

## **Capability Procedure**

Chudleigh Pre-School prides itself at maintaining high levels of performance at an acceptable standard and the capability procedure provides a fair and objective process to ensure that those standards are met in every aspect of the setting's operations.

Definition:

For the purpose of this Capability Procedure, capability is defined as:

"Where a member of staff is failing in a significant or persistent way to carry out their responsibilities or duties in a satisfactory manner, either due to a lack of ability, inadequate training or lack of experience. Such failings will be identified by use of the following procedures and steps taken to improve performance. Where such steps prove unsuccessful the member of staff may have their employment terminated on the grounds of incapacity".

This capability procedure is intended to:

- Secure the required improvement in cases where performance falls short of that expected of a member of staff in a particular post
- Help poorly performing staff to become more effective
- Provide a fair and effective means of securing redeployment to a more appropriate position or, where this is not practicable, dismissal.

It should be noted from the outset that a capability issue is not necessarily a disciplinary issue (and should not be treated as such). However, as with any meeting which could result in a formal warning or some other action, the individual will have the right to be accompanied by a work colleague or a trade union representative. At each review stage the employee should be advised of the consequences of a failure to reach the required level of performance, or the necessary improvement required, or of not being able to return to work or maintain a satisfactory level of performance through capability.

### **1. PROCEDURE:**

Stage 1 - Informal Procedure:

When an individual's performance becomes a matter of concern, the Manager will keep informal notes of the way in which their performance falls below acceptable standards, and the occasions on which this is noted. The Manager should consider whether cultural, disability or other equal opportunity issues might be a factor in managing a capability issue. The Manager can monitor this for up to three months, at which stage they need to decide whether further action is required.

The manager will meet with the member of staff informally and explain how their performance falls short of the expected standards of someone in their position. The manager should consider any possible staff development or training opportunities which may enable the member of staff to meet the required standard of performance.

Considerations may be given to on the job training or a formal training course. The member of staff should be set clear, written performance targets and a realistic timescale for improvement. These should be jointly agreed in writing. His/her performance should be regularly reviewed until the performance targets are met. Where an informal process has been followed and there continues to be a significant performance issue, considered to be concerned with capability, the manager will move onto the next stage.

## Stage Two – Formal Process

### A). First Review Meeting

The manager should meet the employee to discuss the employee's performance in the job. The employee should be given the opportunity to be accompanied by a work colleague or trade union representative. The meeting should be structured, examining the cause of the problem, the job requirements and the employee's knowledge, skills and ability, and any shortfall.

The manager should consider what might be done to improve the situation and help the employee. This could include further training or development needs, changes in the employee's duties which might improve performance, or assistance from other colleagues.

Ideally the plan for improvement should be agreed at this meeting. However, if it cannot be agreed at this time, the manager and employee should then reconvene to agree the plan for improvement, clarify any questions, and ensure that they are comfortable with the proposed solutions. This should then be documented by the manager, detailing the areas and level of improvement required, the timescales and an appropriate review date. However, as with any review, it should be ongoing. The employee must be advised that, should the necessary improvements not be achieved, their continuing employment may, in due course, be at risk.

Two copies of the above should be made and signed by both the manager and the employee to demonstrate they seek to agree the targets for improvement. One copy should be kept on the employee's file, and the other given to the employee.

### b). Review meeting with manager

On the date set for the review, the manager should meet with the employee, review progress and evaluate any improvements in performance. If the performance is in line with the targets, and no further action is required, then this should be acknowledged and noted in writing by the manager. If there has been a marked improvement, but the employee's performance has still not reached the required level, then the period for improvement should be extended with a new review date set. If no adequate improvement has been made, the manager should progress to the next stage of the process.

## Stage Three – Formal Process Second Review meeting with the Manager.

At this stage, any meeting should involve the Manager, the employee and their work colleague or trade union representative (if they require one). The meeting will cover the concerns about the review period and what has taken place, and the employee's viewpoint of the situation.

Following this meeting, the current plan for improvements will be maintained with an extended timescale. Alternatively, a new plan may be issued, taking into account the employee's response, or consideration will be given to redeployment to a suitable position, if possible, where it is felt by the manager that this would be appropriate for the employee. The manager should again make it clear to the employee that their job is now seriously at risk if the required level of improvement is not achieved and sustained.

#### Stage Four – Formal Process Final Review Meeting

This final stage should be conducted as stage three but led by the Pre-School Management team, with the additional possible outcome of dismissal on the grounds of capability, advising the employee of their contractual period of notice of termination of employment, and the right to appeal against the decision.

#### Appeals

An employee who wishes to appeal against a capability decision, other than dismissal, should inform the manager within seven working days. The manager will review all notes of the appeal and their decision is final.

#### Appeal against dismissal

Any employee who is dismissed shall receive a formal letter of dismissal stating the reasons for the dismissal. If the employee wishes to appeal against their dismissal, they should write to the manager within seven working days of the date of the dismissal letter, indicating the reasons for the appeal. An appeal will be heard, within fourteen days of the manager's receipt of the appeal letter. The appeal may confirm, alter or reject the original decision.