



MERSEYSIDE WASTE DISPOSAL AUTHORITY

Capability Procedure

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Policy

The Authority will at all times seek to ensure that its employees meet the expected standard of performance in their work. The Authority will ensure that its employees are made aware of the standard of performance required of them and that they are given appropriate support and training.

Should a capability problem arise, the Authority will take positive action from an early stage to enable the employee to reach the required standard.

Where it does not prove possible to remedy a capability problem, the Authority will ensure that a fair procedure is followed and that all avenues are explored before termination of employment on the grounds of capability is put into effect.

Aims

- To enable employees with capability problems to achieve the standard of performance required of them in their work
- To ensure that employees with capability problems receive full and appropriate support
- To ensure that employees with capability problems receive fair and consistent treatment.

Scope

This procedure covers all employees of the Authority.

Section Managers are the persons responsible for implementing the procedure and conducting interviews (short of final interviews leading directly to dismissal)

Where the capability of a Section Manager is in question, the same procedure will apply with the responsibility for implementation being exercised by the relevant Director.

Where the capability of a Director is in question, the same procedure will apply with the responsibility for implementation being exercised by the Chief Executive.

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Where the capability of the Chief Executive is in question, the same procedure will apply with the responsibility for implementation being exercised initially by the Monitoring Officer who will prepare the appropriate report for the Investigating and Disciplinary Committee.

Relationship with Other Procedures

Where due to lack of ability or skill, an employee is apparently unable to achieve the required standard of performance in the job which he or she was employed to do, this Capability Procedure will be invoked.

Where an employee is apparently unable to perform to standard because of ill health absence, the Capability Procedure as set out in the Authority's Sickness Absence Procedure will be invoked.

Where it becomes apparent that an employee's poor performance is due to negligence or misconduct, the Authority's Disciplinary Procedure will be invoked.

Avoiding Capability Problems

To reduce the likelihood of capability problems arising, the Authority will require its managers to:-

- Ensure that the standards of performance expected of employees are reasonable
- Communicate those standards to employees – on commencement of employment through the induction process, promotion and whenever the post is affected by change
- Take due care in the recruitment and selection process
- Monitor probationary periods carefully to identify and remedy problems at the outset
- Ensure that employees are at all times provided with the necessary support and training

Redeployment

The Authority is a small employer and as such opportunities for redeployment are limited.

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If redeployment is a possibility the employee will be involved in the discussions at all stages and has the right to be accompanied by a work colleague or by his or her Trade Union Representative.

Right to Representation

All employees are entitled to be accompanied and represented by a Trade Union Representative or by a work colleague at any formal stage of the Capability Procedure and shall their attention drawn to that fact.

Employees are entitled to consult with their Trade Union representative or work colleague in private at any stage of the proceedings.

Informal Stage

As soon as a performance problem appears to have arisen, the Section Manager will carry out a preliminary investigation to clearly establish that the employee is not producing the required standard of work and to determine whether the standard expected is reasonably attainable. Then, if appropriate, the Section Manager will interview the employee informally, in private.

Although this is an informal interview, the employee may prefer to be supported by a colleague (who may be a Trade Union representative), in which case the Assistant Support Services Manager will also attend. At least one day's verbal notice of the interview will be given to enable any arrangements to be made.

Capability Interviews

The employee will be given written notice of the capability interview and the reasons why it has been called under the Capability Procedure. He or she will be advised of their right to be accompanied and represented by a Trade Union Representative or a work colleague.

If it emerges during the interview that the employee's performance is being affected by personal problems the manager will, if appropriate, explore ways of helping employee's resolve them. If it emerges that the employee's performance is being affected by ill-health, medical advice will be taken as appropriate.

Throughout all stages of the Capability Procedure the interview process will aim to identify:-

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- ✓ That the employee understands the standard of performance expected of them
- ✓ Highlight areas where the employee's standard of work is giving cause for concern
- ✓ Explore with the employee the reasons for the performance problem in order to find ways to resolve it
- ✓ Make clear the improvement expected
- ✓ Seek commitment from the employee to improve his or her performance and agree appropriate support to enable this to happen
- ✓ Set a period for review during which performance will continue to be monitored and the required improvement will be expected to take place
- ✓ Inform the employee of the Stage within the Capability Procedure there are and the subsequent stages that may be invoked if improvement does not take place.

The manager will issue the employee with a letter recording:

1. The fact that the interview has taken place and the reasons for it
2. A clear statement of the standard of work required and the improvement expected
3. The key points and commitments made by both parties during the interview
4. Any other action determined at the interview
5. The review period set and the arrangements for monitoring the employee's progress
6. If applicable, confirmation that the employee was issued with a warning and that failure to achieve the required standard of performance in the specified review period would result in further action under the Capability Procedure and may eventually lead to dismissal
7. The type of warning issued and its duration
8. The right of appeal against the warning.

A copy of the letter will be kept on the employee's personal file until the warning has expired.

Warnings

Under the Capability Procedure, where circumstances warrant it, an employee may be formally warned that his or her level of performance does not meet the required standard and that failure to improve could eventually result in dismissal.

The warnings which can be imposed under the procedure are as follows:-

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1. A verbal warning – this will remain live for six months, if no further action is found to be necessary within that period, it will be expunged from the employee's file
2. A First Written Warning – this will remain live for one year, if no further action is found to be necessary within that period, it will be expunged from the employee's file
3. A Final Written Warning – this will remain live for two years. However if no further action is found necessary within the first 12 month period it will be reduced to a first written warning. Thereafter, if no further action is found to be necessary with the second 12 month period, the warning will be expunged from the employee's file

Where it proves necessary to issue warning over successive stages of the Capability Procedure, the above sequence will normally be followed. However, depending upon the seriousness of the situation, it may on rare occasions be appropriate to move immediately to a later stage of the procedure with its associated sanction.

No formal action, other than a verbal warning, will be taken against an elected Trade Union Representative until the full circumstances of the case have been reported to a full-time official of the union concerned.

The warnings stages will also apply to the Chief Executive, with the responsibility for implementation being exercised initially by the Monitoring Officer who will prepare the appropriate report for the Investigating and Disciplinary Committee.

Dismissal for Incapability

If during the life of the final written warning, it becomes clear that no, or insufficient improvement in performance has been achieved, the employee will be given written notice that he or she is required to attend a further capability interview to be conducted by the Chief Executive. At this interview, the employee's manager and the Assistant Corporate Services Manager will also be in attendance.

The letter will advise the employee of their right to be accompanied and represented by their Trade Union Representative or a work colleague. It will also highlight the areas where performance continues to fall below the required standard and state the purpose of the interview is to consider the employees representations in the face of the possibility of dismissal on ground of incapability.

If, having heard the employee's representations and the Managers case at the interview, the Chief Executive believes that the employee's continued failure to

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produce the required standard of performance gives sufficient reason for dismissal; he or she will dismiss the employee for reasons of incapability.

The decision will be confirmed in writing and will include the grounds for dismissal, the appropriate period of notice, the option to take pay in lieu of notice, details of any payments due and the employee's right of appeal.

In respect of the Chief Executive, the same procedure will apply with regard to dismissal for incapability however; the responsibility for implementation will be exercised, initially by the Monitoring Officer who will prepare the appropriate report for the Investigating and Disciplinary Committee.

Rights of Appeal

Employees have a right to appeal against the issue of a warning against dismissal.

Appeals must be made in writing, within seven working days of receipt of the warning or notification of termination of employment.

Appeals against warning issued by Section Managers will be heard by the relevant Director, who will confirm his or her decision in writing to the appellant within seven working days.

Appeals against warnings issued by the Chief Executive will be heard by the Authority's Appeals Committee.

Appeals against warning issued by the Investigating & Disciplinary Committee will be heard by the Authority's Appeals Committee.

All employees have the right to appeal against dismissal. Appeals against dismissal will be heard by the Authority's Appeals Committee in accordance with the Appeals Procedure (Local Conditions of Service Section 12).

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