

People Management Policy
Capability Policy

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1) Purpose

We want to ensure that our employees achieve and maintain a high standard of performance in their work. We will establish standards expected, monitor performance, and provide employees with feedback and appropriate support to achieve this. The purpose of this policy to encourage employees to improve performance wherever possible and to set out a procedure to support and restore acceptable performance standards where this is not achieved.

2) Scope

We recognise the need to be sensitive to our employees' circumstances and this policy will be applied consistently but managed on an individual basis. This policy applies where there is a genuine lack of capability displayed in the work that the employee is asked to deliver as part of their role profile, objectives or other agreed work.

This policy does not apply to cases of poor attendance or wilful poor performance. In those circumstances, the Sickness Absence Policy or Disciplinary Policy will apply.

This policy does not apply when employees are in probation.

We reserve the right to progress through this policy as appropriate on a case-by-case basis. Employees will not normally be dismissed for performance reasons without previous warnings. However, in serious cases of underperformance, stages one or two may not take place before considering dismissal at a stage 3 hearing.

Where an employee raises a grievance in relation to themselves or has triggered the formal sickness absence during this procedure, the capability process may be temporarily suspended in order to deal with the sickness absence and/or grievance. Where the other formal procedure and the capability process are related, it may be appropriate to deal with these concurrently.

This policy does not form part of employees' terms and conditions of employment and we may amend it at any time.

3) Roles and responsibilities

Employees:

- Make all reasonable attempts to attend meetings on the dates agreed as part of the informal and formal process
- Maintain confidentiality
- Always act in a manner that is consistent with our culture and values.

Line Managers:

- Provide a fair and reasonable approach
- Act as quickly as possible
- Promote and support an attempt at informal resolution wherever possible before the formal process
- Remain objective when/if chairing a hearing or appeal
- Maintain confidentiality
- Ensure that any reasonable adjustments are made for staff throughout the process, where appropriate

- Seek advice from the People and Organisational Development (POD) team if appropriate/necessary
- Always act in a manner that is consistent with our culture and values

People and Organisational Development (POD) team:

- Provide advice, guidance and coaching in relation to the application of this procedure
- Provide training to build the confidence and capability of line managers to manage concerns
- Maintain confidentiality
- Always act in a manner that is consistent with our culture and values

4) Monitoring Performance

You must deliver day to day work as set out in your role profiles and annual objectives in a timely and professional manner, and fully meet the skills, knowledge and abilities required for the job. Poor performance occurs where the quality of work deteriorates below the required standards.

We will aim to ensure that you:

- understand what the expectations and standards are in terms of performance.
- performance is initially monitored via regular one to one meetings with your line manager and via the performance management process.
- are given appropriate support, guidance and training, where relevant, to meet those standards.

5) Informal Process and Procedure

In the first instance, performance issues should normally be dealt with informally between you and your line manager through the course of day-to-day management. Your line manager will explore potential reasons for underperformance, and ways to support you. Informal discussions are likely to:

- establish the likely causes of underperformance
- identify areas of concern
- clarify the required standards or improvements required
- identify support that can be provided
- agree targets for improvement and timescale for review, not usually exceeding 3 months

Your line manager will discuss these with you to support you to improve your performance and take notes of the conversation, a copy of which will be provided to you.

At the end of the agreed timescale, a review should take place to assess your progress based on the discussions with your line manager.

There are three possible outcomes following a review:

- No further action is required as you have been able to demonstrate that you have reached the standards required
- Extension of the review period in cases where some improvement has been achieved, but the level of performance required has not yet been fully attained.
- Progression to the formal capability process and procedure as you have not been able to demonstrate that you have reached the standard required.

At a review meeting, your line manager will discuss your progress and the outcomes. They will make a note of this conversation, to inform the next stage where appropriate, and will explain the next steps.

6) Formal Process and Procedure

6.1. Representation

You are entitled to bring a companion to all formal stages of the procedure. This can be a fellow work colleague, or a trade union representative. You are expected to notify the manager conducting the meeting or hearing who their chosen companion is, in advance of the meeting, a minimum of 48 hours before the meeting.

Your companion may make representations, ask questions, and sum up their case, but will not be allowed to answer questions on your behalf. You may confer privately with their companion at any time during the meeting.

You and your companion are not permitted to make electronic recordings of any meetings or hearings conducted under this procedure.

If you or your companion cannot attend the meeting or hearing, you should inform the POD Team as soon as possible and request a postponement (once) to a time that is convenient to all within a reasonable timescale, of at least 5 working days. This five-day time limit may be extended by mutual agreement.

You must make every effort to attend the meeting or hearing, and failure to attend without good reason may be treated as misconduct. If you fail to attend without good reason or postpone the meeting more than once, we may take a decision in your absence, based on the available evidence.

6.2. Formal Capability

The formal procedure should be used for more serious cases, or in any case where an informal process has not resulted in satisfactory improvement. There are three stages under the formal procedure, details for these are set out in the following paragraphs.

6.2.1. Stage 1 Formal Capability Meeting

If we consider that there are grounds for taking formal action over alleged poor performance, you will be required to attend a formal capability meeting. You will be notified in writing regarding the concerns over your performance, the reasons for those concerns, and the likely outcome if it is decided after the meeting that your performance has been unsatisfactory. We will also include a copy of any relevant documents and meeting notes regarding your performance which will be used at the capability meeting, where appropriate.

We will provide you with written notice of the date, time and place of the capability meeting. The meeting will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually **five working days**.

As part of the Stage 1 Capability Meeting, the manager should clearly outline the reasons for moving to a formal process, this should include detail of:

- What the underperformance issues are
- What action has previously been taken to try to improve performance, such as informal discussions
- What training and support has been given to you
- A copy of any notes or agreed targets
- Other relevant documents

At the Stage 1 Capability Meeting, if we decide that your performance is unsatisfactory, we will set out the following:

- The areas in which you have not met the required performance standards
- Clear targets for improvement
- Any support that will be provided such as additional training or supervision
- A clear timeframe for improvement
- How performance will be monitored and reviewed
- A period for review, from 1 to 3 months.
- The consequences of failing to improve within the review period, or of further unsatisfactory performance.
- Whether a written warning will be issued

A **first written warning** will normally remain active for **six months**. This will usually be confirmed at the Capability Meeting and followed up in writing as soon as reasonably practicable, and usually within **five working days** of the meeting.

A review meeting may be convened, where appropriate, at the end of the review period. At this meeting, consideration will be given to whether there has been an improvement in performance, where this is not otherwise obvious, and to consider next steps. You will have the right to representation at this meeting (see section 6.1 on representation).

The review meeting will consider the following potential outcomes, which will be confirmed in writing following the meeting:

- if your line manager is satisfied with your performance, no further action will be taken;
- if your line manager feels that there has been a substantial but insufficient improvement, and only in exceptional circumstances, the review period may be extended.

6.2.2. Stage 2 Formal Capability Meeting

If your performance does not improve within the review period set out in the Stage 1 Capability Meeting, or if there is further evidence of poor performance while their first written warning is still active, we may decide to hold a Stage 2 Capability Hearing. You will be provided with written notification, as per stage 1.

At the Stage 2 Capability Meeting, if we decide that your performance is unsatisfactory, we will set out the relevant details as per stage 1 and whether a final written warning will be issued.

A **final written warning** will normally remain active for **12 months**. This will usually be confirmed at the Capability Meeting and followed up in writing as soon as reasonably practicable, and usually within **five working days** of the meeting.

A review meeting may be convened, where appropriate, at the end of the review period. At this meeting, consideration will be given to whether there has been an improvement in performance and to consider potential outcomes, as set out in stage 1.

6.2.3. Stage 3 Formal Capability Hearing

We may decide to hold a Stage 3 Formal Capability Hearing if there is reason to believe:

- Your performance has not improved sufficiently within the review period at stage 2;
- Your performance is unsatisfactory while a final written warning is still active; or
- Your performance has been severely unsatisfactory such as to warrant dismissal without the need for a final written warning

You will be informed in writing about a Stage 3 Formal Capability Hearing, giving you reasonable notice, usually **five working days**. Your invite letter will also include the following, where appropriate:

- Details of date, time and venue
- State that you are required to attend
- Who will be in attendance
- Your right to representation (see section 6.1 on representation)
- Provide a copy of the documentation that will be presented at the hearing, including a summary of relevant information (the management case)
- State the potential outcomes of the underperformance/hearing

This stage will usually be undertaken by a relevant manager at the same level or more senior than the manager at stages 1 and 2 and will have had no previous involvement in the case.

At the capability hearing, we will usually:

- Set out the required standards that we believe you may have failed to meet, and go through any relevant evidence that your line manager has gathered
- Allow you to ask questions, present evidence, respond to evidence and make representations
- Consider dismissal as a potential outcome of the meeting
- Consider whether any alternatives to dismissal may be appropriate at this stage such as redeployment/demotion or a further and final review period.

The Chair of the Stage 3 Capability Hearing may adjourn the Hearing if any further investigation is required, in the light of any new points raised at the hearing.

A decision will not be made until the Stage 3 Capability Hearing has been concluded. You will be informed of the decision and the reasons for this verbally, wherever possible. The decision will also be confirmed in writing, as soon as reasonably practicable, and usually within **five working days** of the hearing.

6.2.3.1. Stage 3 Hearing Outcome

Following the hearing, if we find that your performance is unsatisfactory, we may consider a range of outcomes including:

- A further and final period of review of 1 to 3 months.
- Redeploying you into another suitable job at the same or (if your contract permits) a lower grade (only if this is appropriate)
- Dismissal

Dismissal will normally be with payment in lieu of notice.

6.3. Appeal

Any appeal should be made in writing, stating the full grounds of appeal, to the People Operations Team within five working days of the date on which you informed in writing of the decision.

You may appeal on the following grounds:

- New evidence has come to light
- Procedural errors
- Undue severity of the action
- Whether the decision is fair, equitable and reasonable

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal.

The Appeal Hearing will not be a complete re-hearing of the original matter, but to consider the grounds of appeal. The Chair of the Appeal Hearing will usually be a relevant manager at the same level or more senior than the Chair of the Stage 3 Capability Hearing and will have had no previous involvement in the case.

We will give you written notice of the date, time and place of the Appeal Hearing. We will arrange a date for an Appeal Hearing, as soon as reasonably practicable. Arrangements for this will normally be made within 10 working days after you have submitted your appeal.

A hearing may be adjourned if we need to gather any further information or consider matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the Appeal Hearing we may:

- confirm the original decision;
- revoke the original decision and substitute a different outcome

You will be informed in writing of the final decision, as soon as reasonably practicable, and usually within **five working days** of the Appeal Hearing. Where possible, we will also explain this to you in person. There will be no further right of appeal.

7) Glossary

Please see below for a summary of our definitions and abbreviations:

LLDC/Our/Us/We - refers to London Legacy Development Corporation

You or Employee – people who work for an employer under a contract of employment and are entitled to statutory rights relevant to that employment

8) Document Control

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Approvals

Job title	Name	Signature	Date
Legal			April 2023
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