

Brixworth Parish Council

Capability Policy



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BRIXWORTH PARISH COUNCIL'S CAPABILITY POLICY

Definition of Capability

For the purposes of this policy, capability is assessed with reference to skill, aptitude, attitude, behaviours, competence, knowledge and ability to do the job.

Introduction

- 1 The object of this policy is to help and encourage all employees to achieve and maintain standards of job performance, ensuring Brixworth Parish Council has fair, effective and consistent arrangements in place for dealing with work performance and capability matters.
- 2 We recognise that during your employment with us there may be circumstances where you find it difficult to do your job. This can be for a number of reasons, the most common ones being that either the job changes over a period of time, or you change (potentially due to health or disability reasons) and you can no longer cope with the work.
- 3 Whilst Brixworth Parish Council will support employees who are under-performing it is the employee's responsibility to take ownership to improve their own performance.

JOB CHANGES/GENERAL CAPABILITY ISSUES

- 4 If the nature of your job changes, or if we have general concerns about your ability to perform your job, we will meet to discuss the reasons for the issue to determine if it is a capability or a conduct matter. We will try to ensure that you understand the level of performance expected of you and that you receive adequate training and support. Concerns regarding your capability will normally be discussed in an informal manner and you will be given time to improve; this will include a performance management schedule with set objectives and timescales.
- 5 If your standard of performance is still not adequate you will be warned in writing that a failure to improve and maintain the performance required could lead to your dismissal. We will also consider the option to transfer to more suitable work if possible.
- 6 If there is still no improvement after a reasonable time (as specified in improvement plan) and we cannot transfer you to more suitable work, or if your level of performance has a serious or substantial effect on our organisation or reputation, you will be issued with a final warning that you will be dismissed unless the required standard of performance is achieved and maintained.
- 7 If such improvement is not forthcoming after a reasonable period (as specified in improvement plan) of time, you will be dismissed with the appropriate notice.

PERSONAL CIRCUMSTANCES/HEALTH ISSUES

- 8 Personal circumstances may arise that do not prevent you from attending for work but prevent you from carrying out your normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises we will need to have details of your medical diagnosis and prognosis so that we have the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking your own doctor for a medical report. Your permission is needed before we can obtain such a report and we will expect you to co-operate in this matter should the need arise. When you have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with us in your current role or, where circumstances permit, a more suitable role.
- 9 There may also be personal circumstances that prevent you from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances we will need to know when we can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report or by making whatever investigations are appropriate in the circumstances. When we have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with us in your current role or, where circumstances permit, in a more suitable role. Absences of up to 7 days can be self-certificated, but those greater than 7 days will require a doctor's note.

SHORT SERVICE STAFF

- 10 We retain discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you are still within your probationary period you may not be in receipt of any warnings before dismissal.

Policy and Procedure stages

- 11 Brixworth Parish Council encourages managers to quickly make employees aware of any shortfall in their performance as part of their day to day performance. The Capability policy is made up of the following stages:
 - Stage 1: Informal Stage
 - Stage 2 Formal Stage (two part)
 - Stage 3 Final Stage

The Procedure

- 12 Informal Stage. Where minor concerns about capability become apparent, it is the line-manager's responsibility to raise this with the employee and clarify the improvements required. This will consist of an informal discussion that includes details of the desired target, any training required to support achievement of this and an achievable timescale; file notes will be made and kept by the manager. The informal discussions are not part of the formal capability procedure. If performance fails to improve the manager may decide to formalise the discussions and invite the employee to a formal stage 2 capability meeting/discussion.
- 13 Formal Stage 2a - Following completion of the informal procedure an escalation to a formal capability meeting may sometimes be required to establish the facts and whether there is a formal capability case to address.
- 14 If a formal capability investigation is required, the line manager will collect all relevant information and agree a performance improvement plan with the employee; this would normally be scheduled to run for 6 weeks and will include details of the actions required and timescales for each of these.
- 15 Regular interim progress reviews will be undertaken, with a final review taking place at the agreed deadline. The review will be undertaken between the manager and the employee. This will result in one of the following outcomes:
 - The improvement expected has been achieved and no further action is required; the employees records will be updated with the details and these will be retained for 12 months
 - Some improvement has been achieved and an extension to the timescale to complete is agreed
 - No improvement has been made and a first written warning is issued. The next step is escalation to Stage 2b
- 16 Employees may be accompanied or represented by a workplace colleague, a trade union representative or a trade union official at this stage.

First written warning

- 17 If the employee's performance continues to be beneath acceptable standards, a first written warning will be issued. A first written warning will set out:
 - the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
 - that further failure to improve may result in further written warnings
 - the employee's right of appeal
 - that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time (12 months).

After the first written warning – Formal stage 2b

- 18 The line manager will advise the Personnel Committee of the underperformance. They will appoint a sub-committee, with Chair, to oversee the next stage and an independent investigator to gather the facts and report their findings. Neither the Investigator, nor any councillor with direct involvement in the matter, shall sit on the sub-committee.
- 19 At the same time the employee will be invited to a formal meeting to agree a new improvement plan, including timescales.
- 20 The employee will work through the new improvement plan, with regular reviews with the manager.
- 21 The investigator will present their findings (including progress against the new improvement plan) to the sub-committee. If the investigator disagrees with the manager's assessment and improvement plan they will work with the manager to agree the way forward.
- 22 Where the investigator agrees with the managers' assessment and action plan the sub-committee will invite the employee to a capability meeting in writing, with at least 3 working days' notice.
- 23 . The sub-committee's letter will confirm the following:
 - the names of its Chair and other two members
 - details of the alleged under-performance, its possible consequences and the employee's statutory right to be accompanied at the meeting
 - a copy of the information provided to the sub-committee which may include the investigation report, supporting evidence and a copy of the Council's capability procedure
 - the time and place for the meeting. The employee will be given reasonable notice of the hearing so that they have sufficient time to prepare for it
 - that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least two working days before the meeting
 - that the employee may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official
- 24 The purpose of the capability meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective. It will be conducted as follows:
 - the Chair will introduce the members of the sub-committee to the employee and explain the arrangements for the hearing
 - the Chair will set out the allegations and invite the Investigator to present the findings of the investigation report
 - the Chair will invite the employee to present their account
 - the employee (or the companion) will set out their case and present evidence (including any witnesses and/or witness statements)
 - any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness
 - the employee (or companion) will have the opportunity to sum up
- 25 There are three potential outcomes of the meeting:
 - The sub-committee finds in favour of the employee and a new action plan is agreed
 - It is agreed that the employee is unlikely to meet the performance standards of the role and that further time to improve will not change this
 - The sub-committee finds in favour of the manager and an update performance improvement plan is agreed. If no further progress is made a final written warning is issued
- 26 The Chair will provide the employee with the sub-committee's decision, with reasons in writing, within five working days of the meeting.
- 27 The capability meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the sub-committee.

Employee unsuitable for the role

- 28 The sub-committee will work with the manager to identify a suitable alternative role. If no suitable alternative is identified the employee will be offered:
 - Early retirement
 - Early retirement on health grounds

Final written warning

- 29 Failure to meet expected standards outlined in the first written warning will result in the employee being issued with a final written warning. This will set out:
- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
 - that further failure to improve may result in more serious capability action up to and including dismissal
 - the employee's right of appeal
 - that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time (12 months).

Dismissal

- 30 The Council may dismiss:
- for insufficient performance
 - if there is no improvement in the performance, which has been the subject of a final written warning, within the specified time period
 - if additional under-performance has occurred and a final written warning has already been issued and remains in force.
- 31 The Council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for his/her dismissal, the date on which the employment will end and details of his/her right of appeal.

The appeal

- 32 An employee who is the subject of performance action will be notified of the right of appeal. Their written notice of appeal must be received by the Chair of the Council within five working days of the employee receiving written notice of the capability action and must specify the grounds for appeal.
- 33 The grounds for appeal include;
- a failure by the Council to follow its capability policy
 - the sub-committee's capability decision was not supported by the evidence
 - the capability action was too severe in the circumstances of the case
 - new evidence has come to light since the capability meeting.
- 34 Where possible, the appeal will be heard by a panel of three members of the Personnel Committee who have not previously been involved in the case. There may be insufficient members of the Personnel Committee who have not previously been involved. If so, the appeal panel will be a committee of three members of the Council who may include members of the staff committee. The appeal panel will appoint a Chair from one of its members.
- 35 The employee will be notified in writing, within 10 working days of receipt of the notice of appeal, of the time, date and place of the appeal meeting. The employee will be advised that they may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official.
- 36 At the appeal meeting, the Chair will:
- introduce the panel members to the employee
 - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the capability decision and for both sides to seek further clarifications as required
 - explain the action that the appeal panel may take.
- 37 The employee (or companion) will be asked to explain the grounds for appeal.
- 38 The Chair will inform the employee that they will receive the panel's decision, in writing, usually within five working days of the appeal hearing.
- 39 The appeal panel may decide to uphold the capability decision of the Personnel Committee, substitute a less serious sanction or decide that no capability action is necessary. If it decides to take no capability action, no record of the matter will be retained on the employee's personnel file.

- 40 If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.
- 41 The appeal panel's decision is final.