

**POLICY & PROCEDURE: EMPLOYEE CAPABILITY**

**PURPOSE:** To provide a framework that addresses situations where an employee is failing significantly in their duties or responsibilities due to a lack of ability, inadequate training or lack of experience.

**SCOPE:** Employees of the Melbourn Parish Council.

**POLICY:****1. Principles:**

- 1.1 This policy differs from the **Disciplinary Policy and Procedure** (5.05) by being directed at employee underperformance as opposed to possible employee misdemeanour.
- 1.2 It is the policy of Melbourn Parish Council that employee performance against both job descriptions and performance standards will be monitored regularly and at least annually through formal Appraisals.
- 1.3 Perceived underperformance will be addressed via the process described in 1.2 and, where needed, followed up through the procedures covered in this document.
- 1.4 It is the policy of Melbourn Parish Council to ensure every possible step is taken to assist an underperforming employee to improve performance in a consistent way, using the approach shown in the box below:

- Performance will be monitored and performance criteria set. This will recognise a degree of consistency in how staff with differing responsibilities are given opportunities to attain satisfactory levels of performance.
- There will be appropriate assistance in identifying and providing appropriate forms of support.
- All training, support and assistance will be provided to overcome failings.
- Any action taken will be based on adequate evidence that the member of staff is incapable of performing their duties satisfactorily.
- Where such steps prove unsuccessful, the member of staff may have their employment terminated on the grounds of incapacity.

**PROCEDURE:**

Normally, employee performance will be monitored, assessed and additional advice or training given through regular meetings and formal performance appraisals. If this approach is deemed to be failing the following steps should be taken:

**2. Informal Procedure:**

- 2.1 When your manager decides you display an inability to perform your duties satisfactorily, he or she will attempt to resolve the matter informally. The manager concerned will normally be the Clerk. If the underperformance affects either the Clerk, the Responsible Financial Officer or Timebank Co-ordinator then the Chair of the HR Panel will take up the matter.
- 2.2 You have the choice to be accompanied at any meetings (including this informal meeting) by a trade union representative or a colleague.
- 2.3 At the informal meeting, the manager will agree performance standards with you and a time period (normally 3 months) over which improvement will be expected. Your manager will also agree with you how performance will be monitored and any support or training required.
- 2.4 The content of the meeting will be documented and a letter sent to you indicating the nature of the unsatisfactory performance and details of the agreed performance improvements.
- 2.5 If your performance improves adequately over the agreed timescale the process will terminate at this stage. However, if performance remains unsatisfactory the formal procedure below may be used.

**3. Formal Procedure:**

**3.1 Step 1 – Information Collection**

Your manager will call upon an external advisor or another person, such as another Council member, to undertake collecting the necessary information. They would be expected to interview you and your manager, or the HR Manager as appropriate, as well as any other relevant individuals. You will be informed that they may be accompanied at any meetings that take place as part of this process.

**3.2 Step 2 – Written Report**

A written report will then be prepared by the advisor or manager based on evidence collected by interviews and observation.

It will be the intention to make the report precise and specific. Observations and comments will include information covered by the points set out in the box below:

- Areas where you are seen to be failing to perform adequately.
- Actions already taken to address the failings and whether these actions were adequate - i.e. were clear performance standards set and monitored.
- Whether you acknowledge that there is a problem and show a willingness to improve.
- How your failings may impact on colleagues and work output.
- Any other relevant or mitigating factors.

A copy of this report will be given to you and to your line manager. Both will be invited to comment, in writing, on the content of the report. A relevant manager or another independent person will consider the report who then may opt to take one of the following options: -

- No further action.
- Instruct the line manager to set performance standards for you and monitor these for a set period of time.
- Arrange for a formal capability meeting to consider the matter further.

### 3.3 **Step 3 – Formal Capability Meeting**

If the third option in the box above is chosen you will be informed of the date of the formal meeting at least 10 days in advance. The letter will include: -

- A clear description of performance failings in to ensure that you fully understand their nature, extent and seriousness.
- Any relevant documentation.
- The time, date and venue of the Capability meeting.
- The person who will conduct the meeting (normally the Chair or Vice Chair of the Council).
- A reminder of the right to be accompanied.

**At the meeting you will be given the opportunity to put forward a defence, to bring witnesses in support, to present mitigating circumstances and to make a full statement.**

3.4 **Step 4 – Review**

If, after the meeting, your work is judged to be failing significantly then a decision on the action to be taken must be made.

Depending on the nature, frequency and seriousness of the situation, it is likely that this will be a written warning. If so, a letter will be sent to you confirming the decision and the reasons why it was made. The letter will also indicate that your progress will continue to be monitored and how this will be carried out. A timescale for performance to improve and review dates will be specified. Any on-going support and training will also be specified.

If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, monitoring will be discontinued subject to a clear indication to you that it may be reintroduced if the problem reappears.

3.5 **Step 5 – Second Capability Meeting**

Where poor performance is deemed to continue, the process set out in Steps 3 and 4 will be repeated. The timescale for improvement will depend on the nature of your duties and responsibilities and the seriousness of the performance issues. Where the conclusion of the second meeting is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a final warning will be issued.

You will receive a letter confirming the decision as well as covering the points made at Steps 3 and 4. The letter will clearly state that, if an improvement is not forthcoming, we will convene a final meeting at which we will consider terminating your contract.

3.6 **Step 6 – Third Capability Meeting**

If the previous advice, training and warnings are deemed to not have had the desired effect there will be a third meeting conducted by the Chair or Vice Chair of the Council, accompanied by a suitable outside third party representative. At this meeting, your contract will be terminated, in accordance with the terms of your contract. We will write informing you of the date of the formal meeting at least 10 days in advance. The letter will include: -

- A clear description of performance failings in sufficient detail to ensure that you fully understand the nature, extent and seriousness.
- Any relevant documentation.
- The time, date and venue of the meeting.
- The person who will conduct the meeting (normally the Chair of the Council).
- A reminder of your right to be accompanied.

At the meeting you will again be given the opportunity to put forward a defence, to bring witnesses in support, to present mitigating circumstances and to make a full statement.

**3.7 The opportunity to appeal**

You may appeal against any decision to terminate your contract on the grounds of capability. This should be done in writing within 14 days of the decision. A panel of at least three councillors, chaired using an external advisor will hear the appeal. Decisions made on appeal will be final.



**Document Approval:**

**(Chair to Melbourn Parish Council)**

**Date of Parish Council Meeting: 26 April 2021**