

Capability Policy

Introduction

Stewartry Care Ltd endeavours to ensure that its employees deliver an acceptable standard of performance for their role. It is Stewartry Care's aim to use this policy as a means of encouraging employees to improve their performance wherever possible and provide help and support to restore and maintain effective contribution. However, poor performance can ultimately result in dismissal.

Purpose

The purpose of this policy is to describe the required standards of performance and the consequences of a failure to deliver the standards.

It also sets out the procedural steps which Stewartry Care Ltd will take in response to performance which falls short of those standards. They are designed to ensure fair and consistent treatment of staff.

The policy has been developed with regard to ACAS Code of Practice for Disciplinary and Grievance procedures April 2009.

Scope

This policy applies equally to full time and part time employees on a permanent or fixed term contract.

This policy applies when there is a genuine lack of capability displayed in the work that the employee is asked to deliver (e.g. lack of skill, aptitude, knowledge or ability).

It does not apply to cases of poor attendance or willful poor performance. In those circumstances the sickness and absence policy and the disciplinary policy will be invoked respectively. Nothing in the policy prevents Stewartry Care Ltd from taking action under those policies if considered appropriate.

Exceptionally, a very serious failure to meet performance standards (e.g. negligence which amounts to gross misconduct) may lead to your dismissal without prior warnings and without a notice period under the terms of the disciplinary policy.

This policy does not form any part of any employee's contract of employment. Stewartry Care Ltd may change it from time to time and may depart from it depending on the circumstances of any case.

Setting the Standard

You must deliver your day- to- day work as outlined in your job description and annual objectives in a timely and professional manner and fully meet the

standards and competencies for your job role level, as set out in the Competency Framework. Poor performance occurs where the quality of work deteriorates below the required standard due to the lack of ability, skill or knowledge.

Stewartry Care Ltd will aim to ensure that:

- Employees understand what is expected from them in terms of performance;
- That performance is monitored via regular supervision meetings with your line manager and via the annual performance management process;
- Employees are given appropriate training and support to meet the standards

Employees are not normally dismissed for performance reasons without previous warnings.

Informal process

In the first instance, performance issues should normally be dealt with informally between you and your line manager as part of day-to-day management. You are encouraged to have open dialogue with your line manager or other senior managers about your performance and anticipated failures in meeting standards.

Informal discussions may cover the following issues:

- Clarification of the required standards;
- Identification of areas of concern;
- Identification of the likely causes of poor performance;
- Any training, coaching or support needed in order to help you meet the required standard; and
- Setting a time period for improvement and review.

You may be given a verbal warning by your line manager but this will not be considered to be a formal sanction and they will be disregarded for the purposes of any formal proceedings under the policy. Where informal discussions have not resulted in a satisfactory improvement after a reasonable period of time, Stewartry Care Ltd may give you further verbal warnings or may invoke the formal procedure set out below.

If performance is due to a domestic, personal or work- related problem, you must explain this to your line manager. These situations will be dealt with sensitively.

Formal Capability Procedure

The formal procedure will be used for cases of serious under performance or where the informal procedure has not resulted in improvement. There are three stages under the formal procedure. These stages are detailed below.

Preliminary steps including investigations

Stewartry Care Ltd will normally investigate to decide whether there are grounds for taking formal action. The investigation will depend on the circumstances but may involve reviewing your personnel file including any supervision/appraisal records, gathering any relevant documents, monitoring your work and, if appropriate, interviewing you and/or other individuals confidentially regarding your work. You and other employees involved are expected to co-operate fully with an investigation and will be asked to maintain the confidentiality of any discussions held.

If Stewartry Care Ltd considers there are grounds for taking formal action over the alleged poor performance, you will be required to attend a meeting to discuss the matter (capability hearing).

You will first be notified in writing of Stewartry Care Ltd's concerns, the reasons for those concerns and the likely outcome Stewartry Care Ltd decides, after the Capability Hearing, that your performance has been unsatisfactory. You will also be provided with the following where appropriate:

- A summary of relevant information gathered as part of any investigation
- A copy of the relevant documents which will be used at the Capability Hearing.

Any documents which you rely on at the Capability Hearing must be submitted to line Manager within a reasonable time before the hearing.

Stewartry Care Ltd will give you written notice of the date, time and place of the Capability Hearing. The hearing will be held as soon as is reasonably practicable, but not before you have had a reasonable amount of time, usually 5 working days, to prepare your case on the information provided to you.

Procedure at Capability Hearings

Stewartry Care Ltd will select an employee of appropriate seniority not previously involved in the matter to conduct the hearing.

You are entitled to bring a companion to the Capability Hearing.

The aims of the Capability Hearing will usually include:

- Setting out the required standards that Stewartry Care Ltd believes you have failed to meet and going through the evidence of this;
- Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations;
- Establishing the likelihood of poor performance including any reasons why any measures taken so far have not led to the required improvement;
- Identifying whether there are measures, such as additional training, support or supervision, which may improve performance;
- Where appropriate, discussing targets for improvement and a time scale for review; and
- Explaining the consequences of failure to improve.

A meeting may be adjourned if Stewartry Care Ltd needs to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Stewartry Care Ltd will inform you in writing of the decision and the reasons for it usually within 5 working days of the hearing. Where possible this will also be explained to you in person.

First Capability Hearing: First written Warning

If Stewartry Care Ltd decides that your performance is unsatisfactory following a first hearing you will be given a first written warning setting out:

- The areas in which you have not met the required performance standards targets for improvement;
- Any measures, such as a additional training, support or supervision, which will be provided for you with a view to improving performance;
- The period for review and the system for monitoring your performance; and
- The consequences of failing to improve.

At the expiry of the review period Stewartry Care Ltd will write to inform you of the outcome:

- If your line manager is satisfied with your performance, that no immediate further action will be taken ; or
- If your line manager is not satisfied that your performance has met the required standard, that the matter will be progressed to a second hearing ;or
- If your line manager feels that there has been a substantial but insufficient improvement, that the review period will be extended.

The warning will be retained permanently on your personnel file but will normally only remain active for six months from the end of the review period, after which time it will be disregarded for the purposes of the future actions taken under this policy.

Second Capability hearing: Dismissal or other sanction

If your performance has not improved by the date of expiry of the review period set out in a final written warning is still active, Stewartry Care Ltd may decide to hold a third Capability Hearing and may decide to:

- Dismiss you;
- Demote you; or
- Redeploy you into another suitable job.

Dismissal will normally be with full notice or payment in lieu of notice. A record of disciplinary sanction, other than dismissal will be retained permanently on your personnel file but will normally only remain active for twelve months from the date of the sanction after which time it will be disregarded for the purposes of any future actions taken under this policy. If your performance is still poor whilst the sanction is active, the Company may decide to re –invoke this procedure at the third Capability Hearing stage.

Appeals

If you feel that a decision about your performance under this procedure is wrong or unjust you should appeal in writing, stating your grounds of appeal in writing, stating your grounds of appeal to The Managing Director within 5 working days of the date on which you were informed of the decision.

On receipt of your appeal, you will be asked to attend an appeal hearing and

you will be given written notice of the date, time and place. The hearing will normally be held within 5 working days of the receipt of your appeal.

Where possible the appeal will be heard by a manager who has not been involved in the case.

Following the appeal hearing the Company may:

- Confirm the original decision;
- Revoke the original decision; or
- Substitute a different decision and the sanction.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. You will not be permitted to resume working until the matter has been decided. If your appeal is successful you will be reinstated with no loss of continuity or pay.

You will be informed of the decision as soon as possible and normally within 5 days of the appeal hearing.

The decision on appeal is final and there is no further right of appeal.

Your Right to be Accompanied

You may be accompanied at any Capability Hearing or an appeal hearing by a work colleague, a trade union representative or an official employed by a trade union.

Your companion is allowed to:

- Put forward and summarise your case;
- Ask questions of clarification;
- Respond to views on your behalf; and
- Confer with you.

Your companion does not have the right to answer questions for you or to prevent the Company from putting forward its case to address the meeting if you do not wish it.

If you wish to be accompanied you must make a reasonable request to your line manager in advance of the meeting.

In some circumstances your choice of companion may not be allowed, for example, if they have a conflict of interest or could prejudice the meeting. In those cases you may be asked to choose someone else.

Stewartry Care Ltd may, at its discretion, allow you to bring a companion who is not a colleague or representative.