terminate the contract of the employee concerned. The procedures outlined in Stage 1 will be followed. The decision to dismiss will not be taken until the employee has had the chance to state any genuine mitigating circumstances they may have for failing to meet the required standards, and the possibility of redeployment to a more suitable position has

been investigated. If the employee is offered an alternative position this would be without the protection of existing pay level, terms and conditions.

**APPEALS:**

An appeal against any decision to terminate the employee's contract of employment on the grounds of capability may be made in writing to the HR Operations Manager within 7 days of the decision. The employee's appeal will be heard by the appropriate Director. Decisions made on appeal will be final.

**LONG-TERM/PERSISTENT ILLNESS:**

Where any shortfall in expected performance arises from long term or persistent illness the Company shall refer to the Absence Management Procedure.