



Saltash Town Council



Policy/Procedure:

Capability Procedure

Date of Adoption:

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This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

Current Status			
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CAPABILITY PROCEDURE

Staff are advised to read policies in conjunction with other relevant documents, including their contract, the 'Green book', their job description, and other council policies. They may also wish to consult the Town Clerk (or Chairman of Staffing in the case of the Town Clerk) or to take advice from their union or professional association.

1. INTRODUCTION

- 1.1 This procedure applies to all Town Council employees
- 1.2 This procedure should be used primarily for supporting, enhancing and improving the performance of employees. In accordance with the Employment Rights Act 1996, Human Rights Act 1998 and the ACAS Code of Practice on Disciplinary Procedures this procedure sets out a framework for resolving issues relating to poor performance. The procedure aims to ensure that consistent and fair treatment is given to individuals.

2. GENERAL POINTS AND INFORMAL PROCEDURES

- 2.1 The Town Clerk is responsible for producing guidance and advice on the procedure and for monitoring and promoting consistency in its application.
- 2.2 Throughout this policy all references to the Town Clerk will refer to the Chairman of Staffing if the staff member concerned is the Town Clerk. In that instance references to the Chairman of Staffing will refer to the Town Mayor.
- 2.3 When using the procedure it may be necessary to refer to the contents of other agreed documents such as:
 - The Equal Opportunities Policy
 - The Grievance Procedure
 - The Sickness and Return to Work Policy
 - Other appropriate policies of the council
- 2.4 Although normal capability standards apply to the conduct of any trade union officials who are employees, no action under the procedure set out in paragraph 3 below will be taken against such official until the circumstances of the case have been discussed with a full time official of the union concerned.
- 2.5 The Formal Capability Procedure is not a substitute for good management practices and many minor issues will be resolvable by informal discussions without even the need for written record or targets.

- 2.6 If, However, as part of management, the Clerk, or Chairman of Staffing in the case of the Clerk feels that a formal capability procedure may become required, s/he should endeavour to offer appropriate support and training first, and to agree informal targets with the employee.

These targets should be recorded in writing with a date for review and a copy to be placed in the employees file

Where a written record is made the Clerk/Chairman should ensure that the Chairman/Town Mayor is aware of this.

In most cases these meetings and informal targets should provide sufficient guidance, support and clarification of standards to rectify the situation.

- 2.7 However, the formal procedure will be invoked when:

* the informal stage has proved ineffective;

* the performance is so poor that the informal stage is unlikely to help.

3. FORMAL CAPABILITY PROCEDURE

- 3.1 If informal discussions and targets have proved unsuccessful in raising performance levels to the appropriate standards then the formal procedure will be invoked. This will follow discussion with the Chairman of Staffing / Town Mayor.

- 3.2 There are three stages to the formal procedure and the employee will have the right of representation at each stage.

During each stage the employee's performance will be monitored closely. The method of doing this will be made clear to them at the conclusion of each review meeting.

3.3 Stage 1: First Capability Review

- 3.3.1 The Capability Review should build on the informal discussions. It should be sufficiently specific for the employee to know exactly what it is about their performance that is unsatisfactory and how they can improve to the required standard. The Town Clerk (or Chair of Staffing, in relation to matters concerning the Town/ Clerk) will carry out the Review.

- 3.3.2 The review has 4 main purposes:

a. To allow the Town Clerk to discuss with the employee:

- the standards of work required;
- what improvement is necessary;
- how the employee can be helped to achieve this;
- how improvement will be assessed and the timescale which must be reasonable.

- b. To allow the employee to:
 - obtain a clear understanding of what is expected of them;
 - give an explanation or comment on their work;
 - give their views on how the problem can best be tackled.

- c. To allow the Clerk and the employee to explore other options:
 - additional instruction, training or personal development activity;
 - referral to occupational health which may involve alternative action under the Council's Sickness and Return to Work Policy.

- d. To make clear to the employee:
 - the timescale for improvement;
 - how and by whom their work will be monitored through the review period;
 - the consequences if their work does not improve or if improvement is not maintained.

3. 3.4 Ideally these points should be agreed between the Clerk and employee.

However, in the absence of such an agreement, the Town Clerk must satisfy himself that any targets set are reasonable and non-discriminatory. If training has already been given, then its effectiveness should be reviewed and any further training and support agreed.

3. 3.5 If, at the conclusion of the review the Town Clerk is satisfied that there is a shortfall in performance, the employee should be issued with a formal capability warning and an action plan, including timescales, to achieve. It should also be made clear that failure to achieve the action plan will lead to the next stage of the formal procedure. The length of time given to improve will depend on the nature of the job and the performance gap, but in normal circumstances it should not be more than 3 months. The Town/Parish Clerk should confirm the outcome of the meeting in writing to the individual within 5 working days.

3.4 **Stage 2: Second Capability Review**

3.4.1 If the employee fails to achieve the standards and/or the timescales set out in the action plan then Stage 2 of the procedure is invoked. This involves a further review, based on the same structure as that for Stage 1.

3.4.2 Stage 2 of the Capability Review will be conducted by the Town Clerk (or Chairman of Staffing, in relation to matters concerning the Town Clerk). If it is concluded that there is still a performance issue to be addressed a further formal warning should be issued and action plan giving details of the standards of performance required and the timescales within which these must be achieved. The employee should be reminded that if the action plan is not achieved, then Stage 3 will be invoked. It needs to be made clear that Stage 3 may result in a decision to dismiss the employee. Again, the length of time given to improve will depend on the nature of the job and the performance gap, but in normal circumstances should not be more than 3 months. A letter to confirm the outcome of the meeting should be sent to the employee within 5 working days.

3.5 Stage 3 – The Final Capability Review

3.5.1 The Final Capability Review will be heard by three members of the Staffing Committee, using the same method of selection and hearing as laid out in the disciplinary policy.

3.5.2 The Town Clerk who conducted Stages 1 and 2 should also be present to provide details of the previous review meetings and of the steps taken to encourage improvement in the employee's performance.

3.5.3 The employee will have the opportunity to respond and put forward any points they wish to be considered.

3.5.4 Consideration should be given to any alternatives to dismissal such as redeployment, however this may not always be possible and will depend on each individual situation and the circumstances of the organisation.

3.5.5 The Panel must satisfy themselves that they have heard all of the relevant information and that the employee has been given sufficient opportunity to improve. If they consider that the employee's performance remains unsatisfactory they must inform the employee that their employment is terminated on the grounds of capability or any alternatives to dismissal.

3.5.6 Alternatively the Panel may determine

- a. That the employee should return to an earlier stage in the process
- b. That the employee should undertake further compulsory training
- c. That the employee's performance is satisfactory

3.5.7 Dismissal will be with notice or, if serving their notice period is not in the interests of the Council, they will receive pay in lieu of notice.

3.5.8 Decisions taken must be confirmed in writing within 5 working days, stating the reasons and informing the employee of their right of appeal.

4. APPEAL

- 4.1 Employee have the right to appeal against decisions under Stage 3, using the same process outlined in Section 4 of the Disciplinary Process, by applying, within 5 days of the receipts of the confirmation in writing under 4.5.8, to the Chairman of Staffing or Town Mayor as appropriate.
- 4.2 The Appeals Panels hearing an appeal against a Stage 3 decision may allow the appeal, dismiss the appeal or impose a greater or lesser penalty.
- 4.3 There is no further right of internal appeal once the above procedure has been followed.

Version History

Date	Details
September 2018	Note: Words importing the masculine gender only shall include all other genders and vice versa.