



Document Control

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1.0 PURPOSE

Sunbeam House Services places great importance on maintaining levels of performance at an acceptable standard and the capability procedure provides a fair and objective process to enable managers to ensure that those standards are met in every aspect of the company's operations.

Where poor performance is due to a failure to maintain adequate standards of behaviour rather than a lack of skills or ability, it should be dealt with through the Company's disciplinary procedure.

2.0 DEFINITIONS

Capability is defined for the purposes of this procedure;

"Where an employee is failing in a significant or persistent way to carry out their responsibilities or duties in a satisfactory manner, either due to a lack of ability, inadequate training or lack of experience. Such failings will be identified by use of the following procedures and steps taken to improve performance. Where such steps prove unsuccessful the employee may have their employment terminated on the grounds of incapacity".

Where poor performance is linked partly or wholly to a qualifying disability the Employment Equality Acts 1998-2011 outlaw discrimination on the grounds of disability in employment. However the Employment Equality Acts state that an employer is not obliged to recruit or retain a person who is not fully competent or capable of undertaking the duties attached to a job.

The Employment Equality Acts 1998-2011 require the company to take reasonable steps to accommodate the needs of employees with disabilities. Reasonable accommodation can be defined as some modification to the tasks or structure of a job or workplace, which allows the qualified employee with a disability to fully do the job and enjoy equal employment opportunities. However, under EU legislation, SHS are not obliged to provide special treatment or facilities if the cost of doing so is excessive or disproportionate.

Where poor performance is linked partly or wholly to medical problems, the absence management procedures for dealing with absences from work due to ill-health and this procedure will be used as appropriate.

3.0 PRINCIPLES OF THE CAPABILITY PROCEDURE

The policy aims to ensure that there is

1. A means of monitoring performance and establishing performance criteria.
2. A degree of consistency in how employees with widely differing responsibilities and duties are given opportunities to attain satisfactory levels of performance.

Policy No. 112	Revision: 1.0
Page 2 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



3. Assistance in identifying the most appropriate form(s) of support and providing that support.
4. If an employee fails to overcome their difficulties, any consequent action will be based on:
 - Adequate evidence that the employee is incapable of performing their duties satisfactorily.
 - A fair procedure.
 - The fact that the employee was given all reasonable assistance to overcome such failings.

4.0 SCOPE

This procedure applies to all employees of Sunbeam House Services.

5.0 GENERAL PROVISIONS

5.1 SETTING PERFORMANCE STANDARDS

Employees have a contractual responsibility to achieve an acceptable level of performance at work and will be supported and encouraged to reach that level. Managers should set realistic and achievable standards consistent with the employee's job description, contract of employment and the company's policy on personal performance and development review (PPDR). These should ensure that employees understands what standards are required in terms of the quality and quantity of work and the time and costs associated with the expected outputs.

5.2 EMPLOYEE PERFORMANCE AND PERSONAL DEVELOPMENT REVIEW

The Company has established a structured approach to personal review which operates on an annual cycle. New employees should be given appropriate targets and support training on a shorter time scale, such that managers and employees alike can be satisfied that adequate progress is being made towards the expected performance levels. The PPDR is not an appropriate meeting to address performance concerns for the first time, however, it is wholly appropriate to refer to on-going performance issues during such a meeting although the PPDR is not a performance management meeting.

5.3 SUPERVISION -REGULAR ONE TO ONE MEETINGS

Managers should meet regularly with employees on an individual basis in compliance with the Company's Supervision in the workplace policy to discuss performance, development and educational supports, current work and current work issues, plus any other relevant topics. Poor performance should be raised at these meetings or at an earlier meeting if a one to one is not imminent.

Policy No. 112	Revision: 1.0
Page 3 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



6.0 PROCEDURE

6.1 MEDIATION

If during any of the capability procedure stages both parties feel that there would be value in seeking mediation then this will be considered.

Sunbeam House Services has a number of employees trained as counsellors who are available to mediate between employees with a view to identifying a mutually acceptable resolution of the issues involved. Requests / Recommendation for the involvement of a counsellor can be made through the Senior HR Services Manager.

Mediators will use their skills to assist, but will not dictate, monitor or enforce any agreement. A record of the agreement will be retained for both parties to adhere to.

6.2 STAGE ONE – INFORMAL CAPABILITY PROCEDURE

Where an employee of the Company exhibits an inability to perform their duties satisfactorily, the Company will attempt to resolve the matter informally via a meeting between the Reporting Manager and the employee. The nature and date of the meeting will be recorded and a copy of the meeting record will be issued to the employee indicating the nature of their unsatisfactory performance and how such performance can be improved to the satisfaction of the Reporting Manager. The member of staff should be informed that they may be accompanied at any meetings by a trade union representative or work colleague.

At this meeting, the reporting manager will agree performance standards with the member of staff, and a time period (normally three months) over which improvement will be expected. They will also agree how the employee's performance will be monitored over this period.

If the employee's performance improves adequately over the timescale, then the process will terminate at this stage.

If performance remains unsatisfactory then the formal procedure will be invoked by the Reporting Manager as set out in stage 2.

6.3 STAGE TWO - FORMAL CAPABILITY PROCEDURE –INFORMATION GATHERING

Where an employees performance does not meet the required standards of performance despite informal counselling, the matter will be dealt with under the formal capability procedure

Policy No. 112	Revision: 1.0
Page 4 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



The Reporting Manager concerned or delegated authority will undertake collecting the necessary information. The Reporting Manager will have met with the employee concerned to inform the employee that the formal capability procedure is being invoked and the matter has been referred to the Senior Services Manager. The employee should be informed that they may be accompanied to any further meetings by a trade union representative or work colleague.

A written report based on evidence gained e.g. by interviews and observation of performance will be prepared by the Reporting Manager. The report should be precise and specific in the observations and comments it makes and shall contain clear information on:

- 6.3.1 areas where the employee is failing to perform the required standards adequately
- 6.3.2 actions already taken by management to address these failings and whether these actions were adequate - i.e. were clear performance standards set and monitored
- 6.3.3 whether the employee acknowledges a problem and shows a willingness to improve
- 6.3.4 the impact of the individuals failings on service users and provision, colleagues and work output
- 6.3.5 any other mitigating factors

The report should be issued to the employee concerned to sign. Both the employee and Reporting Manager may record in writing any comments on the observations contained within the report. This report will be submitted to the Senior Services Manager or delegated authority.

The Senior Services Manager will consider the report, and may opt to take one of the following options:

- No further action
- Issue a formal oral warning to the employee
- Instruct the reporting manager to set reasonable performance standards for the individual and monitor these for a set period of time. *(This option should be chosen if this has not previously been carried out adequately and at least three months given to improve)*
- Proceed to convene a formal capability hearing meeting to consider the matter further

6.4 STAGE 3 – FORMAL CAPABILITY HEARING MEETING

The employee will receive a letter informing them of the date of the formal capability hearing meeting, together with any relevant documentation. The letter shall contain:

Policy No. 112	Revision: 1.0
Page 5 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



- 6.4.1 The performance deficits in sufficient detail to ensure that the employee is fully aware of their nature, extent and seriousness.
- 6.4.2 The time, date and venue of the capability hearing meeting. The employee will receive a minimum of 10 working days notice of the hearing meeting.
- 6.4.3 Details of the person who will conduct the interview, usually the Senior Services Manager or another Senior Company Manager in the absence of the Senior Services Manager.
- 6.4.4 A statement that all employees have the right to be accompanied by a trade union representative or work colleague at any interview or hearing held under the provision of these procedures.
- 6.4.5 A written copy of the procedure to be adhered to during the hearing.

At the hearing, the employee will be given the opportunity to put forward their case, to bring witnesses in support of their case, to present mitigating circumstances and to make a full statement. Post meeting, minutes of the hearing will be circulated to all parties in attendance at the hearing.

If the allegation is found to be upheld and justified, then a decision on the action to be taken must be made. Depending on the nature, frequency and seriousness of the allegation(s) it is expected that at this stage a formal written warning will be given and this will be confirmed in writing.

APPEALS PROCESS

An employee can appeal this decision by submitting an appeal in writing to the Senior HR Services Manager within 10 working days of the notification of the written warning.

The appeal is not intended to repeat the capability process but to address specific issues which the employee feels have received insufficient consideration, such as;

- Mitigating circumstances
- Procedural deficiencies
- Severity of the sanction imposed

The appeals hearing meeting will normally be scheduled as soon as reasonably practicable after the appeal being lodged. The Senior Services HR Manager will hear the employees appeal.

A letter will be issued to the employee confirming the outcome of the hearing meeting and the decision and the reason(s) why it was made within 10 working days of the appeal. Decisions made on appeal shall be final. Where the decision to issue the formal warning is upheld, the letter will also

Policy No. 112	Revision: 1.0
Page 6 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



indicate that the employee's progress will continue to be monitored and how this will be carried out. A time scale for performance to improve and a review date(s) will be specified.

If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, then monitoring should be discontinued subject to a clear indication to the employee that it may be reintroduced if the problem(s) reappear.

6.5 STAGE 4 - SECOND CAPABILITY HEARING MEETING

If poor performance continues, the process set out in stage 3 should be repeated by the Senior HR Manager or delegated authority. The time scale for improvement will depend on the nature of the duties and responsibilities of the employee concerned and the seriousness of the complaint(s).

If the conclusion of the second capability hearing is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a final written warning will be issued to the employee.

An employee can appeal this decision by submitting an appeal to the Managing Director.

6.6 STAGE 5 – THIRD CAPABILITY HEARING MEETING:

The Managing Director will conduct the third capability hearing at which if previous advice, training and warnings have continued to result in failure to meet the required standards of performance, he/she will make a decision to dismiss the employee and terminate the contract of the employee concerned.

6.7 TERMINATION OF EMPLOYEMENT APPEALS PROCESS.

An employee has the right to appeal against the decision to terminate an employee's contract of employment on the grounds of capability. The right of appeal must be made in writing to the Chairman of the Board of Director within 14 working days of the notification to dismiss. The appeal must be in writing and state the grounds on which the appeal is being made.

The appeal is not intended to repeat the capability process but to address specific issues which the employee feels have received insufficient consideration, such as;

- Mitigating circumstances
- Procedural deficiencies

Policy No. 112	Revision: 1.0
Page 7 of 8	Department: 003
Full Policy ID Number : 003.112.1.0	



- Severity of the sanction imposed

The appeals hearing meeting will normally be scheduled as soon as reasonably practicable after the appeal being lodged. Two members of the Board of Directors will hear the employees appeal. Decisions made on appeal shall be final and the employee will be informed in writing within 7 working days after the appeal hearing.