



BRACKLEY TOWN COUNCIL

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# Capability Policy Managing under-performance

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## **1. Scope and purpose of this policy and procedure**

- 1.1 This policy applies to all council staff who have successfully completed their probation period and established guidelines for managers and staff in relation to the management of under-performance.
- 1.2 This policy is designed to ensure that cases of under-performance are dealt with similarly and fairly, with the prime objective of improving an individual's performance to the required level.
- 1.3 The council has a responsibility for setting realistic and measurable standards of performance, for explaining these standards carefully to members of staff and for supporting staff to achieve the standards set.
- 1.4 All new members of staff will have their job explained to them on arrival at the council, will be given a copy of, or referred to, any written guidance that exists in relation to their area of work and will be given appropriate training and support to become familiar with it. Staff must also be made aware of the standards expected of them and where expectations change and evolve over time, managers have a responsibility to inform staff of these changes.
- 1.5 All members of staff have a contractual responsibility to perform their duties to an acceptable standard and they should be given all reasonable support and encouragement to do so.
- 1.6 For the purpose of this policy an individual's capability to do their job is assessed by reference to their skills, qualifications aptitude, health or any other physical or mental quality.

## **2. Informal Stage 1**

### **Stage 1**

- a. When there is evidence that an individual is not performing at an acceptable level, the manager/line manager should investigate the circumstances without delay and endeavor to ascertain the reasons for the unsatisfactory performance. If, following this examination the manager considers that the individual's performance is deficient in some material respect, an informal discussion with the member of staff will be arranged. At this meeting the manager will:
  1. Make clear the areas in which the individual's performance is below expectations (explaining the grounds/evidence of this view) with the aim of identifying any problems or reasons for the under-performance, which could be resolved. Solutions to the problem could include additional training, providing a mentor, coaching or some other kind of on-going support to the individual.
  2. Give the individual the opportunity to explain their under-performance and to raise any concerns they may have about the job or the support and guidance they have been given to do it.
  3. Bear in mind the provisions of the Disability Discrimination Act, in particular the obligation to make reasonable adjustments when dealing with disabled members of staff.
  4. Ensure that the member of staff is aware of the level of performance/productivity required in relation to each element of the duties about which there is a concern.

5. Set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing “reasonable timescales” for improvement, managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual.
- b. The content and outcome of this meeting will be confirmed by the manager in writing to the individual, including the type of improvement required, any additional support or training that will be provided, any other agreed actions and the timescale for improvement and review.
- c. When discussing under-performance managers must be specific about their concerns and must demonstrate evidence and/or give examples to support their assertions.

### 3. Formal Stages

#### Stage 2

- a. If there is continued unsatisfactory performance or where a first instance of unsatisfactory performance is sufficiently serious to warrant formal action (e.g. where health & safety is at risk or significant costs or other liabilities are involved) the member of staff should be invited to a formal interview to discuss the matter. At this meeting the individual will have the opportunity to explain their unsatisfactory performance. At this interview the member of staff will be reminded of the earlier informal discussions (where these have happened) and the steps taken to support an improvement in their performance. They will be told as precisely as possible, the reasons for the manager’s continued concerns about their performance. If, having heard any explanations offered by the member of staff, the manager remains concerned, a FORMAL CAUTION will be given for unsatisfactory performance. This will be confirmed in writing to the individual.
- b. This caution will be placed on the individual’s HR file and will be disregarded after a period of 12 months.
- c. At this interview further consideration should be given to any additional training or support that could reasonably be provided to the member of staff to enable them to reach the required standard of performance. A reasonable time period will be set within which improvement is expected and a further meeting arranged at the end of this time to review the situation.

#### 4. Stage 3

- 4.1 If there has been insufficient improvement in performance within the timescale following the formal caution a further formal interview will be held with the individual. At this interview the manager will review the history of the case, including the steps that have been taken to support the individual to achieve the required level of performance. If, having heard the explanation offered by the member of staff, the manager remains concerned a FINAL CAUTION will be issued for unsatisfactory performance. This will be confirmed in writing. The member of staff will be informed that their job will be at risk if satisfactory performance levels cannot be achieved and subsequently maintained.
- 4.2 This caution will be placed on the individual’s HR file and will be disregarded after a period of 12 months.
- 4.3 Further consideration should be given to any additional training or support that could reasonably be provided to the member of staff to enable them to reach the required standard of performance. A review period will be set within which improvement is expected and a further meeting arranged at the end of this time to review the situation.

## **5. Stage 4**

If there has been insufficient improvement in performance within the timescale following the final caution, a further formal interview with the member of staff will be held. At this interview the manager will review the history of the case, including the steps that have been taken to support the individual to achieve the required level of performance. The individual's explanation will be heard and considered. A decision will then be taken to either dismiss the member of staff on the grounds of capability or to extend the final caution to allow further time for improvement and maintenance of any improvement. The manager will confirm this decision and the reasons for it in writing to the individual. The option of allowing further time for improvement may only be considered if there is evidence to persuade the manager that further time is likely to lead to the required improvement in performance. The Staff Committee must be consulted prior to any meeting that may lead to dismissal.

## **6. Ill-health/Poor Attendance**

- 6.1 An individual's capability to carry out their role to the expected standard may be affected by their health and their attendance record. Managers must bear in mind the provisions of the Disability Discrimination Act, in particular the obligation to make reasonable adjustments when dealing with disabled members of staff.
- 6.2 The procedure for managing long-term periods of sickness absence (four weeks or more) is set out in full in the Sickness Absence Policy.
- 6.3 The early stages for managing repeated short-term absence is also set out in the council's Sickness Absence Policy. Where the second Sickness Absence Review meeting does not however produce the required improvement in attendance, the situation will then be managed through this policy. A formal meeting will be held at which any explanations offered by the individual will be discussed. A FINAL CAUTION may be given for unsatisfactory attendance, if the manager/supervisor remains concerned and this will be confirmed in writing. The member of staff will be informed that their job will be at risk if satisfactory attendance levels are not achieved and maintained.

## **7. Notification & Representation**

- 7.1 A member of staff will receive 7 working days advanced notice in writing of any formal interview arranged under this policy (unless the employee agrees to less in writing). At all such interviews the member of staff has the right to be accompanied by a work colleague or trade union representative. Where witnesses are to be called by the manager or the individual, prior notice of this should be given.
- 7.2 Where an individual's representative is unable to attend the meeting at the notified time, the meeting will be postponed and rescheduled to an alternative time within 5 working days.

## **8. Right of Appeal**

- 8.1 An individual has the right to appeal against any formal action taken against them in line with this policy and must do so by writing, within 7 working days of the date of receipt of written confirmation of the action taken against them, stating their grounds for appeal.
- 8.2 The appeal will be heard by three members of the council not previously involved in the case. The panel should reflect a varied profile in terms of race, sex, disability, religion and sexuality wherever possible. The appeal hearing will take into account any new evidence that either party may present and consider its relevance to the sanction imposed.
- 8.3 Where an appeal is upheld, reference to the caution or dismissal will be disregarded. Alternatively, the outcome of the appeal hearing may be to impose a lesser penalty e.g. a final caution instead of dismissal, or to shorten the period

of which the caution was originally issued. The outcome of the appeal will be set out in a letter to the employee from the Clerk.

- 8.4 If an employee is successful in appealing against summary dismissal, they will be paid in line with their contract of employment in respect of the period from dismissal to reinstatement, as if the dismissal had never taken place.

Lateness is normally managed through the Disciplinary Procedure.