

COLWICH PARISH COUNCIL



PD107 STAFF CAPABILITY

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STAFF CAPABILITY

Staff Capability – PD107

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1 POLICY STATEMENT

- 1.1** Colwich Parish Council (the Council) aims to ensure that there will be a fair and systematic approach to the application of standards of performance required of its officials.
- 1.2** The procedure aims to:
 - 1.2.1** Ensure that a fair and consistent process is adopted regarding officials' performance.
 - 1.2.2** Help and encourage officials to achieve and maintain acceptable standards of performance.
 - 1.2.3** Ensure that officials experiencing performance difficulties are managed appropriately, by adopting a constructive and problem-solving approach to achieving improved work performance, through effective supervision, support and training.
 - 1.2.4** Ensure that managers recognise the Council's separate arrangements for dealing with conduct, ill health and disability.

2 ROLES AND RESPONSIBILITIES

- 2.1** Employment Committee - hear appeals against dismissal.
- 2.2** Chief Officer - Dismiss, hear appeals and take any other actions under the policy deemed appropriate.
- 2.3** All other managers - Deal with performance issues within their own teams except dismissal of an official.
- 2.4** Official - Answer allegations or complaints made under this procedure and fully cooperate with all the associated meetings.
- 2.5** Representative or companion (either a trade union representative or work colleague) - Support and advise official. Can put forward official's case, ask questions or make representations but cannot answer questions that are directly put to the official.

3 WHAT DO WE MEAN BY CAPABILITY?

- 3.1** Concerns regarding capability may arise when an official 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, aptitude, training or experience.
- 3.2** Such failings will be identified by use of the following procedure and steps taken to improve performance. Where such steps prove unsuccessful the official could have their employment terminated on the grounds of capability.

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- 3.3** Where there are issues of misconduct or negligence these will be dealt with under the Disciplinary Procedure. Where any shortfall in expected performance arises from long term or persistent illness this must be dealt with under the Sickness Policy (PD104).
- 3.4** Managers must be alert to the possibility that the official is suffering from a disability (physical or mental) which affects their performance in which case reasonable adjustments need to be considered with the official.

4 PRINCIPLES

- 4.1** Officials are expected to be capable of carrying out the work they are engaged to do to the required standard.
- 4.2** Managers are expected to provide officials with a reasonable opportunity to improve and provide support to achieve the required standard of performance. The period of time to improve and the level of support provided must be balanced against the needs of the Council.
- 4.3** Reasonable efforts must be made to informally address any issues of underperformance before instigating any formal procedure.
- 4.4** Managers must deal with matters promptly and diarise official reviews in advance and officials must take all reasonable steps to attend capability meetings.
- 4.5** At any formal meetings officials have the right to be accompanied by a work colleague or a trade union representative.
- 4.6** At all stages of this procedure confidentiality must be maintained by all parties.
- 4.7** While every effort will be made to help an official improve their performance and retain them in post, the Council cannot guarantee to maintain employment if satisfactory performance is not achieved. In such cases close attention will be paid to the reasons for performance difficulties, appropriate record keeping and the support offered.
- 4.8** The official will not normally be eligible for any incremental progression during any formal stage of the process monitoring period. On entry into the formal process, incremental progression will be frozen for a 12-month period. This will be reviewed and access to incremental progression reinstated at the point when the official has consistently met the required performance standard.

5 PROCEDURE

- 5.1** It will be made clear to the official:
 - 5.1.1** Which Employment procedure is to be followed.
 - 5.1.2** The reasons for that decision.

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5.1.3 That they will be kept informed throughout the process.

5.2 If at any stage management has good reason to believe that an alternative procedure is more appropriate the process will be halted, and the issue examined under a different procedure.

6 INFORMAL ACTION

6.1 It is the line manager's responsibility, wherever possible, to work with officials to address any under-performance issues and assist them in achieving the necessary levels of performance. To be effective this must be done at or around the time these issues arise and must not be held until the annual appraisal at the end of the reporting year. One to one meetings and quarterly meetings are opportunities to raise any areas of concern. However, the line manager must discuss any areas of concern at the earliest opportunity rather than postponing discussions until prior scheduled meetings.

6.2 A discussion will concentrate on:

6.2.1 The standards of performance required and identifying any gaps.

6.2.2 Providing examples of underperformance, supporting evidence and required standards.

6.2.3 Exploring possible reasons for the deterioration in performance.

6.2.4 Providing any appropriate training, support and guidance necessary so that the official has the opportunity improve their performance to the acceptable level.

6.2.5 Setting realistic standards of performance for the future, which will be monitored with agreed timescales for improvement.

6.2.6 Informing the official that failure to achieve the required standards will lead to progression to the formal procedure.

6.3 Notes of the discussions will be kept for reference purposes.

6.4 Full account will be taken of the official's circumstances within the workplace and, if appropriate, outside work. If the difficulty seems to be related to health, an occupational health adviser must be consulted. Other support options will also be considered e.g. referral to support services where appropriate.

6.5 Poor health can sometimes be a contributory factor to performance difficulties, but health issues must not be used as a reason to avoid addressing performance concerns in the first instance. The Council will take account of occupational health advice when determining what procedure to be followed.

6.6 A review meeting, within no less than 1 month working time and no greater than 3 months working time (to allow for the official's leave), must be arranged to assess whether targets have been met and whether performance is satisfactory. Officials may be accompanied by a colleague or union representative if they wish. In most cases these meetings will provide sufficient guidance, support and clarification of standards to rectify the situation. Where informal action does not

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achieve the required standard of performance or where the required performance is unable to be sustained, formal action will be implemented.

7 FORMAL ACTION

- 7.1** When it becomes apparent that an informal approach to improving performance has not achieved the required standard of performance, the Chief Officer must be consulted. Following agreement with the Chief Officer, the official must be informed that formal action will start under the capability procedure.
- 7.2** Although in most cases, stages will be sequential, some cases may require longer timescales due to either the complexity of the situation, where there is improvement, but it is not sustained, or where there has been significant progress made but there is still further improvement required to meet the required performance standard.
- 7.3** At all formal stages officials will have the right to be represented by a work colleague or trade union representative. A timescale for performance to improve will be set and a review date set to assess whether this improvement has been achieved. In certain cases, it may be appropriate to hold a midpoint review to provide additional support during this process.

8 FIRST FORMAL IMPROVEMENT STEP

- 8.1** Managers must prepare for an initial meeting with the official by informing them of its purpose, their right to be accompanied by a union representative or colleague and providing at least 7 calendar days' notice of the meeting to allow them to prepare. This must be confirmed in writing.
- 8.2** The purpose of the meeting is to identify clearly and fairly the ways in which an official is considered to be underperforming. This must be evidenced from documents such as job descriptions, person specifications, appraisal documentation, meeting notes and evidence of complaints or pieces of work considered to be unsatisfactory. The official will be given the opportunity to challenge and/or put forward any facts or evidence for consideration. This may include the need for some reflection on what is required of the official and in some instances consideration of the manager's approach in their interactions with the official.
- 8.3** In cases where the line manager considers that an official may benefit from a further opportunity to reach the necessary standard of performance it may be appropriate to refer the official back to the informal stage of the process. It must be emphasised to the official that if after the repeat of the informal stage they have failed to make the required improvement in their performance then the formal process will recommence. The manager must also identify any suggestions of further support that could be considered to assist in the improvement process.

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- 8.4** At the meeting, the manager will explore ways to improve performance which may include the following:
- 8.4.1** Counselling, mediation or other support from within or outside of the Council depending on the nature of the problem.
 - 8.4.2** Extra support and supervision/coaching from the line manager.
 - 8.4.3** Retraining or further training either on or off the job.
 - 8.4.4** Temporary or permanent change of hours/duties, subject to the agreement of all parties and where feasible arranging for a colleague to act as a role model/mentor on areas of shortfall.
 - 8.4.5** Agree a programme of support and monitoring with regular review periods so that the official is clear about timescales, what standards are expected to be met within those timescales and when their performance will next be discussed.
 - 8.4.6** Inform official that failure to meet the required standards will result in the matter being referred to stage 2 of the capability procedure and that ultimately this could lead to the Council making a decision on their continued employment.
- 8.5** A letter or email will be sent confirming the key points of the meeting and any actions agreed, clearly outlining the improvement required and the timescales to be met. Whilst the emphasis will be on the problem and the agreed course of action put in place to rectify it, the official must be reminded that if the agreed standard is not reached, ultimately this could lead to the termination of their employment on the grounds of capability. They will also be informed that records will be kept during the monitoring period.
- 8.6** Whilst it is difficult to be prescriptive about the actual time period which must elapse during this first review period because of the varying complexity and nature of different jobs, this first review period will not normally be less than a working period of 1 month or more than 3 months.
- 8.7** If performance has not improved sufficiently to achieve the standards, the official will be informed of the required improvements before the next review period and the possible consequences of failing to reach the required standards.
- 8.8** At the end of the agreed improvement timescale a meeting must be arranged to assess whether the official has achieved the required improvement in performance.
- 8.9** If performance has reached a satisfactory level, the official will be advised of this and that it is expected that this will be maintained. This will be confirmed in writing by the manager.
- 8.10** If the required improvement in performance has not been achieved the reasons for this and progress made must be explored with the official. It may be appropriate to allow the official a further period under stage 1 to achieve the required standard of improvement if it is felt that there is legitimate reason

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preventing this improvement from occurring. This will not normally be more than a period of 1 month. If there is no legitimate reason that the improvement has not been achieved the official will be advised that the issues will be reviewed by the Chief Officer, or the Employment Committee for those officials working directly to the Chief Officer, under stage 2 of this procedure.

9 SECOND FORMAL IMPROVEMENT STEP

- 9.1** The official must be given written notice of arrangements for the meeting, the reasons for the meeting, possible outcomes and the right to be accompanied at least 7 calendar days prior to the meeting. If the meeting is to be held by a different, more senior manager or member of the Employment Committee, the stage 1 manager will provide the manager who will deal with stage 2 with all relevant documentation from both the informal stage and stage 1. The official will also be provided with a copy of this information in advance of the meeting.
- 9.2** At the meeting, the manager will explore with the official what has happened so far under the formal procedure to date and the shortcomings in their performance. In cases where the nominated manager considers that an official may benefit from a further opportunity to reach the necessary standard of performance it may be appropriate to refer the official back to stage 1 of the process. It must be emphasised to the official that if after the repeat of stage 1 they have failed to make the required improvement in their performance then the matter will be considered under stage 2 of this process. The nominated manager must also identify to the manager at stage 1 any suggestions of further support that could be considered to assist in the improvement process.
- 9.3** As part of the monitoring process, the manager must explore with the official:
- 9.3.1** The nature of the concerns, how current performance fails to meet the required standard, and the improvement expected.
 - 9.3.2** The support and measures already introduced in an attempt to improve performance.
 - 9.3.3** Any additional training and support that may be provided in order to help the official meet the standard, for example shadowing, weekly one to one meetings etc.
 - 9.3.4** Any additional support that the official feels would assist them in achieving the required standard.
 - 9.3.5** The timescale in order to achieve the improvement required, how this will be monitored, the criteria to be used, and the date when a review will take place. The time period to elapse during this second review will not normally be less than 1 month or more than 3 months.
 - 9.3.6** The possible consequences of continued failure to meet the required standard up to and including dismissal.
- 9.4** This stage provides for a further cycle of support and monitoring as appropriate within an agreed time scale. A further meeting will be held at the end of the review period.

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- 9.5** If the desired improvement has not been achieved at the end of this review period and it is clear that the official, despite the support measures introduced, is not able to improve to the required standard, a formal capability meeting will be convened.
- 9.6** Where an official has been removed from the formal process, but within a short space of time their performance becomes a concern once more, the manager can re-enter the formal process at the same stage or next stage. If the period of time between leaving a particular stage and the point at which deterioration in performance occurs is a significant lapse in time it would be normal to re-enter the formal process at stage 1.

10 THE CAPABILITY MEETING

- 10.1** The official will be notified in writing at least 14 calendar days prior to the meeting of the details and purpose of the meeting, their right to be accompanied by a work colleague or trade union representative and the potential outcomes of the meeting. Both parties will circulate papers (i.e. witness statements or other evidence to be considered) for submission at the meeting to arrive with the other party no less than 7 calendar days before the meeting. Both sides will also advise the names of witnesses they intend to call. The purpose of the meeting is to determine the evidence of the case so that the Chief Officer or Chairman of the Employment Committee, hearing the case, can decide what action, if any, to take.
- 10.2** The persons attending the meeting will normally consist of:
- 10.2.1** Three representatives of the Employment Committee not involved in the Stage 2 process.
 - 10.2.2** The Chief Officer or Employment Committee member presenting the case (as per 9.1 above).
 - 10.2.3** The official who is the subject of the capability issue.
 - 10.2.4** A work colleague or trade union representative.
 - 10.2.5** Any witnesses for either side who will be called if their evidence is required
- 10.3** Procedure at the meeting
- 10.3.1** The Chairman will introduce those present to the official and explain:
 - 10.3.2** Why they are there.
 - 10.3.3** The role of the accompanying person if present.
 - 10.3.4** That the purpose of the meeting is to consider whether action will be taken which could involve dismissal.
 - 10.3.5** How the meeting will be conducted.
 - 10.3.6** The Council will put the case and call witnesses as appropriate (witnesses will be called individually).
 - 10.3.7** The official (or representative) will have the opportunity to ask questions of the presenting officer and any other witnesses called by management/

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- 10.3.8** The official (or representative) will put their case and call witnesses individually as appropriate.
 - 10.3.9** All parties will have the opportunity to ask questions of any witness(es).
 - 10.3.10** The Chairman will have the opportunity to ask questions of both parties and any witnesses.
 - 10.3.11** All parties will have the opportunity to sum up their case, no new matters may be introduced at this stage.
 - 10.3.12** The official and their representative, the person presenting the case and witnesses will withdraw.
 - 10.3.13** The Committee will deliberate in private and may recall the official, their representative and management to clear points of uncertainty on information already given. If recall is necessary, both parties are to return, even if only one is concerned with the point giving rise to doubt.
 - 10.3.14** The Committee will endeavour to announce the decision to the official and their representative verbally at the end of the meeting.
 - 10.3.15** The official will be given notice of any right of appeal verbally at that time. If this is not possible, the Chairman will provide the official with a realistic timescale of when a decision is likely to be made and agree arrangements for communicating this decision.
- 10.4** The Chief Officer will confirm the decision in writing to the official as soon as possible and within five working days of the date of the meeting.
- 10.5** In reaching a decision, the Committee does not need proof beyond reasonable doubt of the official's poor performance. Fairness requires that they have a reasonably held belief in the official's poor performance based on genuine grounds and that reasonable steps have been taken to verify these conclusions. To form a reasonably held belief in the official's poor performance, the Committee must be confident that the evidence provided at the capability meeting shows:
- 10.5.1** The standards of work required were known by the official.
 - 10.5.2** That the official fell short of the standards.
 - 10.5.3** That reasonable efforts were made to ensure that the official had the necessary training and support to enable them to reach the required standard.
 - 10.5.4** Despite these reasonable efforts this was not resolved, and the necessary improvement did not take place

11 FINDINGS FOLLOWING A CAPABILITY MEETING

- 11.1** No case to answer.
 - 11.1.1** If the Committee is satisfied that there is no evidence of lack of capability then they will inform the official of this and confirm in writing as soon as possible and normally within 5 working days of the meeting
- 11.2** Further period of monitoring and support.
 - 11.2.1** In cases where the Committee considers that an official may benefit from a final opportunity to reach the necessary standard of performance it may

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be appropriate to refer the official back to step 2 of the process. It must be emphasised to the official that if after the repeat of step 2 they have failed to make the required improvement in their performance then a further capability meeting will be arranged.

- 11.2.2** The Committee must identify to the manager any suggestions of further support that could be considered to assist in the improvement process.

11.3 Dismissal with notice

- 11.3.1** It is reasonable for the Council to dismiss an official where the reason relates to the capability of the official for performing work of the kind which they were employed to do. If the official's performance is confirmed as unacceptable and all alternative courses of action have been exhausted a decision may be taken to dismiss the official on the grounds of capability.

- 11.3.2** The official will be given formal notice in accordance with their contract of employment or payment in lieu of notice. The letter of termination will confirm the effective date of termination, give the reason for dismissal and state the right of appeal.

12 APPEAL PROCEDURE

- 12.1** Officials are entitled to an appeal against dismissal. This must be submitted in writing within 10 working days of receiving the letter confirming the decision of the meeting, as detailed in 10.4 above.

- 12.2** Any appeal letter must include reasons for the appeal and any evidence the official wishes to submit. Appeals against dismissal are determined by an Appeals Panel drawn from the Full Council, not including members of the Employment Committee, and will be chaired by the Chairman of the Council.

13 APPEAL DECISIONS

- 13.1** The decision of the Appeals Committee meeting will be one of the following:

- 13.1.1** Uphold the appeal and rescind the action taken.

- 13.1.2** Uphold the appeal in part which may result in the level of action being reduced.

- 13.1.3** Dismiss the appeal.

- 13.2** There shall be no further right of internal appeal against the decision of the appeal meeting.

SIGNED	<i>W^oPlant</i>
COUNCILLOR WENDY PLANT, PARISH COUNCIL CHAIRMAN	