

# Capability Policy



WORKING TOGETHER

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## Policy Overview

The councils expect employees to perform to the best of their abilities and are committed to ensuring that everyone is supported to deliver an excellent service to the residents of Chorley and South Ribble.

This document is part of a family of policies which provide advice and information on the recruitment, selection, and development of a high performing workforce, see the Recruitment, Selection, and On-boarding policy for more information. This policy applies to all employees of Chorley & South Ribble Borough Councils, and their wholly owned companies.

The Conduct policy should be consulted for any concerns about behaviour, or where a disciplinary allegation is raised. Employees who have less than six months' service with the Councils will be performance managed using the probation process, as outlined in the Recruitment, Selection, and On-boarding policy.

## Policy Objective

This policy is designed to ensure that all employees understand and are supported to maintain the high standards of performance required by Chorley and South Ribble Councils. It clearly describes the process for supporting issues of capability and ensures all employees are treated fairly and consistently.

The prevailing aim of this policy and procedure is to overcome development needs to create a positive working environment and support a high performing workforce.

## Chorley & South Ribble Councils' responsibilities

### It is the Councils' responsibility to:

- Ensure that all employees are treated fairly and consistently.
- Ensure that employees are given enough support to be competent and confident in their roles.
- Maintain confidentiality throughout and after the process

## Manager responsibilities

### Managers are expected to:

- Apply this policy promptly and consistently where concerns about performance are identified
- Be open and honest with employees where there are issues with performance
- Seek to resolve issues informally where possible
- Offer support and development opportunities to enable employees to overcome difficulties with underperformance.
- Work collaboratively with the employee to ensure the required standards are met and maintained.

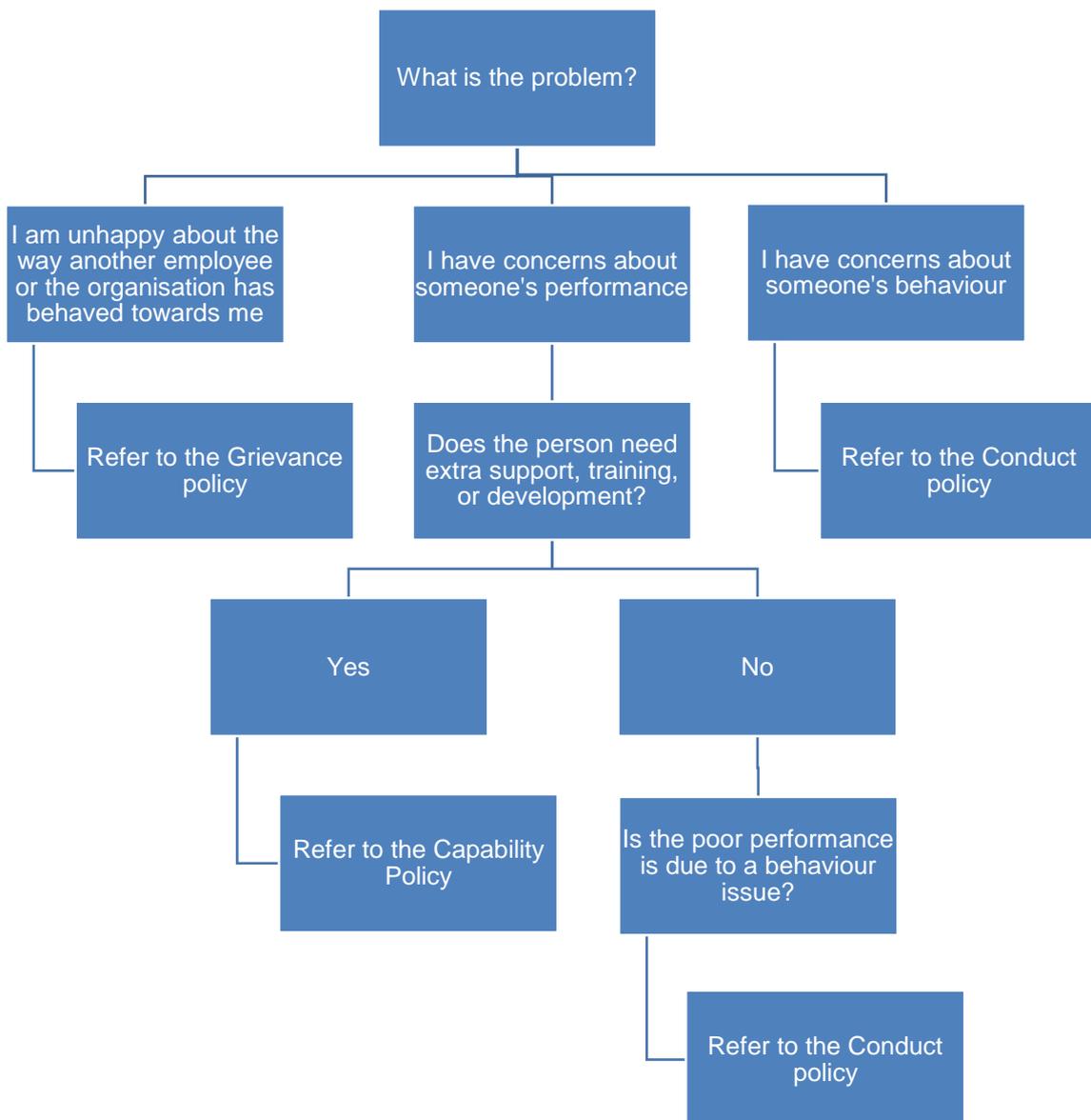
## Employee responsibilities

### Employees are expected to:

- Fully co-operate with the policy and procedure.
- Engage with all interventions and support identified to improve performance.
- Make use of available employer support mechanisms, e.g. counselling and occupational health.
- Work collaboratively with the manager to ensure the required standards are met and maintained.

## Conduct or Capability?

Is the problem due to a current inability to act differently (capability) or an intentional choice (conduct)?



## Capability – Process & Procedure

### Informal Stage

Performance is managed through more regular 1:1 meetings. Concerns about performance are discussed.

An action plan is agreed with the employee and recorded.

If there is no acceptable improvement to performance after a reasonable timeframe the employee is advised that the formal capability process will be initiated.

### Stage 1

Meet with the employee and representative to offer support and agree targets and timescales for improvement and record this using the PIP.

If there is no acceptable improvement progress to stage 2.

### Stage 2

Meet with the employee and representative to offer support and agree targets and timescales for improvement.

Employees who have failed to meet the required standard under the Internal Probation Plan enter at this stage.

If there is no acceptable improvement progress to stage 3.

### Stage 3

Capability hearing. The outcome will be:

- Dismissal on the grounds of capability
- Redeployment
- A further review period and then another hearing

### Appeal

Any employee dismissed due to capability has the right to appeal their dismissal.

## Informal Stage

Where there are concerns about someone's performance they should be dealt with promptly and sympathetically by the manager, giving clear examples of the causes for concern. This will usually be through more frequent 1:1 meetings, emails, discussions and offers for support. The approach to managing performance/conduct informally should include:

- Support for any other issues which may have contributed to the concerns about performance, this may include home or health issues.
- Specific examples of the areas where performance is not at the expected level and a clear explanation of the improvement needed.
- Clear objectives and a timeline for improvements. This might include an Action plan (an example is available in TOOLS)

The Line Manager will continue to monitor the situation and give regular feedback to the employee. If the Line Manager considers that the problem has been resolved and performance has returned to a satisfactory standard, the employee will be informed of this. If the problem is not resolved the employee will proceed to formal capability at stage 1.

## Stage 1 - Formal Capability Meeting & Review

### Meeting

The employee will be invited in writing to the Capability Meeting to discuss the concerns over their poor performance, providing at least 5 working days' notice of the meeting. The employee should be advised that they have the right to be accompanied at the meeting by either a recognised Trade Union Representative or a work colleague. There is no entitlement to be accompanied by a legal representative at any part of the internal process.

The manager's approach should be one of constructive support, guidance, coaching and encouragement. They should collate any necessary information to demonstrate to the employee where they are not meeting the required standards of performance. The manager may decide to refer to occupational health for advice and guidance.

The manager may choose to draft a Performance Improvement Plan (PIP) prior to the Stage 1 Capability Meeting for discussion with the employee, an example can be found in Tools.

During the meeting the manager will present the evidence of the performance issues to the employee and clearly express their concerns, identifying the gaps in performance standards and discussing the impact that this has on their colleagues and the councils.

The employee will be given a full opportunity to respond and explain any factors affecting their current performance levels. The manager will consider all the information provided by the employee. This should include:

- Any underlying medical issues
- Advice from Occupational Health
- Discussion around the health and wellbeing support available.

The manager and employee should also agree appropriate timescales for improvement and review. The outcome and any agreed actions should be shared with the employee in writing.

The employee should be advised that if they fail to reach a satisfactory and sustained improvement in their levels of performance the process will progress to stage 2.

## Review

At the end of the agreed monitoring period the manager will meet with the employee to discuss the progress made and inform them of the outcome of the review period. The manager should then confirm the outcome to the employee in writing:

No further action	The employee has now reached or is shortly expected to reach the required levels of performance and the review period has ended. Failure to sustain an acceptable level of performance within a 12 month period may result in the employee returning immediately to this stage of the procedure.
Extension of Review period	The employee has made some improvements, but requires more time to meet the necessary standard or to sustain an improvement. A further review period will be required. Should the employee fail to have made or sustained satisfactory progress at the end of this extended review period, the progress review meeting will be reconvened.
Proceed to Stage 2	Where the employee's performance remains below expected standards during the review period, or where improvements in performance are not being maintained to the required standard within 12 months of the Stage 1, a Stage 2 Capability Meeting will be arranged.
Redeployment	With agreement of both the manager, the employee, and HR, redeployment options can be considered at any stage of the process if this is in the best interests of the employee.

## Stage 2 - Formal Capability Meeting and Review

The Stage 2 Capability Meeting should be undertaken with a different manager to Stage 1. The procedure followed will be the same as that at Stage 1. The employee must be informed that should they fail to meet the requirements of the Stage 2 review period, they will progress to a Stage 3 Capability Hearing where a potential outcome is dismissal.

During the stage 2 formal review period, regular support and reviews of performance will still be undertaken by the line manager. They will provide feedback and information to the Stage 2 Manager to enable them to make a decision at the final review.

Employees who have failed to meet the required standard under the Internal Probation Process will enter at this stage.

## Stage 3 - Capability Hearing

Should the employee fail to meet the requirements of the Stage 2 formal review period a Capability Hearing will be convened.

Confirmation of the arrangements will be sent in writing to the employee giving at least 10 working days' notice. This invite will include records of monitoring/progress to date including a copy of all

correspondence from the Stage 1 Capability Meeting and the Stage 2 Capability Meeting, including any performance improvement plans, notes of subsequent progress review meetings, and other support offered. The employee has a right to be accompanied by a colleague or union representative.

Any documentation from the employee should be submitted at least **5 working days** prior to the hearing including advance notification of the number of witnesses (if any) that they plan to call.

The additional information will be distributed to all parties by HR **3 working days** prior to the Hearing.

The case will be heard by a Hearing Officer with no prior involvement in the case, supported by HR. The management case will be presented by the manager who has undertaken the Stage 2 review period, and their HR support.

Notes will be taken during the hearing by a designated minute taker. Digital recordings will not be authorised other than in exceptional circumstances.

## Outcome

The Capability Hearing Officer will consider the employee's relevant performance history, all related evidence and the information presented at the hearing. Upon reaching a decision the chair of the panel will deliver the decision to both parties at the hearing. The decision will normally be confirmed in writing to the employee no later than 5 working days from the date of the hearing:

No further action	The employee has now reached or is shortly expected to reach the required levels of performance and the review period has ended. Failure to sustain an acceptable level of performance within a 12 month period may result in the employee returning immediately to this stage of the procedure.
Extension of Review period	The employee has made some improvements, but their performance is still below acceptable standards. A further review period will be set which, other than in exceptional circumstances, will not be longer than 3 months and may be shorter. Should the employee fail to have made or sustained satisfactory progress at the end of this extended review period, the Capability Hearing will be reconvened.
Redeployment	With agreement the employee may be redeployed into a different role within the Councils. Should the employee fail to meet the required standards under the Internal Probation Policy in their new role the Capability Hearing will be reconvened.
Dismissal with contractual notice	The employee will be dismissed on the grounds of capability due to their continued unsatisfactory work performance. If the employee attended the hearing and notice was given verbally the notice period starts the day after the hearing. If the employee did not

	attend the hearing the notice period starts 2 days after posting the outcome letter. The employee will be informed of their right of appeal against dismissal.
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## Appeals

Employees have the right of appeal against dismissal. Appeals where someone has been dismissed due to capability will be heard by the HR Appeals Committee.

Any appeal must be made within 10 working days of the date of the letter confirming the outcome of the hearing. The employee must set out the grounds for their appeal in writing. Appeals must include one of the following reasons:

- The outcome was too severe
- The decision - in that the evidence presented did not support the conclusion reached
- Any part of the capability procedure was wrong or unfair

No new evidence will be presented at the appeal hearing other than in exceptional circumstances and where the appeal panel agree to hear it.

The employee will be given at least 3 working days' notice in writing of the appeal hearing, and shall be informed of their right to be accompanied at the hearing by a trade union official or a work colleague.

An appeal hearing is not designed to re-hear the case but to examine the grounds of appeal. The appeal panel will consider the information presented to them. The possible outcomes of the appeal hearing are:

- Uphold the original decision,
- Overturn the original decision and reinstate the employee

The decision shall, if possible, be made known to the employee at the end of the appeal hearing and shall, in any case be confirmed in writing within three working days. There shall be no further right of appeal with this procedure.

Where the appeal against dismissal is upheld the employee's employment will be reinstated from the date of dismissal and continuity of service will be maintained.

Notes will be taken during the hearing by a designated minute taker.

## Tools

### Capability Action plan

Employee Name \_\_\_\_\_

Action Plan date \_\_\_\_\_

Review Period \_\_\_\_\_

<i>Specific Improvement Goals</i>	<i>Measured How will this be measured</i>	<i>Attainable What do I need to achieve this</i>	<i>Relevant Why is this goal important</i>	<i>Time-bound When will I achieve this</i>

## Performance Improvement Plan

Employee name		Managers name	
Role title		Role title	

	<b>Performance issue/concern</b>	<b>Expected improvement actions/performance</b>	<b>Support dependencies &amp;</b>	<b>Due date</b>
	<i>Detail specific area where performance standards have not been met. Examples should be provided.</i>	<i>Detail what actions need to be taken/outcomes need to be delivered to achieve the standard expected &amp; timescales set.</i>	<i>Detail what support will be provided &amp; if any dependencies</i>	
<b>1</b>	<i>E.g. Time Management</i>	<i>Weekly/Daily</i>		
<b>2</b>	<i>Next performance issue in need of addressing .....</i>			
<b>3</b>	<i>Next performance issue in need of addressing.....</i>			
<b>4</b>	<i>Next performance issue in need of addressing.....</i>			
<b>5</b>	<i>Next performance issue in need of addressing.....</i>			
<b>6</b>				
<b>7</b>				
<b>8</b>				

**Managers Comments:**

**Employee Comments**

*The employee can record any comments/views in this section during the PIP at any meetings held.*

**The reason for the PIP has been explained and agreed by:**

<b>Managers signature</b>		<b>Date</b>	
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<b>Employees signature</b>		<b>Date</b>	
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**PIP PROGRESS – SUMMARY**

Perf. Concern	Date of Review	Progress Detail the status of the progress made at the review meeting i.e. [Satisfactory improvement, partial improvement] or [ Insufficient/No improvement]	Next Action Required	Due Date
1		Choose an item. <i>Outcome: .....</i>		
2		<i>Outcome: .....</i>		
3		<i>Outcome: .....</i>		

**MANAGERS ASSESSMENT /OUTCOME OF PIP**

Choose an item.
<p><b>Comments/Next Steps</b>  <i>Dates of the review meetings held, the progress made during the PIP, next action required and the dates for completion should all be recorded.</i></p>

Managers signature ..... Date .....

Employees signature ..... Date .....