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Capability Policy

Metanoia Institute

Version Control

Document title: Capability Policy		No of pages: 13
Version Number: 2.0	Date first published: February 2019	
Approved by: Executive	Last review date: April 2024	
Date originally approved: 2019	Due for next review: April 2027	

Related policies
• Disciplinary Policy • Whistleblowing Policy • Grievance policy • Health and safety Policy • Sickness Absence Policy • Flexible working Policy • Wellbeing and Right to Disconnect Policy • Employee Assistance Programme
External Reference
• The Employment Rights Act 1996

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Metanoia Institute Capability Policy

1. Policy Statement

Metanoia recognises that during your employment with us your capability to carry out your duties may deteriorate. This can be for a number of reasons, the most common ones being that either the job changes over a period of time and you fail to keep pace with the changes, or you change (most commonly because of health reasons) and you can no longer cope with the work. The policy is designed to ensure that you are provided with support that is needed to develop and improve your capability to carry out your duties.

All issues dealing with conduct are treated under the Metanoia Disciplinary policy.

2. Purpose

The purpose of this policy is to provide a framework for resolving the issue, ideally through the improvement of the employee's performance. This is supported by a capability procedure, which provides a transparent process to support managers in addressing capability issues and opportunities for conversations to take place. As a last resort, the policy specifies the circumstances in which the employee may be redeployed to more suitable work or dismissed on the grounds of capability.

3. Scope

The procedure applies to all employees employed by the Metanoia Institute under a contract of employment except those who are within a probationary period of service and subject to a specific probation procedure.

4. Definitions

Capability refers to an individual employee's ability to perform the work expected of him/her to the required standards.

5. Roles and Responsibilities

- Metanoia Managers: are responsible for ensuring that the process is followed and where appropriate referred to the Metanoia People Team to guarantee that all matters are resolved promptly and fairly.
- All staff are advised to familiarise themselves with this policy and the appropriate Metanoia Policies. Any issues related to this policy, please contact hr@metanoia.ac.uk

- All staff are required to perform their duties to the expected standard and proactively seek to improve their performance where necessary, attending and actively contributing to meetings in relation to this policy when required to do so.

6. Principles

- Staff should be made fully aware of the performance standards they are expected to deliver and should have regular meetings with their managers to discuss their work and performance and what activities and resources can help support such objectives.
- It is the responsibility of line managers to ensure that any performance issues are addressed at an early stage and where possible resolved without recourse to either the informal or formal stages of this procedure (i.e. through regular one-to-one meetings discussions with their line manager).
- Action will not normally be taken under this procedure without previous discussion that will be recorded about performance at regular catch-up meetings.
- Where it is felt that a concern is related to a capability issue, the primary aim is to assist and support staff to undertake their full duties to the required standard. At every stage of the Procedure, staff will be given the opportunity to state their case and put forward any mitigating circumstances and make suggestions to changes or support that would allow them to perform to the standards expected of them in their role.
- Where it is felt that a concern is related to a health issue, advice and guidance will be sought from the Employee Assistance Programme.
- Where performance issues are identified, the relevant line manager will discuss and agree an improvement plan with the members of staff, which will outline the performance improvements required and the support that will be provided. Appropriate review periods will also be agreed which provide reasonable time for performance to improve – timescales will vary depending on individual circumstances.
- The formal stages of the Procedure will not be invoked until the concerns have been fully investigated.
- Each step and action under the Procedure will be undertaken as quickly as practicable and without unreasonable delay. Decisions on capability matters will normally be taken as quickly as practicable.
- Staff have a right to appeal against the outcome of any decision taken under the Formal Capability Procedure.
- The Capability Procedure will be used for the purpose intended i.e. to resolve performance problems, by providing appropriate support to enable staff to perform to the standard required.

- Staff are entitled to reasonable preparation time ahead of being required to attend an investigation, formal Review, Hearing or appeal meeting.
- Staff have the right to be accompanied by a work colleague or Trade Union representative at any formal Review, Hearing or Appeal meeting. A Human Resources Adviser will attend all formal meetings in the role of clerk.
- Staff must take all reasonable steps to attend any meetings which they are required to attend. If staff fail to attend a formal capability Hearing or Appeal Hearing, they will be provided with a final invitation to attend a second Hearing. If they do not attend the second Hearing, consideration will be given to reaching a decision in their absence on the evidence available.
- A written record of all meetings conducted under this procedure will be made, either by the person holding the meeting or by an additional person arranged by the Metanoia Institute to take notes.
- All written records, including documentary evidence and witness statements, will be classified as confidential in line with current legislation and held within the Human Resources Office in accordance with the Metanoia Institute's records.
- The Metanoia Institute is committed to providing support to members of staff who are or who become disabled and/or are diagnosed with a chronic underlying health condition during their employment. In such circumstances, advice and guidance on appropriate reasonable adjustments will be sought from the Occupational Health Service to accommodate the individual's needs.
- Where an employee's poor performance is believed to be the result of deliberate negligence, or where serious errors have been made by him/her to the detriment of the Metanoia Institute, the Metanoia Institute may decide to use its disciplinary procedure instead.
- The Metanoia Institute processes any personal data collected during the performance improvement procedure in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the performance improvement procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Metanoia Institute's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Metanoia Institute 's disciplinary procedure.

7. Job Changes/General Capability Issues

If the nature of your job changes or if we have general concerns about your ability to perform your job, we will try to ensure that you understand the level of performance expected of you and that you receive adequate training and supervision. Concerns regarding your capability will normally first be discussed in an informal manner and you will be given time to improve.

If your standard of performance is still not adequate you will be warned in writing that a failure to improve and to maintain the performance required could lead to your dismissal. We will also consider the possibility of a transfer to more suitable work if possible.

If there is still no improvement after a reasonable time and we cannot transfer you to more suitable work, or if your level of performance has a serious or substantial effect on our organisation or reputation, you will be issued with a final warning that you will be dismissed unless the required standard of performance is achieved and maintained.

If such an improvement is not forthcoming after a reasonable period of time, you will be dismissed with the appropriate notice.

8. Personal Circumstances/Health Issues

Personal circumstances may arise which do not prevent you from attending for work, but which prevent you from carrying out your normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises, we will normally need to have details of your medical diagnosis and prognosis so that we have the benefit of expert advice. Under normal circumstances, this can be most easily obtained by asking your own doctor for a medical report. Your permission is needed before we can obtain such a report and we will expect you to co-operate in this matter should the need arise. When we have obtained as much information as possible regarding your condition and after consultation with you, a decision will be made about your future employment with us in your current role or, where circumstances permit, in a more suitable role.

There may also be personal circumstances that prevent you from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances, we will need to know when we can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report or by making whatever investigations are appropriate in the circumstances. When we have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with us in your current role or, where circumstances permit, in a more suitable role.

9. Short Service Staff

We retain discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you have a short amount of service, you may not be in receipt of any warnings before dismissal.

10. Capability Procedure

10.1 Informal Procedure

- Line managers will hold regular discussions with staff during their employment with the Metanoia Institute regarding their performance at regular catch-up meetings as well as formally within annual reviews.
- Where discussion at regular catch-up meetings does not lead to improvement, or where a member of staff's performance falls below the acceptable standard and it is deemed appropriate to move to the informal stage of the Capability Procedure, the line manager will arrange a meeting with the member of staff under the Informal Capability Procedure.
- The employee's manager will inform him/her of the nature of the problem and confirm this in writing. The employee will be invited to an informal meeting to discuss concerns regarding his/her performance. The meeting will be conducted by the employees' manager.

Following discussion of the problem, the manager may choose to:

- Take no further action.
 - Refer the matter for investigation under the disciplinary procedure; or
 - Issue guidance to the employee on what he/she needs to do to improve his/her performance.
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- Where performance does not lead to a satisfactory improvement in the employee's performance, the employee will be invited to a performance review meeting.
 - The purpose of a performance review meeting is to discuss the employee's performance and decide what measures should be taken, with a view to securing the required improvement in the employee's performance. The meeting will be conducted by the employees' manager. Where it is considered appropriate by the Metanoia Institute, a member of the HR department may also be present.
 - The employee will be given an opportunity to respond to any criticisms of his/her performance and to put forward any explanation he/she may have for the matters identified by the manager as amounting to poor performance.

11. Performance Improvement Programme

A performance improvement programme is a series of measures designed to help improve the employee's performance. Each measure will ideally be agreed with the employee, although the Metanoia Institute reserves the right to insist on any aspect of the performance improvement programme in the absence of such an agreement.

Each programme will be tailored to the particular situation, but will contain the following elements:

Timescale

The overall timescale in which the necessary improvement must be achieved will be set out, together with the timescale for reaching individual milestones where appropriate.

Targets

The performance improvement programme will specify the particular areas in which improved performance is needed and set out how, and on what criteria, the employee's performance will be assessed. Where appropriate, specific targets will be set that will need to be achieved either by the end of the programme or at identifiable stages within it.

Measures

The performance improvement programme will specify what measures will be taken by the Metanoia Institute to support the employee in improving his/her performance. Such measures may include training; additional supervision; the reallocation of other duties; or the provision of additional support from colleagues.

Feedback

As part of the performance improvement programme, the employee will be given regular feedback from his/her line manager indicating the extent to which the employee is on track to deliver the improvements set out in the programme.

If, at any stage, the Metanoia Institute feels that the performance improvement programme is not progressing in a satisfactory way, a further meeting may be held with the employee to discuss the issue. As a result of such a meeting, the employer may amend or extend any part of the programme.

Review

At the end of the performance improvement programme, the employee's performance will be reviewed. If satisfactory progress has been made, the employee will be notified of this fact in writing. However, if the manager feels that progress has been insufficient, he/she may decide to extend and/or amend the performance improvement programme to such extent as the manager considers appropriate. Alternatively, he/she may decide to refer the matter to a meeting under stage 3 of this procedure.

Ongoing review

Following the successful completion of a performance improvement programme, the employees' performance will continue to be monitored. If, at any stage during the following [12 months], the employee's performance again starts to fall short of an acceptable standard, his/her line manager may decide to initiate stage 3 of this procedure.

11.1 Formal Procedure

The formal Capability Procedure will be used when:

- The support mechanisms agreed during the Informal Capability Procedure have failed to bring about a demonstrable and/or sustained improvement in the standards expected.
- There is a reasonable expectation that a member of staff will be unable to continue in or return to their role in the foreseeable future.
- a serious issue of performance as a result of capability is identified.

There are 3 stages within the formal Capability Procedure:

- Stage 1 – **Formal Review**
- Stage 2 – **Hearing**
- Stage 3 – **Appeal**

Stage 1 – Formal Review

- If the performance improvement programme has not led to sufficient improvement in the employees' performance, the employee will be invited to attend a formal performance management hearing. The invitation will set out the respects in which the employee's manager believes that the employee's performance still falls short of an acceptable standard.
- Formal Reviews which are conducted under the formal Capability Procedure will be carried out thoroughly, in strictest confidence and as quickly as practicable given the circumstances of the case.
- The Formal Review will normally be carried out by your immediate Line Manager. However, if either you or your Line Manager believes that this would result in a conflict of interest, will nominate another individual to conduct the Formal Review.
- You will be required to attend a Formal Review meeting and you will be provided with an opportunity to respond fully to the concerns which are raised regarding your capability to carry out your role.
- You will be provided with a written statement outlining the concerns, accompanied by any supporting documentation (if available), prior to the meeting taking place. You must

take all reasonable steps to attend this meeting. If you or your companion cannot attend at the time specified, you should immediately inform the individual carrying out the investigation in writing and reasonable efforts will be made to agree an alternative time. You will be advised of the outcome in writing as quickly as practicable.

Stage 2 – Hearing

The hearing will be conducted by another senior member of your department other than your manager. The employee will be entitled to be accompanied by a fellow employee or a trade union official.

At the hearing, the employee will be given an opportunity to respond to any criticism of his/her performance and to make representations about any aspect of the way in which the process has been managed.

The outcome of the meeting may be a decision to:

- Take no further action.
- Refer to the matter for investigation under the disciplinary procedure.
- Institute another performance improvement programme; or
- Issue a formal warning to the employee.

A formal warning will be issued if the hearing concludes that reasonable steps have been taken by the Metanoia Institute that should have allowed the employee to perform to an acceptable standard, but that these measures have not worked. The warning will explain the nature of the improvement that is required in the employees' performance and state that the improvement must be immediate and sustained. It will also explain that, if the necessary improvement does not take place, the employee may be dismissed.

The warning will remain current for a period of 6 months, after which it will cease to have effect.

Where an employee is issued with a formal warning in accordance with this procedure, he/she will have a right of appeal.

If an employee has been issued with a warning that remains live and the employee's manager believes that his/her performance is still not acceptable, the matter may be referred to a performance dismissal hearing.

The employee will be informed in writing of the grounds on which the hearing is being convened. In particular, he/she will be told of the respects in which his/her performance remains below an acceptable level.

2.1 Performance Dismissal Hearing

At the meeting, the employee will have the opportunity to respond to any criticisms made of his/her performance and make representations about how the situation should be treated.

The outcome of the meeting may be:

- a decision to take no further action.
- the issuing of another performance management warning.
- an offer to redeploy the employee to alternative work; or
- a decision to dismiss the employee.

Any offer to redeploy the employee will be entirely at the Metanoia Institute's discretion. Such an offer will be made only where the Metanoia Institute's is confident that the employee will be able to perform well in the redeployed role. It will normally be offered only as an alternative to dismissal in circumstances in which the Metanoia Institute is satisfied that the employee should no longer be allowed to continue to work in his/her current role. While the employee is free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

If the Metanoia Institute's believes that there is no alternative role available and suitable for the employee, but that he/she has not met an acceptable standard of performance, the Metanoia Institute's may decide to dismiss. Any dismissal will be with full notice or payment in lieu of notice. The decision to dismiss together with the reasons for dismissal will be set out in writing and sent to the employee.

Where an employee is dismissed in accordance with this procedure, he/she will have a right of appeal.

Stage 3 - Appeal

An employee has a right to appeal against a sanction issued under stages 2 of this procedure. A request for an appeal should be sent in writing to HR department and set out the grounds on which the employee believes that the decision was flawed or unfair. The request should be sent within seven days of the employee receiving written confirmation of the sanction imposed on him/her by the Metanoia Institute.

An appeal hearing will be convened to consider the matter. The employee will be entitled to be accompanied by a fellow employee or a trade union official.

At the hearing, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.

The result of the hearing will be either to confirm the sanction or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed on the employee.

The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

12. Redeployment and Demotion

In exceptional circumstances, it may be possible to consider redeployment or demotion, rather than dismissal, but only where a suitable opportunity exists at that time, and it is considered an appropriate alternative with clear reasons why.

13. Monitoring and Review

Human Resources are responsible for monitoring the effectiveness of this policy and supporting procedures and will conduct reviews at appropriate intervals. Anyone who feels they have been unfairly treated or discriminated against should contact Human Resources.

Annex 1 FLOWCHART

Metanoia Capability Process Flowchart

