

# EASTBOURNE BOROUGH COUNCIL

## CAPABILITY PROCEDURE

In implementing this procedure, Officers of Eastbourne Borough Council will ensure that our approach promotes and protects equality of opportunity in service delivery, at all times, in line with corporate policies and training.

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### 1. INTRODUCTION

Eastbourne Borough Council is committed to being a reasonable and fair employer. We work to meet the vision, aims and values of our Corporate Plan and of the Human Resources (HR) Performance Management Statement. (Link to Personnel Standards introduction page)

We accept that there will be occasions when concern arises about the capability of a worker to do the job they are employed to do. (See Appendix B for more detail)

When this happens we will:

- Ensure that a fair and formal Capability process is implemented.

- Give appropriate support, supervision, coaching and development to obtain an improved performance
- We will ensure that the individual's capability is monitored through regular scheduled reviews.
- Consider, exceptionally, which issues would be better served by the Council's separate arrangements for dealing with discipline and ill health.
- Ensure, at all times that the Council acts in accordance with its Corporate Values and HR Performance Management Statement.

[1]

## **2.0 CAPABILITY –Defining the issues. (Informal Stages)**

Where performance can be measured against defined standards, it becomes easier to assess whether the worker is performing below the standard required. Therefore, the clarity and relevance of job descriptions, appraisal objectives and any other regular standards or targets used with the individual must be a priority in looking at capability issues.

For jobs where standards are less easy to define, managers have the task of assessing whether their own judgement as to the level of performance required is "reasonable".

This procedure is not intended to cover cases of misconduct, e.g. unprofessional conduct or wilful refusal to perform adequately. (see Appendix B, Section 1.0) In cases where misconduct is the issue this should be addressed via the Disciplinary Procedure. (Managers should consult with Personnel.)

2.1 A manager should, firstly, assess the extent of the problem. Questions to ask and to follow-up should include: -

- What are the indications that the individual is not measuring up to the requirement of the job?
- Are the requirements of the job and the standards expected clear and realistic?
- Have there been complaints about or criticisms of the worker's efforts from colleagues, internal customers or members of the public?
- Are there factual grounds to indicate inadequate performance, such as written evidence or quotable witness accounts of poor service?
- Does the manager's own observation of the individual at work indicate reason for dissatisfaction with their ability to do the job?
- Has the worker asked for help to overcome a problem?
- Do the conditions in which the individual is required to work contribute significantly to his or her inadequate performance?

- Are there any external factors outside the worker's control that are affecting his or her performance?
- At all times, the manager must be committed to action in responding to capability issues. Whilst it is never too late to take action to support an individual in improving performance, it minimises the work involved and the potential impact for action to be taken as soon as the problem is perceived. (also see Appendix B)

Prior to invoking formal procedures which might lead to ending of employment, managers must be able to demonstrate that all appropriate efforts have been made to assist the worker to achieve the required level of capability.

**Once it has been established that there is a problem, the manager should consult the Employee Relations Adviser or Head of Personnel for advice before proceeding.** Personnel will support the manager in deciding what action is appropriate.

2.2 The priority is to set out a constructive and problem-solving approach to obtaining an improved performance, through effective supervision, support and training. Our initial tack will always be to seek to iron out problems and ensure that skills, knowledge and service delivery reach an acceptable standard. It should be noted that, whilst Personnel will offer appropriate support, advice and guidance, it remains the responsibility of the Head of Service to ensure that the process is managed effectively.

2.3 As each case is distinct, it is not possible to produce a comprehensive list of every circumstance in which the Capability Procedure may be invoked. However, in cases where the roots of the problem appear to be to do with a potential disability or with ill health, it could be appropriate for Personnel to seek an opinion from the Occupational Health Adviser. (Possible outcomes may include a change in duties, redeployment or retirement on medical grounds. See guidance notes on Disability Discrimination Act and Attendance Management procedures for further information.)

2.4 The manager or individual worker may be first to question their ability to deliver in the role. Other officers may also bring it to the manager's attention.

2.5 Capability may be a cause for concern from the time of appointment or it could be due to a decline in standards from a previously satisfactory level. (See also, Appendices A & B)

2.6 Line managers should ensure that all individuals are aware of the standards expected of them and the nature of tasks to be done. These standards of performance should be discussed with the individual at the earliest opportunity and clearly defined, using such tools as those identified in 2.0 above.

2.7 Standards of performance should be applied consistently to all those occupying the same job and/ or performing the same duties.

These standards and duties should be taken from the job description, person specification, departmental/ divisional service plans and the Corporate Personnel Standards. They should also be linked into the appraisal process. Furthermore, where any national standards of competence are appropriate and have been agreed with existing postholders for a particular

area of work or profession, e.g. NVQ's, managers may refer to them.

Standards of performance can, of course, involve both the volume of work completed and the quality of it. It is the manager's responsibility to inform and support those who are experiencing difficulties, as soon as problems become apparent. It is important to follow the procedures to ensure that they are seen to be fair and consistent. The aim throughout should be to encourage the employee to achieve the performance levels needed to perform satisfactorily the duties of the role.

### 3. GETTING IT RIGHT

3.1 The Manager should read Section 2 above and the Guidance Notes on Managing Capability issues. They should first carry out local coaching, mentoring and training. Where a continuing problem is apparent, a manager who is not a Head of Service should discuss with the Head of service and, if appropriate, should then make contact with the Employee Relations Adviser or Head of Personnel.

3.2 Although every effort will be made to try to help an employee improve their performance, Eastbourne Borough Council cannot guarantee that an employee will retain their post if an adequate performance level is not reached. Comprehensive records must be kept of actions take to deal with reasons for the under achievement at every step in the process.

#### 3.3 Checklist & review

When an employee is seen to be under-performing, the problem should be addressed as soon as it becomes apparent. This should be done either through the supervision process or in a regular conversation between the manager and employee. It should be noted that informal discussion does not make any action needed less important.

The discussion should concentrate on:

- Identifying what their job requires in terms of performance standards
- Defining and making the employee aware of the problems in their performance
- Exploring possible reasons for this under-performance
- Identifying whether performance difficulties are due to ill health
- Offering supportive information and guidance to improve their performance
- Agreeing on when and how the target of reaching an adequate performance should be measured.

During these discussions full account should be taken of the employee's circumstances both within the workplace and, where appropriate, outside the workplace. (Support mechanisms as identified in the Attendance Management process may be helpful in some instances) A Performance Action Plan may be agreed and this should be set out in writing and a copy

given to the employee. Discussion with Personnel around counselling options should also be considered, if necessary.

At this point in capability management, an individual may request the support of a fellow worker or Trade Union representative during meetings with their manager. Whilst the individual will not normally find this necessary, it is important that the right to be represented is acknowledged and accommodated, as appropriate.

With attention drawn to the problem and adequate support provided, performance may return to satisfactory standards. However, if this does not occur then a more formal approach will be required and the following procedure should be adopted.

#### **4. THE CAPABILITY PROCEDURE**

When an informal procedure has been unsuccessful, or the matter warrants immediate formal action (Health & Safety issues or potential disciplinary matters which, after due discussion with Personnel, are deemed to have serious implications for capability), the employee should be made aware that a formal approach is now necessary and that they will now attend a formal hearing.

**Managers are asked to consult Personnel (Employee Relations Adviser or Head of Personnel) at the outset in managing such issues. Monitoring information will also be retained corporately in line with our commitment to Equalities in Service Delivery.**

IN SUMMARY:

Three stages are involved.

4.1 A focus is put on the manager's role, offering support, training and coaching to improve the employee's performance.

4.2 In serious cases (eg involving risks to Health & Safety, financial irregularity), capability issues may be dealt with at the higher Stages of the procedure. In such cases, it may be necessary to suspend the employee, adopting the investigative procedure outlined in the corporate Disciplinary process.

4.3 Employees have the right to be represented throughout by their Trade Union steward or a nominated fellow employee of their choice. In Stages One and Two, a review period will be set followed by a follow-up meeting to assess whether this improvement has been achieved. Performance Action Plans will be used to agree Specific, Measurable, Appropriate, Realistic, and Timed targets for performance.

#### **4.4 STAGE One**

### **Initial Hearing with the Employee**

Preparation should be made by the Manager before the initial hearing to inform the

employee in writing of:

- its purpose,
- to provide a copy of the Procedure and any relevant documentation,
- to state who will be present at the Hearing
- and to make the employee aware that they may be accompanied. The employee should be given at least three days' notice of this hearing to allow them adequate time to prepare.

The Manager will demonstrate how the employee is not meeting the standards required and that these standards are reasonable and fair.

At the Stage 1 hearing, the Manager will:

1. Identify the ways in which the employee is considered to be under performing. This should be clear from examining the job description, person specification, other data on management of performance, notes from previous discussions and through evidence of complaints or unsatisfactory pieces of work.

2. Ensure that the employee understands fully concerns about their performance, the standard required and where work has fallen short of that standard.

3. Discuss potential reasons for under performance and agree a programme of support and monitoring with the individual and their representative.

4. Invite the employee to draw attention to information relevant to their situation. (This could include the manager's approach in dealing with the employee.)

5. Management of the employee's performance may include consideration of the following:

· Counselling or other confidential support from within or outside the organisation (depending on the nature of the problem)

- Extra support and supervision/ coaching from the line manager
- Retraining or additional training
- Setting and reviewing work targets within reasonable time scales
- A temporary or permanent change of hours or duties
- Where performance difficulties have been linked to the working environment, temporary placement in another section or division
- Allocating a colleague to act as a mentor and role model on areas of shortfall.

In situations where agreement on the reasons for performance difficulties is likely to be difficult to achieve, the Employee Relations Adviser should be present.

6. A specific review period must be agreed so that the employee is clear about the amount of time that they will have to improve their performance and when it will next be assessed. (If it is evident that the employee's under-performance is due to an absence of or inability to acquire the skills needed for the work, it may be appropriate, even at this point, to think about redeployment.)

7. A written record of the Stage One Capability hearing must be kept and the decisions made given to the employee in writing within 5 working days. The employee must also be informed that records will be kept during the monitoring period. These records will be made available to the employee and their representative upon request.

8. The nature of problems must be stated and the Performance Action Plan attached. The tone of both the hearing and the written confirmation should be supportive and regular opportunities to get together to discuss progress will be part of the Action Plan. However, it must be made clear that if the agreed improvements are not made within the time frame then employment with Eastbourne Borough Council may be at risk.

9. Differences in the complexity of tasks mean that timescales for review will vary from one Capability exercise to another. However, during this first review period, the period allotted should not normally be less than 2 weeks or more than 2 months.

10. At the end of the review period a meeting should be held between the manager, employee and any representative. Progress will be reviewed and the outcome of the discussion will be recorded in writing. This should state that the performance problems have been rectified to the required level and that it is expected that this new level of performance will be sustained. The correspondence up to this point will be regarded as 'spent' after 12 months have elapsed.

11. If performance has improved during the review period but not to an adequate level, the improvement should be acknowledged. However, the employee should be made aware that, before another review takes place, further improvement will be required and, if this does not happen, what the possible consequences will be. Time limits will be set for this review period and must give adequate opportunity for further improvement to be evidenced.

12. If the employee's performance has not improved during this review period, that assessment will have been relayed to them along the way. The Manager will have reviewed and sought improvement from the individual on these issues by the time of the second review.

13. The Manager, in consultation with Personnel, may use his/her discretion to move to Stage Two of the procedure without a second review period, depending on the circumstances.

## **5.0 STAGE TWO**

Where Stage One has not led to a resolution of the problems, the Manager will explain that Stage Two of the Capability Procedure is now being invoked.

The employee should be informed in writing of the ongoing concerns about their performance and reminded of steps previously taken to try to improve their performance. (See below Stage Two hearing)

#### **The Stage Two hearing:**

Again, preparation should be made by the Manager before the initial hearing to inform the employee in writing of its purpose, to provide a copy of the Procedure and any relevant documentation, to state who will be present at the Hearing and to make the employee aware that they may be accompanied. The employee should be given at least three days' notice of this hearing to allow them time to prepare.

5.1 In this Stage of the process, the Manager will review the Performance Action Plan. S/he will look at whether any further steps may be taken to intervene, coach, support, skill or otherwise encourage the individual to deliver the work to a satisfactory standard.

5.2 The employee will be offered a chance to explain the reasons for his or her poor performance. If the explanation offered is not acceptable, a formal written caution will be given to the employee as soon after the hearing as possible. The manager should also, as sensitively as possible, inform the employee of the likely consequences if their performance does not improve. After the review, the manager should re-emphasise in writing:

- how current performance fails to meet the required standard and the specific standards expected
- The support and measures which have already been enacted to try to improve the employee's performance
- The timescale to be allowed in order to achieve acceptable performance
- How monitoring will be carried out
- The date at which a review will take place. (Stage 2 review should occur over a period of no less than 2 weeks and no more than 2 months.)
- The consequences of continued failure to meet the required standard.

If there is no improvement by the end of this review period the employee will be informed that their continued employment is now clearly at risk. Managers will consider suspension of the employee in circumstances where there is potential risk to employees or service users.

#### **6.0 Appeal against decision (short of dismissal) in Capability Procedure**

An employee who disagrees with the conclusions reached at either Stage Two or Three of the procedure has a right of appeal. (For Appeals against Dismissal, see Section 9.0 below) There is no appeal associated with Stage One, which has two obvious potential outcomes: the issues being resolved or the matter being elevated to Stage Two or Three.

The appeal is to be made in writing, giving full particulars, and submitted to the Manager within five working days of the employee receiving the relevant Stage decision.

The Appeal will be heard by the next manager in the hierarchy and within five working days of the written Appeal application, unless otherwise agreed with the individual and/or the individual's representative. (Where the manager running the Capability Procedure is a Director, the Appeal will be heard by another member of the Corporate Management Team.)

The Appeal decision will be given to the individual in writing within three working days of the Appeal Hearing. This decision will be final.

## **7.0 STAGE Three**

Stage Three provides, exceptionally, for a possible final cycle of support and monitoring. However, in most cases, by Stage Three, it will have become apparent whether improvement is achievable/sustainable or not. Any other reasonable options must also have been considered prior to a decision to end an individual's employment.

## **7.1 Alternative Employment**

If, after a reasonable time, (timeframes as established during Stage 2) the individual's performance has still not improved, consideration should be given to offering suitable alternative work. If none is available with the division, it may be possible to find a suitable post elsewhere within the Council's service. This will not normally be equivalent employment in terms of responsibilities or remuneration. Managers will work with Personnel to identify any reasonable alternative work for the individual.

In the unlikely event that it proves possible, it may be possible to revise the responsibilities of the post downwards to reflect the lower level at which the individual delivers the work. In this event, the reworked role will be evaluated by Personnel and paid according to its revised responsibilities. It will not, in such circumstances, be possible to protect/maintain a rate of pay applying to a higher level post. For the purposes of this procedure, this action will be deemed an offer of alternative employment. (see below\*)

Where a lower level position is found which appears to match the individual's skills' set, mutual agreement will be the preferred option in effecting redeployment to that vacant post.

\*If alternative employment is found, it will be offered in writing, giving reasons and the possible consequences of refusing it. The employee must be given sufficient time to consider the offer, which should not normally exceed 10 working days.

7.2 Once Stage Three in the procedure has been completed and an individual found not to be capable of delivering the role to the required standard, their employment will be ended on the grounds of capability. At all times, managers, in consultation with Personnel, must have already considered possible redeployment to a post demanding an alternative skills' set or of a lower level. (See 7.1 above)

7.3 Any decision to dismiss will be made on the grounds of capability and following the

**Stage Three Hearing.** (See Section 8 below) The required notice period for the employee's contract will then be given.

7.4 An employee will be informed in writing of the decision, the reasons for it and will be given the opportunity to appeal. Throughout the process, an individual will have the right to be accompanied by a Trade Union steward or by a fellow worker of their choice.

### **8.0 Stage 3 Hearing to consider ending of employment**

Employees should be given notice in writing of the time, place and purpose of the hearing at least ten working days before the date. Papers, including the statement of case of both parties, should be exchanged at least five working days before the date of hearing.

A representative from Personnel must be present to advise the Capability Panel. Wherever possible, the Panel will be composed of persons who have had little or no involvement with the case previously.

The relevant Director should chair the formal hearing (unless i. the Capability Procedure has been used with one of that Department's Heads of Service or ii. another exceptional reason exists). At least one manager who has had no prior involvement in the case should be present on the Capability Panel, which will be composed of not less than three or more than four persons.

The process will be as follows:

- The Chair will make introductions, stating the purpose of the hearing and describing the order of play

#### **Management case**

1. Management will then state the nature of the problems with the employee's performance and give supporting evidence.
2. Management witnesses will be present and then questioned. The Management representative will only question on points of clarification.
3. The employee or their representative will have the opportunity to question the witnesses.
4. The Capability Panel questions management and any witnesses

#### **Employee case**

5. The employee or their representative will present the employee's case
6. The employee's witnesses will be present and questioned. The employee and their representative will only question on points of clarification.
7. Management will have the opportunity to question the employee and their witnesses
8. The Capability Panel questions the employee and their witnesses

At the conclusion of the process, both parties will summarise their position with the opportunity for the employee or their representative to be heard last.

The Capability Panel will then adjourn to consider all the relevant facts. Their decision may then be given the day of the hearing or, exceptionally, no later than five working days from the conclusion of the hearing.

The decision and any rights of appeal will then be confirmed in writing as soon as possible and certainly within five working days.

## **9.0 Appeal against Ending of Employment on Grounds of Capability**

An employee dismissed as a result of the Capability Procedure has the right to appeal against the decision.

The appeal is to be made in writing and submitted to the relevant Director within five working days of the employee receiving the formal notification of the ending of their employment.

Applicants should set out in writing the grounds for their appeal, giving full particulars.

The appropriate Member Appeals Panel will hear any appeals. (For format see **Disciplinary Appeals' Panel – link**)

Personnel will provide the applicant with a written notice of the time and place of hearing. This hearing should take place no more than 10 working days after receipt of the applicant's Appeal notice, although timescales may be varied in agreement with the individual.

Papers involving the statement of case of both parties and details of any witnesses to be called should be exchanged at the earliest possible time and at least three working days before the date of hearing.

At the Appeal, the employee may be represented or assisted by a Trade Union representative or a nominated fellow worker and may call witnesses and produce documents relevant to their defence at the hearing. The Head of Personnel (or nominated deputy) will act as adviser to the Panel.

The decision of the Member Appeals Panel will be final.

## **10. Review of Capability Procedure**

This procedure will be monitored in use and reviewed/evaluated by Management and the Trades Union representatives 12 months after its introduction in Summer 2003.

### **APPENDIX A (Capability)**

**LINK**

**IMPLICATIONS OF THE DISABILITY DISCRIMINATION ACT**

In cases where employees with disabilities are experiencing difficulties with their performance, managers must comply with the Disability Discrimination Act 1995.

Under the Disability Discrimination Act 1995 a disabled person is defined as a person with a physical or mental impairments that has 'substantial and long term adverse effects on their ability to carry out typical day to day activities'.

### Performance

Where an employee's disability is resulting in under performance, it should be the employer's responsibility to try to make reasonable adjustments so that the employee can improve their performance. These adjustments may include:

- Considering whether their working hours or location can be altered
- Modifying instructions, manuals, equipment or training methods
- Providing extra support, tuition and or coaching
- Considering allocating some duties of the job to another person (s)

Through making as many reasonable changes as possible we should prevent a disabled employee from facing a disadvantage. What changes are possible will be dependent on effectiveness, practicality and the financial consequences to the employer.

It is important that if the circumstances of a job change, the manager maintains appropriate dialogue with a disabled employee to make sure that their needs are addressed and reasonable adjustments made.

In assessing a disabled employee's delivery in a role the following points need to be considered:

- It is important not to make assumptions about the effect of an impairment on a disabled employee's performance or about their ability to undertake more demanding work at higher levels.
- Ensure that the employee is only assessed on those parts of the job they are doing and not the aspects they are unable to do, which may have been allocated to another person.
- Use appropriate supervision or other formal assessment procedures to ask the disabled employee if any adjustments are working well or whether further reasonable adjustments need to be made.
- If capability is becoming a concern, examine what other further reasonable adjustments can be made to help improve the disabled employee's performance.
- Do not assume that all performance related problems are related to the

employee's disability.

### **Ending of employment**

The DDA 1995 section states that it is unlawful for an employer to discriminate against an employee who is disabled by dismissing the employee for a reason relating to their disability. It is also unlawful for an employer to treat the disabled employee less favourably than their colleagues because of their disability.

## **APPENDIX B (Capability)**

### **FURTHER GUIDANCE NOTES FOR MANAGERS – CAPABILITY ISSUES**

#### **1.0 What is capability?**

Capability may be defined as the “skill, aptitude, health or any other physical or mental quality” required to perform a job. Incapability can, therefore, be understood as an absence of or deficiency in the required level of capability.

Another, and snappier, way of describing a capability issue is ‘having the will but not the skill’. This contrasts neatly with disciplinary matters where an individual may be found to ‘have the skill but not the will’ to do the work.

#### **2.0 Preventing Capability issues**

There are a number of positive steps which can be taken in reducing the risk of having to initiate formal Capability procedures.

##### **2.1 Recruitment and Selection**

Recruitment and selection can be crucial:

- the advertisement for the job should make clear what the nature and function of the job is;
- the job description should define the main purpose and scope of each post and the tasks involved;
- person specifications should define as clearly as possible the sort of person, type of experience, knowledge and skills required;
- Selection processes should test for competencies required in every relevant area, wherever possible.
- If recruitment and selection are effectively managed this will minimise the risk of unsuitable appointments being made.

##### **2.2 Induction**

Participation in a structured induction process is important for the individual. For a new appointee to perform to the best of their ability they must be provided with clear information about their job and understand how it contributes to the organisation and team. Divisional, departmental and corporate induction processes all provide further understanding of the value of this work to Eastbourne Borough Council.

### 2.3 Probationary period

It is important, while new recruits are in their probationary period, to raise with them and seek to resolve any emerging issues around their performance. This can be particularly relevant to workers who are not only new to the job, but also new to a local government context. Managers should offer support, training and guidance to address any concerns and are encouraged to consult corporate Personnel to discuss.

Early action can be most helpful: having regular conversations on progress and inviting feedback about the job; explaining tasks more fully; ensuring that the individual has an induction mentor to go to with questions or concerns; and working to identify training or development needs along the way. Planning ahead, homing in on problems and ensuring that the team is giving appropriate support will all help.

Exceptionally, an extension may be agreed to someone's probationary period. This is, however, not good practice and any manager considering such a course of action should discuss the circumstances with Personnel first. With appropriate induction training, standard setting, agreed objectives and monitoring against these, it will normally be evident whether the individual meets the needs of the role before a probationary period has expired.

Sometimes, despite the efforts of the individual and the team, things do not work out. Within the probation period dismissal may occur. It is essential that the decision-making process leading to the dismissal is reasonable. Therefore, it is important that as much support as is reasonably practical has been given and formal records kept. You should note that, currently, the probationary period is 3 months for permanent posts below scp 29 and 6 months for those on or above this rate of pay.

### 2.4 Supervision Process

The supervision of the individual should be ongoing and in association with the Appraisal scheme. They should be clear as to their responsibilities & duties and this should be reinforced through a continuing process of supervision, development and performance review. If a manager experiences any concerns with an individual's performance in the role, this should be raised with them as soon as it becomes apparent. This should prevent any shortfalls being due to lack of training and development. However, if a worker is under-performing, it is important to set targets for improvement. It may be possible, with positive support and action in the early stages, to deal effectively with performance difficulties. Where formal Capability proceedings are invoked, managers will be required to demonstrate what action they have taken in this respect – accurate records must, therefore, be kept.

Managers should:

- Act as soon as they become aware of a problem
- Strive to understand each employee's individual circumstances and be prepared to consider that under-performance may be linked to factors from outside the working environment or interpersonal factors within it e.g. harassment or relationship difficulties.
- Always reflect, at the outset, on whether possible causes of difficulties may be linked to communication with or management of the individual: eg, not providing adequate or appropriate support, supervision or clear direction.
- Consult the Employee Relations Adviser or Head of Personnel prior to embarking on formal Capability action.
- Take into consideration cases where an employee has a disability with regards to the requirements of the Disability Discrimination Act 1995 (see Appendix A - link).
- Consider whether the requirements of the job content, standard, volume and time scale are clear, realistic, reasonable and fair.
- Aim to keep the employee in their current post and give them the chance to improve with support and positive encouragement. In more serious cases and where there is a risk involved in maintaining the employee's position, temporary redeployment should be considered, while suitable remedial action is being undertaken.
- Where possible within the monitoring process, think about retraining or further training and support for the employee and therefore ensure that incapability can-not be due to lack of explanation, training or support.
- Conduct regular reviews. Different approaches and time scales may be required for different jobs depending on their complexity and impact on services.
- As evidence of setting, monitoring and evaluating progress against work targets, keep records of all formal discussions or hearings. Be ready to share these records with the individual and his/her representative, upon request.
- Consider the service user and customer needs in managing an employee's performance.
- Bear in mind that an individual experiencing difficulty in meeting the requirements of a job is a vulnerable person. S/he may be feeling 'out of their depth' and keen to find a solution to the problem. Working with them to resolve the situation is the best way forward.
- In exceptional circumstances, determine whether termination of employment on

the grounds of capability is appropriate.

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**[1] On electronic version, for reference, blue sections are additional to the formal Capability Procedure, black are those within the Procedure.**