

Capability Policy



Change Control

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1. Aims of this Policy

It is the aim of this policy that Petty Pool is a place where all staff are enabled to work and perform to the best of their ability and to meet the needs of the Trust. We recognise that good performance is essential for the efficient operation of the Trust. All members of staff at Petty Pool need to be clear about the standards expected in their roles, to be set challenging yet realistic objectives and to receive appropriate feedback, development and training.

It is recognised that from time to time an individual's performance/capability may fall below the standards expected of a role. It is, therefore, important that Petty Pool has a procedure in place which sets out how it will consider and deal with unsatisfactory performance due to lack of capability so that staff are given appropriate support to help them improve their performance.

This policy is not contractually binding, unless specified.

2. Scope

The primary aim of this policy is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. Capability concerns may arise from a number of factors such as:

- Lack of skills, proficiency, aptitude or experience
- Changes in the nature or organisation of roles, and/or in workload
- Personal or family issues that have an impact on performance.

3. What Petty Pool expects from staff

The Trust expects all staff to:

- carry out their job to the standard that is expected of and required for the role

- understand the impact of their job performance on colleagues, students, customers and the wider community
- clarify expectations, tasks, objectives and behaviours with their line manager if they are unclear about them
- engage fully in setting of their objectives and following the completion of probation through a process of performance review to develop their skills, knowledge and performance in their role to the highest possible standard.
- bring all relevant issues which may affect their work and performance to the attention of their line manager at the earliest possible opportunity
- co-operate with their manager to help improve any aspects of their work and performance which are considered to be unsatisfactory
- attend meetings to discuss any aspects of their performance which are considered unsatisfactory as requested to do so

4. What staff can expect from Petty Pool

You can expect the Trust to:

- treat performance issues fairly and consistently
- take action promptly and look into the root causes of the performance issue
- be clear about the required improvement and the relevant timescales
- give appropriate support, help and where necessary training, to improve performance
- deal with minor unsatisfactory performance issues through informal intervention
- instigate the formal procedure only if there is no significant and lasting improvement in performance following informal intervention
- dismiss staff with appropriate notice if they do not perform their role to the required standards after being given the appropriate opportunity to improve as set out in this policy and procedure

5. What Petty Pool expects from line managers

The Trust expects all of its line managers to:

- set out clear expectations of performance and what is necessary to achieve that performance
- set objectives and monitor performance through the probation process for applicable staff, including end of probation reviews, identifying areas of effective performance and any areas of performance that fall below the required standards and supporting the member of staff to be able to make the necessary improvement(s)

- feedback constructively to staff on their performance as soon as possible after that performance has occurred, praising good performance and identifying where performance is below required standards
- review the performance of all managed staff effectively identifying areas for improvement and agreeing a plan for how this improvement can be achieved.
- identify where performance is not satisfactory at the earliest possible opportunity
- take action promptly where performance issues are identified, to investigate the root causes of the performance issue(s) and to meet with the member of staff being clear about the required improvement, the relevant timescales and any support or intervention to assist improvement and document this in writing
- to take advice from the HR Department

6. Causes of unsatisfactory performance/lack of capability

There are a number of factors which may affect a member of staff's ability to perform the job to the standard required.

Unsatisfactory performance caused by carelessness, lack of effort or negligence, or a deliberate failure on the part of the employee to perform to the standards of which he/she is capable, may not be a capability issue but may be a misconduct issue which will be addressed under Petty Pool's Disciplinary Policy.

Unsatisfactory performance due to incapability, where an employee is lacking in knowledge, skill or ability and so cannot carry out his/her duties to the standard required, in which case the Manager will invoke the Capability policy, in an attempt to improve performance and provide support.

7. Informal Procedure

The line manager will discuss any concerns over the performance of a member of their staff with them in a timely manner and seek to identify the cause of their performance problem and will seek to assist them to improve their performance. They will establish whether the poor performance is a matter of capability or misconduct. If it is judged to be misconduct it will be dealt with under the Trust's Disciplinary Policy.

In cases where it is determined that the incapability of a member of staff is affected or caused by health issues, the line manager should consider whether it is possible to adjust their working conditions or arrangements in the light of these issues on a temporary or longer-term basis in line with Petty Pool's Sickness Absence Policy. If the capability issues arise from a

disability under the Equality Act, the Trust has a duty to make reasonable adjustments in the workplace. In these cases, the HR Department will obtain professional advice through Occupational Health or another appropriate advisor and the member of staff will be expected to co-operate fully with this process.

Informal intervention is often enough to return unsatisfactory performance to satisfactory levels. The line manager will confirm to the member of staff in writing the concerns that they have, give them regular feedback on their performance and advise them whether or not their performance has improved sufficiently to reach the required standard.

If as a result of the informal process the performance of the member of staff does not improve within a reasonable period, normally not less than 2 months, or the improvement is not sustained or performance deteriorates further, their line manager will move to the next stage which is to deal with their unsatisfactory performance through the formal procedure.

8. Formal Procedure

The member of staff will be invited in writing to attend a formal performance improvement meeting with their line manager. They have the right to be accompanied at this meeting by a trade union representative or a work colleague. They will be provided in advance of the meeting with a written statement of the reasons why their performance is considered unsatisfactory. At the formal meeting their companion is entitled to address the meeting, ask questions and confer privately with them. Written notes of the meeting will be taken. A member of HR will normally be present to give advice.

The member of staff will be given at least 5 working days' notice of the meeting and they and their representative should take all reasonable steps to attend. The meeting will only be re-arranged at their request in the following circumstances:

- they provide a good reason for not being able to attend
- their work colleague/TU representative cannot make the arranged date

If the meeting has to be re-arranged, they will be given at least 2 working days' notice of the revised timing. They will be expected to attend the revised meeting unless there are special circumstances preventing them from attending. If they are unable to attend, they should advise their line manager as soon as is reasonably practicable before the meeting is due to take place.

If the re-arranged meeting is more than 5 working days from the date of the original meeting and their companion cannot make the re-arranged meeting, the member of staff must find a replacement companion. If there is a reason why that meeting can then not go ahead the chair will review documentation and the hearing will proceed without employee attendance and write to them with the outcome.

The formal performance improvement meeting may be adjourned if required for the purpose of clarifying or gathering new information.

Once the line manager is satisfied that all relevant information has been gathered and properly considered they will inform the member of staff in writing of their decision. Should a performance warning be issued the member of staff will be informed of:

- the type of warning being issued
- the level of improvement required
- the period in which the improvement is expected to be achieved
- the consequences if no improvement is made during the review period
- the date of the next formal meeting to consider progress after the review period
- the length of time the warning remains active
- their right to appeal the decision

The decision and action will be confirmed to the member of staff in writing, and they will receive a copy of the notes of the meeting.

9. Formal Warnings for Performance

All formal stages of the capability procedure must be followed in sequence. A formal review of progress must occur at the end of any warning period. The formal meeting to review progress against any previously issued warning will, if there has been no significant and lasting improvement, constitute the performance improvement meeting for the next level.

Stage 1: First Capability Hearing

The purpose of the first formal capability hearing includes but is not limited to:

- setting out the required standards that are considered not to have been met
- establishing the likely causes of poor performance

- allowing the employee, the opportunity to explain the poor performance and ask any relevant questions
- discussing measures, such as additional training or supervision, which may improve performance
- setting targets for improvement
- setting a timescale for review (usually four weeks)
- Outline the implications and next steps if the required standards are not met

Following the hearing, if it is decided appropriate to do so, the line manager will give the employee a first written warning setting out the consequences of failing to improve within the review period, or of further unsatisfactory performance. The warning will remain active for twelve months after which time it will be disregarded for the purposes of the capability procedure.

The employee's performance will be monitored and at the end of the review period the line manager will write to inform the employee of the next step, as follows:

- if the employee's manager is satisfied with their performance, no further action will be taken
- if the employee's manager is not satisfied, the matter may be progressed to Stage 2
- or if the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 2: Final Capability Hearing

If the employee's performance does not improve within the review period, or if there are further instances of poor performance while the employee's written warning is still active, the manager will hold a second capability hearing. The purpose of the second capability hearing includes but is not limited to:

- setting out the required standards that are considered not to have been met
- establishing the likely causes of poor performance including any reasons why the measures taken so far have not led to the required improvement
- allowing the employee, the opportunity to explain the poor performance and ask any relevant questions
- identifying further measures, such as additional training or supervision, which may improve performance
- setting targets for improvement;
- setting a timescale for review (usually four weeks). Following the hearing, if the manager decides that it is appropriate to do so, the

manager will give the employee a final written warning, setting out the consequences of failing to improve within the timescale, or if there are instances of further unsatisfactory performance. A final written warning will remain active for twelve months after which time it will be disregarded for the purposes of the capability procedure.

The employee's performance will be monitored and at the end of the review period the line manager will write to inform the employee of the next step, as follows:

- if the employee's manager is satisfied with their performance, no further action will be taken
- if the employee's manager is not satisfied, the matter may be progressed to Stage 3
- or if the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 3: Dismissal or Redeployment

If the employee's performance does not improve within the further review period set out in the final written warning, or if there are further serious instances of poor performance while their final written warning is still active, an independent manager will hold a final capability hearing.

The purposes of the stage 3 hearing include:

- setting out the required standards that are considered not to have been met
- identifying areas in which performance is still unsatisfactory
- allowing the employee the opportunity to explain the poor performance and ask any relevant questions
- establishing whether there are any further steps that could reasonably be taken to rectify the poor performance
- establishing whether there is any reasonable likelihood of the required standard of performance being met within a reasonable time
- discussing whether there is any practical alternative to dismissal, such as redeployment to any suitable job that is available at the same or lower grade
- In exceptional cases where the manager believes that there is a reasonable likelihood of the necessary improvement being made within a reasonable time, a further review period will be set and the final written warning extended. If performance remains unsatisfactory and there is to be no further review period, the manager may, redeploy the employee into another suitable job at the same or a lower grade (if opportunities are available); or dismiss the employee.

Dismissal will normally be with full notice or payment in lieu of notice, unless an allegation of negligence/gross misconduct is proven within the

meaning of the Petty Pool's Disciplinary policy, in which case the line manager may dismiss them without notice or any pay in lieu.

10. Active warning

Being on an active warning means that if the performance of that member of staff is not at a satisfactory level while a warning is active Petty Pool can take that warning into account when deciding what action to take. Once the warning has ceased to be active, it will not be taken into account for those purposes, although a record will be kept on the personal file of the member of staff for a reasonable period of time.

- first written warnings will remain active for 12 months
- final written warnings will remain active for 12 months

Should the performance of the member of staff be considered unsatisfactory in the future, the procedure will start at the appropriate stage. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

11. Appeals Procedure

The employee has the right to appeal the decision of a hearing at any stage of this process. Any appeal must be submitted in writing, stating the grounds of the appeal, no later than 10 working days after the date of receipt of written confirmation of the decision to a nominated appeal's Manager.

The appeal hearing will be conducted by an independent manager who has not been involved in the original hearing(s) and they may be accompanied by a second manager. The decision will be notified to the employee in writing following the appeal hearing. The decision of the appeal hearing is final.

12. Capability and Grievances

Where an employee raises a grievance during the capability process, the Manager may consider temporarily suspending the capability process in order to deal with the grievance. Where the grievance and capability cases are related, the Manager may decide that it is appropriate to deal with both issues concurrently.

13. Confidentiality

The aim during any investigation or procedure is to deal with matters sensitively and with due respect for the privacy of any individuals involved.

All employees must treat any information communicated to them in connection with a capability matter as confidential.

14. Employee's absence during the Capability Procedure

Where an employee is absent from work (excluding pre-agreed paid or unpaid leave) which prevents them from attending a meeting or hearing, then the college reserves the right to withhold any contractual sick payments to the employee and will only pay the employee their statutory sick pay entitlement (provided the employee has provided a medical certificate and continues to comply).