

# CAPABILITY POLICY

This document applies to all Council employees except:

- All school based employees

*This document may not be applicable to employees who transferred into LCC under TUPE legislation and remain on the terms and conditions of their previous organisation.*

<b>Last Review</b>	June 2017
<b>Next Scheduled Review</b>	
<b>Last Updated</b>	September 2020

## Temporary Changes to Policies During Covid 19

There are temporary changes to employment policies during the coronavirus pandemic Please refer to the FAQ's/guidance on George which refer to :-

- Arranging meetings remotely

Where policies refer to meetings/hearings these will generally be conducted via video conference, however, in some circumstances face to face meetings may be appropriate, or hybrids of both face to face and video conference. Please see guidance on George

Please contact HR if you have any queries on the above

## CONTENTS

CAPABILITY POLICY .....	1
KEY PRINCIPLES .....	1
RESPONSIBILITIES.....	1
MANAGERS .....	1
HR ADVISERS .....	2
EMPLOYEES .....	2
TRADE UNION REPRESENTATIVES.....	2
FURTHER INFORMATION .....	2
ADVICE AND SUPPORT .....	3
ADDITIONAL RELEVANT POLICIES.....	3

## **CAPABILITY POLICY**

The aim of this policy and its associated procedure is to provide support to an employee in achieving and maintaining a satisfactory standard of work performance.

This policy and its associated procedure provide a fair and consistent process for supporting employees where capability has become ~~is~~ a cause for concern.

This policy and its associated procedure will also be applied in those cases where an informal development plan, previously agreed to address performance related issues and performance against objectives as part of the Performance and Development Appraisal Policy, does not achieve an improvement.

## **KEY PRINCIPLES**

Before employees can be expected to reach appropriate standards of job performance, the Council accepts they should be provided with appropriate training, guidance and support to achieve and maintain this.

Employees should be supported in their efforts to improve and maintain the standard of work through advice, coaching and guidance, with the emphasis on developing a series of performance improvement plans, which are mutually agreed (wherever practicable) to reach and maintain the required standards.

This policy and its associated procedure applies when an employee is failing in a significant or persistent way to carry out their duties in a satisfactory manner due to capability, (would but can't).

Where an employee is capable of carrying out their work duties but for some reason chooses not to, (can but won't) the [Disciplinary Policy and Procedure](#) should be used.

In cases where an employee has previously received support via the Capability Policy and Procedure or prior to commencing with the Capability Policy and Procedure, they continue to fail in a significant or persistent way to carry out their duties in a satisfactory manner, the matter may be treated as a conduct issue under the [Disciplinary Policy and Procedure](#).

In exceptional cases where a performance error or defect has serious consequences (i.e. if it results in the serious jeopardy of the health and safety of service users or other employees) the principles/procedure for gross misconduct as outlined in the [Disciplinary Policy and Procedure](#) should be followed.

## **RESPONSIBILITIES**

### **MANAGERS**

Ensuring employees understand council rules, practices and procedures and for applying the policy in a fair and consistent manner.

To consult with the relevant HR Adviser for advice and assistance on capability issues prior to taking any action.

Developing a culture where employees are supported and assisted in achieving and maintaining the required standards of performance.

Through normal performance management meetings i.e. one-to-ones, supervisions, performance and development appraisals etc., address and resolve work performance issues informally and promptly as appropriate.

To record details of all meetings within the procedure with the employee including any targets, monitoring and support.

To keep a copy of the notes of meetings, letters to the employee and any ad hoc verbal feedback given during the monitoring period and place in the employee's "supervision" file where this process is used.

If individual "supervision" files are not used, it should be placed in a designated confidential and secure location within the department. Only letters relating to the formal procedure should be on the employee's personal file.

Should the matter progress to a Stage 3 - Capability Hearing, to present the details of employee's failure to meet and maintain the required standards, including all relevant performance information and the outcome of performance improvement plans to date.

## **HR ADVISERS**

HR Advisers provide advice to managers in the operation and application of this policy and its associated procedure.

## **EMPLOYEES**

Employees have a contractual responsibility to perform at a satisfactory level and are expected to be committed to achieving and maintaining such levels of performance.

To attend any meetings and hearings convened in accordance with the Capability Policy and Procedure.

## **TRADE UNION REPRESENTATIVES**

The standards required from employees will apply to Trade Union Representatives.

However, where application of formal capability action is being considered against a Trade Union Official or Representative, the case must first be discussed with a Senior Trade Union Representative or full time Official in accordance with the ACAS Code of Practice.

## **FURTHER INFORMATION**

Whilst this is a formal process, in order to minimise unnecessary formality and apprehension, the electronic, audio or video recording by any device of such meetings/hearings will not be permitted. Should an employee-believe that there are exceptional circumstances where this should be allowed (for instance, due to a disability) this should be raised in advance with the person due to conduct the meeting, the chair of the hearing or the relevant HR Adviser. Due consideration will then be given to the request and the employee will be advised of the outcome of that consideration.

Where the nominated note taker at meetings and/or hearings associated with the process feels it is necessary to make an audio recording in order to support with the preparation of the notes, the requirement to make the recording will be clarified with all present at the start of the meeting.

## **ADVICE AND SUPPORT**

Please contact Human Resources.

## **ADDITIONAL RELEVANT POLICIES**

[Capability Procedure](#)

[Appeals Policy](#)

[Appraisal Policy](#)

[Disciplinary Policy](#)

[Green Book Employees Pay and Conditions Policy](#)

[Absence Management Policy and Procedure](#)

[G26.1 Employees with Disabilities or Ill Health](#)

[Performance and Development Appraisal Policy](#)

[Corporate Performance and Development Appraisal Procedure](#)

[Reasonable Adjustment Request Form](#)

[Redeployment Policy](#)

[Supporting Disabled Employees in the Workplace](#)